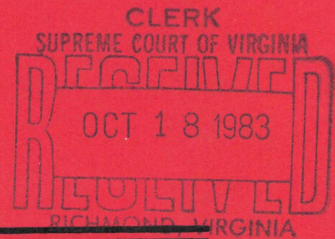


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IN THE
Supreme Court of Virginia
AT RICHMOND

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MAY 23 1984

TYRONE EVERETTE BISHOP,

Appellant,

v.

COMMONWEALTH OF VIRGINIA,

Appellee.

APPENDIX

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VIRGINIA
COUNTY OF HENRICO, To-WIT:

81F742

} IN THE CIRCUIT COURT OF THE COUNTY OF HENRICO

JANUARY 4, 1982

The grand jury charges that:

During the period May 15, 1981 through May 20, 1981,
in the County of Henrico, Tyrone Everette Bishop did ^{unlawfully and} willfully,
~~deliberately and with premeditation~~ ^{feloniously} kill and ~~capitally~~ murder
Raymond Anthony Miller ~~in the commission of a robbery, while~~
~~armed with a deadly weapon,~~

Against the peace and dignity of the Commonwealth of Virginia.
Virginia Code Section

18.2-31(d)

32

R. H. Wise

{ Witnesses sworn and sent
by the Court to the Grand
Jury to give evidence

Clerk

A TRUE BILL

Tyrone E. Burton 1
Foreman

G.H.M. Jr.
Aick
7/26/82

VIRGINIA
COUNTY OF HENRICO, To-WIT:

} IN THE CIRCUIT COURT OF THE COUNTY OF HENRICO

JANUARY 4, 1982

The grand jury charges that:

During the period May 15, 1981 through May 20, 1981, in the County of Henrico, Tyrone Everette Bishop did use or display a firearm in a threatening manner while committing a felony, to wit: robbery,

against the peace and dignity of the Commonwealth of Virginia
Virginia Code Section 18.2-53.1

v. R. H. Wise

{
do hereby swear and sent
by the Court to the Grand
Jury to give sentence

Clerk

A TRUE BILL

Tyrone E. Bishop
Foreman

PRINTERS NOTE:

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81F741

VIRGINIA
COUNTY OF HENRICO, To-WIT: } IN THE CIRCUIT COURT OF THE COUNTY OF HENRICO

JANUARY 4, 1982

The grand jury charges that:

During the period May 15, 1981 through May 20, 1981,
in the County of Henrico, Tyrone Everette Bishop, did use or
display a firearm in a threatening manner while committing a
felony, to-wit: murder,

against the peace and dignity of the Commonwealth of Virginia.
Virginia Code Section

18.2-53.1

i. R. H. Mise

{ Witnesses sworn and sent
by the Court to the Grand
Jury to give evidence.

[Signature]
Clerk

A TRUE BILL

[Signature]
Foreman

3-A

ORDER - CASES NO. 81F741, 81F742,
81F918 and 81F919

This day came again the attorney for the Commonwealth, and Tyrone Everette Bishop, age 31, born June 26, 1951, who stands convicted of four felonies, to-wit: use or display of a firearm in the commission of a felony, to-wit: murder (Virginia Code Section 18.2-53.1) in Case No. 81F741, murder (Virginia Code Section 18.2-32) in Case No. 81F742, robbery (Virginia Code Section 18.2-58) in Case No. 81F918, and use or display of a firearm in the commission of a felony, to-wit: robbery (Virginia Code Section 18.2-53.1) in Case No. 81F919, as charged in each respective Indictment, was led to the bar in the custody of the jailer of this Court, and came also David E. Boone, his attorney.

And the Probation Officer of this Court, to whom these cases have been previously referred for investigation, appeared in open court with a written report, which report she presented to the Court in open court in the presence of the defendant who was fully advised of the contents of the report, and a copy of said report was also delivered to counsel for the accused.

Thereupon the defendant and his counsel were given the right to cross-examine the Probation Officer as to any matter contained in the said report and to present any additional facts bearing upon the matter as they desired to present. The report of the Probation Officer is hereby filed as a part of the record in these cases.

Whereupon the Court taking into consideration all of the evidence in the cases, the report of the Probation Officer, the matters brought out on cross-examination of the Probation Officer and such additional facts as were presented by the defendant, and it being demanded of the defendant if anything for himself he had or knew to say why judgment should not be pronounced against him according to law, and nothing being offered or alleged in delay of judgment, the Court confirms the jury verdicts imposed in these cases on July 26, 1982, and sentences the defendant in Case No. 81F742 to confinement in the penitentiary of the Commonwealth of Virginia for the

term of life; in Case No. 81F741 to one (1) year in the penitentiary; in Case No. 81F918 to five (5) years in the penitentiary; and in Case No. 81F919 to one (1) year in the penitentiary. Said sentences are to be served consecutively. It is further Ordered that the defendant pay the costs assessed against him in these proceedings in the amount of \$1,736.00 plus interest.

Counsel for the defendant advised the Court the defendant desires to appeal the judgments rendered, and accordingly the Court suspends execution of sentence in each case for such time, as may be necessary, until the said appeal is acted upon.

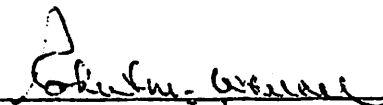
The defendant filed an affidavit of indigency and is found by the Court to be such. Whereupon, the Court appoints David E. Boone, Esquire, an able and competent attorney at law, to represent the defendant on said appeal. The Clerk is Ordered to have the record transcribed free of charge, and such transcript is hereby made a part of the record in these cases.

The Court certifies that at all times during the trial of these cases the defendant was present in person and his attorney was likewise present in person and represented the defendant capably.

The defendant is remanded to jail.

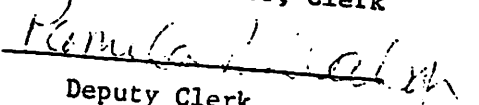
The Clerk is directed to forward an attested copy of this Order to the Attorney for the Commonwealth, to David E. Boone, counsel for the defendant, at 11 South Twelfth Street, Suite 116, Shockoe Center, Richmond, Virginia 23219, to the District #32 Office of Probation and Parole, 4914 Fitzhugh Avenue, Suite 203, Richmond, Virginia 23230, and to the Sheriff of Henrico County.

Enter: 09-22-82



Judge

A Copy Teste:
Margaret B. Baker, Clerk



Deputy Clerk 5

ASSIGNMENT OF ERROR

THAT THE TRIAL JUDGE ERRED IN DENYING THE APPELLANT'S MOTION TO STRIKE BASED ON THE COMMONWEALTH'S FAILURE TO ESTABLISH THE CHARGES OF HOMICIDE IN THE FIRST DEGREE, ROBBERY AND THE USE OF A FIREARM IN THE COMMISSION OF A FELONY.

* * * *

Deleted is page one of the transcript
which includes the style, caption, etc.

* * *

* * *

Pages 1-21 of Volume I of the
trial transcript are not included.
It includes preliminary matters
and jury selection.

* * *

1 I should of asked the attorneys first and
2 I will ask you now.

3 (Counsels agreed on 9:30)

4 (Jury In)

5 THE COURT: We'll let the record show the jury returned
6 at 2:55 and the Court has checked the jury
7 and finds that all jury members are present
8 and accounted for.

9 (Jury agreed on meeting at 9:30
10 in the morning)

11 Call your first witness, Mr. Commonwealth.

12 MR. MARTIN: Dr. Massello.

13 (Dr. Garrett, having been duly
14 sworn on the issue, testified as
15 follows):

16 DIRECT EXAMINATION: William Massello by Mr. Martin

17 Q Sir, would you state your name for the Judge and the Jury?

18 A William Massello, M-a-s-s-e-l-l-o.

19 Q What is your occupation, Doctor?

20 A I'm a Forensic Pathologist at the office of the Chief
21 Medical Examiner, located in Richmond.

22 Q How long have you been with them, sir?

23 A. Since July 1, 1980.

24 MR. BOONE: Your Honor, if I might, I don't have any
25 objection to him voir dire the doctor. I
know the doctor personally and I have no

objection to him being qualified as an expert witness --

THE COURT: He's qualified before as an expert and unless you have some particular reason --

MR. BOONE: I just wanted the jury to get an idea of what he does.

THE COURT: O.K. Well, let's do that, but I'll tell the jury he qualifies as an expert.

Q Sir, what is forensic pathology?

A Forensic pathology is a medical specialty which deals with the investigation of death and primarily deaths which occur under violent or suspicious circumstances. A forensic pathologist, such as myself, investigates stuff using a number of difference techniques. These include the performance of a autopsy, the ordering of special studies, such as toxicology, and any additional studies which help us to delineate better the cause, manner, and circumstances under which death occurred.

Q Aside from your education, you have practical training in doing this? Tell us how much -- what kind of practical experience have you done in this area?

A Well, I've been doing strictly forensic pathology for over two years now. I've performed, I imagine, around 700 autopsies. I have personally investigated probably over 1,000 deaths and have testified in court probably somewhere

1 around 50 occasions or so.

2 Q Dr. Massello, May 20, 1981, did you have occasion to per-
3 form an autopsy on one Mr. Raymond Miller on that date?

4 A Yes, I did.

5 Q Would you just describe basically what condition the body
6 was in that you examined on that day?

7 A Yes, the body, when I examined it, indicated that --
8 showed the changes which are known as postmortem decomposi-
9 tion. Now, after death the body undergoes a decay process
10 and the degree of decay process bears some relationship to
11 the time which has passed since death had occurred. The
12 examination of this particular individual would be that
13 the death had occurred at least a few days prior to when
14 I examined the body.

15 Q And what was it that made you be able to tell that? The
16 state of decomposition?

17 A. Yes, the changes with respect to the decay of the body
18 itself.

19 Q Given the decay of the body are you able to pin-point in
20 any way approximately how many days we're talking about?

21 A You can't be terribly precise, but you can say that death
22 certainly occurred more than 36 hours before the body was
23 examined and probably less than two (2) weeks before it
24 was examined.

25 Q And you performed an autopsy on this body, is that correct?

1 A That's correct.

2 Q Is that a white male?

3 A Yes, it was.

4 Q And you have your description of this particular body in
5 your report, do you not?

6 A Yes, I do.

7 Q Did you reduce your findings to a report, sir?

8 A Yes, I did.

9 Q To writing which you have, of course, signed and reviewed?

10 A Yes.

11 Q All right.

12 MR. MARTIN: Judge, at this time, I would move to intro-
13 duce this as Dr. Massello's report. Have
14 him take a look at it first.

15 MR. BOONE: Your Honor, may I approach Mr. Martin?

16 THE COURT: (Inaudible.)

17 Q Would you take a look at that, sir, and tell us if that
18 is a copy of your report?

19 A Yes, it is.

20 Q All right.

21 MR. MARTIN: Your Honor, I would offer that as number
22 1, for the Commonwealth.

23 THE COURT: Any objections, Mr. Boone.

24 MR. BOONE: No objections, Your Honor.

25 THE COURT: Commonwealth's Exhibit No. 1.

1 Q. Dr. Massello, included as part of that report are also
2 reports that you would refer to as toxicology and serology,
3 is that correct?

4 A That's correct.

5 Q What is --what are they -- what are they and what do they
6 show us?

7 A The toxicology report reveals that there was an analysis
8 done for alcohol in the blood and that was negative, and
9 there was a toxicolog^{ical}/ screen performed on the urine for the
10 presence of /drugs and there were no drugs of abuse detected. A typing
11 of the blood was also carried out and the blood type was
12 O positive and there were swabs, which were tests made on
13 the anal canal and the inside of the mouth through the
14 oral cavity for the presence of semen or spermatozoan, and
15 these test were negative.

16 Q All right. This autopsy was a 28 year old white male,
17 5'5, 161 pounds?

18 A That's correct.

19 Q. O.K. I'm going to show you a couple of photographs here,
20 can you identify those, sir?

21 A Yes, these are -- this one particular photograph (would
22 you like me to show it to the jury?)

23 Q I'm going to offer it, I think it's --I don't think it's
24 any objectionable thing.

25 A This one photograph shows the right side of the decedent,

1 Raymond Miller. Now, on the point of the right shoulder
2 is the -- a gun shot entrance wound, and on the outer
3 aspect of the right upper arm is a second gun shot entrance
4 wound, and then an arrow here is drawn indicating the di-
5 rection of the bullets trajectory through the arm. Now,
6 on the inside of the arm, which you cannot see, there is
7 a gun shot exit wound and then there is a reentry wound,
8 here, this particular bullet which went through the arm.
9 This reentry wound is characterized by a hole, here, and
10 then a surrounding area of an abrasion or scrape and this
11 is the type of injury that one would expect, if the arm
12 was pressed somewhat tightly against the chest wall at the
13 time the shot was discharged. Now, this second photograph,
14 here, also indicates the gun shot entrance/wound that I just
15 described on the outside of the right upper arm, and again
16 the arrow showing the direction of the projectory, and then
17 the exit wound of this particular bullet on the inside of
18 the right arm. Also, there is the letter "B", here, written
19 below this entrance wound indicating that it is gun shot
20 wound "B", which is described in the report and there should
21 be, but I am afraid you cannot see a letter "A" on the--
22 near the gun shot entrance wound to the point of the shoulder
23 which is gun shot wound "A" as described in the report.

24 Q They are both in the right arm then, is that correct?

25 A That's correct, yes.

1 Q. Only two gun shot wounds through the body? Is that correct?

2 A That is correct.

3 Q Where there two bullets recovered?

4 A Yes, there were.

5 Q What kind of bullets and what did you do with them?

6 A These were .38 caliber bullets and these were given to
7 Detective Priddy, of the Henrico Police Department.

8 MR. MARTIN: Judge, I offer those two photographs as
9 nos. 2 and 3 for the Commonwealth.

10 MR. BOONE: No objections.

11 MR. MARTIN: Judge, if possible, I'd -- in the first
12 one I'd take would be the long view of the
13 body and in the ---

14 THE COURT: Well, I was going to label Commonwealth's
15 Exhibit 2, would be gun shot wound "A".

16 MR. MARTIN: Fine.

17 THE COURT: But I can't find "A", so I'm going to have
18 to stop and you show it to me.

19 MR. MARTIN: "A" is the --

20 THE COURT: O.K. I got it. Commonwealth's Exhibit 2
21 is gun shot wound "A". Commonwealth's
22 Exhibit 3 is gun shot wound "B".

23 Q Dr. Massello, what was the route taken/through the body,
24 where were they discovered?

25 A Well, the gun shot wound which entered on the -- near the

1 point of the right shoulder, coursed straight across the
2 body and it went through the soft tissue of the right
3 shoulder, beneath the skin of the front and went underneath
4 the right collar bone and then it passed right beneath the
5 skin of the front of the neck and it did some damage to
6 the muscle, but it did not do any damage to the breathing
7 to the windpipe, per se. Then came across the neck and
8 went underneath the left collar bone and lodged beneath
9 the skin in front of the right shoulder, so basically this
10 is a horizontal shot coming from right to left across the
11 front of the body.

12 Q Is that a lethal wound?

13 A. No, this was a non-lethal wound.

14 Q All right, how about the other wound?

15 A The second wound, entered the outside of the right arm
16 and as I mentioned passed through the upper aspect of the
17 right arm, and then entered the chest cavity, and it
18 coursed straight across the chest itself and passed through
19 the right lung, through the aorta which a very large, in
20 fact, it is the largest artery in the body, which is located
21 in the middle of the chest cavity and runs from top to
22 bottom, and it perforated the aorta and then went through
23 left lung and came to rest beneath the skin on the left
24 side of the back or left side of the body, slightly toward
25 the back roughly that location at I've indicated.

1 This shot coursed, generally, horizontal perhaps with a
2 very slight upward trajectory, if the body was standing
3 straight up and went right to left and slightly toward
4 the back, and this wound caused massive bleeding into the
5 right chest cavity and massive bleeding into the left chest
6 cavity and subsequent death by exsanguination.

7 Q That is simply bleeding to death, is that correct?

8 A Yes, it is.

9 Q Were there any other type of wounds to the body at all
10 or any other trauma to the body?

11 A No, there wasn't.

12 Q Any signs of a struggle, defensive wounds, abrasions, any
13 thing like that on him?

14 A No, there weren't.

15 Q Did you note any gun powder residue on the body at all,
16 anywhere?

17 A On the body itself, I did not, no.

18 Q The body was clothed when you got it?

19 A Yes, it was.

20 Q. What type of clothing did the body have.

21 A The gentlemen had on a blue shirt, a tee shirt, some grey
22 brown pants, a belt, some white socks which were -- had
23 some red stripes, red and white stripes and a pair of boots.

24 Q Did you know -- did you receive any personal property along
25 with the body at all, that you recall?

1 A There were items, we received some sunglasses and 50 cents
2 in change. When I was at the scene we recovered an I.D.
3 card a ball point pen and these were given to the police
4 and that was basically all we recovered.

5 Q Now, when did you first get a look at the body?

6 A This was approximately 4:00 a.m. on the -- in the morning
7 of May 20, 1981.

8 Q And where was it that you observed the body, Dr. Massello,
9 when you first saw it?

10 A The body was lying, if you will, on the front floor of a
11 automobile, with the head toward the passengers side of
12 the automobile and the feet were underneath the steering
13 wheel, and the car was locked, and this is the location I
14 first observed the body.

15 Q I'm going to show you a photograph, here, and ask if you
16 can identify it? Can you identify that for us?

17 A Yes, this is the decedent, Raymond Miller, as I first saw
18 the body on May 20th, again the head is toward the passen-
19 gers side of the car and the body is on the front floor
20 of the car, with the seat beneath the steering wheel, and
21 the trunk wedged down on the passengers floor side.

22 Q And that colored stuff on the seat, does that appear to be
23 blood?

24 A This is blood, yes.

25 Q Was there any blood on the seat anywhere, ^{else} other than where

1 where it reflects in the photograph, do you think?

2 A No, this is where the uh, basically where the blood is.

3 Q All right.

4 MR. MARTIN: I'd offer that as number four (4) for
5 the Commonwealth.

6 THE COURT: Are there any objections, sir.

7 MR. BOONE: No, Your Honor.

8 THE COURT: Commonwealth's Exhibit 4.

9 Q Dr. Massello, the clothing you took from the body, you have
10 that here with you today?

11 A Yes, I do.

12 Q Is that in a bag, right there that you have?

13 A Yes, it is.

14 Q O.K. Did you subsequently turn that clothing over to Cecil
15 Moorehead, at the laboratories for gun powder analysis?

16 A Yes, I did.

17 Q And he gave it back to you, is that correct?

18 A Yes, he did.

19 Q And that was specifically on the shirt, I believe?

20 A Yes, it was.

21 Q And you have that in that bag, right there?

22 A Yes, I do.

23 MR. MARTIN: Judge, I would offer that as number 5
24 for the Commonwealth. I'm not going to
25 ask Dr. Massello to open it up, Judge, it's

1 uh,--

2 THE COURT: Any objections, Mr. Boone?

3 MR. BOONE: No objections.

4 MR. MARTIN: Its been in there quite a while.

5 THE COURT: Commonwealth's Exhibit 5.

6 Q. Dr. Massello, did you receive a wallet or any type^{of}/jewelry,
7 or money or anything with the body, other than what you've
8 already related?

9 A No.

10 Q And you in fact did observe it out at the scene, in
11 Tuxedo Boulevard area, Eastern Henrico.

12 A Yes, I did.

13 Q Do you recall what the weather was like, when you got out
14 there?

15 A The weather was somewhat windy and slightly chilly that
16 particular evening. I was wearing a blue light weight coat,
17 at the time.

18 Q The body being found in a locked vehicle, the windows were
19 up I believe, is that correct?

20 A Yes,

21 Q Does that have anything to do with the rate of decomposition
22 if it had been in that type of situation for a long period
23 of time?

24 A It would really depend upon what sort of temperature you're
25 talking about inside the car. The temperature will -- high

1 temperatures seem to excellerate decomposition, so the
2 actual ability of the inside of the car to retain heat
3 and to stop cooling by blowing, uh, theoretically tend to
4 excellerate. Now, that's theoretical holding, if you're
5 not inside the car actually measuring the temperature, I
6 really don't know what effect this has.

7 Q O.K. Do you recall the weather during this time period at
8 all, what it was like around May 15th.

9 A It was certainly on that particular -- on the night that
10 I went to the scene, I can recall that it was somewhat chilly
11 However, I don't recall what it was on the days immediately
12 preceeding or the days after.

13 MR. MARTIN: Judge, at this point, I would offer a
14 stipulation agreed between counsel that
15 the body examined by Dr. Massello in the
16 autopsy and the victim in this case, in the
17 indictment, Raymond Miller, is one in the
18 same person.

19 THE COURT: Do you agree?

20 MR. BOONE: Yes, sir.

21 THE COURT: Than the jury will accept that as a fact.

22 MR. MARTIN: Judge, I believe that would probably be all
23 the questions I have of Dr. Massello.

24 THE COURT: Cross?

25 CROSS EXAMINATION: Dr. Massello by Mr. Boone

1 Q Dr. Massello, did you examine the fingernails to see if
2 there were any fingernail scrapings?

3 A Did I --

4 Q On the victim?

5 A Examine the --

6 Q Underneath the fingernails to see if there were any scrap-
7 ings, underneath his fingernails --

8 A No. Specifically did I take scrapings, no.

9 Q As a matter of course in a homicide investigation, do you
10 not on occasion examine underneath the fingernails to see
11 if possibly this individual has scratched on him or ^{the} hair
12 and skin samples underneath the fingernails were -- that
13 was not conducted in this case?

14 A Well, yes I looked, but I did not say scrape it, per se/.
15 Your talking about cutting the nails or using a scraper --

16 Q Talking about actually going under -- if a person has been
17 killed, let's say, and they scrape their assailant and get
18 skin underneath their fingernails that could be examined,
19 could it not, to see if it matches up to a possible suspect?

20 A Theoretically it would, yes.

21 Q That was not done in this case?

22 A Correct.

23 Q Now the clothes that you removed from the victim and ^{that have} been
24 introduced as Commonwealth's 5, to your knowledge where
25 these clothes submitted to the division of your laboratory

1 that does fiber and hair analysis?

2 A No.

3 Q And your lab does have a -- facilities in another section
4 to microscopically examine, let's say, an article of
5 clothing to see if there are any hair samples or fabric
6 evidence that might tend to be connected to another
7 individual.

8 A Again, this is theoretically possible, yes.

9 Q In fact, it's done all the time, is it not? Don't you have
10 a scientist in your lab that does nothing but that?

11 A Well, yes, we have people in a section who do this as a
12 matter of their specialty.

13 Q And that was not done in this case?

14 A As far as I know, I did not request that it be done.

15 Q That's generally requested by the detective in the case,
16 is it not?

17 A That is usually the matter of procedure, yes.

18 Q O.K. What is the scientist name that does the majority of
19 this work for your lab?

20 A Well, there are several, uh, the division of serology
21 of the bureau of forensic science does the fiber analysis
22 and the, uh --

23 Q Would that be Mary Jane Burton?

24 A Mary Jane Burton is the head of that, yes.

25 Q All right. Now as a forensic pathologist, of course, when

1 -- the thing you attempt to do is ascertain if this is a
2 homicide or possibly self-inflicted wounds?

3 A Yes.

4 Q All right. In this particular case, you know what your
5 conclusion is, my question to you is, is it possible this
6 was -- these were self-inflicted wounds? Could they have
7 been self-inflicted wounds?

8 A Well, any wound can be self-inflicted, but it's simply a
9 matter of looking at probabilities as to how the wound it-
10 self is. If you're talking about one individual using a
11 gun and reaching around and inflicting two wounds on him-
12 self, uh, in this fashion; I would say that that is virtually
13 -- that is highly improbable, if not impossible to do.
14 Especially to do it without the muzzle in contact with the
15 body itself, as far as say some other means -- some mechanical
16 device or something like that, one would not -- one theo-
17 retically could do that. However, having been to the scene
18 itself, these were not found nor was a gun, in fact, found
19 at the scene and I think that my own conclusion regarding
20 this case is the probability of a self-inflicted wound is
21 extremely small, if not impossible.

22 Q Have you had an occasion to read the report prepared by
23 Cecil Moorehead of your lab dated June 17, 1981?

24 A Yes.

25 Q In that report there is a sentence and he is a -- for the

1 jurys information he is a ballistic expert, is he not?

2 A Yes.

3 Q You submitted the shirt, Commonwealth's No. 5, to him for
4 examination of gun powder residue, is that correct?

5 A Yes.

6 Q In his report, he states, residue is -- speaking of gun
7 powder residues were found --

8 MR. MARTIN: Judge, I don't -- we're going to get to
9 Mr. Moorehead, I'd prefer to wait until we
10 get to him, uh, he's going to testify as
11 to what he found. I'm going to have him
12 here.

13 MR. BOONE: Judge, I'm glad he'll have him here, but
14 I'm cross examining this witness.

15 THE COURT: I understand, but what you're asking is --
16 you're asking this witness to quote something
17 that Mr. Moorehead or Moorehouse has said.

18 MR. MARTIN: Moorehead, Cecil Moorehead, right.

19 MR. BOONE: Yes, ^{sir,} /well, Mr. Martin has introduced reports
20 from other scientist and asked him about
21 theirs, I'd like to do the same thing.

22 MR. MARTIN: Well I've got Mr. Moorehead coming up for
23 other things and uh,

24 THE COURT: Just, just talk to Mr. Moorehead and you
25 can ask him whatever you want to ask him.

1 Q Did you conduct a paraffin test on the victim's hands?

2 A No.

3 Q Can you tell the jury what that is?

4 A A paraffin test, now you're using a paraffin test as a test
5 that has been considered basically obsolete. A paraffin test
6 is an old test for nitrates and nitrates were a part of the
7 actual mechanism within a bullet, whereby a bullet is fired
8 and theoretically people who fired a gun would then have
9 these nitrates deposited on their hands. The difficulty
10 is, of course, that over the years it will show that a
11 great many things will deposit nitrates on the hands. I
12 believe that what you're interested in is a primer residue
13 test. A primer residue test is a much more sophisticated
14 test we use now to detect components of primer, which is
15 a part of the bullet used to ignite or actually propel
16 the bullet from the cartridge and this test specially is
17 looking for barium and antimony which are -- is a part
18 of the chemical, which is used as a primer in the bullet
19 and we did not conduct this test, no.

20 Q Were the hands of the victim bagged?

21 A No, they weren't.

22 Q And can you tell the jury why you bag the hands of victims
23 as you found them?

24 A Hands are frequently bagged when one expects to find some
25 form of trace evidence on the hands and uh --

1 Q And whose decision is it to bag the hands?

2 A This is a joint decision frequently made between -- it can
3 be my own, it can be the police, or the police investigator
4 to bag the hands.

5 Q In this particular case was it discussed as to whether the
6 hands should be bagged?

7 A I do not recall a discussion being made, no.

8 Q And the purpose of bagging the hands would be to preserve
9 the hands as you found them, is that correct?

10 A Yes.

11 Q Not to disturb any trace element such as scrapings underneath
12 the nails, or gun powder residue on the hands, things of
13 this sort?

14 A It would be to preserve, yes. It wouldn't -- I don't know
15 that it would have any effect on gun powder elements, but
16 it would have an effect on various things in the hands.

17 Q You said the paraffin test was pretty well out dated, but
18 the other test you referred to is what you currently use,
19 is that a scientifically approved test?

20 A The paraffin test?

21 Q No, the other test you referred to.

22 A We have felt that it gives an indication of whether the --
23 let me put it this way, it's a scientifically approved test
24 but it really is not a conclusive test as to whether some-
25 body has actually fired a gun or not fired a gun. There

1 are other things which will leave barium and antimony on
2 the hands.

3 Q Do you conduct that test as a matter of course in your
4 employment?

5 A No.

6 Q You never do ?

7 A No. We do at times.

8 Q Now when you say "we" are you speaking of yourself or some-
9 one else at the lab?

10 A Well, I'm speaking of either, our office, myself, or the
11 police departments which we work with.

12 Q It's not all that unusual to do that test, is it? At your
13 lab?

14 A No, it isn't unusual, ^{but} tests, in order really to be of value,
15 one should have a particular suspect fire arm, so that
16 that could also be tested.

17 Q And you didn't have that in this case?

18 A No, well no I didn't have it and I assume the police didn't
19 have it either.

20 Q Was it just as likely Mr. Miller died Saturday night, May
21 16th, as it is that he died Friday night May 15, 1981?

22 A From, strickly from the examination of the body that is
23 equally as likely, yes.

24 Q Thank you, Doctor, I have no futher questions.

25 THE COURT: Anything else, Mr. Martin?

REDIRECT EXAMINATION: Dr. Massello by Mr. Martin

Q What is stippling?

A Stippling is the actual -- stippling is a finding on the skin which results from the discharge of a gun barrel. Now, a bullet hole if the gun say is within a certain distance from the bullet hole, one can see small individual particles around the entrance hole and this is in fact the result of either small flakes of gun powder which are hot and hit the skin and cause these little red marks, or it is the result of small bits of lead which are shaved off by the gun barrel and also will cause these little marks around the bullet hole.

Q Do you find those in contact wounds and very close gun to the body?

A No, you don't find that in contact wounds, you find that in wounds which are close, but not in contact with the body.

Q And you did not find stippling in this case at all around the wounds, did you?

A Well, I did not find stippling on the skin and I did not find powder -- visible powder on the clothing.

Q O.K.

MR. BOONE: Judge, I have one last question, if I might.

THE COURT: Wait a minute I'm not through yet.

MR. BOONE: Oh, I sorry.

1 MR. MARTIN: I think that's all that I would have for
2 him, today.

3 THE COURT: Mr. Boone?

4 RECROSS EXAMINATION: Dr. Massello by Mr. Boone

5 Q Doctor, if you are capable through your training to answer
6 this, I wish you would. Can you as a forensic pathologist
7 venture an opinion as an expert witness as to how far the
8 muzzle of this gun was from the body when it was fired?

9 A Well from examining the body itself no I can't. From my
10 review of the clothing report I can say that the -- if you
11 would -- I assume you want me to answer based on that
12 clothing report that -- I can say that the gun muzzle was
13 in close proximity to the body itself at the time the shot
14 was discharged and the proximity would depend upon at what
15 distance the gun in question would leave residues, chemical
16 residues, on the clothing.

17 Q Still, I'm still not too clear on that are -- can you give
18 us inches?

19 A No, I can't give you, I can't give you an exact distance.

20 Q O.K. Can you give us a ball park?

21 A Well, uh, I think I can say/a large number of guns will
22 ^{that} leave
23 cease to / residues, when they are beyond 3 feet, when
24 the muzzle is farther than 3 feet away. Some guns, of
25 course, may cease to leave residues when they're a foot
away, and some guns may cease to leave residues at 2 feet.

1 Beyond 3 feet there are fewer number of guns that are
2 likely to leave residues. I think beyond 5 feet you're
3 down to practically 0.

4 Q So are you saying that the gun was ^{within} / 5 feet of the body?
5 Most likely?

6 A Well, I -- well, I would say -- I'd say that the likelihood
7 is extremely high, that it was within 5 feet and the likeli-
8 hood is high that it was in 3 feet.

9 Q Mr. Moorehead works at the lab, same lab you work for, is
10 that correct?

11 A Yes.

12 Q And this is his expertise, is that -- that fair to say?

13 A Well that is it's, it's -- sure, he certainly is expert
14 in this area.

15 Q All right, you have relyed upon certain lab reports that
16 you did not prepare ?

17 A That's right.

18 Q You -- I'm going to try it again, if I can't do it, I won't
19 do it. Can you also use Mr. Moorehead's report to answer
20 that question?

21 A Well, as I thought I mentioned this before, but I would
22 only be able to answer the question the way I answered it
23 if I relyed on Mr. Moorehead's report. If I were to rely
24 on my examination of the body, I could not answer that
25 question, if I didn't have his assistance I couldn't answer

1 it.

2 Q O.K. thank you very much.

3 THE COURT: Anything else?

4 MR. MARTIN: No, sir, Judge.

5 THE COURT: Mr. Martin or Mr. Boone, may the Doctor
6 by excused?

7 MR. MARTIN: He may be, thank you for coming.

8 MR. BOONE: With my thanks.

9 THE COURT: Thank you very much, Doctor, you're excused
10 you have the right to remain or leave, which
11 ever you prefer. Is your next witness long
12 or short, Mr. Commonwealth?

13 MR. MARTIN: Next witness is a stipulation, Judge.

14 THE COURT: Oh, all right. Ladies and gentlemen when
15 they say the next evidence is a stipulation,
16 you will accept this as a fact.

17 MR. MARTIN: Judge, the stipulation that is offered at
18 this time is one that Mr. Boone and I have
19 reduced to writing and signed, as well as
20 Mr. Bishop and himself has signed/^{it}and dated
21 it today. It is in -- a statement in
22 reference to evidence that would have been
23 testified to by Officer Benjamin A. Alston,
24 (A-l-s-t-o-n) of the Richmond Bureau of
25 Police. And, at this time I will read the

1 statement and offer it as Exhibit 6 to
2 the Commonwealth. It reads as follows:

3 STIPULATION: Officer Benjamin A. Alston by Mr. Martin

4 On wednesday morning, May 20, 1981, at approximately 2:40
5 o'clock a.m., Officer Benjamin A. Alston of the Richmond
6 Bureau of Police was on routine patrol when he observed a
7 1974 Dodge Dart, Metallic Green, Black Top, 1981 Virginia
8 License SKH-182, belonging to Raymond A. Miller, 201
9 Kirkland Drive, Henrico County, Virginia, parked by the
10 side of the road near Commonwealth Heating & Plumbing,
11 Incorporated in the County of Henrico. Officer Alston
12 marked out at that time to check the vehicle. He had
13 observed the vehicle on the previous morning, May 19, 1981,
14 at approximately 3:30 o'clock a.m. parked in exactly the
15 same location. At that time, he could observe no one in,
16 at or around the vehicle. It was raining on May 19th, and
17 he did not get out of his vehicle to check the Dodge.
18 Officer Alston checked through the city to determine if
19 the Dodge Dart was stolen. The answer was negative. On
20 May 19, 1981, after checking on the vehicle, Officer Alston
21 resumed his patrol.
22 Then, on May 20, 1981, when he observed the vehicle in
23 exactly the same location without anyone apparently in,
24 at or around it, he thought it seemed suspicious and got
25 out of his vehicle to check on it. Inside he could see the

1 body of the victim in this case, Raymond A. Miller, laying
2 across the front floor boards with his head toward the
3 passenger side propped up between the seat and the door.
4 The body was bloody and there were no signs of life.
5 Personal papers appeared to be strewn about the front seat
6 of the vehicle in the driver's seat area.
7 After calling his supervisor, city units responded to assist
8 At the time Officer Alston checked the vehicle on May 20th,
9 all four doors of the car were locked. In Officer Alston's
10 presence, a Sergeant Spurlock utilized a coat hanger to
11 enter the vent window of the car on the driver's side. The
12 piece of paper on the dash on the driver's side was checked
13 to see if it might be a suicide note. It was not. At that
14 time, the driver's door was opened with the coat hanger.
15 Mr. Miller was checked for signs of life, and none were
16 found. After checking some of the papers in the car for
17 identification, the city officer backed out of the vehicle
18 and closed the driver's door. No one removed anything from
19 the vehicle or placed anything in it at any time. The
20 papers on the seat were left in the same basic position
21 they were when they were found. Sometime around 3:00 o'
22 clock a.m., or shortly thereafter, Henrico County uniform
23 police officers arrived on the scene to secure the vehicle
24 and handle the investigation, as the vehicle was found in
25 Henrico County. At no time was the vehicle moved prior

1 to the county officers arriving. There were no keys with
2 the vehicle, no wallet, no money or valuables that could
3 be seen. Officer Alston stayed with the vehicle from the
4 time he first discovered it on May 20, 1981 until Henrico
5 officers arrived. Officer Alston would identify the
6 photographs of the vehicle to be introduced in this case
7 as the same vehicle that he observed on May 19th and May
8 20, 1981 and the body inside as the body he observed.

9 (End of stipulation)

10 MR. MARTIN: I would offer that as No. 6 for the Common-
11 wealth.

12 MR. BOONE: Your Honor, we would object to it being
13 introduced as an exhibit.

14 THE COURT: It's a stipulation, that's what it is --

15 MR. BOONE: Yes, sir.

16 THE COURT: And the jury will accept it as a fact. Do
17 you want me to mark it as no. 6 or just
18 over throw that.

19 MR. BOONE: I have no objection to the identification.

20 THE COURT: All right, we'll mark it as no. 6. Although
21 this is labeled Commonwealth's Exhibit No.
22 6 and it's an exhibit that is agreed^{to}/by
23 both the Commonwealth and the Defense.

24 MR. BOONE: Possibly, we should address the Court
25 outside the presence of the jury.

* * *

Page 49 of Volume I is not
included. It covers discussion
outside presence of jury.

* * *

1 accounted for. Your next witness.

2 Mr. Martin: Officer Caudle. C-a-u-d-l-e.

3 (Officer Caudle, having been duly
4 sworn on the issue, testified as
5 follows):

6 DIRECT EXAMINATION: Steven Caudle by Mr. Martin

7 Q Sir, would you face the ladies and gentlemen of the jury
8 and tell them your name, please?

9 A Steven Caudle.

10 Q What do you do, Mr. Caudle?

11 A I'm a Henrico Police Officer.

12 Q How long have you been so employed?

13 A About three (3) years, now.

14 Q Were you so employed on or about May 20, 1981?

15 A Yes, I was.

16 Q Did you have occasion to be working a specific beat or
17 area of Henrico County at that time?

18 A Yes, sir.

19 Q And what area was that, sir?

20 A It was in Eastern Henrico, it was in 8 Beat, I think.

21 Q Excuse me?

22 A I believe it was 8 Beat, I'm not sure.

23 Q 8 Beat? Where does that encompass basically?

24 A From the Richmond City Line down toward the bottom end.

25 Q All right. Did you have occasion to response to the area

1 of Tuxedo Boulevard sometime that morning, May 20, 1981?

2 A Yes, I did.

3 Q Approximately what time did you get the call to go there?

4 A Approximately 2:58.

5 Q Was that a.m.?

6 A Yes.

7 Q And when you arrived were you the first Henrico Officer on
8 the scene?

9 A Yes, I was.

10 Q Were you in uniform, at the time?

11 A Yes, sir.

12 Q Are you still assigned to uniform operations?

13 A Yes, sir.

14 Q What are you assigned to right now?

15 A I'm in Special Action Force right now.

16 Q What is a Special Action Force?

17 MR. BOONE: I'm sorry, I can't hear.

18 THE COURT: He's in Special Action Force right now.

19 Q What is Special Action Force?

20 A It's, um, dealing with targeted crimes and surveillance.

21 Q Is it plain clothes type thing?

22 A Yes.

23 Q Do you work at night?

24 A Yes, sir.

25 Q Do you wear beards?

1 A Yes, sir.

2 Q Is that why you have a beard right now?

3 A Yes, sir.

4 Q O.K. When you arrived on the scene May 20, 1981 about --
5 what time of the morning did you say?

6 A I received the call approximately 2:58.

7 THE COURT: I'm sorry, Officer, I can't hear you you
8 received the call when?

9 A It was approximately 2:58.

10 Q Did you meet city officers at the location?

11 A Yes, I did.

12 Q What was the location you responded to?

13 A It was on Tuxedo Boulevard near the dump -- the old dump
14 they had down there.

15 Q Is that an old county dump right there?

16 A I believe so, its an old dump, I don't even think they
17 use it anymore that I know of.

18 Q Did you observe a vehicle there at all?

19 A Yes.

20 Q All right, I'm going to show you three (3) photographs and
21 ask can you identify them, please? Can you tell us what
22 they appear to be, sir?

23 A It's the vehicle that I found when I arrived at the location
24 on Tuxedo Boulevard.

25 Q Was it pointed out to you by Richmond Officers?

1 A Yes.

2 Q And where was it when you got there? Physically located?

3 A Well it was on the road at that time, it was in front of
4 a Air Conditioning and Heating place.

5 Q O.K. was it parked by the road, was it in the middle of
6 the road, or off --

7 A It was off -- off to the side of the road.

8 Q O.K.

9 MR. MARTIN: Judge, I would offer those as three (3)
10 exhibits for the Commonwealth, I think it's
11 6, 7, & 8.

12 MR. BOONE: No objections.

13 THE COURT: Well, why don't we just make all three of
14 them Commonwealth's Exhibit 6?

15 MR. MARTIN: Fine, if that's easier, I don't know.

16 THE COURT: Commonwealth's Exhibit 6, consisting of
17 three (3) photographs and the three photo-
18 graphs were of the car that the police
19 officer found on his first arrival, which
20 was pointed out to him by the Richmond
21 Police City Officer.

22 MR. MARTIN: Show him -- Sheriff would you show him
23 Commonwealth's Exhibit 4, please?

24 Q Did you look in the vehicle, Officer Caudle?

25 A Yes, I used a flashlight and looked in the window.

1 Q What did you see inside the vehicle?

2 A What's in this picture, a man lying on the floor board.

3 Q O.K. Now, when you got there were the doors open or closed
4 to the car?

5 A Closed.

6 Q Was anybody in the vehicle, or going in and coming out of
7 the vehicle when you got there?

8 A No.

9 Q And what was your job once you got there and got to the
10 vehicle?

11 A ^{just} To/basically secure the crime scene until the forensic
12 people and medical examiner, investigator got there.

13 Q And when you say secure the crime scene what do you mean
14 by that, sir?

15 A I mean not allow anybody to go into the vehicle or go
16 around the vehicle to contaminate the area.

17 Q And did you, in fact, do that?

18 A Yes, sir, I did.

19 Q Did you wait until Dectective Priddy, from forensic unit,
20 got there -- Dectective Mise?

21 A Yeah, I was there when they arrived.

22 Q O.K. and at that point did you turn this investigation
23 over to them?

24 A Yes, sir.

25 Q All right, and that's all you know about this, is that

1 correct?

2 A Yes, sir.

3 Q O.K.

4 MR. MARTIN: That's all I have, Judge.

5 THE COURT: Cross.

6 CROSS EXAMINATION: Steven Caudle by Mr. Boone

7 Q Sir, will you spell your last name?

8 A C-a-u-d-l-e.

9 Q Mr. Caudle how long have you been a police officer for
10 Henrico?

11 A About three (3) years and three (3) months, now.

12 Q And of that three years, how long have you spent at that
13 neighborhood, was part of your beat?

14 A That's mainly where I've worked since I've been there.

15 Q So you know that neighborhood? Melburn Road, Tuxedo
16 Boulevard, where the car was found?

17 A Yes.

18 Q You know that neighborhood pretty well?

19 A Not real well, I know where it's at.

20 Q Do you drive that neighborhood --

21 A It's kind of a isolated area really.

22 Q Well, exactly, I want you to tell the jury what kind of
23 neighborhood it is, what kind of people live there, is it
24 a high rent area, low rent area, high crime area, low crime
25 area, tell me a little bit about the neighborhood, if you

1 will?

2 THE COURT: What do you consider high rent this day
3 and time, Mr. Boone, that's what bothers
4 me.

5 Q Is it a slum area?

6 A Well wha-- it was the entrance to the dump, is where this
7 was. There wasn't really no houses on this particular
8 area. Just that Air Conditioning place and the dump.

9 Q Well there are houses 100 feet from the entrance to the
10 dump, 50 feet from the entrance to the dump, on Tuxedo
11 Boulevard, aren't there? There

12 A Before you turn the curve, yeah.

13 Q 50 feet from the -- right there is Tuxedo Boulevard isn't
14 it? You go down to Tuxedo Boulevard and at that dead end
15 you take a left, and the car was found about 50 feet down
16 the left hand side, wasn't it?

17 A 50 to a 100 , yeah.

18 Q So I'm talking about the neighborhood right there on
19 Tuxedo Boulevard.

20 A Well I -- to tell you the truth I've never answer a call
21 on that street at all.

22 Q So you don't know much about the street?

23 A No, I don't.

24 Q A lot of the houses have window panes broken out and things
25 of that sort? Run down houses? Are have you --- is that

1 the first time you've ever been on Tuxedo Boulevard?

2 A I haven't been there many times, like I say it's my --
3 it's only one street there --

4 THE COURT: Let's find out if he looked at the houses
5 first.

6 Q Have you noticed the houses on that road, Tuxedo Boulevard?

7 A They're old houses, that's about all I can tell you about
8 them.

9 Q Do you know how -- whether it has a high crime area?

10 A No, like I said I never answered a call on that street and
11 I've worked East End for almost 3 years.

12 Q Does that mean it's not a high crime area?

13 A Well I -- from my experience I don't see -- in that
14 particular street.

15 MR. MARTIN: I think that's all he can testify to, Judge.

16 THE COURT: That's what he's testifying to.

17 Q The dump is chained off now, is it not?

18 A I believe so.

19 Q How about on May 20, 1981?

20 A I believe it was, I don't recall.

21 Q You don't know. How about Commonwealth Heating and Plumbing
22 was that out of business on May 20th, closed down?

23 A Your Honor, I have no way of knowing --

24 Q Your really not familiar with that neighborhood are you?

25 A No, sir.

1 Q O.K., that's all.

2 THE COURT: May this officer be excused?

3 MR. MARTIN: Yes, he may, Judge.

4 THE COURT: Mr. Boone?

5 MR. BOONE: Yes, sir.

6 THE COURT: Officer you're excused, you have the right
7 to remain or leave whichever you prefer.
8 Next witness, please.

9 MR. MARTIN: Trooper Hooper, please.

10 (Mr. Hooper, having been duly
11 sworn on the issue, testified as
12 follows):

13 DIRECT EXAMINATION: Trooper Hooper by Mr. Martin

14 Q Sir, would you face the ladies and gentlemen of the jury
15 and tell them your name and occupation, please?

16 A James C. Hooper, of Virginia State Police and I'm a Virginia
17 Trooper.

18 Q And what Division are you assigned to?

19 A First Division, A-1.

20 Q Is that right here in the Richmond area?

21 A Yes, sir.

22 Q Central Virginia?

23 A Yes, sir.

24 Q And how long have you been a State Trooper?

25 A Approximately eight (8) years, sir.

1 Q Were you so employed on or about May 15, 16, 1981?

2 A Yes, sir.

3 Q Focusing your attention, sir, on the date of May 16, 1981,
4 did you have occasion to meet with a -- one Barbara J.
5 Miller?

6 A On May 16th?

7 Q Yes, sir.

8 A Yes, sir, I did.

9 Q All right, where did you meet with Ms. Miller and when?

10 A Uh, I met Ms. Miller at 1st Division on U.S. 1 in Henrico
11 County.

12 Q And approximately what time was that?

13 A Approximately -- it was approximately about 4:00 o'clock
14 in the afternoon, on May 16th.

15 Q And what happened when she was there?

16 A All right I was called to 1st Division to take a affidavit
17 for a missing person report and at that time I contacted
18 Ms. Miller, she was standing by for me at 1st Division.

19 Q All right, and did she in fact file a missing person report
20 with you?

21 A Yes, sir, she did.

22 Q And do you have a copy of that with you here today?

23 A Yes, sir.

24 Q And was that in reference to Raymond Anthony Miller?

25 A Yes, sir.

1 Q O.K. Would you take that out, please? Is that the
2 document right there?

3 A Yes, sir.

4 Q O.K.

5 MR. MARTIN: Judge, I'd -- show that to Mr. Boone, I
6 would offer it as number 7 for the Common-
7 wealth.

8 MR. BOONE: No objections, Judge.

9 THE COURT: Commonwealth's Exhibit 7.

10 Q Sir, when you took the report did you initiate any
11 action in term of trying to find Mr. ^{Raymond} Miller, the subject
12 of the report.

13 A Yes, sir, after the affidavit is filled and the person
14 signs and initials it we take initial notes or investiga-
15 tion on the matter, and at that time, after the affidavit
16 was signed, I contacted 1st Division, the dispatchers and
17 asked them to enter him as a missing person in -- into
18 NCICV Center.

19 Q And what does NCICV Center? What body is that?

20 A It's a National Criminal Intelligent Network, which is
21 United States wide, that you enter somebody into or V
22 Center, which is Virginia State Wide, if you enter a vehicle
23 -- you know, any odd -- uh, a person, motor vehicle, what-
24 ever. If a police officer stops, runs a license check or
25 a check on the person, he comes back wanted and it

1 indicates the division or the police officer that entered
2 it in what county, what state.

3 Q O.K. and did you enter the appropriate information for
4 the vehicle, Mr. Miller's vehicle?

5 A Yes, sir, I did.

6 Q The Dodge Dart and the -- and his name and date of birth
7 and so forth?

8 A Yes, sir, I did.

9 Q O.K., were you able to follow up on it at all, conduct any
10 type of search, contact any people in reference to the
11 Mr. Miller disappearance?

12 A On May 16th, I took the initial report of the missing person
13 On May 17th, I was contacted ^{again} by Ms. Miller, she informed
14 me that she ---

15 MR. BOONE: I'm going to object to this point --

16 THE COURT: Yeah - -

17 Q All right, she spoke with you again?

18 A She spoke with me and at that time, I'm assigned to the
19 K-9 Division, I was sent out on a K-9 call and the matter
20 was again turned over to another trooper, from the 1st Div.

21 Q Who was that?

22 A Trooper Brewer, Frank Brewer.

23 Q Did you reassign to Trooper Brewer.

24 A Yes, sir, it was.

25 Q All right, and you had no further involvement with the case,

1 is that correct?

2 A No, sir, just the initial report.

3 Q All right, so aside from taking the report from Ms. Miller
4 and putting the information into the criminal network, that
5 you've testified to, you did nothing further on that?

6 A No, sir.

7 Q O.K.

8 MR. MARTIN: That's all the questions I have for him, sir.

9 THE COURT: Cross.

10 CROSS EXAMINATION: Trooper Hooper by Mr. Boone

11 Q Mr. Hooper, did you have, from your own knowledge any
12 information as to where this individual was?

13 A No, sir, not at the time.

14 Q And the first you ran over him was when he was discovered
15 May 20th?

16 A No, sir, May 16th, the initial report was filed --

17 Q No. I mean of his location. You learned that on May 20th,
18 that he had -- his body had been found in an automobile --

19 A No, sir, I didn't learn -- I think approximately back in
20 May 25th, I was gone approximately 2 weeks on K-9 call and
21 special assignment, so I didn't know anything about the
22 case until I got back and I was informed by, you know, other
23 departments and Officer Brewer. So the only thing I was
24 involved in was taking the initial report.

25 Q You initiated the search?

1 A The investigation, yes, sir.

2 MR. BOONE: I have no further questions.

3 THE COURT: May the officer be excused?

4 MR. MARTIN: He may, Judge, I thank him for coming.

5 MR. BOONE: Yes, sir.

6 THE COURT: You're excused, sir, you have the right to
7 remain or to leave, whichever you prefer.
8 Next witness.

9 MR. MARTIN: Trooper Brewer.

10 (Mr. Brewer, having been duly sworn
11 on the issue, testified as follows):

12 DIRECT EXAMINATION: Mr. Brewer by Mr. Martin

13 Q Sir, would you tell the ladies and gentlemen of the jury
14 your name and occupation, please?

15 A F. C. Brewer, Jr., trooper with the Virginia State Police.

16 Q How long have you been so employed, Trooper Brewer?

17 A Since May 1, 1972.

18 Q And were you so employed on or about May 15, 16, 1981?

19 A Yes, sir, I was.

20 Q And were you assigned to 1st Division at that time?

21 A Yes, sir, Area 1.

22 Q Is that here in the Richmond area?

23 A Yes.

24 Q Do you know Trooper Hooper, just left here and has testified

25 A Yes, sir.

1 Q Did you have occasion to get involved or reassigned --
2 have a missing person report on Raymond Anthony Miller
3 reassigned to you in May?

4 A Yes, sir.

5 Q When did you get the case yourself? Reassigned to you?

6 A I received the case on the 18th of May, it was reassigned
7 to me, after Trooper Hooper had taken the original report.

8 Q And what did you do when you received the reassignment
9 from Trooper Hooper? What type of action did you initiate?

10 A After I received the assignment from my Sergeant to check
11 into it further, I contacted Mrs. Barbara Miller, who was
12 the sister of Raymond A. Miller, and went over the facts
13 with her that she had already given Trooper Hooper before,
14 previously. Stating that she thought her brother was
15 missing.

16 MR. BOONE: Your Honor, I'm going to object.

17 THE COURT: Sustained.

18 Q All right, you talked with her, you got certain information
19 from her, is that correct?

20 A Yes, sir I did.

21 Q Based on what she told you, what kind of things did you
22 do or try to do?

23 A I started some background investigations and was trying
24 to track back to the last place he had been seen. And,
25 my investigation lead me to the Defense General Supply

1 Center and this was on the 19th of May, the next day.
2 And, I gathered certain information from the Defense
3 General Supply Center and the people that I talked to, in
4 regards to Raymond Miller; as to what time he had left,
5 and soforth, what kind of vehicle he was driving.

6 Q And was he suppose to be working at the Defense General
7 Supply?

8 A Yes, sir, he was employed there at the time.

9 Q And, uh, had not shown up for work --

10 MR. BOONE: Your Honor, I'm going to object to, uh --

11 THE COURT: Sustained.

12 Q All right, but as far as you knew he was still missing, is
13 that correct?

14 A Yes, sir.

15 Q All right, and you continued your investigation in your
16 search for him?

17 A Yes, sir, I did.

18 Q Were you able to locate him?

19 A I beg your pardon?

20 Q Were you able to locate him?

21 A No, sir, I was not.

22 Q Were you able to locate his vehicle?

23 A No, sir, I was not.

24 Q Did you know Mr. Raymond Miller at all, was the name familiar
25 to you in any way?

1 A No, sir, I had never heard of the subject.

2 Q All right, sometime later did you learn that Mr. Miller had
3 been found by other authorities?

4 A Yes, sir, I did.

5 Q And, is it fair to say that that would terminate your in-
6 vestigation?

7 A Yes, sir, that did terminate my investigation.

8 Q All right, and you had no further involvement with this
9 case, did you?

10 A No, sir.

11 Q O.K. Did you buy any necessary teletypes or do anything
12 with teletype , in reference to putting information out
13 in this case? That you recall?

14 A Yes, when I first got involved in the case, trying to
15 located the subject, I entered the subject's name and the
16 vehicle description, into the computer, in case he was
17 located and somebody did run a check, then we would get
18 a hit through the computer and know where he was located.

19 Q You never got a hit?

20 A No, sir, I never did.

21 MR. MARTIN: No further questions.

22 THE COURT: Cross.

23 MR. BOONE: I have no questions.

24 THE COURT: May the trooper be excused?

25 MR. MARTIN: Yes, sir, and thank you for coming.

- 1 MR. BOONE: Yes, sir.
- 2 THE COURT: Your excused, Trooper Brewer, you have the
3 right to remain or leave, which ever you
4 prefer, sir.
- 5 A Thank you, Judge.
- 6 MR. MARTIN: Clyde Bell, Clyde Bell
7 (Mr. Bell, having been duly sworn
8 on the issue, testified as follows):
- 9 DIRECT EXAMINATION: Mr. Bell by Mr. Martin
- 10 Q Sir, would face the ladies and gentlemen of the jury,
11 speak up, and tell them your name?
- 12 A Clyde Bell.
- 13 Q B-e-l-l?
- 14 A Yes, sir.
- 15 Q What do you do, Mr. Bell?
- 16 A I am presently in the Air Force.
- 17 Q What did you do before you went into the Air Force?
- 18 A I was employed by Defense Logistics Agency, Bellwood.
- 19 Q Down at Jeff Davis Hwy?
- 20 A Yes, sir.
- 21 Q And what did you do for them, sir?
- 22 A Security Guard.
- 23 Q How long had you worked for them in that capacity, what
24 period of time did you do that?
- 25 A I started uh, the 4th of December of 79, and I terminated

1 the 4th of August of 81.

2 Q Sir, did you have occasion to be on duty as a security
3 guard down at Defense General Supply Center on or about
4 Friday May 15, 1981?

5 A Yes, sir, I did.

6 Q And what type of shift do you work during the day down
7 there?

8 A Well I just came on that shift, uh, it was morning shift,
9 swing shift, mid-shift, and then the midnight shift. I
10 was on the swing shift, the 2 to 11 shift.

11 Q Do you know a gentlemen by the name of Raymond Anthony
12 Miller?

13 A I knew Raymond Miller, sir.

14 Q Raymond Miller, O.K. is that name familiar to you?

15 A Yes, sir.

16 Q How do you know Raymond Miller?

17 A I had known Raymond practically the whole time I was em-
18 ployed at Defense Logistics Agency.

19 Q Did he work there or what?

20 A Yes, sir, he worked in warehouse 59.

21 Q And what was that warehouse, what do they do down there?

22 A They, uh, pack and select the stock.

23 Q Did you observe Raymond Miller on May 15, 1981, that Friday?

24 A Yes, sir, I did.

25 Q Are you familiar with his vehicle?

1 Q Car?

2 A Yes, sir.

3 Q About what time of the day did you observe Raymond Miller?

4 A Approximately -- we use military time, it was 15:40 or
5 15:45. (3:40 or 3:45). P.M.

6 Q In the afternoon?

7 A P.m.

8 Q P.m., all-right, and what did you observe, Mr. Miller
9 doing at that time?

10 A Well, at that time of the day the traffic was rather heavy
11 during that period, because the shift was ending, and, uh,
12 Raymond was departing the Center in the far lane, and we
13 open both lanes when the traffics' congested. Raymond
14 departed slowly, the speed limit was about 10 mph. My
15 function at the gate was to watch the traffic, if it got
16 congested I would go out and help them out, you know.

17 Q Is there any type of observation booth there?

18 A Yes, sir, it was.

19 Q And where were you stationed, inside or outside?

20 A I was inside first, then Raymond's car stopped approximately
21 20 feet in front of the building.

22 Q Did you observe who was driving the car?

23 A Yes, Raymond Miller was driving the vehicle.

24 Q Did he look at you or you look at him, or what did you do?

25 A Yes, sir, as soon as he stopped, um, I approached

10 A Yes, it was words passed, mostly by myself, I think.

13 Q Did you observe anything unusual about him, when you saw
14 him at that time?

19 Q Can you describe that particular passenger in any way?

24 Q Did you know this other individual, the black person, that
25 was in the front seat of the car?

A No, sir, I did not.

Q Are you able to identify that person at all?

A No, sir, I don't -- other than a black male, no, sir.

Q O.K. I would like, Judge, if the Sheriff would show him Commonwealth's Exhibit 6 and number 4. Would you take a look at Commonwealth's Exhibit 6, first, Mr. Bell. Series of photographs, I believe, is that correct?

A Yes, sir.

Q Would you take a look at all of those, please? Tell us if you can what they look like.

A This looks like Raymond Miller car.

Q Is that the car he was in May 15, leaving Bellwood?

A Yes, sir, this would look like his car.

Q All right, would you give those back to the Sheriff, please. And would you take a look at that other photograph? Can you tell us who that body is there?

A It looks like Raymonds.

Q It looks like Raymond to you. O.K. all right. Which direction did he go as he went out of the -- is this a main gate that you have?

A Yes, sir, this is, I believe it was Gate 3, they tag it as Gate 3, the main gate.

Q How far is that from warehouse 59?

A I would say approximately 2 to 2 1/2 miles.

Q Is there a parking lot down there at warehouse 59, to park?

1 A Yes, sir.

2 Q Which direction did he go as he left?

3 A Bellwood. Well after he had departed and I motioned to
4 him to go ahead, because of the traffic, he took a left
5 into Jefferson Davis and headed north, that's 301.

6 Q Are you familiar with him leaving Bellwood on previous
7 occasions and going north on 301?

8 A Yes, sir.

9 Q Is that the way you would go?

10 A Yes, sir.

11 Q You say he took a left turn, is it left turn from the
12 right lane or --

13 A That was from the right lane, there's two lanes exiting
14 Bellwood.

15 Q At that time -- can you make a right turn at that time?

16 A No, sir. It was a sign provided, uh, no right turn per-
17 mitted. There was a service road prior to that -- that
18 stop light that you could take a right and go south on 301.

19 Q Can you give us any further description of the person in
20 the vehicle, for example, did the person have a hat on,
21 the black male?

22 A I recall a white object, I don't know if it was a tee shirt,
23 or a sailor's hat, or whatever, I don't know why it sticks
24 in my mind, but I recall a white object, some kind of
25 clothing, some sort --

1 Q Did you observe any facial hair or anything about his
2 hair, anything like that?

3 I --
4 A /It looked as if the man had a, uh, uh, some -- a beard --
5 a partial beard..

6 MR. MARTIN: At this point, the defense will stipulate
7 it was Tyrone Bishop that the gentlemen
8 saw in the passengers seat.

9 THE COURT: All right, sir.

10 MR. MARTIN: That's all the questions, I think, I have
11 for -- well, let me ask you this --

12 Q After this particular day did you ever see Raymond Miller
13 again?

14 A No, sir, I did not.

15 Q Or his car?

16 A No, sir.

17 Q Until I showed you those photographs?

18 A Did I see his vehicle?

19 Q Did you ever see him again, until I showed you those
20 photographs?

21 A No, sir.

22 MR. MARTIN: O.K., that's all I have for him.

23 THE COURT: Cross.

24 CROSS EXAMINATION: Mr. Bell by Mr. Boone

25 Q Mr. Bell, you said the traffic was rather heavy, at that
time, on that date?

1 A The traffic at that particular time when -- when this
2 vehicle stopped, was not -- was not congested at that time.
3 But it was coming I had a mirror on the side of the wall,
4 that I could see the traffic coming.

5 Q Well he wasn't leading the pack was he?

6 A Yes, sir, I'd say he was. He -- he wasn't leading the
7 pack, I'd say there was probably a 100 yards difference
8 between the cars that were coming when I motioned him to
9 go.

10 Q And everybody was getting off -- when the whistle blows?

11 A Well, it -- they got off at normally at 3:30, I believe
12 the time was.

13 Q And this was 10 or 15 minutes after everybody had gotten off?

14 A I'd say it was 3:00, 3:40, 3:45.

15 Q On a Friday, on a payday?

16 A Yes, sir.

17 Q Do you -- can you estimate how many cars went through your
18 gate in about a 15 minute period on that day? From about
19 3:30, 3:45 or 3:30 to 3:50?

20 A Several hundred, sir.

21 O Several hundred, and this was one of those several hundred?
22 Right?

23 A I would say from 3:00 to 4:30 several hundred cars goes
24 through that gate.

25 Q You have any idea how many cars -- would it be as many as

1 a thousand that get off at 3:30?

2 MR. MARTIN: Judge, I think we're engaging speculation
3 at this point.

4 MR. BOONE: I'm asking him, if he knows.

5 THE COURT: Well, I'm going to let him ask it.

6 MR. MARTIN: That's a lot of cars, I doubt he counts
7 them.

8 THE COURT: I'm going to let him answer the question.

9 A I would hate to put a figure on it, sir. I don't know
10 per number, I'd be quesstimating.

11 Q It's a fair statement to say it's a study stream of cars
12 though?

13 A Pardon, sir?

14 Q It's a fair statement to say it was a study stream of cars,
15 getting off, leaving the base?

16 A Not at that particular time, but as say within a 10 minute
17 period, yes, yes it was, staggering cars.

18 Q Now, do you wear a gun?

19 A Yes, sir, I do.

20 Q All right, did uh--

21 A Or I did wear a gun.

22 Q Beg your pardon?

23 A I did --

24 Q At that time?

25 A Yes, sir.

1 Q On that day? Did Mr. Raymond Miller scream out, help me
2 I'm being robbed or help me I'm being abducted?

3 A No, sir.

4 Q Can he talk? Can he talk?

5 A Can Raymond talk?

6 Q Could he talk, yes, sir, was he physically able to talk?
7 Has he ever talked to you?

8 A Yes, he talked to me quite frequently.

9 Q So there was no -- there was nothing wrong with his
10 larnvx. His --

11 A Not to my knowledge, that day.

12 Q Now, you say when -- you just got a glimpse of the
13 passenger, he turned and looked at you, does that mean
14 he had been looking straight ahead? Or can you remember?

15 A Well, actually, sir, I didn't see -- I didn't notice the
16 man until he did turn and face me, he turned in the seat
17 like this. I saw part of his shoulder and his head.

18 Q Did you see a gun?

19 A No, sir.

20 Q Did you see any arguing going on between Mr. Miller and
21 this individual?

22 A No, sir.

23 Q Do you remember what you said to Mr. Miller?

24 A I believed I jested in, see you later have a nice weekend.
25 I believed that's what I said. Raymond had a habit of

1 stopping by and talking to us on the way out.

2 Q On Friday payday, when there are several hundred cars
3 leaving?

4 A Not on a Friday payday, on a normal --

5 Q That wasn't a normal -- that was a Friday payday, wasn't
6 it?

7 A Yes, sir.

8 Q So I guess it wouldn't be an accurate statement to say it
9 was normal for him to stop and talk to you on a Friday
10 payday, but on a non-Friday payday?

11 A Different intervals he would stop and actually come in the
12 building --

13 Q But we're talking about a specific type of day, we're talk-
14 ing about a Friday payday. Was it normal for him to stop
15 on a Friday payday, and chat with you when there were
16 several hundred cars trying to get off the base?

17 A I don't recall him stopping on a payday, no, sir.

18 Q Never, right?

19 A I don't recall anytime in my experience with him.

20 Q From the whole time you were there, December 1979 through
21 August 1981?

22 MR. MARTIN: I believe he said he didn't recall.

23 THE COURT: That's what he said.

24 Q Now how did you come about knowing Mr. Raymond Miller?

25 A Like I said, when I was employed there Raymond would, if I

1 may refer to him as Raymond, would come to the Security
2 Building Command Center and would stop in for a cup of
3 coffee in the morning, or he would stop after work, he was
4 friendly with the security guards there. I also had con-
5 versations with him down at Gate 71, this is the perimeter
6 that stops -- it's a restricted area for the employees down
7 at the bulk warehouses and where they do the packing. He
8 would come out there on a break and converse with me on
9 different matters.

10 Q Would you characterize him as being a friendly sort of
11 fellow?

12 A Extremely.

13 Q Everybody's friend?

14 A Yes, sir, I would say that.

15 Q The kind of guy that never got in arguments and was just
16 kind of there?

17 A Not to my knowledge.

18 Q A likable sort of fellow?

19 A Yes, sir.

20 Q How about Mr. Tyrone Bishop, sitting at my left, did you
21 know him at that time, or did you ever know him?

22 A No, sir. I don't recall the man.

23 Q Thank you, sir, that's all I have.

24 A All right.

25 REDIRECT EXAMINATION: Mr. Bell by Mr. Martin

1 Q Mr. Bell, in reference to Raymond, you said that -- Mr.
2 Boone's question, you didn't have any problem communicating
3 with him or anything, did you?

4 A Not actually.

5 Q Did you know though -- did he have any problems, mental
6 problem?

7 A Raymond, to me, was a little slow. I felt he was a little
8 insecure, that's why he came around security people.

9 Q O.K. That's all I have.

10 MR. BOONE: I'd like to pursue that.

11 RE CROSS EXAMINATION: Mr. Bell by Mr. Boone

12 Q Mr. Martin has now raised a new issue of mental problems,
13 did -- could you sit down and talk to this fellow intell-
14 igently?

15 A Yes, on a -- on basis.
16 ^{ize}

16 Q Would you character/ him as being of average intelligence?

17 A As far as society, yes, sir.

18 Q You ever have any trouble communicating with him?

19 A No, sir, not me.

20 Q And would you talk about various subjects and topics?

21 A Yes, sir.

22 Q Did you talk about news events and just things that people
23 normally talk about?

24 A We would talk basically about his employment there.

25 MR. BOONE: Thank you that's all I have.

* * *

Page 80 of Volume I is
not included. It covers discussion
between Court and counsel.

* * *

(Before John Lee was sworn, his
Grandmother was recognized as
being present.)

(John Lee, having been duly sworn
on the issue, testified as follows)

DIRECT EXAMINATION: John Lee by Mr. Martin

Q Would you face the ladies and gentlemen of the jury, John,
and tell them your full name, please?

A John Wesley Lee.

Q Middle name is Winston?

A Wesley.

Q Wesley, O.K. How old are you, John?

A 14

Q What is your date of birth?

A October 20, 1967.

THE COURT: Can you all hear him?

MR. MARTIN: October twenty, what?

THE COURT: Son, talk like you're talking to somebody
that's sitting under that exit sign, O.K?

A O.K.

Q What was your birthday, John?

A October 20, 1967.

Q Do you go to school?

A Yes.

Q What school do you go to?

1 A Mosby.

2 Q What grade are you in at Mosby?

3 A 10th.

4 Q And where do you live, John?

5 A 3209 Tuxedo Boulevard.

6 Q In Henrico County?

7 A I'm not sure.

8 Q Who do you live with?

9 A My Grandma.

10 Q Is that Ms. Coleman, who's right here, right now?

11 A Yes.

12 Q John, I'm going to ask you to think back, if you would, to
13 Friday May 15, 1981. Did you go to Mosby School at that
14 time?

15 A Yes.

16 Q And when you go to school, what time do you get out of
17 school?

18 A 2:00

19 Q 2:00 p.m.?

20 A Yes.

21 Q And at that time, back in May of 1981, did you have a job
22 at all?

23 A Yes.

24 Q Were you working some place?

25 A Yes.

- 1 Q Where were you working?
- 2 A East Coast.
- 3 Q What is the East Coast?
- 4 A A service station.
- 5 Q Where is it located, John?
- 6 A On Nine Mile Road.
- 7 Q About how far is it from your house? Do you know?
- 8 A Quite a ways..
- 9 Q How do you get there?
- 10 A Through the cemetery.
- 11 Q You walk over?
- 12 A Ride my bike.
- 13 Q What do you do for them?
- 14 A What I do for them there?
- 15 Q Um'huh.
- 16 A Let's see, uh, I go out with uh the customers arerat and
- 17 uh, pump gas and collect the money.
- 18 Q All right, May 15, 1981, when you left school -- did you
- 19 leave school at 2:00?
- 20 A Yeah.
- 21 Q And where did you go when you left school?
- 22 A To work.
- 23 Q And how long did you work?
- 24 A To 4:00 o'clock.
- 25 Q What did you do after work at 4:00 o'clock?

