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Ohio v. Fred Ahmed Evans: Trial record transcript, 1969

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1969

## Volume 10 (Part 1 of 4)

Cuyahoga County Court of Common Pleas

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MAR 11 1969

E. J. MASCOY, CLERK  
BY H. H. R. R. DEP.STATE OF OHIO )  
(  
COUNTY OF CUYAHOGA )

SS:

IN THE COURT OF COMMON PLEAS  
CRIMINAL BRANCH

NO. 90257

STATE OF OHIO, )

Plaintiff, (

vs. )

FRED AHMED EVANS, (

Defendant. )

oo0oo

JOURNAL ENTRYGEORGE J. McMONAGLE, J.:

This order is entered for record on March 11, 1969.

The Court finds that the following orders and instructions are necessary and proper for the purpose of governing, controlling and regulating the conduct of the trial and all proceedings related thereto and of all persons interested in, attending or participating therein.

ITEM I. All approaches to courtrooms, offices and other rooms within the court house premises, which are defined to be the entire building known as 1560 East 21st Street, Cleveland, Ohio, shall be kept clear for the purpose of free access thereto by those using them in the course of their employment or who have court house business to transact.

No person shall loiter in or about the court house premises.

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ITEM II. No cameras, recording devices, registering devices or any other electronic or mechanical equipment shall be

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used within the court house premises by any person before, after or during the trial or related proceedings or at any recess or adjournment.

ITEM III. No sketches or drawings shall be made within court house premises of any person attending or participating in the trial or related proceedings.

ITEM IV. No teletype machines shall be installed within the court house premises and no telephone lines and equipment (private, public paystation or otherwise), not in operation within the court house premises on or before March 11, 1969, shall be installed.

ITEM V. Witnesses, prospective and selected jurors, and those persons summoned but excused from serving as jurors, are forbidden to participate in interviews and from making statements for publicity from this date and until such time as a verdict in this case is returned in open court.

ITEM VI. No photographs of any kind of jurors, as a group or individually, shall be taken at any time or place without prior permission of the Court.

The list of names and addresses of the prospective and selected jurors shall not be released or published.

The names and addresses of the excused jurors may be published.

ITEM VII. All Lawyers participating in this hearing, their office associates, staff members and employees under their supervision and control are forbidden to take part in interviews for publicity and from making extra-judicial statements from

this date and until such time as a verdict is returned in this case in open court. Canon 20 of the Canons of Professional Ethics of the American Bar Association is hereby incorporated in and made a part of this order.

ITEM VIII. Employees of this court and all other persons employed within the court house premises are forbidden to participate in interviews and from making statements for publicity from this date and until such time as a verdict in this case is returned in open court.

ITEM IX. The County Coroner, County Clerk of Court, County Sheriff, police officials and other law enforcement officers, their associates, deputies, assistants, staff members and personnel under their supervision and control who have participated in or who are expected to participate in the handling or processing of this matter are forbidden to participate in interviews and from making statements for publicity from this date and until such time as a verdict in this case is returned in open court.

ITEM X. The Assignment Room located on the second floor of the court house premises and all equipment, instruments, machines and other personal property therein shall be used exclusively by authorized personnel of this court.

ITEM XI. Attendance in Court Room No. 4 during all trial proceedings shall be limited to the seating accommodations of the court room and members of the public and representatives of news media shall not be permitted inside the bar railing.

ITEM XII. All persons seeking admission to the court room will submit voluntarily to a search of his person before



used within the court house premises by any person before, after or during the trial or related proceedings or at any recess or adjournment.

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ITEM XII. All persons seeking admission to the court room will submit voluntarily to a search of his person before

being admitted. The Sheriff is ordered to search each person seeking admission.

ITEM XIII. The first row bench immediately behind the bar railing shall be reserved for accredited representatives of the news media who shall be admitted to the courtroom only upon presentation of credentials issued by the court and all other seats behind the bar railing shall be available to members of the public, for each session of court, in the order of their appearance.

ITEM XIV. No one except attorneys of record, their agents, court personnel, witnesses and jurors may handle exhibits except by order of this court.

ITEM XV. The bar of the court within the rail is reserved for counsel in the case, the defendant, court personnel and such witnesses as counsel may desire to be within the bar for consultation purposes. No one else shall enter without permission of the court.

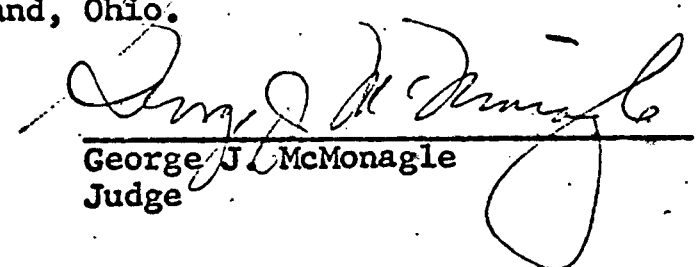
ITEM XVI. At any time the jury is returning from the second floor, or the defendant is being removed to the jail, the spectators shall remain seated in the courtroom until the jury and defendant have had ample time to withdraw, and said spectators have been given permission to disperse.

ITEM XVII. No person shall be permitted to enter the courtroom after commencement of a session nor shall he be permitted to leave except during a recess or after adjournment.

ITEM XVIII. Seat assignments for representative of the news media in the first row bench shall be as follows:



certified mail on all counsel of record, the Sheriff, Clerk and Coroner of Cuyahoga County, Ohio, the Chief of Police of the City of Cleveland, the news media listed in ITEM XVIII, and by posting a copy of it in the lobby of the Criminal Court Building, 1560 East 21st Street, Cleveland, Ohio.

  
George J. McMonagle  
Judge

Dated: March <sup>24</sup> 11, 1969.

STATE OF OHIO )  
( SS:  
COUNTY OF CUYAHOGA )

IN THE COURT OF COMMON PLEAS  
CRIMINAL BRANCH

NO. 90257

STATE OF OHIO, )  
Plaintiff, ( )  
vs. )  
FRED AHMED EVANS, ( )  
Defendant. )  
oo0oo

PROVISIONS FOR  
SEQUESTRATION OF THE JURY

The following provisions pertaining to the jurors during the sequestration are hereby agreed to by the parties herein:

1. Jurors shall attend all meals as a group accompanied by an officer or officers of the court at a time and place specified by the aforementioned officers.
2. All mail, before being sent or received by members of the jury, must be censored by an officer of the court.
3. All telephone conversations of jurors will be monitored and limited to members of the immediate family. Said telephone conversations will be further limited to specific times as set down by an officer of the court.
4. While a juror may view television and listen to radio programs, he shall as far as possible refrain from viewing any television program which contains any reference to this action.

5. Any references to this action shall be deleted by an officer of the court from all newspapers and other publication before being seen by a juror.

6. Jurors will be permitted to meet with members of their immediate family at the hotel, provided that such meeting shall be in the company of an officer of the court.

7. Jurors shall be permitted to attend religious services of their faith when accompanied by an officer of the court.

8. All transportation of jurors during sequestration shall be in vehicles specified by the court. No juror shall be transported during this period of sequestration unless accompanied by an officer of the court.

9. The court officers may arrange activities at the hotel, subject to the approval of the court.

10. Members of the jury may attend places of public entertainment pursuant to a direction of the court. Attendance at such events shall be subject to the supervision of court officers and group unity shall be maintained at all times.

11. In the event of emergency or personal necessity, a member of the jury may be permitted to separate from the panel while in the company of an officer or officers of the

court, subject to prior court approval.

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For the State of Ohio

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For the Defendant

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APPROVED:

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Dated: April \_\_\_\_\_, 1969.



THE STATE OF OHIO, )  
COUNTY OF CUYAHOGA. )

April 10, 1969  
McMONAGLE, J.

IN THE COURT OF COMMON PLEAS  
(Criminal Branch)

THE STATE OF OHIO, )  
Plaintiff )  
vs. )  
FRED AHMED EVANS, )  
Defendant )

No. 90,257

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OPENING STATEMENT ON BEHALF OF THE STATE PAGE 1

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OPENING STATEMENT ON BEHALF OF THE DEFENDANT Page 20

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WITNESSES: DIRECT

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DR. WILLIAM HOFFMAN 46

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THURSDAY AFTERNOON SESSION, APRIL 10, 1969

OPENING STATEMENT ON BEHALF OF STATE

BY MR. CORRIGAN:

May it please the Court, members of defense, ladies and gentlemen of the jury, as Judge McMonagle has indicated to you, at this time the comments made by counsel for either side are not evidence. What we do now is referred to as opening statements.

The purpose of these opening statements is to advise you of what we expect the evidence to show. None of us were there. We only know what the witnesses told us. We can only anticipate what those witnesses will tell you as witnesses in this courtroom.

Now, in telling you what they have told us and relating to you the stories, the purpose is so that you will be better able to follow the testimony of the prospective witnesses and be able to see how their testimony relates to the whole picture.

Now, in the course of the opening statement I will make, I will, a little later on, relate to the aerial photograph which is hanging here on the wall and which I will anticipate will subsequently be introduced into evidence and which I anticipate

will go with you up into your jury room at the time that you deliberate so that you may relate the story, as you hear it, to this aerial photograph.

I will, before relating what I expect the evidence to show by way of the various witnesses, go over this aerial photograph with you to familiarize you with the streets, with the particular areas, and pretty much follow along the way that you made observations this morning when you were on the scene, but just like that which you saw out there, this is not evidence; it is merely an aid so that you might better understand the evidence.

So, also, is the case with respect to opening statements of counsel. Now, ladies and gentlemen, we have made reference heretofore to the seven charges that are made in this case.

I anticipate that the evidence will show and will show beyond a reasonable doubt that in this county and in this City of Cleveland, on the 23rd day of July, 1968, that this defendant, Ahmed Evans, did unlawfully, purposely, and of deliberate and premeditated malice, kill one Leroy C. Jones by shooting him, pursuant to a conspiracy to kill and murder theretofore entered into by and between the said Fred Ahmed Evans,

Lathan Donald, Alfred Thomas, John Hardwick, and Leslie Jackson, all contrary to the law of the State of Ohio.

I expect that the evidence will show on that day, the 23rd day of July, 1968, in Cleveland, Cuyahoga County, that the defendant Fred Ahmed Evans did unlawfully, purposely, and wilfully did kill Leroy C. Jones, a duly appointed, qualified and acting policeman of the City of Cleveland, County of Cuyahoga, and that that killing by this defendant was done in pursuance of a conspiracy to kill, while said Leroy C. Jones was in the discharge of his duties as a policeman, all contrary to the law of the State of Ohio.

I expect that the evidence will show also beyond a reasonable doubt on that day, the 23rd day of July, 1968, in Cleveland, Cuyahoga County, that the defendant Fred Ahmed Evans did unlawfully, purposely, and of deliberate and premeditated malice kill one Louis F. Golonka, by shooting him, pursuant to a conspiracy to kill and murder therefore entered into by and between the said Fred Ahmed Evans, Lathan Donald, Alfred Thomas, John Hardwick, and Leslie Jackson, and others, all contrary to the law of the State of Ohio.