1 A Go home.

2 Q 3209 Tuxedo Boulevard?

3 A Yes.

4 Q All right, when you got home did you see anything unusual?
5 out back of your house?

6 A It was a car there.

7 Q Anybody with you when you saw the car, John?

8 A Turner.

9 Q Turner?

10 A Yeah.

11 Q Is he a friend of yours?

12 A Yeah.

13 Q What is his name?

14 A Turner Davis.

15 Q Do you know where Turner is right now?

16 A Somewhere in North Carolina.

17 Q Is he a playmate of yours?

18 A A friend of mine.

19 Q How long is -- do you know how old Turner is?

20 A No.

21 Q And about what time was it that you saw this car out there --
22 out back, behind your house?

23 A About 4 or 4:30.

24 Q And what kind of car was it?

25 A I think it was a Dodge.

1 Q A Dodge?

2 A Uh-huh.

3 Q You remember the color?

4 A Green.

5 MR. MARTIN: Judge, ask the Sheriff ^{if} he would show him
6 Commonwealth Exhibit 6, number 6 will be
7 fine.

8 Q John, would you take a look at those photographs, please?
9 You've seen that vehicle before, John?

10 A Like the one that was up behind Commonwealth.

11 Q Where was it located when you saw it?

12 A On the side of it.

13 Q On the side of what?

14 A Commonwealth.

15 Q Was it parked?

16 A Yes.

17 Q Was it in the street or off the street?

18 A Off the street.

19 Q Did you go up to the car?

20 A No.

21 Q Look in it or anything like that?

22 A No.

23 Q Had you seen the car there before?

24 A No.

25 Q Did you know whose car that was?

1 A No.

2 Q When you looked at the car, where were you?

3 A In the alley.

4 Q In a alley, where is the alley?

5 A Behind my house.

6 Q About how far away were you from the car,^{do}/you have any
7 idea, can you point to anything in the Courtroom and tell
8 us how far away you were from the car when you saw it there?

9 A About from here to the exit sign over there.

10 Q From here to the back exit sign?

11 A Uh-huh.

12 THE COURT: 52 feet.

13 MR. MARTIN: O.K.

14 Q John, when you first saw the car out back behind your home,
15 was it moving or was it stopped?

16 A It was just --it was stopped.

17 Q Did you see anybody in the car?

18 A No.

19 Q Did you see anybody outside the car?

20 A Yeah.

21 Q How many people outside the car?

22 A One.

23 Q Was it a man or woman?

24 A Man.

25 Q Was he white or black, or could you tell?

- 1 A He was black.
- 2 Q Black man. Can you tell us about how big he was?
- 3 A No.
- 4 Q Did he have on any pants?
- 5 A Yeah.
- 6 Q What type of pants?
- 7 A I think it was jeans.
- 8 Q Jeans. He have shoes or sneakers, or anything like that?
- 9 A I think sneakers.
- 10 Q How about a --did he have a shirt?
- 11 A Yeah.
- 12 Q What color shirt did he have?
- 13 A I think it was blue.
- 14 Q What was the person doing at the car, when you were looking
- 15 at the car?
- 16 A Standing there.
- 17 Q How close was he to the car?
- 18 A Like, uh, on the side of it.
- 19 Q On the side?
- 20 A Uh-huh.
- 21 Q What was he doing?
- 22 A Just standing there.
- 23 Q And which side of the car was he on, drivers side or
- 24 passengers side?
- 25 A The driver's side.

1 Q Was he looking in/^{to}the car or looking away from the car?

2 A He just was looking at the car.

3 Q Looking what?

4 A At the car.

5 Q Looking at the car. And what did he do as he looked at
6 the car, did he go anywhere or do anything?

7 A He stayed there and then he left.

8 Q About how long did he stay there?

9 A About 5 minutes.

10 Q Did he have anything in his hands?

11 A No.

12 Q Do you remember if he had anything in his hands?

13 A No.

14 Q And you say he left, which direction did he go?

15 A The other way around Commonwealth.

16 THE COURT: He went where?

17 A The other way around Commonwealth.

18 Q Is that away your house or towards your house?

19 A Away from my house.

20 Q And Commonwealth, is that behind your house? Commonwealth
21 Heating and Plumbing, is that behind your house?

22 A Yeah.

23 Q Is there a street that runs around in front of Commonwealth?

24 A Yeah.

25 Q Or around the back of your house and goes around Commonwealth

1 A It runs from -- around in front of my house all way out
2 back.

3 Q O.K. and did the person go along this road or did he go
4 out in the field, or where did he go?

5 A Like he was following the road.

6 Q Like he was on the road. And did you see where he went?

7 A No.

8 Q Now, the car that was out there, did you see it out there
9 Saturday and Sunday, the weekend too?

10 A I don't quite remember.

11 Q You don't remember that? Did you see it out there Monday,
12 Tuesday, Wednesday, anything like that?

13 A I don't remember.

14 Q Do you know if the car was there, more than that one day?

15 A I think it was.

16 Q Do you recall -- did you ever see anybody go into the
17 vehicle or touching it, or doing anything to it?

18 A No.

19 Q Excuse me?

20 A No.

21 Q And did you give this information to the police when they
22 came by your house?

23 A Yes.

24 Q Do you remember talking to a Detective Mise? Tall man with
25 gray hair?

1 A Yes.

2 Q Do you remember talking to him on May 20, 1981? Few days
3 after you saw -- say you saw the car?

4 A Yes.

5 Q Did he show you some photographs?

6 A Yes.

7 Q Where were you when he showed you photographs?

8 A In my home.

9 Q You know how many photographs he showed you?

10 A No.

11 Q Was it more than one?

12 A Yes.

13 Q And what were you suppose to do with the photographs?

14 A Pick out somebody that looked like the man that was at the
15 car.

16 Q Did you know the man at the car?

17 A No.

18 Q Had you ever seen him before to your knowledge?

19 A No.

20 Q Did you pick out any photographs?

21 A Yeah.

22 Q How many did you pick out?

23 A I think two.

24 Q You think two? Are you sure?

25 A Not really.

1 Q When you picked them out, did you do anything, did you
2 write on them, or put your initials on them, or do any
3 thing like that?

4 A No.

5 Q And were the pictures color or black and white?

6 A I don't remember.

7 Q When you picked out the photographs, did anyone tell you
8 which ones to pick out?

9 A No.

10 Q Who was present when you saw the photographs?

11 A Mr. Mise, Turner, I think that's about all.

12 Q And when I say present, who was right -- physically right
13 there when you looked at the photographs, you and who else?

14 A And Mr. Mise.

15 Q You and Mise. Where was Turner?

16 A I think he was in the other room.

17 Q Did he also -- Detective Mise, also, show the pictures to
18 Turner as well?

19 A Yes.

20 Q Now is the man you picked out in the photographs, was it
21 the man at the car or was it someone who looked like the
22 man at the car?

23 A Someone who looked like the man at the car.

24 Q The man at the car that you saw did he have any type of ^abeard
25 or mustache, or any facial hair that you recall?

1 A I don't remember.

2 Q Do you recall, John, coming to Henrico Police Headquarters
3 to look at what's called a line-up, of several individuals?

4 A Yes.

5 Q Real life -- real life individuals?

6 A Yes.

7 Q Do you remember when that was?

8 A No.

9 Q Do you remember what month it was?

10 A No.

11 Q How many times did you come down to look at people like
12 that?

13 A Once.

14 Q And did Detective Mise give you instructions as to what to
15 do?

16 A Yes.

17 Q Did you come into a room and look at people?

18 A Yes.

19 Q How many people did you see?

20 A I don't remember.

21 Q Do you recall how they were dressed?

22 A No.

23 Q Were they men or women?

24 A They was men.

25 Q Were they white or black?

1 A Black.

2 Q Did anybody tell you to pick someone out?

3 A No.

4 Q Did they tell you -- no one told you who to pick out?

5 A No.

6 Q What'd they tell you to do?

7 A Look up there see do I recognize anybody.

8 Q And did you look at the people?

9 A Yes.

10 Q Did you recognize anybody?

11 A I found somebody who looked like the man that was at the
12 car.

13 Q Excuse me?

14 A I saw somebody who looked like the man that was at the car.

15 Q Did you tell Detective Mise that?

16 A Yes, I think.

17 Q Do you remember which one of the people he was or where he
18 was in the line?

19 A NO.

20 Q Where they behind a glass?

21 A Yes.

22 Q These people? You understood they couldn't see you, is
23 that correct?

24 A That what he told me.

25 Q After you picked this particular individual out in the line,

1 was that the same person that was in the photograph?

2 A I don't know.

3 Q You don't know. After you picked this one individual out,
4 in the line, John, what did you do then?

5 A I -- think I went out of the room.

6 THE COURT: Could you talk up now, like you're talking
7 to somebody down there at that exit sign,
8 for me?

9 A O.K.

10 THE COURT: Thank you.

11 Q Did anyone ever tell you who you picked out?

12 A No.

13 Q Or the name of that person?

14 A No.

15 Q Would you look at this man right here, do you know this
16 man?

17 A No.

18 Q Do you recall seeing him in the line at all? At Henrico
19 Police Headquarters?

20 A No.

21 Q Did the people in the line that you saw at Police Head-
22 quarters, did they have beard, mustaches, or were they clean
23 shaven, or how would you describe them?

24 A I don't remember.

25 Q Did they say anything to you, did they speak any words to you?

1 A No.

2 Q John, approximately how long did you have to look at the
3 person standing out by the car, how long would you say you
4 looked at him?

5 A About five or ten minutes.

6 Q What were you doing at this time, when you were looking
7 at the person out at the car?

8 A Standing in the bushes.

9 Q Did you say anything to this person?

10 A No.

11 Q Did the person say anything to you?

12 A No.

13 Q Did any other people come up while this person was at the
14 car?

15 A No.

16 Q Anyone come pick him up, give him a ride away, anything
17 like that?

18 A No.

19 Q After that person left the car, had you ever seen that
20 person again, in your neighborhood?

21 A No.

22 Q Tuxedo Boulevard?

23 MR. MARTIN: That's all the questions I have for him,
24 Judge.

25 THE COURT: Cross.

CROSS EXAMINATION: John Lee by Mr. Boone

Q John, when you first saw this green car you testified to, it was dark outside, wasn't it?

A Yes.

Q How dark, had it just turned dark or had it been dark for awhile?

A I think it had just be turned dark.

Q Had just turned dark. That was on a Friday night?

A I think so.

Q You think so. Could it have been a Saturday night.

A Could of.

Q Could of: So it was either a Friday night or a Saturday night?

A Yeah.

Q And it was definitely dark outside, is that your testimony?

A Uh-huh.

Q Could you see pretty good?

A Pretty good.

Q All right. Now, how about telling the jury about the brown car that you saw, prior to the green car. Was there a brown car you saw near that spot where you saw the green car?

A Yes.

Q Can you tell the jury about that?

A Before the green car got there, there was a brown car that

1 somebody was lying under, working on. That's all I
2 remember about the brown car.

3 Q Had you ever seen that person in the neighborhood before?

4 A I didn't get to see him.

5 Q What did you see, his feet sticking out?

6 A Yes.

7 Q Could you tell whether it was a black man or white man?

8 A Couldn't tell.

9 Q Couldn't tell. How long was that brown car there?

10 A For awhile.

11 Q Could you give us an estimate of how many minutes or hours?

12 A No.

13 Q Was it more than a half-hour or less than a half an hour?

14 A I'm not sure.

15 Q Not sure. How close was that brown car to where the green
16 car subsequently parked?

17 A About 6 feet or 12.

18 Q About 6 feet to 12 feet away?

19 A Yeah.

20 Q Now did you see the brown car drive away?

21 A No.

22 Q How much time went by -- Well, let's back up. Were you
23 playing when you saw the brown car?

24 A I was riding my bike when I saw the brown car.

25 Q Was it dark at that point or was it still light at that

1 point?

2 A Well -- still light.

3 Q Still light. All right, so you got off work at East Coast,
4 right?

5 A Yes.

6 Q You were riding your bicycle and you saw a brown car?

7 A Yes.

8 Q And then later when it got dark, you saw a green car 6 to
9 12 feet where you had seen the brown car?

10 A Yes.

11 Q Is that a fair statement?

12 A Yes.

13 Q Did you get a good look at this person that was standing
14 next to the green car?

15 A I think so.

16 Q And he couldn't see you, could he, because you were hiding
17 in the bushes?

18 A No, he couldn't see me.

19 Q All right. Now, when you went to the -- let's back up.
20 You were shown photographs by Detective Mise, you've already
21 testified to that, right?

22 A Yes.

23 Q How many days was that after you saw the green car, do you
24 remember?

25 A No.

1 Q Was it within a week?

2 A No.

3 Q Within a month?

4 A I'm not sure.

5 Q Well you do remember Detective Mise showing you some
6 photographs?

7 A Yes.

8 Q At your home?

9 A Yes.

10 Q And you do remember picking two photographs out?

11 A Yes.

12 Q All right, now why did you pick two out?

13 A Because one like the man with the car and one like -- was
14 the man under the car.

15 Q You're talking about under the brown car?

16 A Yes.

17 Q All right, so you picked two photographs up?

18 A Yes.

19 Q And then when you went to the line-up on November 2, 1981 -
20 -- you've only been to one line-up, right?

21 A Yes.

22 Q I don't believe its in evidence of date yet, but any rate,
23 the line-up you went to that was at the Henrico Police
24 Station, wasn't it?

25 A Yes.

1 Q You picked two men out of that line-up, didn't you, as a
2 matter of fact?

3 A Yes.

4 Q And one of the men you picked out, didn't you make a comment
5 that one of them looked like the man by the brown car --

6 MR. MARTIN: Judge, I'm going to object to him, uh,
7 putting the words in his mouth. He can
8 cross examine him, but --

9 THE COURT: O.K. His going to rephrase it.

10 MR. BOONE: I'll rephrase it.

11 THE COURT: All right, go ahead.

12 Q The first man you picked out, who was he?

13 A Man like was at the green car.

14 Q And the second man you picked out, who was that?

15 A Like the man was^{at} the brown car.

16 Q All right, so you picked two photographs out and you pick-
17 ed two people out of the line-up, right?

18 A Yes.

19 Q O.K. This man sitting next to me, have you ever seen him
20 before in your life?

21 A No.

22 MR. BOONE: I have no futher questions.

23 THE COURT: Anything else?

24 MR. MARTIN: Yes, sir. I have a few questions.

25 REDIRECT EXAMINATION: John Lee by Mr. Martin

1 Q John, did you ever tell Detective Mise or any of the
2 Police Officers about someone in the brown car, when they
3 talked to you May 20, 1981, first time they talked to you?

4 A I think I recall telling him.

5 Q You think you recall telling him. Police Officers come to
6 your school on May 21, 1981, at all?

7 MR. BOONE: Judge, I'm going to object to this point.
8 I'd say Mr. Martin outside of his step
9 and recall --

10 THE COURT: Yes, I think so. Sustained.

11 Q Well, at some point, did you give the police officers a
12 taped statement.

13 A Yeah.

14 Q Have you listened to that?

15 A Yes.

16 Q Did you listen to it yesterday?

17 A Yes.

18 Q And on the tape were you asked --

19 MR. BOONE: Again, I'm going to object, I did not go
20 into a confession --

21 THE COURT: He didn't, Mr. Martin.

22 MR. MARTIN: I'm not talking -- we're not talking about
23 confessions --

24 MR. BOONE: Wrong statement, I didn't go into that,
25 Judge.

1 THE COURT: Well, that's right. You didn't.

2 MR. MARTIN: Judge, he's gone into this brown car, that's
3 what he is saying. I can go back into--

4 THE COURT: He's gone into the brown car, but that hasn't
5 got anything to do with the statement so
6 far.

7 MR. MARTIN: Of what?

8 Q You say you told the police about the brown car?

9 A Yeah.

10 THE COURT: Well, let's do a little better
11 on that too, he said that he thought he told Mr. Mise
12 about the brown car.

13 Q When you got home from East Coast, you said you got home
14 at 4:00 o'clock?

15 A 4 or 4:30.

16 Q What do you do after you get home from East Coast?

17 A Sometime I work on my bike, sometime I go riding.

18 Q And what did you do on Friday, May 15, 1981?

19 A I don't remember.

20 Q And you do not know either of the people at the brown car
21 or green car, is that right?

22 A No.

23 Q Were the brown car and the green car both there at the same
24 time?

25 A No

1 Q John, do you recall what time you saw the man at the
2 green car or are you just giving your best guess?

3 A Giving a guess.

4 Q Excuse me?

5 A I was just giving a guess.

6 Q Is that your best guess?

7 A Yes.

8 Q 4:30?

9 A Maybe a little later than that.

10 Q Maybe later, all right. Mr. Boone asked you if it was
11 dark out, is that correct?

12 A Yes.

13 Q That's the first time you saw the green car, is that right?

14 A Yes.

15 Q It wasn't too dark for you to know/it was green, right?

16 A No.

17 Q It wasn't too dark for you to see the blue jeans and the
18 blue shirt, was it?

19 A No.

20 Q Did you get a look at the person's face?

21 A Not really.

22 MR. MARTIN: I have no further questions, Your Honor.

23 THE COURT: Anything else?

24 MR. BOONE: I have no further questions, Judge.

25 THE COURT: May this witness be excused?

* * *

Pages 104-105 of Volume I are
not included. It covers discussion
between Court and counsel.

* * *

do you're best thinking with your eyes open.

(Detective Priddy, having been duly sworn on the issue, testified as follows):

DIRECT EXAMINATION: Detective Priddy by Mr. Martin

Q Sir, would you face the ladies and gentlemen and tell them your name and occupation, please.

A Detective G. R. Priddy, Henrico County Police Department, and I'm assigned to the forensic unit there.

Q How long have you been a police officer, Detective Priddy?

A Approximately 12 years.

Q And how long have you been assigned to the forensic unit?

A Approximately five (5) years.

Q What is the forensic unit, Detective Priddy, would you tell them what that word indicates?

A It's a unit that goes to major crime scenes, we collect, examine, preserve, and present evidence in court.

Q On Wednesday, May 20, 1981, were you so employed by the Henrico County Police Department in that capacity?

A Yes, I was.

Q Did you have occasion, sir, to respond early that morning to the area of Commonwealth Heating and Plumbing, in Tuxedo Boulevard, Eastern Henrico County?

A Sir, I received a call from the dispatcher to respond to

1 that location and I went on up there and gave them my
2 collection.

3 Q You're the forensic man assigned to this case, is that
4 correct?

5 A That's correct.

6 Q The alleged homicide of Raymond Miller.

7 A That's correct.

8 Q What time did you arrive, approximately?

9 A Can I look at my notes and check?

10 Q Yes, sir.

11 A Approximately, 3:30 a.m.

12 Q Is that when you arrived or when you were notified?

13 A That's what I have here as arriving.

14 Q And you did work that crime scene, is that correct?

15 A That's correct.

16 Q Sheriff, would you show Detective Priddy Commonwealth's
17 Exhibit 4 and 6, please. Would you take a look at No. 6.
18 first, Detective Priddy, the series of three photographs
19 and ask if you can identify those in any way?

20 A These are the photographs that, uh, I took of the vehicle
21 as it was parked along the road way.

22 Q All right.

23 A At the scene.

24 Q O.K. Is that-- did you take those photographs yourself,
25 sir?

1 A Yes, I did.

2 Q All right, was that on the morning of the 20th, of May 1981
3 when you arrived?

4 A That's correct.

5 Q Is that a customary thing that you do, is to photograph
6 the vehicle or whatever it is at the crime scene?

7 A Normally, the first thing I do is look around and then the
8 second thing I do is photograph it "as it is" before any-
9 thing is done to it.

10 Q O.K.. and would you take a look at the other photograph
11 there, what does that represent, Detective Priddy?

12 A This represents the inside of the vehicle, the subject
13 lying across, uh, the seat in the floor, head on the right
14 hand side and some papers on the front seat.

15 Q Is that as you found him there?

16 A This is as I found it, I worked in from the drivers side
17 and the first thing I do when I open the door, is photo-
18 graph it, before anything is moved.

19 Q Is
/this location, where the car was, in Henrico County, sir?

20 A Yes, sir, it was in Henrico County..

21 Q Wha -- describe the condition of the vehicle when you got
22 there, Detective Priddy. Was it locked or unlocked, or what?

23 A All the doors, for the exception of the driver's side/ ^{door,} was
24 locked . The vent window on the driver's side was also
25 open.

1 Q And did you speak with City Police Officers, who were
2 alleged to have found the vehicle?

3 A Yes, sir, I did.

4 Q In reference to a possible entry into the vehicle?

5 A That's correct.

6 Q Would you describe what you've -- what type of things you
7 found in the vehicle? Where there any --

8 A I found personal effects such as papers on the front seat
9 that belonged to the victim, also found a lunch pail in the
10 back seat, and a blue hat, blue and white hat, uh, also
11 found a shot gun that was in a case in the trunk of the
12 vehicle. Uh, just other assorted things that belonged to
13 the victim, I found a pen and a screwdriver, and things of
14 this nature.

15 Q And the papers that were on the front seat are they re-
16 flected in the photograph were the body is?

17 A Yes, sir, they are.

18 Q And did you turn those papers over to Detective Mise, I
19 believe?

20 A Yes.

21 Q And, in fact, you have, I believe checked those for finger-
22 prints, have you not?

23 A I tried to examine them for fingerprints at my lab with
24 anhydron chemicals, and I did not receive anything off of
25 it.

1 Q Is that a chemical spray?

2 A That's a chemical spray, sometimes it works, sometimes it
3 will not work.

4 Q Um. Um, does it leave any type of/^aresidue or is it a clear
5 spray?

6 A It could, yes.

7 Q Is it a clear spray?

8 A It's a clear spray.

9 Q O.K. and do you have those papers with you an envelope
10 with those papers in it that you checked?

11 A This is the paper.

12 Q That is it right there?

13 A These are the papers.

14 Q Those are them.

15 MR. MARTIN: Judge, I would offer that as No. 8 to
16 the Commonwealth.

17 THE COURT: Any objections, sir?

18 MR. BOONE: I'd like to see them, Judge. Your Honor
19 we have no objections.

20 THE COURT: Thank you, sir, Commonwealth's Exhibit 8.

21 Q Detective Priddy, when you arrived at the scene of the
22 car's location, was the car on the road or off the road,
23 sir?

24 A It was partially on the road, partially off the road. The
25 right wheels were along the road where -- dirt edge

1 and left wheels were in the street.

2 Q Could you tell whether or not it had been there any length
3 of time?

4 A It appeared that it had been sitting for awhile, it-- dust
5 had collected on it and, of course, it had dew on it this
6 morning, when I went there.

7 Q All right. I'm going to show you -- did you remove the
8 victim from the car to any --

9 A The victim was removed from the car and sent to the state
10 lab, at the medical examiners office.

11 Q I ask that you identify this photograph, if you can, please,
12 sir? What does that represent, sir?

13 A This is a right side of the vehicle after the subject had
14 been removed from it.

15 Q That would be the passengers side, would that be correct?

16 A That's correct, its the right side of the car, the right
17 front door.

18 MR. MARTIN: I offer that as No. 9 for the Commonwealth,
19 Judge.

20 THE COURT: Any objections, sir?

21 MR. BOONE: No, Your Honor.

22 THE COURT: Commonwealth's Exhibit 9,

23 Q Did you find a name tag or I.D. tag with the body at all?

24 A There was a name tag attached to the collar of the shirt,
25 of the victim and it was Raymond Miller's name on the name

1 tag, from Bellwood.

2 Q Did you check the interior of the vehicle for prints,
3 fingerprints?

4 A Yes, I did, I couldn't check the outside due to the dew
5 that was on it and I did check the inside prior to us
6 moving it, and I did recover some latents from inside.

7 Q And do you have those latents with you, that you recovered,
8 sir?

9 A Yes, sir, I do.

10 Q Detective Priddy, as a forensic technician, can you explain
11 to the ladies and gentlemen of the jury what kind of process
12 you go through to try and obtain these fingerprints from
13 the ^{inside of the} vehicle.

14 A When you're attempting to raise latent prints, you can use
15 several methods of doing it, the method that I used here
16 was dust, that is a black dust that I put on with a small
17 brush and it adheres to the oils that have been left by
18 the person and his fingerprints.

19 Q Once you have raised the print, what do you do with it?

20 A When you've raised the print up so that you can view it,
21 you take a piece of cellophane tape, like scotch tape, and
22 put over top of it, then pull the tape off and place it on
23 one of these cards, like this, and you can view it better
24 this a way.

25 Q So you do actually physical^{ly} place it on a card, is that

1 correct?

2 A That's correct.

3 Q And is that what those cards represent there?

4 A Yes, sir, they do.

5 Q Prints from the vehicle that you were able to raise and
6 lift and place on the cards?

7 A That's correct.

8 Q Did you at some time -- so later time fingerprint the
9 exterior of the vehicle?

10 A At a later -- in the morning, after the dampness had gotten
11 off the car, I went to the county depot, where we had
12 towed the vehicle, and I again tried to raise some more
13 latents off of it, on the outside.

14 Q And the card that you have there represents the sum total
15 of all the prints that you were able to raise from the
16 vehicle?

17 A That's correct.

18 Q How many cards do you have, detective?

19 A That's eight (8).

20 Q Eight cards?

21 A Eight (8) cards.

22 MR. MARTIN: Your Honor, I would offer them as one
23 exhibit for the Commonwealth, No. 10.

24 THE COURT: Any objections, sir?

25 MR. BOONE: I'd like to see them, Judge.

1 No objections, Judge.

2 MR. MARTIN: Sheriff, may I see the pictures?

3 THE COURT: Commonwealth's Exhibit 10.

4 MR. MARTIN: Thank you, Judge.

5 Q Detective Priddy, the car that you observed at the scene,
6 had towed, and took the fingerprints from; was that car
7 subsequently turned back to the family, the Raymond Miller
8 family?

9 A Yes. it was, it was turned back over to the family.

10 Q Did you find any car keys in the vehicle, when you went
11 into it?

12 A No.

13 Q Did you find a wallet?

14 A No.

15 Q Any U.S. currency? Dollar bills, anything like that?

16 A No, I did not.

17 Q Did you search the area around the vehicle for them?

18 A Yes, I did, after her son came up we searched the area
19 around Commonwealth Plumbing and Heating, around Tuxedo
20 Boulevard, looking in the wooded area there to see whether
21 or not we could come up with any of the personal effects
22 of the subject.

23 Q Were you able to find anything?

24 A No, sir.

25 Q What -- tell us where the location of the vehicle was in

1 reference to Commonwealth Heating and Plumbing and Tuxedo.

2 A Commonwealth Plumbing and Heating faces east and the vehicle
3 would be on the South side of that particular building.

4 Q O.K. and was it facing Tuxedo Boulevard or facing East?

5 A It was facing Tuxedo Boulevard.

6 Q Off to the right side of the road, I believe, is that
7 correct?

8 A Yes.

9 Q Is there an entrance to Commonwealth Heating and Plumbing
10 in front of the vehicle?

11 A Yes, there is.

12 Q Looks like there is a driveway.

13 A There is an alley way and it turns into an entrance into
14 Commonwealth Plumbing and Heating.

15 Q The cards that have been introduced as Commonwealth's
16 Exhibit 10, I believe, the latent cards, did you subsequent-
17 ly take those down to Consolidated Laboratories, here in the
18 city of Richmond, for analysis?

19 A I did, I sent them to Consolidated Lab and examiner,
20 Walter Forrest, took them from me on August 27th. (81).

21 Q And at that time, did you submit another item along with
22 them?

23 A I submitted a fingerprint card of Mr. Bishop.

24 Q All right, do you have that card with you here today?

25 A Yes, sir, I do.

1 MR. MARTIN: Sheriff. Judge, I would offer that as
2 No. 11.

3 MR. BOONE: No objections, Your Honor.

4 MR. MARTIN: Offer that as No. 11.

5 THE COURT: Commonwealth's Exhibit 11.

6 Q Detective Priddy, who is Mr. Walter Forrest?

7 A He is a fingerprint examiner at Consolidated Lab.

8 Q Is he the man that you deal with on your fingerprint cases?

9 A He is the man at Consolidated Lab that we deal with, with
10 fingerprints.

11 Q I believe that card has a notation of August 18, 1981 on
12 it, what is that particular date?

13 A That date, uh, was the date that I received it from Mise.

14 Q From Detective Mise?

15 A Detective Mise, that's the date I received it from him.

16 Q And did you get a report back from Mr. Forrest, from the
17 laboratory?

18 A Yes, sir, I did.

19 Q All right.

20 MR. MARTIN: I'm not going to go into it at this time,
21 Judge, we'll have Mr. Forrest here to talk
22 about that.

23 Q I believe the card that was submitted on the 27th, as you
24 testified, that was a city print card, I believe, is that
25 correct?

1 A That's correct.

2 Q All right. Now, would you take a look at the Commonwealth
3 Exhibit 10. The envelope with the latent card. Did you
4 number those cards, Detective Priddy?

5 A Yes, sir, I did.

6 Q What is on the back of those cards?

7 A On the back of these cards is a type crown that we are
8 talking about, the date, the case number that we use, the
9 name of the victim and where on the vehicle or the item
10 we located, uh, latent print.

11 Q Why do you do that, sir?

12 A So that we can go back later on and say this is exactly
13 where we located and is a reminder to us.

14 Q And did you do that to each one of the latents that you
15 lifted, sir?

16 A Yes, sir, I did.

17 Q Would you take a look at card number 3 for a minute? Do
18 you have some initials on that?

19 A Yes, sir, my name is on it.

20 Q All right, would you look on the back? What can you tell
21 us about where you lifted that particular/^{latent}print from, sir?

22 A It indicates that I lifted it off a right front door and
23 it shows just above the lock that you push down, to lock
24 the vehicle.

25 Q Is that inside the vehicle?

1 A Inside the vehicle.

2 Q Would you take a look at number 9 card, please, and can
3 you tell us where you took that one from?

4 A This one was taken from the left front fender and it is
5 a palm print.

6 Q Exterior of the vehicle?

7 A Exterior of the vehicle.

8 MR. MARTIN: Thank you, Sheriff.

9 Q Was that particular door locked when you got to the scene,
10 the passenger's door?

11 A Yes, it was.

12 Q Detective Priddy, did you also have occasion to submit
13 a Henrico County fingerprint card of Mr. Tyrone Bishop to
14 the laboratory?

15 A Yes, sir, I did.

16 Q Do you have that Henrico County fingerprint card with you?

17 A Yes, sir, I do.

18 Q O.K. and when was that taken?

19 A Well, I have a date of 4/29/82, on the card.

20 Q And that's when it was submitted to the laboratory?

21 A That's when I received it and it was submitted.

22 Q And the dates the prints were taken was what? About Oct. 21?

23 A Yes, it's October 21, 81.

24 Q Does that include a palm print as well?

25 A Yes, it includes the palm print, left and right hand.

1 Q And did you submit that along with Commonwealth's Exhibit
2 11, the city card that's already been introduced here?

3 A Yes, I did.

4 Q And for what reason did you submit those two cards?

5 A I submitted these two cards and the city card to show that
6 they were one and the same person and that the county card
7 could be used.

8 Q O.K.

9 MR. MARTIN: Judge, I would offer that as number 12 for
10 the Commonwealth.

11 MR. BOONE: I have an objection, Judge, I'd like for
12 to be heard outside of the presence of the
13 jury.

14 THE COURT: All right, we'll ask that the jury retire
15 to the jury room, please.

16 (JURY OUT)

17 (Counsels discuss objections. Court
18 suggest that while counsels are
19 taking care of what they need to do,
20 there would be a short recess. Det.
21 Priddy was asked by Court not to
22 talk to anyone. Sheriff notified
23 Jury there would be short recess.)

24 (Recess)

25 THE COURT: We'll let the record show that after a

1 recess the accused is present and in person
2 along with his Defense Counsel, Mr. Boone.
3 The Commonwealth Attorney's Office is re-
4 presented by Mr. Martin. Detective Priddy,
5 I'll ask if you talked with anyone about
6 the case while we were in recess?
7 A No, sir.
8 THE COURT: Counsel have any questions?
9 MR. MARTIN: No, sir, Your Honor.
10 MR. BOONE: No.
11 THE COURT: Everybody satisfied with these two cards?
12 MR. MARTIN: Yes, sir.
13 MR. BOONE: Yes, Your Honor.
14 THE COURT: Make them Commonwealth Exhibit 13, I believe.
15 MR. MARTIN: No.
16 THE COURT: One of them.
17 MR. MARTIN: I believe one of them is already in as
18 number 11, that's the city card. Excuse me.
19 THE COURT: Well, maybe -- which one is the city card?
20 MR. MARTIN: No, I'm sorry, the city card is in. Those
21 are the two Henrico ones, ones the palm
22 print and ones the other fingerprints.
23 O.K? I offered them as number 12 on
24 exhibit, Judge, I think it'd be easier to
25 keep track them. that way.

- 1 THE COURT: You what?
- 2 MR. MARTIN: I offered them as number 12 on exhibit.
- 3 THE COURT: I already got it, 12, don't I?
- 4 MR. MARTIN: That's the county card.
- 5 THE COURT: Well maybe I anticipated the count. All
- 6 right. The numbers agree with your exhibit
- 7 numbers, Mr. Boone?
- 8 MR. BOONE: Yes, sir, Your Honor, that would be number
- 9 12.
- 10 THE COURT: All right, that'll be Commonwealth Exhibit
- 11 12. We ready for the jury?
- 12 MR. MARTIN: Yes, sir.
- 13 THE COURT: Ask the jury to come in.
- 14 (Jury In)
- 15 THE COURT: Let the record show the jury has returned
- 16 at 10:21 the Court has checked the jury and
- 17 finds that all jury members are present and
- 18 accounted for. All right.
- 19 Q Detective Priddy, did you have occasion to attend the
- 20 autopsy, in the early morning of May 20, 1981, down at
- 21 the morgue, in the City of Richmond?
- 22 A I did.
- 23 Q On Raymond Miller?
- 24 A That's correct.
- 25 Q And at that time did you receive any bullets from Doctor

1 Massello?

2 A Yes, I did, I received two (2).

3 Q Do you have them with you here today, sir? Are they the
4 bullets taken from Raymond Miller's body?

5 A Yes, sir, they are.

6 Q And were you present when that was done?

7 A I was present and observed them being removed.

8 Q All right. Did you eventually submit those to the lab-
9 oratory, to Mr. Cecil Moorehead for comparison with the
10 firearm?

11 A That's correct.

12 MR. MARTIN: Judge, I would offer the bullets as number
13 13.

14 MR. BOONE: I have no objections.

15 THE COURT: Commonwealth's Exhibit 13. All right.

16 Q The bullets you recovered, you submitted them with a gun
17 to the lab, is that correct?

18 A That's correct. That's correct.

19 Q And what type of gun was it? What caliber gun, do you know?

20 A .38 caliber.

21 Q That was a .38?

22 A That was a .38 caliber.

23 Q Did you get a report from Mr. Moorehead on that?

24 A Yes, sir, I did.

25 MR. MARTIN: Judge, I'm not going to go into it at

1 this time, Mr. Moorehead will be here.

2 THE COURT: All right.

3 Q Detective Priddy was a hand gun found, any type of weapon
4 found in the car, aside from the shot gun you mentioned?

5 A The only one that was found was the shot gun.

6 Q O.K. Where was that found?

7 A That was in the trunk, which was locked.

8 Q Was it in a case of any type, or what was it --?

9 A It was in a long black carrying case, the weapon was fully
10 together and in the case, and it was zipped up.

11 Q I'll show you two photographs right here.

12 MR. BOONE: I have no objections.

13 THE COURT: Commonwealth's Exhibit 14.

14 MR. MARTIN: They are two photo's, Judge. Make them
15 all one exhibit.

16 THE COURT: Yes.

17 MR. MARTIN: O.K. Thank you.

18 Q What are they Detective Priddy?

19 A This is a photograph inside the trunk of the vehicle show-
20 ing a tire and the case with the shot gun in it. This is
21 a further back shot of the same thing, showing the license
22 number of the car.

23 Q Had the shot gun -- was it loaded or --?

24 A No, it was not loaded.

25 Q Not loaded, could you tell if it had been recently fired,

1 or anything like that?

2 A Uh, I did not examine it for that.

3 Q O.K. What gauge was it do you know?

4 A I believe it was 12 gauge.

5 Q Did you have any difficulty getting into the trunk?

6 A Yes, I had some problems getting into it the lock was out
7 of it and I had to use a screwdriver to get into the trunk.

8 THE COURT: All right.

9 Q Had any firearm ever been submitted to you from Mr. Bishop,
10 or allegedly taken from him, or --?

11 A No, sir.

12 Q O.K. Had you had any firearm in this case?

13 A None in this case, other than the shot gun.

14 Q Had you come across any other .38 since the case happened,
15 have you had occasion to check?

16 A Yes, we come -- we've come across a couple of weapons and
17 one inparticular that we had checked against the bullets
18 and it did not match.

19 Q That was the one that Mr. Moorehead had done, is that correct?

20 A That's correct.

21 Q Now, do you yourself go out looking for guns?

22 A No, but if a weapon comes through the Division and it is
23 a weapon, uh, let's say a .38 caliber and we have an out-
24 standing case, we will examine that weapon, or have it
25 examined against the bullets from the case itself.

1 Q Do you customarily get weapons from the investigators?

2 A Yes, they'll bring them in for us to examine to see whether
3 they're in working order or just whatever they are. Any
4 further examination that we may want.

5 Q And the particular gun/^{that}you say you did eventually submit
6 to Mr. Moorehead for comparison, do you know when that
7 gun was seized and turned in?

8 A Let me check my -- I have a faded copy here, I believe
9 Mr. Moorehead would have the better copy. I show one
10 coming in on 6/23 that we examined against two cases, this
11 case and another case.

12 Q O.K., and the gun that was submitted there, the .38 caliber,
13 was that in the Reginald Watson homicide?

14 A That's correct, Reginald Watson.

15 Q And who's -- what detective worked that case?

16 A I believe Detective Tiller worked that case.

17 Q Tiller. Do you know when the homicide occurred, approxi-
18 mately?

19 A It occurred in December of last year.

20 Q 1981?

21 A 81.

22 Q As far as you know, Detective Priddy, are there any other
23 laboratory analysis that have been done on any items or
24 any other items submitted to the lab?

25 A None.

1 Q Do you do any photo -- you say you did do photographing
2 in your capacity as a forensic technician, is that correct?

3 A That's correct.

4 Q Are you familiar with, uh, the physical line-up that are
5 conducted at Henrico County Police Headquarters?

6 A Yes, sir, I am.

7 Q Is there a special room for those?

8 A There is a special line-up room with glass and so forth,
9 an area for people to be viewed, and an area for who's
10 viewing.

11 Q And what role, if any, do you play during the conduct of
12 any physical line-up at Police Headquarters.

13 A Normally we're requested on a request form to come down
14 to that line-up room and photograph that line-up room,
15 that's being presented during that particular day.

16 Q And what do you photograph?

17 A We photograph the people that are in the line-up at that
18 time.

19 Q Do you take more than one photograph, generally?

20 A Normally we take about half of a roll of different areas
21 showing different things on it.

22 Q Do you know the defendant here, Mr. Tyrone Bishop?

23 A No, I don't know him other than from the time/^{that}this case
24 started.

25 Q On November 2, 1981, are you aware that a line-up was

1 conducted at Henrico Police Headquarters?

2 A I'm aware of -- that a line-up was -- is at that time.

3 Q Uh'huh. Mr. Bishop apparently was in at the time?

4 A Apparently he was.

5 Q All right.

6 MR. BOONE: I'm going to object, Judge, to all this
7 apparently stuff, unless he was there him-
8 self.

9 THE COURT: Well, we'll ask him if he has knowledge, uh
10 --

11 MR. MARTIN: Personally.

12 Q Well had -- you discussed it with Detective Mise, is that
13 correct?

14 A That's correct.

15 Q Is he the one that ran the line-up?

16 MR. BOONE: I'll object to the hear say anything Det.
17 Mise has told him, Judge.

18 THE COURT: I'm going to over rule it in this particular
19 instance, for the simple reason he's the
20 forensic man and if that's his primary
21 duties and I'm going to let it come in for
22 whatever it's worth.

23 Q At any rate, Detective Priddy, did you receive any request
24 to photograph this particular line-up?

25 A I had no request to photograph this particular line-up.

- 1 Q How are request made to you?
- 2 A We have a form that's filled out by the investigator or
- 3 the Police Officer in uniform and they bring it to us, give
- 4 it to us and we show up on the day that they requested.
- 5 Q Did you receive any type of form or request to photograph
- 6 this particular line-up?
- 7 A I have no record of it.
- 8 Q Do you keep a -- records of all the ones that you photo-
- 9 graph and all the --?
- 10 A We keep a monthly record of everything that we do.
- 11 Q And have you gone through all of those records?
- 12 A We've gone through all the records and we cannot find one.
- 13 Q Sergeant Loving, your Sergeant there in the forensic unit
- 14 as well?
- 15 A That's correct.
- 16 Q And you've all gone through the records you have?
- 17 A Sergeant Loving went through them and checked behind me and
- 18 Officer also, I believe, / Morton went behind and checked and
- 19 there's no -- no record.
- 20 Q Are there sometimes oral request made to you without the
- 21 form, the written form?
- 22 A It has been done on occasion, yes.
- 23 Q If that is the procedure, what -- does there eventually --
- 24 is there eventually a written request to you?
- 25 A Yes, there is, normally if there's an oral -- say I come in

1 this morning and someone is requesting that we be there at
2 9:00, we'll go ahead and take the photographs and then he
3 has to give us that form.

4 Q O.K. and you do not have any type of request in that case.

5 A I do not have any.

6 Q Could you recall on November 2, 1981, whether you worked ?

7 A I checked records through personnel and I did work that day.

8 Q Do you recall photographing any type of line-up that day
9 at all?

10 A No, sir.

11 Q Do you photograph a lot of line-ups, like, you know, every
12 week, three or four a week, or --?

13 A Whenever there's a line-up we photograph it.

14 Q O.K., at that particular time do you recall if you were
15 photographing a lot of line-ups, or not?

16 A No, I don't recall it, it was a lot.

17 MR. BOONE: Your Honor, I have trouble with how we're
18 delivering it, I don't have any trouble
19 with what a lot is.

20 MR. MARTIN: Your Honor, I'll -- he didn't remember any
21 way.

22 THE COURT: All right.

23 MR. MARTIN: I'm sorry, Judge, I didn't phase it well.

24 Q Had you had occasion to observe six particular photographs
25 of individuals, alleged to have been in that line-up?

1 A Yes.

2 Q And did you look at those?

3 A Yes, I did.

4 Q Were any of them familiar to you?
of them

5 A None, /were familiar to me.

6 Q Did Detective Mise show those to you?

7 A Yes, that's correct.

8 Q O.K.

9 MR. MARTIN: Judge, if I just might have a minute, I
10 think I'm almost finished here with Det.
11 Priddy. I think that will be all the
12 questions I do have, Judge.

13 THE COURT: Cross.

14 CROSS EXAMINATION: Detective Priddy by Mr. Boone

15 Q Detective Priddy I'd like --

16 MR. BOONE: Sheriff may I have one of those -- number
17 10, please.

18 Q I'd like to show you one of the fingerprint cards from
19 Commonwealth's Exhibit 10, and that's card number 3.
20 Can you tell the ladies and gentlemen of the jury, specifi-
21 cally, what that card represents.

22 A This represents the latent fingerprints that were found
23 on the vehicle. Number three, on this side, is a right
24 front door, glass, near the door lock, as I explained before.
25 The other one is a door handle inside, right side, if you'll

1 notice, there's a line drawn between the two, separating
2 the two latents from the same area.

3 Q Now by right door, are you speaking of passenger door?

4 A I'm talking about the right front door, passenger.

5 Q Is that the passenger door? So that's the front passenger
6 door of that green automobile?

7 A Yes, sir.

8 Q And that fingerprint -- are you saying there are two finger-
9 prints on that card?

10 A There are two latent on the card.

11 Q Two latent prints, one by the glass and one on the door
12 handle?

13 A That's correct.

14 Q All right, and that card, of course, was submitted to Mr.
15 Forest in the lab for identification, was it not?

16 A That's correct.

17 Q All right, and/^{then}under nine, fingerprint card number nine,
18 (I just want to clarify it) this was the palm print that
19 you lifted, I believe? Left front fender?

20 A That's correct.

21 Q And by left front fender we're speaking of the driver's
22 side of the automobile?

23 A That's correct.

24 Q And that, also, was submitted to Mr. Forest; I believe, in
25 the lab.

1 A Yes, sir, and this was outside the vehicle.

2 Q Did, uh, -- you say you, you took -- attempted to lift
3 prints from the personal effects by using a spray in the
4 lab, did you dust the -- did any plastic, uh, uh, card
5 cards in the personal effects?

6 A Yes, it was.

7 Q Did you spray them?

8 A They weren't sprayed they were used with fingerprint powder.

9 Q And did you lift any latents off of them?

10 A No, sir.

11 Q Were there any ^{smudge} / latents on them?

12 A I don't recall seeing any smudges on them at all.

13 Q So they -- did it appeared they had been wiped clean?

14 A They'd appeared that they'd been in a package together, in
15 the wallet. It didn't appear they had been recently used.

16 Q Sir, what kind of background do you have in fingerprint
17 identification?

18 A I've taken several courses with the FBI, I've taken a
19 course at Virginia Bureau of Forensic ^{Science} / Academy, I teach
20 fingerprints in the basic academy at Police Headquarters,
21 and at Richmond Regional.

22 Q Have you ever studied under a man by the name of Andre
23 Lowenczes?

24 A No, sir, I have not.

25 Q Do you know of him?

1 A I had heard of him, but I couldn't tell you exactly what
2 his connection would be.

3 Q All right, through your training in school and in finger-
4 print identification, have you learned as to how long a
5 fingerprint will live? In other words, if I were to put
6 my fingerprint on this table right here, if I came back
7 six months from now and if no one had disturbed it, would
8 that fingerprint still be there, or could it still be there?

9 A It could still be there, yes.

10 Q O.K., what if I came back two years from now?

11 MR. MARTIN: Judge, I would object at this point I --
12 we have Mr. Forest coming as the finger-
13 print expert man. I'm not sure Detective
14 Priddy, although he knows the subject, has
15 qualified as an expert on it.

16 THE COURT: I think I'm going to let him continue on
17 temporarily, Mr. Martin.

18 MR. MARTIN: O.K.

19 A You're saying if you came back later --

20 Q Is there a -- is there a -- and I'm not -- if you don't
21 know the answer please don't give any answer. Is there a
22 time period that you know of that a fingerprint will continue
23 to exist if it remains undisturbed?

24 A No, cause I don't know that.

25 Q O.K. Do you have occasion throughout your course as a

1 forensic police officer, with Henrico County, and you've
2 been --(I don't know if he's going to answer)-- you've
3 been a forensic for how long?

4 A Approximately five (5) years.

5 Q Five years, all right. Have you had occasions to dust
6 credit cards?

7 A That's correct.

8 Q And is it your experience that you find latent prints
9 on credit cards?

10 A On occasion you do, sometimes you don't find anything, if
11 the credit card were in a wallet between papers and it was
12 moving back and forth it's a very good possibility you
13 would not receive it.

14 Q O.K., if it were handled, of course, --

15 A It should be.

16 Q In fact, plastic is very good surface for fingerprint, is
17 it not?

18 A That's correct.

19 Q What other plastic items were there in the vehicle except
20 for his identification card and things of that sort?

21 A I don't recall anything other than plastic cards, there was
22 a plastic lunch box, and a plastic thermas, in the back of
23 the car that I went -- I dusted also.

24 Q I noticed in Commonwealth's number 8, you submitted papers
25 you found in the victim's auto. I -- it's my understanding

1 you dusted those?

2 A That's correct.

3 Q All right, well what happened to all these other items,
4 the credit cards, and the plastic identification cards?

5 A Some of them were returned to the victim's family, uh, so
6 that they could take care of the business end of it.

7 Q Do you have an inventory of what all you've dusted?

8 A The only items that I have is here.

9 Q So you can't from your own knowledge or your own memory
10 you can't tell the jury --

11 A No.

12 Q If you dusted thirty plastic cards?

13 A No, sir, I cannot.

14 Q What's a better surface for fingerprints, a piece of paper
15 or a piece of plastic.

16 A I would think a piece of plastic.

17 Q So the less porous the better the surface?

18 A That's correct.

19 Q Now, sir, isn't it a fact that weather has effect on how
20 long a fingerprint will live. In other words, if you put
21 a fingerprint let's say on the left front fender of that
22 automobile in the outside atmosphere, it's not going to
23 live as long as a fingerprint on the inside of the automo-
24 bile because the weather has an effect on that, is that a
25 fair statement?

1 A That's correct.

2 Q If you had dew and things of this sort and evaporation on
3 it, it's going to affect a fingerprint?

4 A The dew would probably help the fingerprint stay.

5 Q Can you give an opinion, and if you can't please don't,
6 because I realize you haven't been qualified as an expert,
7 if you can give an opinion, the palm print found on the
8 left front fender of the automobile is depicted in finger-
9 print card number 9 that you just looked at, can you give
10 an idea of whether that was a fresh palm print or not?

11 A I couldn't tell you.

12 THE COURT: He can't tell, I know him.

13 MR. BOONE: Now, if I may see Commonwealth's -- All
14 right, if I may see No. 9. All right if
15 I might hand this to the Sheriff -- I mean
16 to the witness.

17 Q Does that pho -- that's a photograph that's been introduced
18 by the Commonwealth as, uh, I believe taken by you?

19 A That's correct.

20 Q And it shows the inside of the right portion of the front
21 seat of the vehicle, the green vehicle.

22 A That's correct.

23 Q And the victim's body is outside of it. Is that pretty
24 much how it looked when you saw it?

25 A That's how it was when I opened the door.

1 Q All right. It appears to be quite dirty inside, in that
2 photograph, it appears to be a lot of grit and things on
3 the floor board.

4 A That's correct.

5 Q Did you , during your investigation vacuum that vehicle
6 to submit the vacuumings to the lab to see if there any
7 fiber evidence or any hair evidence?

8 A No, sir, we did not vacuum.

9 Q You did not vacuum it, and you are the -- you do represent
10 the County of Henrico, as far as the lab people go, do you
11 not?

12 A That's correct.

13 Q Do you have a capabilities of vacuuming and sending these
14 vacuumings to the lab to be analyzed for hair and fiber
15 evidence?

16 A At the time I was at the scene here I did not have access
17 to a vacuum.

18 Q What about when the car was towed to the station earlier
19 that day?

20 A I could have had one, but I did not vacuum.

21 Q You did not. Can you tell the jury what the significance
22 of fiber evidence and hair evidence -- what -- why would
23 you do that as a forensic scientist?

24 A It would be to compare with suspects similar to fingerprint,
25 uh, hair samples, fiber samples, out of clothing and things

1 of this nature, could be used.

2 Q And I take it that you did have a capabilities to do this
3 at your -- when a car is towed to where you had it towed?

4 A That's correct.

5 MR. MARTIN: Judge, I believe he answered that question,
6 before .

7 THE COURT: He did.

8 MR. BOONE: I'm sorry.

9 Q Now, when you were at the scene, when you first responded
10 to the scene did you examine the ground area around the
11 car for footprints?

12 A Yes, sir, I did.

13 Q Did you find any?

14 A No, sir, I did not.

15 Q Was the ground wet?

16 A The ground was wet and there was a lot of grass in the
17 area, there wasn't -- suitable for footprints at that time.

18 Q Was there a hard soil?

19 A It was like a stayed grass and then it was tar with gravel
20 on the street, there just wasn't any area for that. I
21 looked over into the dump area, this use to be a part of
22 the county dump area, I thought maybe whoever did it went
23 over that way and I couldn't find anything there either.

24 Q Now who arrived first, you or Detective Mise?

25 A I believe I arrived first and Mise behind me, I'm pretty

1 sure of that. (Don't have any note of that.)

2 Q And you say you did not find a wallet?

3 A That's correct.

4 Q If Detective Mise were to testify he found a wallet, would
5 he be incorrect? To your knowledge?

6 MR. MARTIN: Judge, I think he can testify to what he
7 found and did not find.

8 THE COURT: Yeah, I --

9 MR. BOONE: Well, let me rephrase that.

10 Q Were you present when Detective Mise searched the car?

11 MR. MARTIN: I object to that Judge, because it assumes
12 facts not in evidence.

13 THE COURT: He can ask him if he was present when Det.
14 Mise examined the car.

15 MR. MARTIN: There is no evidence Detective Mise examined
16 the car.

17 THE COURT: Well that's true, and all he's got to say
18 is no.

19 MR. MARTIN: That's why I objected to the question,
20 Judge, the answer is no. I believe you
21 will see --

22 MR. BOONE: I'm not examining Mr. Martin, Your Honor,
23 I'm examining the witness.

24 THE COURT: I understand. Ask your question a different
25 way, Mr. Boone.

- 1 MR. BOONE: Yes, sir.
- 2 Q When Detective Mise arrived was the understanding he was the
- 3 chief investigator in the case, sir?
- 4 A That's correct.
- 5 Q Did he go into the vehicle?
- 6 A I was already into the vehicle and working with it, and he
- 7 was looking into it as I was looking into it, and then he
- 8 shortly thereafter left.
- 9 Q All right. Did you ever observe him locating any physical
- 10 evidence? Such as a wallet?
- 11 A I don't recall him locating anything.
- 12 Q Now, November 2, there's been some testimony about this
- 13 line-up, you say, to the best of your recollection, best
- 14 of your notes, you did not take a photograph of that line-
- 15 up.
- 16 A That's correct.
- 17 Q And everytime you take a photograph of a line-up is there
- 18 some type of report you have to fill out?
- 19 A There's a request form stating --
- 20 Q I understand that.
- 21 A What officer and so forth, I don't make a report of that
- 22 I only return the photograph.
- 23 Q But you also testified that some kind of oral requests are
- 24 made to you.
- 25 A That's correct, and then the form is filled out afterwards.

1 Q Well that's what I'm getting at. So if someone said orally,
2 "would you please take a photograph of this line-up," would
3 you later fill out a report?

4 A Yes.

5 Q O.K., and you have no report in this case?

6 A I have none.

7 Q Who else would take photographs of line-ups other than your-
8 self?

9 A Sergeant Loving and Officer Morton.

10 Q Is that it?

11 A Yes, sir, as far as I know no one else does it.

12 O What about a fellow with a flat top? Is that Sergeant
13 Loving?

14 A Sergeant Loving doesn't have a flat top, I don't know of
15 anyone there that does.

16 Q He uh, let me describe a Henrico Police Officer that looks
17 like a marine and he is usually down at the line-up program.

18 A Uh --

19 Q You don't know who I'm talking about?

20 A I don't know who you're talking about.

21 Q Don't know --

22 THE COURT: Looks like a marine?

23 MR. BOONE: Yes, sir. He's very well built, Judge.

24 THE COURT: O.K.

25 MR. BOONE: Strike that, Judge.

1 MR. BOONE: You weren't a marine, were you?

2 MR. MARTIN: No.

3 Q All right. The hat that was found in the car, did you find
4 that, sir?

5 A Yes, sir, I did.

6 Q All right. Did you later have that hat identified by any-
7 one, do you know who owned this hat?

8 A I asked one of the sisters if she was aware, she kept call-
9 ing me and I said are you aware that there was a blue hat.
10 Did you know whether he had a blue and white hat and she
11 didn't know, she thought he did, but she really didn't
12 know.

13 Q Wasn't sure. Now that hat/^{sir,}was it sent to the lab to have
14 it examined to see if there was any hair samples there that
15 might be compared to a suspect?

16 A No, sir.

17 Q What was done with that hat?

18 A It's still in evidence.

19 Q Still in evidence. As a forensic police officer, involved
20 in forensic evidence, and -- do you have occasion to make
21 a request of the medical examiner to check fingernail
22 scrapings of the victims, see if there might be some skin
23 or hair tracings underneath those fingernails?

24 A That's a normal thing for the medical examiner to do, I
25 normally don't request it, and if I'm there and I see him

1 do it, its no need for me to request it, they normally do
2 that and --

3 Q They normally do that.

4 A Someother things that they do.

5 Q And that served -- that evidence, if any, would appear,
6 could be used, could it not, by the lab to compare to a
7 suspect?

8 A That's correct, yes.

9 Q So in this case you did not request it, because it was
10 normally done?

11 A I didn't request it, because of the man that was doing it
12 normally does things of this nature.

13 Q The shot gun that was found in the back of the car, did --
14 do you know who ownes that?

15 A According to the sister it belonged to Raymond Miller.

16 Q I believe you testified and I may have heard you wrong on
17 direct you --_I know you put it off -- you earlier testified
18 that
19 /you submitted some bullets and a .38 and then you later
20 testified about a .38/^{from a}homicide in December, are those the
21 same .38's you were talking about?

21 A Um-huh.

22 Q All right. This gun, .38 that was submitted to the lab
23 that was done in June of this year?

24 A That's correct.

25 Q Just last month?

1 A That's correct.

2 Q In fact, let's see, about a month ago today?

3 A That's correct.

4 Q 23rd of June. The gun in this case, involving the victim
5 Raymond Miller, has not been found, is that correct?

6 A That's correct.

7 Q And is it my understanding that you will continue examining
8 guns from now to eternity, or just until this trial is over
9 with?

10 A If I find another gun and we have occasion to examine these
11 bullets again, I will do it.

12 Q So, O.K.; until the proper gun is found you continue to
13 examine it?

14 A I'll try.

15 Q And since this crime occurred in May of 1981 through today,
16 how many guns have been sent to the lab?

17 A It's uh, I can't tell you how many.

18 THE COURT: Well, well, well ---

19 Q To match up to these bullets?

20 MR. MARTIN: Judge, grounds
/I'd object to it, on the/it's irrevelent

21 THE COURT: Well, let's phase it, you can ask him how
22 many .38's have been sent to the lab.

23 Q How may .38's have been --

24 THE COURT: If he knows.

25 MR. BOONE: Yes, sir.

1 Q If you know, how many .38's have been sent to the lab since
2 May 20, 1981, through today to be matched up to Common-
3 wealth's Exhibit 13, the bullet from the victim's body?

4 A Only one (1).

5 Q Just one?

6 A Just one.

7 Q So is it your testimony that since these bullets were
8 removed from the victim's body, the police in Henrico have
9 only picked up one .38 gun from a suspect?

10 A I can't say that.

11 Q ~~Can't~~ Can't say that.

12 MR. BOONE: I have no further questions.

13 THE COURT: Mr. Martin.

14 REDIRECT EXAMINATION: Detective Priddy by Mr. Martin

15 Q Detective Priddy, when you are customarily processing a
16 crime scene in taking latent fingerprints, do you often
17 get, as what are referred to as, smudges?

18 A Yes, sir.

19 Q What are smudges?

20 A Smudges are where you ^{either} have your hand sliding across some-
21 thing or finger sliding across and it does not leave the
22 ridge detail that is needed to make an examination.

23 Q You often try to lift those anyway, is that correct?

24 A I try to lift them anyway there may be something that I
25 can't see without a magnifying glass, I may want to look at

1 it in the office.

2 Q Is it more customary to find smudges than the actual print
3 itself?

4 A It's more with smudges than anything else.

5 Q O.K.

6 MR. MARTIN: That's all the questions I have, Your Honor.

7 THE COURT: Anything else, Mr. Boone?

8 MR. BOONE: No, Your Honor.

9 THE COURT: May this officer be excused, Mr. Martin,
10 and Mr. Boone?

11 MR. BOONE: Yes, Your Honor.

12 MR. MARTIN: Yes, sir, he may and thank you for coming.

13 THE COURT: All right, Officer Priddy you excused you
14 have the right to remain or to leave, which
15 ever you prefer, sir.

16 A Thank you, sir.

17 THE COURT: Next witness.

18 MR. MARTIN: Marsha Ward.

19 (Ms. Ward, having been duly sworn on
20 the issue, testified as follows):

21 DIRECT EXAMINATION: Marsha Ward by Mr. Martin

22 Q Mam, would you please face the ladies and gentlemen of the
23 jury and tell them your name and age.

24 A Marsha Ward, uh, 31.

25 Q Where are you employed, Marsha?

- 1 A Defense General Supply Center.
- 2 Q Is that down on Jeff Davis Hwy.?
- 3 A Yeah.
- 4 Q How long have you been working there, Marsha?
- 5 A Eight (8) years.
- 6 Q What do you do for them there?
- 7 A A packer.
- 8 Q A packer?
- 9 A Yeah.
- 10 Q What do you do as a packer?
- 11 A Um, pack things, different materials to go to different
- 12 military and government agencies.
- 13 Q Do you work in any particular building?
- 14 A Yes.
- 15 Q What building is that?
- 16 A Warehouse #59.
- 17 Q Are there several warehouses at Defense General Supply
- 18 Center?
- 19 A Yes.
- 20 Q Marsha, do you know the deceased in this case, Mr. Raymond
- 21 Miller?
- 22 A Yes.
- 23 Q How did you know Raymond Miller?
- 24 A He worked in the warehouse that I worked in.
- 25 Q Number 59?

1 A Yes.

2 Q How long had he worked there with you, when you knew him
3 there?

4 A For about two (2) years.

5 Q And did you know Raymond, did you speak with him from time
6 to time and work with him?

7 A Yes.

8 Q Do you know the defendant here today, Mr. Tyrone Bishop?

9 A Yes.

10 Q How do you know Tyrone Bishop?

11 A He worked in, uh, with us too, in warehouse 59.

12 Q And what job did he have in there?

13 A A packer.

14 Q Was Raymond Miller also a packer?

15 A Yes.

16 Q Do you know how long Tyrone had been working down there? Or
17 had been working with you specifically, rather?

18 A For about two years.

19 Q About two years, and did you know Tyrone as well to speak
20 with him on the job?

21 A Yes.

22 Q Do you hold any type of position there in the warehouse or
23 in the union?

24 A I'm a shop steward for the union.

25 Q And what do you do as shop steward for the union, what type

1 of thing are you involved in?

2 A Uh, represent people for any type of grievances or anything, ^{that}
3 you know, might be wrong on the job.

4 Q Does it -- have you -- and how long have you been doing
5 this?

6 A About four (4) years.

7 Q Does it require that you be familiar with most of the people
8 in the warehouse, that work with you there?

9 A Yes.

10 Q And do you know most of them there, in fact?

11 A Yes.

12 Q Marsha, I'm going to direct your attention to Friday, May
13 15, 1981, over a year ago. Did you have occasion to be
14 working that day at Defense General Supply Center?

15 A Yes.

16 Q What shift during the day did you work?

17 A Days, 7:00 to 3:30.

18 Q Do you get a lunch break?

19 A Yes.

20 Q What time is your normal lunch break?

21 A 12:00 to 12:30.

22 Q Is that the same time for everybody, or is it different
23 times for different people?

24 A It's well, in our warehouse it's the same time for everybody.

25 Q O.K. Was that a payday at Bellwood, excused me, at Defense

1 General Supply?

2 A Yes.

3 Q Did you get paid that day?

4 A Yes.

5 Q Who was the pay master? Do you recall? Who brought you
6 your check?

7 A William Green.

8 Q Mr. Green. Was Raymond Miller working on May 15th during
9 the day shift?

10 A Yes.

11 Q Did you see him there that day?

12 A Um, yes.

13 Q Did you see him in the morning?

14 A Yeah.

15 Q About what time, do you recall?

16 A About 7:00, 7:30.

17 Q And do you know what he was doing at that time?

18 A No, I can't recall.

19 Q Do you know if he got his check?

20 A I don't know whether he got his check or not.

21 Q Did you see Raymond at all during the day, talk with him,
22 work with him at all during that day?

23 A Not until in the evening about 2:00, 2:30.

24 Q And what did you see -- what was he doing then?

25 A He might have been sweeping, I can't recall what he was

1 doing.

2 Q Was he in warehouse 59 at the time?

3 A Yeah, um'huh.

4 Q Did you see Tyrone Bishop working at Bellwood that day or
5 working at Defense General Supply.

6 A No.

7 Q And what time did you get off of work that day?

8 A 3:30.

9 Q Do you drive home?

10 A Yes.

11 Q Where do you live, what part of the area do you live in?

12 A South Richmond.

13 Q South Richmond, Do you know where the main gate is at
14 Defense General Supply?

15 A Yes.

16 Q Do you know where the back gate is?

17 A Yes.

18 Q Do you know where Route 301 is going North?

19 A Yes.

20 Q All right. Did you have occasion to be on Route 301 going
21 North, after work?

22 A Yes.

23 Q Just prior to your leaving, did you see Raymond Miller?

24 A Yeah, we walked out the, uh, by the lockers and out the
25 door together.

1 Q Where did you go?

2 A To the parking lot. I went to the parking lot in front of
3 warehouse 66 and Raymond usually parked his car in the
4 warehouse in front of, uh, 59.

5 Q And did he go his own separate way to his own car?

6 A Yeah.

7 Q Was anybody with him at that time?

8 A I couldn't see ^{whether} / anybody was with him at that time.

9 Q Do you know Raymond's car when you see it?

10 A Yes.

11 MR. MARTIN: Judge, I ask that she be shown Commonwealth's
12 Exhibit 6, please.

13 Q Would you take a look at those photographs, Ms. Ward, please.
14 Is that car familiar to you?

15 A Yes.

16 Q Whos car is that?

17 A Raymond Millers.

18 Q Did you see that car on May 15, 1981?

19 A Yes.

20 Q Approximately what time did you see that vehicle?

21 A Between 3:35 and 3:40.

22 Q Where was the car when you saw it?

23 A At the traffic light, second traffic light by DuPont.

24 Q And where is DuPont in reference to Defense General Supply?

25 A Um, going North --

- 1 Q About how far --
- 2 A on 301. Maybe two or three blocks, I guess.
- 3 Q And did you go North on 301, yourself?
- 4 A Yes.
- 5 Q Did you come to that light at DuPont?
- 6 A Yes.
- 7 Q Do you recall what lane of travel you were in?
- 8 A In the middle lane.
- 9 Q And where was Raymond Miller's vehicle?
- 10 A In the right hand lane.
- 11 Q Who was driving?
- 12 A Raymond Miller.
- 13 Q Did you stop for any period of time?
- 14 A For a -- maybe a minute.
- 15 Q And were you next to the Miller vehicle when you were stopped?
- 16 A Yes.
- 17 Q Did you look at Raymond?
- 18 A Just glanced over.
- 19 Q Did you have any conversation with him?
- 20 A No.
- 21 Q Did you wave to him or anything?
- 22 A No.
- 23 Q Was anybody in the vehicle with him?
- 24 A Yes.
- 25 Q Who was in the vehicle with him?

1 A Tyrone Bishop.

2 Q When you say Tyrone Bishop, is the same person you know
3 as Tyrone Bishop, is he present here in court?

4 A Yes.

5 Q Which person is that, M'am?

6 A Right -- sitting right there.

7 Q Right here?

8 MR. MARTIN: Let the record show, Judge she identified
9 him.

10 THE COURT: We'll let the record show that the witness
11 has identified the accused.

12 Q Did that surprise you to see Tyrone there?

13 A Not really, but I just hadn't seen him at work.

14 Q You hadn't seen him at work.

15 A No.

16 Q Had he been working, recently?

17 A Maybe not for two (2) months.

18 Q Did Tyrone say anything to you, ^{or} acknowledge your presence
19 wave to you, anything like that?

20 A No.

21 Q Any doubt in your mind that Tyrone was in the car with
22 Raymond?

23 A No.

24 Q What part of the vehicle was Tyrone sitting in?

25 A On the passenger's side, in the front passenger's side.

1 Q Did you -- was he wearing any clothing? Did you see any
2 of his clothing?

3 A No.

4 Q Did he have any hat?

5 A I can't remember, because it was just a glance. If you be
6 at a light you just glance.

7 Q When you look at him now, you see that he has/a mustache?
8 Do you recall any type of facial hair or mustache on him
9 at the time?

10 A Uh-hu.

11 Q Do you recall him working at Bellwood with facial hair like
12 this?

13 A I'd rather -- I can't really remember, I think sometime
14 he might of had a mustache.

15 Q And after the light changed, which way did you go?

16 A Keep going North on 301.

17 Q And where did Raymond's vehicle go?

18 A Up North on 301.

19 Q Did you stay together for a little while?

20 A No, uh-uh.

21 Q Did you lose each other at some point? Tell us where you
22 all went.

23 A Oh, I don't know, I wasn't paying attention, I was just
24 looking straight ahead, trying to get home.

25 Q Did -- O.K. -- Was there anybody else with Raymond and

1 Tyrone that you could see?

2 A No, not that I could see.

3 Q Were the windows open between the vehicle?

4 A I can't remember.

5 Q Did you observe anything unusual about Raymond Miller at
6 that time, his appearance, or anything he may have done?

7 A No.

8 Q How about Raymond, did he -- what kind of clothing did he
9 have, Raymond Miller, the driver?

10 A What you mean what kind of clothing?

11 Q That day, did he have any -- what type of shirt, if any,
12 did he have?

13 A Oh, if I'm not mistaken I think he had blue pants and a
14 light blue shirt.

15 Q Um'huh.-- Did he -- when you saw him in the car did he have
16 a hat or anything on his head, cap?

17 A I can't remember whether he had a hat on.

18 Q You ever see him wearing a cap or ^ahat?

19 MR. BOONE: I'm going to object to that's irrevelent
20 to what she saw on that particular day or
21 that particular time.

22 THE COURT: If she knows she can tell what she saw.

23 Q Ever see him wear a cap?

24 A Yes.

25 Q Specifically a cap with FORD on it?

- 1 MR. BOONE: I'm going to object to leading, Your Honor.
- 2 THE COURT: Yeah, you are leading.
- 3 MR. MARTIN: Your Honor, if she's seen it yes, if she
- 4 hasn't --
- 5 THE COURT: Yeah, but you're still leading her.
- 6 MR. MARTIN: I don't -- excuse me, all right, Judge.
- 7 Q From your work in the warehouse with Tyrone Bishop and
- 8 Raymond Miller, do you of your own knowledge know if there
- 9 was any problem between those two people, at the warehouse?
- 10 A No.
- 11 Q Did they get along O.K., appear to get along alright?
- 12 A Yes.
- 13 Q Did they work together closely, do you know?
- 14 A Well, before they came/^{um,}into our section they use to work
- 15 together in, um, another section pulling tickets.
- 16 Q And when they were in your section, were they working to-
- 17 gether or in different areas.
- 18 A Well we variated we never worked the same place every day,
- 19 you know, with the same person.
- 20 Q Do you recall when you last seen Tyrone Bishop, prior to
- 21 May 15, 1981?
- 22 A Not definitely, not a definite date.
- 23 Q When you saw him was it at work or was it some other place?
- 24 A Oh, it was at work.
- 25 Q What type of job did Raymond have there, at the warehouse?

1 A He was a packer.

2 Q Was he able to do that job? Was there anything unusual.
3 about Raymond as a person?

4 A Yeah, he was, uh, was/^{some}what retarded --

5 Q Did you have any --

6 A he was slow in remembi--

7 MR. BOONE: I want to object to that unless he can
8 lay proper foundation that this ladies
9 training area is sociology.

10 THE COURT: I'm going to overrule it, Mr. Boone. I'll
11 tell the jury that this lady obviously is
12 not a Doctor, but it's an expression that's
13 used to maybe differentiatesomebody from some-
14 body. I don't know whether I improved it
15 or hurt it, but, uh, ask her what she means
16 by retarded, Mr. Commonwealth.

17 MR. MARTIN: I'm going to do that, Judge.

18 Q When you say that Ms. Ward, what do you mean by that, how
19 you described Raymond.

20 A He -- he was a type, kind of slow person, he was, he didn't
21 act like someone his age should act. He acted very immature.

22 Q Was he a friendly person?

23 A Yes.

24 Q Do you know of any enemies that he had in number 59 or at
25 Defense General Supply?

1 A No.

2 Q Was he popular with the folks at the warehouse?

3 A Well everybody, I guess they liked him.

4 Q Was he a good worker.

5 A Yeah.

6 Q Did you ever see Raymond Miller at work after May 15, 1981?

7 A No.

8 Q Do you know as shop steward what Mr. Bishop's status was
9 on May 15, 1981, with Defense General Supply, his job
10 status?

11 A I didn't know it until, uh, not that day, it was later --
12 maybe that next week.

13 Q And for -- what was it that you learned at that time?

14 MR. BOONE: I'm going to object, Your Honor.

15 THE COURT: Just change it.

16 Q Or did you have to take any action in reference to his
17 situation, as shop steward?

18 A No.

19 Q Were you requested to take any action? By anybody?

20 A No.

21 Q Did you have an contact with Tyrone Bishop at all after
22 May 15, 1981.

23 A NO.

24 MR. MARTIN: I think
That's all the question/I have, Your Honor.

25 THE COURT: Cross.

CROSS EXAMINATION: Marsha Ward by Mr. Boone

Q Miss Ward, you testified that you saw the defendant, Tyrone Bishop, in the automobile with Raymond Miller at the stop light at DuPont.

A Yes.

Q Now think real hard, you testified on Direct that it was two blocks from the main gate --

A Not, uh --

Q You mean two blocks?

A Not from the main gate, from Strathmore Road.

Q From Strathmore Road. How far would that stop light at DuPont be from the main gate, uh, DGSC? Couple miles?

A Maybe a mile or mile and a half.

MR. MARTIN: Judge, that he let her answer the question.

THE COURT: What?

MR. MARTIN: I ask that he let her answer the question.

MR. BOONE: Judge, I believe I'm allowed to lead on cross.

THE COURT: Yeap, go ahead.

Q Now, when you pulled up to that stop light, uh, did you see exactly where Mr. Bishop was sitting?

A Yeah.

Q Where was he sitting?

A In the passenger side, in the front passenger side.

Q Did he appear to be constrained, Mr. Miller in any way, was

1 he holding him did he have a gun on him?

2 A Not that I could see, no.

3 Q Did everything appear to be normal, anything unusual?

4 A No.

5 Q Could you see if they were having a conversation?

6 A No, it was just like you'll be at the light and just look
7 to the side of you and just turn your head back around.

8 Q Did Raymond wave to you or anything?

9 A No.

10 Q Did he call out for help?

11 A No.

12 Q And this was between 3:35 and 3:40 in the afternoon, was
13 it light outside?

14 A Yeah.

15 Q Lot of cars around?

16 A Yeah.

17 Q And you were sitting at a stop light?

18 A Yes.

19 Q So I take it the light was red?

20 A Yeah.

21 Q Were you the first car in your lane?

22 A Yes.

23 Q And was Raymond Miller the first car in his lane?

24 A Yes.

25 Q At any time did you see him attempt to get out of the

1 automobile?

2 A No.

3 Q Now you said you had not seen Tyrone at work that day,
4 Tyrone Bishop?

5 A No.

6 Q He didn't work at DGSC that day May 15, 1981, did he?

7 A No.

8 Q Had you seen him at work the week before?

9 A No.

10 Q How about the week before that?

11 A I can't -- I don't think so, I'm not sure I know.

12 Q You're just not sure?

13 A I'm just not sure.

14 Q Well, M'am, let me read a -- you remember testifying in the
15 General District Court of Henrico County at the preliminary
16 hearing in this matter, on December 4, 1981?

17 A Yes.

18 Q I'd like to read you a question presented to you and your
19 answer and ask you if you remember this to be your testimony.

20 Question: What time did Mr. Bishop get off work?

21 Answer: I didn't see Tyrone that day until at DuPont
22 until I was at the stop light.

23 Question: When did you see him prior to that time at the
24 stop light? Did you see him on Thursday?

25 Answer: No.

1 Question: Wednesday?

2 Answer : It was maybe a week before that.

3 Question: At work?

4 Answer : Uh-huh.

5 Q Now --

6 A Well, maybe, I just -- I can't remember some days that I
7 be at work and when I be off.

8 Q So when you testified under direct examination that it had
9 been a couple of months since you had seen Tyrone at work,
10 is that a correct statement?

11 A I can't remember, I said I can't remember.

12 Q Did you eat lunch with Tyrone and Raymond Miller on occasion?

13 A No.

14 Q Did y'all have a lunch room?

15 A Yes.

16 Q Is that where the employees could eat if they wanted to?

17 A If they wanted to.

18 Q O.K. Did Raymond Miller eat in that lunch room, do you
19 know?

20 A I really don't know, because I don't eat in the lunch room.

21 Q You don't eat in the lunch room, O.K. Now you worked with
22 both these individuals, Mr. Bishop and Mr. Raymond Miller
23 for at least two years, is that your testimony?

24 A Um'huh.

25 Q During that entire two year period did you ever see any

1 altercation or any bad blood of any sort whatsoever between
2 the defendant, Tyrone Bishop, and the victim in this car,
3 Mr. Raymond Miller.

4 A No.

5 THE COURT: I'm going to have to ask for a recess. I'm
6 going to ask the witness to remain in the
7 witness chair and not talk ^{with} anyone about
8 the case. I'm going to ask the jury to
9 retire to the jury room, and we'll take a
10 short recess.

11 (Recess)
12 (Jury Out)

13 THE COURT: We'll let the record show that after a
14 recess that the accused is present and in
15 person along with his Defense Counsel,
16 Mr. Boone. Commonwealth Attorney's Office
17 represented by Mr. Martin. ~~Mrs.~~ Ward,
18 Court, I'll ask while we were in recess
19 if you talked to anyone about this case.
20 Counsel have any questions?

21 MR. BOONE: None, Judge.

22 MR. MARTIN: No, sir.

23 THE COURT: Ask the jury to return, please.

24 (Jury In)

25 THE COURT: We'll let the record show the jury has
 returned at 11:29. The Court has checked

1 the jury and finds that all jury members
2 are present and accounted for. All right,
3 Mr. Boone.

4 Q Miss Ward, I just have a couple more questions. I believe
5 you testified that you are the shop steward or were at that
6 time at DGSC, Warehouse 59?

7 A Yes.

8 Q O.K. As shop steward, do you have a office in the ware-
9 house?

10 A No.

11 Q Where do you, yourself, as of that date, on May 15, 1981,
12 where were you working in the warehouse, physically located?
13 Where were you physically located in the warehouse?

14 A In the packing section, warehouse 59 D bay.

15 Q All right.

16 THE COURT: What does D mean?

17 A "D Bay" we have different areas, A, B, C, D.

18 THE COURT: Oh.

19 Q And is "D Bay" where Raymond Miller worked?

20 A Not on that day, he worked -- sometimes they sent him to
21 warehouse 64 to work in security cage.

22 Q And do you know Dell Braxton?

23 A Yes.

24 Q Where does he work or where was he working at that time?

25 A In warehouse 59, packing.

1 Q Do you remember on that particular day, what bay he was
2 working in?

3 A No.

4 Q All right, how about Henry Red?

5 A Do I know him?

6 Q Yes.

7 A Yes.

8 Q And does he work for DGSC?

9 A Yes.

10 Q Where?

11 A Warehouse 59.

12 Q And on May 15, was he working there?

13 A Yes.

14 Q Do you remember what bay he was assigned to?

15 A D Bay.

16 Q Same as you?

17 A Um'huh.

18 Q What about Robert Thayer?

19 A He worked with us in D Bay.

20 Q On that date?

21 A Well, he -- he might -- he is the supervisor, he might have
22 been in the area -- the packing area, or he could have been
23 in the office, back and forth.

24 Q Warehouse 59?

25 A Yes.

1 Q What about Tina Davis?

2 A I can't remember where Tina was.

3 Q She works at DGSC?

4 A She works at DGSC and packing.

5 Q Warehouse 59.

6 A Warehouse 59.

7 Q Can you give us an idea if -- like if the jury walked in
8 the warehouse 59, what they would see, could you kind of
9 paint them a picture?

10 A When they walk in the door they'll see some stairs going
11 up stairs for the office area and the snack bar and if
12 they walk down a little ways further they'll see another
13 office with computers in it, then they'll get into, right
14 around from that they see our work stations, the packing
15 stations with things that look like little sliding boards
16 and yellow conveyers with work coming down into the shoots.

17 Q From any one point in that warehouse can you see everybody
18 in the warehouse, except people that might be in an office?

19 A Not everybody in the warehouse.

20 Q Is it an open warehouse?

21 A O.K. Section -- the only place that you could see everybody
22 is to go up the stairs and be on the console area, where
23 the people send the work to, you know, to us. That's the
24 only way you can see everybody in our section, not in the
25 officies.

- 1 Q How many people work/^{ed}in your section on May 15, 1981?
- 2 A I really couldn't tell you how many.
- 3 Q About 50?
- 4 A Approximately.
- 5 Q All right. Now, were you there -- what shift did you work
- 6 on May 15, 1981?
- 7 A 7:00 to 3:30.
- 8 Q And were you in warehouse during the entire day?
- 9 A Not, I can't say, not the entire day.
- 10 Q Well, but for lunch?
- 11 A Well, I prob-- I think I had a union meeting that day, a
- 12 case or something to handle because I wasn't there all day.
- 13 Q And what time was that union meeting?
- 14 A Probably 1:00 o'clock.
- 15 Q 1:00 o'clock. And what time was that over?
- 16 A Well they usually be an hour, maybe two, two-fifteen.
- 17 Q During the course of your employment, in warehouse 59, on
- 18 that date, did you have occasion to see Tyrone Bishop come
- 19 ^{to}in/that warehouse?
- 20 A When ? That day?
- 21 Q That day, Friday, May 15, 1981?
- 22 A No.
- 23 Q Do you know what is meant by checking out at Defense General
- 24 Supply Center?
- 25 A Yes.

1 Q Can you tell the jury about that?

2 A You have to go to -- well, they give you a paper, you have
3 to go the dispensary, and personnel, turn in your badge,
4 and sign some type of papers, I guess for to get your re-
5 tirement money and different other things like that.

6 Q O.K., and is there -- do you have to -- before you start
7 checking out do you have to get some type of form that you
8 have to take around?

9 A Yeah, you have to get some type of paper, from, I guess,
10 your supervisor.

11 Q All right, that's what my next question was, you get that
12 from your supervisor?

13 A Um-huh.

14 Q And who was your supervisor in that section?

15 A Who would be?

16 Q May 15, 1981, who ^{would} the supervisor have been?

17 A We got a bunch of supervisors, we got about six (6)
18 supervisors.

19 Q Six supervisors, as of that date?

20 A Um'huh.

21 Q Do you know their names?

22 A Yeah, Mary Tina Davis --

23 Q All right, just a second, Larry?

24 A Mary Tina Davis.

25 Q All right.

1 A Robert Thayer Charles Dick, --

2 Q Charles?

3 A Charles Dick, William Green -- not Green -- Green -- Donald
4 Green, Willis C. Jones, Willie Gathers, who is the chief --

5 Q Who is?

6 A Willie Gathers, he is over top of all the supervisors.

7 Q All right.

8 A Zidalet Smith, who is a leader, and William Green, who is
9 a leader.

10 Q So that's eight people. So to check out you'd have to
11 go to one of those eight people and get a check out form?

12 A You would have to go to your immediate supervisor and if
13 your supervisor wasn't there, you would go to whoever was
14 next in line, or whoever was taking their place that day.

15 Q All right, and who was your immediate supervisor on that
16 date, do you know?

17 A I can't remember -- I -- I can't remember whether Tina was
18 still out on maternity leave or whether she was back or not.

19 Q And we're speaking of Tina Davis, aren't we?

20 A Uh-huh.

21 Q Now when you got off at 3:30, you say you followed Raymond
22 Miller out to the parking lot?

23 A No, I didn't follow him.

24 Q Well, y'all kind of walked out of the parking lot together?

25 A Yeah, we walked out the door together.

1 Q And he got in his car and you got in your car, and every-
2 body left? Can you describe on Friday afternoon at 3:30
3 payday what the traffic situation is like getting away
4 from warehouse 59?

5 A It's horrible every day.

6 Q Can you tell us specifically on May 15, 1981, how horrible
7 it was?

8 A No.

9 Q Bumper to Bumper?

10 A More than likely, because that's how it is every day.

11 Q And when you're going through the gate, is it congested?
12 Is the traffic congested?

13 MR. MARTIN: Judge, is he asking her about May 15, 1981?

14 MR. BOONE: May 15, 1981.

15 THE COURT: That's what I assumed he was asking her.

16 MR. MARTIN: I don't have any problem, if she can answer
17 it.

18 THE COURT: That's what he said.

19 A It depends on what gate your going out whether it's congest-
20 ed.

21 Q Which gate did you go out on May 15, 1981?

22 A I went out the back gate, which goes out to Strathmore
23 Road right on to Chippenham.

24 Q Do you ever go out the main gate that goes out onto Jeffer-
25 son Davis Hwy.?

1 A Very seldom, but I have been out it.

2 Q Can you tell the jury why it's very seldom you go out that
3 gate?

4 A Because it's about four lanes of traffic trying to get out
5 -- people trying to get out of parking spaces, people stopping
6 to get into cars.

7 Q Is it fair to say that is the most congested exit to get
8 out of that base?

9 A Yes.

10 Q You take another exit because it is less congested?

11 A Yes.

12 Q You say Raymond Miller acted very immature, can you expand
13 on that?

14 A O.K., he use to bring little toys to work and if he had
15 got a -- like he liked hats, if he had got a new hat or
16 something he'd bring it in and say look what my sister
17 brought me from -- or look what I brought, and sometimes
18 he would have belt buckets, just -- he would just bring
19 any little thing to work, and then he would get paid one
20 day and not have any money the next day, because he would
21 buy all this little trinkets, I guess, you would call them.

22 Q Did you ever carry on conversations with him?

23 A Yes.

24 Q Could he carry on a conversation with you?

25 A Yes.

1 Q Did you have any problem communicating with him?

2 A No.

3 Q Could he carry on an intelligent/conversation/with you?

4 A Well, it depends on what you say intelligent -- maybe for
5 his level, intelligent.

6 Q Well what level was that?

7 A He was -- well, I'm not a doctor, like they say --

8 Q I understand that.

9 A But he, he acted more like a teenager instead of an adult.

10 Q But he could talk -- he had no trouble talking or communi-
11 cating with you?

12 A No.

13 Q Did he have any trouble doing his job?

14 A No, not really.

15 Q Now you say he would get paid one day and be broke the
16 next day?

17 A Yes.

18 Q All right, let's talk about May 15th. As shop steward,
19 did it not come to your attention the next morning, Saturday
20 morning May 16th., that Raymond Miller was going to be
21 written up for being AWOL on Friday May 15th, at lunch time?

22 A Yes.

23 Q Can you tell the jury about that?

24 A Well, I was working overtime on Saturday and when I got to
25 work, Mr. Thayer, who is the Assistant Chief, came to me and

1 he said the duty officer had called him and report that
2 Raymond Miller was seen going out the gate at lunch time
3 and he had never returned from lunch; and I told Mr. Thayer.
4 -- I said well, uh, I think they must be mistaken, because
5 Raymond and I walked to the parking lot on the previous
6 evening, and I told him I could remember it well because
7 I remember seeing him again at DuPont.

8 Q So he had been seen leaving the gate at lunch time, that
9 was the report you received as shop steward?

10 A From Mr. Thayer.

11 Q And when did you get paid on that day, before lunch or
12 after lunch?

13 A At 7:00 in the morning.

14 MR. BOONE: Thank you, I have no further questions.

15 THE COURT: Anything else, Mr. Commonwealth?

16 MR. MARTIN: No, sir, Your Honor.

17 THE COURT: May this lady be excused?

18 MR. BOONE: Yes, sir.

19 THE COURT: Mr. Martin?

20 MR. MARTIN: Yes, sir.

21 THE COURT: M'am, your excused, you have the right to
22 remain in the courtroom or to leave which-
23 ever you prefer and thank you very much.
24 Mr. Commonwealth, is your next witness going
25 to be a short one or a long one?

1 MR. MARTIN: I believe he'll be relatively short, Judge.
2 Ray Gryder.

3 (Mr. Gryder, having been duly sworn
4 on the issue, testified as follows):

5 DIRECT EXAMINATION: Ray Gryder by Mr. Martin

6 Q Sir, would you face the ladies and gentlemen of the jury
7 and tell them your name, please?

8 A Ray Garland Gryder.

9 Q What do you do Mr. Gryder?

10 A I am a boiler mechanic, WG 10 at DGSC, Bellwood.

11 Q Down on Jeff Davis Hwy.?

12 A Right, um'huh.

13 Q Do you have any other -- part time job?

14 A NO, I am a volunteer, special policeman for the City of
15 Petersburg , but that's --

16 Q How long have you been doing that?

17 A Ten (10) years.

18 Q How long have you been working at Bellwood, sir?

19 A Since 79, July the 16th.

20 Q Do you have a certain location where you work out of, like
21 an office, or building, or anything like that?

22 A Work out of the post engineers, which is building 20, 1920
23 in the complex. That's our office and shop area.

24 Q Mr. Gryder, on May 15, 1981, over a year ago, I'd like to
25 focus your attention on that Friday, please. Did you have

1 occasion to be working at Bellwood during the day?

2 A Yeah, I'm there --

3 Q What time do you work?

4 A 6:30 until 3:30, until 3:00, 15:00.

5 Q Are you familiar with the disappearance of Mr. Raymond
6 Miller, this incident a time ago?

7 A Yes, just from the rumors and what was heard at Bellwood.

8 Q Do you know Raymond Miller?

9 A When I saw him, not personally, but uh, --

10 Q O.-K. How did you know Raymond?

11 A By doing the service work, when I first went to Bellwood
12 I was in the plumbing section, and I did service work in
13 all the buildings, all the warehouses, all the bathrooms,
14 sometimes two or three times a day go in each section on
15 calls and you get to know people by sight, by name and
16 that's how I -- everybody knew Raymond, he talked to every-
17 body.

18 Q Did you have occasion to observe Raymond Miller on or
19 about May 15, 1981, at Bellwood that particular Friday?

20 A I was in the credit union between 11:15, ~~on~~ 11:30 and 11:45,
21 and Raymond was in the line behind me to cash his check, as
22 I was in turn to cash my check.

23 Q Did a lot of people do that that day?

24 A Right. This is lunch time 11:30 til 12:00 is lunch time.

25 Q Did you and Raymond talk at all at the time?

1 A We spoke, Raymond talks to everybody and speaks to every-
2 body, ~~for~~ did.

3 Q Did you, in fact, get your check cashed there?

4 A Yes, I did.

5 Q Was anybody with Raymond or did you see anyone there in
6 the line?

7 A Well, there was a long line of people and I don't know
8 that anybody was actually with Raymond, they were, you
9 know, lots of people in the line.

10 Q Was he talking with anybody in particular?

11 A Well, Raymond talked to everybody and he was, uh, there
12 was a black gentlemen behind Raymond that he was talking
13 to him as well as everybody else, you know that --

14 Q Did you know that particular black gentlemen?

15 A No, not by name.

16 Q Now I'm going to show you a series of photographs here, and
17 ask if you've seen these before? (In this order, please.)

18 MR. BOONE: Your Honor, at this time, very briefly I'd
19 like to be heard outside the presence of
20 the jury.

21 THE COURT: All right, we'll ask that the jury be ex-
22 cused. Mr. Boone, do you want the witness
23 excused?

24 MR. BOONE: I would, Judge.

25 THE COURT: All right, Mr. Gryer, I'll ask you to go

* * *

Pages 178-180 of Volume I are
not included. It covers evidentiary
objections.

* * *

1 had it planned.

2 MR. BOONE: Was that marked -- blacked out, I mean
3 this piece of paper could be pulled off
4 very easily.

5 THE COURT: Sheriff, let him take a look at that again.

6 Q Mr. Gryer, I'm going to show you a series of --

7 THE COURT: No, no, don't you think we ought to get
8 the jury back in here?

9 MR. MARTIN: Excuse me, Judge, I'm sorry, I think we
10 should.

11 THE COURT: Yeah, I think it would be better. Ask
12 the jury to come in.

13 (Jury In)

14 Let the record show the jury has returned
15 at 11:59. The Court has checked the jury
16 and finds that all jury members are pre-
17 sent and accounted for. Proceed, sir.

18 Q Mr. Gryer, I'll have the Sheriff show you a series of
19 photographs and ask if you have seen those before, sir?

20 A Yes, I have.

21 Q O.K. Do you recall when you saw those, sir?

22 A The date, it was last --

23 Q How long ago was it?

24 A Last week at DGSC.

25 Q And who showed them to you?

- 1 A One of the detectives and yourself.
- 2 Q Was I present at that time?
- 3 A Right, um'huh.
- 4 Q Now, Detective Mise, the tall man with the gray hair?
- 5 A Um'huh.
- 6 Q And when he showed you those photographs, did you look on
- 7 the back of those photographs? (Don't look on the back,
- 8 please.)
- 9 A No, sir.
- 10 Q You did not. And how did he show them to you, where did
- 11 he put them?
- 12 A He laid them on the side of the desk, in a straight line.
- 13 Q In a straight line?
- 14 A Uh'huh.
- 15 Q And how many are there?
- 16 A Six, I think.
- 17 Q All right. Did he give you any instructions in reference
- 18 to the photographs?
- 19 A No, he just said do not look on the back and look at each
- 20 one and see if I recognized anybody there, in those photo-
- 21 graphs.
- 22 Q O.K. and did you pick out one of those photographs?
- 23 A I did.
- 24 Q Which one did you pick out?
- 25 A Number two (2).

1 Q Would you take a look at number two, please?

2 A Uh'huh.

3 Q What was your recollection of number two, why did you pick
4 number two out?

5 A This as well as I could remember was the gentlemen that
6 was in the line with, or in the vicinity of Mr. Miller
7 the day he was in the credit union.

8 Q Now were you absolutely positive about this man?

9 A I could remember a description of blue shirt, dark trousers,
10 as blue jeans, or dark blue trousers, and the mustache, and
11 the light facial.

12 MR. BOONE: Your Honor, I would ask the witness to
13 respond to the question, I don't believe
14 that was a response.

15 THE COURT: Ask your question again, sir.

16 MR. MARTIN: Well I'm going to have to co -- that was
17 one of the questions I'm asking, but --

18 Q When you identified number two, the person in the photo-
19 graph number two, all right, were you absolutely positive
20 at that time that number two photograph was the same person
21 who was in the credit union?

22 A Yes.

23 Q You were, -- you were absolutely positive?

24 A Yes, the person that I remember^{ed}, yes.

25 Q O.K. All right.

1 A May I say something here, out of the six photographs that
2 was the one that was familiar to me that looked the same
3 as the person that I saw in the line.

4 Q All right.

5 MR. BOONE: Your Honor, at this point I'd like to be
6 heard outside the presence of the jury.

7 THE COURT: All right. We'll ask that the jury retire
8 to the jury room, please.

9 (Jury Out)

10 Mr. Gryer, I'm going to ask that you go
11 back to the same place and not talk to
12 anyone, sir.

13 A All right.

14 (Witness Out)

15 (Mr. Boone ask Court to admonish testimony
16 of Mr. Gryer regarding photographs. Court
17 overrules.)

18 THE COURT: Ask the witness to come back in.

19 (Witness In)

20 Mr. Gryer, I'll ask you while you were out-
21 side if you talked with anyone about this
22 case, sir?

23 A No, sir.

24 THE COURT: Mr. Martin or Mr. Boone do either of you
25 have any questions?

1 MR. MARTIN: No, sir.
2 MR. BOONE: No, sir.
3 THE COURT: Ask the jury to come back in.
4 (Jury In)
5 Let the record show the jury returned at
6 12:11. The Court has checked the jury and
7 find that all jury members are present and
8 account for.
9 MR. MARTIN: Sheriff may I see the photographs once more,
10 please? Judge, at this time I would move
11 to introduce the six photographs as one
12 exhibit, number 15 for the Commonwealth.
13 I believe it's 15.
14 THE COURT: It would be 15 wouldn't it?
15 MR. MARTIN: Yes, sir.
16 THE COURT: Other than the objections already noted --
17 MR. BOONE: No, sir., no other objections.
18 THE COURT: Do your objections still hold, Mr. Boone?
19 MR. BOONE: Yes, sir.
20 THE COURT: As previously ruled.
21 MR. MARTIN: Give these back to the witness, please.
22 Q Mr. Gryer when you look at those, when you say number 2
23 which one of the photographs specifically do you mean?
24 A This one.
25 Q Is it marked on the back with a number?
A Yes, sir.

1 Q What is the number on the back?

2 A Number two.

3 Q Would you look at the numbers on the back of the other
4 photographs ?

5 A Um'huh.

6 Q How -- all of them, please, if you would.

7 A O.K.

8 Q Look at them in sequence if you would.

9 A This is one.

10 Q From top to bottom.

11 A Three, four, five, and six.

12 Q The only one number two, is that correct?

13 A Inaudible.

14 Q All right, would you put it back in the number two position,
15 please. Sheriff ~~and~~ we have like a paper clip or some-
16 thing that we can keep those together with? Thank you.

17 Now, Mr. Gryder, ^{right} you know this man/here, Tyrone Bishop?

18 A I do not know him, no sir.

19 Q All right, do you recall seeing him on May 15, 1981?

20 A I believe he was the gentlemen that was in the line, that
21 was the photograph that I identified.

22 Q O.K. Did you talk with him in the line in the credit union
23 at all?

24 A No, sir.

25 Q Do you know what he was doing in the credit union?

1 A No, sir, I assumed he cashed his check --

2 Q Did you see a check, that he had or any papers or any-
3 thing like that?

4 A Not that I recall that he had a check.

5 Q Approximately how much time did you spend in the credit
6 union, yourself?

7 A Possibly ten minutes.

8 Q After you cashed your check, did you leave the credit union?

9 A I did.

10 Q Have you seen Mr. Tyrone Bishop since May 15, 1981, at
11 Bellwood, or anywhere for that matter?

12 A No, sir.

13 Q You see he has a mustache here today, is that correct?

14 A Uh'huh.

15 Q Do you recall anything about that on the person you saw in
16 the credit union on May 15, 1981?

17 A No, sir, except that there was a little facial hair, on the
18 side, like side burns.

19 Q Do you recall a mustache?

20 A There was a mustache.

21 MR. MARTIN: That's all the questions I have of Mr.
22 Gryer, sir.

23 THE COURT: Mr. Boone, I'm wondering if maybe your cross
24 examination might not take a little while
25 and maybe we should go to lunch?

* * *

Pages 188-194 of Volume I are not included. It covers preliminaries before resuming testimony.

* * *

1 are present and accounted for. Members of
2 the jury I'll ask if any of you were with-
3 in hearing distance of anyone discussing
4 this case or if you have discussed this
5 case with anyone? Also ask if you've seen
6 anything about it on television, read any-
7 thing about it in the newspaper or other
8 media, or heard anything about it on the
9 radio? Mr. Martin or Mr. Boone, do either
10 of you have any questions of the jury?

11 MR. MARTIN: No, sir, your Honor.

12 MR. BOONE: No, sir.

13 THE COURT: Cross-examine, sir.

14 CROSS EXAMINATION: Mr. Gryder, by Mr. Boone

15 Q Mr. Gryder, prior to May 15, 1981, how long have you been
16 working at DGSC?

17 A Since June -- July 16, 1979.

18 Q So it's been just short of two years as of May 15th?

19 A Right, yes, sir.

20 Q And during that entire period did you in --/out of building
21 number 20?

22 A The engineer's office, yes, sir.

23 Q And you were a boiler mechanic?

24 A Boiler mechanic -- boiler fireman.

25 Q O.K. as a boiler mechanic, uh, do you -- are you, you work

1 out of building 20, think you kind of go all over that
2 complex?

3 A Yes, sir.

4 Q And all the buildings?

5 A Just about all the buildings, all the boiler rooms.

6 Q So you don't have any one stationary point that you work
7 at?

8 A No.

9 Q You're pretty much of a trouble shooter, wherever the trouble
10 is with boilers, you go?

11 A That's right.

12 Q Mr. Raymond Miller, the decedent, in this case you're aware
13 are you not that he was found murdered?

14 A Yes.

15 Q When did you learn about that?

16 A Just from what was, uh, rumors going around the post, it
17 was on a, uh, about a Thursday, Friday, latter part of the
18 week, that week after the 15th.

19 Q What kind of rumors going around the post?

20 A That he had been found.

21 Q O.K.

22 A In his car.

23 Q Did you hear any other rumors?

24 A No, uh, that --

25 MR. MARTIN: Judge, I, I think that --

- 1 THE COURT: I believe we've gone to hear-say --
- 2 MR. BOONE: Your Honor, I don't believe this would be
- 3 hear-say, it would be an exception. I'm
- 4 not introducing -- a rumor by its very
- 5 nature is something that is not necessarily
- 6 true. I'm introducing this not for the
- 7 truth of the statements, but just to show
- 8 the jury that there were speculations,
- 9 statements going around the post. I'm
- 10 certainly not introducing it for the truth
- 11 of the statements that are in it.
- 12 THE COURT: You have anything you want to say, Mr.
- 13 Martin?
- 14 MR. MARTIN: I don't see what materiality it has, Judge.
- 15 It's got to be revelent and material.
- 16 THE COURT: I don't either, the gentlemen has indicated
- 17 ^{he} that/heard something that the -- that Mr.--
- 18 uh, the deceased was deceased.
- 19 MR. BOONE: Maybe I should try a different avenue.
- 20 THE COURT: All right, you can try.
- 21 Q Were you aware that it was a homicide rather than, uh --
- 22 that it was allegedly a homicide rather than a suicide?
- 23 A Nope, was not. All I heard was that he was found in his
- 24 car, not knowing where, somewhere in the county.
- 25 Q Was he found -- was it your information he was found asleep

1 in his car or dead?

2 A No, he was found dead in his car.

3 Q And do you know how he was found dead, whether it was
4 bullets holes or -- ?

5 A No, I do not.

6 Q You never heard?

7 A No, sir.

8 Q And that was about a week after he was found, you say?

9 A NO, it was about Thursday or Friday the 15th., after the
10 15th.

11 Q Thursday or Friday after the 15th?

12 A Yeah, the 15th it was on a Friday, I think, it was the
13 following week.

14 Q From that point until today, did you have occasion to hear
15 anything else about it? This man, Raymond Miller?

16 A Not that I recall, no, sir.

17 Q (Unintelligible) all you heard and that was the end of it?

18 A Um'huh.

19 Q And on May the 15th, it's your testimony you saw Raymond
20 Miller in line behind you at the credit union?

21 A That's correct.

22 Q Cashing a check?

23 A Yes, sir.

24 Q Is that right?

25 A Um'huh.

1 Q Was he standing right behind you?

2 A As well as I remember he was directly behind me, I can't
3 be positive, but I know he was right close to me in the
4 line.

5 Q So it could have been someone else behind you and then
6 Mr. Miller?

7 A It's possible, yes, sir.

8 Q It's possible?

9 A Uh'huh.

10 Q I'm testing your memory now, sir, I'd like for you to tell
11 us how many people were between you and Mr. Raymond Miller
12 on that date?

13 A No more than one person.

14 Q No more than one?

15 A If one person.

16 Q If one?

17 A Uh'huh.

18 Q So you're not even sure there was one person?

19 A No, sir, I'm not.

20 Q When you first noticed Mr. Miller behind you, how many
21 people were in front of you?

22 A I'm not sure, we were about middle way of the line.

23 Q Well, middle way of the line it could be three people or
24 it could be thirty people?

25 A Correct.

1 Q Could you give us a ball park idea, sir?

2 A Well, possibility a total of fifteen people in the line to
3 the door.

4 Q To the door?

5 A Right before you get out into the hall, now that's--

6 THE COURT: Are you speaking behind you, sir, or are
7 you speaking in front of you?

8 A All total.

9 Q And you were somewhere in the middle than?

10 A Of approximately 15 people.

11 Q And when you got in line, sir, did you see Mr. Raymond
12 Miller at that point?

13 A He came in behind me.

14 Q Did he walk in with you?

15 A No, sir, not directly with me, he came in the door right
16 behind me.

17 Q Were you turned around or something, how do you know that?

18 A You can hear Mr. Miller.

19 Q You can hear him?

20 A When he comes in he talks to everybody and he'd always talk
21 loud.

22 Q Good, what was he saying when he came in behind you that
23 made you notice that he was right behind you?

24 A I don't recall any, any particular thing he was saying it's
25 just the fact that it was Mr. Miller and you hear him and

1 you don't turn and look, knowing that it was him.

2 Q Did you turn and look, sir?

3 A As well as I remember I did.

4 Q As well as you remember?

5 A Um'huh

6 Q Does that mean you might not have turned and looked?

7 A It's possible.

8 Q It's possible? So you heard him and from there you knew
9 he was behind you, you're not sure if you turned around
10 and looked at him.

11 A I turned around after I got into the line, yes, sir, this
12 was after -- in approaching the -- after in the line, I
13 and
14 turned / spoke to Mr. Miller.

14 Q You spoke to him?

15 A As he spoke to everybody in the line and in the -- really
16 in the credit union.

17 Q What did he say to you?

18 A Just said, "how are you," or "hi", something to this effect
19 as he always did.

20 Q As he always did, I'm not asking what he always did, I'm
21 asking specifically on May 15, 1981, sir,--

22 A I don't recall --

23 Q And I would ask you--

24 A His exact words --

25 Q If you restrain your answers to that specific date, I'm

1 not asking what he normally does.

2 A Um-huh.

3 Q On that particular occasion--

4 A I don't recall his exact words.

5 Q I'm sorry, sir?

6 A I don't recall --

7 Q Don't recall his exact words.

8 A What he said exactly.

9 Q Can you describe his clothing? Let's start with his shirt.

10 A As well as I remember it was a type of plaid western shirt.

11 Q Long sleeve or short sleeve?

12 A Long sleeve, I think.

13 Q All right. Pants?

14 A Sort of a dark, dark brown, dark color.

15 Q Shoes?

16 A Type of western boot, not a real pointed toe boot, but a
17 western.

18 Q Western ^{like} cowboy boots?

19 A Not really like a cowboy boot, like a western style con-
20 struction boot or something like that.

21 Q All right, now, sir, I'm going to ask you, from May 15th.,
22 until today have you seen a photograph of this man, Raymond
23 Miller?

24 A Yes, I saw a photograph of him.

25 Q Can you tell the jury when you saw that photograph, sir?

1 A I was shown a photograph by Smitty, the Detective on post,
2 when I -- he called me up front to fill out some papers
3 on this, uh, Mr. Marting --Martin's request.

4 Q So you were shown a photograph when, of Mr. Raymond Miller?

5 A I can't recall the exact date, last week.

6 Q Last week and how was he dressed in that photograph, sir?

7 A He had on a plaid shirt of some type, I think.

8 Q He had on exactly what you just testified to, didn't he?

9 A I don't recall exactly what --

10 Q You don't recall?

11 A Yeah.

12 Q You can't recall what he was wearing in a photograph you
13 just saw a week ago, but you recall what he was wearing
14 14 months ago?

15 A It was a black and white photograph, I'm sure.

16 Q Isn't it a fact, sir, that what you're testifying to right
17 now as to what he was wearing on May 15th, is what you saw
18 in the photograph last week?

19 A I couldn't say that it was exactly the same thing.

20 Q I beg your pardon, sir.

21 A I say I'm not sure that it was exactly the same clothing.

22 Q Are you telling the jury that 14 months later, you can
23 remember exactly what that man was wearing, or are you tell-
24 ing us what you saw in the photograph a week ago?

25 A I just -- telling you what I recall the best I remember as

1 to what he was wearing the day that I saw him.

2 Q That's not my question, sir. Is your memory coming from
3 seeing that photograph a week ago, yes or no?

4 A No, I don't think so.

5 Q You don't think so?

6 A No, sir.

7 Q What did this photograph look like, was it a black and
8 white photograph you saw?

9 A I believe it was black and white.

10 Q Was the man dead in the photograph?

11 A No.

12 Q Was he alive in the photograph?

13 A He didn't appear to be alive, it was just a photo -- snap
14 shot of him.

15 Q Describe him.

16 A Describe his -- him--?

17 Q Describe that photograph you saw a week ago.

18 A It was some type of plaid shirt, uh, that's all that was
19 showing was just a shirt and his facial, upper torso.

20 Q Was it a long sleeve plaid shirt?

21 A I could not tell, I don't think from the photograph that
22 it was long or short.

23 Q Go ahead, and what else did you see in the photograph?

24 A Just a photograph of his face.

25 Q Just his face?

1 A Yeah, face and from -- possibility the waist up.

2 Q And when -- who showed that to you?

3 A Smitty, the Detective.

4 Q Smitty?

5 A Um'huh.

6 Q That's his name?

7 A That's his last name, I don't recall -- don't know his
8 first name.

9 Q Detective Smitty.

10 A Yeah, that's what everybody calls him is Smitty on the
11 depot.

12 Q Is he a -- does he work for the Bureau of Police or for
13 DGSC?

14 A DGSC.

15 Q Did you tell Mr. Martin you've just seen a photograph of
16 this man?

17 A No.

18 Q Was he there when you saw a photograph of this man?

19 A No, sir.

20 Q So you haven't told anybody about that until just now?

21 A That's right. Mr. Smitty said that they had asked him to
22 show me a photograph of him.

23 Q Who asked?

24 A He didn't say.

25 Q Didn't say, just said they.

- 1 A He said they've asked me to show you a photograph.
- 2 Q So you were shown a photograph of the decedent, before you
- 3 came in and testified today, is that your testimony?
- 4 A Um'huh.
- 5 Q Were you shown any other photographs of him?
- 6 A One, yes, sir.
- 7 Q By whom?
- 8 A By Mr. Martin.
- 9 Q And when were you shown that photograph?
- 10 A The day they came out and had the other photographs and
- 11 asked me some questions on them.
- 12 Q What date was that?
- 13 A I don't recall.
- 14 Q You can't recall?
- 15 A No, sir, not the exact date, that was last week.
- 16 Q You can't recall the exact date of something that happened
- 17 a week ago?
- 18 A Not the date of the month, it was on a Monday.
- 19 Q But you can remember fourteen months ago, is that right?
- 20 MR. MARTIN: Judge, I believe he's answered that.
- 21 THE COURT: Yeah, I thinks he's answered that question.
- 22 MR. MARTIN: I think he's answered it more than once too.
- 23 Q Tell me about the photograph Mr. Martin showed you.
- 24 A It was a photograph of the deceased.
- 25 Q Of the deceased?

1 A Right.

2 Q As he was found dead, is that right?

3 A No, sir, he had no clothing.

4 Q Had no clothing. See his hair in it?

5 A Vaguely.

6 Q Was he naked?

7 A Well it was just from the waist up, his face and shoulders
8 and --

9 Q Was it an autopsy photograph?

10 A I'm not sure whether it was an autopsy photograph or --

11 Q Black and white?

12 A No, I think it was color.

13 Q Color. Did you see any photograph of his car.

14 A Nope.

15 Q What other photographs did you see?

16 A I haven't seen any photographs.

17 Q Haven't seen any. Now, how long have you known Raymond
18 Miller, prior to May 15th.?

19 A The -- shortly after the time I came to work there and
20 working in the building you get acquainted with daily see-
21 ing people. Uh, hearing comments of people about any
22 individual that's a good worker, that this is Raymond
23 Miller or --

24 Q I'm not asking you what you heard, I'm asking when you
25 met him. Shortly before you -- shortly after you came to

1 work?

2 A After I came to work, yeah.

3 Q Back in 1979?

4 A Right.

5 Q And he was working warehouse 59, was he not?

6 A Right.

7 Q Would you go in warehouse 59 as part of your normal course
8 of business ?

9 A Sure, uh'huh.

10 Q To fix the boiler and all of that? And when you'd go
11 there you'd see this gentlemen, Raymond Miller?

12 A Uh'huh.

13 Q It ^{is} the same warehouse, 59, that Mr. Bishop worked in, isn't
14 it?

15 A I don't know where Mr. Bishop worked.

16 Q Don't know. You never seen this man in warehouse 59
17 through your course of travels?

18 A As far as I know I haven't, no, sir.

19 Q As far as you know you haven't. Though you would go in
20 the same area that Mr. Raymond Miller worked?

21 A Possibly the same area, yeah.

22 Q And you would see other people standing around --

23 A Oh yeah, um'huh.

24 Q During the past two years?

25 A Um'huh.

- 1 Q Can you tell me how tall Mr. Miller was?
- 2 A He was about 5'2", something like that.
- 3 Q 5 feet 2 inches, real short, is that right?
- 4 A About 5'2"; 5'3".
- 5 Q 5'3" ?
- 6 A Yeah.
- 7 Q Can you tell me how much he weighed, about?
- 8 A I'd say 130, 40 pounds somewhere in that --
- 9 Q 130; 140. What color was his hair?
- 10 A A dark brown, I believe --
- 11 Q Dark brown?
- 12 A I believe it was a dark brown. that --
- 13 Q Did he have any facial hair?
- 14 A Not that I recall, no, sir.
- 15 Q Mustache, beard, goatee?
- 16 A I don't think so.
- 17 Q I'm talking about May 15, 1981.
- 18 A I don't think so.
- 19 Q All right, now let's describe the man/standing behind
20 Raymond Miller in the credit union. How tall was he?
21 that was
- 21 A Oh, I say he was 5'8", little bit taller than Miller, say
22 about 5'7", 5'8", something like that.
- 23 Q Weight?
- 24 A Oh, 140 pounds roughly, I'm not sure, you know, of the
25 exact --

1 Q How much?

2 A 150, 140, 50, 60 pounds somewhere in that range, I'm not
3 sure of the exact --

4 Q Describe his facial hair again, please.

5 A Kind of a side burns with a light mustache, or a mustache.

6 Q Side burns with a mustache?

7 A Um'huh.

8 Q Now can you describe the man standing behind that man?

9 A No, I don't recall.

10 Q Why not?

11 A I just don't recall who was behind him.

12 Q Don't recall who was behind that man?

13 A Uh-uh, I also don't --

14 Q Who was standing in front of the man?

15 A In front of Raymond?

16 Q / Raymond. Describe him?

17 A Well as I remember Raymond Miller was standing in front of
18 the line, of that man.

19 MR. MARTIN: Judge, I believe --

20 Q No, I'm saying describe the man in front of Raymond Miller.

21 MR. MARTIN: I believe he questioned him in his reference
22 to the people between him. He said there
23 might have been one, but he wasn't sure.

24 A Right, I'm not sure whether it was anybody in there or not.

25 Q So it's your testimony you can't describe him cause you

1 don't remember whether there was a man there or not?

2 A Right.

3 Q And you can't describe the man that was behind the man
4 behind Raymond Miller?

5 A Right.

6 Q So you just described two people in that whole line?

7 A As well as I remember, yeah.

8 Q Who else was standing in that line that you knew?
9 Name?

10 A Uh, I knew very few people by name, but there was a girl
11 from one of the other warehouses that had been out from
12 work or had left work, quit, whatever, named Lois that was
13 turned around in the line; but I don't recall her last name
14 she was from --

15 Q Don't recall her last name?

16 A No.

17 Q All right.

18 A I spoke to her.

19 Q Now this man that you identified as Tyrone Bishop standing
20 behind Raymond Miller, are you saying that was Tyrone Bishop
21 standing behind?

22 A No, sir, because I did not know Tyrone Bishop. I'm saying
23 that the man --

24 Q Are you saying this is the man right here next to me that
25 was standing behind?

1 A I'm saying this resembled the man that was standing be-
2 hind, Mil -- Mr. Miller.

3 Q Your saying resembled?

4 A Yes, sir.

5 Q So you're not saying this is the man?

6 A I cannot say that that is definitely the man, it resembles
7 the man that I saw in the line.

8 Q As a matter of fact, sir, when you were shown these photo-
9 graphs you picked out number 2, did you not?

10 A Um'huh.

11 Q And you told Detective Mise this resembles the man I saw?

12 A That's correct, sir, and that I believed that this was the
13 man, but I couldn't be positive, no, sir.

14 Q You can't be positive?

15 A No, sir.

16 Q You wouldn't bet your life on it?

17 A No, sir.

18 Q And you wouldn't bet his life on it?

19 A Inaudible.

20 MR. MARTIN: Judge, I'd ask to strike that question.

21 MR. BOONE: I'll withdraw that.

22 THE COURT: Yeah.

23 Q Did you see Mr. Raymond Miller leave the credit union, sir?

24 A No, sir, I did not.

25 Q So you cashed your check and exited?

1 A Um'huh.

2 Q What type of, uh -- you say this gentlemen that was behind
3 that
4 Raymond Miller/resembled Mr. Bishop, are you saying that
5 he was behind him or next to him or can you say?

6 A I can't say that they-- there are single lines -- may I
7 explain how the credit union?

8 Q Yes, please do.

9 A There are single lines and they have lines that are single
10 check lines, person that's got one check, there are check
11 lines for multiple checks where you have twenty-five people
12 that you come -- people out of the S & T area or wherever
13 come to cash their checks, and we were in the single check
14 line. And they are lines which are three foot apart and
15 tellers, 4 or 5 all the way down. So to say that he was
16 directly behind and the lines are not perfectly straight,
17 you can be standing by each other or beside each other --

18 Q Oh, I know -- I assume what you can do, I'm asking if you
19 remember what they were doing?

20 A Not -- no, sir, I do not --

21 Q Can't remember?

22 A I don't know whether they were standing beside by side or
23 in single file.

24 Q Was Mr. Raymond Miller having any conversation with this
25 individual?

26 A Yes, like -- I don't recall any particular thing, but like

- 1 Mr. Miller talked to everybody around.
- 2 Q On that particular occasion?
- 3 A As always, yes on that particular occasion --
- 4 Q I'm not talking as always, I'm talking of May 15th.
- 5 A Yes, right.
- 6 Q So he talked to you, he talked to the gentlemen behind him,
- 7 he talked to everybody else in line, fair statement?
- 8 A Inaudible.
- 9 Q You see any gun in anybody's hand?
- 10 A No, sir.
- 11 Q When did you call the police to bring this to their atten-
- 12 tion, sir?
- 13 A The following day that after I'd heard this fact that Mr.
- 14 Miller had been found.
- 15 Q You call the police?
- 16 A I went to Smitty, I went to him and asked him to step into
- 17 his office where we could talk.
- 18 Q O.K. is he a police officer?
- 19 A He's a detective.
- 20 Q And he works for the City?
- 21 A DGSC.
- 22 Q Oh, he's a detective for DGSC?
- 23 A Yes.
- 24 Q And you told him what?
- 25 A I told him that Mr. Miller was not, well -- I said, as I

1 told him with me in the line, not directly with me, as I
2 told him and there was someone with him that he was talking
3 to, as Miller talked to everybody, and, uh, I said this
4 may not be of any importance or it may be, I just wanted
5 to let you know that I did see him in the line.

6 Q Did you call the Richmond Bureau of Police or Henrico Police
7 and tell them about this?

8 A No, I did not.

9 Q Did you give them a description of this man behind Mr.
10 Raymond Miller?

11 A I told Smitty at the time, as well as I remembered it.

12 Q And nobody ever -- no police officer ever came to you until
13 last week?

14 A Nope.

15 Q Fourteen months later. Is that right?

16 A That's right.

17 Q Can you tell the ladies and gentlemen of the jury who you
18 saw in line at the credit union on May 29, 1981, cashing
19 checks? That was a pay day wasn't it?

20 A May the 29th?

21 MR. MARTIN: Judge, I think I would object to it on the
22 basis of revelence. I don't think this
23 gentlemen --

24 THE COURT: Well I don't think it's revelent, but I'm
25 going to let him ask his question. I think

1 it's to test his memory.

2 MR. BOONE: Yes, sir.

3 A May I say this sir that --

4 THE COURT: Well, let's just answer the question.

5 A This is in a way answering the question. Since then they
6 have discontinued the cashing of individuals checks unless
7 you are doing business as, deposit/^{ing} withdrawal, or what-
8 ever in the credit union.

9 Q I'm talking about May 29, 1981, sir.

10 A Oh, sorry.

11 Q I'm not talking about today.

12 A I don't recall the date that they discontinued this, but
13 it 'hasn't' -- it's been a good while that they discontinued
14 it.

15 Q Yes now --

16 A exactly
17 No, I cannot tell you/any particular person that was in the
18 line.

19 Q How about June 12, 1981?

20 A June 12th?

21 Q Or June 26th?

22 A I don't recall even going to the credit union on June 12th.

23 Q It was a pay day.

24 A Yeah, I didn't -- I don't go to the credit union since they
25 stopped this.

26 Q But you don't know when they stopped it?

1 A Not the exact date, no, sir.

2 Q You say you're a volunteer police officer?

3 A Yes, sir.

4 Q Who do you work for?

5 A City of Petersburg.

6 Q Do you get paid on any basis?

7 A No, sir.

8 Q And who do you report to?

9 A To the shift commander or whoever's at the headquarters.

10 Q And what are your hours?

11 A Voluntary hours, call when needed, or just go down and ride
12 parole with an officer.

13 Q When was the last time you did that?

14 A Uh,

15 MR. MARTIN: Judge, I'd object to that. I don't see what
16 the relevance of that is.

17 THE COURT: Well, I'm going to overrule you temporarily,
18 see where we're going.

19 A When was the last time I went down and rode parole?

20 Q When was the last time you exercised and went down and work-
21 ed as a volunteer police officer, City of Petersburg?

22 A Two weeks ago.

23 Q And who did you work for, did he have a name?

24 A Um, well, our operations officer is a Charles Stout, which
25 is a special police officer, he does the calling of --

1 Q I'm asking you who you worked for two weeks ago.

2 A Charles Stout.

3 Q And he's a Petersburg Police Officer?

4 A He's a Special Police Officer who is our shift commander,
5 our operations officer, I'm sorry.

6 Q Are you a special police officer?

7 A Yes, sir.

8 Q So he's a volunteer, also?

9 A Right.

10 Q So you work for another volunteer?

11 A Right, um'huh. He calls us out to whatever, when the
12 Headquarters calls him.

13 Q Were you aware, sir, that an employee of DGSC was a suspect
14 in this homicide?

15 A No, sir.

16 Q When did you first learn that?

17 THE COURT: I thought he said, no.

18 MR. MARTIN: He said, no.

19 Q As of today, well, let's put it this way -- as of today,
20 do you know that this gentlemen was employed at DGSC?

21 A As of today?

22 Q Yes, sir.

23 A I don't understand the question, I'm sorry.

24 Q Are you aware that the defendant, in this case, worked at
25 the Defense General Supply Center I take it --

1 A Yes.

2 Q You gathered that from my question.

3 A Yes, sir.

4 Q When I asked you if you --

5 A I understand that.

6 Q If you seen this man in warehouse 59.

7 A Um'huh.

8 Q When did you first become aware of that, through my questions
9 or have you known about it earlier than my questions?

10 A During the conversation of hearing what happened to Raymond
11 they said something about someone was with him when he
12 went out the gate.

13 Q Someone that worked there?

14 A Right.

15 MR. BOONE: Thank you, I have no further questions.

16 THE COURT: Anything else, Mr. Martin?

17 MR. MARTIN: Yes, sir.

18 REDIRECT EXAMINATION: Mr. Gryderby Mr. Martin

19 Q Why was this particular event significant to you, seeing
20 someone in the line with Raymond Miller? What caused you
21 to remember that particular thing and report it right
22 away?

23 A Well the fact that he had been found and it wasn't really
24 significant that someone was with him as the fact that I
25 had seen him in the line with the rest of the people I

1 But,
2 assume. /I mean there was no significance on any particular
3 person being in the line with him.

4 Q And you mentioned seeing a photograph of Raymond Miller last
5 week, is that correct?

6 A Yes.

7 Q I'm going to show you a photograph, right here. You
8 recognize that, sir?

9 A Yes, sir.

10 Q What is that?

11 A That is Raymond Miller.

12 Q Is that the photograph you saw last week?

13 A That's right, um'huh.

14 MR. MARTIN: Number 16 for the Commonwealth, Judge.

15 THE COURT: Any objections?

16 MR. BOONE: Yes, sir, I would like to voir dire him on
17 that, if I might.

18 MR. MARTIN: Excuse me.

19 MR. BOONE: I have no objections, I would like to have
20 recross.

21 THE COURT: I will let you ask a question if it pertains
22 to the picture.

23 MR. BOONE: It does, sir.

24 THE COURT: All right, we'll do that.

25 MR. BOONE: I may be mistaken, I thought you just
 testified, when I asked you about the

1 | | photographs. --

2 MR. MARTIN: Excuse me, Judge, I'm not sure if I'm
3 finished yet.

4 THE COURT: Wait a minute, Mr. Martin hasn't finished
5 yet.

6 MR. BOONE: Oh, I'm sorry.

7 THE COURT: I'm going to come back to you.

8 MR. BOONE: Yes, sir.

9 THE COURT: Let me have the photograph, I haven't label-
10 ed it yet.

11 Q Did you know this man's name when you came to court, today?

12 A Just from , uh, I believe what you said, about it being
13 Mr. Bishop.

14 Q. Have you ever --

15 MR. BOONE: I'm sorry, I didn't hear that last question.

16 THE COURT: Just from what he heard Mr. Martin say,
17 that it was Mr. Bishop.

18 Q The accused and the defendant in the case?

19 A Yes, right, um'huh.

20 Q All right. Aside from this particular time that you say
21 you saw him at the credit union, are you aware of ever see-
22 ing Mr. Bishop at any other time?

23 A No, I haven't.

24 MR. MARTIN: That's all the questions I have, Judge.

25 THE COURT: Mr. Boone?

1 MR. BOONE: I withdraw my objection, I have no questions.

2 THE COURT: All right. May this witness be excused?

3 MR. MARTIN: Yes, sir, Judge.

4 MR. BOONE: Yes, sir.

5 THE COURT: Your excused, sir, you have the right to
6 remain or to leave, whichever you prefer,
7 thank you very much.

8 MR. BOONE: Your Honor, I may very well need him back,
9 I -- I -- something may develop.

10 THE COURT: Well than you aren't excused?

11 MR. BOONE: No.

12 THE COURT: I'll ask you go out in the lobby and have
13 a seat and remain there until your called
14 again, if you are, and I'll ask you not to
15 discuss the case with anyone, sir.

16 A Yes, sir.

17 MR. MARTIN: Charles Dick.

18 THE COURT: Spell the last name for me, please.

19 MR. MARTIN: D-i-c-k.

20 (Mr. Dick, having been duly sworn on
21 the issue, testified as follows):

22 DIRECT EXAMINATION: Charles Dick by Mr. Martin

23 Q Sir, would you face the ladies and gentlemen of the jury
24 and speak up, tell them your name.

25 A Charles Dick.

1 Q What do you do, sir?

2 A I'm supervisor at DGSC.

3 Q And what do you do for them down there as a supervisor,
4 what section do you work in, what area?

5 A In packing.

6 Q In packing? What warehouse?

7 A 59.

8 Q How old are you, sir?

9 A 49.

10 Q And how long have you worked at DGSC.

11 A Two (2) years.

12 Q Did you know the defendant, Tyrone Bishop.

13 A Yes.

14 Q Here today?

15 A Yes.

16 Q How did you know Tyrone Bishop?

17 A I was his supervisor for approximately 2 1/2 months.

18 Q And what period of time were you his supervisor?

19 A March 1, 1981 to his termination.

20 Q And when you say he was reassigned to you, was he working
21 in the warehouse? At the time he was reassigned to you?

22 A He was scheduled for duty.

23 O All right. Do you have several supervisors in there.

24 A Yes.

25 Q Was he working for other supervisors?

1 A Yes.

2 Q Who was that he was working for?

3 A Mr. Davis.

4 Q And when he was reassigned to you, did you, uh, supervise
5 him, did he work for you?

6 A He ^{worked} approximately three or four days out of probably fifty.

7 Q Did you ever speak to him in reference to his not being
8 there?

9 A Yes.

10 Q And what did you speak to him about? What did he tell you?

11 A I just told him he was a good worker and why, why he wouldn't
12 -- didn't come on to work.

13 Q What answer did he give you?

14 A He said he had to go to personnel to see Mr. Gregg Grant

15 Q That's the only thing he told you? Do you know when it
16 was he spoke to you, said that?

17 A Not exact --

18 THE COURT: I must not be on the same wave link here--

19 MR. BOONE: Yeah, I got lost too --

20 THE COURT: Or something, because we were -- worked
21 three or four days and then there was some-
22 thing said about fifty an now we're going
23 to personnel. I don't understand what's
24 going on.

25 MR. MARTIN: Judge, my sequence of question was, you

1 know, did he work. He said three or four
2 days out of fifty --

3 THE COURT: I not going any place with answers, I think
4 maybe we better start over and let's do it
5 again.

6 Q Well, my question to you, sir, is once Mr. Bishop was re-
7 assigned to you, you say in March, is this of 1981?

8 A Yes.

9 Q How many days did he physically work for you?

10 A About three or four days.

11 Q And that's from March 1, until the date of termination?

12 A Right.

13 Q And do you know what his date of termination was?

14 A Uh, 15th.

15 Q Of what?

16 A May.

17 Q 1981?

18 A Yes.

19 Q Now, was he -- did he have excuses not to be at work on
20 those other days?

21 A Well, I don't know whether he did or not, because, uh, he
22 was -- it was already proposed for his, for him to be
23 terminated, by the time I got him. Time he'd been assigned
24 to me.

25 Q All right. When he was assigned to you did you speak to

1 him in reference to not being at work?

2 A Yes, one time I spoke to him and I think it was the next
3 day he went to Mr. Gregg Grant in personnel; and said he
4 had to talk to him.

5 Q All right. When you spoke to Mr. Bishop about not coming
6 to work, were you trying to encourage him to come to work,
7 or what?

8 A Right, right.

9 Q Did you find out what the problem was, why he wasn't at
10 work.

11 A No, he didn't tell me that.

12 Q Did you ask him for a reason, why he wasn't at work?

13 A No, he wou -- he didn't tell me, no reason why he didn't
14 come in.

15 Q Did you try to find out?

16 A Well, in a way, yes.

17 Q You say in a way, what do you mean by that?

18 A Uh, I, I, I told him he was a good worker and why he didn't
19 come to work, and he never give me no reason why he didn't.

20 Q Do you know wha-- well, let's see -- the day of his termi-
21 nation, May 15, 1981, uh, you say you knew something had
22 been in the works, is that correct?

23 A Yes.

24 Q All right. Now did you work on May 15, yourself?

25 A Yes.

1 Q And did you work as a supervisor in warehouse 59?

2 A Right, yes.

3 Q All right. That particular day did you see Tyrone Bishop,
4 the defendant?

5 A I saw him.

6 Q O.K.

7 A I don't remember what time.

8 Q Don't remember what time?

9 A No.

10 Q Where did you see him?

11 A Uh,
/in warehouse 59.

12 Q Was there anything that attracted your attention to him
13 at that time?

14 A No.

15 Q Did you speak with him then?

16 A No.

17 Q And what part of the warehouse did you see him in?

18 A Inside 59 by the break area.

19 Q Is there a physical area, for breaks?

20 A Yes.

21 Q Would you describe it, what is it like?

22 A It's a area right inside the 59 door, straight through and
23 it's, uh, I guess there's, there's, uh, coffee shop in there,
24 you know, and several chairs.

25 Q . Was he with anybody at that time?

1 A I didn't see him with nobody.

2 Q Did he speak to you or do anything?

3 A No.

4 Q Do you know what he was doing there?

5 A No.

6 Q Do you know how long he stayed?

7 A No.

8 Q Did you think to speak with him at all?

9 A No.

10 Q Any particular reason you didn't speak to him?

11 A Well I knew he was being terminated.

12 Q If he's being terminated, is he suppose to check in with
13 his supervisor?

14 A Uh, normally to hand in their tools.

15 Q Did Tyrone have any tools?

16 A Uh, he had some, he didn't turn them in to me.

17 Q All right. Did they -- you have to sign anything to check
18 them out or --

19 A No.

20 Q You do not. Did Tyrone approach you at all/to check out
21 with you?

22 A No

23 Q Did you see Tyrone at work after May 15, 1981, down at
24 Bellwood?

25 A . No.

1 Q And this person you say was reassigned to you and that on
2 saw on the 15th of May sometime is he present in the court-
3 room today?

4 A Yes.

5 Q Where is he, sir?

6 A Right there.

7 Q Which person is that? Would you point to him and tell us
8 what he is wearing?

9 A Tyrone Bishop.

10 Q What's he wearing?

11 A Red.

12 THE COURT: We'll let the record show the witness has
13 identified the accused.

14 MR. MARTIN: No further questions, Judge.

15 THE COURT: Cross.

16 CROSS EXAMINATION: Mr. Dick by Mr. Boone

17 Q Mr. Dick can you tell the jury what is involved in "check-
18 ing out" when an employee^{is} terminated.

19 A Uh, normally they give their tools, their working tools,
20 they have back to the supervisor they're assigned to and then
21 he'll keep'em til he reissues them out again to some other
22 new employee.

23 Q What else did he have to do to check out on the base?

24 A Normally they go through, uh, a series of check outs, like
25 through, uh, security, and those kind of things.

1 Q Provost, is that security?

2 A Yes.

3 Q Credit union?

4 A Right.

5 Q Things like that, turn in a badge?

6 A Right.

7 Q All that kind of stuff. And who give them the form they
8 need for this check out procedure?

9 A Personnel.

10 Q Personnel. And isn't it a fact that they can also go to
11 the area that they're assigned and get it from a supervisor?

12 A I believe that's correct.

13 Q Yes, sir. You say Mr. Bishop was a good employee, good
14 worker. Good attitude?

15 A As far as I know.

16 Q Hard worker when he was there?

17 A He was a good worker.

18 Q Did you ever see any bad blood between him and Mr. Raymond
19 Miller?

20 A I never did.

21 Q And was Mr. Raymond Miller underneath you also, sir?

22 A No, he was underneath the -- Wendall Cheatham.

23 Q Were y'all in the same warehouse?

24 A We worked on the same side.

25 Q Same side, all right. Did you ever see Mr. Bishop and Mr.

1 Raymond Miller eat lunch together?

2 A Never did.

3 Q Did you eat in the lunch room or the supervisors not eat
4 in there?

5 A Uh, did -- say that again, please.

6 Q Wasn't there a lunch room for the employees where they
7 would -- if they brought their lunch or whatever, where
8 they could sit down and eat?

9 A Yes.

10 Q Did you eat in there, sir?

11 A Sometimes.

12 Q All right. Would you ever see Mr. Bishop in there?

13 Did you eat in the same lunch room with Mr. Tyrone Bishop?

14 A I could have, yes, sir.

15 Q But you didn't?

16 A I don't think so.

17 Q How many lunch rooms are there?

18 A There's two sections of this place, you know, uh, you could
19 eat on one side and not see the people on the other side.

20 Q Oh, could anybody eat on either section?

21 A Yes.

22 Q So what you're ^{telling} / the jury, you usually ate on one section
23 and he ate on the other section.

24 A Well, we -- people who played cards usually eat on one side
25 and the people that just eat regular played on the other.

1 Q So younger folks in one section and ^{the} older folks on the
2 other section, is that about it?

3 A Right.

4 Q O.K. And I take it, uh, I'm not commenting on the age,
5 but I take it you didn't want to play cards you wanted to
6 eat when you --

7 A Well, I play cards.

8 Q Did you learn, sir, as a supervisor, why it was proposed
9 before he was ever assigned to you that he be terminated?

10 A Uh, yeah, I was told because it was because of AWOL, not
11 coming to work.

12 Q Right, and do you know about what month that began, sir?

13 A No, I couldn't tell you, because it was some good while
14 before I became his supervisor.

15 Q When did you become a supervisor?

16 A Uh, around March.

17 Q Around March. If I were to tell you it was around November
18 of 1980 would you be able to say that's about right or that
19 you don't know.

20 A It wasn't in November.

21 Q It wasn't?

22 A No

23 Q Was it before November or after November?

24 A After November.

25 Q Of 1980?

1 A Right.

2 Q All right. Did it -- was it brought to your attention that
3 his car had burned up?

4 A No.

5 Q O.K. Do you -- you don't, you don't personally take
6 part in the personnel decisions as to why a person is being
7 terminated and all that, do you?

8 A No.

9 Q There was a hearing in his case, was it not?

10 A Now, I can't tell you about that, I don't know. It may
11 have been.

12 MR. MARTIN: What type of hearing are you referring to,
13 I missed that, I'm sorry.

14 MR. BOONE: Excuse me one second, Judge. If I might
15 have a moment, I'm trying to locate a
16 document. Here it is.

17 Q When an individual is going to be terminated for let's say
18 being AWOL during a period of time, do they receive what's
19 call a notice of post removal?

20 A Yes.

21 Q All right. Do you take part in that or is that strictly
22 the personnel section?

23 A No, I don't take part in the last one, the decision.

24 Q This strictly the supervisor has more power --

25 A I take part in initial proposal, after that --

1 Q So in other words, you report whether he showed up or not
2 --

3 A Right.

4 Q And then it's up to somebody else --

5 A Right.

6 Q Why he didn't show up and what to do with him?

7 A Right. This decision has already been made before I had
8 gotten him.

9 Q O.K. When you talked to him about it did he seem to be
10 earnest in wanting to work there, was he interested--?

11 A Seemed to be, yes.

12 Q And did you specifically say, Tyrone why are you missing
13 so many days?

14 A No, I just told him that he'd be better if he'd -- as good
15 a worker he is to try to come on to work and get himself
16 straighten out.

17 Q And was it his suggestion that he was going to talk to
18 personnel, this gentlemen you spoke of in personnel?

19 A Yes, yes, yes.

20 Q So did it appear to you that he wanted to work there, he
21 wanted to continue working there?

22 A It sound like he did.

23 Q Are you aware that the 15th of May, the day you saw him
24 out there, you're aware are you not that that was his date
25 of termination?

1 A Right.

2 Q O.K., and this checking out procedure does that normally
3 take place on your day of termination?

4 A Right.

5 Q O.K.

6 THE COURT: How long does it normally take to check
7 out?

8 A Uh, Your Honor, I think it's about -- most of the time
9 about four hours.

10 Q This particular Friday was pay day?

11 A Yes.

12 Q Everybody wants to go home when the bell rings? Friday
13 afternoon, pay days?

14 A Yes, yes.

15 MR. BOONE: That's all I have, Mr. Dick, thank you
16 very much.

17 THE COURT: One moment, sir. Do you have any other
18 questions, Mr. Martin?

19 MR. MARTIN: No, sir, Your Honor.

20 THE COURT: May this witness be excused?

21 MR. BOONE: Yes, sir, Judge.

22 MR. MARTIN: Yes, sir.

23 THE COURT: Mr. Martin, your -- Mr. Dick, your excused,
24 thank you very much, sir, you have the right
25 to remain in the courtroom or to leave,

1 whichever you prefer.

2 MR. MARTIN: Wendall Cheatham.

3 (Mr. Cheatham, having been duly
4 sworn on the issue, testified as
5 follows):

6 DIRECT EXAMINATION: Mr. Cheatham by Mr. Martin

7 Q Sir, would you look to the ladies and gentlemen of the
8 jury, speak up, and tell them your name?

9 A My name is Wendall L. Cheatham.

10 Q Mr. Cheatham, how old are you, sir?

11 A 59 years old.

12 Q And what do you do?

13 A I'm a supervisor packer.

14 Q Whereabouts, sir?

15 A Defense General Supply Center.

16 Q Down on Jeff Davis Hwy.?

17 A That's right.

18 Q How long have you been working for DGSC?

19 A Oh, about 25 years.

20 Q What particular area did you work in, what building?

21 A Warehouse 59.

22 Q And how long had you been a supervisor there?

23 A Five (5) years.

24 Q Did you know a person by the name of Raymond Miller?

25 A Well, I did.

1 Q How did you know Raymond Miller?

2 A Because I was his supervisor for about 2 1/2 months.

3 Q And when were you his supervisor, do you know what months
4 that was?

5 A Well when we reorganized, some time in March I believe it
6 was.

7 THE COURT: What year?

8 A '81, I think.

9 THE COURT: All right. Thank you.

10 Q O.K. So from March of '81, you had him for about 2 1/2
11 months?

12 A Yes.

13 Q And what did he do for you?

14 A He's a packer.

15 Q How many people did you supervise?

16 A Eighteen, Nineteen people some time.

17 Q Did you also know a fellow by the name of Tyrone Bishop?

18 A Well, I knew his name, knew that he worked down there.

19 Q Do you know him to look at him, do you know who he was?

20 A Sure.

21 Q Is he present in the courtroom?

22 A Yes.

23 Q Where is he, sir?

24 A He's with the red suit on there.

25 THE COURT: We'll let the record show the witness has

1 identified the accused.

2 Q How did you know Tyrone Bishop?

3 A Just by his name.

4 Q Did he ever work for you?

5 A No, he didn't.

6 Q Was he in warehouse 59?

7 A He was working in warehouse 59.

8 Q Do you know who his supervisor was?

9 A Tina Fowlin, I believe.

10 Q Tina Davis?

11 A Davis, um'huh.

12 Q O.K. I'm going to focus your attention, Mr. Cheatham, for
13 a minute on May 15, 1981, Friday. Did you have occasion
14 to work that day at DGSC?