And that on that same day, I expect the evidence to prove beyond a reasonable doubt that the defendant Fred Ahmed Evans did, in Cuyahoga County, unlawfully, purposely, and wilfully kill Louis E. Golonka, a duly appointed, qualified, and acting policeman of the City of Cleveland, County of Cuyahoga, in pursuance of a conspiracy to kill, while said Louis E. Golonka was in the discharge of his duties as a policeman.

I expect further that the evidence will show beyond a reasonable doubt that on that day, in Cuyahoga County, Cleveland, Ohio, that the defendant Fred Ahmed Evans did unlawfully, purposely, and of deliberate and premeditated malice, kill one Willard J. Wolff, by shooting him, pursuant to a conspiracy to kill and murder therefore entered into by and between the said Fred Ahmed Evans, Lathan Donald, Alfred Thomas, John Harwick, and Leslie Jackson, and others.

I expect, too, that the evidence will show beyond a reasonable doubt that on that day, the 23rd day of July, 1968, in Cuyahoga County, Cleveland, Ohio, that the defendant Fred Evans did unlawfully, purposely, and wilfully kill Willard J. Wolff, a duly appointed, qualified and acting policeman of

the City of Cleveland, County of Cuyahoga, in pursuance of a conspiracy to kill, while said Willard J. Wolff was in the discharge of his duties as a policeman, all contrary to the law of the State of Ohio.

I think that the evidence will show beyond a reasonable doubt that on that day, the 23rd day of July, 1968, in Cleveland, Ohio, Cuyahoga County, that Fred Evans, the defendant, did unlawfully, purposely, and of deliberate and premeditated malice, did kill one James E. Chapman, by shooting him, pursuant to a conspiracy to kill and murder theretofore entered into by and between the said Fred Ahmed Evans, Lathan Donald, Alfred Thomas, John Hardrick, and Leslie Jackson, and others, all contrary to the law of the State of Ohio.

Now, ladies and gentlemen, I expect that the aerial photograph that is hanging on the wall is one wherein it will show that this aerial photograph relates generally to the area of Lakeview Avenue, East 123rd, East 124th, Moulton Avenue, and Beulah Avenue.

More specifically, I expect that the evidence will show that this street here (indicating) running generally through this aerial photograph, is Lakeview Avenue, and that this street here to

the left of the aerial photograph is Beulah Avenue; that this street here, just one block south, is Moulton Avenue; that generally to the south here (indicating) is Euclid Avenue, not shown on the map, and generally to the north is Superior Avenue, not shown on the map.

I expect that the evidence will show that just at a point south of Moulton Avenue and Lakeview Avenue commences the street known as Auburndale Avenue, which runs up to 124th Street east and subsequently up to Euclid Avenue.

I expect that the evidence will show that the alleyway just opposite Beulah, on the easterly side of Lakeview Avenue, is Beulah Court, and

I expect that the evidence will show that at the corner of Lakeview and Auburndale is a tavern known as the Lakeview Tavern, and just immediately to the east of that are two apartment-type brick dwellings, one known as 12312, the other known as 12314 Auburndale Avenue.

I expect that the evidence will show that in the vicinity of Lakeview and Beulah, in this residence here which I point to, which is directly behind a store, that used to be a store, the address there is 1384.

I expect that the evidence will show that on the opposite side of Lakeview Avenue are two dwellings, from the picture and from the testimony that will be adduced here, the evidence will show that these are two burnt-out dwellings, being 1391 and 1395 Lakeview Avenue.

I expect, ladies and gentlemen, the evidence will show that sometime in the early part of July and prior thereto that the defendant, Fred Ahmed Evans, was a member of a group known as the black nationalists, and the evidence, I believe, will indeed show that he was the leader of that particular group, and that in the early part of July, 1968, that he, along with some of his black nationalists, cohorts, and specifically among them, Bernard Donald and two more members of that black nationalist group, that these people, and specifically the defendant, purchased first aid kits, ammunition clips of various sizes, clips capable of holding in some instances 50 bullets, in other instances -- or, .50 and .30-caliber bullets -- I'm sorry -- 15 shells and 30 shells in each of the clips, the clips being of the .30-caliber nature.

The evidence will show, too, that the same Bernard Donald is one of the black nationalists who



was found shot to death back of 1391 or 1395 Lakeview.

The evidence will show that at the time that his body was found, with his body was found one of the guns that was purchased by Ahmed Evans and some of his cohorts in the early part of July, at some arms and ammunition stores in this county and in this city.

I expect that the evidence will show later, in the early part of the month of July, that Ahmed Evans, along with Bernard Donald, Lathan Donald, the man who was charged in this indictment, James Dally, James Mitchum, James Smith, and others, purchased guns from the various stores, department stores, ammunition and gun stores in the Cleveland area, and that the ammunition and the guns that they purchased were of a high velocity or high-powered type.

The evidence will show that they purchased thousands of rounds of ammunition, among which was armor-piercing ammunition, .30-caliber high velocity type ammunition; further, that about those times they purchased such items as first aid kits, ammunition, Marine eye solution to wash out the eyes when they might come in contact with tear gas --

MR. TOLLIVER:                      Objection to that.

THE COURT:                        Overruled.

MR. CORRIGAN:                    I expect that the  
evidence will show that, Mr. Tolliver.

THE COURT:                        The objection is  
overruled.

MR. CORRIGAN:                    I expect that the  
evidence will show that just five hours before the  
occurrence on this particular day, that Ahmed Evans,  
in company with others, spent between 5 and 6  
hundred dollars to purchase guns and ammunition,  
ammunition to the extent of 7 or 8 hundred rounds.  
The purchase was made in the Cleveland area.

The evidence will show that with regard to  
most of the guns found on the bodies of the black  
nationalists, found in the black nationalist head-  
quarters, or on the person of those black nationalists  
arrested, were those that, in fact, were guns pur-  
chased by Evans and his cohorts in the Cleveland area  
at various times prior to the 23rd day of July.

The evidence will show that 12312 is  
generally referred to as the black nationalist  
headquarters; that the evidence will show that,  
in fact, this facility, this living-dwelling,  
living area was rented to a man by the name of

Osu Bey, a man who was charged in the indictment under another name, and it was rented to two other individuals; that at a subsequent time it was taken over by Ahmed Evans and his cohorts, the black nationalists, without any authority, and arbitrarily set up as their headquarters.

The evidence will show that on the 23rd day of July, 1968, the Cleveland Police Department received information about this accumulation of weapons by the black nationalists and Ahmed Evans at this particular address and this buildup of this arsenal.

In pursuance of their duty, the evidence will show that the Cleveland Police Department, in pursuit of this duty to protect the public and to prevent the commission of crime, sent out two police surveillance vehicles, unmarked vehicles, to keep under surveillance the activities of this particular address.

There were in these automobiles two men in one, three men in the other, dressed in plainclothes. The evidence will show that one of these automobiles and the members therein stationed themselves at the corner of Moulton and Lakeview, where, I indicate here with my finger.

That the other of those automobiles, with three men, stationed themselves at the corner of Auburndale and East 124th Street. The evidence will show that these surveillance vehicles were in radio contact with one another and with the Central Police Station; that they made certain observations and, among other things, they observed while they had the place under surveillance a councilman of the City of Cleveland, Councilman Forbes, and another emissary of the City Hall, a man by the name of Walter Beech, arrived at the black nationalist headquarters, and the evidence will show that Councilman Forbes and Beech conferred with Ahmed Evans and other members of the black nationalists at that time.

The evidence will show that they made observations with respect to the arms and ammunitions and the dress of these gentlemen, the bandoleers strung about their shoulders, and the cartridge belts around their midriffs, and their rifles and other weapons in their possession.

MR. FLEMING:

Objection.

MR. CORRIGAN:

That is what the evidence will show.

THE COURT:

Just a minute.

12.  
Overruled. Proceed.

MR. CORRIGAN: The evidence will show that shortly after Councilman Forbes and Beech left, that Ahmed Evans came out of the so-called headquarters with some of his followers and came out in guerilla-like, warfare-like fashion. By that I mean that the evidence will show, in a crouched fashion, with rifles across their arms in what is referred to in military terms as "cradle arms," made their way across the street towards the surveillance vehicles.

The evidence will show that the police officers at that time radioed this fact and received instructions to get out of the area; and with that, the two surveillance vehicle left the area, the surveillance vehicle heading in a northerly direction on Lakeview Avenue, and the evidence will show that as that vehicle was making its way north on Lakeview, was shot upon by the black nationalists in pursuit in the rear.

That they turned on to Beulah and out in a generally westerly direction, and the evidence will show that simultaneous with that there was a tow truck operator by the name of William McMillan in this general vicinity of Beulah Avenue, preparing to

tow an abandoned automobile, and the evidence will show that he was dressed in a police uniform, with a badge and with a hat, and the evidence will show that he was unarmed.

The evidence will show that William McMillan commenced to be shot upon by several black nationalists people that he had observed in the reported reputed official black nationalist guard, and the evidence will show that McMillan at that time saw Ahmed Evans shooting at him, and at the same time he heard Ahmed Evans say, "There's one of those sons of bitches now," and with that, McMillan, who was wounded not once or twice but several times, made his way up Beulah Avenue and stumbled into a house.

In the meantime, the evidence will show that his partner in the tow truck had slumped down on the floor to gain the protection of the inside of the tow truck vehicle and that with his police radio he then radioed for police help.

Now, for the first time, in response to this shooting, in response to what was heard over the police radio, we find police vehicles arriving in the vicinity. To show the proximity of time and the closeness of events, one of the surveillance

vehicles that had cut out this general direction here, hearing that report, came back and came down 123rd Street and, when they got in the vicinity of Beulah, they were met with the gunfire and the black nationalists. Their vehicle was immediately disabled, and Patrolman Sokowski and Patrolman McNamara were wounded at that point.

I might add, ladies and gentlemen, that this commenced at approximately 8:30 in the evening, and with respect to the killing it was finally culminated at about 9:00 o'clock in the evening, July 23, 1968, all done during daylight hours.

At this time, from the north, from Superior Avenue on East 124th Street, came the police automobile of a Patrolman Golonka and Patrolman Torad, and as they reached the vicinity of Beulah Avenue they observed the black nationalists retreating from this Beulah Avenue position and making their way back into this general area here (indicating).

The evidence will show that Patrolman Golonka, leading several police officers, made his way to the corner here of 1391 Lakeview Avenue, and as Golonka turned the corner, with his shotgun in his hand, and before he had an opportunity to

point it at anyone, let alone fire it, he was fired upon from this area here (indicating), which firing was done by a shotgun which rendered him dead, and we believe the evidence will show that that shotgun was fired by Lathan Donald, one of the defendants, fellow cohort of this defendant here.

**MR. FLEMING:**                      Objection.

THE COURT: Overruled.