15 A I did work.

16 Q Was Raymond Miller there working that day?

17 A He did.

18 Q Do you recall approximately what time Raymond got to work?

19 A Raymond got to work about 6:30.

20 Q Did you have him do any particular job that day, Mr. Cheatham?

21 A I sent him over to warehouse 64 to pack the security stock.

22 Q What is warehouse 64? Is that special assignment?

23 A That's a warehouse where we keep all our security in.

24 Q All right and is there some kind of security precaution
25 that is taken when people work over there?

1 A Well, you have to sign in and sign out.

2 Q O.K. Why would you send Raymond to do that?

3 A Because I could depend on him.

4 Q He was a good worker for you?

5 A He was.

6 Q Was that a pay day at Bellwood?

7 A It was.

8 Q Do you know about how long Raymond spent over at #64,
9 doing the job you assigned him that day?

10 A He stayed about four hours over there, up until lunch time.

11 Q And what happened at lunch time?

12 A Well, he asked me could he go and get his car worked on
13 or something, but he would be back by 12:30.

14 Q You aware he was going anywhere else other than to get
15 the car worked on?

16 A Not that I know of.

17 Q Do you know what type of work on the car?

18 A Get some oil I think he said in his car, something like
19 that.

20 Q Did he come back at 12:30 or --

21 A He did.

22 Q Do you know about what time he left to go out to do the
23 errand?

24 A About five minutes to twelve.

25 Q Was Tyrone Bishop working in the warehouse that day, do you

- 1 know?
- 2 A I don't know.
- 3 Q Did you see Tyrone down there that day?
- 4 A Not that I know of.
- 5 Q You didn't see him down at 59 that day at all?
- 6 A I didn't.
- 7 Q Do you know what Tyrone Bishop's job status was on May 15,
- 8 1981?
- 9 A If I'm not mistaken, I think he's a packer.
- 10 Q Well, was he employed, or terminated, or what? Do you
- 11 know?
- 12 A I don't know, I'm not too familiar about the people on that
- 13 side of the isles.
- 14 Q Do you know if Raymond Miller got paid that day?
- 15 A Yeah, Raymond got paid that day.
- 16 Q Did he ever work overtime for you, down there?
- 17 A Not for me, because I don't work overtime.
- 18 Q Well, in the course of his work, did he work overtime?
- 19 A Oh, yes, he worked overtime.
- 20 Q Did he talk to you about his paycheck that day at all?
- 21 A No, he didn't.
- 22 Q Did you see Tyrone Bishop at Bellwood at all after May 15,
- 23 or at anytime after May 15, 1981?
- 24 A One time, uh, and I can't recall what date it was, or what.
- 25 Q This was after May 15th?

1 A Yeah, it was after May 15th, I don't know what date it was,
2 I was going up stairs to the office and I just glanced at
3 him.

4 Q O.K. Do you happen to know the significances of May 15th,
5 in terms of Raymond Miller?

6 A On May what?

7 Q Did Raymond disappear? Were you aware that he disappeared?

8 A No, he didn't disappear, because, uh, at 3:00 -- at 25
9 minutes passed 3:--

10 Q I mean after work? After work?

11 A Oh, no, no, no, I don't know anything about that.

12 Q O.K. did you know that he had disappeared --

13 A No, no, no .

14 Q O.K. Did you ever find out or learn that he'd disappeared?

15 A No, until Monday when I came to work my supervisor told me,
16 you know, that his sister had been called.

17 Q Then you learned, then you learned, is that right?

18 A True.

19 Q Raymond never come back to work for you at all?

20 A No.

21 Q Just showing you number 16, for the Commonwealth. Do you
22 recognize that individual?

23 A Well, a little bit.

24 Q Who does it look like to you?

25 A . It looks something like Raymond Miller.

1 Q O.K. Now, did you speak with Raymond before he left DGSC
2 that day? May 15th? Friday?

3 A Yeah, because, uh, he came from sixty-four about fifteen
4 minutes early, and I asked him would he take the number 1
5 copies into the office for me. He did. So, therefore, I
6 know that he didn't leave until 3:30.

7 Q What are the #1 copies?

8 A Well, you pull copy off to-- for record
that

9 Q And are these papers/he had been working with in 64?

10 A Not only what he had been working with, but everybody. I
11 go around to all of my people and pick up the #1 copies.

12 Q What type of person was Raymond to work for you?

13 A Very nice, congenial young fellow.

14 Q Did you have any problems with him at all?

15 A None at all.

16 Q Slow, or nervous, or anything like that?

17 MR. BOONE: Your Honor, at this point I'm going to
18 object, I think he's --

19 THE COURT: I think he can ask him whether he's slow,
20 nervous.

21 MR. BOONE: All right.

22 Q Yes, sir.

23 A Now, what was the question?

24 Q Was he slow, or nervous, or how would you characterize him?

25 A No, he wasn't slow, I mean working he wasn't slow, but he

1 was a little jittery, you know.

2 Q Did you have to treat him any differently than any body
3 else.

4 A No, no, no, I didn't treat him no differently.

5 MR. MARTIN: That's all I have for him, Judge.

6 THE COURT: Cross.

7 CROSS EXAMINATION: Mr. Cheatham by Mr. Boone

8 Q Mr. Cheatham, I take it on May 15th, Raymond Miller was
9 your employee, he worked for you, you were his supervisor.

10 A That is true.

11 Q You were it. You told him where to go and what to do
12 on May 15th?

13 A That's right.

14 Q All right, so the morning you sent him over to warehouse
15 64 and you told him to pack up the security material and
16 then report back to you?

17 A That's true.

18 Q All right and he reported back to you at what time?

19 A Oh, it's about five minutes to twelve.

20 Q Five to twelve, and you sent him over there/^{at}about what time?

21 A Early that morning, you know, we started work at 7:00.

22 Q About 7:00, so from 7:00 until 11:55 it's your understanding
23 he was in warehouse 64.

24 A True.

25 Q O.K. and did you check to see if he signed in and signed

1 out at warehouse 64?

2 A No, I don't check any of them, I leave them on their on
3 merits.

4 Q O.K. You never learned that he didn't show up did you?
5 At warehouse 64?

6 A No, I never learned that.

7 Q I'm not saying he didn't, I'm saying as far as you know he
8 showed up at warehouse 64?

9 A True, true.

10 Q All right. So he comes back to you at 11:55 to tell you
11 he's all done with warehouse 64?

12 A Not all done, he's finished for to take lunch break.

13 Q All right. So you said to him -- eat some food. Right?

14 A True.

15 Q All right. Did he tell you he'd been to the credit union?

16 A No.

17 Q Hadn't told you that. Now this is at 11:55, right? Five
18 minutes to noon?

19 A Um'huh.

20 Q O.K. Was there a black male with him?

21 A No, I mean he came to me, I mean to my little stand, in
22 front of me. I didn't watch him.

23 Q Was there specifically a black male with him, slightly tall-
24 er than him about 150 pounds?

25 A No, I didn't see him.

1 Q Or was he by himself?

2 A He was by himself.

3 Q And did he come to your office or were you out on the floor?

4 A I'm out on the floor with my employees, nearly all the time.

5 Q All right. So he came and said I'm going to take a break,
6 go an eat lunch and report back to you when I'm finished
7 eating lunch?

8 A No, he told me he was finished, he was going to lunch.

9 Q All right. And he took -- did he tell you he was going to
10 have his car worked on?

11 A He told me he was going -- he might be a few minutes late
12 because he was going to get some oil or gas for his car.

13 Q O.K. and then it's my understanding he came back to you
14 at 12:30?

15 A That's true.

16 Q And you were still on the floor?

17 A That's right.

18 Q At that point was anyone with him?

19 A No.

20 Q He was by himself?

21 A Right.

22 Q And you know what this man looks like, Tyrone Bishop, don't
23 you?

24 A True.

25 Q Was Tyrone Bishop with him at any time he came to see you

1 that day? At 11:55 or 12:30?

2 A I didn't see him if he was.

3 Q O.K. So he came back at 12:30 and at that point what
4 happened did you assign him to --

5 A I sent him back over to 64warehouse 64.

6 Q Warehouse 64, had to go back to 64, all right. And what
7 time was it he came back to you from warehouse 64?

8 A About 22 minutes passed 3:00.

9 Q All right and that's when you had him do the --

10 A To pick up the number one copies and make sure that he had
11 something to do until 3:30.

12 Q Had to squeeze in them last eight minutes.

13 A Pardon?

14 Q You wanted to get those last eight minutes?

15 A Well that's the purpose of working...

16 Q I understand -- (unintelligible). All right, so that took
17 care of those eight minutes. Now we've got it down to
18 3:30, was anybody with him at 3:22, when he came to see
19 you?

20 A Not that I know of.

21 Q Was anybody with him at 3:30 when he came to see you?

22 A No.

23 Q Still alone.

24 A That's right.

25 Q And at 3:30, he was off, right? The bell rang and every-

1 body takes off?

2 A That's right.

3 Q Can you describe that place at 3:30, it was like a cattle
4 stampede?

5 A I can't describe it at 3:30, because I have^{to}/fill out my
6 reports to turn in to the office. After they leave me at
7 3:30 or 3:25, I have no jurisdiction over them at all.

8 Q I'm talking about all the people leaving, is there a big
9 out plus to get out of the place at 3:30?

10 A I wouldn't know, because I don't leave at 3:30.

11 Q You're the supervisor, you have to hang around?

12 A That's right.

13 Q What time do you get to leave?

14 A Well after the work is done, you know, sometimes 10 minutes,
15 5 minutes, it all depends.

16 Q All right. Did you happen to see Mr. Miller get in his
17 automobile on that date, or was the last thing you saw him
18 when he checked out at 3:30?

19 A No, I couldn't see him, I was working.

20 Q O.K. so that was the last you saw of him?

21 A That's right.

22 Q Now am I correct in saying,^{that}/or is it -- is my understanding
23 correct that you never supervised Tyrone Bishop?

24 A No.

25 Q But he worked in warehouse 59?

- 1 A That's true.
- 2 Q Was his section next to your section?
- 3 A Well I'll say about 30 feet apart, you know.
- 4 Q How many --
- 5 A They're on one side, I'm on the other side.
- 6 Q How many sections are there in there, do you know?
- 7 A Two sides the east side and the west side. I stays on the
- 8 west side and the other people stay on the east side.
- 9 Q And that was the gentlemen who just walked out of the
- 10 courtroom, Charles Dick, he was supervisor of the other
- 11 side, is that right?
- 12 A He's supervisor on the west side, also.
- 13 Q On May 15th, where was he the supervisor? This particular
- 14 Friday we've been talking about.
- 15 A Well it's hard to say, because lot of us we work different
- 16 shifts, night time and week ends and I don't know whether
- 17 he was there or not.
- 18 Q O.K. Did you ever see any bad blood between Mr. Bishop and
- 19 Mr. Raymond Miller?
- 20 A No, I didn't.
- 21 Q And did you know Mr. Bishop to say hello to him?
- 22 A Yeah, I speak to all my employees not just the ones that
- 23 work in the office.
- 24 Q Did he seem to be a nice employee.
- 25 A Yes.

1 MR. BOONE: Thank you, that's all I have.

2 REDIRECT DIRECT: Mr. Cheatham by Mr. Martin

3 Q Mr. Cheatham, I think your testimony was that Raymond didn't
4 say anything about the credit union. Have you ever made
5 a statement to the police different than that, sir?

6 MR. BOONE: Your Honor, at this point I'm --

7 THE COURT: Don't answer that question.

8 MR. BOONE: At this point I'm going to object and I'd
9 like to be heard outside of the presence
10 of the jury.

11 THE COURT: All right, we'll let the jury take a break.
12 (Jury Out)

13 THE COURT: You want the witness excused?

14 MR. BOONE: Please, Judge.

15 THE COURT: All right, Mr. Cheatham, I'm going to ask
16 that you go and stand right outside that
17 door there and I'll ask you not to talk
18 with anybody, please.

19 A All right.

20 (Witness Out)

21 MR. BOONE: Your Honor, at this point my objection would
22 be that Mr. Martin called Mr. Cheatham as
23 his witness, therefore, he vouches for this
24 mans veracity. It's my understanding the
25 rule of evidence in Virginia that you can-

* * *

Page 250 of Volume I is not
included. It covers objection
argued.

* * *

* * *

Pages 251-258 of Volume II are not
included. It covers objection argued.

* * *

1 THE COURT: Counsel have any questions?

2 MR. MARTIN: No, sir.

3 MR. BOONE: No, sir.

4 THE COURT: All right, Mr. Martin.

5 Q Mr. Cheatham, sir, Mr. Boone asked you in reference to
6 Raymond not saying anything to you about the credit union.
7 My question is directed to that specific point. Did you
8 speak with Detective Ross Mise, of Henrico Police, back in
9 May -- May 20, I believe, 1981, in reference to this
10 investigation. Did he come down an interview you and other
11 employees at Bellwood?

12 A Yes, he did.

13 Q O.K. and do you recall at that time that he, I believe,
14 taped a conversation with you, for his file?

15 A Um'huh.

16 Q O.K. and you spoke with him in reference to what you knew,
17 right?

18 A Yeah.

19 Q Now, do you recall at that time saying -- telling Detective
20 Mise that --

21 MR. BOONE: I'm going to object to leading.

22 THE COURT: Yeah, I don't think you can lead him, ask
23 him what --

24 Q Do you recall telling Detective Mise that Raymond spoke
25 about the credit union?

1 A Yeah, he did, he told me he was going to, uh, credit union
2 and going get some gas, uh, have something done to his
3 car.

4 Q All right, so he did tell you he was going to go to the
5 credit union?

6 A Yeah.

7 Q All right. Now, when you told this to Detective Mise did
8 you tell him -- recall telling him what time Raymond got
9 off for lunch, to take lunch break and do these things?

10 A Well he came to me at, uh, the lunch period, you know.
11 Five minutes to twelve and said that he thought he'll be
12 back maybe -- may, may be a little late coming back, but he
13 didn't -- he wasn't late.

14 Q O.K. He came back at 12:30. Do you recall him coming to
15 you at 11:30 and telling you this?

16 A I don't recall, you know, I mean, what I'm saying is that
17 I'm here to tell the truth and help out and if I can re-
18 member these things good, but I mean I definitely can't
19 remember what happened a year ago. I know he came to me
20 before lunch.

21 Q Before lunch and he did tell you he was going to go to the
22 credit union, is that correct?

23 A Yeah, uh'huh.

24 Q But your not sure of the time, now?

25 A No, I'm not sure definitely.

1 MR. BOONE: I'm going to -- now, Your Honor, I'm going
2 to object, because Mr. Martin has received
3 this time three and now he's, uh, telling
4 the witness it wasn't that time, basically.
5 THE COURT: I don't think he's really telling him that
6 --
7 MR. BOONE: That's what he's trying to do.
8 THE COURT: No, I don't really agree with that.
9 Q Do you recall when you told Detective Mise that Raymond
10 had come, told you he was going to the credit union, have
11 work done on his car, be back at 12:30. Do you recall
12 telling Detective Mise --
13 MR. BOONE: I'm going to object--
14 THE COURT: Well, you can ask him does -- what time
15 does he recall telling Detective Mise that
16 this occurred.
17 Q All right, what time do you recall telling Detective Mise
18 that Raymond got off to go do these things?
19 A Well/he did not leave early/to go.
20 THE COURT: You don't recall the approximately time,
21 sir?
22 A No, sir.
23 THE COURT: Well now we're back to where we don't want
24 to be and that is we've got to get to the
25 statement. So out of the presence of the

1 jury now I'm going to let you read what
2 you've got taped there and ask this gentle-
3 men whatever you're going to ask him.

4 MR. MARTIN: All right, this is from the transcript,
5 Judge. I will not read the whole thing --
6 I , just the part that is revelent.

7 THE COURT: No, just the part about the time.

8 MR. MARTIN: Mise. Q. What time did you get off for
9 lunch and have a lunch break? (Referring
10 to the subject, Raymond Miller.)

11 Wendall. A. He got off for lunch at 11:30
12 and he told me that he was going to be a
13 few minutes late, because he had to stop
14 by the credit union and go and have some
15 work done on his automobile but he was
16 back at work by 12:30. Q. Did he say he
17 was going to stop at the credit union?

18 Mr.-Wendall. To get his check cashed.
19 (They talk about the amount) Q. Did he tell

20 you at any time he got his check cashed?
21 A: He told me he was going to the credit
22 union to get his check cashed and to have
23 some work done on his car maybe get some
24 gas or oil, you know. That's it, that is
25 the taped statement.

1 THE COURT: All right.

2 Q Do you recall making that statement, Mr. Cheatham?

3 A Yeah.

4 Q Now that refreshed your memory with that?

5 A Um'huh.

6 Q O.K.

7 MR. MARTIN: Judge, I don't mean to, you know, -- I
8 just wanted to refresh his memory on that
9 and I do want -- that's what I want to get
10 into on --

11 THE COURT: All right, are you through now?

12 MR. MARTIN: Yes, sir.

13 THE COURT: All right. Mr. Boone?

14 Q Mr. Cheatham, you have testified both under direct and
15 under cross examination and do you remember specifically
16 -- I wrote the times down, so what time did he come to you
17 that morning? You said 7:00 o'clock and then you sent
18 him to warehouse 64. And I asked you when did he report
19 back to you. You said 11:55. And I said where did he go?
20 You said he had to go get his car worked on and get some
21 oil. And I said when did he come back? And you said
22 12:30. And I said where did you send him to? You said
23 warehouse 64. And what time did he come back and very
24 explicitly you said 3:22. And I said well, did he check
25 out? And you said no, he ^{had} still eight minutes left so I

1 uh, let him do some more work and then he finished up at
2 3:30. Was it 11:55 that he came back to you, sir, when
3 he got finished at warehouse 64 that morning?

4 A Now, now, uh, let me put it this way, I prefer whatever
5 on the tape let it be, because I mean, uh, uh, year it's
6 hard for me to think of exact words in a one year's time.

7 Q Was it true then, sir, you really don't know what time he
8 came to you? That's what we want, we want the truth.

9 A No, no more than what I had on the tape.

10 Q Well how about in court today?

11 A I'm trying to^{uh,} tell it to you as, as close as I can remember
12 it.

13 MR. MARTIN: Judge, I believe he is.

14 THE COURT: Now, wait a minute, wait a minute, wait a
15 minute, let Mr. Boone finish doing what
16 he's doing.

17 MR. MARTIN: All right, I'm sorry.

18 Q Have you been testifying here today truthfully, to the
19 best of your ability, sir?

20 A Best of my ability.

21 Q O.K. So when you said 11:55 is when he came to me from
22 warehouse 64, to the best of your ability is that the
23 truth, as you remember it today?

24 A That's the best of my ability to-- for that -- for that
25 length of time, yes, sir.

- 1 Q But it could have been 11:30, is that what you're saying?
2 Are you saying it might have been 11:30 he came to me, it
3 might have been 11:55, or somewhere in there, ^{or} it was one
4 or the other, or I just can't remember because its been
5 a year ago.
- 6 A Well -- what it -- its -- whatever you have on tape that's
7 what -- what it is, sir.
- 8 Q Well what are you basing that on?
- 9 A What I'm basing it on my memory isn't that good for one
10 year. Now --
- 11 Q Well, when did you make this tape a week ago? May?
- 12 A I made that in, uh, May, I think it was.
- 13 Q Of this year?
- 14 A No, sir --
- 15 Q When was that statement taken?
- 16 MR. MARTIN: May 20, 1981, the day Raymond Miller's
17 body was discovered.
- 18 Q So on that day you made a statement that it was 11:30?
- 19 A Yeah.
- 20 Q And you're saying , if that's what you said on that date
21 than that's better then your memory today?
- 22 A Yes, sir.
- 23 Q O.K.
- 24 MR. BOONE: I'll withdraw my objection -- well, I won't
25 withdraw my objection. I'll leave it on

* * *

Page 266 of Volume II is not included.
It covers discussion between Court and
counsel.

* * *

1 the jury and finds that all jury members
2 are present and accounted for. All right,
3 Mr. Martin.

4 Q Mr. Cheatham, directing your attention specifically to Mr.
5 Boone's question that Raymond didn't say anything about
6 the credit union to you, when you spoke with him on May
7 15, 1981. Do you recall speaking with Detective Mise, of
8 Henrico Police, on May 20, 1981 in reference to these
9 matters, that you just testified to? And did you give him
10 a taped statement at that time?

11 A I did.

12 Q And what if anything did you tell Detective Mise at that
13 time about Raymond and the credit union? And what time,
14 if any?

15 A According to the tape I, uh, told Detective Mise 11:30
16 Mr. Miller came and asked me could he, uh, go to the credit
17 union and have some work done on the car, buy some gas,
18 oil and he'll be back late, but he came back at/12:30.
uh,

19 Q And did he tell you why he was going to the credit union?

20 A No, he didn't tell me why he was going there. I have an
21 idea why he went there.

22 MR. BOONE: Object to any ideas he has.

23 THE COURT: Yeah, I'll sustain that.

24 Q All right. That's all I have.

25 THE COURT: Mr. Boone.

1 RECROSS EXAMINATION: Mr. Cheatham by Mr. Boone

2 Q So, Mr. Cheatham, when you just testified before this
3 jury, past hour or so, under direct testimony and under
4 cross examination, I specifically nailed you down a time
5 as to, sir, what time you first saw Mr. Raymond Miller
6 that morning? You said, 7:00 and it was your testimony
7 that you sent him over warehouse 64 to do some packing
8 in security area. And then you testified that he came
9 back to you at 11:55, exactly 11:55, five minutes to noon.
10 Told you -- he had to check back to you, and he told you
11 he wanted to go take care of some oil for his car. And
12 I asked you did he say anything about a credit union, and
13 you said, no. Then you said -- you testified that he came
14 back at 12:30.

15 MR. MARTIN: Judge, I don't --

16 THE COURT: What?

17 MR. MARTIN: I object to re-going over the testimony
18 again. If he has a specific question --

19 MR. BOONE: This is a question, Judge, I'm getting to
20 it.

21 THE COURT: All right, let's get to it.

22 Q Is it now your testimony that - that is not correct, he
23 did not come back to you at 11:55 instead he came back to
24 you at 11:30? Is that now your testimony?

25 A He came back to me whatever was on the tape.

1 Q That's not my question, sir. My question is that you
2 were testifying today, not a tape recorder -- you are.
3 I'm now asking you, sir, did he come back to you, when
4 you just testified he came back to you at 11:55. To the
5 best of your memory, sir, is that correct or incorrect --
6 the statement you just made before this jury?

7 A Correct.

8 Q Thank you.

9 THE COURT: Anything else?

10 2. REDIRECT EXAMINATION: Mr. Cheatham by Mr. Martin

11 Q What statement is correct?

12 A 11:30.

13 Q All right. That's all I have, Judge.

14 THE COURT: Anything else?

15 MR. BOONE: Yes, sir.

16 2. RECROSS EXAMINATION: Mr. Cheatham by Mr. Boone

17 Q Than you're saying the statement you just made to this
18 jury about 11:55 is incorrect?

19 A Incorrect.

20 Q Incorrect.

21 A Yeah.

22 Q And the statement that you just made to this jury that
23 Mr. Raymond Miller didn't say anything about a credit
24 union, that's also incorrect? Is that your testimony now?

25 A Let me ---

1 Q That's a yes or no question.

2 THE COURT: Well I'm going to let him answer it yes or
3 no, but I'm also going to let the gentlemen
4 explain.

5 A Now your question again, sir?

6 Q I think I can help you out, sir. It's been over a year
7 since this thing happened, is that true?

8 A True.

9 Q Been about 14 months.

10 A Somewhere in that --

11 Q Is that true? Is it fair to say the statement you made
12 to Detective Mise, back in May of 1981, is probably --
13 your memory was probably a little better back then than
14 it is today. Is that a fair statement?

15 A My memory was good then, yeah.

16 Q Right, and here it is 14 months later and your memory
17 kind of cloudy?

18 A That's right.

19 Q Thank you . No further question, Your Honor.

20 THE COURT: All right, are y'all through?

21 MR. MARTIN: Yes, sir.

22 MR. BOONE: Yes, sir.

23 THE COURT: May the witness be excused?

24 MR. MARTIN: Judge, he may and I thank him for coming.

25 MR. BOONE: Yes, sir, with our thanks too.

1 THE COURT: Thank you very much, sir, you're welcome
2 to stay or to leave whichever you prefer.
3 Next witness.
4 MR. MARTIN: William Green.
5 (Mr. Green, having been duly sworn
6 on the issue, testified as follows)
7 DIRECT EXAMINATION: Mr. Green by Mr. Martin
8 Q Sir, would you face the ladies and gentlemen of the jury
9 and tell them your name, please.
10 A My name is William H. Green.
11 Q And how old are you, Mr. Green?
12 A I'm 52. 52.
13 Q 52?
14 A Right.
15 Q What do you do, sir?
16 A I'm a packer leader in, uh, (Unintelligible) department.
17 Q And who do you work for?
18 A I work for the Defense General Supply.
19 Q Down on Jeff Davis Hwy.?
20 A That's righ.
21 Q How long have you been with them, sir?
22 A Um, close to 17 years.
23 Q On May 15, 1981, sir, did you -- Friday, did you have
24 occasion to be working that day?
25 A Yes, sir I have.

1 Q You want they call a paymaster.

2 A That's true.

3 Q What do you do as a paymaster, sir?

4 A Well, I picks up the checks every other Friday from F & A
5 Finance Department. I bring them down and I put them
6 together and I pass them out to the people in my department.

7 Q All right, did you do that particular job on May 15, 1981?

8 A I did.

9 Q What hours did you work that particular day?

10 A Well I went in at, uh, well I usually go in at, uh, 5:00
11 o'clock in the morning.

12 Q 5:00 in the morning?

13 A Right.

14 Q And were you the paymaster for warehouse #59 that day, as
15 well?

16 A That's true, right.

17 Q Do you know Raymond Miller?

18 A Yes, I do.

19 MR. MARTIN: Judge, I'd ask that he be shown Common-
20 wealth's Exhibit 16.

21 Q Do you recognize that person, sir?

22 A Yes, I do.

23 Q Who is that?

24 A Raymond Miller.

25 Q Is that the Raymond you know that worked in 59?

1 A That's the Raymond that I know, right.

2 Q All right, did you have occasion to pay him or give him
3 his check on May 15, 1981?

4 A Yes, I did.

5 Q What kind of procedure do you go to -- go through when you
6 give someone a check?

7 A Well, when I get them from F & A I come back, then I go
8 up to the office and match them up. I put the pay stub
9 to all the checks, then I put them in order. Alphabet
10 order. That happened that day Raymond Miller came up
11 stairs, because he had to go to 64, another warehouse,
12 early. He went out there a little bit about 10 minutes
13 after 7.

14 Q Do you know approximately what time you paid him then?

15 A Ummm- well, I was there, up stairs, about between 10 --
16 10 til and 7:00 o'clock. I happened to look out about
17 quarter past 7:00. I try to pay everybody off by 8:00
18 in the morning.

19 Q When you paid Raymond did you actually see his check?
20 Did you know how much it was for?

21 A I did not see his check.

22 Q Are they sealed up in envelopes or how?

23 A The -- well the pay voucher is sealed up, but the checks
24 not. See I put the checks together. Well when you got
25 about 50 or 60 checks you cannot look at all the -- what

1 you -- whats people makes.

2 Q O.K., all right. After you paid Raymond, did you have any
3 further contact with him that day?

4 A No, I did not.

5 Q Did you have a check for Tyrone Bishop that day?

6 A No, I did not. I had a pay stub for him, but I didn't
7 have a pay check for him.

8 Q What is the pay stub use for?

9 A Well for instance all your income -- earned is on it and
10 that's sealed up in the envelope, I don't know what, what's
11 in the inside of it.

12 Q Sheriff, could you show me Commonwealth Exhibit 8, I
13 believe. (Envelope) No, show me, please. Mr. Green,
14 I've taken one particular/^{piece of}paper out of this envelope and
15 I'd like you to take a look at it, sir, if you would.
16 Is that familiar to you in any way, sir?

17 A Yes, sir, it is.

18 Q What is that particular piece of paper?

19 A It's a statement where they earn statements.

20 Q And do those come with the checks?

21 A No, they comes inside the envelope.

22 Q Inside the envelope?

23 A That's right, sealed.

24 Q O.K.

25 A Yeah, sealed.

1 Q That's the one that you referred to that's sealed?

2 A That's true.

3 Q Did the -- does the person get the envelope and the check
4 then?

5 A That's true, because I -- when I put them together --
6 when the checks comes, checks are separate and I has to
7 put them together with the statement on them.

8 Q Is that what you did for Raymond?

9 A That's true.

10 Q All right.

11 MR. MARTIN: Judge, I'm not going to -- that's already
12 in as an exhibit, I just would like --
13 Well, I just want the jury to know what
14 that particular piece of paper is. I'd
15 ask frankly if they be allowed an opportunity
16 to see it, to see what I'm referring to.

17 MR. BOONE: I have no objection to him reading it to
18 the jury and explaining what it is.

19 THE COURT: Why don't we just pass it around and they
20 can look at it.

21 MR. MARTIN: Let me ask you --

22 THE COURT: And then whichever -- they can look at it
23 longer after their back in the jury room.

24 MR. MARTIN: Can I ask a couple of quick questions, be-
25 fore we do that, Judge?

1 Q One the statement in the earnings, right there, does it
2 show a gross earnings?

3 A You have a gross earnings and your, uh, leave earnings,
4 you know.

5 Q O.K. On that one, right there, is there a date on that one?

6 A The date is, uh, 01/02/82, on this one, to 0--05/09/81, on
7 this one here, pay period ending, you know.

8 Q Ending 5-9-81?

9 A That's right.

10 Q O.K. and the pay day for the pay period ending 5-9-81,
11 was what?

12 A That's true, right.

13 Q Was what day? The pay period --

14 A That was the pay, uh, pay, uh, pay period ending.

15 Q It ended on the 9th of May/and pay day for that period was
16 when?

17 A Was on, uh, 05/09/81.

18 Q Was it the following -- do you get paid the very day that
19 the pay period ends or do you get paid the next week?

20 A The next week, the following week.

21 Q All right.

22 A Right.

23 Q Now, does Raymond's -- does that have a name on it?

24 A It have a name at the bottom.

25 Q What's the name?

- 1 A Raymond Anthony Miller.
- 2 Q And does it have the gross earnings on there?
- 3 A Yes, the gross earnings on there. Yes, the gross earnings
4 on there.
- 5 Q What's the gross?
- 6 A I cannot see it for the blood on there -- it was 4--
- 7 Q Can you see the net?
- 8 A The net is, uh, \$437.71, I think it is, right here. Can
9 see it in red ink there.
- 10 Q \$437 or \$487?
- 11 A Yeah, I think so, uh'huh.
- 12 Q Can you tell? All right. Show the ladies and gentlemen
13 of the jury if you would, please. Let them take a look at
14 that.
- 15 MR. MARTIN: That will be all the question I have for
16 him, Judge.
- 17 THE COURT: Cross.
- 18 CROSS EXAMINATION: Mr. Green by Mr. Boone
- 19 Q Did you -- could you read the amount, sir, for the net?
20 I'm sorry.
- 21 A I cannot see it on account of the blood the ink -- the red
22 ink.
- 23 Q All right. You say you came to work at 5:00 a.m. that day.
24 What time did you get off work?
- 25 A Uh, I usually leave at 1:30.

1 Q How about on that day?

2 A 1:30 .

3 Q 1:30. And you know Tyrone, you've already identified
4 Tyrone Bishop. You had a pay stub, did he ever come
5 through the pay line that day?

6 A No, I did not see Tyrone Bishop that day.

7 Q And you were there until 1:30.

8 A That's true.

9 THE COURT: Now you had a voucher for him, did you
10 also have a check for him? Or you didn't
11 have a check for him?

12 A Did not have a check for him.

13 Q Why was it you have a pay stub for Mr. Bishop?
14 uh,

14 A Well/anytime that anybody leave the job or any that don't
15 come to work, I always get one, because I -- if you retire
16 I'll get a one for you every week until they, you know, they
17 quit. I get them -- I get a pay earning of what I get --
18 I give you a pay earning envelope for you, ever week. For
19 instance, you're going to retire, get down to retirement, I
20 will get a one for you, but I'll mail it to you. See I'll
21 mail it.

22 Q You mail the retirement pay?

23 A The earnings, you know, I -- I don't get the check. I do
24 not get the check.

25 Q All right. If he were -- if Mr. Bishop -- Do you know when

1 his last -- when he got his last pay check? Do you know?

2 A Umm-- I can't recall that.

3 Q Would you have been the man to give it to him?

4 A That's true, I would have been the man.

5 Q And do you make these pay checks out or they made out in
6 Pennsylvania?

7 A I do not I pick them up from F & A, Finance Department.

8 Q At the Finance Department?

9 A That's true.

10 Q So you basically distribute them?

11 A I -- that's true.

12 Q Is this a collateral duty for you?

13 A That's a every other week duty for me.

14 Q O.K. you don't -- so you do something else full time?

15 A Oh, yes, I do something else, yeah.

16 Q You just have to do that once every two weeks?

17 A Once every two weeks.

18 Q I understand. All right. I have no further questions,
19 thank you, Mr. Green.

20 THE COURT: Anything else, Mr. Martin?

21 MR. MARTIN: No, sir, Your Honor.

22 THE COURT: May this witness be excused?

23 MR. BOONE: Yes, Judge.

24 MR. MARTIN: Yes, he may.

25 THE COURT: All right, sir, you're excused. You have

1 the right to remain or to leave, whichever
2 you prefer. Thank you very much.

3 MR. MARTIN:

Mr. Robert Thayer

4 (Mr. Thayer, having been duly sworn
5 on the issue, testified as follows)

6 DIRECT EXAMINATION: Mr. Thayer by Mr. Martin

7 Q Sir, would you face the jury and tell them your name?

8 A Robert Thayer.

9 Q Mr. Thayer, how old are you, sir?

10 A 49.

11 Q And what do you do?

12 A Uh, supervisor, Defense Gen --

13 Q Where about?

14 A Defense General Supply Center.

15 Q Down on Jeff Davis Hwy.?

16 A Yes, sir.

17 Q How long have you been working for DGSC?

18 A 21 years.

19 Q What building you work at?

20 A Warehouse 59.

21 Q And how long have you been working there?

22 A About six (6) years.

23 Q Do you have a specific job in that building? What do you
24 do there? You have a job title?

25 A Uh, I'm assistant, uh, chief of packing. Uh, being in

1 packing operations.

2 Q Are you one of the head men at 59?

3 A Yes, sir.

4 Q O.K. and who is your supervisor?

5 A Mr. Willie Gathers.

6 Q Do you know Mr. Tyrone Bishop?

7 A Yes, sir.

8 Q The defendant, here?

9 A Yes, sir.

10 Q How do you know, Mr. Bishop?

11 A Mr. Bishop -- Bishop did work for me at -- through my
12 supervisors at one time.

13 Q In warehouse 59?

14 A Yes, sir.

15 Q Was he a pretty good worker, when he came?

16 A Yes, sir. Very good worker.

17 Q Did you have a problem with him not coming to work, during
18 1981?

19 A Yes, sir. That's basically the reason why, why I had to
20 terminate his posi-- terminate him.

21 Q Did you ever speak to Mr. Bishop in reference to his being
22 AWOL or absent without leave from DGSC?

23 A Not personally. No, sir.

24 Q The date of May 15, 1981, Friday. Did you have a Raymond
25 Miller that worked there in #59 as well?

1 A Yes, sir.

2 Q Raymond Miller ever come back to work after May 15, 1981?

3 A No, sir.

4 Q Do you know if Mr. Tyrone Bishop was present at the
5 warehouse on May 15, 1981?

6 A No, sir, I don't. I personally did, did, have not seen--
7 did not see Mr. Bishop that particular day.

8 Q Is there any significance to that particular date in terms
9 of Mr. Bishop working for you folks?

10 A Uh, May 15th, was suppose to be Mr. Bishop's last day of
11 working.

12 Q Is that what you call his effective termination date?

13 A Yes, yes, sir, effective termination.

14 Q In prior to an actual termination, is there some procedure
15 you must go to to give an employee notice?

16 A Yes, sir, it should be, uh, counseled as to their reasons
17 why, you know, for his disciplinary action and give him a
18 chance to -- their short falls. From that it goes to a
19 letter of proposed reprimand, from proposed reprimand to
20 decision of reprimand, from decision of reprimand -- if it
21 continues would be a proposed removal and then from a
22 proposed removal to the letter of decision of removal.

23 Q All right, now, I'm going to show you a document here and
24 just ask if you're familiar with it in any way. Can you
25 identify that document, Mr. Thayer?

1 A Yes, sir, this is the notice of proposed action for re-
2 moval prior to the issues of the letter of decision.

3 Q And who, who was the one that signed that, when it went
4 out?

5 A I signed it my, uh, myself.

6 Q You signed it?

7 A Yes, sir.

8 Q All right. And what is the date on that letter?

9 A It's 8th of April, 1981.

10 Q All right. And how much time do you give him to reply, be-
11 fore the actual notice of removal goes out? The actual
12 removal itself goes out?

13 A Fifteen (15) calendar days.

14 Q All right. Now, do you know Mr, uh, where it was mailed
15 to at all, yourself?

16 A Sir?

17 Q Do you know -- how was it mailed, was it mailed certified,
18 or regular mail, or --

19 A The notice of decision was mailed cer--^{was} /uh, I don't re-
20 member whether it was registered or certified.

21 Q That one you have right there, how did that go? Do you
22 remember? Is there any procedure, requirement?

23 A I don't, I don't remember, this one could have very well
24 been mailed as well.

25 Q O.K. All right.

1 MR. MARTIN: Judge, I would offer that as No. 17.

2 MR. BOONE: No, objections.

3 THE COURT: All right. Commonwealth's Exhibit 17.

4 Q Now, do you know that a removal letter did go out from
5 Captain Weaver?

6 A Yes, sir.

7 Q O.K. Have you seen --

8 A I do know that for sure, cause, see I personally wrote the
9 letter of decision up, myself.

10 Q. You did.

11 A For Captain Weaver's signature.

12 Q O.K., I'll show you this document, here.

13 MR. BOONE: I have no objections.

14 Q Mr. Thayer, will you take a look at that, sir?

15 A Yes, sir.

16 Q Is that the letter that you drafted up for Captain Weaver?
17 The removal letter?

18 A Yes, sir.

19 Q And what is the date on that, sir?

20 A 7th of May 1981.

21 Q And effective date of termination, is what?

22 A Effective date of termination would be 15th of May 1981.

23 Q And where was it mailed to?

24 A It was mailed to his home address.

25 Q What is it there?

1 A 2306 Fairmount Avenue, Richmond, Virginia.

2 Q O.K.

3 MR. MARTIN: I offer that as number 18 for the Common-
4 wealth, Judge.

5 Q Mr. Thayer?

6 A Yes, sir?

7 Q Focusing your attention, once more, on the date Friday,
8 May 15, 1981, do you know if Raymond Miller got paid that
9 day? At Bellwood?

10 A Yes, sir, he did get paid.

11 Q Was there any particular, or anything unusual about his
12 paycheck that time, you recall?

13 A Well I do know he had worked quite a bit of overtime and
14 overtime was on that pay check.

15 Q Was he pleased with that?

16 A Sir?

17 Q Was he pleased with that?

18 A Very pleased.

19 Q Did he talk to you about it?

20 A No, sir.

21 MR. MARTIN: That's all I have for him, Judge.

22 THE COURT: Cross.

23 CROSS EXAMINATION: Mr. Thayer by Mr. Boone

24 Q How do you know he was pleased?

25 A Way he talked. He walked around tel-- telling -- his ex-

1 Q Very polite. Would you say he was a passive individual?

2 MR. MARTIN: Judge, I'm going to object to that.

3 THE COURT: Yeah, I think you're getting pretty far,
4 Mr. Boone.

5 MR. BOONE: Yes, sir.

6 Q You say he was very polite, quiet?

7 A Yes, sir.

8 Q Well mannered?

9 A Yes, sir.

10 Q Good worker?

11 A Very good worker.

12 Q Did you ever see him carry a gun.

13 A No, sir.

14 Q Did employees carry guns for protection at any time?

15 Did you ever see an employee with a gun?

16 A No, sir, I never have. The whole time I've been out there
17 I've never seen one with a gun.

18 Q Had Mr. Miller been around the warehouse trying to sell a
19 shot gun? Did you hear anything about that?

20 A I heard that he had a shot gun that he wanted -- was --
21 wanted to sell. That's all I can tell you on -- on --

22 Q Did you ever see it?

23 A No, sir.

24 Q Did you see any notice on the bulletin board or anything
25 like that?

1 A No, sir. All I -- it was just word of mouth.

2 Q And how long prior to May 15th, had you been aware of that?

3 A Probably two (2) days.

4 Q Now, on the 15th of May you saw Mr. Miller off and on?
5 Is that --

6 A Yes, sir.

7 Q Okay. Did you see him in the afternoon, at all? After
8 lunch? Like after 12:00 o'clock?

9 A He wasn't there right after -- at -- well after lunch period,
10 uh, I got to missing Mr. Miller. And, uh, I finally found
11 out where he was at, he had gone up to cash his check, and
12 then he had returned. But personally I had not -I did not
13 see Mr. Miller the remaining of the afternoon.

14 Q Did you see him cash his check?

15 A No, sir.

16 Q Did you see him leave the base?

17 A No, sir.

18 Q Did you tell Marsha Ward the next morning, the shop steward,
19 that you were going to write him up for being AWOL, because
20 he had left the base at lunch?

21 A The next morning?

22 Q Saturday morning? May 16th?

23 A I remembers telling her that I was going to write him up
24 for being AWOL . Like I say I did find out where Mr. Miller
25 was and he had been to cash a check and ---

1 Q Sir, I'm asking you when you personally, from your own
2 knowledge, now, not from what someones told you. When did
3 you personally see him after lunch?

4 A I did not see Mr. Miller personally after lunch.

5 Q All right. When was the last time you saw him on May 15th?

6 A Prior to lunch.

7 Q So it's fair to say that's the last time you ever saw him?

8 A Personally, yes, sir.

9 Q You didn't see him at closing time, at 3:30?

10 A No, sir, I didn't.

11 Q Were you still there at closing time?

12 A Yes, sir, I was.

13 Q And you didn't see Mr. Bishop there that day?

14 A No, sir.

15 Q Thank you, Mr. Thayer.

16 THE COURT: Anything else?

17 REDIRECT EXAMINATION: Mr. Thayer by Mr. Martin

18 Q Mr. Thayer, in reference to your possibly speaking to Ms.
19 Ward about writing Raymond up for being AWOL, on Saturday.
20 Was he schedule to work on Saturday?

21 A Yes, sir, Mr. Miller was schedule to work Saturday and
22 Sunday, both, overtime.

23 Q All right. Did he show up for that?

24 A No, sir, he showed up neither day, for neither day.

25 Q And that was your concern, to write him up AWOL?

1 A See, I, -- he, he, -- was suppose to -- see, I charged him
2 AWOL for -- even if he was working overtime.

3 Q Was he pretty regular, Raymond?

4 A Yes, sir, very regular in his attendance.

5 Q Coming to work and doing his overtime? Excuse me?

6 A You -- you -- in his attendance and, uh, you could depend
7 on him for -- if -- for overtime, if you needed him.

8 Q Thank you.

9 MR. MARTIN: Judge, that's all I have.

10 THE COURT: Anything else, Mr. Boone?

11 MR. BOONE: No, Judge.

12 THE COURT: May the witness be excused?

13 MR. MARTIN: Yes, sir.

14 MR. BOONE: Yes, sir.

15 THE COURT: You're excused, sir. You have the right
16 to remain or the leave, whichever you prefer
17 And the Court will take a 5 minute recess.

18 (Recess)

19 THE COURT: We'll let the record show that after a
20 recess the accused is present and in person
21 along with his Defense Counsel, Mr. Boone.
22 The Commonwealth Attorney's Office is re-
23 presented by Mr. Martin. Ask the jury to
24 come in, please.

25

(Jury In)

1 THE COURT: Let the record show the jury returned at
2 4:08. The Court has checked the jury and
3 finds that all jury members are present and
4 account for. Next witness, sir.

5 MR. MARTIN: Bonnie Loftis. L-o-f-t-i-s.

6 THE COURT: Thank you.

7 (Ms. Loftis, having been duly sworn
8 on the issue, testified as follows):

9 DIRECT EXAMINATION: Ms. Loftis by Mr. Martin

10 Q M'am, would you face the ladies and gentlemen of the jury
11 and tell them your name.

12 A Bonnie Loftis.

13 Q Ms. Loftis, what do you do?

14 A I'm a part-time teller at Bellwood Credit Union.

15 Q Is that located at DGSC?

16 A Yes, it is.

17 Q Jeff Davis Hwy.?

18 A Yes.

19 Q How long have you been a part-time cashier there, or teller
20 for them at Bellwood Credit Union?

21 A About year and a half, uh, two years in December, it will be
22 two years in December.

23 Q While you were working in the credit union as a teller, did
24 you -- well, let me ask you this -- did you know a Raymond
25 Miller?

1 A I knew -- yes, as, as a member of the credit union, yes, I
2 did.

3 Q Okay. Did you ever cash checks for him?

4 A Yes.

5 Q Before at the credit union?

6 A Yes, I did.

7 Q Specifically, on May 15, 1981, Friday?

8 A Yes.

9 Q Was that a payday at Bellwood?

10 A Yes, it was.

11 Q Cash a lot of checks that day?

12 A Sure did.

13 Q Did you cash Raymond Miller's check that day?

14 A Yes, I did.

15 Q Did he take it all in cash or did he deposit any or --

16 A No, it was all cash.

17 Q Took it all in cash. Do you remember approximately what
18 he got?

19 A No, I've -- I've tried to -- it was more than his normal
20 paycheck, I can -- like I don't know how much more, but
21 it was not like a normal paycheck, like overtime.

22 Q Was a good size check?

23 A Yes, but I can't remember how much.

24 Q Whatever that is (unintelligible) --

25 MR. MARTIN: Sheriff could you show her No. 8, see if

- 1 she can tell --
- 2 MR. BOONE: Your Honor, if it will help , we'll stipu-
- 3 late that he was paid, that he cashed his
- 4 check, that it was more than the average
- 5 amount of money --
- 6 THE COURT: All right, I appreciate it. Ms. Loftis,
- 7 you don't have to be nervous, you just take
- 8 your time now.
- 9 A Okay.
- 10 Q Are you familiar with those type of papers?
- 11 A Uh-uh.
- 12 Q No, not at all?
- 13 A No.
- 14 Q Do you see a net on there anywhere? Net pay? If you look
- 15 around, it may be hard for you to read, I don't know.
- 16 THE COURT: Well, we've already been over that anyway,
- 17 haven't we?
- 18 MR. MARTIN: All right. I have no further questions for
- 19 her, Judge.
- 20 THE COURT: All right. Cross.
- 21 CROSS EXAMINATION: Ms. Loftis by Mr. Boone
- 22 Q Do you remember what time Mr. Miller cashed his check that
- 23 day, M'am?
- 24 A No, I don't.
- 25 Q What were the hours of the credit union on that date?

1 A Uh, 10:00 to 4:00.

2 Q And were you the particular teller that cashed his check?

3 A Yes, sir.

4 Q Do you remember -- can you close your eyes and actually
5 visualize him coming up and cashing a check?

6 A Yes, sir.

7 Q Can you visualize who -- and if you can't, just say you
8 can't. Can you visualize who was right before him?

9 A No.

10 Q Can you visualize who was right after him?

11 A He was alone, he was -- it was just him.

12 Q He was alone?

13 A Well I don't pay any attention to whose on -- in the other
14 lines, I just see the person in front of me. And he was
15 just there by himself.

16 Q Did -- Do you remember after he cashed his pay check, if
17 the next individual in line cashed their paycheck?

18 A There was no one else in line.

19 Q Who was there?

20 A Not -- that I can remember he was the only one in my line.

21 Q So, if I were to ask you -- just to pull an imaginary
22 number out of the air, if I were to ask you if there were
23 15 people in line with him, that would not be accurate?

24 A Okay, it just -- he just walked into the credit union, there
25 was no one in my line. He walked into my line and I cashed

1 his check. I don't remember anybody before him or after
2 him.

3 Q Do you remember --

4 A It was like -- it was like a slow period at the credit
5 union, I mean we weren't busy in the check cashing lines
6 at that time.

7 Q Yes, M'am, I understand. So you were standing there with
8 nobody in your line. Did you actually see him walk into
9 the credit union? Can you remember that?

10 A No.

11 Q Well, you remember him walking up to the --

12 A I remember him walking up to my window, yes.

13 Q He cashed his check and left?

14 A Right.

15 Q And he was alone?

16 A Uh-huh.

17 Q Thank you.

18 MR. BOONE: That's all the question I have.

19 THE COURT: Well, I'm going to ask you, how many folks
20 were cashing checks that day?

21 A We have three (3).

22 THE COURT: You have three?

23 A Uh-huh.

24 THE COURT: Anything else from the floor? Mr. Martin?

25 REDIRECT EXAMINATION: Ms. Loftis by Mr. Martin

1 Q Were the other folks cashing checks the same time you were?

2 A Yes, sir. See, we have four, uh, regular tellers who take
3 care of transactions, like loan payments and share payments,
4 then on paydays -- that particular payday we had three just
5 cash checking -- check cashing tellers. At that time it
6 was only my supervisor and myself. She was on this side,
7 I was sitting here, there was no one at her window an there
8 was no one at my window, and then just Raymond. The other
9 teller, I think, was at lunch, at that time.

10 Q Is there any particular reason why you remember this, this
11 day May 15?

12 A Only because I was called on Monday after work and questione
13 about the -- cashing the check.

14 Q All right.

15 MR. MARTIN: That's all I would have to ask.

16 MR. BOONE: I have one last question.

17 RECROSS EXAMINATION: Ms. Loftis by Mr. Boone

18 Q Do you know the gentlemen sitting next to me?

19 A No, sir.

20 Q Never seen him?

21 A No, sir.

22 Q How about on May 15, 1981, did you see him?

23 A Not that I remember.

24 Q Thank you.

25 THE COURT: May this lady be excused?

- 1 MR. BOONE: Yes, sir.
- 2 THE COURT: Mr. Martin?
- 3 MR. MARTIN: Yes, sir.
- 4 THE COURT: You're excused M'am. You have the right
5 to remain or the leave, whichever you prefer
6 Next witness.
- 7 MR. MARTIN: I would call Mr. Lamb. Robert Lamb.
8 (Mr. Lamb, having been duly sworn
9 on the issue, testified as follows):
- 10 DIRECT EXAMINATION: Robert Lamb by Mr. Martin
- 11 Q Sir, would you face the ladies and gentlemen of the jury,
12 tell them your name.
- 13 A Robert H. Lamb.
- 14 Q And Mr. Lamb, how old are you, sir.
- 15 A 46.
- 16 Q And what do you do?
- 17 A I'm the director of personnel with the Defense General
18 Supply Center.
- 19 Q Sir, did you bring to court today the personnel files
20 on Tyrone Bishop and Mr. Raymond Miller?
- 21 A Yes, sir, I did.
- 22 Q Were they two employees of yours at Defense General Supply
23 Center?
- 24 A Yes, sir.
- 25 Q Are they in your brief case there?

1 A Yes, sir.

2 MR. MARTIN: Sheriff, could you give Mr. Lamb his brief
3 case, please.

4 Q Could you take those out, please, for us, Mr. Lamb?
5 In reference to Mr. Tyrone Bishon, do you, yourself, know
6 Tyrone Bishon?

7 A No, sir, I don't believe so.

8 Q You wouldn't know him if you saw him, is that correct?

9 A I don't believe so.

10 Q Okay. You can only speak in reference to what may be in
11 the file, is that correct?

12 A That's correct.

13 Q Does your file indicate that he was terminated from employ-
14 ment at Bellwood?

15 A Yes, sir, it does.

16 Q Okay. Do you know when that was, effective termination
17 day?

18 A I believe it was the 15th of May of last year.

19 Q 1981?

20 A Yes, sir.

21 Q And do you have copies of the proposed removal and the
22 actual removal letter?

23 A Yes, sir.

24 Q In your file?

25 A Yes, sir.

1 O All right.

2 MR. MARTIN: Judge, I've seen them. I've made the copies
3 here from those, if that's all right with
4 Mr. Boone.

5 Q Is there a particular procedure that a person must go
6 through when they terminated and check out from Defense
7 General Supply?

8 A Yes, sir, we require any employee, no matter what their
9 reason for leaving us, to go through a clearance procedure
10 which clears with my organization, uh a comptroller, our
11 security organization, credit union, uh, a union office,
12 if they belong, things of that nature.

13 Q Is there any documentation that is required or is customary?

14 A Yes, sir.

15 Q What type of documentation is that, sir?

16 A Uh, we have what we call a check out sheet. It's about
17 standard size, with the various organizations listed on it
18 and one of my clerks would check the ones that would be
19 appropriate, depending on the nature of termination and, uh,
20 the individual employee. It then goes to the various people
21 that they have to see and it's in turn initialed and returned
22 to us.

23 Q Do you have, uh, the documentation and the check-out sheet,
24 and so forth of Mr. Tyrone Bishop?

25 A No, sir, I do not.

1 Q Where does the person get this particular paper or docu-
2 mentation? by Dupe?

3 A Uh, he would receive it from one of my staff in the em-
4 ployment division of my organization.

5 Q Could he get it from one of his supervisors?

6 A No.

7 Q On the job?

8 A It is, it is possible if we had a serious disability re-
9 tirement or something of that nature, uh, sometimes we
10 give these to the supervisor and he will do it for them.
11 But, generally speaking, no.

12 Q Okay. What are your hours at the personnel office?

13 A Uh, we have a flex-time schedule, so basically my organiza-
14 tion is staffed from about 6:30 in the morning til roughly
15 5:30 til 6:00 at night. We're totally manned from roughly
16 7:30 til 4:30.

17 Q These people suppose to clear security, as well?

18 A Yes, sir.

19 Q And is security open 24 hours a day?

20 A Uh, no, sir, not the clearance office part.

21 Q When does the clearance office open?

22 A They open about 7:00 to roughly 5:00.

23 Q How long had Mr. Bishop been employed by you folks?

24 A It appears the first one was a temporary appointment on
25 the 2nd of June of 1976. Excuse me, excuse me, '75.

1 03, June of '75, not to exceed, uh, 2 June of '76.

2 Q Okay, and he had worked steadily for you since that time,
3 is that correct? Up until his recent problems of being
4 AWOL --

5 A Yes, sir.

6 Q That lead to his termination?

7 A Yes, sir.

8 Q All right. I think -- in reference to Mr. Miller, uh,
9 Raymond Miller, can you tell us when he was employed by
10 you folks?

11 A He was first employed on the 3rd of June 1974.

12 Q And what type of job did you have him doing at that time?

13 A Uh, Mr. Miller came in, uh, as a wage grade 1, laborer
14 position in the director of storage and transportation.

15 Q And was there any particular problem with Mr. Miller, mental
16 physical problem at all?

17 A Yes, sir. Uh, he, uh, -- we have a, a number of programs
18 including some for handicap individuals. Mr. Miller did
19 have a mental handicap.

20 Q And what type of program are you referring to?

21 A The government, like many private industries, uh, sponsors
22 a number of programs to provide meaningful employment for
23 people with physical, as well as medical, uh, medical pro-
24 blems of other types, including mental handicaps. And Mr.
25 Miller was in one of these areas.

1 Q And, uh, does this include being a packer at one of the
2 warehouses?

3 A Yes, he started out as a wage grade 1 with us, but he was
4 promoted progressively up to wage grade 5, as a warehouse-
5 man and then became a packer, yes, sir.

6 Q He had a position of leadership or responsibility?

7 A No, sir.

8 Q Any supervisory duties?

9 A No, sir.

10 Q Paperwork employee?

11 A Not much, no, sir.

12 Q Manual labor?

13 A Yes.

14 Q Routine type job?

15 A Yes, sir.

16 Q And do your records show when Mr. Miller/ceased being an
17 employee of yours? effectively

18 A Yes, sir. Uh, we showed a termination, by our records, of
19 the 20th day of May 1981, uh, nature of action was death.

20 Q All right.

21 MR. MARTIN: That's all I have for him.

22 THE COURT: Cross.

23 CROSS EXAMINATION: Mr. Lamb by Mr. Boone

24 Q Mr, Lamb, have you ever met Mr. Miller? You ever talk to
25 him?

1 A No, sir.

2 Q So you wouldn't have know that he -- you can carry on a
3 conversation with him?

4 A No.

5 Q So when your talking about his, uh, any mental problems
6 he has is strictly in your paperwork?

7 A That's correct, sir. I base that on the medical statements
8 that we have.

9 Q You've never seen the man -- that man, to carry on a
10 conversation with him?

11 A Not to my recollection, no, sir.

12 Q Are you familiar with, uh, Marsha Ward, a shop steward, in
13 warehouse 59?

14 A Yes.

15 Q If she were to testify as a shop steward that, uh, it is
16 her understanding to check out, you have to get a check out
17 sheet from the supervisor -- one of the supervisors. Pre-
18 ferably, your immediate supervisor. Would she be in error?

19 A I believe she would.

20 Q And may I please see Commonwealth's No. 18, please?

21 THE COURT: Mr. Lamb, how far is the personnel office
22 from warehouse 59? Approximately?

23 A Approximately half a mile, sir.

24 THE COURT: Half a mile, thank you.

25 Q Sir, I'd like to show you, you probably -- well, you have

1 the original, I'm sorry. The notice of decision removal,
2 about 5/7/81 to Mr. Tyrone Bishop. Do you have the original
3 of that, sir?

4 A Uh, I have our copy, yes, sir.

5 Q Let me show you this copy. Sir, on para -- directing your
6 attention paragraph two, I'm sorry. Directing your atten-
7 tion to paragraph three, last sentence. Where you show
8 termination day effective 15 May 1981?

9 A Yes, sir.

10 Q Would it be a policy of DGSC for someone who has received
11 that to check out on 15 May 1981?

12 A Yes, sir.

13 Q Did you -- do you have anything in Mr. Bishop's file ex-
14 plaining his absence?

15 THE COURT: You mean the reasons he was absent; if he
16 was absent.

17 MR. BOONE: Yes, sir.

18 Q He was terminated for AWOL, is that correct?

19 A That's correct, yes.

20 Q Uh, before I -- let me, I'll come back to that question,
21 put that on the back burner for a second. Is it fair to
22 say there were a lot of people being terminated, and we
23 keep using these words lot (unintelligible) and all that,
24 but was more in a bread basket, people being terminated
25 for being AWOL or was this unusual?

1 A Uh, for a removal, per-cause, no, it's not uncommon.

2 Q Okay. And that does not necessary have anything to do with
3 a person's work performance, does it? In other words, if
4 they're absent more than an X number of days without author-
5 ization they can be terminated?

6 A That's correct.

7 Q Uh, they might be the best worker in the world when their
8 there, but if they don't show up when they're suppose to
9 show up, over a period of time, they can be terminated?

10 A Very much so.

11 Q Did Mr. Bishop ever -- would he -- I don't suppose he
12 would have talked to you, you're director of personnel, right?

13 A Yes.

14 Q So, you would not have had him in your office to ask him,
15 how come your ANCL?

16 A No, the, uh, the supervisor would initiate the action, the
17 director of his particular directory is the deciding official
18 in these type of cases. We serve in an advisory capacity
19 to the commander, if it reaches that level, or we present
20 the case or prepare it if it goes beyond that. Say to the
21 (unintel.) protection board.

22 Q Now you have Mr. Bishop's file with you, do you not?

23 A Yes, sir.

24 Q Do you have an explanation in that file as to why he was
25 missing all these days during the period of November and

1 December of 1980 and up through his termination date?

2 A Do you mind if I (unintelligible) --

3 Q Yes, sir, take your time. And I'm not trying to put you
4 on the spot, if you don't have it, it's no problem.

5 A No, I'd have to check to see if we do. No, sir, we do not.
6 Mr. Bishop did not respond to the letter.

7 Q Sir, just so the^{jury,} ladies and gentlemen of the jury can get
8 a picture. If you were up in a helicopter looking down at
9 DGSC, can you give them, just an idea of how large a com-
10 plex this is?

11 A Your talking, uh, 638 acres, uh, if you look at it going
12 by on Route 1 it's rather deceptive. It's quite narrow,
13 however, the back area of the activity, uh, expands out.
14 Its almost a pork chop shape, there.

15 Q So, from the longest area to the -- if you took it from
16 the furthest, the furthest point would be over a couple of
17 miles?

18 A Roughly.

19 Q Thank you.

19 MR. BOONE: I have no further questions.

20 THE COURT: Anything else, Mr. Martin?

21 REDIRECT EXAMINATION: Mr. Lamb by Mr. Martin

22 Q Does the file reflect, Mr. Lamb, over what period of time
23 he was AWOL, that lead to the termination?

24 A Yes, sir, I believe so. Uh, it indicates in the letter of
25 proposal, uh, --

1 Q That would be the period of time we're talking about
2 (unintelligible) --

3 A Yes, sir. He called in on the 30th of October 1980, stating
4 that he was sick, uh, the supervisor carried him in a leave
5 status until the 15th of November of that year, 1980. Uh,
6 from that time until the present, which was the date of
7 this letter, uh, 8 April 1981, he was in an absence without
8 leave status.

9 Q Thank you, Mr. Lamb.

10 THE COURT: Anything else, Mr. Boone?

11 MR. BOONE: No, Your Honor.

12 THE COURT: May this witness be excused?

13 MR. BOONE: Yes, sir.

14 MR. MARTIN: Yes, he may Judge, and I thank him very
15 much for coming.

16 THE COURT: Thank you very much, Mr. Lamb, you're excused.
17 You have the right to remain or to leave,
18 ^{Is} whichever you prefer. /your next witness
19 short, Mr. Commonwealth?

20 MR. MARTIN: I expect so, Judge. Henry Redd, I would
21 plan to end with him today.

22 THE COURT: By 5:00?

23 MR. MARTIN: Excuse me?

24 THE COURT: By 5:00?

25 MR. MARTIN: I certainly will end it by 5:00.

(Mr. Redd, having been duly sworn on the issue, testified as follows):

DIRECT EXAMINATION: Mr. Redd by Mr. Martin

Q Sir, would you face the ladies and gentlemen of the jury and tell them your name, please?

A My name is Henry Redd.

Q How do you spell it? R-e- --

A R-e-d-d.

Q And, Henry, how old are you, sir?

A I'm 33.

Q What do you do?

A I'm a packer at Bellwood.

Q In what building?

A In building 59.

Q How long you been working at Bellwood?

A About four (4) years now.

Q Did you know a Raymond Miller? Worked in 59?

A Yes, I did.

Q Were you friends with Raymond Miller, at all? How did you know him?

A Uh, well, we was friends, we talked, you know, during break hours and everything.

Q Did you know the defendant here today, Tyrone Bishop?

A Yes, I did.

Q How did you know Tyrone?

- 1 A I know him from work and plus out in the street.
- 2 Q Is he a friend of yours?
- 3 A Yes, he is.
- 4 Q On May 15, 1981, Friday, did you have occasion to work that
5 day or were you not working that day?
- 6 A I was off that day.
- 7 Q Did you come in to Bellwood at all that day? DGSC?
- 8 A Yes, I came in for to pick up my check that morning.
- 9 Q Is that fairly important for you to get the check?
- 10 A Well the bills have to be paid with the check.
- 11 Q Okay. Do you recall approximately what time you came,
12 Henry?
- 13 A Um, maybe 9:00 or 9:30, something like that.
- 14 Q Is this in the morning?
- 15 A Yes, it is.
- 16 Q And who would you get your check from? How would you get
17 your check when you came in?
- 18 A Um, I get my check from Mr. William Green or either the
19 secretary .
- 20 Q Would you have to go to building 59, warehouse 59 to get
21 it?
- 22 A Yes, I would.
- 23 Q And is that where you went on that day to get your check?
- 24 A Yes, I did.
- 25 Q Okay. Did -- you didn't work that day at all, is that

1 correct?

2 A No, I didn't.

3 Q Okay. Did you happen to see Mr. Bishop there, that morning?

4 A Uh, I think I saw him, I'm -- I think I saw him that morning,
5 I'm not quite sure.

6 Q Whereabouts do you think you saw him?

7 MR. BOONE: Your Honor, could he finish his answer?

8 THE COURT: Yeah, let him finish.

9 MR. MARTIN: Um-huh, Okay.

10 A What's the answer -- say that again?

11 Q I asked you if you saw Tyrone Bishop that morning?

12 A Well I think I saw him that morning, uh, coming in, to
13 picking up my check. But, I can't say definitely sure I
14 did see him that morning.

15 Q The person you think was Tyrone where, where did you see
16 him?

17 A I think I saw Tyrone in the lot going towards, uh, the
18 warehouse, processing out.

19 Q Did you speak to him at all?

20 A Well, I think I said, uh, what's happening, uh, how you
21 doing.

22 Q Did you know he was in the process of being terminated?

23 A Yes, I did.

24 Q Did he say anything to you in reference to processing out?

25 A No.

1 Q Any discussion about retirement benefits?

2 A No.

3 Q Had you ever given him a ride to Bellwood before?

4 A Yes,

5 Q And, how many times had you given him a ride down to
6 DGSC?

7 A I'm not quite sure how many times, but if he needs a ride
8 he could get one from me.

9 Q Where were you living while you were working down at DGSC?

10 A I was living at 1312 Courton Street.

11 Q Did you give Tyrone -- did he have your phone number and
12 your address?

13 A No, he didn't have my phone number, because, uh, he know
14 where I lived at.

15 Q You had given him rides before?

16 A Yes, I have.

17 Q And were you working the period, November 1980 through
18 May 1981, at Bellwood?

19 A November 1980? I'm pretty sure I did.

20 Q You say you've been working there four (4) years, is that
21 correct?

22 A Yes.

23 Q And did you work the morning shift?

24 A Yes, I did.

25 Q Is that 7:00 a.m. to 3:30?

1 A Yes.

2 Q And/Tyrone welcome to ride with you?
was

3 A Anytime.

4 Q And take him home anytime?

5 A Anytime.

6 Q Do you know where he was living, in May of 1981?

7 A Well I -- if I'm sure, I think he was living on Red Street
8 then with his girlfriend.

9 Q Do you know her name?

10 A Yes, I know her first name, that's all.

11 Q What was her first name?

12 A Judy.

13 Q What is it?

14 A Judy.

15 Q Judy. Does the last name Snead mean anything to you?

16 MR. BOONE: Your Honor, I'm going to object.

17 THE COURT: Sustained.

18 MR. BOONE: Thank you.

19 Q You say, you think you saw him. Why do you say you think
20 you saw him, that morning?

21 A Because I'm not quite sure now if I did or didn't.

22 Q Okay, what makes you not sure?

23 A Because of the -- it's quite a ways back, I'm not quite
24 sure.

25 Q Did he speak with you that morning --

- 1 MR. BOONE: Your Honor, we've covered this.
- 2 THE COURT: We've been over that Mr. Commonwealth.
- 3 MR. MARTIN: All right, Judge. That would be all I .
- 4 would have for him than.
- 5 THE COURT: Cross
- 6 CROSS EXAMINATION: Mr. Redd by Mr. Boone
- 7 Q Mr. Redd, isn't it a fact that Mr. Bishop, on occasion,
- 8 would stay with a girl friend, named Julia Snead, down
- 9 the street from you?
- 10 A Yes.
- 11 Q And when he stayed there, he could get a ride with you?
- 12 A Yes.
- 13 Q Isn't it also a fact, he'd also live with another girl
- 14 friend by the name of Clementine Roberson, on the other
- 15 side of town?
- 16 A I don't know her.
- 17 Q Well, isn't it a fact he lived with another girl friend
- 18 away from where Julia Snead lived?
- 19 A Okay.
- 20 Q Is that true?
- 21 A I don't know, I know when he was there.
- 22 Q All right, you know he didn't stay at Julia Snead's house
- 23 all the time.
- 24 A True.
- 25 Q Okay. And it's your testimony you can't say whether or not

1 you saw him on May 15th.?

2 A I wouldn't want to lie and say I did or didn't. I think
3 I did, I'm not sure.

4 Q Thank you. My last question, sir, subsequent to Raymond
5 Miller's body being found, did you continue to work at
6 DCSC?

7 A Yes, I did.

8 Q Were there a lot of rumors floating around about who might
9 have committed this crime?

10 A There were a whole lot of rumors going around.

11 Q Thank you, sir.

12 MR. BOONE: No further questions.

13 THE COURT: Is there anything else, Mr. Martin?

14 MR. MARTIN: No, sir, Judge.

15 THE COURT: May this witness be excused, gentlemen?

16 MR. MARTIN: Yes, sir, and we thank him for coming.

17 MR. BOONE: Yes, sir.

18 THE COURT: All right, sir, your excused. You have
19 the right to remain in the courtroom or
20 to leave, whichever you prefer. Thank you
21 very much.

22 MR. MARTIN: Judge, I might be able to squeeze one more
23 in here.

24 THE COURT: All right.

25 MR. MARTIN: Russell Melroy.

1 (Russell Melroy, having been duly sworn on
2 the issue, testified as follows):

3 DIRECT EXAMINATION: Russell Melroy by Mr. Martin

4 Q Sir would you face the jury and tell them your name?

5 A Russell Melroy.

6 Q What do you do, Mr. Melroy?

7 A I'm the accounting and finance officer for Defense General
8 Supply Center.

9 Q Down on Jeff Davis Hwy.?

10 A Yes, sir.

11 Q How long have you been employed by them, sir?

12 A Approximately, 2 1/2 years.

13 Q And as an accounting and finance officer what type of
14 duties are you involved in there, sir?

15 A We're responsible for maintaining the accounting records
16 for the center, the payment of all of the bills, and the
17 payroll for the civilians.

18 Q Do you have with you here, today, a certain pay records in
19 reference to Mr. Tyrone Everette Bishop and Mr. Raymond
20 Anthony Miller?

21 A I do.

22 Q All right, would you look to those records on Tyrone Bishop
23 first of all? All right, I believe you've provided me
24 already with a certified copy of those exact records, is
25 that correct?

1 A Yes, sir.

2 Q Okay.

3 MR. MARTIN: Judge, I would just happen to share, pattern
4 to show these to Mr. Melroy to make sure that
5 these are in fact the certified copies that
6 he has provided me.

7 Q Mr. Melroy, is that the copy of the pay records that you
8 have in your accounting office, in reference to Tyrone
9 Bishop?

10 A Yes, sir.

11 Q This covers a certain period of time, does it not?

12 A Yes, sir, it does.

13 Q What period of time are we talking about here?

14 A Covers from the 2nd calendar, 2nd quarter of calendar year
15 1980 through, uh, the 2nd quarter of 1981.

16 Q Is that April 19 -- starting around April, excuse me, April
17 1980 through May of --

18 A Uh, sir, no. These would actually start through approximate
19 ly the last date on there is the date that, the ending of
20 the pay period, so it would be approximately March the 15th.