MR. CORRIGAN: The evidence will show that at the same time, from Euclid Avenue, arrived on Lakeview Avenue, from Euclid, on the south, arrived Patrolman Gibbons and Patrolman Wolff.

As Patrolman Gibbons and Patrolman Wolff arrived in this area, the evidence, I believe, will show that they came under gunfire from this area here (indicating), presumably from some of the black nationalists who were now making their way from Beulah back to the headquarters here (indicating).

And as Gibbons and Wolff turned the corner here, then they then came within the view of 12312, and it was at this time and at this point that Patrolman Gibbons was injured, receiving wounds in the lower abdomen; and as he turned to come out of that area, he was then shot in the back from gunfire that came from the black nationalist head-



quarters. At the same time, Patrolman Wolff was shot with a weapon of a high velocity type, the missile hitting the bridge of his nose, tearing through his skull and his brain, rendering Patrolman Wolff dead at that point.

Captain Durgal, Lieutenant Joseph, and Sergeant Levy, and Patrolman Smith, the evidence will show, arrived at the corner of Lakeview and Auburndale and as Lieutenant Joseph and Sergeant Levy turned the corner they immediately came under fire from 12312 Auburndale, the headquarters of the black nationalists.

The evidence will show that Captain Durgal was the superior officer, that he took charge, that he observed that Sergeant Levy had been wounded and was laying in the street and was still under gunfire.

He asked Patrolman Smith to go in and help Levy. Patrolman Smith went in and, in his efforts to help Levy, Patrolman Smith was shot and wounded and he lays paralyzed today, the evidence will show, from the wounds he received.

The evidence will show that Sergeant Gentile and Lieutenant Jones came to the scene from the south, from Euclid Avenue and then came in this direction here (indicating), and as Lieutenant Jones

turned the corner of Auburndale and came within the line of fire from 12312, headquarters of the black nationalists. Lieutenant Jones was struck down at that particular point in the bend of Auburndale Avenue near the front of 12312.

The evidence will show that at this time Patrolman Santa Maria conferred with Sergeant Gentile and he, having observed the plight of Lieutenant Jones, determined to attempt to rescue Lieutenant Jones and, along with a civilian by the name of James Chapman, who volunteered his services, the evidence will show that Santa Maria and Chapman drove an automobile, hoping that the automobile would provide sufficient shelter and coverage so that they might get into the area and rescue Lieutenant Jones.

The evidence will show that they stopped this car in front of the headquarters. Both men disembarking, and Santa Maria went toward Lieutenant Jones; that Chapman went towards Wolff. Both came under fire from the black nationalists. Santa Maria was wounded, and Chapman was immediately killed by a high-powered missile which tore through his head, tore through his skull and tore away a sizable portion of his head in so doing.

The evidence will show, ladies and gentlemen, that all of the officers in question were wearing uniforms, were wearing badges, that it was daylight; they were discernible as being police officers.

The evidence will show that several hours later the police were informed by the residents of 1394 Lakeview that a black nationalist wanted to give himself up. The evidence will show that this was Ahmed Evans, and the evidence will show that he had taken refuge in the attic of this particular house, and that at this time he came down, having discarded his gun and having discarded the reported black nationalist robe, hiding his identity as now being a black nationalist.

The evidence will so show.

The evidence will show that sometime in the early hours of the morning that a black nationalist by the name of Jackson, one by the name of Hardrick, another by the name of Thomas, was flushed out of 12314 Auburndale. These men having left 12312, having gone into 12314, and at the point of a gun, had taken from the occupants therein clothing to substitute for their reported, reputed black nationalist garb, and the evidence will show that at the time they were flushed out they still were in

possession of the weapons that they had used to take the clothing from the people that lived in that residence.

The evidence will show, ladies and gentlemen, that there was a total of eleven officers wounded, one tow truck officer, three officers killed, and one civilian, and the evidence will show that all of this occurred and it occurred beyond a reasonable doubt, and that Fred Ahmed Evans and the black nationalist group had conspired to shoot and kill people, the people that, in fact, they did kill, and anybody else that might have come within the views of the arms that they had armed themselves with.

We believe that the evidence will so show, and I ask you to pay close attention and see whether or not that which I have said in opening statement will not be said to you by the witnesses that will be presented to you.

Thank you. Thank you, your Honor.

THE COURT:

Mr. Fleming.

OPENING STATEMENT ON BEHALF OF THE DEFENDANT

BY MR. FLEMING:

If it please the Court, gentlemen at the trial table, ladies and gentlemen of the jury, as the Court has indicated to you and as Mr. Corrigan has indicated to you, the things that we are saying now aren't evidence. All we can tell you is what we anticipate that the evidence will show during the course of this trial.

If after hearing the statements that we have made to you and after we have argued, after all the evidence is in, if what we have said is inconsistent with what the evidence is, then when you render your verdict, have your verdict consistent with the evidence rather than with the statements we are making to you now.

But we of the defense expect that the evidence will show that this gentleman we are talking about here now is thirty-seven years of age. We anticipate that the evidence will show he was born May 23, 1931, in Greenville, South Carolina. We anticipate that the evidence will reveal that he lived in Greenville with his parents and a family of fourteen until he was a very young boy, before school age, and that he then moved to

Cleveland, Ohio, and that after living here he attended the public schools of Cleveland, and finally quit school at a very early age, Rawlings Junior High School.

We anticipate that the evidence will further show that after he quit school and sometime in 1948 he raised his age and joined the armed forces and that he stayed in the army for a period of some three years, and that he was, while he was in the army, elevated to the rank of sergeant; that he received a number of various medals for his services in the army, National Defense medals, Korean Defense medal, and a number of others.

We anticipate that the evidence will show that after three years in the services he was injured and he was honorably discharged from the service, and that after he was discharged from the armed forces, he took it upon himself to find a job and he found a job with the Cleveland Transit System here in the City of Cleveland, and we anticipate that the evidence will show that he worked for them for a while; and after working for them for a period of time in 19 -- I believe about two years, that in 1951 he reenlisted in the armed services, and we anticipate that the evidence will

show that after he reenlisted in the armed services, he remained there for a period of time, and that in February or in October of 1955, he was discharged and returned to Cleveland.

The evidence will show that during this period of time he lived, just as any of us, and his name was Fred Allen Evans, that was the name given to him by his parents.

The evidence will show that after he came back to Cleveland he obtained a number of jobs here in the city, and in about the early 1960s he embraced what we have been referring to all through these proceedings as black nationalism. It was his feeling, and the evidence will reveal that his concern in serving in the service was that he had been rendered to a point of being a second class citizen, and this philosophy that he involved himself in was that of trying to elevate himself and others in a way that he knew how, if he could, and he talked to other people who had embraced black nationalism, and he embraced it.

The evidence will show that after he did embrace black nationalism, he assumed the name of Ahmed Al Eben Said, and with that the black nationalists with whom he associated, that this is the

manner in which they spoke of him, this was the name they gave him.

The evidence will show that after he became a black nationalist, that this defendant formed a culture center known as the Afro Culture Center. It was located on Hough Avenue.

The evidence will show that during the time -- well, this culture center was a place where he embraced astrology, tried to learn everything he could about it, and they were trying to get funds together so that they could open a store and sell black nationalist equipment and black nationalist goods, dashikis and tikis and things of this nature.

And the evidence will show that this particular organization to which he belonged, that during the time, on an occasion in very close proximity to July 23rd, just after Dr. Martin Luther King died, that this particular black nationalist group walked the streets of Cleveland in an effort to keep violence off the streets.

The evidence will show that in regard to the July 23, 1968 incident, that after this incident occurred, that Chief Blackwell and Captain Sperber, who at that time was with the Cleveland Police Department, and Chief Blackwell, who at that time



was the chief of the Cleveland Police Department, the evidence will show that both of these high-ranking officers made an investigation to determine just what had occurred with regard to the Glenville incident?

And the evidence will show that they made a report back that said this trouble started as a result of spontaneous action by people emotionally geared to do violence. The evidence will reveal that Captain Sperber and Chief Blackwell said Cleveland did not have a riot, that this was a short-lived rash of fire bombing and looting carried out entirely by teen-age gangs and those professional thieves that every major city has in its mid.

The evidence will show that the chief of police and Captain Sperber said there is no proof that the police were lured into a trap; there is no tangible proof in our possession that the shooting was the result of a plot.

Now, these are two of the highest ranking officers in the Cleveland Police Department. The evidence will reveal that nowhere in this report made by these high-ranking officers was the word "conspiracy" mentioned.

The evidence will show that they went further and said teen-age gangs represent a continuing threat that reaches serious proportions. Existing curfews must be enforced to keep these gangs off the streets and make parents of curfew violators more responsible for the actions of their children.

Now, this was the report that was made by the highest ranking officers in the Cleveland Police Department.

And the indictment will reveal that the only adults, the only non-teenagers charged in these indictments is the defendant.

MR. LAURIE:                      Objection.

THE COURT: . Overruled.

MR. FLEMING: The evidence will reveal that Lathan Donald is nineteen years of age; that John Hardrick, named in this indictment, is seventeen years of age, a juvenile, brought over from the Juvenile Court to be tried as an adult; that Leslie Jackson is sixteen years of age, brought over from the Juvenile Court to be tried as an adult, and, the evidence will reveal, has since been sent back to Juvenile Court to be tried as a juvenile.

MR. LAURIE:

Objection.

THE COURT:

The objection is sustained.

MR. FLEMING:

That is what the evidence will show.

MR. LAURIE:

Objection.

THE COURT:

The jury will disregard the statement about what proceedings have been with reference to Leslie Jackson.

MR. FLEMING:

The evidence will reveal that Leslie Jackson was sixteen years of age, that Alfred Thomas was eighteen years of age, consistent with what the chief of police and Captain Sperber had to say about how this incident evolved.

Now, during this incident there were ninety-one fire calls, that is calls to the fire department, and this was all a part, and as we have indicated, you will have to observe all the factors involved to determine whether or not this defendant engaged in some kind of a conspiracy, and of those ninety-one fire calls that were made during this event, twenty-two were false alarms, all over the city; nineteen were unrelated to this incident. These twenty-two were considered to be related.

Thirty-four were for vandalism. That is where someone is supposed to have set a fire to some building in the city.

This is the conspiracy that they would have you believe --

MR. CORRIGAN:                      Objection.

THE COURT:                      The statement "they would have you believe" will be stricken.

MR. FLEMING:                      This is the conspiracy that the evidence -- they would have the evidence show you existed.

MR. CORRIGAN:                      Objection.

THE COURT:                      The objection is overruled.

MR. FLEMING:                      Thank you, your Honor.

The evidence will show that sixteen of these fires were rekindled fires which were fires where the police officers had responded to the scene and had left some sparks and they rekindled, making a grand total of ninety-one fires.

The evidence will show that ten of these fires occurred in abandoned buildings, buildings that were abandoned prior to July 23rd of 1968.