21 Q Okay. 1980. And the ending date?

22 A June the 6th 1981.

23 Q Okay.

24 MR. MARTIN: Judge, I'm going to offer that as an exhibit
25 for the Commonwealth at this time. I'd ask-

1 THE COURT: Any objections?

2 MR. BOONE: Uh, my only objection -- I don't understand
3 the materiality of it, but I won't object,
4 to it.

5 THE COURT: Commonwealth Exhibit 19.

6 Q Sir, and you also have the individual time cards from which
7 the pay sheets are prepared?

8 A Uh, no, I do not have the time -- all of the time cards, uh,
9 you have those.

10 Q All right. Did you -- yes. This is the one I'm talking
11 about. Would you take a look at that? Did you compile
12 that at my request to go along with the earning sheet?

13 A Yes, sir, yes, sir.

14 Q Does that cover the same time period you just mentioned?

15 A Yes, sir.

16 INAUDIBLE

17 MR. BOONE: No objection.

18 THE COURT: Commonwealth's Exhibit 20.

19 Q Okay, that is a certified copy that you prepared of those
20 individual work cards, I believe, is that correct?

21 A This is not a certified copy, it is a copy of what I
22 prepared.

23 Q That is a copy.

23 MR. BOONE: We have no objections here, Commonwealth.

24 MR. MARTIN: I offer that as number 20, Judge.

25 THE COURT: All right.

1 Q And I'm going show you, as well, three documents, kind of
2 in a package right here and ask if you can identify those?
3 Can you identify those three documents, sir?

4 A Uh, yes I can. The first document, is a notice of levy
5 on wages, salary, and other income we received from the in-
6 ternal revenue service. The second docu--

7 Q How much -- how much is that for?

8 A \$4,517.59.

9 Q Is there a date on it?

10 A It's dated May 28, 1980.

11 Q All right, what's the second document?

12 A It's a request by an employment for an allotment of pay.
13 Federal
It's to the Bellwood/Credit Union, for the amount of \$113.
14 It's dated July 5, 1977. The third document is also
15 the same form, on allotment of pay, to Hartford National
16 Bank and Trust Company for \$16.00, it's dated May 14, 1976.

17 Q And these are --

18 THE COURT: \$16.00 and what, 40 cents?

19 A \$16.00 even, sir.

20 THE COURT: Even, okay.

21 MR. MARTIN: Judge, I'd offer those as one exhibit.
22 Three, these particular documents.

23 THE COURT: Number 21.

24 Q Now would you take a look, please, at Commonwealth's Exhibit
25 19? The actual earnings record. From May '80 to the ending

1 date that you mentioned. Does this document reflect the
2 base pay, on it, for each period?

3 A Yes, it does.

4 Q And what column is that in?

5 A That is in the second column, where it says regular hours
6 and base pay.

7 Q And the very first column, is what?

8 A Uh, the ending of the pay period that was worked.

9 Q These two week periods?

10 A Yes, sir.

11 Q And the third column?

12 A Uh,
/Any other pay that would have been earned, such as holiday
13 pay, overtime pay, so forth.

14 Q All right. You have a column called gross pay?

15 A Right, sir.

16 Q And you have a column marked other deductions, is that
17 correct?

18 A Right, sir.

19 Q Does that appear approximately in the middle of the sheet?

20 A Yes, sir.

21 Q And taking that very first top sheet, right there, does
22 it reflect the two allotments as deductions that you just
23 mentioned, the \$16.00 and \$113.00?

24 A Yes, it does.

25 Q This is back in March of 1980?

1 A Yes, sir.

2 Q And does this continue on through the sheet for a time?
3 Period?

4 A It continues through, uh, May 24th.

5 Q Okay. Now, the pay period ending June 7th, reflects an
6 "L" next to some figures in the deduction column. What is
7 that?

8 A That indicates that we have deducted monies for the internal
9 revenue, for the tax lien.

10 Q That's the tax lien?

11 A Yes, sir.

12 Q And the right column, it says net pay, is that correct?

13 A Right, yes, sir.

14 Q It says a \$100.00, here?

15 A Right, sir.

16 Q What was the arrangement, if any, with the IRS; in deducting

17 A Uh, on any tax lien received the rules are that the person
18 who the lien has been filed against receives \$50.00 a week.
19 In this particular case we're talking a bi-weekly pay period,
20 two weeks, \$100.00.

21 Q So they take everything but a \$100.00?

22 A Yes, sir.

23 Q And as you look through your sheets here, there ^{are}/some periods
24 when he earned less than \$100.00? For the two week period?

25 A Right, sir.

1 Q Did the IRS take any of it then?

2 A In this particular case we made no deductions, no.

3 Q He gets it all? Is that correct?

4 A Right, sir.

5 Q All right. Now as you look through the sheets here, do
6 you see the tax levy being made each pay period?

7 A Unless there wasn't, uh, unl-- only when there was more
8 than \$100.00 earned.

9 Q Started with June 7, 1980, and continues through when?

10 MR. BOONE: Your Honor, I would certainly like follow
11 this, I don't have a copy and if -- we're
12 getting extensive work on this document, I
13 need a copy --

14 THE COURT: We're not going to get to extensive, because
15 the Court is going to stop at 5:00.

16 MR. MARTIN: I'm just looking at the dates, Judge, that's
17 all.

18 Q Now, it does continue over a period of time, Mr. Melroy?

19 THE COURT: He needs a copy over there, though, so he
20 can be following you. You got one?

21 MR. MARTIN: I have my copy.

22 THE COURT: Well, why don't you sit over there with
23 Mr. Martin then.

24 THE WITNESS: Judge, there's an extra copy here.

25 THE COURT: Okay, we've got it solved he's got an

extra copy.

MR. BOONE: Thank you.

Q And the tax levy continues, I believe, is that correct?

A Right, sir.

Q And until what time?

A Until April 25, 1981.

Q Now your pay and earnings record, beginning with December 20, 1980, shows no earnings. Is that correct?

A That is correct.

Q Showed no earnings from that period until sometime in April of 1981, is that correct?

A That is correct.

Q I believe your records reveal the two pay checks in April?

A Right, sir.

Q None in May?

A None in May.

Q And some termination, what is that in June? June 6th?

A The \$20.00 is the refund of the, uh, bond balance.

That had been deducted to purchase a U.S. Savings Bond.

Q He has a bond? And there's a \$73.10 he was also paid for-- there was a lien on that. Is that correct?

A That was the lien?

Q That was taken (unintelligible). Okay, and that is the end of the earnings record for Mr. Bishop, with you, is that correct?

1 A Yes, sir.

2 Q Now just looking, if you would, quickly at number 20 for
3 the Commonwealth. The individual pay records, do you have
4 an extra copy of that one as well?

5 A No, I do not.

6 Q You do not.

7 MR. MARTIN: David, you want to take a quick look at
8 this?

9 Q Are these dated by bi-weekly time period?

10 A Yes, sir.

11 Q Where are they dated?

12 A In the top right hand corner is the ending date of the
13 pay period.

14 Q All right, would you look at the very first one on the
15 first sheet, in the top. How does -- what are the numbers
16 up there?

17 A All right, it would be first two digits '80 of the year, 05
18 is May, 24 is the date.

19 Q Okay.

20 A So it would be May 24, 1980.

21 Q Same upper right figure you can check, any of these cards
22 you can check the date. Is that correct?

23 A Yes, sir.

24 Q All right. And you have numbers next to the days, they're
25 marked Monday thru Tuesday, Wednesday, Thursday, and you've

1 got numbers next to them. Are they the calendar days that
2 match the dates?

3 A Yes, sir.

4 Q Okay, and where he does work is it under tour of duty
5 column?

6 A Right.

7 Q Puts his hours in and out?

8 A Yes, sir.

9 Q And where there is no -- nothing written in there, didn't
10 work?

11 A Correct, sir.

12 Q Okay. All right. Do you also have the same earnings
13 record for Mr. ^{Raymond} Miller ?

14 A Yes, sir, I do.

15 Q Would you take out Mr. Millers for a minute, please?

16 All right. Would you take --

17 MR. BOONE: Your Honor, it might be quicker -- we might
18 be able to stipulate, if I could talk Mr.
19 Martin into -- I think I could probably
20 stipulate to what he's trying to prove
21 there. If it would help the Court any.

22 THE COURT: (Unintelligible)

23 Q Last check, \$487.71. Is that correct? Net check?

24 A Yes, sir.

25 Q Okay, that was the 5/9/81 pay period?

1 A Correct.

2 Q And he would have been paid on what day?

3 A On March 15th, I believe -- excuse me, May 15th.

4 Q May 15th, the following Friday?

5 A Yes, sir.

6 Q Okay.

7 MR. MARTIN: I think that would be all then for Mr.
8 Melroy.

9 THE COURT: Cross.

10 CROSS EXAMINATION: Russell Melroy by Mr. Boone

11 Q Mr. Melroy, I've, uh, -- Let me see if I can put this in
12 areas for you, myself, if not for the jury. There were
13 some deductions being made from Mr. Bishop's paychecks?

14 A Correct.

15 Q Along with (unintelligible).

16 A Pardon?

17 Q Part of it was from IRS, part of it was from Hartford Bank.

18 --

19 A No, those deductions stopped when the, uh, IRS levy came
20 in. When IRS levy --

21 Q All right, so it took a back seat to the IRS levy.

22 A Yes, sir.

23 Q All right, so back in 1976 or whenever these -- there've
24 been -- looking through all these records since you've
25 been at DGSC, were the deductions pretty much all the way

1 back or --

2 A I don't have the records back that far, I would assume
3 that since the allotment was dated that day, the records
4 would go back and show those two allotments going back all
5 that way. Yes, sir.

6 Q Right, so there ^{been} / money being taken out of his paycheck
7 over a period of time?

8 A Yes, sir.

9 Q Back to '76.

10 A Yes, sir.

11 Q Okay. And then up comes IRS and takes a front seat and
12 the other are pulled back behind IRS, so it's taken all
13 they can take?

14 A Yes, sir.

15 Q And that began in what month?

16 A Um, May of 1980, I believe it was.

17 Q May of '80?

18 A Right.

19 Q IRS started getting their checks?

20 A Yes, sir. Actually the first pay period was ending June
21 7th, 1980. I believe the lien was dated, I think, May the
22 -- last part, latter part of May.

23 Q So this gentlemen actually worked there for a year. His
24 termination date is May 15, 1981. He had been there for
25 a year while IRS was getting their time a flush.

1 A Yes, sir.

2 Q All right. Do you, uh, -- Do your records indicate, uh,
3 his retirement pay, what he got, on his retirement pay?

4 A No, sir. That is paid from the office of personnel
5 management. We do not pay retirement pay.

6 Q You don't pay that. Do you have any records showing how
7 much he had accumulated on retirement through May 15, 1981?

8 A Not with me, no, sir.

9 Q Do you have it at your office?

10 A Yes, sir.

11 Q Could you bring that back tomorrow, sir?

12 A Yes, I could.

13 Q All right.

14 MR. BOONE: We should ask the Court. Maybe we could
15 have the witness bring that back tomorrow,
16 Judge. Thank you. That's all I have.

17 THE COURT: Can you get that information from somebody
18 who's all ready here, or we'll wait until
19 tomorrow.

20 MR. BOONE: Judge, I've spent a day at DGSC just trying
21 to find out who the person was that had
22 that information, and I hit a blank point.

23 THE COURT: All right. All right.

24 MR. BOONE: Possibly, if we could just stipulate/we
25 wouldn't even need him back, if he --

1 MR. MARTIN: What is -- what is the figure that you
2 want?
3 MR. BOONE: I think it's Twenty-Nine Hundred and some
4 odd dollars, that's my inclination.
5 THE WITNESS: The total amount in his retirement fund?
6 MR. BOONE: is the amount you're looking for?
7 Right, I would need the date he got that
8 check --
9 THE WITNESS: I couldn't -- I couldn't answer that for
10 you. Okay, because we do not issue that
11 check, that's issued by the office of
12 personnel management, I believe.
13 MR. MARTIN: That is located, where?
14 THE COURT: Well how did the Internal Revenue miss
15 that one?
16 MR. MARTIN: I don't think they can touch retirement
17 benefits, I don't know.
18 THE COURT: What?
19 MR. MARTIN: I don't think they can touch that.
20 THE COURT: I didn't know there was any -- well, I'm
21 not going to make a comment.
22 MR. BOONE: Well, sir, if you could call Mr. Martin,
23 at least give him a figure.
24 A All right, sir, I believe I can do that.
25 THE COURT: He wants the figure and the date/^{that}it was
paid, is that correct?

1 MR. BOONE: That's what I'd like, apparently he can't
2 get the date.
3 THE COURT: Well, call --
4 MR. BOONE: See, that's -- I would very much like to
5 know the date --
6 THE COURT: Well if he can get the figures, that's all
7 he can testify to if he came back, so there
8 would be no need for him to come back.
9 Right?
10 MR. BOONE: Right. Then we would have to get somebody
11 else from DGSC to tell what date it was
12 paid on.
13 THE COURT: Well, I'll leave that up to you all.
14 MR. BOONE: Well let me ask a question --
15 THE COURT: Would you get that figure and phone it to
16 Mr. Martin, please, sir?
17 A Yes, sir, I believe I can.
18 THE COURT: All right.
19 MR. BOONE: Can you give any name of ~~any~~ (a) out of
20 the person who would have the date that
21 check would be paid?
22 A I may be able to do that too, I'll have to check with my
23 civilian payroll section, sir, to see if they can provide
24 that information. We can try to do that for you.
25 MR. BOONE: You've been most helpful. Thank you so

* * *

Pages 330-331 of Volume II are not included. It covers discussion between Court and counsel.

* * *

1 newspaper or other periodical.
2
3 Mr. Martin and Mr. Boone, do you all have
4 any questions of the jury?
5 MR. MARTIN: I don't have any, Your Honor.
6 MR. BOONE: Not for defense.
7 THE COURT: Call your first witness, sir.
8 (Before calling witness, Mr. Martin
9 offers DMV records on Mr. Miller's
10 car as Commonwealth's Exhibit 22.
11 Also, offers DMV records on Mr.
12 Bishop's car as Commonwealth's
13 Exhibit 23.) (No objections)
14 THE COURT: I'm going to ask both counsels to look
15 around the courtroom to see if there are
16 any prospective witnesses that you expect
17 to call.
18 MR. BOONE: None for defense, Judge.
19 MR. MARTIN: I see none for the Commonwealth, Judge.
20 THE COURT: All right, sir.
21 MR. MARTIN: Judge, the first witness, her name would
22 be, Ms. Barbara Jones.
23 (Ms. Jones, having been duly sworn
24 on the issue, testified as follows)
25 DIRECT EXAMINATION: Barbara Jones by Mr. Martin
Q M'am, would you please face the ladies and gentlemen of

- 1 the jury and tell them your name.
- 2 A My name is Barbara Jones.
- 3 Q And where are you employed, Ms. Jones?
- 4 A I'm employed at Bellwood Federal Credit Union.
- 5 Q Where is that located?
- 6 A On post at DGSC.
- 7 Q On what?
- 8 A Post. On base.
- 9 Q DGSC?
- 10 A Um-huh.
- 11 Q Okay, down at -- on Jeff Davis Hwy.?
- 12 A Right.
- 13 Q Is that correct?
- 14 A Right .
- 15 Q And do you have a particular building in which the credit
- 16 union is located.
- 17 A It's building 30, the first building in the main gate, I
- 18 really don't know the number.
- 19 Q Has it got a name or anything like that?
- 20 A Myers Building.
- 21 Q Myers Building, okay. And is it close to the main gate?
- 22 A Very close. The first building on your right as you come
- 23 through the gate.
- 24 Q And what is your position there, M'am?
- 25 A I'm the collection manager.

- 1 Q How long have you been so employed?
- 2 A Since September of last year.
- 3 Q September 1981?
- 4 A Right.
- 5 Q And what did you do prior to that, M'am?
- 6 A I worked at Financial Saving and Loan in Newport News, VA.
- 7 Q What type of work did you do there?
- 8 A Collections.
- 9 Q Okay. Now, do you have with you certain records, uh, from
- 10 the credit union in reference to Mr. Tyrone Bishop?
- 11 A Yes, sir, I do.
- 12 Q Did he have an account with you there at the credit union?
- 13 A Yes, sir, he did.
- 14 Q All right. Would you take out the records that you do have
- 15 there. Does he have an account number?
- 16 A Yes, sir. The basic account number is 11619.
- 17 Q Okay.
- 18 THE COURT: 11619?
- 19 A Yes, sir.
- 20 Q And do you have an address for him?
- 21 A Uh, our address on file is, 2306 Fairmount Avenue in
- 22 Richmond.
- 23 Q Now, does your file reflect when he joined the credit union?
- 24 A Ummm--
- 25 Q When he opene-- when he started his account?

1 A Yes, this one does. Application for membership was
2 submitted and approved, uh, February 25, 1977.

3 Q Now how many accounts, or how many things did he have going
4 with you there at the credit union?

5 A Okay, we have, uh, suffixes under our basic account number
6 there were two loans involved, uh, one fell under the 0
7 suffix and one under the number 1 suffix.

8 Q So there were two loans?

9 A Two loans.

10 Q What was the first one for?

11 A Uh, it was a signature loan, under the 0 suffix for \$2,500.

12 Q And when was that load generated?

13 A The load was taken out July 25, 1978.

14 Q And what -- do you know -- does it indicate what that was
15 for?

16 A The purpose of the loan, to pay insurance and take summer
17 vacation.

18 Q Okay. And the original note, was \$2,500., the original
19 loan amount was \$2,500.00.

20 A Yes, sir. The principle amount financed was \$2,500.00.

21 Q Now, you call it a signature loan, right?

22 A Right.

23 Q What is a signature loan?

24 A There's no collateral.

25 Q No collateral?

1 A No collateral.

2 Q For that, no security?

3 A Just on his signature.

4 Q Okay. And was he suppose to make payments on that?

5 A Yes, sir. It was scheduled for 78 bi-weekly payments of
6 \$39.24. The date of the first payment was August 25, 1978.

7 Q And do you handle it through payroll deduction?

8 A This was, uh, payroll deduction, according to the records.

9 Q Okay. And did Mr. Bishop, in fact, pay on his loan?

10 A Yes, sir, he did up until, um, the last payment received
11 was August of '80.

12 Q And what happened after August of '80, did he make any
13 more payments on it?

14 A No, sir, there's been no more funds received on the loan
15 since that time. There was a principle balance of, um,
16 \$1,308.59, which was assigned to our attorney for suit and
17 judgment, uh, for November 5, 1980 was the date it was
18 received in the attorney's office. He proceeded to try
19 and collect. It was reduced to a judgment on February 3,
20 1981 in Richmond General District Court.

21 Q And what was the total amount of judgment?

22 A The total judgment, including fees, uh, cost, and intrest
23 was \$1,675.39.

24 Q Have you received any payment on the judgment?

25 A No, sir.

1 Q Have you levied on anything yet?

2 A Uh, they are looking for -- we're looking for something
3 to levy on. That was the last report from the attorney's
4 office.

5 Q Does your file indicate that Mr. Bishop had/contacted you -- has
6 at all in any way in reference to the outstanding debt?

7 A Uh, no, sir.

8 Q You said there was a second loan, what was the second loan?

9 A All right, that was a vehicle loan, it was actually taken
10 out prior to the other one. This loan was taken out May
11 5th of 1977. Principle amount leant was \$1,487.70.

12 THE COURT: Excuse me, would you give me those figures
13 again, please?

14 A Certainly. \$4,187.70 to be repaid in a \$104.00 bi-weekly
15 payments, in the amount of \$50.79. Purpose of this loan
16 was to buy a new car.

17 Q And do you have a --

18 A We financed a 1977 Volkswagon.

19 Q Do you have an I.D. number on it?

20 A Yes, sir. It's 1 --

21 MR. BOONE: Your Honor, we'll stipulate it's the same
22 car (unintelligible)--

23 MR. MARTIN: All right, thank you, thank you.

24 Q You're the lean holder on that, is that correct?

25 A Yes, sir, we were.

1 Q All right. And did Mr. Bishop pay on his car?

2 A Yes, sir, he paid on the car until, I believe it was about
3 the same time, August of '80 we received the last payment
4 according to the documentation on record. Um, we proceed-
5 ed to look for the vehicle when the account was in default
6 we couldn't get any payments. Um, the vehicle was located
7 at, um, Hawthorne Volkswagen Subaru on Dabney Road and had
8 been in storage, according to this bill here, August 15th
9 of '80. It was put in for, it says, fire job, total loss.
10 They did not notify us, they had the vehicle until March
11 of '81 when they sent us the bill for storage and towing.

12 Q Did you file any claim in relation, uh, shi-- in relation
13 to that, uh, particular vehicle?

14 A Right, there was no, um, insurance provided by Mr. Bishop.
15 The credit union does have single ~~interest~~ insurance which
16 protects us. They paid, uh, damage claim in the amount of
17 \$1,136.02. We then sold the remains of the vehicle for
18 \$631.00 and after expenses, uh, that left a principle
19 balance of \$232.00.

20 Q And did you take any -- make any efforts to collect the
21 outstanding balance then of \$232.00?

22 A Right, well we sent, um, your usual certified letter of
23 notice of deficiency balance. It was returned, I believe,
24 unclaimed. Um, we than assigned it to our attorney Sept-
25 ember 4, 1981, again to see if he could get some -- generate

1 some repayment on it. That was assigned September 4th,
2 '81. Um, excuse me, June 29th, '81. We received judgment
3 September 4th, '81, in the amount of \$511.18.

4 Q Is that also Richmond General District Court?

5 A Yes, sir, they're both in the same court.

6 Q Have you been able to collect anything on that judgment?

7 A Uh, no, sir, no payments have been received since either
8 loan was assigned to the attorney.

9 Q Any indication in the file that Mr. Bishop has contacted
10 you? Any letters to you, or any inquires, or any thing like
11 that?

12 A No contact whatsoever.

13 Q And when were the last payments on the car?

14 A Uh, August of '80 was the last payments received on either
15 account.

16 Q Now do you ever get loan extensions, for the loan extension?

17 A Um, --

18 Q On either of these?

19 A Yes, sir. Should I show the same -- signature first?

20 Q What, what, the signature loan, what happened on that?
21 What is an extension, by the way?

22 A An extension is when the member needs funds for almost any
23 purpose, a delay in payment, um, could be an emergency
24 came up and he needed to have some cash to pay, or it
25 could be car insurance, taxes, whatever. Um, we do this

1 to help our members. Being a credit union, they own us and
2 we try to work with them when they do have financial dif-
3 ficulties. And this is one method that we do, to delay
4 payments in time of need with the members.

5 Q And was there an extension on the signature loan?

6 A There was one extension. It was granted February 5th, '79.
7 It delayed payment from the February 9th, '79 payment until
8 the April 6th, '79 payment. Which would be approximately
9 four (4) pay periods.

10 Q And due to the extension, was there a new due date on that
11 loan?

12 A Right, we moved the due date --

13 MR. BOONE: Your Honor, at this point, I want to question
14 the relevance of wheter they were loan exten-
15 sions of 1979. I don't mind showing that
16 he owed money, but I'm not certain it's
17 relevant what he owed back in 1979.

18 THE COURT: I can't tell yet, Mr. Boone, so I won't
19 rule on your objection yet.

20 Q What, what, what was the new date on, on the extension?

21 A Okay, we moved the due date to April 6th, '79.

22 Q And did it remain that way? Did it remain that way or were
23 there further extensions?

24 A No, this was the only extension on the, uh, signature loan.

25 Q Okay. On the automobile were there any extensions?

1 THE COURT: I question the relevance of this here now,
2 Mr. Martin.
3 MR. MARTIN: On the -- of the extension?
4 THE COURT: Yes, sir. Back in 1979?
5 MR. MARTIN: Well on the car, Judge --
6 THE COURT: Unless he's ^{got} a series of extensions, I
7 would question it.
8 MR. MARTIN: I think on the car there was an extension
9 that, uh, the date comes right close, I
10 think, to something that's important in the
11 case.
12 THE COURT: All right. Go ahead with that.
13 MR. MARTIN: I believe.
14 Q Was there an extension on the car loan?
15 A There were three (3) extensions on the car loan.
16 Q All right.
17 A December '77, we moved his due date to January 13th.
18 March of '78, moved his due date to April of '78. And an
19 extension along with the signature loan extension, moving
20 the due date to April 6th, '79.
21 Q You don't have a June of 1980, do you?
22 MR. BOONE: I object to leading her.
23 THE COURT: Yep, your leading her.
24 MR. MARTIN: All right. Okay.
25 Q On the --

1 A There were no other extensions on either one, Your Honor.

2 Q Do you have a final due date on the automobile, uh, loan?

3 A Um, November 20th of '81 we charged the loans off, to as
4 allowance for loan loss reserve account. Uh, the due date
5 on the signature loan was June 6, 19 -- June 27, 1980. The
6 car loan was due for September 18, 1981.

7 Q Now, were these loans handled through payroll deductions,
8 both of them?

9 A Yes, they were.

10 Q And what type of deductions were you getting on that, on --
11 for those?

12 A Um, we were receiving \$113.00 bi-weekly. Um, one payment
13 to each loan and the balance to shares.

14 Q And did that stop at a certain point?

15 A Right, but I don't have that information available.

16 MR. MARTIN: Judge, I think that would be all of the
17 questions that I have for this lady.

18 THE COURT: Cross examine, Mr. Boone.

19 CROSS EXAMINATION: Barbara Jones by Mr. Boone

20 Q Are you aware, M'am, that, uh, IRS put a ~~lien~~ on his pay-
21 check back in starting June of 1980?

22 A No, sir.

23 Q You're not aware of that. Are you aware that he's only
24 getting \$50.00 a week? Starting back in June, July of 1980?

25 A No, sir, there's --

1 Q You didn't know that?

2 A No, sir.

3 Q You're not made aware that information through the other
4 personnel, or who ever takes care of putting leans on
5 stuff?

6 A No, sir.

7 Q And your --

8 A The credit union is a separate entity from the base. And
9 we are not privileged to their files, as they are not
10 privileged to ours.

11 Q All right. You had a payroll deduction, which means you
12 would automatically get your money before he would get his
13 paycheck.

14 A Right.

15 Q So, is it fair to say, when you quit getting a payroll
16 deduction in August, somebody else must have been getting
17 the money?

18 A That's correct.

19 THE COURT: Not necessary, because he could have left
20 work.

21 MR. BOONE: Well, --

22 A There could be a number of reasons why we don't put payroll
23 --

24 Q Does your union show him working in August of 1980?

25 A We have no idea.

1 Q You have no idea, your records --

2 A Do not indicate whether he was employed or not.

3 Q Cannot tell whether he was employed in June of 19 --

4 A Uh, uh.

5 Q I ped your pardon.

6 A Our records do not indicate whether he was employed or not.
7 Uh, payroll stops for a number of reasons, could be he was
8 out sick with no leave time; leave without pay; it could
9 be, uh, as you said, Uncle Sam takes priority over ever-
10 body.

11 Q Well that's what I'm getting at, Uncle Sam would take
12 priority over you?

13 A Okay, it could be he just didn't come to work, it could
14 be a number of things.

15 Q You really don't know, do you?

16 A No, sir, and we have no way of finding out, due to the
17 privacy act.

18 Q Now, that -- I'm concerned with May 1981. Um, at that
19 point, what was the status of both loans? Was he behind
20 on both of them?

21 A They were both deli-- well, one had been reduced to a
22 judgment --

23 Q That was the --

24 A An at the attorney's office, the other, the vehicle loan
25 was in process of repossession.

1 Q Okay, and that was the car that was already burned up?

2 A Right.

3 Q So I -- did you auction that off?

4 A Right, we got our insurance claim, our insurance company
5 paid us and then we sold the remains by the bid process
6 and it went to Lawhorns.

7 Q And your records show that the Volkswagen was a total loss?

8 A Right.

9 Q Okay. Do you have any way of knowing when the car burned
10 up?

11 A No, sir, other than the work order that was written up, uh,
12 August 15th of '80.

13 Q That's when you located it, is that right?

14 A Right.

15 Q And that was at Hawthorne Auto Par --

16 A No, we, we were not made aware --

17 Q In March you were made aware --

18 A We ordered the repossession, um, --

19 Q In March?

20 A In February we order the repossession.

21 Q Okay.

22 A And we were notified by phone and received the work order
23 in March.

24 Q And the work order showed it went into Hawthorne/of 1980?
in August

25 A Right.

1 Q Thank you.

2 MR. BOONE: No further questions.

3 THE COURT: May this lady be excused?

4 MR. MARTIN: Yes, she may, Judge.

5 MR. BOONE: Yes, Your Honor.

6 THE COURT: You're excused M'am. You have the right
7 to remain or to leave, whichever you prefer.
8 Thank you very much. Next witness.

9 MR. MARTIN: Cecil Morehead.

10 (Mr. Morehead, having been duly
11 sworn on the issue, testified as
12 follows):

13 DIRECT EXAMINATION: Mr. Morehead by Mr. Martin

14 Q Sir, would you identify yourself by name and occupation,
15 please?

16 A Cecil L. Morehead, forensic scientist in the field of
17 firearms identification.

18 Q And who do you work for, sir?

19 A Commonwealth of Virginia.

20 Q Where is the location of your office?

21 A Bureau Forensic Science, Richmond, Virginia

22 Q What do you do as a forensic scientist with firearms, sir?

23 A I examine firearms and fire/^{arm}components that are fired bullets, fired
24 cartridge, cases and the firearms themselves. And for
25 various police agencies throughout the Commonwealth of VA.

1 Q What type of experience do you have doing this?

2 MR. BOONE: Your Honor, at this point the defense will
3 stipulate that Mr. Morehead is extensively
4 and eminently qualified in the science
5 of ballistics examination among other things
6 We would certainly --

7 THE COURT: Thank you very much. He's qualified as
8 an expert, sir.

9 Q Mr. Morehead, how long you've been working in this type of
10 type of work?

11 A Eighteen years.

12 Q And how long for Consolidated Lab?

13 A Since October of 1974.

14 Q Now, in the course of your duties, sir, did you have
15 occasion to recieve, uh, certain clothing, uh, back in
16 June of '81 from Mr. Dr. William Massello, Medical Examiner
17 for the Commonwealth of Virginia?

18 A I did, yes.

19 MR. MARTIN: Judge, if the Sheriff would please show
20 Mr. Morehead the bag marked Commonwealth's
21 No. 5 .

22 Q Uh, I don't know if you can actually see the items in
23 there, Mr. Morehead. I --

24 MR. MARTIN: I'm somewhat reluctant to have him open
25 it, Judge, because of the --

- 1 MR. BOONE: We'll stipulate that the clothes are in
2 there and I think he can (unintelligible).
3 MR. MARTIN: There's a certain odor to them.
4 THE COURT: All right.
5 Q All right, did you perform any type of examinations on
6 those clo-- on their clothing or the, particular^{ly}/the shirt?
7 A I did. When the clothing was submitted it was requested
8 that I examine the holes in the shirt for a gun shot and
9 gun powder residues. Uh, I conducted examinations, both
10 microscopically and chemically on the questioned areas of
11 the shirt. And the chemical examination on the shirt re-
12 vealed that there was gun shot residue encompassing the
13 hole in the right sleeve and shoulder area of the shirt.
14 Q Now, did you reduce these findings to a report?
15 A I did, yes.
16 Q I'm going to show you a document, right here.
17 MR. BOONE: No. objection.
18 Q Is that your report on the clothing, sir?
19 A This is.
20 Q The copy of the test.
21 A Yes.
22 Q All right.
23 A Right.
24 MR. MARTIN: Judge, I would offer that as number 24, for
25 the Commonwealth.

1 THE COURT: Commonwealth's Exhibit 24. All right.

2 Q Mr. Morehead, when you examine them microscopically and
3 chemically, what are you looking for in a shirt?

4 A Well, when a firearm is fired, there are gases which exit
5 the muzzle end of the firearm. And along with the gases
6 is flame and there is also unburned and partially burned gun powder
7 particles. Now, this residue will be deposited on a
8 target within a given distance from the firearm. This
9 particular case, as I testified the shirt did have gun
10 shot residues present, uh, on the sleeve area. Now, this
11 is indicative. Uh, the muzzle end of a firearm having
12 been within the maximum muzzle to garment distance at
13 which this residue would be deposited.

14 Q Now, can you tell what that would be without have the gun
15 or knowing what caliber or anything it was?

16 A Well, without knowing the caliber it's difficult to give
17 a specific answer. A general answer, uh, in this particular
18 case would be within 36 inches of the sleeve. That --
19 in other words, I'm saying the muzzle end of the firearm,
20 the forward end of the firearm, would have been somewhere
21 within 36 inches of this area of the shirt when it was
22 fired.

23 Q Okay.

24 MR. MARTIN: Sheriff, would you please show Mr. Morehead
25 Commonwealth's No. 13.

1 Q Do you recognize those items, sir?

2 A I do, yes.

3 Q And what do they occur to be to you?

4 A Commonwealth's Exhibit 13, are two plastic bags containing
5 two plain lead round nose bullets which have been fired.
6 Both of the bullets are .38 or a 357 caliber.

7 Q And who did you receive those from, sir?

8 A The two bullets were submitted to me by Detective Priddy,
9 Henrico Police Department.

10 Q And when did you get those, sir?

11 A I received the two bullets on 23 of June of 1982.

12 Q And was the firearm also submitted at that time?

13 A There was, yes.

14 Q And what type of firearm was that?

15 A The firearm was submitted was a caliber .38 special Rome
16 brand revolver.

17 Q All right. And did you perform an examination or a compar-
18 ison, uh, of the bullets to the gun that was submitted?

19 A I did.

20 Q And did you reduce that report to writing as well?

21 A I did, yes.

22 MR. MARTIN: Judge, I show Mr. Morehead this particular
23 document, which I'm offering as No. 25.

24 MR. BOONE: No objection.

25 A This is a report prepared by me at the laboratory.

1 In reference to the two bullets, Commonwealth's Exhibit 13
2 and a revolver which was submitted.

3 MR. MARTIN: All right, I would offer that as No. 25 ,
4 Your Honor.

5 THE COURT: Commonwealth Exhibit No. 25.

6 Q What sort of test did you run on the bullets in the gun,
7 Mr. Morehead? That was submitted to you?

8 A The first examination I conducted on the two bullets sub-
9 mitted was to microscopically examine the one in conjunction
10 with the other to determine if they had been fired through
11 the same firearm. My examination disclosed that both
12 bullets had been fired through the same firearm. The
13 firearm which was used to fire these bullets had general
14 rifling characteristics of six lands and groves and in-
15 clines to the right. Now the -- I then test my revolver
16 microscopically examine the test fired bullets from the
17 revolver in conjunction with the two evidence bullets
18 submitted. I've based upon this examination, I'd con-
19 cluded that the two bullets had not been fired through the
20 submitted revolver.

21 Q Were they Smith and Western, .38 caliber? Do you recall what
22 kind it was?

23 A The revolver submitted was a Rome.

24 Q Rome. Okay. We -- were you able to tell if these bullet
25 were fired from a hand gun?

1 A The two bullets were fired from a revolver type firearm,
2 yes.

3 Q Are you able to tell us what type of revolver, what, what
4 brands or makes would possibly produce these six lands
5 and grooves? And, by the way, before you answer that, can
6 you tell them what the lands and grooves are?

7 A Lands and grooves are spiral cups placed in a rifle barrel
8 and what they are for is to, once the bullet is fired
9 through the barrel it places a twist on the bullet as it
10 exits the barrel and helps the bullet along in its path of
11 trajectory to the target. Uh, all rifle firearms, uh,
12 that is handguns, rifles, uh, handguns including revolvers,
13 pistols, and rifles, high powered rifles, low caliber,
14 .22 caliber rifles are generally rifled and they can have
15 and number of rifling in them from 2 to 24. Uh, this,
16 these particular bullets were fired through one which is
17 six lands and grooves to the right. Which is quite common
18 in the United States, this type of rifling. However, the
19 measurements on the -- this -- the land impressions and
20 grooves on these particular bullets are consistent with
21 having been fired through a Taurus type revolver, a Rossi
22 type revolver, an Astra, or a Garcia type revolver. These
23 are the most common encountered at the laboratory with
24 this general type of characteristics.

25 Q There could be others, as well?

1 A Ch, most definitely. Yes.

2 Q All right. In the event/^{that}you were to receive a, uh, fire-
3 arm, uh, do you believe you have enough -- do you have
4 enough identification on the bullets to make a match if
5 you get the right firearm?

6 A In my opinion, yes.

7 Q All right. You have not had that firearm up to this point
8 though have you?

9 A No, I have not.

10 O All right.

11 MR. MARTIN: I have no further question for Mr. Moorehead
12 at this time.

13 THE COURT: Cross.

14 CROSS EXAMINATION: Mr. Moorehead by Mr. Boone

15 Q Mr. Moorehead, um, through your employment with Consolidated
16 Labs do you have occasion to receive firearms on almost a
17 daily basis to compare the bullets or whatever?

18 A Yes, I do.

19 Q A lot of these firearms come from Henrico County?

20 A Well some of them, I couldn't give a specific number.

21 Q So you have examined weapons for Henrico County other than
22 this one? In this particular case?

23 A In this particular case?

24 Q You examined a -- a reports just been introduced by the
25 Commonwealth as to this Rome revolver that you, uh, compared

1 to some bullets in this case that you're testifying on
2 today. Is that correct?

3 A Yes. Correct.

4 Q And you examined that firearm, did you not?

5 A I did, yes.

6 Q Okay. And that was submitted to you by Investi^{gator} Priddy,
7 I believe?

8 A That is correct.

9 Q Okay. When a firearm is submitted to you, by the time it
10 makes -- well do you personally, do you really know whether
11 it belongs to Henrico County or Chesterfield, or Richmond,
12 or what, or do you just examine the firearm and prepare
13 your course?

14 A No. Along with the firearm there's a chain of custody
15 that comes along with the submitting, whoever submitted,
16 whatever department, plus the individual signs it who
17 relinquishes it to the individual at the laboratory. And,
18 of course, a report goes back to the submitting department.

19 A Well, specifically, sir, would you happen to have any
20 records as to how many .38's or 357's have been submitted
21 to your lab, in Henrico County, for examination from May
22 20, 1981 through to date? Would you have any way of
23 answering that question?

24 MR. MARTIN: I'm not sure that's a relevant question,
25 Judge.

1 THE COURT: Well, it could be.

2 A Uh, of course, I would have this information available to
3 me. I do not have it here. No.

4 Q Could you say whether it was more than one? And if you
5 don't -- let me rephrase the question. Between May 20,
6 1981 and today, the jury now knows about one .33 caliber
7 pistol has been submitted to you for examination by Henrico
8 County. That's the one you just testified about, the Rome.
9 Okay?

10 A Correct.

11 Q Between that period of time can you testify as to whether
12 Henrico County has submitted any other .38 caliber hand
13 guns or any 357 hand guns. In any other case, not this
14 case, but any case? For examination?

15 A Uh, not with any certainty I couldn't. No.

16 Q The guns that you have referred to earlier, the Taurus,
17 Astra, Garcia, and Rossi, these are not exactly top of the
18 line firearms, are they?

19 A No, they are not.

20 Q Would you consider these to be Saturday night specials, or
21 the whatever, the cheap 38's?

22 A Well I would consider them, some of them, lesser expensive
23 firearms available on the market.

24 Q And it could -- these two bullets that have been introduced
25 that, uh, were given to you by Dr. Massello, these could

1 have been fired by 357 magnum. Could they not?

2 A That is correct, yes.

3 Q Can you explain to the jury why you can't tell whether it
4 was a .38 or 357?

5 A A .38 special and a 357 magnum caliber, both caliber
6 designations are both firearms fire the same caliber of
7 bullet, the bullet diameter is actually 3, 5, 7. The only
8 difference between the two caliber designation is the
9 cartridge case. A .38 special has a somewhat shorter cart-
10 ridge case than the 357 magnum. Now a 357 revolver, chamb-
11 ered to fire a 357 magnum cartridge has the capability of
12 firing both cartridges. It can fire a 357 magnum or it
13 can fire the 38 special, the shorter cartridge. The 38
14 special is limited to the 38 special cartridge.

15 Q Do you remember back when this crime occurred around May
16 20, 1981. Do you remember Mr. Priddy, from Henrico Police,
17 coming to you and asking you if you could give an idea what
18 kind of firearm was used in this crime?

19 A I quite often do this, but I don't -- I can't state -- I
20 can't recall, no.

21 Q Is it just as likely a 357 was used in this crime as a 38?

22 A Quite possible, yes sir.

23 Q Has any 357 ever been turned over to you for examination
24 from Henrico County?

25 A On this particular case?

1 Q On this particular case?

2 A No.

3 Q Thank you.

4 MR. BOONE: I have no further questions.

5 THE COURT: Anything else, Mr. Commonwealth?

6 MR. MARTIN: No, sir. He may be excused, thank him for
7 coming.

8 THE COURT: Mr. Boone?

9 MR. BOONE: No, sir.

10 THE COURT: You're excused, Mr. Moorehead. You may
11 remain or leave, whichever you prefer.
12 Thank you very much.

13 MR. MARTIN: Walter Forst.

14 (Mr. Forst, having been duly sworn
15 on the issue, testified as follows):

16 DIRECT EXAMINATION: Mr. Forst by Mr. Martin

17 Q Sir, would you tell the jury your name?

18 A Walter E. Forst.

19 Q Mr. Forst, how old are you, sir?

20 A 30 -- 43.

21 Q By whom are you employed, Mr. Forst?

22 A I'm employed by the Commonwealth of Virginia.

23 Q In what capacity, sir?

24 A I'm a latent fingerprint examiner for the Consolidated
25 Laboratory Services.

1 Q Located down here, in Richmond?

2 A That's right.

3 Q And that would commonly be referred to as the crime lab?

4 A That's correct.

5 Q What type of official duties do you have down there, sir,
6 in your capacity as a fingerprint examiner?

7 A I am supervisor of the latent fingerprint section.

8 Q How long have you been working for the lab?

9 MR. BOONE: Your Honor, at this point the defense will
10 stipulate that Mr. Forst is intimately
11 qualified as a fingerprint expert.

12 THE COURT: Thank you, sir. He's qualified as an
13 expert, Mr. Commonwealth.

14 MR. MARTIN: Judge, I appreciate the stipulation. I'd
15 just like him to tell a little bit of the
16 jury how --

17 THE COURT: You're entitled to that.

18 MR. MARTIN: How he does what he does.

19 Q Uh, what type of things do you do, Mr. Forst, with finger-
20 prints? Fingerprint examinations?

21 A Basically, I process items of evidence for latent finger-
22 prints. And then compare latent fingerprints that I have,
23 myself, processed and lifted -- or latent fingerprints
24 that crime scene officers has processed. or, and lifted
25 and submitted to me. I take those latent fingerprints and

1 compare them to known fingerprints.

2 Q What is -- and how long have you been doing this type of
3 work, sir?

4 A I've been in fingerprint work for 22 years.

5 Q And how long at the lab here in Virginia, Richmond, Virginia?

6 A Eight years.

7 Q Can you tell us what an inked fingerprint is?

8 A Yes. An inked fingerprint is a near perfect reproduction
9 or image of the ~~ridged~~ detail that appears on the palm or
10 side of the hands and fingers. You take a thin coat of
11 printers ink and very carefully apply it to the fingers
12 and then roll it on to a fingerprint card. Usually a
13 smooth blank surface. Therefore, getting your reproduction
14 of the fingerprint.

15 Q Do you commonly see these on police fingerprint cards?

16 inked
16 These are/-- these are inked prints, is that correct?

17 A That's correct.

18 Q What is a latent fingerprint?

19 A A latent fingerprint is a fingerprint that is left by
20 chance. In other words, in touching something or picking
21 up an object, or touching something. Due to the sweat and
22 perspiration that you have on your hands or the oils and
23 all that you may get from your face or your hair or touching
24 something, then you would touch an item and leave a latent
25 print. Now most of the time -- most cases, that latent

1 print is invisible, not always and must be processed either
2 with powder or chemicals, in order to raise that latent
3 print. If it's processed with powder than in most cases
4 the lift -- the latent is lifted then with a fingerprint
5 lifting tape, put on a white background card and submitted
6 that way as a latent fingerprint.

7 Q Are the latents usually as clear as the ink?

8 A Not always, no.

9 Q And how are these compared the ink and the latent, sir?

10 A The two are compared by comparing the individual characteristics
11 that are alike on each. And in the same relative position
12 to each other. And with the same number of intervening
13 ridges .

14 Q What would be the basic factors in the use of fingerprints
15 as a means of identification?

16 A Two of the basic factors are that the ridge detail that
17 forms on your, uh, fingers and hands and feet are formed
18 at about the fourth month of pregnancy. Literally
19 chan-- staying unchanged until after death. And when I
20 mean unchanged, I mean by -- they may get larger, but the
21 individual characteristics and all that are there will not
22 change. Also, no two fingerprints of the same person or
23 two fingerprints of different persons have ever been found
24 to be the same.

25 MR. MARTIN: Sherfff, I'd ask if you would show Mr. Forst

1 Commonwealth's No. 11 and No. 10.

2 Q Would you take a look at Commonwealth's No. 11, Mr. Forst,
3 and tell us if you've ever seen that one before.

4 A Yes.

5 Q Okay. How did you come in contact with this particular,
6 these --

7 A This fingerprint was, uh, fingerprint card was submitted
8 to me in my lab, in Richmond.

9 Q And that was -- was that from Detective Priddy, Henrico
10 Police?

11 A Yes, the print was submitted by Detective Priddy.

12 Q And do you know when that was? When that came to you?

13 A Uh, that was on -- this particular card here was, uh, on,
14 uh, August 27, 1981.

15 Q Would you take a look at number 10? Item No. 10 for the
16 Commonwealth. Did you also receive those as well, at the
17 lab?

18 A That is correct.

19 Q By the same person, Detective Priddy of Henrico?

20 A That is correct.

21 Q And was that also on August 27, 1981?

22 A Yes.

23 Q Did you have occasion to examine those latents that are
24 shown there, identified as Commonwealth's No. 10?

25 A Yes, I did.

1 Q What did your examination of the latents reveal? Do you
2 have any type of photographs of those, by the way?

3 A Yes. My examination of the cards that were submitted to
4 me were that, on two of the cards there does appear sufficient
5 ridge detail, in order for me to be able to make a finger-
6 print comparison or examination. One of the cards which
7 is No. 9 has ridge detail that is that of the palm print.
8 The card that is numbered three, has ridge detail that is
9 that of a fingerprint.

10 Q Now you said you had some type of photographs. Is that
11 correct?

12 A That's correct.

13 Q Would you show us what you have there?

14 A Your Honor, I made a photograph of each of the cards.

15 Q All right.

16 A I have those.

17 Q Do you have a blow-up of anything?

18 A Yes, I do.

19 Q What is the blow-up?

Q No. 3?

20 A The blow-up is the blow-up of the fingerprint. / That appears
21 on card number three.

22 Q Okay.

23 A And also, the fingerprint that appears on the fingerprint
24 card.

25 MR. BOONE: Your Honor, we will stipulate that finger-

1 print card No. 3 is that of the Defendant,
2 Tyrone Bishop. We're not questioning that
3 at all.

4 THE COURT: All right. (Unintelligible)

5 Q All right. Could I see the blow-up that you had, had made
6 there, Mr. Forst, please?

7 MR. MARTIN: Judge, just so they'll know what he's talk-
8 ing about, I mean the ridge detail, I would
9 like him just to show that to the jury, if
10 you would, please.

11 THE COURT: All right. Want him to come in front of
12 the jury?

13 MR. MARTIN: Well, Mr. Forst, if you would show them.--
14 Show the ladies and gentlemen of the jury
15 what, uh, what those photographs revealed.

16 A O.K. this may be a little difficult for some of you to see
17 but if you need some more explanation (unintelligible) .
18 This is a photograph of a fingerprint from ^{the} / fingerprint
19 card. In other words this is the lifted fingerprint (un-
20 intelligible) This then, of course, is the photograph of
21 the latent print (unintelligible) fingerprint of the card.
22 Now on first appearance you see that there is no ridge
23 detail on the upper portion of this print wheel, on this
24 print wheel, just a brief explanation for that is, in explaining
25 the inked fingerprint to you, I'd say that the ink was distributed

1 on the ends of fingers and carefully rolled out. Now when
2 these were rolled out the finger was layed down flatly.
3 Therefore giving this portion of the finger which is the
4 portion that is normally related to the classification.
5 Naturally (unintelligible) for latent identification also.
6 There is more detail/^{ridge detail,} on the fingers, on the tips, on the
7 tip end of the finger that normally when the fingerprint
8 was (unintelligible) it was not recorded. And from the
9 map that is the case here. Now the latent print is the
10 fingerprint that (unintelligible) --

11 (Mr. Forst continues to explain
12 the charts to the members of the
13 jury.) (Mr. Forst, not being station
14 at a microphone makes his testimony,
15 at various points, unintelligible).

16 MR. MARTIN: Judge, I would offer this (unintelligible)

17 --

18 THE COURT: Any objections, Mr. Boone?

19 MR. BOONE: No, Your Honor.

20 THE COURT: Number 26.

21 Q Sir, did you also reduce your findings to a written report
22 as well?

23 A That's correct.

24 MR. MARTIN: Judge, I would offer that as number 27 for
25 the Commonwealth.

1 MR. BOONE: No objections.

2 THE COURT: Number 27.

3 Q Mr. Forst, the latent print number three, that you say you
4 were able to make the comparison on with the inked finger-
5 print card, were you able to tell which finger that the
6 latent No. 3 was?

7 A Yes.

8 Q Which finger was that, sir?

9 A It was the right thumb.

10 Q And what was, basically what was the result of your compar-
11 ison between the latent print, that you just talked about,
12 and the inked print on Mr. Tyrone Bishop?

13 A The end result of my examination was that the latent print
14 that appeared on that card, number 3, and the right thumb
15 that appears on the fingerprint card were made by the same
16 person.

17 MR. MARTIN: Sheriff, I'd ask if you show him No. 11
18 for the Commonwealth and No. 12 for the
19 Commonwealth. And, Sheriff, if you would
20 take back the latents. Two fingerprint
21 cards, you've got one --

22 THE COURT: I think, hasn't he got number eleven up
23 here.

24 MR. BOONE: Your Honor, we'll stipulate that No. 11 and
25 No. 12 are fingerprint cards made from the

1 same individual, Tyrone Bishop.

2 THE COURT: Thank you.

3 Q Mr. Forst, I -- those two cards there you've heard Mr.
4 Boone's stipulation, but you did analyze them, examine
5 them, did you not? ^{An} /compare them?

6 A Yes.

7 Q Okay, and you also reduced that to writing in your report.
8 Is that correct?

9 A That's correct.

10 Q And I believe your report is dated May 27, 1982?

11 A That's correct.

12 MR. MARTIN: I'd offer that as No. 28, for the Common-
13 wealth, Judge.

14 MR. BOONE: No objections.

15 THE COURT: Commonwealth's Exhibit 28.

16 MR. MARTIN: Sheriff, would you please give Mr. Forst
17 the two cards, 11 & 12 as well as Common-
18 wealth's No. 8. I believe it's a manila
19 envelope.

20 Q Again, Mr. Forst, I believe the two cards/^{we'd} submitted to
21 you in July 1982. And would you take a look in Common -
22 wealth's No. 8, in that envelope. Was that envelope
23 submitted to you as well?

24 A Yes.

25 Q Was that by Detective Mise?

1 A That's correct.

2 Q All right. And did you get that on July 13, 1982?

3 A That's correct.

4 Q Those items? And did you perform an examination on those
5 papers at that time at his request?

6 A I did.

7 Q And did you reduce that report to writing?

8 A Yes, I did.

9 Q And that's dated July 19, 1982?

10 A That's correct.

11 MR. MARTIN: Judge, I would offer that as No. 29, for
12 the Commonwealth.

13 MR. BOONE: No objections.

14 THE COURT: Commonwealth's Exhibit No. 29.

15 Q Now, were you able to raise any latents on those papers?

16 A Yes.

17 Q And how many were you able to raise?

18 A I raised two latent fingerprints that would be identifiable
19 for identification purposes.

20 Q Did you compare them with the prints of Mr. Tyrone Bishop?

21 A I did.

22 Q And what was your conclusion on that?

23 A The two fingerprints that I raised on the papers were not
24 fingerprints of Bishop.

25 Q Okay. Do you, yourself, know Mr. Tyrone Bishop, Mr. Forst?

1 A No, I do not.

2 Q Do not know the defendant, in this case?

3 A No.

4 Q The/^{man}in the red suit here or the green suit?

5 A No.

6 Q And that would be the extent of the fingerprint examinations
7 that you have made. Is that correct?

8 A That's correct.

9 Q All right.

10 MR. MARTIN: That would be all the question I have for
11 him, Judge.

12 THE COURT: Cross.

13 CROSS EXAMINATION: Mr. Forst by Mr. Boone

14 Q Mr. Forst, while we're on that Sears bill, may I see that,
15 please? That you raised the prints on, the latent prints
16 on. This is a, uh, this has already been introduced as
17 a paper that was found in the car of the victim. And this
18 Sears bill is the piece of paper that you just spoke of
19 that you dusted in, uh, July, of this year?

20 A That's correct.

21 Q This month?

22 A That's correct.

23 Q In fact, just last week?

24 A That's correct.

25 Q All right. Had this bill already been dusted before you

1 got it?

2 A Uh, the bill, when I got it did not appear to have been
3 processed in any manner.

4 Q And were you then able to uphold that this had been pro-
5 cess for fingerprint identification?

6 A Well without running a chemical analysis of the paper, no.
7 But on visible examination when I received it it was my
8 opinion that it had not been processed.

9 Q And that's your opinion as a fingerprint expert?

10 A That's correct.

11 Q And when you dusted it, you actually developed two latent
12 prints that could be compared to a suspect or to a known
13 print?

14 A Yes, I process the paper with a chemical and did raise the
15 two prints that could be used for identification purposes.

16 Q And as a fingerprint expert, are you telling the jury that
17 there is no doubt in your mind that the two prints that
18 you got off the Sears bill do not belong to Tyrone Bishop?

19 A They do not.

20 MR. BOONE: Thank you, Sheriff.

21 Q Were any plastic credit cards of any sort submitted to you
22 for fingerprint dusting?

23 A I -- no, there were no credit cards.

24 Q Were there any plastic cards submitted to you?

25 A Uh, --

1 Q Such as the type of plastic you would have a credit card
2 made out of?

3 A There may have been one in, in -- I'm not -- I don't recall
4 what all was in there --

5 Q Well can you check the envelope than and see?

6 A I'll check and see. No, all the cards that were submitted
7 to me then are in this envelope and are of paper product
8 in which I would have used a chemical to --

9 Q So you're saying there are no plastic cards in that envelope
10 submitted to you?

11 A Well if this is what was submitted to me, all that was in
12 this envelope, yes.

13 Q Okay. What would hold a fingerprint better, a piece of
14 paper or a plastic, uh, piece of plastic like a plastic
15 credit card?

16 A Well that depends on the conditions in which it's left and
17 also, one that, uh, the conditions that it has been, where
18 it's been, uh, ordinarily a piece of paper will retain the
19 latent print longer.

20 Q You're saying it will retain it longer?

21 A Yes.

22 Q All right. My question is which surface is -- would a
23 print appear more readily, a piece of paper or a piece
24 of plastic?

25 A That, uh, I really can't make a judgment on that. It's --

1 it depends on the moisture on the fingers, uh, the surface
2 that you touch. You can leave one on a, uh, just as good
3 a print on paper as you could on a plastic surface.

4 Q All right. Isn't it a fact that you can leave fingerprints
5 on skin, can't you?

6 A That's correct.

7 Q Did you dust the body of Raymond Miller for fingerprints?

8 A No, I didn't.

9 Q Sir, is there -- this is a long question. I want to ask
10 you if you, if it's possible to tell the life of a finger-
11 print. And by that question, I mean would a fingerprint
12 tend to live longer or exist longer in a closed environ-
13 ment protected from the weather, the outside rain, and
14 snow, and things of that sort? Or would it tend to live
15 longer in the outside elements? Or can you answer that?

16 A Yes. There's no way that I can, say we, fingerprint, uh,
17 people that work in their cell can come up with a definite
18 age of a latent print. It all depends on the conditions
19 that exist, the, uh, moisture, the oils, whatever were on
20 the finger when the print was left. Under controled
21 conditions, whether that be in an environment of, uh, out
22 of the sunlight or air or wherever, that under controlled
23 conditions theoretically a fingerprint could last forever.

24 Q All right. There are two prints that were lifted from the
25 victim's car, in this case, which you examined. Finger-

1 print number, card number three and number nine. You
2 testified No. 3 was a fingerprint, No. 9 was a palm print.
3 The evidence shows the fingerprint came from inside the
4 automobile with the windows rolled up. The evidence shows
5 the palm print came from the outside surface of the automo-
6 bile an evidence furthers shows that it had been raining.
7 Would the weather have effected the palm print on the out-
8 side of the car, could that palm print have been there for
9 a year?

10 A It's not very likely, but it -- than again it could have.

11 Q But it's not likely?

12 A That's correct.

13 Q Mr. Forst, do you, yourself, ever respond to a crime scene
14 to lift latents, or do you merely examine them? And I
15 don't mean merely, but do you only examine ^{the} latents once
16 they have been submitted to your lab?

17 A Only after they have been submitted to the lab.

18 Q So in this case you did not personally go to the scene of
19 the crime?

20 A No, I did not.

21 Q Now I believe it's your testimony that the palm print
22 submitted on card No. 9 that was found on the outside
23 surface of the automobile, does not belong to Tyrone Bishop

24 A That's correct.

25 MR. BOONE: I have no further questions.

1 THE COURT: Mr. Forst, uh, in looking at fingerprint,
2 in general, how many points or how many
3 similarities do you have to find when you
4 are making your examination that would
5 convince you that the prints either match
6 or that they don't match?

7 A There is no set number of characteristics in order to be
8 able to identify a latent fingerprint with a known print.
9 It's more and less up to the individual examiner. And,
10 also, taking into consideration the unusual fingerprint
11 the -- or the latent print you may be working with at the
12 time. And when comparing and mak-- and comparing these
13 characteristics then there reaches a time that you, in
14 your mind, come to the conclusion that, yes, these two
15 prints were made by the same person. And we do not have
16 a set number of characteristics, a magic number that we
17 can reach before we do make that decision.

18 THE COURT: Do you have a general number than?

19 A Uh, there's a general consensus among some examiners that
20 anywhere, uh, around eight (8) or nine (9) characteristics
21 would be sufficient.

22 THE COURT: Okay. Thank you. Mr. Martin you have
23 any other questions?

24 MR. MARTIN: Yes, sir.

25 REDIRECT EXAMINATION: Mr. Forst by Mr. Martin

1 Q In the photograph that was introduced here, Mr. Forst, --
2 (Sheriff, would you just open that up for a minute.)

3 THE COURT: Commonwealth's Exhibit No. 26.

4 MR. MARTIN: 26, yes.

5 Q How many points of identification did you mark on that
6 particular one, right there?

7 A Well, I marked -- marked twelve (12).

8 Q Were there more than that?

9 A Yes.

10 Q You just marked twelve for court purposes?

11 A That's correct.

12 Q Okay. And are there a variety of ways of processing, uh,
13 say paper or plastic for latent prints? What type of ways
14 would that be done? What type of solutions or chemicals
15 or powders or what type of things can you use?

16 A Ordinarily, ^a/plastic, ^a/hard plastic surface, uh, would be
17 processed with a variety of powders. Depending upon the
18 person that was doing the processing whichever he would
19 prefer at the time. Paper and cardboard, uh, raw wood that
20 has not been shellacked and things like this. Uh, normally
21 our process with the chemical called ~~anhydron~~ anhydron and that
22 is either sprayed or dipped or painted on to the paper or
23 cardboard or whatever your processing at the time. Letting
24 it dry and then adding either a little steam and a little
25 heat. We use a steam iron to steam over the item in which

1 we're processing at the time and then, therefore, the
2 anhydron with react with the amino acids that appear in
3 the sweat and perspiration. And will give you a reaction
4 and develop a latent print if there is one present.

5 Q And when you, when you steam it, you steam it and, um,
6 you raise some latents, do you get the discoloration that's
7 marked, noted on those particular papers?

8 A That's correct.

9 MR. MARTIN: That's all I have, Judge.

10 THE COURT: Mr. Boone?

11 RECROSS EXAMINATION: Mr. Forst by Mr. Boone

12 Q Sir, when you received the Sears bill, did it have those
13 types of discolorations on it? Or is that from your finger-
14 print? Your fingerprinter?

15 A No, it did not have any marks on it when I received it.

16 Q Thank you, sir.

17 THE COURT: May this witness be excused?

18 MR. MARTIN; Judge, I'm going to ask that he not be
19 excused just yet. Subject to recall on
20 that other (unintelligible) -

21 THE COURT: All right, sir, I'll ask that you go out
22 in the lobby and have a seat and remain
23 there until your called again, if you are.
24 And I'll ask you not to discuss this case
25 with anyone, please. And the Court will

1 take a five minute recess.

2 (Recess) (Jury Out)
3 that after a recess

4 THE COURT: We'll let the record show/the accused is
5 present in person along with his Defense
6 Counsel, Mr. Boone. Commonwealth's Attorneys'
7 Office represented by Mr. Martin. Ask the
8 Jury to come in.

9 (Jury In)
10 THE COURT: We'll let the record show the jury returned
11 at 11:05. The Court has checked the jury
12 and finds that all jury members are present
13 and accounted for. Next witness, please.

14 MR. MARTIN: Next witness, Judge, would be Det. Mise.
15 (Mr. Mise, having been duly sworn
16 on the issue, testified as follows):

17 DIRECT EXAMINATION: Mr. Mise by Mr. Martin

18 Q Sir, would you face the ladies and gentlemen of the jury
19 and tell them your name, please.

20 A Ross H. Mise.

21 Q What do you do, sir?

22 A I'm an investigator for the County of Henrico Police Dept.

23 Q How long have you been employed as a police officer, sir?

24 A Approximately, 18 years.

25 Q And how long as an investigator?

A Approximately, seven (7) years.

1 Q And in the investigative section of the police department
2 do you handle a certain type of crime?

3 A Yes, I do. Crimes against persons.

4 Q And what type of crimes are those?

5 A That is rape, homicide, mostly.

6 Q Did you have occasion, sir, to become involved in the
7 investigation into the alleged homicide of Mr. Raymond
8 Anthony Miller of 201 N. Kirkland Drive, Richmond, Virginia?

9 A I did, yes, sir.

10 Q When did you first get involved in that, Detective Mise?

11 A It was around, ^{uh,} / May 20, 1981. I received a call at my home
12 at, uh, 3:30 in the morning. I arrived on the scene at
13 approximately 4:10 a.m.

14 Q And did you see Detective Priddy there when you got there?

15 A Yes. He was on the scene when I arrived.

16 Q Is he your forensic technician?

17 A He is, yes, sir.

18 Q And was he assisting you in the preparation of the case?

19 A He --

20 Q From a forensic point of view?

21 A He is in charge of the crime scene.

22 Q Did you observe the vehicle, sir?

23 A Yes, I did.

24 Q And where was the vehicle located?

25 A It was parked on Melburn Street, uh, just opposite

1 Commonwealth Plumbing and Heating. It was facing west.
2 It was on the right hand side of the road.

3 MR. MARTIN: I'd ask that he be shown Commonwealth's
4 No. 6, please.

5 Q Do you recognize those photographs, sir?

6 A Yes, sir, this reflects the vehicle and the position of
7 the car too.

8 Q All right. Did you look in the vehicle when you got to
9 the scene?

10 A Yes, I did. I--

11 Q What did you observe in the vehicle?

12 A I saw a body laying in the floor board with the head upon
13 the door on the left side, or it would have been the
14 passenger's side of the car.

15 Q Take a look at Commonwealth's No. 4.

16 MR. MARTIN: Sheriff, would you show him that, please.

17 Q What does that show you?

18 A That reflects the position of the body.

19 Q When you saw it on -- the other morning of May 20, 1981?

20 A True, yes, sir.

21 Q Did you know the person, or the body, in that car?

22 A No, I did not.

23 Q Did you, yourself, conduct a physical search of the vehicle?

24 A I only, uh, -- Detective Priddy had the rear door open on
25 the left side of the vehicle. I got down on my knees and

1 shined the flashlight under the front seat. That's all.

2 Q Why did you do that?

3 A I was looking for a billfold.

4 Q Did you find one?

5 A I did not. No, sir.

6 Q Did you find any weapons in the car?

7 A Detective Priddy tell me there was a shot gun in the trunk
8 later.

9 Q Do hand gun or any type thing?

10 A No hand gun, no, sir.

11 Q What did you do at the scene, yourself, Officer Mise?

12 Detective Mise? What did you, yourself, do? Did you speak
13 with anybody there?

14 A Yes, I did. I spoke with a, uh, city officer by the name
15 of B. A. Alston, I believe is his name.

16 Q And did he provide you with certain information at that
17 time?

18 A He did. Yes, sir.

19 Q Was it dark out when you arrived on the scene?

20 A It was dark, yes.

21 Q I assume at 4:10 in the morning?

22 A It was dark.

23 Q Can you describe the area where this is located, Common-
24 wealth Heating and Plumbing in this sub?

25 A Well, uh, Tuxedo Boulevard has houses on it. You make a

1 left turn at the end of the street. And it use to be where
2 the old county dump was at. It was on the right hand side
3 of the road. Then Commonwealth Plumbing and Heating is
4 the only building on that street.

5 Q All right. I'm going to show you a photograph here and
6 just ask if you recognize that particular scene.

7 MR. BOONE: I have no objections.

8 Q Can you identify that Detective Mise?

9 A Yes, sir. This is a photograph of the area.

10 Q Is that an ^{aerial} "7" photograph?

11 A It is. Yes, sir.

12 Q Was that taken at your request?

13 A It was. Yes, sir.

14 Q And what does that photograph reveal?

15 A It reveals Commonwealth Plumbing and Heating. It reveals
16 Melburn Street. It reveals Tuxedo Boulevard and also, uh,
17 looks like 1, 2, 3, 4, 5, 6, 7 houses.

18 Q All right.

19 MR. MARTIN: Judge, I'd offer that as No. 30, for the
20 Commonwealth.

21 THE COURT: Commonwealth's Exhibit No. 30.

22 MR. MARTIN: Judge, I'd ask that you give him that back.
23 I'm going to have to make a couple of marks
24 on it, please.

25 THE COURT: Okay.

1 Q Detective Mise, I'm going to hand you this red pen, right
2 here, and ask if you would put number 1, on the building
3 Commonwealth Heating and Plumbing.

4 A All right.

5 Q To subset the -- and will you circle that, number 1?

6 A Yes, sir.

7 Q And would you show that to the ladies and gentlemen of
8 the jury, please? Thank you, all right. Detective Mise,
9 would you put a number 2, in approximate location where
10 the vehicle was found when you responded it. Would you
11 circle that. Now where is Tuxedo Boulevard?

12 A (unintelligible)

13 Q All right. Would you put a number 3 on Tuxedo Boulevard.
14 And are you familiar with the home of a one, John Lee, a
15 young black male?

16 A Yes, sir, I am.

17 Q Does that reflect on the photograph, anywhere?

18 A I believe it's this house, right here.

19 O Okay. Would you put a 4 right in front of that, right here
20 And you mentioned something about a county dump. Is that
21 reflected in there?

22 A Yes, sir it is. It use to be an old county dump, they
23 quit using it as a county dump. It's this area right in
24 here.

25 Q Would you put a number 5 over there, please?

1 A Okay.

2 Q And the street you refer to as Melburn Street which one is
3 that?

4 A It's this street right here (unintelligible) -

5 Q Does it run around this way (unintelligible) -

6 A It certainly does (unintelligible) -

7 MR. MARTIN: Judge, I'd ask if they be allowed to take
8 a look at that, while Detective Mise is
9 (unintelligible) -

10 THE COURT: All right.

11 MR. MARTIN: All right, Judge.

12 Q Detective Mise, if you would a seat again, please, sir.

13 A Okay.

14 Q I'll show you one other photograph, here.

15 MR. BOONE: I have no objections.

16 Q Can you identify that photograph, Detective Mise?

17 A Yes, sir. This is another photograph of about the same
18 scene as the first one.

19 Q All right. As you look at that photograph, in the upper
20 right part of the photograph, what area does that depict.

21 A That is the cemetery in the right hand.

22 Q Do you know the name of the cemetery?

23 A No, I don't off hand. NO, sir.

24 MR. MARTIN: Judge, I'd offer that as 31 for the Common-
25 wealth.

1 THE COURT: Commonwealth's Exhibit No. 31.

2 Q Detective Mise, once you had spoken to Officer Alston,
3 did you leave the scene, go anywhere?

4 A I did, yes, sir.

5 Q Before you left, did you, yourself, seize any evidence
6 from the vehicle?

7 A I didn't seize any. No, sir.

8 Q All right. Now where did you go when you left the scene?

9 A I went to 201 N. Kirkland Drive, which is the North Central
10 Part of Henrico County. To Barbara Miller's residents, who
11 was the sister of the deceased.

12 Q And did you advise her of your findings at that time? About
13 Raymond Miller?

14 A I did. Yes, sir.

15 Q And did you speak with her at that time?

16 A I did.

17 Q Approximately what time was that?

18 A I believe that was approximately 6:10, if I'm not mistaken.

19 Q Okay. After that where did you go?

20 A I came back to Henrico Headquarters and met with a Trooper
21 Brewer.

22 Q Was that at Dabbs House, you met him?

23 A Yes, it was.

24 Q Frank Brewer?

25 A Yes. On Nine Mile Road.

1 Q And did he provide you with certain information, at that
2 time?

3 A He did. Yes, sir.

4 Q Did you subsequently go down to the morgue, down town?
5 Where the autopsy was performed on Raymond Miller?

6 A I did. Yes, sir.

7 Q And were you present during, part of it at least?

8 A I was present during part of it. I was making telephone
9 calls.

10 Q All right. I'm showing you Commonwealth's 16.

11 MR. BOONE: Your Honor, we're going to stipulate the
12 chain of custody for everything. Including

13 --

14 THE COURT: Thank you, kindly.

15 MR. BOONE: Bullets, clothes --

16 THE COURT: Thank you.

17 MR. BOONE: And everything else.

18 MR. MARTIN: Will you show him No. 16, Sheriff.

19 Q That photograph, that is of Raymond Miller, is that correct?

20 A Yes, sir, it is.

21 Q Is that the fellow that you got out of the car? Was
22 autopsied at the morgue?

23 A Yes, it was.

24 Q Okay. After you were down at the morgue, did you conduct
25 further investigation?

1 A I, uh, called the Police Department of the City of Richmond
2 and talked with a Detective Richard Andrews, Dick Andrews.