The evidence will show that 157 people

were arrested with regard to the events of that evening. The evidence will show that 126 people that were arrested were adults; that 31 juveniles were arrested, and of the adults that were arrested that 42 of them were released without any charges; but that all of the juveniles were charged, and that some of the adults were charged.

The evidence will show that the property loss in this alleged conspiracy amounted to \$1,087,505, and that the equipment of merchants in the area from the looting, from Superior to Euclid and all over this general area, amounted to \$1,550,225 - for a total of \$2,637,737.

Now, with regard to the incident, the evidence will show that the first shot fired that night, nobody knows where it came from, and in Chief Blackwell's and Captain Sperber's reports, it reveals that the first shots fired, and this report that Captain Blackwell or Chief Blackwell and Captain Sperber made was made public, it was made available to everybody, so that everyone interested was aware of what transpired, and in that report Chief Blackwell and Captain Sperber said the first shot that was fired was fired at 8:25, and that they don't know who fired it, they

don't know whether it was a policeman, a black nationalist, a civilian, or who, and sometime in that general proximity another shot was fired, and that was at about 8:30.

Now, with regard to the next person killed, 8:30 was when Patrolman Willard Wolff was killed at Auburndale and Lakeview, and 8:35 was when Patrolman Louis Golonka was killed at 1391 Lakeview. 8:45 was when Lieutenant Leroy Jones was killed at 12312 Auburndale. And at 9:00 o'clock it was that James Earl Chapman was killed at 12312 Auburndale. And these are the four victims named in the indictment.

And it is no secret to anybody as to when they were killed, because the police made a report as to the precise times when these things occurred and made that report available to everybody.

Now, there were a number of persons killed by police. The evidence will show that Bernard Donald wasn't just found behind a building at 1395 Lakeview. The evidence will reveal that the police killed Bernard Donald behind a building at 1395 Lakeview.

The evidence will reveal that they killed Bernard Donald at 8:40, and it is no secret, it was

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in the police report made by the chief, they killed him in what they said was a shoot-out between Bernard Donald and the police.

Sidney Curtis Taylor -- Bernard Donald was nineteen. He was the brother of Lathan Donald, who was also nineteen, they are twin brothers.

At 8:40, also killed now -- this person, Bernard Donald, was killed by the police at 8:40, at the rear of 1395.

Also killed at the same time was another man by the name of Sidney Curtis Taylor, and he was twenty-three and he was killed at the rear of 1395 Lakeview. His body wasn't found. The evidence will reveal that he was killed there by the police.

At 9:26, Leroy Mansville William was killed in an alley on Lakeview, and the alley we went through today, known as Beulah Court, south of Superior.

Now, the evidence will reveal that all during these events, all during these events when each of these killings took place, that the defendant wasn't present at any scene where any victim was killed.

The evidence will reveal that all during



these proceedings that I have related to you, the defendant was at 1384 Lakeview. The evidence will show that the owner of that house is a special policeman and has been a special policeman for 17 years.

The evidence will show that this person who owns that house and who was present there when the defendant was there is a person who now works for the City of Cleveland, at the Cleveland Workhouse, as a policeman, special policeman.

The evidence will reveal that this special policeman made it known to the authorities and to the State that he was there at home and that the defendant was there. The evidence will reveal that before 8:00 o'clock that this man, this police officer, of 17 years, first saw the defendant.

The evidence will show that this man, McMillan, who was the tow truck operator that the State just indicated was shot by Ahmed, the defendant here, that this man who was a policeman and who made a statement to the State and the police, that is what the evidence is going to show about what happened, told them that two other men, two other black nationalists were shooting at that



man because he knew that Ahmed was in his yard. That is what the evidence is going to show.

The evidence is going to show that the defendant was in his yard for a period of time, and it will show that he couldn't get in the door after he stayed in the yard, and that this policeman looked out of his daughter's window and saw the defendant when he came into the yard before anybody was killed; that this policeman saw him and observed him in his yard, because he was concerned about his family.

The evidence will show that the defendant then tried to obtain entrance into this police officer's home, and that he couldn't get in, and that he kicked the door in, the door that we had you, as members of the jury, observe out on the scene.

And the evidence will reveal that after he kicked the door in, he went upstairs to the second floor door that was pointed out to you, and this is where Officer Turpin lives, and he told the officer, "Let me in."

He said, "They are shooting. I want to get away from here." And the evidence will reveal that this officer told him, "No, get out of here."

I know who you are. I don't want you in my house."

The evidence will then reveal that this defendant went upstairs to the third floor of this house and that this officer heard him there during the shoot-out there, and the evidence will reveal that this officer called the police on at least five or ten occasions, police radio, to tell them, even before these people -- some of these people were killed, and that are named in the indictment, to tell the police and told police radio that this defendant was in his home.

The evidence will further show that this defendant, after he was upstairs for a period of time, came back down to the officer's door again and knocked and said, "I want to surrender myself to the police."

He was concerned about the women and the children in the area, and he came to the police officer and told him, "I want to surrender myself to stop this, to stop this killing." And the evidence will show that this police officer called the police again on a number of occasions to respond to his home, because, "Ahmed Evans was there."

The evidence will reveal that when he didn't get any response from the Cleveland Police

Department, that he called his immediate superior, the superintendent at the Cleveland Workhouse, Superintendent Spates, before these people were killed; that the State just indicated were killed by a conspiracy that was started by him.

But the evidence will show that before 8:15, Officer Turpin called his immediate superior, Superintendent Spate, and said, "Ahmed Evans is in my home and wants to surrender to the police."

That is what the evidence is going to be. The evidence will further show, the evidence will show that as these people were killed, that they were taken to the coroner's office and their bodies were examined, as is done in all cases such as this, and the evidence will show that when they examined Patrolman Willard Wolff, that he had a shotgun wound of the face, as was indicated by Mr. Corrigan --

MR. CORRIGAN:                      Objection.

I did not indicate that he had a shotgun wound of the face.

MR. FLEMING:                      I withdraw the statement.

That he had a shotgun wound of the face.

MR. CORRIGAN:                      I did not indicate

that.

MR. FLEMING:

I am indicating

now that he had a shotgun wound of the face, that he was in the third stage of intoxication, that is, .25.

Not only will the toxologist retained by the defendant testify to this, but the coroner who made the examination will testify to this.

The evidence will show that this officer with .25 of alcohol in his system was incapable of carrying on the affairs of the police officer and that is what the testimony is going to be, testimony from the State's own witness, that this victim, upon being examined, was drunk and that he was out there with a rifle, shooting -- to shoot at people, if he didn't shoot, at a point -- at a stage of intoxication where he was incapable of doing things which wouldn't endanger himself or other people.

The testimony will be that this patrolman was incapable of performing his duties because he was that drunk.

The evidence will show that patrolman Louis Colonka was killed by a shotgun blast at close range. The evidence will reveal that it is

more likely that Patrolman Golonka was killed by his own co-workers, other police officers, rather than by people they have called black nationalists.

The evidence will show that Patrolman Golonka was drunk. The evidence will show that the alcohol in Patrolman Golonka's blood was .19 and that the alcohol in his urine was .20, and that he was incapable of performing his duties as a police officer on the scene, whether it was a spontaneous eruption or conspiracy or what-have-you, and the evidence will show that he was incapable of performing his duties because he was drunk, and that he was probably killed by another policeman rather than a black nationalist.

That is what the evidence is going to be. The evidence will show that Lieutenant Leroy Jones was shot twice in the neck, and the evidence will reveal that it was at such close range that he was shot twice in the neck in the same spot.

The evidence will reveal that he was a leader, that he was leading this group out there, and that he was drinking, and that alcohol was found in his blood system, and by the time the coroner examined him, the alcohol in his blood was .03.

The evidence will reveal that all the officers that were found deceased on the scene, every officer that was killed was drinking and that at least two of them were incapable of performing their duties as police officers.

MR. CORRIGAN: Pardon me,  
Mr. Fleming. Did you say ".03 in his blood"?

MR. FLEMING: .03.

MR. CORRIGAN: In his blood?

MR. FLEMING: Just .03.

I can tell you -- but the evidence will reveal by virtue of the scientific evidence in this case, not only presented by the defense pathologist but by the coroner, who will testify for the State, that Lieutenant Jones, who was in charge out there, was drinking, and that he had .03 alcohol in his system at the time he was examined by the coroner to determine whether or not he had been drinking.

The evidence will reveal that the shots in Lieutenant Jones are as consistent with his having been killed by the police as they are by the black nationalists, and it's more likely, the pathologist will testify, that with regard to the evidence revealing two shots in the exact same place in the neck, that it is more likely that the

police killed him than the black nationalists. That is going to be the evidence in this case.

The evidence in this case will be that the police did kill James Earl Chapman, not by what somebody said, not by what somebody is going to tell you, but by the scientific evidence adduced in this case, and some of that scientific evidence necessarily will be produced by the State.

The evidence will reveal that James Earl Chapman -- may I use your -- that James Earl Chapman had been shopping with his wife and children and that as he approached the scene, and that he lived in the house (indicating) 1417 Lakeview, the evidence will reveal that he was coming from Euclid, and he entered Auburndale at this point up at Euclid, with his wife and his children.

The evidence will reveal that as he came down Auburndale, he was stopped by the police because of the shooting that was going on in the area in close proximity to his home.

The evidence will show that he then went back, parked his car in the driveway at 12424 Auburndale, and there left his wife and children to insure their safety, and that he walked down Auburndale to see if he could, in some way, get to

his home to see just what was going on, what was taking place at his house, which was right down the street; that after he came down, his wife doesn't know what was said or anything, because she was back here with the children (indicating), but the evidence will show that he then returned back to where his wife and children were obtained in his automobile and was going to come down home because he thought he would make it, and wanted to try to make it alone without them.

The evidence will reveal that his wife stood on the porch and watched him as he drove down the street, and that he was stopped by two police officers right about at this corner (indicating), and that they jumped into his automobile, and this is the last time he was seen alive.

The evidence will reveal that this man was shot. He didn't have any alcohol in his blood system, and he was shot in the forehead; that it tore off half of his head, and the gun that shot his head was placed closer than 6 inches to his head.

The evidence will show that on the forehead, in the brain and on the skin, that there was this



residue of powder, which reveals how close the gun was held to his head at the time he was killed, and the last time he was seen by his wife was as police officers jumped into his car, right here at 124th and Auburndale, and there will be other scientific evidence which will reveal that black nationalists just couldn't have been that close to him if he was with the police.

With regard to your statement, Mr. Corrigan, the coroner has stated in his report and will reveal that Lieutenant Jones had .03 alcohol in the blood.

Now, these persons, the police admittedly killed, and they were making this investigation on the scene, their bodies also were examined by the coroner, and the evidence will reveal that Sidney Taylor was killed by the police with two different weapons, that he was shot twice in the trunk; that he was shot in the head with a shotgun, that he was shot in the upper abdomen, that he was shot in the right arm and the right armpit, and that a revolver and a shotgun were used.

And the evidence will reveal from the powder and residue that was covering his body that all of these shots were at a very close range,

and that will be the testimony of that pathologist, the scientific expert, in this case.

The evidence will reveal that Bernard Donald, by their own admittance, was killed by the police and that he was shot twelve times. The evidence will show that he had ten shots in the trunk of his body, and then two shots in the skull.

The police admit the evidence will show that they killed him, and the evidence will show that ten of the shots in his body entered from the front, and that the two in his skull were -- the entrance wounds were back in the back of the head, and the testimony from the pathologist, the scientific expert in this case, will be that whoever killed him, whether it was a policeman or black nationalist, and the police admit they did, committed a coup de grace on this man.

MR. LAURIE:                      Objection.

THE COURT:                      Overruled.

MR. FLEMING:                    -- as they put the gun to his head and shot him through the head two times after he had been shot ten times in the body. They tell you --

The evidence will show that this defendant wasn't a conspirator with regard to the incidents

in this case. The evidence will show that Leroy Williams was killed by the police, was shot four times.

The evidence in this case will show that this defendant didn't enter into any conspiracy to kill anybody. The evidence with regard to this defendant will be that he made every effort to stop this shooting before anybody was killed.

The evidence will reveal in this case that this defendant was in a policeman's house trying to get a hold of other police officers so that they could come and stop this shooting, and that he was there from before 8:00 o'clock in the evening until 12:30 at night -- 12:30 in the morning, when finally the police arrived, and he did, in fact, surrender.

And this is going to be the testimony, not only of one policeman, but two, two police officers will corroborate these facts, and the evidence will be that he surrendered and he was charged and he wasn't charged with any murder then; that he was charged with something else, and a bond was placed upon him for \$250,000; and then the evidence will reveal, as an afterthought, they charged him with conspiracy of first degree murder, with no evidence that he was even present where

any victim was killed with regard to this matter.

The evidence in this case will show that the police in no instance at no time approached any judge in this city, in this county, to get a search warrant to go search for some guns.

The evidence will show, I believe, Mr. Corrigan said that they set up a surveillance because they believed there were some guns in this building, they wanted to do, which they felt every police officer should do, and be on the lookout, but the evidence will show that they never went to that building with a search warrant to say, "Let us search, we have reason to believe you have got guns in here," and the evidence will reveal that even up to this day have the police made any effort-- I am talking about prior to the 23rd, on the 23rd, or after the 23rd, have the police made any effort to obtain a search warrant from this court or any other court in this community that has the right to give them a search warrant under those circumstances.

MR. CORRIGAN:                      Objection, your Honor.

THE COURT:                          Overruled.

MR. FLEMING:                      Thank you, your

Honor.

To give them a search warrant under those circumstances, so that these things can be ascertained, not only for their own benefit, but for the benefit of us all.

The evidence will show beyond any doubt that this defendant is innocent of the charges contained in these indictments.

Thank you, your Honor.

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THE COURT: We will take our  
afternoon recess at this time.

When you are out of the courtroom, don't talk to anybody. Don't let anybody talk to you.

There will be about a 15-minute recess.

(Thereupon a recess was had.)

THE COURT: Be seated, please.  
Call your first witness.

MR. LAURIE: Dr. Hoffman,  
Judge.

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STATE'S CASE

THEREUPON, the State of Ohio, to maintain the issues on its part to be maintained, called as a witness DR. WILLIAM HOFFMAN, who, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION OF DR. HOFFMAN

BY MR. LAURIE:

Q Doctor, will you state your full name?

A Dr. William Hoffman, H-o-f-f-m-a-n.

Q And your occupation, sir?

A I am a pathologist and a Deputy Coroner.

Q You have an M. D. degree?

A I do, sir.

Q You are licensed to practice in the State of Ohio?

A I am.

Q When you say you are a Deputy Coroner, can you explain a little bit, Doctor?

A Yes. Well, it is a title conferred upon me because I work at the Coroner's Office, that is the Cuyahoga County Coroner's Office, 2121 Adelbert Road.

Q In the capacity of a pathologist?

A Yes. Yes, I guess I do.

Q Explain what a pathologist is?

A A pathologist is a doctor of medicine. He is a specialist in the field of medicine, in the field of pathology. Pathology is the scientific branch of medicine that deals with the causes of death and disease.

As part of the function of the pathologist, he performs autopsies or post mortem examinations.

Q What formal education do you have in relation to the degree you have?

A I am a graduate of Loyola Medical School, Chicago, in June of 1951. I then --

MR. FLEMING: Your Honor, we will stipulate the qualifications of the doctor.

MR. LAURIE: I appreciate it very much, but will you continue on.

THE COURT: You want the jury to hear his qualifications?

MR. LAURIE: Yes.

THE COURT: You may proceed, Doctor.

A I completed a one-year rotating internship at the U. S. Public Health Service Hospital, Fairhill Road, Cleveland. I then completed four years as a resident at St. Luke's Hospital, on Shaker Boulevard, Cleveland, Ohio.

I then served as Associate Pathologist at St. Vincent's Charity Hospital for a period of two years,

and then in July of 1958 I joined the staff at the Coroner's Office, where I have been employed ever since.

Q (By Mr. Laurie) Have you done any special papers or things of that nature in relation to your work?

A I have written a few papers, yes.

Q And approximately how many cases have you applied yourself to as a pathologist for the Coroner's Office?

A Do you mean how many autopsies I have performed?

Q Yes.

A About 5,000.

Q And that's been in this County, right?

A Yes.

Q Cuyahoga County?

A Yes, sir.

Q Now, Doctor, directing your attention to one Louis E. Golonka, did you post that particular body?

A I did.

Q Will you tell us where and when, first?

A Yes. On the 24th of July, 1968, beginning at approximately 8:40 in the morning, at the Cuyahoga County Coroner's office, which is at 2121 Adelbert Road.

Q Will you give us the usual background information first of this body that you posted?

A Yes. Louis E. Golonka was a 33-year-old white male, he weighed 148 pounds and he measured 70 inches in length.



He was well developed and well nourished; in other words, normally built.

Q Did you give his age, too?

THE COURT: Thirty-three, he said.

MR. LAURIE: Thank you.

A Thirty-three, I thought I said.

Q (By Mr. Laurie) Doctor, I presume you made some external and internal examination of this particular body?

A Yes, sir.

Q And would it help you to explain exactly what you found internally and externally by the use of the slide projector?

A Yes, it would.

Q You did bring some slides in relation to the work you performed on this body?

A I did.

Q Then, would you -- have you got the slides with you?

A They are over on the table.

MR. FLEMING: Objection.

THE COURT: Come up, counsel.

(Thereupon a discussion was had between the Court and counsel, at the bench, outside the hearing of the jury and off the record.)

MR. LAURIE: Let's do the other,

first. Will you mark these as exhibits, please.

(State's Exhibits  
Nos. 1-A through 1-P,  
inclusive, were  
marked for identi-  
fication.)

Q (By Mr. Laurie) Doctor, during the posting of the body of one Mr. Golonka, at one time you had some slides made of the body and the portions that you particularly examined?

A Yes.

Q Was this --

A I am sorry.

Q Was this done under your direction?

A Yes, by our professional staff photographer.

Q Will you explain, you were about to explain the procedure of this?

A No, I was about to state I posted the body, and our professional staff photographer took these pictures in color.

Q Under your direction?

A Yes, sir.

(Thereupon a discussion was had between the Court and counsel, outside the hearing of the jury and off the record.)

(Thereupon the following proceedings were had outside the hearing of the jury, as follows:)

MR. TOLLIVER:

Let the record show

that we, the defense, are objecting to the showing or the admitting of State's Exhibits 1-A through 1-P for the reason that these are colored photographs which would and are intended to inflame the jury; that the best evidence is the testimony of the doctor who performed the autopsy; that these photographs are not necessary and they are prejudicial to the rights of the defendant, and that they are intended to inflame the passion and prejudice of the jury.

MR. FLEMING:

And further let the record reflect that there has been no showing of the State for the necessity to show these films, these color photos, to the jury.

There has been no testimony concerning these photographs prior to their admission into the evidence, and that it is our contention that the Doctor has in his protocol certain diagrams which properly reflect to his examination and the wounds that he observed at the time he made his examination; and that these color photographs have no useful purpose in this cause, and that it has not been shown they have any useful purpose.

THE COURT:

Off the record.

(Thereupon a discussion was had between the Court and counsel, outside the hearing of the

jury and off the record.)

- - -

(Thereupon the proceedings were resumed within the hearing of the jury, as follows:)

Q (By Mr. Laurie) Doctor, you did say that during the course or immediately after your examination of the body of Mr. Golonka, that you had at your direction some slides made on the examination of that body; is that right?

A Yes, sir.

Q Merely for the sake of identification, I am going to hand you a batch of slides here that have been marked as State's Exhibits 1-A through 1-P.

Can you identify those, first, Doctor? Yes or no.

A Yes, I can identify them.

Q Now, just identify them by being the pictures of what body, first, if you will, by number only?

A By the case number given to --

Q Not the case number, but the name of the posting of what body -- understand? There is a number on the slide there.

THE COURT: The only one you inquired about was Louis E. Golonka, on your direct examination.

MR. LAURIE: This is why I want you to pick from your group, if there are any

pictures involving the body of Louis Golonka.

THE WITNESS:

There are.

Q (By Mr. Laurie) Would you identify them by number?

A Yes, By the case number?

Q By the exhibit number.

THE COURT:

1-A, 1-B, --

A Well, we have here, State's Exhibit 1-P.

Q Continue, without telling what else it is, just by number.

A State's Exhibit 1-O, State's Exhibit 1-N, State's Exhibit 1-H -- I am sorry, this does not belong with this.

THE COURT:

1-H?

THE WITNESS:

Exhibit 1-H does not belong. That's the other case.

Q (By Mr. Laurie) All right.

A State's Exhibit 1-J, and State's Exhibit 1-J -- there is two of them -- and one State's Exhibit 1-M.

THE COURT:

You have already said 1-M.

THE WITNESS:

No. M --

this is N. The other one was N.

A And State's Exhibit 1-L, and State's Exhibit 1-K.

Q Then, Doctor, if I am correct, you picked out State's Exhibit I, K, L, M, N, O, and P, as being those pertaining to the body of Mr. Golonka?

A Correct.

Q Doctor --

THE COURT: You said there were two J's?

MR. LAURIE: No, I think he made an error.

THE COURT: I see.

Q (By Mr. Laurie) Doctor, tell us what were your external examinations or observations made of this body?

A On the surface of Officer Golonka, I detected the following observations: Some tattoos at the chest, arms, and forearms; some old scars of the knees and legs; some abrasions, those are scrapes, of the right flank and the extremities. The extremities are the arms and the legs.

Now, for the other injuries: Shotgun pellet wounds of the chest, neck, abdomen, the extremities -- which I explained were the arms and legs -- and the right inguinal region -- that's the right groin.

Then there were some lacerations or tears of the left hand.

Now, those were the external injuries.

Q What internal injuries did you find, if any?