3 Q Did you get some photographs, at that time?

4 A Yes, sir, I did.

5 Q Were these black and white photographs?

6 A They were black and white.

7 Q And did you prepare it with what is commonly referred to
8 as a photography line-up based on those photographs?

9 A I did, yes, sir.

10 Q Was Mr. Tyrone Bishop's picture in, in this --

11 A He was number one in the photograph line-up.

12 Q All right. You prepared that line-up, is that correct?

13 A I did, yes, sir.

14 Q Were there any names under the photographs or they just
15 photographs?

16 A Just photographs.

17 Q After you had prepared this particular photograph line-up,
18 did you go to Bellwood, to DGSC and speak with people down
19 there?

20 A I didn't prepare the photographic line-up at that time.
21 I went to Bellwood first.

22 Q Okay.

23 A And I spoke with those people and I came back to my, the
24 headquarters on Parham Road and made the line-up.

25 Q And what did you do than, after you had prepared it?

1 A I went to, uh, Tuxedo Boulevard to, uh, I think it's 3206
2 Tuxedo Boulevard.

3 Q 3209 or 3206?

4 A 3209.

5 Q And what was that in reference to, why did you go there?

6 A I went there to show -- I had information that two small
7 children had seen a black male around, apparently, the
8 victim's vehicle.

9 Q And did, did you speak with two young men?

10 A I did, yes, sir.

11 Q At that address? Who did you talk to?

12 A I talked to John Lee.

13 Q And who else?

14 A Also, a Turner Davis.

15 Q And did you show them the photographs at that time?
16 The photographic line-up?

17 A I first went in and talked with both of them together.
18 Then I sent Turner Davis out on the front porch. And I
19 showed John Lee the line-up.

20 Q And what did you tell him to do?

21 A I told him to look at the line-up and saw -- to see if he
22 recognized anyone or anyone looked familiar to him.

23 Q Did he pick anyone out?

24 A No, sir, he did not.

25 Q What did you do after that?

1 A I sent John Lee into an adjacent room, which apparently
2 is a bedroom to the living room, and, uh, I got Turner
3 Davis in. And I basically told him the same thing.

4 Q Did he pick anyone out for you?

5 A He did not.

6 Q Do you know -- have you kept in touch with Turner Davis?
7 Do you know where Turner Davis is now?

8 A I have an address on Turner Davis. Yes, sir.

9 Q Is that a North Carolina address?

10 A It is.

11 Q Uh-huh.

12 A Winston, Salem.

13 Q Okay. Now what, what subsequently happened to that parti-
14 cular photographic line-up?

15 A I have searched for it, apparently it's been broken down
16 and either given to another police officer or I've used
17 it in another line-up. I think --

18 Q Is that --

19 A I cannot find it.

20 Q Is that normally done in a case where there is no --

21 A It is. That has been our procedure since I've been in
22 investigative section.

23 Q If one had been picked out would you have saved it?

24 A I would have saved it if it had of been somebody picked out.
25 Yes, sir.

- 1 Q And why would you have saved it?
- 2 A Because it would have been evidence.
- 3 Q In court?
- 4 A Yes, sir.
- 5 Q Now had you received information during the course of the
- 6 investigation of possible suspect of Tyrone Bishop?
- 7 A Yes, I did.
- 8 Q Did you make an effort to contact Mr. Tyrone Bishop?
- 9 A I did make an effort to contact him, yes, sir.
- 10 Q And what did you do to try and contact him?
- 11 A I had two known addresses on him, uh, one at 2103 Newburn
- 12 Street, Apartment No. 3 and one at his residence. Uh, I
- 13 believe it was on the 23rd of May, according to my work
- 14 schedule, I went by his residence and, uh, --
- 15 Q What is the residence address?
- 16 A 2306 Fairmount Avenue.
- 17 Q Were you able to locate him there, at that time?
- 18 A No, sir, I did not locate him there.
- 19 Q Any prospect of you finding him there?
- 20 A No, sir. I talked with his mother. His mother told me
- 21 that, uh, she hadn't seen him in six months. That she
- 22 didn't know where he was living, didn't have anyway to get
- 23 in contact with him.
- 24 Q Did you leave her with any information or request.
- 25 A I didn't leave her with any information, no, sir.

1 Q Did you leave her a card or anything like that?

2 A No.

3 Q Did you identify yourself to her?

4 A I did. I told her I was Detective Mise with Henrico County.

5 Q Did you tell her what you were investigating?

6 A No, I did not.

7 Q Were you able to locate Mr. Tyrone Bishop over the course
8 of the next several weeks?

9 A No. I could not locate him.

10 Q You did not have warrants for his arrest, did you?

11 A I did not have warrants, no, sir.

12 Q What was your intentions, sir --

13 MR. BOONE: Your Honor, um, very briefly, and I apolo-
14 gize to the jury. But very briefly, I'd
15 like to address the request/^{out}of the present
16 of the jury.

17 THE COURT: All right. We'll ask the jury to retire
18 to the juryroom.

19 (Jury Out)

20 MR. BOONE: Judge, on a, uh, I'm -- I suppose I'm try-
21 ing to protect something that might happen
22 here. Um, it's my understanding that Det.
23 Mise eventually talked to Mr. Bishop on
24 August 14, in the Richmond jail. And Mr.
25 Bishop had been arrested on a capias

* * *

Pages 390-391 of Volume II are not
included. It covers objection argued.

* * *

1 and accounted for. Proceed Mr. Martin.

2 Q Detective Mise, the address at 201 N. Kirkland Drive, where
3 you responded. Mr. Miller's home, talked to his sister
4 Barbara.

5 A Yes, sir.

6 Q What part of the area is that located in?

7 A It would be in the Northern part of Henrico County. Uh,
8 right off of Azalea Avenue.

9 Q Is it a home, or apartment, or what is it?

10 A It is an apartment complex.

11 Q Do you know the name of the apartment complex?

12 A At that time it was Tivoli. I think it's changed to
13 Governor Square now.

14 Q Approximately how far is that from the Tuxedo Boulevard
15 area, where the vehicle was found?

16 A It would be an estimate on my part, but I would say about
17 five miles, or more.

18 Q Now are you familiar with the area of Tuxedo Boulevard,
19 Nine Mile Road, Fairmount, and so forth?

20 A Yes, sir, I am.

21 MR. MARTIN: Judge, I'm going to show him another
22 photograph and just ask if he can identify
23 it.

24 MR. BOONE: No objections.

25 Q Can you talk what that represents, sir?

1 A Yes, sir, this is a photograph from the air reflecting, uh,
2 Nine Mile Road to the intersection of 25th Street and
3 Fairmount Avenue.

4 MR. MARTIN: Judge, I'm going to offer that as No. 32
5 for the Commonwealth, and then ask that it
6 be returned to him for a couple of marks.

7 THE COURT: Commonwealth's Exhibit NO. 32.

8 Q Detective Mise, if you would look at that please. Is there
9 area of Commonwealth Heating and Plumbing and Tuxedo Boule-
10 vard reflected on there?

11 A It is. Yes, sir.

12 Q Can you take that red pen, please, and mark the approximate
13 location, if you can, of the vehicle up near Commonwealth
14 Heating and Plumbing. Put a number 1 on that. All right,
15 now, see Nine Mile Road. Is that correct?

16 A Yes, sir. Nine Mile Road traveling West, yes, sir. Also
17 East.

18 Q All right. Right in the center of Nine Mile Road as it
19 goes down that photograph, could you put a number 2?
20 And is there an intersection with Fairmount?

21 A Yes, sir, there is.

22 Q Did you mark that number 3?

23 A Okay.

24 Q The intersection of Nine Mile Road and Fairmount.

25 A Yes, sir.

1 Q And can you --/do where 2306 Fairmount is?

2 A Yes, sir. Uh, 20 -- from 25th Street, the next intersecting
3 Street, which is a short block, is 24th Street. Then on
4 the corner of that there's a Tony's Market. And the first
5 house would be having a metal awning on it, white. Second
6 house would be white with a, uh, cloth awning on the front
7 of it. The third house would be red. The next house would
8 be white which would be Mr. Bishop's house.

9 Q That would be two blocks down, I take it than, from the
10 intersection of Nine Mile and Fairmount?

11 A Yes, sir, uh-huh, yes, sir.

12 Q Okay. Is the actual house visible on that photograph?

13 A I can't make the actual house, uh, I don't see it reflects
14 as
/on the photograph. I think it's just the one passed the
15 last one down there.

16 Q All right. Would you put a circle where that house is
17 suppose to be.

18 A All right, sir.

19 Q It's a little dark in that photograph there.

20 A It is, yes, sir.

21 Q It is next to that -- next to the one that you have, uh --
22 Your circle is next to a house that you do recognize, is
23 that correct?

24 A Yes, sir.

25 Q Okay. All right. At any time were you able to find Mr.

1 Bishop, at 2306?

2 A No, sir, I was not.

3 Q Did, did you look for him there, at all, yourself?

4 A At 2306?

5 Q Yes, sir.

6 A I only talked to his mother that's all.

7 Q You just talked to his mother?

8 A Yes, sir.

9 Q Okay. So you, yourself, did not go back.

10 A Yes.

11 Q Is that correct?

12 A The lady identified herself as the mother.

13 MR. MARTIN: Can I see that for just one minute, please?

14 Q And did you check the distance down Nine Mile Road and
15 Fairmount from Tuxedo Boulevard? Approximately how far is
16 that?

17 A Approximately 1 and 1/10th mile.

18 Q Is that from the apparent location of the Miller vehicle
19 to 2306?

20 A Yes, that would be traveling West from Melburn and Tuxedo
21 making a right hand at Tuxedo. Going to Nine Mile Road
22 and making a left there and going down Nine Mile Road to
23 25th and Fairmount and making a right on Fairmount goint
24 down in the second block, uh, the fourth house on the right
25 And I believe there a Bethel Church and then there's 23rd

1 Street.

2 Q Okay. And just show you one other photograph, right here.

3 That will be the last one. Different view.

4 MR. BOONE: I have no objection, Judge.

5 Q That basically reflect Fairmount and Nine Mile Road. The
6 intersection area from a different angle?

7 A Yes, sir, it does.

8 Q All right. No. 33 for the Commonwealth, Judge.

9 THE COURT: Commonwealth's Exhibit No. 33.

10 MR. MARTIN: Sheriff, would you give it back to him, please
11 red

12 Q Would you take the/pen, again, one more time.

13 A Yes, sir.

14 Q Can you locate Mr. Bishop's home on there?

15 MR. BOONE: Your Honor, I think that question should
16 be rephased. I don't --

17 MR. MARTIN: Excuse me.

18 Q Can you locate 2306 Fairmount?

19 MR. MARTIN: Okay? That's what we are looking at.
20 2306 Fairmount.

21 MR. BOONE: Thank you.

22 THE COURT: Fine.

23 Q Okay?

24 A Yes, sir. I think this is the right house.

25 MR. MARTIN: May I take a look at that?

26 A On 24th Street? I think this dark place here is the church

1 If I'm not mistaken.

2 Q Would you circle the white house, sir?

3 A All right, sir.

4 Q And put a number 1 back up on Nine Mile Road. Coming down
5 from the Tuxedo Boulevard area.

6 A Okay, sir.

7 Q And would you have an arrow pointing the direction you
8 would have been driving to get from Tuxedo down to --

9 MR. BOONE: We'll stipulate to the difference:

10 (unintelligible)

11 Q Is there a school in there?

12 A Yes, sir, there is. ^{There's} /Armstrong School.

13 Q Where is that?

14 A Looks like it right here.

15 Q Okay. Now mark it.

16 A All right.

17 Q Is there also Armstrong School, also reflected in the other
18 photograph as well?

19 A Yes, sir.

20 Q The other area -- Okay. Now, did you have occasion to
21 talk to Mr. Tyrone Bishop on August 14, 1981?

22 A I did, yes, sir.

23 Q Did you know Tyrone Bishop, before that date?

24 A I did not, no.

25 Q Is that the first time you had met him?

1 A Yes, it was.

2 Q When you spoke with him, did you advise him of any Miranda
3 Rights at that time?

4 A I did, yes, sir.

5 Q How did you do that?

6 MR. BOONE: We'll stipulate it's to the proper explana-
7 tion of Miranda Rights.

8 THE COURT: Thank you.

9 MR. MARTIN: I assume the jury knows what Miranda Rights
10 are, Judge, but I'd like Det. Mise just to
11 say, tell them what they are. In case
12 someone may not know.

13 THE COURT: Okay, if anybody hadn't seen T.V. But go
14 ahead.

15 Q What are Miranda Rights, Detective Mise?

16 A They are certain warnings that you have to give a person
17 before he -- you're able to talk to them.

18 Q Protect their constitutional rights?

19 A Yes, sir.

20 Q And you did do that? Is that correct?

21 A I did, yes, sir.

22 Q And you have a document that is know as a Rights Waiver?

23 A I do, yes, sir.

24 Q And you have it with you, right there?

25 A Yes, sir.

1 Q What is the date on it?

2 A 8/14/81, 4:15 p.m.

3 Q And what is the significant of that document, sir?

4 A This is evidence.

5 Q Okay. What, what did you -- did someone sign it?

6 A Yes.

7 Q Who signed it?

8 A Uh, Tyrone E. Bishop.

9 MR. BOONE: Your Honor, we stipulate that he voluntary
10 gave up his rights to remain silent --
11 (unintelligible) --

12 THE COURT: All right.

13 Q All right. The person that -- the Tyrone Bishop who signed
14 it, is he present in Court today?

15 A He is, yes, sir.

16 Q That you talked to on that date?

17 A Yes.

18 Q Would you identify him for the record, please?

19 A Yes, I can. He's to the right of Mr. Boone, sitting beside
20 him.

21 THE COURT: Let the record show the witness has identified
22 the accused.

23 MR. MARTIN: Judge, I offer the Rights Waiver as No. 34.

24 MR. BOONE: No objections.

25 THE COURT: All right. Go ahead, Mr. Commonwealth.

1 Q At that time did you speak with Mr. Bishop in reference to
2 the Miller homicide?

3 A I did, yes, sir.

4 Q Would you tell the ladies and gentlemen of the jury, uh,
5 as much as you can recall of this conversation. And before
6 I begin, did you tape the conversation?

7 A I did not.

8 Q Were notes taken?

9 A Detective Sergeant L. R. Baker, ^{uh,} took notes.

10 Q And have you reviewed his notes as well as your own memory?

11 A Yes, sir. I went over the notes with him.

12 Q All right. Now would you tell the ladies and gentlemen
13 of the jury what you recall Mr. Bishop -- what you told him
14 and what he told you. About this case, on that date.

15 A I told him that I was investigating a homicide on Tuxedo
16 Boulevard where a gentlemen had been shot in the left side
17 twice. Or right side twice. And that he had also been
18 seen leaving Bellwood on May 15th with that person. Uh,
19 he denied that. He said that he was -- had spent the day
20 with a Tina Robinson. He gave me an address of 2140 Afton
21 Avenue. Also, a telephone number of 231-6425. He said
22 he left Tina's house at approximately 11:00 p.m. on that
23 day. Caught a bus back to Redd Street to his girlfriends
24 Julie Snead's house. He also said a couple of days after
25 the shooting that a Darrel Brockston, uh, met him on Redd

1 Street and told him that Mr. Miller had been shot. He
2 denied knowing the address of Mr. Brockston or where he
3 worked. He said a Lorenzo Johnson used to take him to
4 work and that he had a blue Cadillac. And he hadn't seen
5 him since the -- when he was in Korea. And did not see
6 Raymond Miller on May the 15th and did not go to Bellwood.
7 Said he stayed most of the day with Tina. Had been there
8 for a couple of days, nothing special happened. He had
9 played ball at Luck's field.

10 Q Are you familiar with Luck's field?

11 A No, sir, I'm not.

12 Q All right. Now that's basically the sum and substance of
13 what he told you on August 14. Is that correct?

14 A Yes, sir.

15 Q Did you arrest him at that time in these cases?

16 A No, sir, he was released.

17 Q Did you continue your investigation, sir?

18 A I did.

19 Q And did you receive certain information from the laboratory
20 in reference to fingerprint comparisons? Sometime late in
21 September?

22 A I did, yes, sir.

23 Q All right and based on that, did you then obtain warrants
24 for him, Mr. Bishop?

25 A I did, yes, sir.

1 Q Had you talked to him, uh, from August 14th until you
2 obtained the warrants?

3 A I did not, no, sir.

4 Q And when did you obtain the warrants?

5 A Uh, October the 6th, 1981.

6 Q And I believe that the file will reflect that he was arrested
7 on October 21, is that correct?

8 A He was, yes, sir.

9 Q Did you -- let me ask you before I get into that, on the
10 14th of August when you interviewed or spoke with Mr.
11 Bishop, did you take any photographs of him at that time?

12 A Yes, sir.

13 Q I'm going to show you two, here, ask if you can identify
14 them.

15 MR. BOONE: I have no objection.

16 Q Can you identify those?

17 A Yes, sir.

18 Q What are those?

19 A Those are the pictures I took on 10/21/81.

20 Q Of who?

21 A Tyrone Bishop.

22 Q The defendant here?

23 A Yes, sir.

24 Mr. MARTIN: Judge, I'd offer two of one exhibit, No. 35.

25 THE COURT: Are there any objections, sir?

- 1 MR. BOONE: No, sir.
- 2 THE COURT: Commonwealth's Exhibit 35.
- 3 MR. MARTIN: Thank you, Judge.
- 4 Q Detective Mise, did you speak with the defendant, Tyrone
Bishop on the 21st of October when he was arrested?
- 5 A I did, yes, sir.
- 6 Q Did you again advise him of his Miranda Rights?
- 7 A I did, yes, sir.
- 8 Q And how did you do that, read from the card --
- 9 MR. BOONE: Same stipulation, Judge.
- 10 THE COURT: Stipulated.
- 11 MR. MARTIN: All right.
- 12 Q Did he execute a Rights Waiver for you, again?
- 13 A He did, yes, sir.
- 14 Q Dated that day?
- 15 A Yes, sir.
- 16 MR. MARTIN: I offer that as number 36 for the Common-
17 wealth, Judge.
- 18 MR. BOONE: No objections.
- 19 THE COURT: Commonwealth's Exhibit 36.
- 20 Q Now, what did you tell him on that date and what was his
21 statement to you?
- 22 THE COURT: If any.
- 23 A My main concern on that date was --
- 24 MR. MARTIN: Excuse me.
- 25 THE COURT: If any.
- MR. MARTIN: If any, it was, well, O.K. If any.

1 A Would you repeat the question again, sir?

2 Q All right. What did you tell him at that time and what
3 statement, if any, did he make to you?

4 A Our main concern on that date was to -- him to tell me
5 that he wasn't in the car.

6 Q Why was that?

7 A Because I had information that, or had a lab report that
8 his fingerprint was found in the car.

9 Q Did you tell him that his fingerprints were in the car?

10 A No, sir. I never did tell him that, no, sir.

11 Q Did you -- have you ever told him that?

12 A No, sir.

13 Q And what did he tell you, if anything? In response to this.

14 A He said he had never been in the Miller car in his life.

15 Q Did you continue to question him?

16 A Yes, I did.

17 Q Would you give us --did you tape this statement?

18 A No, sir. I wrote it in my --^I/just took notes.

19 Q Took notes on it yourself?

20 A Yes, sir.

21 Q All right. Would you give us, as best you can, what his
22 statement was to you?

23 A Well I took down his name. I asked him his name. He said
24 Tyrone Everette Bishop. I have a black male, 30. 2306
25 Fairmount Avenue. ^{His}/date of birth is June 26, 1951. Girl-

1 friend, Julie Snead. Judy is the nickname. She is 22.
2 She lives at 421, 33rd Street. She was on welfare. She
3 had three children. One child was Bishop's. Age 14 mos.
4 Has never been in Miller's car in his life. Son lives with
5 the Bishop family. Nine years old, and he has never made
6 a support or alimony payment. He is separated from his
7 wife. Was not at Bellwood Depot on 5/15/81. No one saw
8 him with Miller, in Miller's vehicle on 5/15/81. Had no
9 reason to be at Bellwood Depot. Was not on Tuxedo Boule-
10 vard on 5/15/81 and has only been on Tuxedo Boulevard twice
11 in his life as a small child. Lived on Fairfield Ave. at
12 2110 approximately two years ago with Julie Snead.

13 Q Appriximately what time did you speak with him, do you
14 recall?

15 A It says 4:40 p.m. on 10/21/81.

16 Q And did he talk with you willingly?

17 A Yes, sir, he did.

18 Q Did you have any problem communicating with him?

19 A None whatsoever.

20 Q Did he exhibit any unusual or bazaar behavior in your
21 presence?

22 A No, sir. He was calm.

23 Q He was calm?

24 A Yes, sir.

25 Q Did you take photographs of him at that time as well?

1 A Yes, sir.

2 Q I offer to show you these.

3 MR. BOONE: No objections.

4 Q Can you identify those photographs, Detective Mise?

5 A Yes, sir.

6 Q What are those?

7 A This is the Defendant, Mr. Bishop.

8 Q Taken 10/21/81, by you?

9 A '81, yes, sir.

10 Q All right.

11 MR. MARTIN: I offer that as number 37 in a package,
12 Judge. Three photographs.

13 THE COURT: Any objections, sir?

14 MR. BOONE: No objections, Judge.

15 THE COURT: Commonwealth's Exhibit 37

16 Q Detective Mise, did you speak again with Mr. Bishop, the
17 Defendant on October 22, 1981?

18 A Yes, sir. Detective Sargeant L. R. Baker and I spoke with
19 him. Yes, sir.

20 Q Approximately what time did you speak with Mr. Bishop?

21 A 11:05 a.m. in the morning on 10/22/81.

22 Q Did you again advise him of his rights?

23 A I did, yes, sir.

24 Q And get another Rights Waiver?

25 A I did.

1 Q Same one we've introduced the other two times?

2 A Yes, sir.

3 Q All right.

4 MR. MARTIN: Judge, I'd offer that as No. 38.

5 MR. BOONE: No objections.

6 MR. MARTIN: For the Commonwealth.

7 THE COURT: Commonwealth's Exhibit 38.

8 Q Detective Mise, once you had advised him of his rights,
9 got the Rights Waiver, would you tell us what statement,
10 if any, he made to you at that time. What your conversa-
11 tion was?

12 A Well, he said he owed money to the IRS. \$2,000.00 and
13 they were taking \$150.00 or \$175.00 every two weeks at
14 the Bellwood Depot. He was terminated, missing a lot of
15 time from work. Last time, um, Bishop was on the Bellwood
16 property was on February or April working. Not positive
17 about working in March. Last time Bishop remembers seeing
18 Miller was either in February or April of 1981 on the day
19 that he worked at Bellwood. Was not in Miller's car on
20 5/15/81. And has never owned a gun of any type, not a
21 knife. Nor a knife.

22 Q That would be the sum and substance of the statement that
23 you have obtained from Mr. Bishop. Is that correct?

24 A Yes, sir. That is correct.

25 Q Now, continuing your investigation, sir, did you have

1 occasion to conduct a physical, called a physical line-up
2 at the Henrico Police Headquarters Building on November 2,
3 1981?

4 A I did, yes sir.

5 Q And was the Defendant, Tyrone Bishop, present in that line-
6 up?

7 A Yes, sir. He was in the line-up.

8 Q How many people were in the line-up, sir?

9 A There were six (6).

10 Q And do you customarily prepare a chart? Of that line-up?

11 A I do, yes, sir.

12 Q Why do you do that?

13 A List the names, uh, ages, heights, and what the people were
14 wearing in the line-up.

15 Q And how many were there?

16 A There were six (6).

17 Q All right. And was this conducted in Henrico Police
18 Headquarters?

19 A It was, yes, sir.

20 Q Approximately what time was that, sir?

21 A The line-up actually started approximately 2:10 p.m. on
22 11/2/81.

23 Q And how long did it last?

24 A Lasted approximately 10 minutes.

25 Q Do you have a special room for this?

- 1 THE COURT: Last November, when?
- 2 MR. MARTIN: 11/02/1981, Judge.
- 3 THE COURT: Thank you.
- 4 A Yes, sir, we do.
- 5 Q And you were the officer in charge of conducting that line-
- 6 up, is that correct?
- 7 A I was, yes, sir.
- 8 Q And what person or persons did you have view this particu-
- 9 lar line-up?
- 10 A Sir?
- 11 Q What person or persons did you have take a look at this
- 12 line-up? Who did you want to see the line-up?
- 13 A John Lee.
- 14 Q And is he the young black male that you had spoken with?
- 15 A Yes, sir.
- 16 Q Back in May? All right.
- 17 MR. MARTIN: Judge, I'm going to offer the chart as
- 18 Commonwealth's No. thirty --
- 19 THE COURT: Nine.
- 20 MR. MARTIN: Yes, sir, 39.
- 21 MR. BOONE: No objections.
- 22 THE COURT: Commonwealth's Exhibit 39.
- 23 MR. MARTIN: Sheriff, we'll be taking that back again
- 24 for a minute.
- 25 Q Which one was Mr. Tyrone Bishop in the line-up, Det. Mise?

1 A Number two.

2 Q Was there anything unusual or distinguishing about the
3 facial hair of any of these people in the line-up?

4 A Yes, sir. Number two.

5 Q And what was the condition of Mr. Bishop's facial hair on
6 that day?

7 A He was clean shaven.

8 Q What about 1, 3, 4, 5, 6?

9 A They all had some type of facial hair.

10 Q Now when you saw those people in that condition did you do
11 -- was that a problem to you?

12 A Yes, sir it was.

13 Q Why was that a problem?

14 A Because I thought he was trying to change --

15 MR. BOONE: I'm going to object to what he thought,
16 Your Honor.

17 THE COURT: Sustained.

18 Q Now, were you concerned about the difference, is that correct?

19 A Yes, sir, I was concerned.

20 Q Between him and the other people in the line-up?

21 A Sir?

22 Q Between him and the other people in the line-up?

23 A Yes, sir.

24 Q Did you want to try to get a fair line-up?

25 A I did, yes, sir.

1 Q All right. No prejudice to the defendant or anyone else?

2 A Yes, sir.

3 Q Is that fair to say? Was Mr. Boone present at the line-
4 up?

5 A He was, yes, sir.

6 Q And was I also present?

7 A You was, yes, sir.

8 Q As well as other police officers and I think another Asst.
9 Commonwealth Attorney.

10 A There was, yes, sir.

11 Q Do you remember who was there for the police?

12 A Yes, sir, uh, Sergeant L. R. Baker, Officer S. L. Slaughter,
13 Garland Priddy, I believe, myself, Mr. Boone, you, and
14 Mr. Buddy Parcell, who is Asst. Commonwealth Attorney.

15 Q Was there anybody from Mr. Boone's office?

16 A There was a gentlemen with Mr. Boone. I don't know who
17 he was.

18 Q You don't know who that was, do you?

19 MR. BOONE: Your Honor, his name is William Kirkland,
20 associate in my office.

21 Q Okay. All right. Are you sure about Priddy?

22 A I believe he was.

23 Q That's the best of your recollection?

24 A Yes, sir.

25 Q Did you make any notes of that?

- 1 A No, sir.
- 2 Q Now what did you tell Mr. John Lee? Did you bring him
3 into the room and show him this?
- 4 A I brought him in the room and told him to view the line-up
5 and see if he recognized anyone that was familiar to him.
6 I told him do not go past a certain line which is marked
7 in front of the viewing area. I told him I would in turn
8 have the people standing in the line-up turn either left
9 or right. Whichever he desired, if he wished.
- 10 Q Did he, in fact, view the line-up?
- 11 A He did, yes, sir.
- 12 Q Did you tell him who to pick out?
- 13 A I did not tell him anything --
- 14 Q Did you tell him any of the names of the people?
- 15 A No, sir, I did not.
- 16 Q And did he look at the line-up?
- 17 A He did, yes, sir.
- 18 Q Approximately how long did he look at it?
- 19 A I would say five, six minutes, maybe longer.
- 20 Q And did he pick anybody out?
- 21 A Yes, sir, he picked out number five (5).
- 22 Q Did he say anything to you?
- 23 A He said he thought that was the man he saw at the car.
- 24 Q Number five (5)?
- 25 A Yes, sir.

1 Q Did you record that on your chart?

2 A I did. I marked number five as a negative ID.

3 Q And number five is not Mr. Tyrone Bishop. Is that correct?

4 A That's true, yes, sir.

5 Q And after he picked out number five, did you have him stay
6 there and look again, or leave, or what did you do with
7 John Lee?

8 A No, sir. I immediately call you up and told you that he
9 picked out number five (5) and you and I exited the room
10 with him at that time.

11 Q Took him out of the room?

12 A Yes, sir.

13 Q Now, did you take any notes on that at the time?

14 A Nothing other than the chart.

15 Q Nothing other than the chart?

16 A No, sir.

17 Q Is there any reason why you would take him out after he
18 had picked an individual out of the line-up? Whether it
19 be Mr. Bishop or any other person?

20 A There was no use to show it to him again. He couldn't
21 pick out nobody but number five, so we left the room with
22 him.

23 Q Do you remember any other conversation from John Lee in
24 reference to the line-up there?

25 A I didn't have any conversation with him that I remember.

1 Q Did he give you any particulars, any details about number
2 five?

3 A Not that I recall. No, sir.

4 Q Okay. All right.

5 MR. MARTIN: Now Sheriff, I'd ask if you would show
6 Detective Mise, Commonwealth's Exhibit No.
7 -- Number 15.

8 Q Okay, sir, would you take a look at those, please?

9 A Yes, sir.

10 Q Do you recognize those particular photographs?

11 A Yes, sir, these are -- reflects the same people that was
12 in the physical line-up.

13 Q They were not taken on the day of the line-up, though, is
14 that correct?

15 A No, sir.

16 Q These are pre-existing photographs, I believe.

17 A They are, yes, sir.

18 Q Different times?

19 A Yes, sir.

20 Q Are they dated on the front in some way?

21 A Yes, sir, they are.

22 Q All right. What is the date on Mr. Tyrone Bishop's photo-
23 graph?

24 A 10/21/81.

25 Q All right. And did you have those in a certain order, sir?

1 Did you have those photographs in a certain order?

2 A Yes, I did I had marked them one --

3 Q Are they numbered one through six?

4 A Yes, sir.

5 Q And why did you number them one through six?

6 A I showed these photographs to another person down at Bellwood

7 Q And the sequence of one through six and the name, does it
8 match the line-up? One through six and the same names?

9 A Yes, sir I did.

10 Q Okay. Now when did you show this particular line-up to
11 Mr. Gryden?

12 THE COURT: He didn't say that's who it was.

13 MR. MARTIN: I'm sorry, Judge.

14 MR. MARTIN: Mr. Grydens already testified to it, Judge.

15 THE COURT: I know he has, but Mr. Mise hasn't.

16 A It'd been on 7/13/32 at 1:15 p.m.

17 Q Where was this?

18 A This was at Bellwood Depot in the security office.

19 Q How did you show those photographs to him? What did you do?

20 A I numbered them one through six. Layed them down on a desk.

21 Q Did you show him the back? The names?

22 A No, sir.

23 Q What did you tell him to do?

24 A I told him to look at the photographs and see if he saw
25 anyone that looked familiar to him.

1 Q Had you spoken with Mr. Gryden previously in reference to
2 certain aspects of possible testimony, or what he knew
3 about this case?

4 A Yes, sir, I did.

5 Q And after that conversation did you show him these photo-
6 graphs?

7 A I did, yes, sir.

8 Q Did you tell him who to pick out?

9 A I did not.

10 Q Did he pick anyone out?

11 A He picked out number two.

12 Q Picked out number two. And whose photograph is number two?

13 A Mr. Tyrone Bishop.

14 Q Is that the defendant here today?

15 A Yes, sir.

16 MR. MARTIN: Now, Sheriff, would you show Detective Mise
17 Commonwealth's Exhibit No. 8, I believe it
18 is. (Some papers)

19 Q Are you familiar with that envelope, sir?

20 A Yes, sir, I am.

21 Q All right. What are those papers, sir?

22 A These are numerous papers. A Memco card, a hunting license
23 and also a big game stamp, a General Defense Supply Center
24 paper, a mailing label.

25 Q Did you receive those from Detective Priddy on July 9, 1982

1 A Yes, sir, I did.

2 Q All right. Why did you particularly get those from Det.
3 Priddy on that date?

4 A Detective Priddy was going out of town for a two week
5 vacation.

6 Q And did you need the papers for any particular reason?

7 A I did. Yes, sir.

8 Q And what basically was that?

9 A I was going down to, uh, Bellwood to talk with some people
10 and I needed to show them the papers.

11 Q And they were in Detective Priddy's file, I believe. Is
12 that correct?

13 A Yes, sir, they were.

14 Q Which he -- did he keep it locked up?

15 A Yes, sir.

16 Q All right. Now did you look at the papers when you got
17 down to Bellwood?

18 A I did, yes, sir.

19 Q Had you been advised they had been checked for fingerprints?

20 A I did.

21 Q Are you a fingerprint expert, yourself?

22 A I am not, no, sir.

23 Q Are you familiar with dusting powder?

24 A Yes, I am.

25 Q When you observed those papers, what did they appear to you

1 to be like?

2 A I couldn't detect any dust on the papers.

3 Q And based on that, what did you decide should be done
4 with this?

5 A I took them to Mr. Forst office, at the lab, I wanted him
6 to dust them. To make sure that Mr. Bishop's prints weren't
7 on the paper.

8 Q Make sure Mr. Bishop's prints were not on the paper?

9 A Yes, sir.

10 Q Is that because Mr. -- had Priddy already advised you he'd
11 done it and hadn't found anything?

12 A That's true.

13 Q Did you, in fact, take them to Mr. Forst?

14 A I did.

15 Q Okay. All right. When you spoke with Mr. John Lee, on
16 the evening of 5/20/81. At his home and showed him the
17 photographs, did you speak again with him? The following
18 day, Thursday, the 21st of May, 1981?

19 A I spoke with him at Mosby School.

20 Q And who was with you when you spoke to him at Mosby School?

21 A Detective Dorton. Jim Dorton and Mr. Don Chance, who is
22 a -- an Asst. Principal.

23 Q Is that the Dorton with Henrico Police?

24 A Yes, sir.

25 Q And at that time did you interview John Lee in referenceto

1 what he had seen or not seen?

2 A I did. Yes, sir.

3 Q Why didn't you interview him the night before? At his
4 home?

5 A Well the settings weren't the best in the world. The
6 Mother was very apprehensive of me even talking to him.

7 0 You said the Mother?

8 A Uh, the Grandmother. Excuse me.

9 O Do /you know who that is? What her name was?

10 A Yes, sir. Mable Coleman.

11 Q All right. And so you interviewed him at the school, is
12 that correct?

13 A That's true.

14 Q And did you tape that interview, sir?

15 A I did, yes, sir.

16 Q And has that been reduced to a transcript?

17 A It has.

18 Q. Has you --

19 MR. BOONE: Your Honor, at this point I'd like to be --
20 I'd like to make waiver of issue here before
21 -- (unintelligible)

22 THE COURT: All right, we'll ask that the jury retire
23 into the juryroom.

24 (JURY OUT)

25 THE COURT: You want the witness excused?

* * *

Pages 420-425 of Volume II are
not included. It covers objection
argued.

* * *

- 1 MR. MARTIN: Yes, sir. If I might just on the record
2 -- how we got in the custody and all that.
3 Would that be all right, Judge?
4 THE COURT: All right. Go ahead.
5 MR. MARTIN: All right.
6 Q Detective Mise, the statement that I was referring to,
7 asking about, that was taken, I believe, on May 21, 1981
8 at Mosby School. Is that correct?
9 A Yes, sir, it is.
10 Q And did you take the statement, sir?
11 A I did.
12 Q And do you have the tape with you here today?
13 A I do, yes, sir.
14 Q Have you preserved the tape, in your possession as evidence
15 in the case?
16 A Yes, sir.
17 Q Has anyone altered the tape or done anything to it?
18 A No, sir.
19 Q All right. It's been in your possession, custody, and
20 control all that time?
21 MR. BOONE: We're not going to argue the change, Judge.
22 MR. MARTIN: All right. Okay.
23 Q Do you have that tape recorder with you?
24 A I do.
25 Q Okay, would you produce that and the tape at this time.

1 A The tape is in it.

2 Q Okay, can you turn that on and let Judge Wallace hear this.

3 (Playing of taped interview of
4 John Lee) (Objection to "taped"
5 Statement continued. Judge rules--
6 Sustained)

7 MR. MARTIN: If you will give me a few minutes to check
8 through my list of exhibits, Judge.

9 THE COURT: Yes, sir. You want a short recess.

10 MR. MARTIN: If I could have just a few minutes.

11 THE COURT: All right, we'll take a five minute recess.

12 (RECESS)

13 THE COURT: We'll let the record show that after a
14 recess the accused is present in person
15 along with his Defense Counsel, Mr. Boone.
16 Commonwealth's Attorneys' Office represent-
17 ed by Mr. Martin. All right, sir. Any-
18 thing to take up before we ask the jury
19 to come in.

20 MR. MARTIN: No, sir.

21 MR. BOONE: No, sir.

22 MR. MARTIN: There's a thing -- Mr. Boone and I would
23 like a stipulation. I don't know when we'll
24 do it. I think he wants to do it as part
25 of his case, as to the time and weather,

1 high and low temperatures on the days --

2 THE COURT: Okay.

3 MR. MARTIN: detecting through the 20th. I've checked
4 his information on this. I have no problem
5 with it.

6 (JURY IN)

7 THE COURT: Let the record show that the jury returned
8 at 1:55. The Court has checked the jury
9 and finds that all jury members are present
10 and accounted for. All right, Mr. Common-
11 wealth.

12 Q Detective Mise, the location where the Miller vehicle was
13 found over Tuxedo Boulevard area, Commonwealth Heating and
14 Plumbing. What county or city is that in, sir?

15 A That's in Henrico County.

16 Q All right. Answer Mr. Boone's questions, if you will.

17 A Yes, sir.

18 CROSS EXAMINATION: Detective Mise by Mr. Boone

19 Q Detective Mise, going back to, um, the 20th day of May 1981,
20 when you came upon this automobile. You testified, I be-
21 lieve, that you searched for a wallet?

22 THE COURT: No, he didn't say he searched for one.
23 Q Didn't you say you got down on your knees and looked/for
24 a wallet? ^{under the seat}

25 A Yes, sir, I did.

1 Q And is it your testimony you didn't find a wallet?

2 A That's true.

3 Q Do you remember testifying at the preliminary hearing in
4 the General District Court of Henrico County on Dec. 4,
5 1981, sir?

6 A Yes, sir, I do.

7 Q I'm going to read you some questions and answers and I
8 might ask you if you remember them.

9 A All right.

10 Q This exchange.

11 THE COURT: For the record, what page are you on, sir?

12 MR. BOONE: I'm on page 19, Judge.

13 THE COURT: From the transcript?

14 MR. BOONE: Yes, sir.

15 Q Picture number two --

16 MR. MARTIN: What is the question? In reference to?

17 I take it he's reading a transcript to him.

18 To impeach him on some matter.

19 MR. BOONE: I've already ask the foundation question,
20 Judge.

21 THE COURT: He's asking about the wallet.

22 MR. MARTIN: He is.

23 MR. BOONE: At the top of page 19, sir. "(Q) Picture
24 number two shows some items on the seat.

25 Do you know what they are?" "(A) Yes they

1 were papers apparently from his billfold."

2 "(Q) Did you find any wallet?" "(A) Yes,
3 we did, it was laying in the front seat."

4 Do you remember that?

5 A Yes, sir. I remember it.

6 Q And which is correct. Your testimony today or your testi-
7 mony, uh, and by the way, were you under oath when you made
8 that statement?

9 A Sir?

10 Q Were you under oath in the court when you testified on
11 December 4, 1981?

12 A Yes, sir, I was.

13 Q Which statement is correct? The statement on December 4,
14 1981 or the statement today?

15 A The statement today.

16 Q Can you explain that inconsistency?

17 A Well, as I remember I heard the billfold was found. Apparent-
18 ly not. I dont't take the items and list them that's found
19 the
 in/vehicles. Detective Priddy does that.

20 Q Now, was Doctor Massello/^{there}when you were present?

21 A Doctor Massello was at the scene, yes, sir.

22 Q And you were there when he examined the body?

23 A At the scene. Yes, sir.

24 Q And then you were later at the morgue that same morning?

25 A I was, yes, sir.

1 Q At the autopsy?

2 A Yes, sir.

3 Q At any time did you request Dr. Massello to take scrapings
4 from underneath the fingernails?

5 A No, sir.

6 Q Would that be something that you would request or is that
7 something that the medical examiner normally does?

8 A That's something he normally does.

9 Q I believe it's your testimony after you went to, uh, his
10 sister's house you met with a person, that was Trooper
11 Brewer, you went to his sister's house, you went to the
12 morgue, then you went to DGSC that same morning when you
13 found the body.

14 A Yes. I went to the City Police Department first. And
15 then I went to Bellwood.

16 Q Okay. And apparently you got some information while you
17 were out at DGSC. Is that correct?

18 A I did, yes, sir.

19 Q About a possible suspect?

20 A Yes.

21 Q And that possible suspect was Tyrone Bishop, was it not?

22 A Yes, sir.

23 Q So you developed him hours after you had found the body?

24 A Yes, sir.

25 Q Isn't it a fact that it was your information he was seen

1 leaving the post on Friday with the victim, Raymond Miller?

2 A Yes, sir.

3 Q So you knew that hours after the body was found?

4 A Yeah.

5 Q And from that information you prepared a photo-spread of
6 six photographs, one of which included Tyrone Bishop's
7 photograph?

8 A Yes.

9 Q And you showed those six photographs to John Lee and Turner
10 Davis?

11 A I did.

12 Q Now that was only -- that was the morning of May 20, 1981,
13 or the evening of May 20, 1981 that you showed these photo-
14 graphs to those two young boys?

15 A Yes, sir.

16 Q And that was just five days after John Lee told you he
17 apparently saw a green vehicle?

18 A Yes, sir.

19 Q Okay. And that was just five days after he saw this un-
20 identified black male standing next to that vehicle?

21 A Yes.

22 Q And the photograph that you showed him or the photo-spread
23 that you showed him. One of which was Tyrone Bishop photo-
24 graph. Did Tyrone Bishop have a beard in that photograph?

25 A Yes, sir. He did.

1 Q He did. And did John Lee pick his photograph out?

2 A He did not.

3 Q And is it your testimony that Turner Davis did not pick
4 out the photograph of Mr. Bishop?

5 A It is. Yes, sir.

6 Q Was he shown the same photograph of Tyrone Bishop? Wearing
7 a beard?

8 A He was. Yes, sir.

9 Q Did anybody -- did John Lee or Turner Davis ever tell you
10 anything about a brown car?

11 A The only one I remember to say anything about a brown car
12 was Turner Davis.

13 Q Did you look into that, sir?

14 A I just asked him what color of car it was and he said it
15 was a brown car.

16 Q Did he tell you what kind of car?

17 A A beat up Chevrolet.

18 Q So you knew about a brown car that was allegedly there?

19 A Yes.

20 Q He didn't say anything about a volkswagen, did he?

21 A No, sir.

22 THE COURT: How old was Turner Davis, Detective Mise?

23 A A twelve year.

24 THE COURT: Twelve years old?

25 A Yes, sir.

1 MR. BOONE: Excuse me, one second, Judge.

2 Q Were you the chief investigator on this case?

3 A I was, yes, sir.

4 Q The car was dusted on the morning of May 20, 1981. Is
5 that correct? For latent prints? By Mr. Priddy?

6 A No. I think it was dusted at a later date, I don't know
7 what date.

8 Q You don't know what date. You don't know if he dusted
9 the car that morning?

10 A He said something about the car being wet and he was going
11 to, uh --

12 Q That was the outside of the car wasn't it?

13 A Yes, sir.

14 THE COURT: Why don't we ask the officer if he was
15 present when the outside of the car was
16 printed.

17 Q Were you present when the car was dusted?

18 A No, sir.

19 Q Do you know from your own knowledge when the car was dusted?

20 A No, sir, I do not.

21 Q Can you explain why the latent prints that were lifted
22 weren't turned over to the lab for analysis until Aug. 27?
23 Some three months later?

24 A Detective Priddy told me that he --

25 THE COURT: Well, wait a minute.

1 MR. BOONE: Yeah, I would object to that, Your Honor.

2 THE COURT: Sustained.

3 Q My question, sir, is do you know why the fingerprints that
4 were lifted out of that automobile were not turned over
5 to the lab until August 27, 1981?

6 A Yes. I was told that --

7 THE COURT: Nope.

8 MR. MARTIN: I would object, Your Honor.

9 Q No, I'm not asking you what you were told --

10 THE COURT: We want to know of your own knowledge do
11 you know, why.

12 MR. MARTIN: Did you know the reason, why.

13 A No, sir, not of my own knowledge.

14 Q Did you, as the chief investigator, request those prints
15 be turned over as soon as possible. Weren't you interested
16 in finding out who did this crime as soon as you found
17 the body?

18 THE COURT: What we first have to find out, whether or
19 not that is one of his functions as the
20 chief investigator or if that is someone
21 elses function.

22 Q As the chief investigator would you develop information
23 like that or would you ^{say} turn this over to the lab or do this
24 or do this. I want to know if there were any fingerprints
25 in the car.

26 A Well, uh --

1 Q Don't you run the show?

2 A Not with the, uh, crime scene, no, sir. That's Detective
3 Priddy's job.

4 Q You can't make a request?

5 A You can make --

6 Q Turn this over to the lab.

7 A You can make a request, yes, sir.

8 Q Did you make a request in this case?

9 A Yes, sir.

10 Q When was that request made?

11 A In the morning.

12 Q Of May 20, 1981.

13 A Yes, sir.

14 Q Thank you.

15 REDIRECT EXAMINATION: Detective Mise by Mr. Martin

16 Q And who was that request made to?

17 A Detective Priddy.

18 MR. MARTIN: Your Honor, I need a moment to locate some-
19 thing.

20 THE COURT: All right.

21 MR. MARTIN: May I see Commonwealth's No. 10, please.

22 Q Sir, I'm going to show you Commonwealth's No. 10. These
23 are the latent prints that were lifted out of the car in
24 this case. Have you seen those before, sir?

25 A I just looked at them, yes, sir.

1 Q Do they indicate what date they were taken, sir?

2 A 5/29 or 5/20/81.

3 Q And those are the prints we've been speaking about that
4 were taken from inside the car and outside the car?

5 A Yes, sir.

6 Q The same prints that were turned over to the lab on Aug.
7 27, 1981?

8 A Yes, sir.

9 Q Thank you.

10 RECROSS EXAMINATION: Mr. Mise by Mr. Boone

11 Q It's your testimony that you went by to talk to -- you
12 went -- 2306 Fairmount to talk to Mr. Bishop about this
13 matter.

14 A I talked to someone that identified theirself as being
15 the mother.

16 Q What date did you go by there?

17 A According to my records, saying it would of -- if it's from
18 memory only from be the 23rd day of May 1981. Approximate-
19 ly 10:00 o'clock.

20 Q Is that the only time you went by that residence?

21 A Yes, sir.

22 Q Did you go by any other residences?

23 A Yes, I did. 2113 #3 Newbourne Street.

24 Q And who lived there?

25 A I don't know.

1 Q Did you talk to anybody?

2 A I talked to a next door neighbor.

3 Q At that address?

4 A Well the apartment to that. I talked to the neighbor. I
5 knocked on the door of Apartment #3 and there was no answer.

6 THE COURT: What was the address you just said?

7 A 2113 #3, Newbourne Street.

8 THE COURT: Newmount?

9 A Newbourne.

10 Mr. MARTIN: Bourne. B-o-u-r-n-e.

11 Q Was the defendant's name on the mailbox?

12 A I didn't see it. No, sir.

13 Q You see any indication. Any mail with his name on it lay-
14 ing around?

15 A I don't recall seeing a mailbox at that address.

16 Q Did you go by any other address looking for the defendant?

17 A Only apartment #2.

18 Q Apartment #2 at 2113 Newbourne Street.

19 A Yes, sir.

20 Q Is that it. Those two address, is that all the places,
21 residences you went to?

22 A Yes, dr.

23 Q When you talked to the defendant on the 14th of August,
24 did he give you an address or phone number or anything
25 where you could reach him at?

1 A Umm--

2 Q You didn't arrest him on the 14th of August, did you?

3 A No, sir, I didn't.

4 Q You released him after you questioned him?

5 A I did, yes, sir.

6 Q You told him to stay in town?

7 A No, sir.

8 Q You didn't tell him to stick around?

9 A No, sir.

10 Q He was free to leave?

11 A He was free to leave.

12 Q Now, when you talked to him on the 14th of August you
13 knew at that point that he was seen leaving DGSC with
14 Raymond Miller on Friday, May 15, 1981, didn't you?

15 A Yes, sir.

16 Q So the only thing that changed from that time until the
17 time that you arrested him was the lab report back from
18 the lab on the fingerprint?

19 A That's true, yes, sir.

20 Q Now this -- you testified that you went out to DGSC and,
21 uh, with a photo-spread and you showed it to a man named
22 Gryden. Is that right?

23 A Yes, sir.

24 Q On 7/13?

25 A Yes, sir.

- 1 Q Did you show him six photographs?
- 2 A I did, yes, sir.
- 3 Q Did you ask him to look to see if anyone looked familiar?
- 4 A I did.
- 5 Q And he said, "yes, photograph number two looks familiar."
- 6 Is that right?
- 7 A From my notes he said that photograph number two looks
- 8 like, looks kind of like the guy at the credit union,
- 9 familiar.
- 10 Q Kind of like the guy?
- 11 A Yes, sir.
- 12 Q Can you, will the Sheriff please show you that photo-
- 13 spread. I think that's, um, wait a minute. I think it's
- 14 15. Is that the photo-spread you showed Mr. Gryden?
- 15 A Yes, sir, it is.
- 16 O On July 13?
- 17 A Yes, sir.
- 18 Q Would you pick out photograph #2, and that's Tyrone Bishop,
- 19 is it not?
- 20 A It is, yes, sir.
- 21 Q May I see that a second. Did Mr. Gryden initial that
- 22 photograph, sir?
- 23 A He did not. No, sir.
- 24 Q And what is the significance of an individual initialing
- 25 or signing on the back of a photograph?

1 A That that's the person.

2 Q So if Mr. Gryden had made a positive identification he
3 would have signed that on the back?

4 A He would. Yes, sir.

5 Q So by his signature being missing that tell us that he
6 did not make a positive identification.

7 A No, sir (unintelligible).

8 Q Thank you. Now there was a line-up you talked about, in
9 person line-up at the police station November 2, 1981.

10 A Yes, sir.
10 Q And you testified that I was there.

11 A Yes, sir, you were.

12 Q Do you know from your own knowledge or from your notes
13 when you first appraised as to when that line-up would be?

14 A No, sir, I do not.

15 Q Could it have been as late as that morning?

16 A Could have, I don't know.

17 Q You say you were disturbed or there was a problem when
18 we got to the line-up room, because Mr. Bishop didn't have
19 a beard?

20 A Yes, sir.

21 Q And you were concerned the line-up should be fair and
22 you thought he should have a beard because that's the
23 way he looked when you arrested him, is that correct?

24 A Yes, sir.

25 Q Did you bring that to my attention or request that we

1 postpone the line-up so that he could grow a beard?

2 A No, sir, we did not.

3 Q Did you even mention it to me?

4 A No, sir.

5 Q Do you have any notes as to what type of facial hair number
6 one, three, four, five and six had?

7 A No, sir, I do not.

8 Q And you don't have a photograph of that line-up, do you?

9 A No, sir. We do not.

10 Q Were photographs made of that line-up to your knowledge?

11 A I thought they were made but apparently not.

12 Q I'm asking what do you think.

13 MR. MARTIN: He just said what he thought.

14 THE COURT: He did.

15 Q You thought photographs were taken?

16 A Yes, sir. I did.

17 Q And who do you remember taking those photographs?

18 MR. MARTIN: Judge, he doesn't remember anyone taking
19 them. He said he thought someone took some.

20 THE COURT: He said he didn't.

21 Q Do you remember who took those photographs?

22 A I was thinking it was Detective Priddy.

23 Q Yes, sir. And he was present, was he not?

24 A I thought it was him, yes, sir. It was somebody from
25 forensic lab, I think.

1 Q When you testified under direct, you thought Priddy was
2 present?

3 A Yes, sir.

4 Q So you don't have a photograph from that line-up to show
5 what the six people looked like?

6 A No, sir, I do not.

7 Q And you don't have the original photo line-up you showed
8 John Lee and Turned Davis?

9 A I do not, no, sir.

10 Q When you questioned Tyrone Davis on August 14; October 21;
11 and October 22 of 1981, isn't it a fact that you told him
12 you had strong reason to believe he committed this homicide?

13 A Not that I've -- other than the lady that saw him in the
14 car.

15 Q You didn't tell him that you thought he did it?

16 A No, sir.

17 Q You didn't have any talk, you didn't have any conversation
18 with him about he better plead guilty and you've been a
19 Detective for 18 years and you know you've got him good?

20 A No, sir.

21 Q Did you tell him about the two boys who had picked his
22 photograph out of a spread?

23 A I did not.

24 Q You didn't tell him about that?

25 A No.

1 Q You didn't even mention that?

2 A There wasn't any photographs boys picked out.

3 Q Did you tell him you had shown his photograph to some
4 witnesses, sir?

5 A No, I didn't.

6 Q Did you tell him about the two boys who were present and
7 saw somebody get out of the car?

8 A I told him that two boys saw somebody leaving, a black
9 male leaving the car. Yes, sir.

10 Q So you did tell him about a couple of witnesses? What
11 else did you tell him those two boys said?

12 A That's all I said.

13 Q That's all you said?

14 A Yes, sir.

15 Q Isn't it a fact, sir, that you told Mr. Bishop these two
16 boys had picked him out of being the person who they saw
17 down there?

18 A I did not.

19 MR. MARTIN: I believe he answered that question, Judge.

20 THE COURT: I think he has.

21 Q You did tell him that he was seen by a witness at DGSC
22 leaving the post on Friday May 15, 1981, didn't you?

23 A I did.

24 Q You told him all of this before you even questioned him
25 didn't you?

1 A Yes, sir.

2 Q Had you heard any rumors going around DGSC about who did
3 this homicide, who committed this homicide.

4 A I haven't heard any rumors to that effect, no, sir.

5 Q You haven't?

6 A No.

7 Q You didn't spent any time out at DGSC?

8 A I did. Yes, sir.

9 Q Did you talk to people about any rumors going around?

10 A There was rumors going around that Tyrone Bishop was seen
11 in the car, but not that he did it.

12 Q And you were aware of these rumors, were you not?

13 A Yes, sir.

14 Q A gun has never been found in this case, has it, sir?

15 A It has not, no, sir.

16 Q Are you continuing to investigate this case?

17 A If I -- if anything comes up that I can investigate, yes,
18 sir.

19 Q Well as a matter of fact you turned a gun over to the lab
20 last week, didn't you?

21 A No, sir, I did not.

22 Q A couple of weeks ago?

23 A No.

24 Q Who turned that over?

25 A Nobody turned it over.

1 Q There wasn't a gun matched the competitive bullets a
2 couple of weeks ago?

3 A There was a gun, yes. But Detective Priddy done that.

4 Q And that was in this case, was it not?

5 A At the request of the Commonwealth Attorney, yes, sir.

6 Q Your the chief detective, aren't you?

7 A Yes, sir.

8 Q And your still the chief detective?

9 A Yes, sir.

10 MR. BOONE: I have no further questions.

11 THE COURT: Anything else, Mr. Martin?

12 MR. MARTIN: I might have a couple of things, Judge, yes.

13 2 REDIRECT EXAMINATION: Mr. Mise by Mr. Martin

14 Q Did you ever tell him that you had his prints in the car?

15 A No, sir, I did not.

16 Q When was that first produced as public knowledge or infor-
17 mation, or let known to the defendant?

18 A What was the question, sir?

19 Q When was that -- the facts that his prints were in the car
20 when did that first become divulged to the defendant?

21 A Probably at the preliminary hearing.

22 Q Were you present at the preliminary hearing?

23 A No, sir.

24 Q You testified at the preliminary hearing, didn't you?

25 A I did, yes, sir.

1 Q But you were excluded from the court, is that right?

2 A I was, yes, sir.

3 Q Is the fingerprint why you got the warrants?

4 A Yes, sir, that was evidence.

5 Q That was the evidence, is that correct?

6 A Plus the fact that --

7 Q Ms. Ward?

8 A Ward saw him in the car.

9 Q On August 14 when you talked to, first talked to Tyrone
10 Bishop you were able to get his fingerprints right there.
11 Well you got them that day from him --

12 A I did, yes, sir.

13 Q Is that right? On that card that's been introduced as
14 Commonwealth's Exhibit here?

15 A Inaudible.

16 Q 2103 Newbourne Street, Apartment #3, was that an occupied
17 apartment when you were there?

18 A Didn't appear to be, no, sir.

19 Q Is there anyway you can force Mr. Bishop to grow a
20 beard?

21 A No.

22 Q Is Mr. Boones function at the line-up, as observer only?

23 A Observer only, yes, sir.

24 Q You do not customarily consult with the defense attorney
25 at a line-up do you?

1 A ~~I do not~~, no, sir.

2 Q You consult with who?

3 A Commonwealth's Attorney.

4 Q Who was your legal advisor?

5 A You.

6 MR. MARTIN: No further questions, Judge.

7 THE COURT: Anything else, Mr. Boone?

8 MR. BOONE: Yes, sir.

9 2 RECROSS EXAMINATION: Mr. Mise by Mr. Boone

10 Q You had fingerprints of Tyrone Bishop, when? When did you
11 first obtain his fingerprints to compare them with suspect
12 prints?

13 A On the 14th of August.

14 Q Did you get them sooner than that, sir.

15 A Yes, I had a copy sooner than that.

16 Q When?

17 A On the 20th day --

18 Q Of May?

19 A Right.

20 Q 1981?

21 A Yes, sir.

22 Q So on the 20th day of May, not only did you have suspect
23 prints, but you had developed him as a suspect and you had
24 his prints to match up, didn't you?

25 A I did, yes, sir.

1 Q Thank you. You had Xerox copies of those prints (unintel)
2 Is that correct?

3 A I did, yes, sir.

4 Q Did you turn those over to Detective Priddy?

5 A I did.

6 Q He is not a fingerprint expert, is he?

7 A He is not.

8 Q Did you request that it go to the lab?

9 A Yes, sir.

10 Q He did not send it, is that correct?

11 A He did not.

12 Q You requested it again in August?

13 A I did.

14 Q Did it go to the lab at that time?

15 A Yes, sir.

16 Q Had you talked to the Commonwealth's Attorney about that?

17 A I talked to Bert Nance, yes, sir.

18 Q Commonwealth's Attorney requested that they be sent to the
19 lab?

20 A He did, yes, sir.

21 Q That the first time you told the Commonwealth Attorney, and
22 they requested they go to the lab?

23 A Yes, sir.

24 Q That's all I have.

25 THE COURT: May this witness be excused?

1 MR. MARTIN: No, sir, Judge. I'm going to ask that he
2 remain.

3 THE COURT: All right, sir, I'll ask you to go back
4 out in the lobby and have a seat. Remain
5 there until your called. And I'll ask you
6 not to discuss this case with anyone, sir.

7 A Yes, sir.

8 THE COURT: Next witness.

9 MR. MARTIN: Mary Ellen Miller.

10 (Ms. Miller, having been duly sworn
11 on the issue, testified as follows):

12 DIRECT EXAMINATION: Ms. Miller by Mr. Martin

13 Q M'am would you face the ladies and gentlemen of the jury,
14 please. Tell them your name.

15 A Um, Mary E. Miller.

16 Q Ms. Miller how old are you?

17 A Um, 32.

18 Q Do you have a brother, or did you have a brother, Raymond
19 Anthony Miller?

20 A Yes, I did.

21 Q Were you living in Richmond in May of 1981?

22 A Yes.

23 Q How long have you been living in the Richmond area?

24 A Uh, a little over 14 years.

25 Q You have a sister, Barbara?

1 A Barbara Jane Miller.

2 Q Where were Barbara and Raymond living at the time, May
3 15, 1981?

4 A Uh, 201 Kirkland Drive in Governor's Square.

5 Q Is that in Henrico County?

6 A Yes, um-huh.

7 Q Were you working on May 15, 1981?

8 A Uh, yes, I was.

9 Q Where do you work?

10 A Uh, Virginia Community College System in the Monroe Towers
11 Building.

12 Q Do you have an address on that?

13 A Uh, it's at, uh, I'm not exactly sure of the number of it,
14 but I believe it's 101 on 14th Street. It's between 14th
15 and Franklin Street.

16 Q Downtown Richmond?

17 A Yes, um, huh.

18 Q What time did you get off of work that day?

19 A Uh, 4:15.

20 Q Is that in the afternoon?

21 A Yes.

22 Q Did you go home?

23 A Uh, yes, I did.

24 Q Where is your home located?

25 A Uh, 4314 4th Street, on the East side of Richmond in Henrico

1 County.

2 Q What route did you take to go home that day?

3 A Uh, I had to leave the building, go across Franklin Street,
4 and across through the Consolidated Laboratories parking
5 lot. Cross Main Street to 15th Street parking lot, uh,
6 that sets between 14th and 15th on Main Street. Then I
7 left the parking lot, went up 15th Street to Main Street.
8 Followed Main Street for three or four Streets. Made a
9 left hand turn on one of the streets to get on to Broad
10 Street. Then I took Broad Street up to 25th Street and
11 made a left hand turn and went directly through Church
12 Hill. Uh, --

13 Q Which street do you come out on as you come up 25th?
14 Which street do you hit?

15 A Nine Mile Road. Route 33, I believe, is the number for it.

16 Q Is Fairmount Street off to your left as you come up to
17 Nine Mile Road? Do you know that? Do you know Fairmount
18 Street?

19 A Um, I don't know if that's the name of it or not. There
20 is a junction that switches over.

21 Q All right, and did you go out Nine Mile Road, then?

22 A Yes, I did. I went Nine Mile Road.

23 Q Did you pass a street known to you as Tuxedo Boulevard?

24 A Yes, sir, I did.

25 Q Do you know where that is?

1 A Yes.

2 Q About what time did you go by that area?

3 A At 4:38.

4 Q 4:38 p.m.

5 A Yes.

6 Q How do you know that time, 4:38 p.m?

7 A Because I had just passed the Richmond police car that
8 was setting on the left side of the road facing me and
9 I glanced down at my speedometer and noticed I was doing
10 two miles over the speed limit and I glanced at my watch
11 right after the speedometer.

12 Q Was it light or dark at that time?

13 A It was light, it was very light.

14 Q Now your brother Raymond Miller, do you know where he
15 worked?

16 A Yes.

17 Q Where did he work?

18 A Defense Supply Depot.

19 Q Down at Bellwood?

20 A Yes.

21 Q Was he working that day, do you know?

22 A Uh, from what my sister had told me, yes, he was.

23 MR. BOONE: I'm going to object.

24 THE COURT: Objection sustained.

25 Q You don't know of your own knowledge than, is that correct?

1 A Right, not of my own knowledge.

2 Q Do you know if Raymond came home that night, at all?

3 MR. BOONE: I'm going to object, unless he can ask her
4 if from her own knowledge?

5 THE COURT: Well, his going to have to ask her from
6 her own knowledge and so far she hasn't
7 answer so I can't rule on your objection,
8 so.

9 MR. BOONE: Yes, sir. I think she's testified she
10 didn't live with her brother.

11 THE COURT: I understand.

12 MR. BOONE: Yes, sir.

13 Q Did you have any contact with your sister at all that day
14 or that evening?

15 A Yes, I did. She called me at 5:50 p.m.

16 Q Did you have any discussion in reference to Raymond?

17 A Yes, I did.

18 Q What did you do after --

19 THE COURT: Well now wait a minute. Your getting in-
20 directly what I just told you you couldn't
21 do.

22 MR. MARTIN; I going to ask her what they did. What
23 action was took.

24 THE COURT: You can ask her what she did. If she didn't
25 see the sister, she wouldn't know what the

1 sister did.

2 MR. MARTIN: Well I'm not going to ask her what the
3 sister did, Judge. Just what she did.

4 THE COURT: That's what you just said.

5 MR. MARTIN: I'm going to ask her what she did.

6 THE COURT: You can ask her what she did. But I don't
7 want to know what the sister said or what
8 the conversation was.

9 MR. MARTIN: I'm not going to ask her what the sister
10 said. I'm going to ask what she did.

11 THE COURT: All right.

12 Q After you spoke with your sister, at 5:50, what did you do?

13 A Uh, I sat around the house for awhile and I did some errands
14 that I had to do and then about 6:45 I went down to see my
15 sister.

16 Q Where did you go to see her?

17 A At 201 Kirkland Drive.

18 Q You went to her apartment that evening?

19 A Yes, I did.

20 Q Was Raymond there when you got there?

21 A No, he was not.

22 Q Do you know Raymond's car?

23 A Yes, I do.

24 Q Did you ever see Raymond's car there?

25 A No, I didn't.

1 Q That night?

2 A No.

3 Q At any time did you began to look for Raymond?

4 A Yes, I did, immediately.

5 Q When you say immediately, what time do you mean?

6 A So right after I picked my sister up I brought her up to
7 7 Eleven so she could pick the truck up. And then I went
8 out driving, looking for him. I went down to the depot,
9 I went to Sears at West Broad Street.

10 Q Were you able to find him at all?

11 A No.

12 Q Did you ever see him again? Did you ever see him again
13 alive?

14 A No.

15 Q That's all the questions I have.

16 THE COURT: Cross.

17 CROSS EXAMINATION: Ms. Miller by Mr. Boone

18 Q Do you know where the ABC TV Rental store is?

19 A Right now I do, but before I did not. I -- accept for the
20 fact that it was on West Hull Street.

21 Q I beg your pardon?

22 A The only thing^{that}/I knew at that date was that it was on West
23 Hull Street.

24 Q I'm asking you today, today. Where is ABC TV Rental Store

25 A Today, yes, I do know where it is. It's on 1700 Block on

1 West Hull Street.

2 Q On West Hull Street. Did your brother -- was your brother
3 renting a TV from them?

4 A Uh, yes.

5 THE COURT: Again now we're asking her, from her own
6 knowledge.

7 MR. MARTIN: Judge I --

8 MR. BOONE: From her own knowledge, I'm asking her
9 from her own knowledge.

10 MR. MARTIN: Judge I --

11 A Right. From my own knowledge, being as what I was told.

12 THE COURT: Well, no. Uh-uh. The jury will disregard
13 that.

14 Q Have you been the ACB TV Rental since your brother was
15 missing?

16 A No, I have not.

17 Q Have you called them?

18 A No, I have not.

19 Q Have they been out -- have you seen anybody from that company
20 come out and pick up a television?

21 A Actually, visually, saw them, no.

22 MR. BOONE: No further questions, sir.

23 THE COURT: All right. May this lady be excused?

24 MR. MARTIN: Yes, she may, Judge. I thank her for coming.

25 THE COURT: Mr. Boone?

1 MR. BOONE: Yes, sir.

2 THE COURT: All right, M'am, your excused. You have
3 the right to remain in the Courtroom or
4 to leave, whichever you prefer, and thank
5 you very much.

6 MR. MARTIN: Judge, if I could just take one minute and
7 run down these exhibits I think that maybe
8 I'll --

9 THE COURT: Yes, sir.

10 MR. MARTIN: Commonwealth rests.

11 THE COURT: Commonwealth rests. Mr. Boone, do you
12 want to take a recess.

13 MR. BOONE: I think it might be a good idea, Judge.

14 THE COURT: All right then we'll take a short recess.

15 (RECESS)

16 (JURY OUT)

17 THE COURT: We'll let the record show the accused is
18 present in person along with his Defense
19 Counsel, Mr. Boone. Commonwealth's Attorneys'
20 Office represented by Mr. Martin. Do you
21 have any motions that you want to make, sir?

22 MR. BOONE: I do, Judge. If I could have about 3 min.
23 to put it together.

24 THE COURT: All right. I'll wait on you.

25 MR. BOONE: Okay.

1 THE COURT: Are you ready Mr. Martin?
2 MR. MARTIN: Yes, sir., Judge.
3 THE COURT: All right. Okay, go ahead.
4 MR. BOONE: Your Honor, it's my understanding the
5 Commonwealth has rested. So at this time-
6 THE COURT: That's what he said.
7 MR. BOONE: Yes, sir. At this time, I would move to
8 strike the Commonwealth's evidence as to
9 wit the robbery charge and the murder. And
10 of course, if there -- Secondly, the fire-
11 arms charges would also fall. I would
12 briefly speak to the robbery first. At
13 this point in the trial, of course, the
14 Court must view the evidence in the light
15 most favorable to the Commonwealth. Of
16 course, that will shift once all the evidence
17 is in. At this point as to the robbery,
18 it's my argument at best the Commonwealth
19 has proven the following.
20 THE COURT: Has proven a what?
21 MR. BOONE: The following. It's my argument this is the
22 best they had proved. The victim cashed
23 his pay check prior to lunch on May 15,
24 1981. He was seen leaving the base at noon.
25 He returned to the base at 12:30 p.m. on the

1 same date. Returned to work. He got off
2 work at 3:30. Left the base approximately
3 3:40. A co-worker who knows him well test-
4 ified he was the type of person who would
5 get paid one day and be broke the next.
6 No wallet was found at the scene on May
7 20, 1981. However, there is absolutely
8 no evidence the victim ever had a wallet.
9 There is no evidence at all that this young
10 man carried a wallet. There's been a lot
11 of talk about a wallet not being found, but
12 there is no evidence that he had a wallet.
13 In the car were credit cards which were not
14 removed. The victim had 50 cents in his
15 pocket. And there was a shot gun in a case
16 in the trunk of the vehicle which, of course,
17 had value in addition to the automobile
18 having value. It would be the argument of
19 the defense that for the Court to allow a
20 robbery charge to go to the jury, any verdict
21 they would find would be on sheer speculation.
22 It would be the defense argument that the
23 Commonwealth has not put on a
24 case as to robbery. And, additional, I
25 think it should be noted that the actual

1 body was apparently in this location, in
2 this vehicle on Bethel, Newbourne, what-
3 ever you want to call it. Well it's been
4 given about three different names in this
5 trial. At any rate, the vehicle apparent-
6 ly was on that road for a few days. There's
7 no way a jury would be able to say, even
8 if they believed the defendant murdered
9 him, there would be no way for them to
10 find that he was robbed at the time. If
11 they believed he was robbed. Nevertheless,
12 it would be my argument that there is not
13 sufficient evidence at this point to sus-
14 tain the burden the Commonwealth has for
15 robbery.