A Internally, I found evidence of multiple perforations, holes, of the sternum, the breastplate, both lungs, the ascending aorta, the aorta is the largest artery of the

body, carries blood to all the tissues of the body, comes off the heart and passes down near the backbone.

And perforations of the pericardial sac, that is the sac that lines and protects the heart; also, evidence of massive internal hemorrhage or bleeding in the right chest cavity, 1,050 cubic centimeters, which is roughly a little over a quart; in the left chest cavity, 1,000 cubic centimeters, roughly a quart.

A hemopericardium, which means blood in the sac around the heart, 200 cc's, which is roughly around 7 ounces, mediastinal hemorrhages and hematomas, that means -- the mediastin<sup>um</sup> is the space between the two -- there was blood in the respiratory passages.

Hemorrhages of the cervical tissues, that means the neck, and the left anterior shoulder, I point (indicating), two tiny lacerations or tears of the liver; and then there was a slight amount of natural or medical disease not pertaining to trauma.

Q Now, after you made your complete internal and external examination, Doctor, did you have an opinion, do you have an opinion as to the cause of death?

A I do.

Q What is that opinion?

A Death came as a result of a shotgun wound of the chest, with perforations over the sternum or the breastbone,

both lungs, the aorta, and the pericardial sac, producing massive hemorrhaging into both chest cavities, and the sac surrounding the heart.

Q And during your examination, did you make a chemistry examination of the body?

A Chemistries -- there were chemicals performed by the toxicology department under my supervision.

Q What does that examination reveal?

A First I will tell you what it includes. The blood and the urine were tested for the presence of ethyl alcohol, methyl alcohol, that is wood alcohol, acetaldehyde, of which paraldehyde is one, barbiturates, sleeping pills, meprobamate, which is, you know it as Miltown or Equanil, and doriden, which is another type of tranquilizer.

Q The body was also tested for narcotics; narcotics include morphine, heroin, and so forth; also a blood grouping was done. And Officer Golonka had blood group A, which is a very common type.

Q What was his blood group?

A The blood group was A.

Q All right. And continue, Doctor.

A What --

Q Did you make a test for alcohol?

A Yes. The test for alcohol was performed in the blood and the urine.



Q Will you give us the results of that examination?

A Yes. The blood alcohol at the time he expired was .19 per cent, and the urine alcohol at this time was .20 per cent.

Q All right, and can you tell us what the .19 per cent in the blood depicts, Doctor?

A It is a manifestation of the amount of alcohol in his system at the time he dies, and it means that he is under the influence of alcohol.

Q Can you tell us what this particular percentage, if you can relate it to an average type body, what does it means?

A Yes, I can relate it.

Q Tell us.

A It means that at this level of blood alcohol, the comprehension in most people, with some exceptions, the comprehension, the critical judgment, memory, the ability to perform fine tasks like threading a needle, are all somewhat depreciated.

Also, the reflexes are somewhat decreased. Sensations such as heat, cold, and touch, and so on, are somewhat reduced.

Q But as far as you are concerned, then, this is the extent of your analysis -- you know nothing of the man personally, is that right?

MR. FLEMING: Objection.

MR. TOLLIVER: Objection.

THE COURT: Overruled.

I take it you know nothing of his -- pardon me -- you mean he knows nothing of his physical makeup other than what he found in his examination?

MR. LAURIE: Yes.

Q (By Mr. Laurie) Am I right?

A I do not.

Q Can you interpolate the percentage into the amount of the drinks, Doctor?

A Yes. A man of his size and weight, and he is of average size and weight, it would require approximately between eight, nine, or ten ounces of whiskey, or eight, nine, or ten bottles of beer, or an equivalent amount of wine, or a combination of the three, anything that has alcohol in it, to raise the blood alcohol level to .19 per cent at the time he expired.

Q When you mentioned beer, wine, whiskey, you don't mean all -- it can be either?

A No, I specifically stated either.

Q I see.

A Eight, nine, or ten ounces of whiskey, or eight, nine, or ten bottles of beer, or a certain amount of wine or a combination of various amounts of either.

Q Doctor, from your examination, you can't tell us when this particular man started and ended his drinking period, do you?

A No.

Q All right, Doctor, you mentioned something about the percentage of alcohol in the urine?

A Yes, sir.

Q Explain that a little bit.

A Well, when the urine alcohol total is .20 per cent, compared to the blood alcohol of .19 per cent, it means in effect that the body is in equilibrium as far as disposing, metabolizing, and excreting the alcohol is concerned.

Q In relation to the external and internal examination that you found, as relating to the particular type wound --

A Yes, sir?

Q -- would the slides depict that, which you have just testified to, Doctor?

A Yes, they do.

MR. LAURIE: And at this time, your Honor, I would like to offer in evidence State's Exhibits 1-A through 1-P.

THE COURT: Pardon me. They don't all refer to Patrolman Golonka.

MR. LAURIE: 1-A through -P,

no, I am sorry. I offer State's Exhibits 1-I through 1-P, Judge. I would like to offer them in evidence at this time.

MR. TOLLIVER:

Note our objection.

THE COURT:

Overruled.

They may be received.

(State's Exhibits  
Nos. 1-I through  
1-P were received  
in evidence.)

Q (By Mr. Laurie) Will you take State's Exhibit -I through State's Exhibit -P and put them in your projector and put them on the screen, sir?

THE COURT:

Doctor, you may

set up the screen and set your projector.

Doctor, you will have to remain seated while you are doing this because you are sitting in front of some of the jurors, and I assume, before we can start it, at least for the first pictures, we will make sure you can see. I think you can, over his head.

MR. LAURIE:

Do we have to put

the lights out, Doctor?

THE WITNESS:

As soon as I get

this in here. Is it plugged in? There is nothing coming through.

THE COURT:

We've been trying

to get a new courthouse for years.

Q (By Mr. Laurie) Doctor, before you put the first slide on, identify the slide by the exhibit number, if you will, sir, and then proceed to explain to the jury what that picture depicts.

A Yes. All right. I am now showing slide 1-P. Now, this is the head and neck of Officer Golonka. The number you see depicted right here (indicating), 128560, is the case number given to him, when he comes to the office. These are in consecutive order, and this case number was given to him and is carried through in all our files for the purpose of identification.

Now, this picture really depicts nothing except it's taken merely for the purpose of identification. There are no injuries evident above the case number, as I described it there. This is merely a picture of his head, for identification.

Q That was Exhibit -I, Doctor?

A I-1.

THE COURT:

1-P.

THE WITNESS:

I'm sorry.

A All right. Next, This is another photo taken, again merely for the purpose of identification.

THE COURT:

Is there a number

on that?

THE WITNESS: There is a number,  
and just above it you can see part of the tattoo  
on his chest.

THE COURT: An exhibit number?

THE WITNESS: The exhibit number  
was 1-0.

MR. LAURIE: That's 0.  
All right.

THE WITNESS: All right. 1-0.

A (Continuing) Next there is a picture, almost a  
full front view of the lower part of the head, the neck,  
and the upper part of the torso.

Now you can see, it looks like --

Q (By Mr. Laurie) Take this pointer and explain.

A It looks like a tattoo of an eagle.

Q Better get on the other side, Doctor.

A Again, the case number, 128560, and just above it,  
one of the tattoos looks like an eagle in flight.

Now, pointing to these tiny, dark red or reddish-  
brown, circular wounds, these are all shotgun pellet  
wounds. Here is one just above the head of the right  
clavicle, that is the collarbone; here is one right over,  
two over, one over the, almost in front of the neck,  
a couple more here over the left collarbone.

Then, multiple ones, this is the midline of the

chest. I am now pointing to the left side of the chest, and also multiple ones over the right side of the chest, as I am pointing.

Here is one over the right anterior axillary line, that would be the beginning of the lateral or the side of the chest, and over here you can see a tattoo over the right side of his arm, and one, two, three, four shotgun pellet wounds over the right arm. This might be another one down here (indicating).

Q Doctor, what is this Y-shaped marking on his chest?

A That's our incision, made with a scalpel, on the opening of the body.

Q I see. And tell us whether or not, did you remove any of the pellets in this picture on the body that this picture depicts?

A Yes, sir, I did. I removed them inside the chest cavity, some in the sternum or breastbone, which is in this location (indicating), some in both lungs and some in the sac around the heart, multiple shotgun pellets.

Q This was inside the body?

A Inside the body, yes.

Q Some you took from the surface of the body?

A Not the surface, but the sternum, which you can palpate, lies under the skin in the body.

Q And others went in deeper?

A Yes.

Q What can you tell us about the pattern, if anything, of these shotgun wounds, Doctor, at this time?

A Yes. It is a diffuse pattern.

Q Meaning what?

A Well, it means widely scattered over a large area.

Q Can you tell us from this picture, if you can, the distance of the muzzle of the gun that may have caused that wound?

A Yes. This is obviously a distance wound. By that I mean, it has to be, I mean, to me, it would be at least 2 yards or more.

Q I see. Is that all of that slide, Doctor?

A That's all I can tell you about this one.

Q All right. Now we go to the next one, and I think you identified that exhibit number, didn't you?

A Identified that as Exhibit L-N.

Q M, like in mother?

A No. M, like as in no.

Q All right.

A Now, this depicts the -- this is a picture of the left side of the body, and you can see a tattoo.

Q Will you rise, Doctor, and explain your examination?

A Oh, that's upside down. I'm sorry. That's upside



down -- I'm sorry. That's the right side of the body.  
I stand corrected.

Q Shall I hold that up for you?

A Yes. This is just another view, showing again, you can see the tattoo of the eagle on his chest, the Y-shaped incision, and again, similar types of shotgun pellet wounds.

Here is some over the right side of the arm, here is one down here, and here, and there is a tattoo of an eagle, shows another view, showing more of a pattern on the right arm, the right upper extremity, in other words.

Q All right, Doctor, and --

A No, that was --

Q Identify that by number?

A That was Exhibit 1-N.

Q What is the number of the next one?

A The next one will be 1-J.

Q That's upside down?

A Yes, that's upside down, too. That's upside down.  
Here we are.

This depicts the lower part of the left forearm, the wrist.

Q Will you get to the other side, Doctor?

A I'm sorry, and the dorsum, the back of the hand of Officer Golonka. The number again for identification

purposes has been placed just above his hand, 125860.

Here is a part of a tattoo over the left second or index finger.

There are multiple wounds here which represent, like this one, for example, a tear or a laceration, and this one and this (indicating), looks like shotgun pellet wounds. Also, you see similar shotgun pellet wounds over here and over here and the wound over here which looks like a small laceration or tear.

Q What if any significance are those shotgun wounds of the hand and the chest, if any?

A What significance?

Q Yes.

A Well, I don't know if you can correlate them as one or two. In other words, it is two separate shotgun wounds. It depends upon the position of his hand when he received the impact in his chest.

Q I see. All right.

A I think I gave you that number.

THE COURT:

1-J.

THE WITNESS:

1-J, yes.

This is also 1-J, or it is similar to the other one.