16 THE COURT:

All right, let's take it one at a time.

17
18 MR. MARTIN:

What are you going to say, Mr. Commonwealth?
19 Judge, I strongly disagree with Mr. Boone's
20 characterization of what the evidence is
21 before the jury at the present time. We
22 do know that the victim did cash his pay
23 check. We do know it was a big check,
24 \$487.77, I believe was the figure. He was
25 happy about having his big check. We know
what type of person he was. We know where

1 he worked. We know Mr. Bishop got ter-
2 minated that day. We had people put him
3 at Bellwood that day. We know he was in
4 the car. We know he's lied to the police
5 about the fingerprints. The man, Mr.
6 Miller, I think very clearly was executed.
7 There's a reason for that. He can identify
8 the person who was robbing him. If you
9 look how the body was positioned, it's
10 been pushed over and down into the floor
11 boards. The feet are twisted. The personal
12 papers are strewn about the car. The
13 car is a locked vehicle when the police
14 find it. He's been there for some days.
15 A black male seen around the car approxi-
16 mately 4:30, (if you accept that part of
17 the testimony) that night shortly after he
18 left from Bellwood. The man has been shot
19 twice. Under the circumstance of violence
20 there is no cash, no money with him, the
21 keys are gone, he has no wallet. I think
22 under those circumstances, it clearly comes
23 within the guidelines set forth in many
24 previous cases that reiterated fairly
25 recently in Stamper vs Commonwealth 220

1 VA 260. Another circumstantial evidence
2 case where the question was raised as to
3 whether or not the evidence was sufficient
4 to prove as an essential element of capital
5 murder in that case whether a robbery had
6 taken place. And they found clearly evidence
7 in that case which is similar in some
8 respect, many respects actually, to this
9 one. Except in this one we have the de-
10 fendant's prints in the car. We can place
11 him in the vehicle and we have him telling
12 lies as well. And, in fact, the finger-
13 print evidence alone should be sufficient
14 under some other case law. However, I
15 argue, at this point, that there is no
16 basis to strike at all. On robbery or any
17 of the charges.

18 THE COURT: your motion to
19 Mr. Boone, in reference to/strike the
20 evidence as to the robbery charges, the
21 Commonwealth is entitled to all reasonable
22 inferences the Court feels that the Court
23 should overrule your motion, to which you
24 note an objection and exception?

24 MR. BOONE: Yes, sir. Based on that ruling, Judge, I
25 will preserve my right to -- I will reserve

1 my right to argue the motion strike to
2 the murder at a conclusion of law of
3 evidence.

4 THE COURT:

Thank you, sir. We'll take a recess. About
5 five minutes.

6 (RECESS)

7 THE COURT:

We'll let the record show after a recess
8 that the accused is present in person along
9 with his Defense Counsel, Mr. Boone. The
10 Commonwealth's Attorneys' Office represent-
11 ed by Mr. Martin. I have a message from
12 the jury. Which says, "When we left the
13 courtroom for lunch recess, the prosecution
14 was questioning Detective Mise. When we
15 returned from lunch the Defense was apparent-
16 ly cross examining Detective Mise. We feel
17 like we missed a part of the trial." I
18 don't think this corresponds with my notes
19 here.

20 MR. MARTIN:

I ask him one question when they came back.
21 Judge.

22 THE COURT:

I know, I just want to take a look. Accord-
23 ing to my notes, when we came back from lunch
24 there was a motion to admit the tape of
25 John Lee. Which was denied. And I went

* * *

Pages 465-478 of Volume II
are not included. It covers question
from jury, examination of investigator
outside presence of jury.

* * *

* * *

Pages 479-480 of Volume III
are not included. It covers
examination of investigator
outside presence of jury.

* * *

* * *

Pages 481-482 of Volume III
are not included. It covers
jurors' question.

* * *

1 THE COURT: If you have any more questions, I think
2 maybe you should do it back in the jury
3 room. Okay? I'll send this pad back with
4 the jurors, if the Court has answered your
5 questions you can let the Sheriff know.

6 (JURY OUT)

7 MR. BOONE: Your Honor, before we bring the jury back
8 in, I have three (3) stipulations. We
9 might want to take care of the matter now.

10 THE COURT: What do you want to stipulate. What are
11 they?

12 MR. BOONE: Okay, sir. The first stipulation is the
13 weather report for --

14 THE COURT: All right, Mr. Commonwealth, that apparent-
15 ly -- The Commonwealth tells me that some-
16 where along the line that you've indicated
17 that you were going to stipulate that.

18 MR. BOONE: Was going to check the time it got dark,
19 sunset.

20 THE COURT: Excuse me, just a minute.

21 MR. MARTIN: The one thing we do agree on in the case,
22 Judge. I have the same weather report.

23 THE COURT: Excuse me, Mr. Boone. The second thing.

24 MR. BOONE: Okay. The second thing is the retirement
25 information on retirement pay information

1 as to --

2 THE COURT: This was left over from yesterday?

3 MR. BOONE: Yes, sir.

4 THE COURT: Somebody was suppose to phone you the amount

5 of money that was due on retirement.

6 MR. BOONE: And the date, Judge.

7 THE COURT: And the date that it was paid, I believe.

8 MR. BOONE: Yes, sir. Mr. Martin has that information.

9 THE COURT: Okay.

10 MR. BOONE: The third matter would be a document from

11 ABC Rental Company, Inc., which is located

12 1701 Hull Street, Richmond, Virginia. We

13 would introduce this document and the stip-

14 ulation would be that the decendant, Raymond

15 Miller was in fact renting a television

16 from this company. A payment was due on

17 May 15th. That he did not, in fact, come

18 in that day to make that payment. May 15,

19 1981.

20 THE COURT: You stipulate all that, don't you, Mr. Martin.

21 MR. MARTIN: Yeah, I thing there are three pieces of

22 pages added.

23 THE COURT: As long as you all agree with each other.

24 MR. BOONE: Yes, sir.

25 Mr. MARTIN: Yeah, I have the same information, Judge.

1 THE COURT: I've also been notified by the jury that
2 they have no further questions.
3 MR. MARTIN: Oh, good.
4 THE COURT: They didn't hear the Court say cross. Any-
5 thing else?
6 Mr. BOONE: No, sir.
7 MR. MARTIN: I'll just say one thing, Judge. On the --
8 I have the figure on the retirement money.
9 I got another phone call they gave me the
10 date of the check was issued or when it
11 was issued. It's on a pink slip. It will
12 take me a little bit to find it though, so
13 if you'll bear with me. Sometime during
14 this afternoon, I think we can locate it.
15 THE COURT: Well I think he wants it now, don't you.
16 MR. BOONE: Well I think we can agree that it was \$29
17 Hundred
/and something
18 THE COURT: Why don't you let him go ahead and look
19 for it now while we've got the jury out.
20 Whether than having to send the jury out
21 again.
22 MR. BOONE: All right.
23 MR. MARTIN: All right, and let me check in my office
24 first. It will be much easier. I'll have
25 one of the girls to call down there right

1 now just to get the information again in
2 the event I can't put my finger on a piece
3 of paper. They had it on a pink slip.
4 MR. BOONE: Your Honor, I think we -- couldn't we have
5 a stipulation without , we could stipulate
6 the Twenty-Nine Hundred Dollars and it was
7 mailed sometime in May of 1981. That would
8 satisfy --

9 MR. MARTIN: It was August.

10 MR. BOONE: I meant August 1981, whenever.

11 THE COURT: Well let's wait another five minutes.

12 MR. BOONE: Yes, sir.

13 THE COURT: And see if they can get it for you, Mr.
14 Boone and then we'll have it accurate.
15 We'll stand recess than for five minutes.

16 (RECESS)

17 We'll let the record show that after a
18 recess the accused is present in person
19 along with his Defense Counsel, Mr. Boone.
20 The Commonwealth's Attorneys' Office re-
21 presented by Mr. Martins Are we all squared
22 away now.

23 MR. BOONE: Yes, Judge.

24 THE COURT: Are we ready for the Jury?

25 MR. BOONE: Yes, Judge.

1 THE COURT: Ask the jury to come in.

2 (JURY IN)

3 Let the record show the jury returned at
4 3:36. The Court has checked the jury and
5 finds that all jury members are present
6 and account. Mr. Boone?

7 MR. BOONE: Your Honor, we call Officer Hewlett.

8 (Officer Hewlett, having been duly
9 sworn on the issur, testified as
10 follows):

11 DIRECT EXAMINATION: Officer Hewlett by Mr. Boone

12 Q Sir, will you state your name for the record.

13 A Officer R. D. Hewlett, Jr.

14 Q And where are you employed, sir?

15 A Henrico County Police Department.

16 Q And how long have you been so employed?

17 A Oh, approximately six years.

18 Q Officer Hewlett, I would ask you to direct your attention
19 back to October 21, 1981. Do you remember that day, sir?

20 A Yes, I do.

21 Q Did you make an arrest on that day?

22 A Yes, we did.

23 Q And who did you arrest?

24 A Mr. Tyrone Bishop.

25 Q And was that pursuant to several warrants in which heard

1 today, sir.

2 A That's correct.

3 Q All right. Did you, uh, when you were approached -- where
4 did you arrest Mr. Bishop. Where was he when you physically
5 arrested him.

6 A At his parents house at 2306 Fairmount Avenue.

7 Q All right. Can you describe the arrest to this jury?

8 A Um, myself and Officer Greene, who was my partner, were
9 working the Church Hill area and we had information that
10 warrants were outstanding for Mr. Bishop. We were preceed-
11 ing off bound on Fairmount Avenue when we witnessed Mr.
12 Bishop sitting on his parent's porch.

13 Q You know Mr. Bishop, don't you?

14 A Yes, sir, we have had prior contacts. Approximately three
15 months prior to that, his offical arrest in October.

16 Q You all went to school together?

17 A Uh, no, sir.

18 Q You didn't go to school together?

19 A Inaudible.

20 Q Can you tell the jury what happened when you approached
21 Mr. Bishop?

22 A We, uh, approached Mr. Bishop's parent's house. Uh, we
23 knocked on the door. Mr. Bishop answered the door. We
24 advised him that warrants were outstanding and that he,
25 uh, we requested that he, uh, go to us to inquire in

1 reference to the warrants. And he, which he did.

2 Q Was he co-operative with you?

3 A Yes, he was.

4 Q Did he attempt to escape in any way?

5 A No, he didn't.

6 Q As a matter of fact, sir, did you have to handcuff him
7 when you arrested him?

8 A No, we did not.

9 Q And why was that?

10 A He was co-operative. There was no problem for us to arrest
11 Tyrone, I saw no need to.

12 Q Thank you.

13 MR. BOONE: I have no further questions.

14 THE COURT: Cross.

15 CROSS EXAMINATION: Officer Hewlett by Mr. Martin

16 Q Officer Hewlett, you -- what particular section of the
17 Henrico County Police Department are you assigned to, sir?

18 A I'm assigned to the Special Action Force.

19 Q What is the Special Action Force?

20 A Uh, we basically, uh, convert unit dealing with robbery
21 and commercial break-ins.

22 Q How do you deal with robbery and commercial break-ins with-
23 out giving away any trade secrets?

24 A Uh, we work on surveillances, uh, basically very uncover
25 types of surveillances.

1 Q Plain clothes?

2 A That's correct.

3 Q Were you working the SAF Unit in October of 1981?

4 A Yes, I was.

5 Q How long have you been in the SAF Unit?

6 A Approximately 1 1/2 years.

7 Q One and one half years?

8 A That's correct.

9 Q You knew who Mr. Bishop was, did you not? You knew him
10 by sight?

11 A Yes, I did.

12 Q Your prior contact with him, I believe, was in August of
13 1981. Is that correct?

14 A That's correct.

15 MR. MARTIN: Judge, at this time, I'm going to ask the
16 jury to step out, please.

17 THE COURT: All right. We'll ask that the jury retire
18 to the jury room.

19 (JURY OUT)

20 THE COURT: Would you like to have the witness excused?

21 MR. MARTIN: Yes, I would, Judge.

22 THE COURT: Office Hewlett, I'm going to ask that you
23 step outside the door there and not talk
24 with anyone, sir.

25 (Witness Excused)

* * *

Pages 491-504 of Volume III
are not included. It covers
objection argued.

* * *

1 at 4:26. The Court has checked the jury
2 and finds that all jury members are present
3 and accounted for. Mr. Boone?

4 MR. MARTIN: It's my witness, sir. It's not --

5 THE COURT: All right, Mr. Martin, excuse me.

6 Q Officer Hewlett, I believe your testimony before the jury
7 left was that you worked in Special Action Force and you
8 knew Mr. Tyrone Bishop by sight, is that correct?

9 A Yes, I did.

10 Q Did there come a time in your duties as a police officer
11 of the Special Action Force that you became aware of an
12 investigation with him as a possible suspect?

13 A Yes, it was.

14 Q And as part of your duties in the Special Action Force
15 do you customarily look for people? To question them in
16 reference to crimes?

17 A We are required to locate these particular people but we
18 are not required to question them in reference to the crime.

19 Q And in May of 19 -- May, June, July, August and so forth
20 1981, that particular summer. Were you working in the
21 Special Action Force?

22 A Yes, I was.

23 Q Do you work --

24 MR. BOONE: Your Honor, at this point, I limited my
25 examination of this witness as to one day,

2 Martin is entitled to go outside that scope.

3 THE COURT: You want to be heard?

4 MR. MARTIN: I think he's already testified he saw him
5 on a previous occasion. I think --

6 THE COURT: He did.

7 MR. MARTIN: I can develop a little bit around that.

8 THE COURT: That's correct.

9 MR. MARTIN: I'm not going to develop a lot, but a little
10 bit.

11 THE COURT: Objection overruled.

12 Q All right, Office Hewlett, when did you first become aware
13 of an investigation into Mr. Bishop?

14 A It was August 12, 1981.

15 Q August 12?

16 A That's correct.

17 Q All right. Had you received any information from any other
18 Henrico Police Officers that this man was wanted for quest-
19 ioning in reference to charges of Henrico?

20 A Yes, I did. Sergeant S. W. Englehart, he's the commander
21 of SAF (Special Action Force).

22 Q And when did you get this kind of information?

23 A August 12, 1981.

24 Q Were you aware of an investigation into Mr. Bishop prior
25 to August 12th?

- 1 MR. BOONE: Your Honor, I would object here. All this
2 is heresay. What people told him.
- 3 MR. MARTIN: It doesn't make any differences whether it's
4 true or not. I'm not offering it for
5 truth anyway.
- 6 THE COURT: Overruled.
- 7 Q Where you aware prior to information from Sergeant Engle-
8 hart of an investigation into Mr. Bishop?
- 9 A Yes, I was.
- 10 Q Are you familiar with the Raymond Miller homicide at
11 Tuxedo Boulevard back in May of 1981?
- 12 A Yes, I was.
- 13 Q In the course of your duties as a SAF Police Officer, in
14 an effort to locate these people, did you make any efforts
15 to locate Mr. Tyrone Bishop?
- 16 A Yes, I did.
- 17 Q When did you initiate these efforts?
- 18 A August 12th was the, uh, first date that, uh, the search
19 was initiated.
- 20 Q You actually tried to look for him beginning August 12th?
- 21 A That's correct.
- 22 Q And you were able to locate him, when?
- 23 A August 14th.
- 24 Q And that's the first contact you had with him? Is that
25 correct?

1 A That's correct.

2 Q And the other contact you had with him was on October 21,
3 1982?

4 A That's correct.

5 Q Is that correct?

6 A That's correct.

7 Q Where did you locate him on August 12, 1981?

8 A We located him on August 14, /uh, at 2306 Fairmount Avenue
9 at his parent's address.

10 Q Do you know his parents?

11 A No, I do not.

12 Q What time of day was it?

13 A It was approximately 5:10.

14 Q Afternoon?

15 A That's correct.

16 Q Do you work a particular area? For the County or City?

17 A Uh, we work, uh, alot in the City. Not just that one
18 particular area but we work alot in the City, County. Uh,
19 the metropolitan area basically.

20 Q Is that the Church Hill area, the city?

21 A The 2306 Fairmount Avenue address is in Church Hill.

22 Q Is that one of the areas that you work?

23 A That's correct.

24 Q And have you been working it, for how long?

25 A For approximately 1 1/2 years.

1 Q Okay.

2 MR. MARTIN: That's all I have for him, Judge.

3 THE COURT: Mr. Boone?

4 MR. BOONE: I have no questions.

5 THE COURT: May the Officer be excused?

6 MR. BOONE: Yes, sir.

7 THE COURT: Mr. Martin?

8 MR. MARTIN: No, sir.

9 THE COURT: I'll ask you to go out into the hall and
10 have a seat. And I'll ask you not to dis-
11 cuss the case with anyone, sir. Next witness.

12 MR. BOONE: I call Karen Green.

13 THE COURT: Do you spell Karen with a K?

14 MR. BOONE: Yes, sir.

15 (Karen Green, having been duly sworn
16 on the issue, testified as follows):

17 DIRECT EXAMINATION: Karen Green by Mr. Boone

18 Q M'am, I'm going to ask you to speak up so all the members
19 of the jury can hear you. Will you please state your name
20 for the record?

21 A Karen Green.

22 Q And where do you live, M'am?

23 A 3812 Chamberlayne Ave.

24 Q All right. Ms. Green, were you employed on November 2,
25 1981?

1 A Yes, I was.

2 Q And where were you employed?

3 A Boone & Warren Law Firm.

4 Q Is that the law firm I work for?

5 A Yes, it is.

6 Q Okay. And what was your job at that law firm?

7 A I was secretary for the firm.

8 Q As secretary what were your responsibilities?

9 A Um, receptionist, and other secretary duties.

10 Q Would you take phone messages for myself?

11 A Yes, I did.

12 Q I'm going to ask you to look at a phone message book and
13 see if you recognize this?

14 A I recognize it.

15 Q All right. Do you see a message on there from/^aDetective
16 Mise

17 A Um-huh.

18 Q A phone message?

19 A Yeah.

20 Q Can you read it to the jury, please?

21 A Okay, it's to your attention from Detective Mise, Henrico
22 Police. His phone number 747-4662. In reference to a
23 holding a physical line-up at 2:00. Tyrone Bishop. At
24 Public Safety Building on Parham and Hungary Springs Road.
25 To be held for one person. You may attend, if you wish.

1 Q All right. And what was the date of that message, please?

2 A Uh, November 2.

3 Q And what time was it?

4 A 9:00 o'clock.

5 Q And is that your handwriting?

6 A Yes, it is.

7 Q Did you take that message?

8 A Yes, I did.

9 Q All right. And do you, from your own knowledge, remember
10 if you transmitted that message to me?

11 A Yes, I did.

12 Q All right. And to the best of your knowledge was that the
13 first message that had come from you to me in reference
14 to a physical line-up? Pertaining to this case?

15 A Uh, yes, it was.

16 MR. BOONE: I would ask to introduce that as Defense
17 Exhibit 1.

18 THE COURT: Any objections, sir?

19 MR. MARTIN: No, sir.

20 MR. BOONE: No further questions.

21 MR. MARTIN: Can I have a copy of that, Judge, please.

22 THE COURT: One minute. I'll ask you to have a seat.

23 WITNESS: Oh.

24 THE COURT: Cross examine, sir.

25 CROSS EXAMINATION: Ms. Green by Mr. Martin

Q Ms. Green?

1 A Yes.

2 Q You, yourself, talked to Detective Mise. Is that correct?

3 A Yes, I did.

4 Q He was simply providing you with information. Is that
5 correct?

6 A That's correct.

7 Q He did not engage in any conversation about the line-up,
8 or he didn't tell you to do anything, did he?

9 A No.

10 Q Did he advise you that he had contacted Tyrone Bishop in
11 reference to the line-up?

12 A No.

13 Q Did you tell you about who was going to be in it, besides
14 Tyrone?

15 A No.

16 Q And approximately what time did you advise Mr. Boone of
17 this?

18 A Um, exactly I don't remember, but Mr. Boone didn't come
19 into the office until later in the afternoon as a norm
20 and, um, I assume it was later that afternoon.

21 Q Not after the line-up?

22 A No, not after the line-up. I remember, well, --

23 Q That's all I have for her, Judge.

24 A Okay.

25 THE COURT: Anything else?

1 MR. BOONE: No, sir.

2 THE COURT: May this lady be excused?

3 MR. MARTIN: Yes, sir.

4 THE COURT: Mr. Boone?

5 MR. BOONE: Yes, sir.

6 THE COURT: All right, M'am your excused. You have the
7 right to remain or to leave, whichever you
8 prefer.

9 A Thank you, Judge.

10 MR. BOONE: Your Honor, I would like to introduce the
11 three (3) stipulations, we could do that
12 tomorrow morning. It really doesn't matter.

13 THE COURT: All right. We'll do it whichever way you
14 want to do it.

15 MR. BOONE: All right. At this time the first stipula-
16 tion --

17 THE COURT: The jury will accept this as a fact, what
18 he is about to say.

19 MR. BOONE: The first stipulation ladies and gentlemen
20 is that Defense General Supply Center cut
21 a check, a retirement check, for Tyrone
22 Everette Bishop, the defendant in this case,
23 it was a prove payment on August 11, 1981.

24 THE COURT: What was that date again?

25 MR. BOONE: August 11, 1981. The check would actually

1 have been mailed out three to seven days
2 after that. So from three to seven days
3 after August 11, 1981, the retirement check
4 would have been mailed out to Tyrone Bishop
5 it was in the amount of \$2,951.96.

6 THE COURT: Give me that again.

7 MR. BOONE: \$2,951.96.

8 THE COURT: Okay. That's the retirement?

9 MR. BOONE: Yes, sir, that was the retirement check.

10 It was mailed out to the defendant. The
11 second stipulation is a document giving
12 the sunset and the high and low weather
13 for May 15 through May 20 of 1981. Which
14 speaks for itself. It's specifically show
15 sunset on May 15, 1981 to be 8:11 p.m. I
16 would ask to have this introduced.

17 THE COURT: The defendant's exhibit #2.

18 MR. BOONE: The third stipulation --

19 THE COURT: Wait a minute -- wait a minute.

20 MR. BOONE: Yes, sir.

21 THE COURT: All right.

22 MR. BOONE: The third and last stipulation. A document
23 a three page document from ABC Rental Co.,
24 Inc. Which is a TV Rental Store located
25 at 1701 Hull Street. The stipulation is

1 that Raymond A. Miller, the victim in this
2 case, living at 201 Kirkland Drive was rent-
3 ing a television from this company. He was
4 to make a payment on May 15, 1981, and he
5 failed to appear. He did not make that
6 payment, May 15, 1981. We would offer
7 this as a document, exhibit.

8 THE COURT: Defendant's Exhibit 3.

9 MR. BOONE: That may be a good breaking point, Your
10 Honor.

11 THE COURT: Can the members of the jury be back at
12 9:30 in the morning? Everybody agreed on
13 that? All right. I will ask that you not
14 be within hearing distance of anyone discuss
15 ing this case. Or that you discuss this
16 case with anyone. I'll ask you not to read
17 anything about it in the newspaper, or
18 other periodical. Listen to anything about
19 it on the radio or watch anything about it
20 on TV. And I'll ask you^{to} be back at 9:30
21 in the morning. You are now in recess.
22 Tell the witness to be back at 9:15 in the
23 morning, please.

24 MR. MARTIN: Judge, I don't want any of the Commonwealth-
25 witnesses to leave yet. I must talk to

/

* * *

Pages 516-651 of Volume III are
not included. It covers new
evidence for reopening prosecution's
case in chief.

* * *

* * *

Pages 652-654 of Volume III
are not included. It covers
preliminaries upon reconvening
Monday morning.

* * *

(Jury In)

1
2 THE COURT: We'll let the record show that the jury has
3 returned at 9:45 and all the members of the
4 jury are present and accounted for. Members
5 of the jury, I'll ask if any of you were within
6 hearing distance of anyone discussing this case
7 or if you have discussed this case with anyone.
8 We also ask if you've read anything about it
9 in the newspaper or heard anything about it on
10 the radio or seen anything about it on television.
11 Counsel have any questions?

12 MR. MARTIN: No questions, Your Honor.

13 THE COURT: All right, Mr. Boone, call your next witness.

14 MR. BOONE: We call the defendant, Tyrone Bishop.

15 (The defendant is duly sworn)

16 DIRECT EXAMINATION: Tyrone Bishop by Mr. Boone

17 Q Now, I'm going to ask you to speak up a little loud so
18 all the members of the jury can hear you. First, you
19 are the defendant in this case, are you not?

20 A Yes, I am.

21 Q Your name?

22 A Tyrone Everette Bishop.

23 Q Mr. Bishop, you have been advised, have you not, that you
24 do not have to testify should you choose not to do so?

1 A Yes sir.

2 Q And you choose to testify?

3 A Yes sir.

4 Q Sir, I would ask you to give the jury just
5 a sketch of your background, where you went
6 to school -

7 MR. MARTIN: Judge, I don't think that's relevant.

8 THE COURT: It isn't. Sustained.

9 MR. BOONE: Alright. Mr. Bishop, when did you go to
10 work for the Defense General Supply Center?

11 A I was first employed with DGSC June 2, 1975.

12 Q And you worked with DGSC through when?

13 A Through May 15, 1981.

14 Q That was your termination date, was it not?

15 A Yes sir.

16 Q What were your duties and responsibilities
17 at DGSC?

18 A Well, when I was first employed, I was a
19 forklift operator, then I was promoted to a
20 packer and stock selector.

21 Q And during this period at DGSC was there
22 any specific area of the post that you worked?

23 A Yes, I was employed in Warehouse 59.

24 Q And is that the same warehouse that various
25 witnesses have testified in this trial?

A Yes sir. It is.

1 Q Directing your attention to the victim in
2 this case, Raymond Miller, when did you first
3 meet him?

4 A I met Raymond in 1978 or 79, latter part of
5 78.

6 Q And where was that?

7 A In warehouse 59.

8 Q And what did he do at DGSC?

9 A Well, me and Raymond worked in two different
10 sections of warehouse 59. We first started
11 in the stock selection section and then we
12 were both moved at the same time to the pack-
13 ing section which is on the other end of the
14 stock selection warehouse 59.

15 Q And you say you worked in two different
16 sections, were you, all though you were in
17 two different sections, were you in the same
18 warehouse?

19 A Yes, you see, we worked together in the stock
20 selection section and then, like, they were
21 short on the other end of the warehouse which
22 was packing section and about four or five
23 people out of the stock selection section were
24 chosen to move to the packing section and
25 so me and Raymond were one of those people
that were chosen to be moved up.

1 Q Okay, can ^{you} describe your relationship at
2 work with Raymond during this period of
3 time?

4 A Yeah, well, me and Raymond were real good
5 friends, we had worked together there for
6 ^{oh} two or three years together. Like I said,
7 we worked in two different sections together
8 and we had gotten to know each other pretty
9 good and we really enjoyed each other's
10 company. He was a pretty happy-go-lucky
11 guy and we used to talk alot and joke alot
12 on the job together.

13 Q There's been some testimony from various
14 people that Raymond was mentally retarded,
15 what were your observations in regard to this?

16 A Well, Mr. Boone, really, I hate to say Ray-
17 mond was mentally retarded, but Raymond
18 could carry on a conversation just about
19 like anybody I had ever met, you know, like,
20 he was a real nice guy and he could talk up
21 a real normal conversation, he did the work
22 as good as anybody there, and it wasn't the
23 kind of work a child could do. It could get
24 very complicated at times and sometimes it
25 even got so complicated we seemed to feel
like we needed college educations to do the

1 work and Raymond would always reach his quota,
2 which some people that they call very sane
3 couldn't do. So I never, I couldn't say he
4 was mentally retarded, he carried on a very
5 good conversation with me and every other per-
6 son around us.

7 Q Did you treat him any differently than other
8 people you knew at DGSC?

9 A I treated him the same as I treated anyone else.
10 We were friends, just like I tried to be friends
11 with everybody else there. We all got along
12 together.

13 Q He's been described by some of the supervisors
14 and others at DGSC as being a fellow --

15 MR. MARTIN: Judge, I will object to him restating testi-
16 mony, if he has a question fine --

17 MR. BOONE: I will rephrase it. Was he the type of indi-
18 vidual everybody knew? At DGSC?

19 A Well, I would say, maybe not everybody, but
20 most of the people there knew him, 'cause, like
21 I said, he was ^{sort of a} one of those happy-go-lucky guy
22 he liked to talk to people and he liked to be
23 everybody's friend. So people really liked
24 him and a lot of people did know him there.

25 Q Did you share your lunch together?
458 A Yes we did at times. When I ate on the Depot
we would eat in the lunchroom together and

1 sometimes I would go out and eat, you know.
2 And we'd play cards and go to different
3 parties and lunches they would have there,
4 just had a good time, that's all.

5 Q Did the Depot have any functions other than
6 work functions? Did they have any social
7 functions of any sort, where you would see
8 Raymond Miller?

9 A Yeah, we had softball games, Christmas parties
10 dances, different sorts of things, retirement
11 parties, things like that.

12 Q Did you have any run-ins with Mr. Miller,
13 any bad blood between you and Mr. Miller?

14 A None at all, not the whole time I knew him.

15 Q Did you consider him your friend?

16 A I considered him a very good friend.

17 Q I want you to direct your attention to
18 Friday, May 15, 1981. I want you to think
19 about that day for a moment and tell the
20 ladies and gentlemen of the jury as much of
21 that day as you can remember.

22 A Yeah, Friday the 15th, which was to be my
23 termination date from Bellwood, when I speak
24 of termination, well, it had been a letter
25 sent down from the General of the Post
Commander, saying that there were a certain

1 amount of people there that had

2 MR. MARTIN: I'll object to that your honor, that's here-
3 say.

4 THE COURT: It is, sustained.

5 MR. BOONE: Go ahead sir, just tell us, as a result of
6 that letter, what happened?

7 A Well the letter that came down -

8 Q Don't tell us what the letter said, but as
9 a result of that letter, what happened?

10 A Well, alot of people had to be terminated due
11 to -

12 MR. MARTIN: I'm objecting to that again sir, its the same
13 thing

14 THE COURT: Sustained.

15 MR. BOONE: What happened to you sir?

16 A Well, I was terminated from there for missing
17 X amount of days and X amount of time.

18 Q Alright, let's talk about it for a moment.
19 You had been working there for six years?

20 A Six years, yes.

21 Q And you received a termination notice?
22 Is that right?

23 A Yes.

24 Q The reasons for that is because you missed
25 days at work?

26 A Yes

1 Q Alright, can you tell the jury why you were
2 missing so many days?

3 A Well, really, I had been working there for a
4 while and I had owed alot of bills, IRS and
5 they had been taking alot of my paycheck. I
6 worked there for almost a year, making only
7 \$50 a week, \$100 every two weeks. I did the
8 best I could because I wanted to stick it out
9 as long as I could. Then I started having
10 car/
11 problems, my car, the gasline on my car broke
12 and caught on fire and then my transportation
13 got real bad. I had to catch a ride the best
14 way I could and when I couldn't, I had to
15 hitchhike or catch the bus as far as I could
16 get the bus and then hitchhike from there.
17 And so, it got pretty hectic and it was, it
18 got so, it got virtually impossible sometimes
19 to get to work and plus, being that I was only
20 working for \$50 a week, \$100 every two weeks,
21 I really didn't feel that it was really worth
22 it, you know, and so, I started helping a
23 girlfriend of mine's father by doing some
24 moonlighting. He was driving a truck for
25 the International Trucking Company and the
weeks or weekends that he wasn't on the road,
he would do some moving. He would move

1 furniture and stuff for different people and
2 things, odd jobs and I would help him. So,
3 being that I was doing that for him, I was
4 making more money helping him then I was
5 working at Bellwood, and so, I started doing
6 that more, and missing more days at Bellwood
7 and eventually, I just got terminated along
8 with alot of other people that had missed
9 alot of days just like I did.

10 Q Did you catch a ride with Henry Redd?

11 A I caught a ride with Henry when I could but
12 see, sometimes, I stayed in Churchill and
13 sometimes I stayed on the Southside of town
14 at my other girlfriend's house and being that
15 Bellwood had different shifts there, there
16 would be, some people would work weekends,
17 which were Saturdays and Sundays and be off
18 a couple of days during the week. And that
19 made it hard too, because, sometimes Henry
20 would work on the wekends and sometimes during
21 the week he would be off, when I needed a ride
22 and I couldn't get a ride and sometimes, I
23 would be over in Southside, and when I was
24 in Southside, I would catch the bus from my
25 girl's house to DuPont, which the city bus
462 only went as far as DuPont and from DuPont I
had to hitchhike to Bellwood, which is about

1 two maybe two and a half miles. That got
2 kind of rough at times also. I would be late
3 if I didn't get there at all, I would be late.

4 Q So once you got to the front gate about how
5 far was it from there to Warehouse 59?

6 A I'd say at least, maybe a mile, a mile and
7 a quarter or so.

8 Q So how would you get from the gate to the
9 Warehouse?

10 A Well, if you didn't catch one of those post
11 taxis, you would have to hitchhike from the
12 front gate back to Warehouse 59 also.

13 Warehouse 59 was in the back of the depot.

14 Q And the gate you came in, what was the name
15 of that gate?

16 A That's the main gate, up there by the Myers'
17 Building, up there.

18 Q Is that on Jefferson Davis Hwy?

19 A Yeah, that's on Jefferson Davis Hwy, right
20 off the highway.

21 Q Now, you've mentioned two different residences,
22 ies you would be living at, can you give
23 those residences?

24 A One was at 421 N. 33rd Street which is in
25 the east end part of Richmond -

Q And who lives there?

1 A Julia Sneed. And one was 2140 Afton Avenue, which is
2 in the Southside of Richmond -

3 Q 2140 What?

4 A Afton.

5 Q Is that A-F-T-O-N?

6 A Yes.

7 Q Who lived there?

8 A Clementine Robinson.

9 Q And is it your testimony you would live at one residence
10 in -

11 MR. MARTIN: Judge, I would just ask him not to lead the
12 witness

13 Q Which of those two residences sir did you live in?

14 A I lived at both of them. Sometimes I would stay at
15 Julia's house and sometimes I would stay at Clementine's
16 house.

17 Q Now, let's get back up to May 15, 1981, Friday that's
18 the/
19 involved in this case. What did you do that Friday?

20 A Well, -

21 Q And before you answer that let me show you Commonwealth's
22 evidence number 18, I ask if you can identify that?

23 A Yes-sir.

24 Q What is that sir?

25 A This is a, letter, notice of decision for removal that
26 I received from Bellwood.

27 Q And does it have a date in there as your effective d/ate
28 of termination?

1 A Yes it does.

2 Q What date is that?

3 A May 15, 1981.

4 Q Sir, when you received that letter, can you translate
5 to the jury what that means to you?

6 A Yes, being that I had been employed at Bellwood six years
7 and I received this letter of proposed removal, the
8 understanding that I had got over the time that I had
9 been employed there was that on your last date of term-
10 ination you was supposed to clear the post, which was
11 the Provost Marshalls' office, the credit union, the
12 personnel department, places like that. And the idea
13 that I had was that we would have to receive our
14 clearance papers from the warehouse in which we had
15 been assigned to, which was in my case Warehouse 59 and
16 so, that's what I intended to do on May 15, 1981.

17 Q Tell the jury what you did do on May 15, 1981.

18 A On May 15, 1981 I left my girlfriend's house in Southside,
19 which was on Afton Avenue, sometime late that evening to
20 go to Bellwood. I caught the bus on Jeff Davis Highway
21 which would carry me to DuPont, and from DuPont, I caught
22 a, I was out there, trying to hitchhike a ride and it
23 took me, oh, I know, close to 35, 45 minutes to catch a
24 ride from duPont to the front gate of Bellwood. It was
25 late in the evening, I got to the front gate, it was a
little after three when I got there and so, after I got
into the gate, I had another problem, I had to get a ride

1 from the front gate back to Warehouse 59, which was at
2 the back of the Depot, where I worked, because the under-
3 standing I had, I had to get back there to pick up my
4 clearance papers to clear the post. So, eventually I got
5 a ride to get back in the back where warehouse 59 was.
6 So, I got back there, it was about time for them to knock
7 off work for that day, which was about 3:30 and so I said,
8 you know what's the use today, you know, it's time for
9 people to go home and ~~being~~ it took me so long to get here,
10 the best thing for me to do now is to try to get ^{me} a ride
11 out of here so that I won't have a problem of getting
12 home at 3:30, you know, well you know, after I cleared,
13 because I knew I wouldn't be able to clear that day
14 anyway. 'Cause you know, I was thinking well, people
15 are going home now, I wouldn't be able to get my clearance
16 papers so the best thing for me to do would be to just
17 get a ride. So I went off into the Warehouse looking,
18 trying to see if I saw anybody that I could probably get
19 a ride back down Jeff Davis Highway with.

20 Q Let me ask you one question that might be relevant, did
21 you still have your badge and -

22 A Yeah .

23 Q To get on the base -

24 A Yeah .

25 Q Go ahead .

A. Alright, after I got back into the Warehouse to try to

1 get me a ride, I didn't see anybody right away, so I
2 went back out to the parking lot out there, and people
3 were leaving and traffic was real hectic and so, I saw
4 Raymond. So I went over to Raymond's car and said,
5 "Raymond, which way are you going, are you going down
6 Jefferson Davis Highway when you leave here?" He said,
7 "Yeah, he was going as far as Hull Street, going down
8 to Hull Street. So I asked him if I could catch a ride
9 and he said yeah, it was okay. So - -

10 Q Did he tell you where he was going on Hull Street?

11 A Yeah, he told me he was going down to the, this ABC
12 Rental place down on Hull St. So he told me I could
13 catch a ride and I got in the car and so we left the Depot.

14 Q Alright, at this point sir, I'd like the witness to use
15 this map and draw some exits so the jury can follow him
16 with this map, if that would be okay?

17 MR. MARTIN: No objections sir.

18 THE COURT: Huh?

19 MR. MARTIN: No objections.

20 THE COURT: Alright.

21 Q Judge, can we approach the jury? Will you step over here
22 with that map sir? Take this red and mark it. First of
23 all, put #1 where the Defense General Supply Center is and
24 make it #1 and circle it. Alright now, you can go ahead
25 with your testimony.

A Alright, when I left Bellwood, which is here, we went down

1 Jefferson Davis Highway, which is right here, and I was
2 going to my girlfriend's house on Afton Avenue, which is
3 right across Bellmeade and that's as far as I went with
4 Raymond. -

5 Q Alright, will you put a #3 where Hull Street intersects
6 Jefferson Davis Highway?

7 A It's right here, this is Hull Street Right here.

8 Q Put a #3 there sir. Thank you. Mr. Bishop, what did
9 y'all talk about when you were catching a ride?

10 A Well, basically we had general conversation. We both
11 enjoyed baseball so I guess we talked a little bit about
12 baseball, jobs, things like that, that's about basically
13 all we talked about that I can remember.

14 Q Was there anything unusual about Mr. Miller that you can
15 recall?

16 A No, I couldn't see anything unusual about his attitude or
17 anything, you know, he was the same old Raymond, laughing
18 and joking.

19 Q It is your testimony he dropped you off where?

20 A At the intersection of Afton Avenue and Jefferson Davis
21 Highway.

22 Q Can you estimate how long you were/ ^{actually} in his automobile that
23 day sir?

24 A It couldn't have been more than 25 or 30 minutes at the
25 most.

1 Q And when you left the post, can you describe the traffic
2 situation?

3 A Yeah, well, the traffic was, I'd say, about the same as
4 everyday. It was bumper to bumper and everybody was trying
5 to get out and really, going out the front gate is really
6 bad, that's the way we went, you know, stop and go traffic
7 all the way out the gate until you get up to Jefferson
8 Davis Highway, that's the way it was that day.

9 Q Now, did you ever see Raymond Miller again after you got
10 of/
11 out his car?

12 A I never saw Raymond again after I got out at Afton Ave,
13 I never saw him again.

14 Q Did it come to your attention sometime thereafter that his
15 body had been found?

16 A Yes it did, I would say the latter part of the next week,
17 a friend of, well, a former employee, co-worker rather
18 mentioned something to me about it, that they had found -

19 Q Don't tell us what he said, you learned it through a - -

20 A Co-worker, yeah.

21 Q Did you become concerned about that?

22 A Well, not right away, until it dawned on me that I had
23 caught a ride with him that last week, you know, but that's
24 the only thing that really hit me, I said, I just saw Ray-
25 mond last week you know and I thought no more about it,
although I was saddened by his death, y'know, just like
everybody else, but it just dawned on me right then, 'cause

1 'cause he had just said they had found his body and then
2 I say, maybe one or two days later, I was at softball
3 practice, where I played softball for this team in Richmond
4 and some friends of mine -

Q Don't tell us what they told you -

A Well, I heard again, this time it was rumors. -

6 THE COURT: Now, we're right back where we were.

7 Q Don't tell us what anybody told you, did you begin hearing
8 any stories about his death?

9 A Yes, I did.

10 Q And, did they alarm you sir?

11 A Yeah, they alarmed me, saying rumors about - -
say what/

12 Q Well, don't they were, but tell us were you alarmed?

13 A Yes, I was.

14 Q Now, Detective Mise testified that he questioned you, is
15 that true?

16 A Yes sir.

17 Q And what you told Detective Mise, was that the truth?

18 A No, I didn't tell Detective Mise the truth, but I had my
19 reasons for that also.

20 Q Was that because of reasons you had heard?

21 A Yes sir.

22 MR. MARTIN: Judge, he can state the reasons if he wants to,
23 but, I object to Mr. Boone putting words in his

24 Q What kind of ^{mouth.} rumors did you hear?

25 MR. MARTIN: No, I object to that, he had his reasons, he can
470 state his reasons.

1 Q What were your reasons?

2 A Well, when Det. Mise first questioned me, he came to me
3 and told me that they were investigating a homicide and
4 that he had strong reasons to believe that I was the
5 person that committed this homicide. He had people that
6 had seen me leave with the victim from the Defense General
7 Supply Center and he also told me that he had these two
8 little boys that had picked me out in a photo lineup. So
9 I panicked. I said, "I don't know anything about it."
10 I'd never been in Raymond's car in my life." I was just
11 'Cause he was telling me that he had people that had
12 seen me at the crime site with Raymond, which I knew
13 wasn't true. I mean, it was possible that people saw me
14 leave Bellwood with him, but when he told me that he had
15 some little boys that saw me at the crime site, where they
16 had found his body, I knew that was impossible, because
17 I had got out of Raymond's car way in south Richmond, and
18 he was telling me about a place in eastern Henrico. So
19 I just panicked and told him I didn't know what he was
20 talking about and that I had never been in Raymond's car
21 in my life and that was basically it.

22 Q But you were in his car?

23 A Yeah, I was in his car on May 15th.

24 Q So you don't deny that then?

25 A No, I don't deny that.

1 Q There's still alot of testimony about your financial sit-
2 uation back during this period of time, did you have any
3 trouble paying your bills?

4 A Yeah, I had trouble paying my bills, ^{because} but like I was saying,
5 IRS was taking so much money from my paycheck until it was
6 almost impossible for me to pay the people that I owed, so
7 I got financial help from my parents, as much as they could
8 help me.

9 Q I want to show you some items here and ask you if you can
10 identify these?

11 A Yes

12 Q What are they sir?

13 A These are the checks from some of the bills that my parents
14 paid for me while I was financially unable to.

15 Q Your honor, I move to introduce them as Defense Exhibit 5.

16 THE COURT: Any objection, please?

17 MR. MARTIN: No, your honor.

18 Q Did anyone pay any other bills for you or assist you in
19 paying any other bills?

20 A Well, my girlfriends they helped me out alot, they did -
21 what they could do for me.

22 Q Were you paying any rent anywhere?

23 A No, I wasn't.

24 Q I'm talking about this period, first part of 1981 up till
25 May 15, 1981.

A No.

1 Q What other bills did you have other than AVCO Finance?

2 A Well, I had bills with -

3 Q I'm stating bills that you were paying out of your own
4 pocket, not that your paycheck was being garnished for at
5 work, in addition to what was being garnished at work, what
6 other bills did you have?

7 A None

8 Q You had the IRS, AVCO and whatever this other garnishment
9 was at work at Defense General Supply Center.

10 A That's correct

11 Q The Credit Union at Defense General Supply Center. This
12 had been an ongoing thing had it not?

13 MR. MARTIN: I object to that.

14 Q Had this been an ongoing thing?

15 A Yes it had.

16 MR. MARTIN: That's also leading -

17 THE COURT: Well, its in now, let it go. Don't lead him.

18 MR. BOONE: Yes sir. Did anything change in your financial
19 situation on May 15, 1981?

20 A Well, nothing changed--then, I got a retirement check in
21 August of '81 from Bellwood.

22 Q And how long had you known you were going to get that?

23 A Well I knew that as soon as I got the letter of proposed
24 removal that I would get my retirement.

25 Q And did you have any idea at that time how much it was?

A Yeah, I did.

Q And how much did it turn out to be?

A Twenty-nine hundred dollars and some odd... something over twenty-nine hundred dollars.

Q And you received that when? What month did you receive that in?

A Maybe in the middle or last part of August, I think.

Q Of what year?

A '81

Q And how did you use that retirement money sir?

A Well, I gave my parents some of the moneyback that they had been helping me along with and I brought me an old used car ~~and~~ ^{to} tried to get me a steady job because I knew from working at Bellwood that after you were terminated you could be terminated for a year before you could re-apply for your job and those were the plans that I really wanted to do, I knew that after a year had passed I could go back and reapply and I might have got re-hired so, I got me a old used car to try to get my financial things back together before I ^{could} go back to Bellwood and try to reapply later.

Q Do you remember going to the lineup at the Henrico Police Station?

A Yes sir.

Q When did you first know you were going to go through a lineup?

A I didn't know about ^{a lineup} until I got downstairs in the booking part of the jail and they were taking us over to a lineup.

1 Q So you found out right before the lineup?

2 A Same day, same hour.

3 MR. MARTIN: Your honor, he's leading, he's leading --

4 MR. BOONE: I'm sorry, you remember the day you were arrested?

5 A Yes sir.

6 Q What day was that?

7 A October 21, 1981.

8 Q Do you remember when you shaved your beard?

9 A Yes.

10 Q What date?

11 A When I came in the jail, they, we got haircuts, they gave
12 us razors, I got a haircut and I shaved. Sometimes I
13 wear a beard, sometimes I wear sideburns, sometimes I wear
14 a goatee, so I was in jail, I really didn't have nothing
15 to do but read, look at TV, so I said, well, let me go and
16 get a haircut and shave, just something to do.

17 Q Did you have any idea when you shaved, you were going to
18 be in a lineup?

19 A I didn't know anything about the lineup until the day of
20 the lineup.

21 Q There's been some testimony about your nickname, what is
22 your nickname?

23 A Fuddy.

24 Q Can you spell it?

25 A F-U-D-D-Y.

Q How long have you had that nickname?

A My oldest sister gave me this nickname when I was a little

1 baby and she was a couple of years older than me. It's
2 something that she thought of and it's stuck with me to this
3 day.

4 Q Mr. Bishop, you've taken an oath here today to tell the
5 truth, have you not?

6 A Yes sir, I have.

7 Q Let me ask you one final question. Did you murder or did
8 you rob Raymond Miller?

9 A No, I did not murder or rob Raymond Miller. Raymond was a
10 good friend of mine, I was saddened by his death like anybody
11 else that knew him and I did not kill Raymond Miller.

12 Answer Mr. Martin's questions.

13 MR. MARTIN: Judge may I have a brief recess before we begin?

14 THE COURT: Yes sir, we'll take a five minute recess.

15 (FIVE MINUTE RECESS)

16 THE COURT: We'll let the record show that after the recess
17 the accused is present and in person along with his
18 defense counsel Mr. Boone. Commonwealth's office
19 is represented by Mr. Martin. Mr. Bishop, I'll
20 ask, that why you were on recess, if you've spoken
21 to anyone about this case?

22 A No sir.

23 THE COURT: Counsel have any questions?

24 MR. BOONE: No sir.

25 THE COURT: Are we ready for the jury?

MR. BOONE: Yes sir.

1 THE COURT: Alright, ask the jury to come in

2 (The attendance of the jury was
3 checked by the Clerk with each juror
4 present and accounted for.)

5 CROSS EXAMINATION: MR. Bishop by Mr. Martin

6 MR. MARTIN: Mr. Bishop, you have a mustache right now do you
7 not?

8 A Yes sir

9 Q In fact, throughout most of your working time at Bellwood
10 you did have a mustache did you not and some sideburns?

11 A Sometimes I'd wear sideburns, sometimes I'd wear a goatee.

12 Q How about on May 15, 1981, did you have a mustache and
13 sideburns at that time?

14 A I believe I did.

15 Q It's your testimony that you shaved your mustache and facial
16 hair off in jail, right?

17 A Yes

18 Q Did you shave it all off just before the lineup?

19 A I shaved it off, after I got locked up there, which was in
20 October.

21 Q Ten or eleven days before, is that right?

22 A I don't know how close it was to the lineup, I know, about a
23 a day or so after I got locked up I shaved and got a haircut.

24 Q Well, was it when they locked you up? When was it?

25 A When I was assigned to my dayroom.

Q When was that?

1 A This was the day after I was arrested.

2 Q The day after?

3 A Yes sir.

4 Q Who assigned you to a dayroom?

5 A One of the deputies downstairs.

6 Q You say a haircut was required?

7 A No, I didn't say it was required, but we could get one if
8 we wanted one so I got one.

9 Q You wanted one. Why did you want one?

10 A Well, I just wanted a haircut.

11 Q Did you have some idea the lineup might be coming up for
12 you?

13 A No, I didn't have. No one told me about it.

14 Q You knew people had identified you as being with Raymond
15 Miller that day, right, May 15, 1981?

16 A Yes, I knew.

17 Q You heard two boys, allegedly you say two boys had seen
18 you out at the crime site, is that correct?

19 A No, that's what Detective Mise had told me.

20 Q That's what your story is that Detective Mise had told you,
21 right?

22 A That's what he told me.

23 Q And on May 15, 1981 you did in fact have a mustache and some
24 sideburns is that right?

25 A It's possible.

Q So as soon as you get into that jail you shaved it off?

1 A I shaved and got a haircut when I was arrested.
2 Q You ever been convicted of a felony before, Mr. Bishop?
3 A Yes sir.
4 Q How many times?
5 A Twice.
6 Q This car you bought, this used car, when did you buy it?
7 A August of 1981.
8 Q August of '81, where did you get the money?
9 A My retirement.
10 Q How much did it cost?
11 A Eight-hundred, seven-hundred and fifty dollars.
12 Q Where did you buy it?
13 A From a private owner.
14 Q Who?
15 A This lady, I can't remember her name.
16 Q What kind of car was it?
17 A A '73 Eldorado.
18 Q You didn't title it in your name did you?
19 A It was at first but I had it transferred since I was locked up.
20 Q You say that car was titled in your name, originally?
21 A Originally, it was.
22 Q Didn't you not title it in your name so it couldn't be levied on?
23 A No, when I bought the car, it was in my name, but after I
24 was locked up, I had it transferred.
25

1 Q You said you planned to reapply at Bellwood after one
2 year had passed to get your job back?

3 A Yes.

4 Q In spite of the fact that Raymond Miller had been killed
5 from there and you knew all these rumors and everything,
6 that you talked about, fingered you?

7 A Yes.

8 Q And you wanted to go back to Bellwood?

9 A Yeah, I wanted my job back too. I knew that at least
10 after a year, this would be cleared up and I could go back
11 down there and everything would be back to normal.

12 Q You didn't like being a packer though, did you?

13 A I had no complaints about it.

14 Q You had no complaints about being a packer?

15 A No.

16 Q You haven't complained about that to Miss Davis?

17 A No, I never complained about being a packer.

18 Q Did you ever complain about not being paid for the work
19 you were doing?

20 A No sir.

21 Q Did you file anything like that with Personnel?

22 A No sir.

23 Q Why did you tell the police the first time, that you were
24 in the car but you got out at Afton, with your girlfriend?

25 A When Detective Mise approached me, he was telling me that
I was seen, leaving Bellwood, I was seen at the crime site

1 and that these two little boys had picked me out, I just
2 panicked and I was scared, that's the only reason I didn't
3 tell him that, the way he came on to me was, we know you
4 did this, we know you did that, he just scared me, I
5 panicked, plus I heard all these rumors about me being the
6 person that did this to Raymond, he just scared me.

7 Q He scared you and you already heard that you had been
8 fingered as the person that did this?

9 A I had heard this yeah, but the way -

10 Q But Detective Mise scared you?

11 A Yeah, he scared me.

12 Q And you say he told you that two little boys had picked you
13 out at the car right?

14 A That's what he -

15 Q Where Raymond's body was found, right?

16 A That's what he told me.

17 Q In fact, it's true, isn't it, you were at the car?

18 A No, I wasn't.

19 Q Detective Mise didn't tell you that, did he? You heard it
20 from someone else, didn't you?

21 A Detective Mise told me that these two little boys had
22 picked me out on a photo lineup and I knew it wasn't
23 true because I had got out of Raymond's car in South
24 Richmond and he was talking about something in Eastern
25 Henrico.

1 Q You heard Detective Mise testify that no such thing happened,
2 is he not telling it right?

3 A I would have to say that he is not telling it right, sir.

4 Q Well, you weren't arrested on August 14th were you?

5 A No, I -

6 Q By Henrico Police on these charges? Were you?

7 A No I wasn't arrested.

8 Q He let you go after he talked with you, didn't he?

9 A Yeah.

10 Q He didn't have warrants when he came in for you did he?

11 A No, not in August.

12 Q Didn't it seem strange to you, if somebody picked you out
13 at the car that he didn't arrest you?

14 A Yeah, it seemed strange after he let me go, yeah.

15 But he did tell me this.

16 Q So he never told you this and you thought we had a weak case
17 cause all we had was the ID on someone at Bellwood, right?

18 A No sir, this is what Detective Mise told me.

19 Q You figured you could explain the idea of being in the car,
20 someone seeing you in the car, you thought you could explain
21 that, right?

22 A No sir, I'm telling you what Detective Mise told me.

23 Q Now, being in the car, you've always denied this, this is
24 the first time you've come public and said it was a lie,
25 isn't that true?

A I done spoke to my attorney about it.

1 Q No, I'm talking about on the record, telling the police or
2 anybody that you lied to them, it's the first time you've
3 done it, right? Today? Thirty minutes ago?

4 A I - Like I said, I spoke to my attorney, yeah, we had talked
5 about it.

6 Q I mean you never told the police that after all this time
7 that you told them wrong, that you lied to them on three
8 separate occasions, did you?

9 A I haven't talked to the police since October.

10 Q You interested in finding out who killed Raymond Miller?

11 A Yeah.

12 Q Did you think maybe the information you would have might
13 be relevant? If he dropped you off on Afton Avenue?

14 A I had no idea.

15 Q You had no idea, how does it look to you now?

16 A I don't know if its relevant or not.

17 Q If you're the last one to see him alive on Afton Avenue don't
18 you think that might help the police, might be a clue, that
19 they might go ^{on} and try to track down something?

20 A Well, if Detective Mise hadn't came on to me the way he had,
21 like I say, I panicked, I was scared and I just told him I
22 had never been in Raymond's car, I wasn't in Raymond's car
23 and that's it.

24 Q Yeah, but Detective Mise didn't get to you until three months
25 after this happened.

A I know that.

Q It didn't strike you in that three months that you might call

1 at least anonymously and leave a tip?

2 A I had heard rumors that Tyrone Bishop was the one that
3 did this to Raymond Miller --

4 Q Lot of rumors on Churchill, right?

5 A Mr. Martin, I was scared.

6 Q Lot of rumors on Churchill, right?

7 A Lot of rumors everywhere I went.

8 Q Lot of rumors down at Bellwood?

9 A From the people that I knew at Bellwood, yeah.

10 Q Any rumors in the jail about the lineup?

11 A Naw, I heard nothing about a lineup.

12 Q Didn't hear any rumors in the jail though?

13 A No.

14 Q You were saddened by Raymond's death is that right?

15 A That's right.

16 Q Did you ever try to contact his family?

17 A No, I didn't.

18 Q Did you ever go to the special Memorial Service they had
19 for Raymond down at Bellwood?

20 A No sir.

21 Q The police, the Detective Mise, gave you three separate
22 occasions to tell him your version, did he not? August
23 14, 10/21 and 10/22, he talked to you three times, right?

24 A Yes.

25 Q He didn't take advantage of any one of those three times?

A Every time Det. Mise came to me he came to me the same

1 way, that he had people that picked me out at the crime
2 site, so I kept telling him that I had never been in the
3 car and I never was at Bellwood and things like that, he
4 just kept telling me that he knew I was the one that did
5 it and I knew I wasn't, so I just kept telling him I wasn't
6 in the car. Then he eventually arrested me.

7 Q Did you work again on the job at all, during this time you
8 were terminated at Bellwood?

9 A Well, like I said, I was still working with my friend's
10 father and I had put in applications to get other jobs but
11 I didn't receive one.

12 Q You say your girlfriends were helping pay your bills, is
13 that right?

14 A They were helping me out as much as possible.

15 Q What kind of bills are you talking about?

16 A They weren't really helping me with my bills, they were
17 just helping me financially, so that I could have money in
18 my pocket and things like that.

19 Q They were giving you money?

20 A At times they were.

21 Q There's just two girlfriends, Clementine Robinson and Julia
22 Snead, right?

23 A Yes sir.

24 Q Did you get any money from your wife?

25 A No.

Q Did you get \$487.00 from Raymond Miller on May 15, 1981?

1 A No sir, no sir.

2 Q Wasn't that the change in your financial situation on that
3 day?

4 A No sir.

5 Q I'll show you this photograph. These are your ID cards,
6 right?

7 A Yes sir.

8 Q ID Card photos

9 A Yes

10 Q From Bellwood?

11 A Yes

12 Q What are the dates on those?

13 A One is 15 March '79, one is 7/14/80.

14 MR. MARTIN: I'll pledge \$40 for the Commonwealth Judge.

15 THE COURT: Any objections sir?

16 MR. BOONE: No objections.

17 MR. MARTIN: Judge, I ask that the members of the jury be per-
18 mitted to see that.

19 THE COURT: Alright.

20 MR. MARTIN: Mr. Bishop you were alarmed because you figured
21 you had committed the perfect crime with no
22 witnesses, right?

23 A No sir, I didn't do anything to Raymond Miller, I did not
24 kill Raymond Miller.

25 Q Yet the only witness to the crime, Raymond Miller was
eliminated.

1 A Mr. Martin, I did not kill Raymond Miller.

2 Q It's fair to say, that if anything came up about identifi-
3 cation on you, that did panic you, right?

4 A I did not kill Raymond Miller, I really don't know what
5 you're insinuating, really.

6 Q Are you going to answer my question?

7 A I don't really understand the question.

8 Q I'll try and make it a little clearer for you, if I can.
9 You know Clyde Bell on the gate at Bellwood?

10 A Not personally.

11 Q Did you see him that day when you left?

12 A Really, I can't remember if I saw him or not.

13 Q And you were the one in the car with Raymond right?

14 A Yes.

15 Q Did you see a gun in the car at that time?

16 A No, I didn't see any gun.

17 Q Raymond had a .38?

18 A I didn't see a gun.

19 Q Anybody else in the car with you?

20 A No

21 Q Just the two of you?

22 A Yeah.

23 Q All the way up to you say, where you got off at Afton Ave.
24 right?

25 A That's correct.

Q So later, the latter part of the next week, did you find

1 out, that Raymond's body was found, from a former employ-
2 ee, is that correct?

3 A Correct.

4 Q Who was that?

5 A This was a friend of mine, down at Bellwood by the name of
6 Lorenzo Johnson.

7 Q Lorenzo? Did he tell you that he was killed, shot?
8 MR. BOONE: Your honor, Mr. Martin objected when I tried to get
9 into this, I'm going to raise the same judgement?

10 MR. MARTIN: Well, I think it's a little different Judge, it
11 happened on a cross and he says this is the infor-
12 mation he's got, I think he opened it up when he
13 asked the question.

14 THE COURT: I think it's opened up, Mr. Boone --

15 MR. BOONE: Well, judge, I'd like it to come out of it --

16 THE COURT: I'm going to overrule your objection.

17 MR. BOONE: Yes sir.

18 Q Did he tell you he was shot?

19 A He told me that they had found his body, in his car, he
20 didn't tell me --

21 Q Did he tell you he was shot?

22 A No, he didn't tell me he was shot?

23 Q Did he tell you it was a suicide?

24 A He didn't tell me he was shot at all, he didn't tell me,
25 he just said they found his body in his car.

1 Q So you didn't know if it was a homicide or a suicide -

2 A I didn't know what it was when he told me that.

3 Q Of course he was, did you know when he was found, what day
4 he was found?

5 A When Johnson told me, he told me that they had found him
6 that morning, that's what he told me.

7 Q What morning was that?

8 A The morning that -

9 Q The morning he talked to you?

10 A No, he told me that evening, but he told me they had found
11 Raymond's body that morning.

12 Q Okay, what was the day?

13 A I don't know -

14 Q The 15th was Friday, okay, when did you talk to Lorenzo?

15 A It was the latter part of the next week.

16 Q The next Friday, the 22nd? Wasn't the 20th?
it the 20th?

17 A I wouldn't say - maybe the middle part of the next week.

18 Q You sat and heard testimony today -

19 A Well it was the 20th I guess -

20 Q Over this past week that he was found on the 20th, correct?

21 A I guess it was the 20th, all I know is that it was the
22 middle or latter part of the next week.

23 Q Alright, you don't know what happened to Raymond between
24 May 15th and May 20 then do you?

25 A No, I don't.

Q You don't know how many people he might have seen or gone
out with that week, right?

1 A No I don't.

2 Q What relevance was you being with him that Friday at
3 Bellwood then?

4 A It was just something like, anybody that's dead or what-
5 ever and you are the last, you seen him for the last time,
6 it always dawns on you, a old friend of yours dies and it
7 comes back to you, well, the last time I saw this person
8 I was riding with him, you know, this is just an instinct
9 that people have.

10 Q But you didn't, did you know you were the last person to
11 see him alive though?

12 A I didn't know I was the last, but I said the last time I
13 saw him, that's what I was saying, I said the last time I
14 saw him, I rode with him, that just is an instinct that
15 dawned on me.

16 Q Who gave you the ride from the main gate back to #59?

17 A I can't really, I don't remember who gave me a ride, I
18 just caught a ride from --

19 Q You try to think back to what you did on May 15th, is it
20 pretty hard?

21 A Well, it's hard up to the point where I knew I had to go
22 to down Bellwood to clear, that's the only, only thing I
23 can really remember about the relevancy of May 15th.

24 Q When these rumors surfaced that maybe you were involved in
25 Raymond Miller's disappearance, didn't you try to think very
hard on May 15th what you did, where you went, who you

1 saw and what you did?

1

2 A Yes I did.

2

3 Q Had a long time to think about that, haven't you?

3

4 A Yeah.

4

5 Q You don't recall who you got a ride with back to 59 though?

5

6 A I don't know exactly who it was.

6

7 Q Did you ever get your clearance papers?

7

8 A No, I didn't.

8

9 Q Who did you go to see to get your clearance papers?

9

10 A I went back to the Warehouse, 'cause like I said, the under-
11 standing I had from the time I had been down there, was that
12 you received your clearance papers from the department in
13 which you were working at.

13

14 Q Who was your supervisor?

14

15 A Well, at that time it was Charles Dicks, yeah, Charles Dicks.

15

16 Q Did you go see him and get your clearance papers?

16

17 A I didn't see him when I went in the Warehouse.

17

18 Q Did you look for him?

18

19 A I looked around but, like I said, it was late and so I just
20 said, well, the best thing for me to do is try to catch a
21 ride out, before I wouldn't have a ride at all.

21

22 Q And you didn't even make an effort to get your clearance
23 papers at all?

23

24 A I made an effort, but I didn't see anyone so I got a ride
25 and left.

25

Q When did you decide that it was going to be too late for you

1 to get anything done?

2 A I didn't know it was going to be too late until I got down
3 to the warehouse, it was like after 3 almost 3:30.

4 Q What did you learn at the warehouse that told you it was
5 going to take so long?

6 A Mr. Martin, I don't know how long it takes to clear, all I
7 know is that it was almost time for us to knock off, you
8 know, people were leaving, we get off work at 3:30.

9 Q The only thing you needed was clearance papers from your
10 supervisor at the warehouse though, right?

11 A True.

12 Q The Credit Union was still open.

13 A I didn't know that -

14 Q Personnel was still open.

15 A I did not know that either.

16 Q The Provost was still open.

17 A I didn't know that either.

18 Q How long have you worked there?

19 A Six years. But I know -

20 Q And you had no idea that they're open until 5:00 at night?

21 A I know, I never cleared there before, I never cleared there
22 before.

23 Q Did you ever call ahead of time and check?

24 A No.

25 Q And you never knew?

492 A I didn't know what time the places closed, now.

1 Q And other people have come and gone, processed out?

2 A Yeah.

3 Q Did you see Mr. Dick at all down there in the break area,
4 like he testified to.

5 A I can't remember seeing him.

6 Q Did you talk to anybody in the warehouse?

7 A Really, I don't remember talking to anyone, no.

8 Q Did you see Henry Redd in the parking lot?

9 A No sir.

10 Q Did you see him that morning about 9 or 9:30 and tell him
11 that all is not lost, you've still got your retirement
12 benefits?

13 A I wasn't down there in the morning.

14 Q You got down there what time?

15 A It was late that evening.

16 Q Will you give us a time?

17 A I'll say it was about, after 3:00.

18 Q After 3:00? This trip that Raymond was making to the ABC
19 Rental Place, did that just pop up on in the conversation?

20 A When I went to ask him could I get a ride, he said he was
21 going down, I asked him, I said Raymond, are you going down
22 Jess Davis Hwy? He said yeah, I'm going down as far as
23 Hull Street to the ABC Rental and I asked him well, could I
24 catch a ride down the pike, he said yeah, so that's how it
25 came up, so he told me he was going down to ABC yeah.

1 Q Now, the work you did for your girlfriend's father, which
2 girlfriend was that?

3 A Miss Snead.

4 Q Snead, and that was moving right?

5 A Yeah, we were - sometimes.

6 Q No tax lien reaches that income does it?

7 A No.

8 Q Did you pay your bills with that money?

9 A No.

10 Q What did you do with it?

11 A I used it just to buy food and clothes and things like
12 that. My parents were helping me with my bills.

13 Q Were you living with your parents?

14 A No, I wasn't living with my parents.

15 Q At 2306 Fairmount?

16 A No sir.

17 Q It's where you grew up, isn't it?

18 A Yeah, I grew up - -

19 Q Spent most of your life there?

20 A Most of my life, yeah.

21 Q When was the last time you were at 2306 Fairmount, prior
22 to May 15, 1981?

23 A I really can't remember, I used to go there sometimes to
24 pick up my mail, but other than that, I wouldn't go over
25 there that much - -

494 Q Well, certainly you knew, you were being terminated from

1 Bellwood and that's where they sent the letter, right?

2 A Right, I would go there to pick up my mail but that's it.

3 Q When you went to pick up the mail did you get it from your
4 Mom?

5 A No, I'd get it out of the mailbox.

6 Q You'd just pick it out of the mailbox?

7 A Yeah.

8 Q They'd leave it in the mailbox for you?

9 A The mailman would leave it there yeah, my mother 'nem would
10 be working.

11 Q When was the last time you've seen your mom?

12 A I really can't remember.

13 Q Well, was it the day before?

14 A No sir.

15 Q A matter of weeks?

16 A I don't know, really?

17 Q Well, was it after your car burned up?

18 A Yeah.

19 Q Was it after Christmas?

20 A I don't know, I don't know, it might have been around
21 Christmas.

-22 Q But you were at the house on August 14th when Officer
-23 Hewitt was there, were you not?

24 A Yeah, I was there then.

-25 Q You just happened to be by there that day?

A Yes sir.

1 Q And the same thing on October 21, when you were arrested,
2 you just happened to be there?

3 A Yes, like I said, I would go by at times to pick up my
4 mail.

5 Q Now, you didn't know what the medical diagnosis was from
6 Personnel on Raymond Miller, did you?

7 A No

8 Q I mean you never discussed him being mentally retarded?
9 He was a, he was a good person, right?

10 A Yeah.

11 Q You all liked him down there.

12 A Yeah.

13 Q In fact, everybody kind of had a special feeling for
14 Raymond, didn't they?

15 A I didn't treat him any differently than anybody else.

16 Q He was pretty popular though, wasn't he?

17 A I guess he was.

18 Q Didn't have any enemies that you knew of did he?

19 A No .

20 Q Couldn't say that about too many folks could you?

21 A Well, I don't, I don't really know, you know.

22 Q How tall are you?

23 A 5'9".

24 Q What do you weigh?

25 A About 160, 63.

496 Q You were AWOL from November 15th till April at Bellwood,.

1 you're telling the ladies and gentlemen of this jury, that
2 that's because you couldn't get transportation down there?

3 A Not necessarily I couldn't get transportation, I was telling,
4 I told the ladies and gentlemen of the jury that being that
5 IRS was taking so much of my money I felt like I could work
6 more, get more money working with my friend's father moving
7 than I could working at Bellwood making that \$50 a week.
8 So I decided that I'd do more of that, than go to Bellwood
9 and let IRS take all of my money, so I just decided to do
10 more work with him.