Q (By Mr. Laurie) Let me see it, Doctor. Let me see the one you just gave us.

MR. LAURIE:

The last exhibit,

Judge, was 1-I, that he has just shown us, and you say 1-J is similar?

THE WITNESS:  
to 1-I. It is also --

That's similar

MR. LAURIE:  
State's Exhibit 1-J.

We withdraw

THE COURT:

All right.

(State's Exhibit  
No. 1-J withdrawn.)

THE COURT:  
Doctor?

What is that number.

THE WITNESS:  
be 1-K. There is no number inscribed here unless--  
no, there isn't.

This number will

You can see the groin, this is the right  
side of the groin, here is the left.

MR. FLEMING:

Objection.

There is no identifying number on that picture.

THE COURT:  
that from anything that is marked on it?

Can you identify

THE WITNESS:

Can I identify it?

THE COURT:  
projected or not, can you tell what it is actually  
from the --

The part that is

THE WITNESS:

Yes, I can tell it  
from my descriptions. I don't have a number on

there, no.

Q (By Mr. Laurie) What does this picture depict?  
Part of what body, of whom?

A It depicts the thighs, the lower extremities, and  
the groin.

Q Of what body?

A Of Officer Holonka, at the time I performed the  
autopsy.

Now, depicted over here, over the left upper and  
lower, down here, the anterior thigh, which means the  
front of the thigh, there are multiple, tiny wounds,  
consistent with shotgun pellet wounds.

Here is this -- looks like it might be a graze or  
tear or laceration. Here is another pellet wound.  
They range from here up to here (indicating).

Q What significance do these wounds have with the  
chest wounds, if anything?

A I don't think they are related; I think they are  
separate wounds.

MR. TOLLIVER:

the witness thinks.

Object to what

THE COURT:

stricken.

Yes. It will be

Q (By Mr. Laurie) Do you have an opinion as to the  
relationship of the wounds appearing on this slide to the

wounds appearing on the chest slide?

A I have an opinion, yes.

Q What is your opinion?

A My opinion is that this is a separate and discreet or distinct shotgun wound.

Q From the chest wound?

A Yes.

Q All right. Thank you.

A And the last will be 1-L. This is a photo depicting the left side of the upper torso and left shoulder, left arm of Officer Golonka. You can still see part of the chest there, but the inscribed tattoo and the multiple pellet wounds over here, there are a few scattered pellet wounds.

There is a tattoo over here, looks like a skull and crossbones, and there is another, it is too indiscreet, the description, but these are separate shotgun pellet wounds, ranging from here up to here (indicating).

Q This shows the picture of the left side of Officer Golonka's body, is that right?

A Yes.

Q As opposed to the other, and the other was the right side shot?

A The other was the right side shot, that is right.

Q And this one will be --

THE COURT:

You said it was L.

THE WITNESS:

Yes, sir. I just

wanted to make sure it was L.

Q (By Mr. Laurie) Is that it, Doctor?

A That's it, for Officer Golonka.

MR. LAURIE:

Mark this as

State's Exhibit 2.

(State's Exhibit  
No. 2 was marked  
for identification.)

MR. LAURIE:

I withdrew 1-J,

Judge.

Q Doctor, handing you what has been marked for  
identification as State's Exhibit 2, will you examine that  
and can you identify it? Yes or no.

A Yes, sir, I can.

Q What is it?

A These are multiple, tiny metallic pellets that are  
removed on July 24th from the body of Officer Golonka.

Q And you removed those tiny pellets from the body?

A I did.

MR. LAURIE:

Judge, we are about

ready to start on the other body. Do you want me  
to continue?

THE COURT:

No, I think we

will adjourn at this time.

Ladies and gentlemen, we are about to adjourn court until 9:15 tomorrow morning.

Now, not in all cases but in certain cases the question comes before the Court as to whether the Court order a sequestration of the jury.

Under the rules that have been laid down by various reviewing courts, it becomes an obligation of the trial court to, in the first instance, to discuss this matter with counsel.

I have discussed this matter with counsel, and it is my determination that in this case the jury should be sequestered, which means that arrangements have been made, commencing tomorrow, where you will be kept at one of the downtown hotels, under certain rules to be laid down by the Court, and under which the bailiff, that is my particular bailiff, and also there will be two of the ladies associated with the Court who will be with you.

It will be necessary, therefore, that you return tomorrow morning and bring with you sufficient clothing for at least a short period of time and, by tomorrow, when we get the documentation taken care of -- it will be handled at least as comfortably as possible -- this being the fact,

gentlemen, this being the order of the Court, this Court will hold sessions on every Saturday during the period of time this trial is in session; it may be that there will be some variation as to the exact time that we will hold them, but in any event we will start at 9:15 every morning.

We will adjourn court at this time until 9:15 tomorrow morning.

- - -

(Whereupon, at approximately 4:15 o'clock p.m., Thursday, April 10, 1969, the court adjourned, to reconvene at 9:15 o'clock a.m. on Friday, April 11, 1969, at which time the following proceedings were had:)

- - -



THE STATE OF OHIO, )  
COUNTY OF CUYAHOGA. )

SS:

McMONAGLE, J.

IN THE COURT OF COMMON PLEAS  
(Criminal Branch)

THE STATE OF OHIO, )  
Plaintiff )

vs. )

No. 90,257

FRED AHMED EVANS, )  
Defendant )

WITNESS:	DIRECT	CROSS	REDIRECT	RECROSS
DR. WILLIAM HOFFMAN	73	99	133 165	143 166
DR. LESTER ADELSON	169	193	213	--
PATRICIA PURDON	215	231	--	--

FRIDAY MORNING SESSION, APRIL 11, 1969 9:30 A.M.

- - -

THE COURT: Be seated, folks,  
good morning. Mr. Laurie.

MR. LAURIE: Thank you, Judge.

THEREUPON, the State of Ohio, further to  
maintain the issues on its part to be maintained,  
recalled as a witness DR. WILLIAM HOFFMAN, who,  
having been previously duly sworn, was examined  
and testified as follows:

DIRECT EXAMINATION OF DR. HOFFMAN (CONTINUED)

BY MR. LAURIE:

Q Doctor, considering the subject matter of alcohol  
in one's body, in the blood, we come across the terminology  
referred to as tolerance.

Can you explain what that means to the jury?

A Yes, tolerance means the ability of an individual,  
a human organism, to adapt to increasing over a period of  
time, to increasing amounts of substance considered toxic  
or deleterious to the system, such as tobacco or whiskey,  
to the extent that if one is an inveterate smoker or drinker  
at a particular, then one would show at that level, if he  
were tolerant to the substance. show less manifestations,  
signs and symptoms of things referable or germane to the

substance than if he were, by contrast, an individual who had partaken of the same amount initially or for the first time.

Q All right, now, Doctor, considering the percentage of .19 per cent alcohol in one man's blood, and taking into consideration the question of tolerance, would it be fair to say, then, Doctor, a man with tolerance with .19 per cent alcohol in his blood would have less effect --

MR. FLEMING: Objection.

MR. TOLLIVER: Objection.

THE COURT: Sustained.

Q (By Mr. Laurie) Do you have an opinion, Doctor?

A I do.

Q As to the effect a person having .19 per cent in his blood and also a man who has tolerance for alcohol.

MR. TOLLIVER: Objection.

MR. FLEMING: Objection.

THE COURT: Well, Doctor, can you answer that, taking into consideration your examination of the particular person you are talking about?

THE WITNESS: Yes, I can.

THE COURT: You can? Overruled.

Q (By Mr. Laurie) What is your opinion?

A If I consider the question correctly, a person with

tolerance will not show the same signs or symptoms at this level as a person who has no tolerance.

MR. TOLLIVER:

Objection, Judge,

this is not answering the question.

THE COURT:

The objection is

overruled; the answer may stand.

Q (By Mr. Laurie) Now, in your examination of Officer Golonka's body, did you find any food in his body?

A In his stomach, yes.

Q How does this reflect in your opinion of a person having food in his blood and also the alcohol content in his blood -- food in his stomach.

MR. FLEMING:

Objection.

THE COURT:

Overruled. Do you

understand the question?

THE WITNESS:

I think so, yes.

You mean what is the relationship between eating and drinking?

Q (By Mr. Laurie) Yes.

A In cases like this, all food does, when it is par-taken and is in the stomach, all food does is slow down the process of absorption of alcohol or any beverage. Eventually, anything in the stomach will be absorbed and reach a certain level, and if we refer to alcohol, yes, food doesn't destroy the substance and doesn't change

eventually the amount that will be in the blood. All it does is slow down the process of absorption.

Q Did you bring with you any still photographs of that which you showed us yesterday on the screen, Doctor, of the wounds of Officer Golonka, still photographs?

A Yes, I do. We have some enlargements made, yes.

Q May I see them?

MR. FLEMING: May we approach the bench, your Honor?

THE COURT: Yes, sir.

(Thereupon discussion was held between Court and counsel, outside the hearing of the jury and off the record.)

MR. LAURIE: Will you mark these as exhibits, please?

(State's Exhibits 3-A, 3-B, 3-C, and 3-D were marked for identification.)

Q (By Mr. Laurie) Doctor, handing you what has been identified or marked for identification as State's Exhibits 3-A, 3-B, 3-C and 3-D, can you identify those exhibits?

THE COURT: Here, is there any question about it? These are actually prints of four of the other exhibits that were admitted into evidence yesterday? You have looked at this, is there any question about it?

MR. TOLLIVER: No question, just our objection generally.

MR. LAURIE: I will offer into evidence Exhibits 3-A, 3-B, 3-C and 3-D, and withdraw State's Exhibits 1-I through 1-K, which were the slides of the same pictures.

THE COURT: Is Exhibit 1-I, 1-J, 1-K -- I don't get it, I am sorry, which one? We will have no problem about being able to ascertain which ones are being substituted, the ones that are being substituted by the photographs, the original ones will be withdrawn?

MR. LAURIE: Which are State's Exhibits 1 and whatever letter in the alphabet follows that.

THE COURT: That is right.

MR. FLEMING: What is State's Exhibit 2?

MR. LAURIE: The pellets.

Q (By Mr. Laurie) Doctor, directing your attention to the name of one LeRoy Jones, did you post his body?

A Yes, sir.

Q And when and where did you do that, sir?

A At the Cuyahoga County Coroner's office, 2121 Adelbert Road. I began at approximately 9:45 in the morning of the

24th day of July, 1968.

Q Will you give us the history of that particular body, sir, that you posted?

A LeRoy Krantz Jones, was a 47-year old, white male, measured 72 inches and weighed 177 pounds; he was normally developed; well-developed, and well-built.

Now, on the surface of the body, I noted the following injuries: A shotgun wound on the left side of the neck, roughly in this location (indicating); another separate gunshot wound over the left side of the chest, the lower portion (indicating); another gunshot wound over the left side of the abdomen, the lower portion. Those were three separate, distinct entrance-type gunshot wounds.

Then there were two exit-type gunshot wounds, one was over the left side of the back, the lower back, and one was over the right side of the abdomen in the front (indicating).