11 Q When did your car burn up? When did you have that problem?
12 With your car?

13 A In August of 1980 -

14 Q And, you didn't have the car after August of 1980 did you?

15 A No, it was in the Hawthorne Volkswagen -

16 Q That was your Volkswagen, right?

17 A Yeah,

18 Q You didn't make any more payments on it did you?

19 A No

20 Q You haven't satisfied any of the liens or judgements
21 against you on that have you?

22 A No sir.

23 Q Didn't use any of your \$2900 to take care of that did you?

24 A No sir.

25 Q How far is it from Afton to Hull Street, do you have any
idea?

1 A Oh, maybe three, four, maybe more, three or four miles, I
2 don't know.

3 Q Three or four miles? So your car did not burn up in
4 November of 1980?

5 A No.

6 Q Did you live any where other than on Afton with Clementine
7 Robinson and over on 33rd Street with Julia Snead?

8 A Well, when I first got out of the service I did.

9 Q I'm talking about may, April or May, 1981, just before this
10 happened?

11 A Well before Julia moved to 33rd Street I was staying on
12 Redd Street with her.

13 Q So you move around with her, right?

14 A Yeah.

15 Q You say you got there about 3 or a little after at Bellwood,
16 and then of course, Bellwood was open then right?

17 A Yes sir.

18 Q But they have shift changes about 3:30, right?

19 A In the warehouses yeah -

20 Q In the warehouses? Did you have to clear out your locker?
21 In the warehouse?

22 A Well, you turn your tools in and things like that -

23 Q Did you turn your tools in?

24 QA No I didn't.

25 Q Why not?

498 A Like I say, I didn't do any clearing that day.

1 Q What happened to your tools?

2 A They were still in the locker when I left, I guess.

3 Q So you didn't even go to your locker?

4 A No, I went to the break area, that's as far as I went.

5 Q You did go to the break area?

6 A Yeah.

7 Q Did you meet anybody there?

8 A No one that I can recall.

9 Q You didn't check out Warehouse 59, you didn't talk to your
10 supervisor, you didn't clean out your locker, you didn't
11 go to Personnel, you never met the Check Out Sheet.

12 A No sir.

13 Q You never checked out

14 A No sir.

15 Q You never went back to check out.

16 A No sir.

17 Q You never even called to check, did you?

18 A I called, that's how I got my retirement money, because I
19 called down there and the lady told me that um, she could
20 send me the forms for me to fill out and I had to send
21 them back down to her, it would take longer but she sent
22 that back to me and that's why I didn't get my retirement
23 until August.

24 Q In fact the Credit Union is one of the places that you
25 normally check out, isn't it?

A Yes it is.

1 Q And you had an account there with them of course, didn't
2 you, you've heard the testimony about the deductions they
3 were taking from your paycheck right?

4 Q Did you check out the Credit Union on May 15, 1981?

5 A No sir.

6 Q It's right up there by the gate.

7 MR. BOONE: Your honor, at this point I want to object, his
8 answers at this point, he's answered at least five
9 times that he did not check out.

10 MR. MARTIN: Alright, Let me ask you this, were you at the
11 Credit Union at all?

12 A No sir.

13 Q Did you see Raymond Miller up there?

14 A No sir.

15 Q Is that in the Myers Building?

16 A Credit Union?

17 Q Yes.

18 A Yes sir.

19 Q Were you in the Myers Building that day at all?

20 A No, I wasn't in there.

21 Q Did you ever see Raymond Miller's money that day?

22 A No sir, I didn't see any money.

23 Q Did he flash his paycheck to you for his \$487.00?

24 A No sir.

25 Q Did he talk to you about his big paycheck that day?

A No sir, he didn't talk about any paycheck.

1 Q Did he seem pretty happy to you?
2 A Raymond always seemed happy.
3 Q Did he talk about his overtime, he had alot of overtime in
4 that big check?
5 A We didn't talk about no kind of paycheck or no money at all.
6 Q Did you talk about the job at all?
7 A We talked a little bit, Raymond liked to talk about the
8 job anyway, so that was basically what we talked about,
9 job or baseball, 'cause me and him, he played baseball for
10 the Defense General Supply Center and I played baseball
11 for a team in Richmond. So we talked about baseball and
12 things like that.
13 Q Did you talk about being terminated then? With him?
14 A No
15 Q You didn't tell him you were terminated?
16 A Well, he knew that.
17 Q How did he know that?
18 A Well he knew, like I say, we used to work together, every-
19 body down there knew I was being terminated, in the ware-
20 house -
21 Q So you were not at all subject of conversation on May 15th,
22 your last day there -
23 A No
24 Q And you would not be seeing Raymond anymore?
25 A I didn't know that.
Q Did you have any other accounts besides for the one you had

1 at the Credit Union, was that the only bank account you
2 had?

3 A That's the only one.

4 Q Did you ever have a .38?

5 A No sir.

6 MR. BOONE: I will object to this point, your honor, I'd like
7 to be heard outside the presence of the jury.

8 THE COURT: Alright, we'll ask the jury to retire. Do you
9 want the witness?

10 MR. BOONE: No.

11 (JURY OUT)

12 MR. BOONE: Your honor, in my open, I mean in my direct, I
13 never went into any gun at all, the court has made
14 a ruling on this incident, back in 1976. I will
15 now argue that this question was improper, Mr. Mar-
16 tin is trying to get back to this gun in 1976,
17 it's my argument, he's trying to come in the back
18 door now, with some other method, I think it's
19 improper, I did not bring it up, it's not within
20 the scope of my direct and besides that, I think
21 based on the court's prior ruling, being improper
22 questioning, it's not relevant if he ever had a .38.
23 He's denied this crime and all Mr. Martin is trying
24 to do now is get back to this thing in 1976. Mr.
25 Martin?

MR. MARTIN: Yes, he has denied this crime he's denied it

* * *

Pages 704-705 of Volume IV
are not included. It
covers objection argued.

* * *

of 1981 he owned a .38.

1 MR. MARTIN: Judge, his statement was that he never did, that
2 opens it up broader than May 15th.

3 THE COURT: I don't want to get into the 1976 part.

4 MR. MARTIN: Well Judge, its obviously an important aspect of
5 the case, whether he had a gun before, I think
6 we're misleading the jury by not letting this
7 statement be explored.

8 THE COURT: I don't think so. Do you have anything else?
9 Ask the jury to come in.

10 (Jury In)

11 MR. MARTIN: Bishop, you're familiar with the .38 pistol,
12 what it is?

13 A Yeah, I know what it is.

14 Q You were in the Army were you not?

15 A We didn't use .38's in the army, no.

16 Q You know about guns though?

17 A I know about the ar-, the weapons that we used in the army
18 yeah.

19 Q You trained in firearms, is that correct?

20 A Yeah.

21 Q May 15, 1981, did you have a firearm on that day?

22 A No sir.

23 Q A .38 pistol?

24 A No sir.

25 Q You told Detective Mise that you never owned a gun, is that
504 correct?

A That's correct.

1 Q You never owned a gun when you were in the Army, when you
2 came out of the Army?

3 A I was issued a gun in the Army, but I didn't own it, that
4 was government property.

5 Q I'm talking about when you came home from the Army?

6 A No sir.

7 Q When did you get out of the Army?

8 A 1975.

9 Q 75? Did Raymond tell you all about the bills he had to
10 pay that day, go to Sears, go to ABC, pay the apartment
11 rent, everything like that?

12 A No sir.

13 Q Did you know he lived up in Governor's Square, Tivoli
14 Apartments?

15 A I know he stayed with his sister, that's all I knew.

16 Q Out in Henrico County?

17 A I didn't know where, all I knew was he stayed with his
18 sister.

19 Q Sheriff, I'll ask you to show #4 and #9, photographs to
20 the defendant, Bishop. Look at those, you see Mr.
21 Raymond Miller in any of those photographs?

22 A Yes sir.

23 Q Is that the kind of clothes he had on when you were riding
24 with him in the car?

25 A Mr. Martin, I can't remember.

1 Q You see any personal papers of Raymond's on the seat when
2 you were driving with him?

3 A No sir.

4 Q Sears bill? Did you know he had a wallet?

5 A No sir.

6 Q You worked five days in April, I believe, check those pay
7 records, do you recall that, working in April?

8 A Yes sir.

9 Q Let's move to this map, will you come over here and put a
10 mark on this for the ladies and gentlemen of the jury,
11 please? Will you put an A where just about 2306 Fairmount
12 Avenue is? Find Fairmount in here? It's intersection with
13 Nine Mile Road, what's that, 23rd right there, right on
14 the corner, you want to put an A right there? Can you
15 make it a little bigger than that? Put a circle around
16 it. Now, see over here where Tuxedo Blvd, is Vogzlar Rd?
17 Could you put a B right there? Thank you. Have you been
18 up on Tuxedo Boulevard?

19 A When I was a child, I used to go down there to catch tad-
20 poles.

21 Q Have you been up there on anytime after that, since you
22 were a child?

23 A No sir.

24 Q Who is this fellow in your statement to the police, Darrel
25 Boxton, Darrell Braxton?

25 A Braxton.

1 Q A friend of yours isn't it?

2 A Yes sir.

3 Q You worked with him, right?

4 A Yes sir.

5 Q Why did you tell Mise you didn't know where he lived or
6 worked?

7 A I said I didn't know where he lived.

8 Q You didn't say that you didn't know where he worked?

9 A I can't remember telling him that, no.

10 Q You never told him about Lorenzo Johnson though, did you?

11 A I told him that Lorenzo was the person that told me that
12 Raymond's body was found.

13 Q How did the knife come up when you talked to Detective
14 Mise?

15 A He asked me if I ever owned a gun or if I ever owned a
16 knife.

17 Q You told him you had not?

18 A That's true.

19 Q It's true what you told him?

20 A Yes sir.

21 Q Now you've got rides down there with Darrell Braxton before
22 haven't you, to work?

23 A Yes, I have.

24 Q Henry Redd?

25 A Yes.

Q Maybe Lorenzo Johnson once in a while?

1 A No, I never rode with Lorenzo.

2 Q Alot of people go down from Richmond to Bellwood -

3 A Yeah, from all sections of Richmond.

4 Q Did they have a ride board down there at all? Car pooling,
5 ride board, people needing rides?

6 A They had some.

7 Q Did you ever follow up on that, trying to get rides down
8 there with other people?

9 A Like I, I caught rides with Henry and Darrell when I was
10 in Churchill, but when I stayed with my girlfriend over
11 Southside, I got there the best way I could.

12 Q You first learned of your fingerprints in the car
13 December at the preliminary hearing, is that correct,
14 December 4th?

15 A No sir.

16 Q No?

17 A I learned when I got arrested, Detective Mise told me that.

18 Q Told you that he had your fingerprints, is that right?

19 A Yes sir.

20 Q And even with that, on 10/21 when you were arrested, he
21 told you, according to you, that he had your fingerprints
22 in the car and you still denied that you were in the car,
23 is that right?

24 A I told him that I didn't know what he was talking about,
25 I'd neverbeen in Raymond's car, I tildid tell him yes.

1 Q You know fingerprints don't lie, right?

2 A I don't guess they do.

3 Q That's all the questions I have.

4 REDIRECT EXAMINATION - Mr. Bishop by Mr. Boone

5 Q Sir, you testified that you were convicted of two
6 felonies?

7 A Yes sir.

8 Q In what year?

9 A 1976.

10 Q Thank you, I have no further questions.

11 MR. MARTIN: Ask the jury to step out, please Judge.

12 THE COURT: Alright, I'll ask the jury to step out. You
13 want the witness excluded?

14 MR. MARTIN: No sir, judge.

15 (JURY OUT)

16 Mr. MARTIN: Judge, he's gone back on redirect and asked him
17 when those felonies were, I think that might open
18 the door on those now.

19 THE COURT: Why?

20 MR. MARTIN: Because all I can ask him is how many, a felony,
21 and how many, that's it. I think any effort to
22 explain them at all, the implication here being
23 that 1976 is a long time ago is really, irrelevant
24 to this case, that's the inference he's trying to
25 draw from that and I think once he goes back and
makes any effort to explain those whatsoever, it

* * *

Pages 712 of Volume IV is
not included. It covers
point of law discussed.

* * *

DIRECT REBUTTAL: Earl C. McDuffie by Mr. Martin

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(Mr. McDuffie, having been duly sworn
on the issue, testified as follows:)

Q Sir, would you face the ladies and gentlemen of the jury,
speak up and tell them your name?

A Earl F. McDuffie, Jr.

Q How do you spell your last name? Sir?

A M-C-D-U-F-F-I-E.

Q And how old are you, Mr. McDuffie.

A 37.

Q And where do you work, sir?

A Defense General Supply Center.

Q Is that down on Jeff Davis Hwy?

A Yes it is.

Q Also known as Bellwood?

A Yes.

Q How long have you been working for them?

A I was hired April 16, 1973.

Q And what part of the depot do you work at?
A The area commonly called Storage and Transportation.

Q Any particular warehouse number?

A 59 and 66.

Q You work two warehouses?

A Yes.

Q Are you involved with the Union down there?

A Yes, I am.

Q What do you do for the Union?

A I'm the Executive Vice President.

Q And what union is that?

1 A The American Federation of Government Employees, Local
2 2047.

3 Q Do you know the defendant, Mr. Tyrone Bishop, here
4 today?

5 A Yes, I do.

6 Q Is this the gentleman right here in the -

7 A Yes sir.

8 Q Reddish-maroon suit.

9 A Yes.

10 Q How do you know him, sir?

11 A I knowed him when he was employed there and also I was
12 one of the stewards that handled some of his uh, gri-
13 vances against the Center.

14 Q Alright. And, how long would you say you've known Mr.
15 Bishop?

16 A I would say approximately a couple of years, two or
17 three years, rather.

18 Q Do you consider him kind of a friend or ... on a

19 A When he was working there, I don't have nothing against
20 him, yes.

21 Q You know Raymond Miller?

22 A Yes, I do.

23 Q And, how did you know Raymond Miller?

24 A He was employed by the same group that employs me.

25 Q Judge, if he could be shown Commonwealth Exhibit #16,
which is a photograph?

1 Q You know who that gentleman is?
2 A Mr. Miller.
3 Q That's Mr. Miller?
4 A Yes.
5 Q Sheriff would you take it back please? Now, did you
6 have occasion to work on Friday, May 15, 1981, Mr.
7 McDuffie?
8 A Yes I do, did, I'm sorry.
9 Q You did work on that day?
10 A Yes.
11 Q Okay. You recall that particular time, the alleged dis-
12 appearance of Raymond Miller, on May 15th?
13 A I saw Miller that day.
14 Q You saw Miller that day, okay, before he disappeared, is
15 that correct?
16 A Yes
17 Q Alright. Now, did you have occasion to observe Tyrone
18 Bishop that day?
19 A Yes.
20 Q Alright, now, where were you, where were you coming from,
21 when you saw Mr. Bishop?
22 A Out of the Union office, in the Col. Myers Building.
23 Q In the Myers Building?
24 A The Col. Myers Building.
25 Q Is that #33, Bldg. 33?
A Bldg. 33.

Q And why were you leaving the Union office at that time?

A Uh, to go to the Credit Union, to take care of my, check cashing. that day.

Q Was that payday that day?

A Yes, it was.

Q And did you go toward the Credit Union?

A Yes, I did.

Q How do you get to the Credit Union when you leave your Union office?

A As you come out the Union office, you have to take a left turn, and go down the hall there, and then you have to make a right turn once you come to the Center.

Q Alright, did you have, where did you have occasion to observe Tyrone Bishop?

A Well, as I proceeded down the hall and went to make my right turn, Mr. Bishop was standing there, by the door, near the bulletin board where the Center theater's at.

Q And how far is that from the Credit Union, actual door into the Credit Union?

A I'll say about 3 1/2 ft., somewhere down there.

Q And is that in the Myers building?

A Yes.

Q Building #33?

A Yes.

Q About what time of day was this, sir?

A I can't be sure of the time, but a, I would guess it was

between 11:30 and 12:00.

1 MR. BOONE: I will object to any guessing.

2 THE COURT: Well, if he gives an approximation of the time -

3 MR. BOONE: Yes sir. If he knows -

4 MR. MARTIN: What was your best approximation of the time?

5 A Between 11:30 and 12:00.

6 Q And why was that, what makes you say 11:30 to 12:00?

7 A Our the Center cafeteria opens at 11:20 and employees was
8 in there at that time and also the Credit Union opens at
9 10:00 for business and since it was a payday, the halls
10 was full and people were in the cafeteria.

11 Q Was anybody with Tyrone Bishop when you first saw him?

12 A No sir, it was not.

13 Q Did he speak to you in any way?

14 A Yes, we, we spoke.

15 Q Do you recall what the conversation was, if any, between
16 you?

17 A Well, when I walked down the hall and went to make my turn
18 he come and say "Hey Duff", I spoke to him and I turned and
19 kept on going.

20 Q Is that your nickname?

21 A Yeah, that's what -

22 Q That's what people call you? Do you recall, did you stop
23 and talk to him at all?

24 A No, no we did not, we just greeted each other, that was all.

25 Q Did you have occasion to see Raymond Miller at that time?

1 A Yes, As I approached the Credit Union, I met Mr. Miller
2 there and he called me and said, "Hey Mr. McDuffie", you
3 know, "had a pretty good week, I worked a whole lot of
4 overtime" and at that point, he had a habit of showing me
his/
money.

5 Q Did he show you his money?

6 A Yes.

7 Q And what kind of money, what did he have, bills, coins or-

8 A Yeah, he had just got his check cashed.

9 Q And, he was coming out of the credit union?

10 A Yes, when we approached each other -

11 Q And . . . when you were stand -

12 THE COURT: Wait, Wait a minute, when you saw him, did you say
13 he showed you a check or he showed you money?

14 A He showed me his money.

15 THE COURT: Okay.

16 A Cash Money.

17 Q And, was he happy at that time?

18 A Yeah.

19 Q Did you speak to him, what did you tell him?

20 A I told him that was real good Raymond, take care and I
21 turned and walked on away.

22 Q Did you touch him in any way?

23 A Yeah, I touched him on his shoulder.

24 Q Patted him or something?

25 A Yeah, normal habit that I have.

1 Q And, how far were you from Raymond when he showed you his
2 money? Did he -

3 A - A We were facing each other.

4 Q You were facing each other?

5 A Right.

6 Q Okay, where was Tyrone Bishop at that time?

7 A Tyrone Bishop was still back here by the door.

8 Q How far away from you was he?

9 A At that point, where we were, I guess it was a little,
10 about 4 feet or so, back.

11 Q Did he speak to Raymond at all at that time?

12 A Not to my knowledge, no.

13 Q And, after you talked to Miller, where did you go?

14 A I went on in the Credit Union.

15 Q And, which way did Raymond Miller go?

16 A Raymond just walked bef-, y'know, we just, I turned and
17 I just went on.

18 Q Is that, is the door to get out of the Credit Union, is
19 that the way he was walking? Is there a door with the
20 way you get out -

21 A Yeah, a swinging door.

22 Q And is that the door that Mr. Bishop was at?

23 A No, he was not at the Credit Union door.

24 Q I see, okay. When Raymond talked to you was he talking in
25 a loud voice?

A No, I wouldn't say a loud voice.

1 Q But he was pretty happy?

2 A Yes.

3 Q Did he, did you, did he, count the money at all or did
4 he -

5 A No, no.

6 Q How did he flash it, how did he-

7 A He just showed it to me, just like that, just showed it
8 to me.

9 Q He had it in his hands?

10 A Yes.

11 Q Did you see what he did with it after he showed it to
12 you?

13 A No, I didn't because I turned and walked away.

14 Q Was it busy in the Credit Union at that time?

15 A Yes, it was, especially on payday.

16 Q And . . . any particular reason you remember this parti-
17 cular Friday, May 15, 1981?

18 A Well, it was payday and when I returned back to work that
19 Monday and the general conversation was that Mr. Miller
20 was missing.

21 Q Did you report this information?

22 A A, Detective Smith and Supervisors was coming around,
23 they wanted to know did anybody see him, seen Mr. Miller
24 and so, quite naturally, I said yeah, I saw Miller -

25 Q You told them what you saw -

A Yeah, I only saw Mr. Miller that Friday.

1 Q And the person you saw in the Credit Union there, when
2 Mr. Miller was showing his money is this man right here,
3 is this man right here, Tyrone Bishop?

4 A I can't, I didn't understand the question.

5 Q The man that you saw in the Credit Union, with you and
6 Raymond Miller on May 15 -

7 A He -

8 Q When Mr. Miller showed his money, is that Tyrone Bishop,
9 is that the man?

10 A Mr. Bishop was not in the Credit Union.

11 Q No, I'm sorry, in the hallway, outside the Credit Union-

12 A Yeah, -

13 Q I'm sorry. Okay. You did n't see where Mr. Bishop went?

14 A No, I did not.

15 Q After this, did you?

16 A No, I did not.

17 Q Alright. That's all the questions I have.

18 THE COURT: Cross.

19 CROSS EXAMINATION - Mr. McDuffie by Mr. Boone

20 Q Sir, you've been shown a photo spread from the date, from
21 that date, from that Friday, until this date, have you
22 ever been shown a photo spread by any detective or police
23 officer?

24 A No sir, I have not.

25 Q And when did you first bring onto anyone's attention that
you saw Tyrone Bishop, outside the credit union on that

day?

1 A I was never asked did I see Tyrone Bishop.

2 Q That's not my question. My question is when did you
3 first bring this to anyone's attention that you saw
4 Tyrone Bishop outside the credit union on that day?

5 A No one ever asked me did I see Tyrone Bishop outside the
6 Credit Union.

7 Q Sir, its your answer that you never brought it to any-
8 one's attention?

9 A What was asked of me . . - did I see Mr. Miller.

10 Q I understand that sir.

11 A Did you ever go and tell anyone. . I saw Tyrone Bishop
12 outside the credit union without being asked? When were
13 you first asked if you saw Tyrone Bishop on that day?

14 A Uh, it was either that Monday or Tuesday after the inci-
15 dent, when Detective Smith asked me about the incident,
16 did we see, did I see Mr. Miller. I told him yes, and
17 then, I received a call from the Commonwealth's Attorney
18 Office -

19 Q When?

20 A The day before I was served with the subpoena.

21 Q And when was that? Approximately? A couple of weeks ago?
22 Month ago?

23 A No, this was about, it was last week I believe it was.

24 Q Last week?

25 A Yeah.

520 Q So the first time from May the 15th, 1981, when you

1 allegedly saw Mr. Bishop outside the Credit Union, the
2 first time, you ever brought it to anyone's attention
3 was when the Prosecutor called you about a week ago -

4 A No, that's not my answer -

5 Q Well, that's my question, when did you first bring this
6 to someone's attention, that you saw Mr. Bishop -

7 A I was questioned by our Security Force at DGSC.

8 Q You just testified you brought it to the attention about
9 Mr. Miller -

10 A Right.

11 Q You didn't say anything about Mr. Bishop.

12 A At no times was I asked did I see Mr. Bishop, that's
13 what I said.

14 Q I understand that -

15 A Okay.

16 Q So is it your testimony that the first time you told
17 anyone about Mr. Bishop, when you talked to the prosecu-
18 tor?

19 THE COURT: That isn't what he said -

20 MR. BOONE: Okay -

21 THE COURT: You've got two different police forces apparently,
22 he said he talked with his security (unintel) what
23 ever he said there and he's also said that he
24 talked with Detective Smith and he also said he
25 talked with the Commonwealth Attorney's office.

MR. BOONE: Alright, let's take each one of them. Did you tell

Detective Smith, that you saw Mr. Bishop, the defendant here?

A When the question was asked of me, did I see Mr. Miller -

Q No, I'm not talking about Mr. Miller, I'm talking about -

A Well, that's the only way that I can tell you, what was asked of me.

Q Alright.

A Okay, Our security force asked me about Mr. Miller. I said, yes, I did see Mr. Miller on that day.

Q Okay.

A And then, I think they have my statement, I'm not too

Q Well, I'm asking you from your memory-

A And at that point, if I'm not mistaken, when they asked me again, was both Bishop and Mr. Miller together, I said, No, they were not, that I, to my recollection I, Mr. Miller, Mr. Bishop was standing there by the doorway.

Q Now when did you tell, now this was Detective Smith that you told this -

A This is who I was talking to at that particular time, Det. Smith, this was during this second interview -

Q Second interview? So you didn't tell Mr., Detective Smith about Mr. Bishop during the first interview, it was during the second interview?

A I cannot be sure.

Q Can you be sure, or absolutely positive that you told Mr. Smith, Det. Smith, about Mr. Bishop, during the 2nd interview? And you're under oath?

1 A Yes, I understand I'm under oath, I'm not going to lie.

2 Q Yes sir.

3 A I can't be sure.

4 Q Thank you. But you are sure you told the prosecutors
5 about it when he subpoenaed you and when he talked to
6 you about it?

7 A Yes.

8 Q And that was about a week ago?

9 A Yes, about a week ago, I guess.

10 Q Now, did you actually see Mr. Raymond Miller, go into the
11 Credit Union to cash his check?

12 A No sir, I did not.

13 Q And when you first saw him, you were where?

14 A Proceeding to the Credit Union.

15 Q Were you in the building?

16 A I was in the building, yes.

17 Q Were you by the door to the Credit Union?

18 A Yes, just below the door.

19 Q Just below the door, the hallway?

20 A Yes.

21 Q Could you see through the door?

22 A Yes. It's a glass partition.

23 Q Did you see Mr. Raymond Miller coming out of that door?

24 A No, I met Mr. Miller in the hallway.

25 Q Well, had he come out of the Credit Union?

A As far as I know, yes.

1 Q Wouldn't you have seen him if you were standing right
2 by the door?

3 A Yes I would have, what I'm saying, when I turned to go
4 to the Credit Union, I met Mr. Miller there, below the
5 door -

6 Q Did it appear as if he were coming out of the Credit
7 Union at that point?

8 A We were in the center from the door, so I would assume
9 that he did come out the Credit Union.

10 Q Was there anything else behind him, other than the
11 Credit Union?

12 A Other people.

13 Q Okay, but any other room behind him other than -

14 A No

15 Q So that's the only room he could have come from -

16 A Other than the cafeteria.

17 Q Alright, it's your testimony from your recollection that
18 Mr. Miller was coming towards you, out of the Credit
19 Union, and you were standing in the hall -

20 A I was turning to go to the Credit Union, that's when
21 we met.

22 Q Right. And Mr. Bishop was where?

23 A Mr. Bishop was here by the door.

24 Q In the same hallway?

25 A Right. The entrance door.

Q Did you turn around, could you see him?

1 A If I turned around, yes, I could, see him.

2 Q So you could see him standing there and you could see
3 Mr. Miller standing there?

4 A Yes, if I had turned that way, yes.

5 Q So you never saw Mr. Bishop coming outside, coming from
6 the credit union as you saw Mr. Miller?

7 A No.

8 Q How was Mr. Miller dressed?

9 A He had on a baseball type cap, jeans and a blue shirt,
10 I believe.

11 Q A blue shirt?

12 A Type of blue checkerd shirt or something.

13 Q And jeans?

14 A Yes. sure.

15 Q You sure? What color were they?

16 A Just jeans, blue jeans.

17 Q One moment, judge. Sheriff, may I see Commonwealth #4?
18 Sir, I'm going to ask you one question.

19 A Yes.

20 Q Are you as positive about your testimony that Mr. Miller
21 was wearing blue jeans at that day, as you are about all
22 the rest of your testimony?

23 A I'm positive about my testimony that I have given here.

24 Q Alright, I'd like to show you this photograph Commonwealth's
25 #4. You've already looked at that haven't you?

A No, I never looked at that. No.

1 Q Do you recognize that person?

2 A This is Mr. Miller.

3 Q Can you describe what pants he's wearing sir?

4 A It's like chino, what we would call chino pants.

5 Q What color was it?

6 A Tan.

7 Q Thank you, I have no further questions.

8 REDIRECT EXAMINATION: Mr. McDuffie by Mr. Martin

9 Q Sheriff, may I see - Was that a blue shirt though?

10 A Yeah, as far as I know, that's what I testified to at -

11 Q Referring to the photograph?

12 A Yeah, blue shirt.

13 Q I think that's all the questions I have here.

14 THE COURT: Can this witness be excused?

15 MR. BOONE: Yes your honor?

16 THE COURT: Mr. Martin?

17 MR. MARTIN: Yes sir, thank you for coming.

18 THE COURT: Your'e excused sir, you have the right to remain
19 or to leave, whichever you prefer, thank you very
20 much. (WITNESS LEAVES STAND)

21 MR. MARTIN: Judge, I may have one other witness, if you can
22 just give me about one minute, I'll go check on
23 it.

24 THE COURT: You've got one minute.

25 MR. MARTIN: I call Detective Mise, Judge.

(Detective Mise, having been duly sworn on the issue, testified as follows:)

DIRECT REBUTTAL: Detective Ross Mise by Mr. Martin

Q Sir, I beleive you are detective Ross A. Mise, Henrico Police?

A I am.

Q You've already testified in this case?

A I have, yes sir.

Q I understand you're still under oath?

A Yes sir.

Q Detective Mise, I want to focus your attention on one particular event. The date of October 21, the day that Tyrone Bishop, the defendant was arrested. Did you advise Mr. Bishop, on that day, that you had his fingerprints in the vehicle, in the Miller vehicle?

A I did not, no.

Q You did not?

A I did not.

Q Why did you not do so?

A Well, my main purpose was to get him to deny it, being in the vehicle at all.

Q You already knew you had his prints in there, is that correct?

A Yes sir.

Q Did you tell him you had his prints in there, at anytime

after you interviewed him on 10/21?

A No sir.

Q Well, on 10/22?

A No sir.

Q Did you tell him on 10/22?

A No sir.

Q Have you ever told him?

A No, I never told him.

Q And why would you want him to deny being in the Miller vehicle?

A Why would I want him to -

Q Why would you want him to deny being in the Miller vehicle?

A Well, I knew I had his prints, and if he denied it I figured it would be better for us in court.

Q Thank you. No further questions.

REDIRECT EXAMINATION: Detective Mise by Mr. Boone

Q It would be better for you sir, could you explain that?

A For us, in court.

Q Who's us?

A The Commonwealth Attorney and myself.

Q It would be better if you could get him to deny it?

A Yes sir.

Q By better, you mean it would be easier for you to get a conviction?

A I don't know whether it would be easier to get a con-

1 viction or not, but I didn't tell him.

2 Q What do you mean by better then?

3 A Well, I wanted him to deny that he was in the vehicle.

4 Q Why?

5 A I just did, because we had his print.

6 Q But what did you mean when you said it would be better
7 for us? Can you explain what it means 'better for us'?

8 A Well, if he denied it, I figured it - , there was some-
9 thing wrong.

10 Q So you can't tell us what you meant by better? Would
11 it be a safe interpretation that you would be in a
12 better position to secure a conviction, if you could
13 get him to deny it? Do you have a tape recording of
14 that conversation sir?

15 A No I do not.

16 Q I have no further questions.

17 THE COURT: Anything else?

18 MR. BOONE: No sir.

19 THE COURT: Step down please.

20 MR. MARTIN: Judge, I think that will be all.

21 THE COURT: Ladies and gentlemen of the jury, we have reached
22 a time, where it may be proper to go to lunch,
23 I'll ask that you not leave within hearing distance
24 of anyone discussing this case or that you dis-
25 cuss this case with anyone, I'll ask you not to
 watch anything about it on TV, read anything about
 it the newspaper or other periodicals, or listen

1 to anything about it on the radio, I'll ask that you
2 either have lunch among yourselves or by yourself and
3 that you talk with no one about this case. I'll ask
4 you to be back at 1:10.

(RECESS)

5 THE COURT: The court will show that the accused is present in
6 person, along with his defense counselor, Mr.
7 Boone, and Commonwealth Attorney's office repre-
8 sented by Mr. Martin, any motions?

9 MR. BOONE: Yes sir. Very briefly judge I would restate my
10 is/
earlier motion to strike the Commonwealth's evi-
11 dence I have stating my grounds, on the robbery.
12 I'm sure your honor remembers my argument so I
13 won't repeat it, however, at this time point, in
14 the case, the court no longer must view the evide-
15 nce in the light most favorable to the Commonwealth.
16 The murder, I would like to speak to, real briefly,
17 in a nutshell, the defendant was seen leaving DGSC
18 with the victim on 5/15/81 at 3:40p.m. John
19 Lee, saw the victim's car, later that evening. He
20 saw a black male, unidentified, as being next to
21 the car, he was shown photographs. the same day
22 that the body was found, May the 20th, one of the
23 photographs was a photograph of the defendant.
24 wearing a beard. The John Lee, could not pick
25 out the defendant as being the person he saw next

1 to the car. John Lee testified he got a good look
2 at the person, also, another young man, Turner
3 Davis could not pick out the defendant, as being
4 the person standing next to the car. The defendant's
5 fingerprint, of course was on the glass, in the
6 automobile, but the evidence shows it was on the
7 passenger's side, which is consistent with his
8 testimony, as being a passenger in the car, there
9 was a, . . . unidentified fingerprint found on the
10 papers in the car which would be the logical spot
11 to find fingerprints of a murderer who is committing
12 a robbery. However, these fingerprints did not
13 match up to the defendant. Furthermore, a palmprint
14 was found in the left front fender of the automobile
15 which is consistent with what the boy John Lee tes-
16 tified to. However, that palmprint did not match
17 up with the defendant. The defendant denied being
18 in the car, to Detective Mise, but he explained
19 about rumors going around DGSC at the time, addi-
20 tionally, witnesses called on behalf of the prose-
21 cution, knew about rumors going around that the
22 person seen leaving the base was employed at Defense
23 General Supply Center. Obviously, it was common
24 knowledge, Detective Mise testified that he found
25 the body early morning hours of May 20, he

1 immediately went out to Defense General Supply Cen-
2 ter and learned right away, that the defendant in
3 this case, was seen leaving with him, just the
4 prior Friday. So Det. Mise knew about it the very
5 morning that he found the body. The police knew
6 about the defendant on 5/20, questioned^{him} on 3/14
7 and Det. Mise admitted on the cross that the only
8 thing that changed from 8/14 to November the 6th,
9 when he took out a warrant, was the lab report
10 back on the fingerprints. However, Det. Mise tes-
11 tified that he did in fact know that the defendant
12 was in the automobile May 15th, because he had an
13 eyewitness who had been shown a photo spread, and
14 who knew about the victim and the defendant for a
15 period of years. John Lee, again, came to the in-
16 person line up, November 2, 1981, at the Henrico
17 Police Station and did not pick out the defendant
18 but rather picked out another individual. All the
19 evidence from the Commonwealth, shows that the
20 defendant and the victim were good friends, that
21 there was no bad blood. Your Honor, I'll argue
22 that to let this case go to a jury would be a trav-
23 esty of justice, I think the only way that they
24 could convict this man, would be on speculation and
25 conjecture. And of course, that is not allowed

1 and it is my argument that the Commonwealth is not
2 put on a primo facia case at this point, and if
3 the jury did come back with a conviction, it would
4 not be based on sound reasoning, sound judgement
5 or the evidence in this case. It's strictly a
6 circumstantial case, the evidence that the Common-
7 wealth has put on has certainly raised alot of sus-
8 picion, there's no question about that, but, it's
9 my argument that it's not sufficient and I would
10 encourage the court, I would beg the Court to strike
11 the Commonwealth's evidence and not let this matter
12 get to the jury, on either the robbery or the
13 murder charge.

14 THE COURT: Mr. Martin?

15 MR. MARTIN: Judge, there are alot of circumstances in the case
16 and, we're fortunate because we also have some new
17 testimony here today, from Mr. Tyrone Bishop, the
18 defendant. It places the case really in a posture
19 of credibility now, between him and what the cir-
20 cumstantial evidence may reveal. That is a matter
21 of argument, it's a matter of a decision for the
22 jury, it's a matter of weight what the circumstan-
23 tial evidence will be. Obviously, Mr. Bishop is
24 impeached in several ways, he's impeached by his
25 prior felony convictions, he's impeached by
~~his prior statements to the police. I believe~~

1 he's impeached on rebuttal. I think the question
2 of whether he is believable at all, and the only
3 way to get out from under, at this particular case
4 for him, is that the jury will believe his story,
5 which is seriously impeached. His prints are in
6 the car, he has an explanation, but whether it
7 will, is a reasonable one, remains to be seen, uh,
8 is another matter. He has been seen at Bellwood
9 at different times. We have a man there that has
10 reported him there between 11:30 and 12, now and
11 he denies ever getting there until 3:00. The man
12 knows him very well. I think it's a very serious
13 circumstance, particularly when it puts him in
14 the presence of Raymond Miller, coming out of the
15 Credit Union, flashing his money. That's what this
16 case is about. His money. His greed. They were
17 together, they were the last seen together and all
18 you've seen after that is a pound of lies. I
19 think that there's more than enough evidence for
20 a prima facia case, there's more than enough to
21 convict, it's clearly a case of credibility for
22 the jury and I ask the jury to submit to the jury
23 on both charges on that basis. On all the charges.

24 THE COURT: Do you have anything else you want to mention?

25 MR. MARTIN: No, your honor.

1 THE COURT: The Court's going to overrule the motion as to the
2 murder and also as to the robbery sir. Do you wish
3 to note an objection and exception?

4 MR. BOONE: Yes sir.

5 THE COURT: I think this case should be submitted to the jury.
6 Alright, we'll recess until 1:10.

7 (RECESS)

8 THE COURT: We'll let the record show that after recess for
9 lunch, the accused is present, along with his def-
10 ense counsel, Mr. Boone, Commonwealth Attorney's
11 Office represented by Mr. Martin. Gentlemen, we
12 can work on the instructions several ways, one is,
13 we can do it right here in the courtroom or if you
14 want to do it in a more relaxed atmosphere you can
15 do them in my chambers, provided the accused waives
16 the right to be present. Doesn't make any difference
17 to me how you do it.

18 MR. BOONE: I'd rather do it in the chambers. The defendant
19 does waive the right to be present.

20 THE COURT: Well, we'll have to let him say for the record that
21 he waives his presence on the instructions, in my
22 chambers.

23 MR. BOONE: Yes sir. Mr. Bishop, I explained to you that you
24 have the right to be present while the court, pros-
25 ecutor and myself go with jury instructions in this
case.

* * *

Pages 738-759 of Volume IV
are not included. It covers
jury instructions; matters for
the record; jury verdict.

* * *

1 don't want to hear any long speeches, but we
2 certainly thank you and you are excused and
3 when you leave, I'll ask you to give the Sheriff
4 back the jury buttons, we don't have but just so
5 many. You are excused until the Sheriff calls
6 you again for jury duty. Now the Court's going
7 to be through here in about five to ten minutes,
8 probably. If you have any questions that you
9 want to ask the Court, if you want to remain in
10 the jury room, I'll get back to you in about that
11 length of time. So many, when they come down
12 here, say that they had questions that they
13 wanted to ask and they never got a chance to ask
14 the Judge a question. So, you got a chance, I
15 know the hour's late, but I'll be glad to see
16 you in about five or ten minutes. You're
17 excused. Thank you.

18 (JURY EXCUSED.)

19 THE COURT: Any motions?

20 MR. BOONE: Judge, I will ask for a presentence report , at
21 this time, in this case, before the court and
22 in the jury's recommendation.

23 THE COURT: Your motion is granted sir, Sheriff, will you
24 bring me back the sentencing tapes, that I've
25 got a sheet on in there, please?

1 THE COURT: Has all of his background been in the local
2 area, Mr. Boone?

3 MR. BOONE: Yes sir, Judge. With the exception of the
4 brief period he spent in the military.

5 THE COURT: Mr. Martin and Mr. Boone, I can give you 9:00
6 September 21st, if that's agreeable.

7 MR. BOONE: Judge, I have a trial in Louisa Circuit Court.

8 THE COURT: Okay, 9:00, September 22nd, 23rd or 24th?

9 MR. BOONE: The 22nd would be fine.

10 THE COURT: Okay with the Commonwealth?

11 MR. MARTIN: Yes sir.

12 MR. BOONE: Judge, of course, I will reserve my argument
13 or any other motions until that time.

14 THE COURT: The presentence report will be filed by noon
15 time in the Clerk's office and on September
16 the 15th, of 82. We'll let the record show
17 that the defendant has present at all times
18 during these proceedings along with the
19 defense counsel, Mr. David Boone, Commonwealth
20 Attorney's office representative, Mr. George
21 Martin. Let the record show further that Mr.
22 Boone has done a commendable job for the defe-
23 ndant. I'll ask the Sheriff to take charge
24 of court.
25

Sentencing as heard on September
22, 1982, before the Hon. E.
Ballard Baker, Judge

THE CLERK: Commonwealth of Virginia versus Tyrone Everette
Bishop, Cases 81F741, 81F742, 81F918 and 81F919.
Are counsel ready to ^{proceed?}

MR. BOONE: The defendant's ready.

THE COURT: We'll let the record show that the defendant is
present and in person along with his defense
counsel, Mr. David Boone, Commonwealth's Attorney
office represented by Mr. George Martin. Mr.
Boone, have you been over the presentence report
with your client?

MR. BOONE: Judge, I have done that, Yes Sir.

THE COURT: Alright. Swear the witness.

(Ms. Owens, having been duly
sworn on the issue, testified as
follows:)

DIRECT EXAMINATION: Ms. Owens by Mr. Martin

Q M'am, would you identify yourself by name, for the record
please?

A Robin E. Owens, State Probation and Parole Officer,
District 32.

Q In the course of your duties, did you have an occasion
to prepare the presentence report on the defendant here

1 today, Mr. Tyrone Everette Bishop?

2 A Yes sir.

3 Q Did you speak with Mr. Bishop, in person?

4 A Yes sir.

5 Q Did you speak with members of his family?

6 A Yes sir.

7 Q Do you have any additions or corrections to make to
8 the report that you have filed with the Court?

9 A No sir.

10 Q The record that you found on Mr. Bishop, on Page 11 and
11 12 of your Presentence Report, did you discuss any of
12 that record with Mr. Bishop, at all?

13 A Yes sir.

14 Q What did you discuss with him?

15 A I had asked him if he had ever been arrested before and
16 convicted of any crimes.

17 Q And, did he give you any information in that regard?

18 A Basically the same, as what I have.

19 Q Basically the same as here?

20 A Yes sir.

21 Q The felonious shooting into the occupied vehicle, you
22 indicate he came off probation in 1977, I believe -

23 A Yes sir.

24 Q Is there any show cause pending against him right now,
25 in the City at all?

1 A I will request one after sentencing today.

2 Q That's all the questions I have for Miss Owens.

3 THE COURT: Cross Examine.

4 CROSS EXAMINATION: Ms. Owens by Mr. Boone

5 Q Miss Owens, on Page 12, of the presentence report, you
6 have Richmond Juvenile Court 6-2-81, assault and strike
7 wife, \$10.00 fine, \$10.75 in costs. Is that correct?
8 If you'll turn to page 11, under Virginia State Police
9 you show assault 6-2-75, \$10.00 fine and \$10.75 in costs.

10 A Yes sir.

11 Q Would you, uh, discover that there was a mistake on page
12 12, that actually that should have read 6-2-75 and that
13 those are both one and the same offenses -

14 A No sir. The record that I have in writing from Richmond
15 Juvenile indicates 6-2-81.

16 Q That's what your record indicates?

17 A Yes sir.

18 Q Did you discover that he was not married in June of 1981?

19 A He said he was not living with his wife at that time, yes.

20 Q Did you ask him about the similarity in these two offenses?

21 A No. I didn't have the records at the time I interviewed
22 him.

23 Q So, this is strictly based on the record you received?

24 A Yes sir.

25 Q Thank you. No further questions.

* * *

Pages 765-768 of Volume IV
are not included. It covers
sentencing.

* * *

1 this case. This was a trial by Jury. Does the
2 Commonwealth have anything it wants to say?

3 MR. MARTIN: Judge, --

4 MR. BOONE: Judge, if I might, before we speak to the sentence
5 I do have a Motion to set the Verdict aside, if
6 I might address that.

7 THE COURT: Alright.

8 MR. BOONE: Your Honor, at this point, on behalf of the defen-
9 dant, I move this honorable Court to set the
10 Jury verdicts aside, as being contrary to the law
11 and the evidence. And briefly, I will summarize
12 my argument. I know Your Honor took very exten-
13 sive notes and listened very carefully to the
14 case. I realize at this point, the defendant
15 has been convicted by the Trier of Fact, the Jury
16 in the case, and therefore the evidence in this
17 case must be viewed in the light most favorable
18 to the Commonwealth. With that in mind, I make
19 the following argument. Number 1, the evidence
20 is clear, that the defendant was the last person
21 to be seen with the victim, Mr. Miller, prior to
22 the discovery of the victim's body, that's undis-
23 puted. Number 2, when confronted by the Police,
24 the defendant denied seeing the Victim, on the
25 last day the victim was seen alive, which was

1 May 15, 1981. Number three, the defendant argued
2 arguably had a motive to commit these crimes, as
3 he had no job and he had plenty of debts. Number
4 four, the defendant was seen at Defense General
5 Supply Center on May 15, 1981, standing near the
6 victim in the Credit Union. While the victim had
7 a large amount of money in his hands. And last,
8 but not least, the defendant lived near the site
9 the body was found, and he had in fact been by
10 that site as a child, both playing in that area
11 and walking by to and from school. So he was
12 familiar with the site, where the body was found.
13 I think, in a nutshell, boiling the case down,
14 those were the main points for the Commonwealth.
15 However, there were other points, even viewing
16 the evidence in the light ^{most/} favorable to the Common-
17 wealth which I would like to point out to the
18 Court. First of all, the time of death was not
19 proven. The Commonwealth's own evidence via one
20 John Lee, showed the victim's car arriving where
21 it was eventually found after dark, on May the 15th
22 1981, dark, it was 8:11 p.m. on May the 15th, 1981.
23 Commonwealth's evidence says the defendant was
24 seen leaving DGSC with the victim at 3:40 p.m. on
25 May the 15th, 1981. Commonwealth's evidence said

1 there was no bad blood, whatsoever, between the
2 defendant and the victim, in fact, they were
3 good friends. The stipulation between Commonwealth
4 and Defense showed the defendant had a retirement
5 check coming, in fact, was paid a retirement
6 check from DGSC on August 11, 1982, in the amount
7 of \$2,951.96. Commonwealth's evidence shows that
8 the defendant had a period of months in which he
9 could have fled the scene, he could have left the
10 Richmond area, but he in fact did not do so,
11 he remained in the Richmond area and as a matter
12 of fact, when he was arrested on this murder
13 charge, the Police Officer did not even handcuff
14 him. Commonwealth's evidence says a palmprint
15 was found on the left front fender of the victim's
16 automobile, origin unknown. Did not belong to
17 the defendant. More importantly, the Commonwealth's
18 evidence shows a fingerprint was found on a Sears
19 bill, which it was argued, had been removed from
20 the wallet, on the person belonging to the victim
21 that was found on the seat of the victim's auto-
22 mobile, his fingerprint did not match up to the
23 defendant. The only fingerprints in the car that
24 matched up to the defendant were found on the
25 passenger's window, near the door handle.

1 No gun has been found to date. No test was run
2 on the defendant's hand to see if there was resi-
3 due of gun powder from firing a weapon. The
4 Commonwealth's eyewitness, John Lee, who they
5 offered as such, as an eyewitness, therefore
6 vouching for his credibility, never asking of
7 course to have him ruled an adverse witness, was
8 shown a photograph of the defendant, five days
9 after the alledged killing on May 20, 1981. This
10 photograph of the defendant was with a beard as
11 the Commonwealth alleged he had on the day in
12 question, May 15, 1981. Eyewitness John Lee
13 could not identify the defendant as being the
14 person he saw, standing next to the victim's
15 automobile, on the night the body was allegedly
16 dumped. Additionally, witness Lee, could not
17 identify the defendant at an in-person lineup,
18 several months later. Commonwealth's witnesses
19 admitted that rumors were rampid at Defense Gen-
20 eral Supply Center, involving this case, evidence
21 shows that the defendant was black, the victim
22 was white, evidence further shows, that the defen-
23 dant had a prior felony record, arguably, its
24 understandable to lie to the police, in consider-
25 ation of these facts, as to whether he was or not

1 with the victim on the day in question. And that
2 of course, would be an argument of counsel. The
3 plaintiff's evidence showed certain witnesses
4 offered by the Commonwealth showed, why, let me
5 rephrase that, certain witnesses by the Common-
6 wealth testified that it is normal to check out
7 a procedure at DGSC, where you have to go by
8 Personnel and other divisions of the base. It is
9 normal to check out on your last date, evidence
10 showed that the defendant had received a letter
11 that his last day was in fact, May 15, 1981.
12 The date in question. So of course this counters
13 the Commonwealth's argument that he was there to
14 rob an individual. It also shows he was there
15 to check out. Although the evidence further
16 shows that he did not in fact check out. The
17 defendant testified the victim had told him that
18 the victim had to go to the ABC TV Rental Co. on
19 Hull St. This was corroborated by stipulation
20 between the Commonwealth and the Defense. In
21 fact, the victim was to go to the ABC TV Rental
22 Co., on Hull St., on the day in question, May
23 15, 1981 and he never appeared. It was further
24 shown that the point the defendant said he was
25 dropped off, was between DGSC front gate and the

1 ABC TV Rental Company. On argument, counsel
2 suggests to this court, as the court is well
3 aware, that circumstantial evidence must be
4 viewed with great care, as the jury was so ins-
5 tructed, it is the argument of counsel, in the
6 light of the points brought out to the court
7 of other convictions stand in this case, would
8 allow the defendant to be convicted on sheer
9 speculation. Counsel does not argue that there
10 is not strong suspicion, but Counsel certainly
11 argues, that as a matter of law, the Commonwealth
12 did not carry its burden, which is a very speci-
13 fic burden, proof beyond a reasonable doubt and
14 I respectfully ask this Court, based on these
15 reasons, to set the Jury verdict aside. Thank
16 you.

17 THE COURT: Mr. Martin, you want to be heard?

18 MR. MARTIN: Your Honor, many of the points that Mr. Boone
19 raises here today, really in summary are points
20 that were addressed to the Court and specifically
21 to the Jury at the time of argument. If I recall
22 correctly, I think Mr. Boone went to rather great
23 length to leave no stone unturned in his quest to
24 have Mr. Bishop found not guilty. I think he
25 made a good argument. The jury did not, however

1 agree with his argument. It was alot of evidence
2 produced in the case, it's circumstantial evi-
3 dence, we were here for several days, my notes
4 are correct, the jury was out approximately 3
5 hours, or a little bit over that, obviously they
6 considered the evidence with some care and caution,
7 no with great care and caution. I don't know
8 what went on back there, but three hours is not
9 a small length of time to consider this kind of
10 a case. Just responding to one or two of the
11 things Mr. Boone says, uh, the test for gunpowder
12 is kind of new to me, since the defendant wasn't
13 found until 3 months after the crime happened,
14 I'm not sure what relevance that has and I'm not
15 sure that argument was ever brought up before.
16 I don't think it has anything to do with the case,
17 as in fact, I argued to the jury, many of his
18 arguments did not. Any circumstantial case, you
19 take a piece of evidence, no one piece of evidence
20 in and of itself, is ever sufficient to convict
21 and individual in a criminal case. You can take
22 that one piece of evidence and you can argue it
23 both ways. In fact, lawyers are trained in Law
24 School and throughout practice, to take the same
25 thing and argue it, both ways. That was done.

1. However, I suggest to the Court, that when you
2. take a Totality of the evidence, which is what
3. the jury must do, it is their duty, puts it all
4. together, sits through the arguments of Counsel,
5. and comes to its conclusion that the evidence
6. produced was sufficient to sustain the Commonwealth's
7. wealth's burden. Uh, I find that a rather novel
8. theory, that the defendant's okay to lie to the
9. Police, I'm not sure it was ever okay for anybody
10. to lie to the Police. That is, historically and
11. legally, one of the criteria or one of the
12. indices of a guilty conscience, his lying. We
13. have this man with a, who testified with a story,
14. his version of what took place, that was rejected
15. by the jury, he is a two-time convicted felon and
16. I suggest to the Court that he was severely impea-
17. ched on his own testimony in this Court to the
18. jury, by the Commonwealth's two rebuttal witnesses.
19. Given that, Your Honor, I suggest that the evidence
20. was convincing, it was sufficient to convict, that
21. the Court should not now, take it upon itself, to
22. set aside that jury verdict, which I think was
23. fairly considered and rendered, and the punishment
24. just. I will argue punishment in just a minute,
25. but I would object, or take strong exception to

1 the Court's sustaining Mr. Boone's motion at this
2 time for those reasons.

3 THE COURT: You have anything else you want to say, Mr. Boone?

4 MR. BOONE: No, Your Honor.

5 THE COURT: Mr. Boone, the Court will overrule your motion.

6 I think that the evidence was fairly submitted to
7 the jury and they made up their minds after hear-
8 ing the evidence you gentlemen were allowed to
9 argue, through instructions and otherwise, all
10 of the aspects of your respective sides. The
11 Court feels that the Jury had sufficient evidence
12 in this case, to make the finding that they did.
13 For that reason, the Court will overrule your
14 motion to which you note an objection and excep-
15 tion.

16 MR. BOONE: Thank you, Your Honor.

17 THE COURT: Have any other motions, sir?

18 MR. BOONE: Judge, the next motion I would make, would be to
19 in the Court's discretion, in entering judgement,
20 entering something less than what the Jury has
21 recommended to this honorable court. The presen-
22 tence report speaks for itself, I'm certainly not
23 going to argue that, I think it's quite accurate,
24 I think the character witnesses, in a matter of
25 speaking, were the Commonwealth's witnesses in

* * *

Pages 778-784 of Volume IV
are not included. It covers
sentencing.

* * *

* * *

Transcript of Motions for
Discovery and Motion for
Bill of Particulars are not
included, said Motions being
heard on April 30, 1982 and
May 13, 1982 respectively.

* * *

* * *

Transcript of Motion for
Discovery heard on July 24,
1982 is not included.

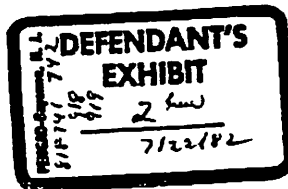
* * *

DEFENSE EXHIBIT "2"

WEATHER DATA FOR MAY/81

Date	High	Low	Sunset
May 15	78	59	8:11
May 16	70	56	8:12
May 17	76	51	8:13
May 18	65	47	8:14
May 19	52	47	8:15
May 20	58	47	8:16

ABOVE INFORMATION WAS OBTAINED BY CALLING THE NATIONAL WEATHER SERVICE AT BYRD FIELD AT
222-7411 AND SPEAKING WITH CENTRAL WILLS



ABC RENTAL CO., INC. **PICK UP ORDER**

Picked up Raymond Miller
 From _____
 Address 201 Kirkland Dr
 TIME _____ Date 5-16-81

Written By [Signature] Picked Up By [Signature]

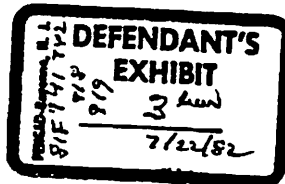
Unit Picked Up C/P
 Brand [Signature]
 Model _____
 Serial 3043991

Amount of Past Due Rent Owning \$ _____

Amount of Past Due Rent Collected \$ _____

Reason for Pick Up Request

Remarks: _____



RENTAL AGREEMENT WITH OPTION TO PURCHASE

ABC Rental Systems RENTAL COMPANY		DATE <u>4-11</u> 19 <u>81</u>
1701 Hull St. ADDRESS		RENTER <u>Raymond A. Miller</u>
Rich, Va 23224		RESIDENCE ADDRESS <u>201 Kirkland Dr.</u>
331-4446 PHONE		APARTMENT _____ PHONE <u>329-0432</u>
FOR OFFICE USE ONLY		CITY <u>Rich</u> CTY <u>23227</u> STATE <u>Va.</u>
		ITEM <u>G/P</u> BRAND <u>Miller</u>
		MODEL _____ SERIAL <u>1364399</u>
		RENTAL RATE PER WEEK IF PAID ON OR BEFORE DUE DATE, (INCLUDES STATE AND LOCAL TAXES IF APPLICABLE) <u>\$ 15.90 or 58.90</u> IN HOME COLLECTION FEE <u>\$ 4.00</u>
		COMMENCEMENT DATE OF RENTAL TERM <u>Sat.</u> <u>4-11-81</u> DAY OF WEEK DATE

RENTAL AGREEMENT WITH OPTION TO PURCHASE

THE UNDERSIGNED, HEREIN CALLED "RENTER", WHETHER ONE OR MORE, DO JOINTLY AND SEVERALLY HEREBY RENT FROM THE RENTAL COMPANY, HEREIN CALLED "OWNER", THE ABOVE DESCRIBED PERSONAL PROPERTY, HEREIN CALLED "PROPERTY", AT THE RENTAL RATE SET FORTH ABOVE, PAYABLE WEEKLY IN ADVANCE FOR A WEEK-TO-WEEK TERM BEGINNING ON THE COMMENCEMENT DATE STATED ABOVE.

THIS IS A WEEK-TO-WEEK RENTAL AGREEMENT WITH OPTION TO PURCHASE.

TITLE: TITLE REMAINS AT ALL TIMES IN THE OWNER THE RENTER RECEIVES USE AND POSSESSION OF THE PROPERTY FOR SUCCESSIVE ONE-WEEK TERMS SO LONG AS WEEKLY RENTAL PAYMENTS ARE MADE ON OR BEFORE THE DATE DUE AND RENTER COMPLIES FULLY WITH ALL AGREEMENTS AND CONDITIONS HEREOF AND UNLESS THIS AGREEMENT IS TERMINATED AS PROVIDED HEREIN.

TERMINATION BY RENTER: RENTER, AT ITS OPTION, MAY AT ANY TIME TERMINATE THIS AGREEMENT BY RETURN OF THE PROPERTY TO OWNER IN ITS PRESENT CONDITION, FAIR WEAR AND TEAR EXCEPTED AND BY PAYMENT OF ALL RENTAL PAYMENTS DUE ON OR DURING THE WEEK OF TERMINATION.

TERMINATION BY OWNER: THIS AGREEMENT SHALL AT THE OPTION OF THE OWNER AND WITHOUT NOTICE TERMINATE UPON THE FAILURE OF RENTER TO MAKE EVERY RENTAL PAYMENT REQUIRED HEREIN ON OR BEFORE THE DATE DUE, OR BY BREACH BY THE RENTER OF ANY AGREEMENT, CONDITION OR REPRESENTATION, ALL OF WHICH ARE AGREED TO BE MATERIAL ON TERMINATION, RENTER SHALL IMMEDIATELY RETURN THE PROPERTY TO OWNER IN ITS PRESENT CONDITION, FAIR WEAR AND TEAR EXCEPTED, AND RENTER SHALL REMAIN LIABLE FOR ALL PAYMENTS HEREUNDER TO THE DATE OF TERMINATION AND FOR THE PERFORMANCE OF ALL AGREEMENTS AND CONDITIONS HEREOF.

LOCATION OF PROPERTY: RENTER WARRANTS AND AGREES THAT IT WILL KEEP SAID PROPERTY IN ITS POSSESSION AT THE RESIDENCE ADDRESS ABOVE AND WILL NOT REMOVE SAID PERSONAL PROPERTY FROM SAID ADDRESS WITHOUT AGREEMENT IN WRITING EXECUTED BY THE OWNER. IF RENTER REMOVES SAID PROPERTY WITHOUT SECURING PRIOR AGREEMENT IN WRITING FROM OWNER, THIS AGREEMENT SHALL BE THEREBY BREACHED, GIVING THE OWNER THE RIGHT OF IMMEDIATE POSSESSION AND RENTER SHALL BE LIABLE FOR PROSECUTION UNDER APPLICABLE STATE LAWS.

DAMAGES: RENTER IS FULLY RESPONSIBLE FOR THE LOSS, THEFT OR DESTRUCTION OF SAID PROPERTY FROM ALL CAUSES WHATSOEVER AND AGREES TO PAY TO THE OWNER THE FAIR MARKET VALUE OF SAID PROPERTY IN SUCH EVENT. IN THE EVENT OF DAMAGE, AND/OR PARTIAL DESTRUCTION FROM ANY CAUSE WHATSOEVER, RENTER AGREES TO PAY TO THE OWNER A REASONABLE COST OF REPAIR TO SAID PROPERTY.

ASSIGNMENT: THIS AGREEMENT MAY BE SOLD, TRANSFERRED AND ASSIGNED BY OWNER WITHOUT RESTRICTION. RENTER HAS NO RIGHT TO ASSIGN, SUBLEASE, OR TRANSFER HIS RIGHTS HEREIN WITHOUT THE WRITTEN CONSENT OF OWNER.

MAINTENANCE: THE OWNER DOES HEREBY AGREE TO MAINTAIN THE PERSONAL PROPERTY IN WORKING ORDER AND ANY AND ALL MAINTENANCE OR REPAIRS TO THE PROPERTY OF THE OWNER HEREUNDER MUST BE PERFORMED BY THE OWNER AND THE OWNER WILL NOT BE RESPONSIBLE FOR COSTS OF ANY REPAIRS DONE AT THE REQUEST OF THE RENTER BY OTHERS.

OWNER'S RIGHT TO ENTER AND TAKE POSSESSION: THE OWNER AND ITS AGENTS UPON SIGNATURE OF THIS AGREEMENT, ARE SPECIFICALLY AUTHORIZED TO ENTER UPON ANY PREMISES WHERE THE PROPERTY MAY BE FOUND AND TO TAKE POSSESSION OF AND REMOVE THE PROPERTY FROM SAID PREMISES, AND OWNER AND ITS AGENTS ARE HEREBY RELEASED AND DISCHARGED FROM ANY CAUSE OF ACTION IN OR RELATING TO ENTRY AND TAKING POSSESSION AND RENTER AGREES TO INDEMNIFY OWNER AND ITS AGENTS FOR ALL COSTS, EXPENSES, AND DAMAGES OCCURRING DIRECTLY OR INDIRECTLY FROM OR RELATED TO THE TAKING POSSESSION AND THE REMOVAL OF SAID PROPERTY.

ATTORNEY'S FEES: RENTER HEREBY AGREES TO PAY REASONABLE ATTORNEY'S FEES IN THE EVENT THIS AGREEMENT SHOULD BECOME IN DEFAULT, IT IS UNDERSTOOD THAT THE AMOUNT OF SUCH FEES WILL BE BASED UPON THE JUDGMENT AMOUNT RENDERED BY A COURT OF COMPETENT JURISDICTION.

RENTER HAS NO RIGHT TO SELL, MORTGAGE, PAWN, PLEDGE, ENCUMBER, OR OTHERWISE DISPOSE OF SAID PROPERTY OR TO MOVE SAID PROPERTY FROM THE RESIDENCE ADDRESS ABOVE. TO DO SO IS A BREACH OF THIS AGREEMENT AND RENTER SHALL BE LIABLE THEREFOR UNDER APPLICABLE STATE LAW.

TIME IS OF THE ESSENCE OF THIS AGREEMENT.

THIS RENTAL AGREEMENT MAY BE MODIFIED, VARIED, ALTERED, OR EXTENDED, OR THE AGREEMENTS ON CONDITIONS HEREOF WAIVED, ONLY BY AGREEMENT IN WRITING EXECUTED BY THE OWNER. RENTER ACKNOWLEDGES RECEIPT OF SAID PROPERTY IN SATISFACTORY OPERATING CONDITION. THIS PROPERTY IS NOT REPRESENTED TO BE NEW PROPERTY.

IN THE EVENT RENTER AT HIS SOLE ELECTION RENEWS THIS RENTAL AGREEMENT FOR 18 Mo. SUCCESSIVE ONE-WEEK TERMS, OWNER WILL TRANSFER THE PROPERTY TO RENTER.

IN ORDER TO OBTAIN THE ABOVE DESCRIBED PROPERTY I SUBMIT THE FOLLOWING INFORMATION:

TYPE I.D. SHOWN 4-11-81

FULL NAME ON I.D. Raymond A. Miller

ADDRESS SHOWN ON I.D. 201 Kirkland Dr.

EMPLOYMENT VERIFICATION _____

I HAVE READ AND UNDERSTOOD THE ABOVE AGREEMENT

Renter Raymond A. Miller

Renter _____

Witness _____

DEFENDANT'S EXHIBIT "5"

FRANCES A. OF JESSE BISHOP
2306 FAIRMOUNT AVE
RICHMOND, VA 23223

983

PAY TO THE ORDER OF AVCO Financial Services \$ 37.00
Thirty Seven DOLLARS

FOR Tyrone Bishop Jesse Bishop

Bank of Virginia
50 West Commerce Road
Richmond, Virginia 23224

⑆051006778⑆ 528 3234077 0983 ⑆0000003700⑆

FRANCES A. OR JESSE BISHOP
2306 FAIRMOUNT AVE
RICHMOND, VA 23223

991

PAY TO THE ORDER OF AVCO Financial Services \$ 37.00
Thirty Seven DOLLARS

FOR Tyrone Bishop Jesse Bishop

Bank of Virginia
50 West Commerce Road
Richmond, Virginia 23224

⑆051006778⑆ 528 3234077 0991 ⑆0000003700⑆

FRANCES A. OR JESSE BISHOP
2306 FAIRMOUNT AVE
RICHMOND, VA 23223

1006

PAY TO THE ORDER OF AVCO Financial Services \$ 37.00
Thirty Seven DOLLARS

FOR Tyrone Bishop Jesse Bishop

Bank of Virginia
50 West Commerce Road
Richmond, Virginia 23224


⑆051006778⑆ 528 3234077 1006 ⑆0000003700⑆

1023

FRANCES A. OR JESSE BISHOP
2306 FAIRMOUNT AVE
RICHMOND, VA 23223

19 Sept 68-677-510 212

PAY TO THE ORDER OF W.C. Financial Services \$ 37.00
Thirty Seven DOLLARS

 **Bank of Virginia**
50 West Commerce Road
Richmond, Virginia 23224

FOR Tyrone Bishop Jesse Bishop


>⑈051006778⑆ 528⑈3234077⑈ 1023 ⑈0000003700⑈

1085

FRANCES A. OR JESSE BISHOP
2306 FAIRMOUNT AVE
RICHMOND, VA 23223

19 Sept 68-677-510 212

PAY TO THE ORDER OF W.C. Financial Services \$ 37.00
Thirty Seven DOLLARS

 **Bank of Virginia**
50 West Commerce Road
Richmond, Virginia 23224

FOR Tyrone Bishop Jesse Bishop


>⑈051006778⑆ 528⑈3234077⑈ 1085 ⑈0000003700⑈

1095

FRANCES A. OR JESSE BISHOP
2306 FAIRMOUNT AVE
RICHMOND, VA 23223

19 Oct 4 68-677-510 212

PAY TO THE ORDER OF W.C. Financial Services \$ 37.00
Thirty Seven DOLLARS

 **Bank of Virginia**
50 West Commerce Road
Richmond, Virginia 23224

FOR Tyrone Bishop Jesse Bishop


>⑈051006778⑆ 528⑈3234077⑈ 1095 ⑈0000003700⑈

FRANCES A. OR JESSE BISHOP
2306 FAIRMOUNT AVE
RICHMOND, VA 23223

1031

68-677 212
510

PAY TO THE ORDER OF ATC Financial Services \$ 37.00
Thirty Seven DOLLARS

 Bank of Virginia
50 West Commerce Road
Richmond, Virginia 23224

FOR Tyrone Bishop Jesse Bishop


⑆05⑆006778⑆ 528⑆3234077⑆ 1031 ⑈0000003700⑈

FRANCES A. OR JESSE BISHOP
2306 FAIRMOUNT AVE
RICHMOND, VA 23223

1038

68-677 212
510

PAY TO THE ORDER OF ATC Financial Services \$ 37.00
Thirty Seven DOLLARS

 Bank of Virginia
50 West Commerce Road
Richmond, Virginia 23224

FOR Tyrone Bishop Jesse Bishop


⑆05⑆006778⑆ 528⑆3234077⑆ 1038 ⑈0000003700⑈

FRANCES A. OR JESSE BISHOP
2306 FAIRMOUNT AVE
RICHMOND, VA 23223

1049

68-677 212
510

PAY TO THE ORDER OF ATC Financial Services \$ 37.00
Thirty Seven DOLLARS

 Bank of Virginia
50 West Commerce Road
Richmond, Virginia 23224

FOR Tyrone Bishop Jesse Bishop

⑆05⑆006778⑆ 528⑆3234077⑆ 1049 ⑈0000003700⑈

FRANCES A. OR JESSE BISHOP
2306 FAIRMOUNT AVE
RICHMOND, VA 23223

1065

PAY TO THE ORDER OF ATCO Financial Services \$ 37.00
Thirty Seven DOLLARS

FOR Tyrone Bishop Jesse Bishop

Bank of Virginia
50 West Commerce Road
Richmond, Virginia 23224

⑆05⑆006778⑆ 528⑆3234077⑆ 1065 ⑈0000003700⑈

FRANCES A. OR JESSE BISHOP
2306 FAIRMOUNT AVE
RICHMOND, VA 23223

1072

PAY TO THE ORDER OF ATCO Financial Services \$ 37.00
Thirty Seven DOLLARS

FOR Tyrone Bishop Jesse Bishop

Bank of Virginia
50 West Commerce Road
Richmond, Virginia 23224

⑆05⑆006778⑆ 528⑆3234077⑆ 1072 ⑈0000003700⑈

FRANCES A. OR JESSE BISHOP
2306 FAIRMOUNT AVE
RICHMOND, VA 23223

1137

PAY TO THE ORDER OF ATCO Financial Services \$ 37.00
Thirty Seven DOLLARS

FOR Tyrone Bishop Jesse Bishop

Bank of Virginia
50 West Commerce Road
Richmond, Virginia 23224

⑆05⑆006778⑆ 528⑆3234077⑆ 1137 ⑈0000003700⑈


1253

FRANCES A. OR JESSE BISHOP
2306 FAIRMOUNT AVE
RICHMOND, VA 23223

PAID - 3004 RICHMOND

PAY TO THE ORDER OF Arco Financial Services Sept 4 1988 21.49 49 DOLLARS

Twenty one and 49/100

 **Bank of Virginia**
50 West Commerce Road
Richmond, Virginia 23224

FOR Jesse Bishop


⑆051006778⑆ 528⑈3234077⑈ 1253 ⑈0000002149⑈

943

FRANCES A. OR JESSE BISHOP
2306 FAIRMOUNT AVE
RICHMOND, VA 23223

PAY TO THE ORDER OF Arco Financial Services May 22 1988 2.00 00 DOLLARS

Two and 00/100

 **Bank of Virginia**
50 West Commerce Road
Richmond, Virginia 23224

FOR Jesse Bishop


⑆051006778⑆ 528⑈3234077⑈ 0943 ⑈00000012500⑈

973

FRANCES A. OR JESSE BISHOP 28/21
2306 FAIRMOUNT AVE
RICHMOND, VA 23223

PAY TO THE ORDER OF Arco Financial Services May 19 1980 37.00 00 DOLLARS

Thirty seven and 00/100

 **Bank of Virginia**
50 West Commerce Road
Richmond, Virginia 23224

FOR Jesse Bishop

⑆051006778⑆ 528⑈3234077⑈ 0973 ⑈0000003700⑈