He had a graze-type gunshot wound, something that strikes you this way (indicating), over the back of the right shoulder, horizontally located, and he had another graze-type gunshot wound over the upper portion of the right forearm, roughly in this location (indicating).

Now, he had some abrasions or scrapes and contusions or bruises over the head; also some abrasions or scrapes over the right hand and wrist. Then he had what is in

common parlance a cut down incision over the right ankle. This is a surgical wound made by a doctor and sutured for the purpose of giving an individual blood or fluid, such as saline or glucose and so on. Those were the extent of the injuries -- I'm sorry -- he had an old scar over the left lower abdomen, roughly in this location (indicating).



Q Describe to us your internal findings in relation to these runs.

A Well, internally, I found evidence germane and pertinent to gunshot wounds I described. A missile had struck the left side of the neck in this location (indicating). It had entered the neck, perforating many blood vessels and muscles and so on; had fractured three of the spines -- the vertebrae of the neck, producing comminuted fractures.

The word "comminuted" means all broken up in many pieces over a given area, the spinal cord, roughly at this side, and at the level that the missiles struck the vertebrae, the spinal cord was completely transected, completely sheared or cut all the way across.

I found two deformed pieces of metal in the muscles of the neck, one located on the left side of the spine or left side of the muscles of the neck, and one located in the muscles of the right side of the neck, plus a lot of hemorrhage or bleeding in the vicinity of the injuries.

In the abdomen I discovered -- oh, excuse me, there are some other injuries. There was some hemorrhages or bleeding beneath the membranes that covered the brain. There were hemorrhages in the pharynx, that's the throat, and the pyriform sinuses, that's part of the larynx or the voicebox, and many petechiae -- meaning pinpoint --

hemorrhages in the larynx, and some hemorrhages in the scalp, that's this portion of the head (indicating), and the pericranium, which lies just beneath the scalp and covers the skull.

Then, in the abdomen I noticed multiple perforations or perforated wounds of the large and small intestines, the bowels in other words, and lacerations or tears of the right kidney.

The abdominal cavity contained 800 cubic centimeters of blood, a little less than a quart, and the left chest cavity about 300 cubic centimeters of blood, roughly around 7 ounces. There was a little bit of natural disease, medical disease not due to trauma, and I believe that was it.

Q Doctor, you described a wound in the left leg area?

A Yes.

Q Can you give us a description of the size and formation of that wound?

A Yes, I can. The wound I described in the left side of the neck measured 2 and one-fourth by one and one-fourth inches, was a ragged, roughly oval shape.

Q Then you indicated a path that the missile took from the entrance point, sir, did you not?

A Yes. I didn't, but I will. Yes, the path was from left to right.

Q And in relation to that path, where did you find these two particles?

A You mean the metal fragments?

Q Yes.

A Well, I recovered one in the muscles of the left side of the neck, one and one-fourth inches to the midline, 59 inches above the left heel.

The other metal fragment I recovered in the muscles of the right side of the neck, one and one-fourth inches to the right of the midline and 59 and a half inches above the right heel, almost at the same level.

Q One near the path that the missile took?

A They were in just about the direct path, yes.

Q All right, and tell us, were there any other wounds other than the one that you mentioned in the neck, in the neck area?

A No. There was one discrete gunshot wound of the neck.

Q That's all?

A That's all.

Q The other two were in the body?

A That is right. Two entrances and two exits.

Q Did you recover any pellets regarding the other two in the body?

A No, sir.

Q Now, from your examination of either the neck wounds or the body wounds, what the other two missiles hit, did you find any stippling or fouling around those wounds?

A No, sir.

Q Meaning what?

A Meaning that all three entrance wounds were created by a weapon or weapons fired at a distance from the body.

Q After examining the neck wounds as you have, Doctor, do you have an opinion as to the type of missile that caused the wound?

A I do.

Q What is it?

A It was a missile with a high power or high velocity, in other words traveling at a great speed.

Q Now, I mentioned "fouling and stippling."

Tell the jury what that means?

A It means powder burns.

Q When you find powder burns near the wound, what does that indicate, if anything?

A It indicates the weapon was fired at a distance of roughly 18 to 24 inches or less from the surface of the body, beyond that distance, and then you have, of course, you have to consider the type of weapon and powder and so on -- beyond that distance, no powder burns will be present.

Q Any of these wounds, you say you found no powder

burns at all?

A Not in any of them, no.

Q You mentioned that the wound of the neck, in your opinion, was caused by a high velocity missile. Can you explain what you mean by that, "high velocity missile"?

A Well, a bullet traveling at a high rate of speed.

Q How do you tie in your examination -- that this is the type of missile that caused this wound -- by what did you draw that particular opinion from?

A Well, of course, the size of the wound, which, as you can see from the photographs, also my description, is much larger and more gaping than the two wounds of the body which were caused by a missile of a lower velocity and a smaller caliber.

Q Was there a chemistry examination made of this particular body, Doctor?

A There was.

Q Give us that report.

A Again, the blood and urine was tested for the presence of alcohol, that's drinking alcohol, methyl alcohol, acetaldehyde, barbiturates, meprobamate, that's Equanil and Miltown and Doriden, that's a tranquilizer also, and amphetamines, that's benzedrine or dexidrine, the medical terminology for it, and narcotics such as heroin, morphine, and so on. And of course, the blood grouping was done of Officer Jones, who had blood type O M N.

Q What was the alcohol content, if any, in the blood of this particular body?

A All these chemistries were negative. The alcohol in the blood -- there is no alcohol, negative. In the urine, the urine contained .03 per cent alcohol.

Q Tell us what is the significance of no alcohol in the blood -- what that means in regard to the body of Lieutepant Jones.

A That means at the time that he died, he was perfectly sober.

Q What significance, if any, has the fact that you found some content in the urine?

A Yes, the .03 per cent in the urine is merely a reflection upon the fact that at some time, it could be a couple of hours or many hours, that he had partaken of some alcoholic beverage, I don't know what. Could be one or possibly two ounces or could have been one or two ounces of whiskey or one or two bottles of beer, or some wine, or a combination of all three, sufficient enough to give him this level.

Q But then, it would be a fair statement, that once you found that existence in the urine, it has already passed through his system?

MR. FLEMING:

Objection.

THE COURT:

Well --

MR. LAURIE: Is that a fair statement?

THE COURT: No, the question is leading, I suppose that's the reason for the objection. Try not to lead the witness. Rephrase the question. The objection is sustained.

Q (By Mr. Laurie) Would it be a fair statement to say that you found, whatever you found, in the urine by way of content of alcohol, that it had passed through the man's system?

MR. FLEMING: Objection.

MR. TOLLIVER: Objection.

THE COURT: Sustained.

Q (By Mr. Laurie) Explain to us, Doctor, what it means when you find alcoholic content in the urine and not in the blood.

A If I answer that, it is going to preclude what he said.

THE COURT: It is your answer; the jury is interested in your testimony.

THE WITNESS: It has passed through the man's system; it has passed through the blood and has been metabolized.

Q (By Mr. Laurie) Did you find any food in the stomach of the deceased, Lieutenant Jones?

A I believe so. Yes, the stomach of Lieutenant Jones contained about 6 ounces of fairly-well digested gastric content.

Q Doctor, I think earlier in your testimony, you identified some further slides under State's Exhibit 1. Are those slides pertaining to the body of Lieutenant Jones?

A Yes, sir.

Q May we have the showing of those, sir?

THE COURT: Which are they?  
Give me the numbers on them, will you please?

MR. LAURIE: Will you come  
down here and identify which they are, Doctor,  
so we won't be in error by the number?

THE COURT: The exhibit number  
we are talking about.

MR. LAURIE: Yes, the exhibit number.

THE WITNESS: Exhibit 1-D, which is  
a duplicate, and I will put it inside --

THE COURT: You're not going to  
offer that?

MR. LAURIE: No.

THE WITNESS: Exhibit No. 1-C.

MR. FLEMING: You're not going to  
offer that?

MR. LAURIE: Yes, we will.



THE WITNESS: Exhibit 1-E and 1-G,  
I believe, and 1-H, and 1-F.

MR. LAURIE: Your Honor, those  
exhibits, we offer in evidence and request that  
they be shown.

THE COURT: I would like to look  
at them, please, first.

(Thereupon discussion was held between  
Court and counsel, outside the hearing of the jury,  
and off the record.)

THE COURT: A question was asked  
of counsel about the authentication of these  
exhibits. They stated they had none. Exhibit 1-C,  
1-E, 1-G, 1-H and 1-F will be admitted.

MR. TOLLIVER: Show our objection.

THE COURT: Yes.

(State's Exhibit 1-C,  
1-E, 1-G, 1-H and 1-F  
received in evidence.)

MR. LAURIE: Will you show them?

We mixed them up. You will have to try to unravel  
them.

Q (By Mr. Laurie) Doctor, before showing the indi-  
vidual slides, please identify them by the exhibit number,  
if you will.

A This is the first slide I'm showing you, which is

Exhibit No. 1-G. We did mix them up.

THE COURT: Counsel stated that he had them in the proper arrangement and they were set so they could be put in the screen properly and I mixed them up, so he is getting them unmixed again.

THE WITNESS: This depicts the left side -- it is a little out of focus, I think the left side of the neck of Lieutenant Jones. These little dark, red spots you see here are flecks of dried or crusted blood. This is the wound, (indicating), it is an irregular, roughly oval. Here is the ear, the lobe or the lobule of the ear. This is roughly, oval, large gaping wound of the left side of the neck, the dark red you see here is blood-stained tissue, underlying the margins of the wound.

If you look around the ring here, you will see no evidence of fouling or stippling, or in lay parlance, no evidence of powder burns.

This will be Exhibit 1-C. I want to show you the numbers, because the number was given to Lieutenant Jones when he came to the office.

Q (By Mr. Laurie) Can we turn it that way?

A Yes, I want to make sure these wounds are depicted.

90  
There, the left nipple, is discernible at the top of the screen. Can you hold it?

Q Yes.

A Here is the left nipple, and this is the left side of the body. Can you lower it? Please, right here.

This is an entrance-type gunshot wound, over the left side of the lower chest, and if you will pull it up just a little, here is another one, an entrance-type gunshot wound over the left side of the abdomen, slightly below, a few inches below the other one.

Q These are both entrance wounds?

A Yes, both on the left side of the body.

Q All right, do you want to put the next one on?

A This will be Exhibit 1-E. You want to put this in for me? That's upside down. There. Now, again, you can see the number, what we're looking at is the back of the head, the back of the shoulders and the upper part of the back. This is the right scapular region, that's the shoulder blade, or the back, the upper portion, and here, this sort of smoky gray to black, roughly rectangular wound in this direction is a graze-type gunshot wound. It does not penetrate the body, just strikes the skin and passes on. That was 1-E.

THE COURT:

1-E you said?

THE WITNESS:

Yes, sir. This will

be 1-H.

MR. LAURIE:

1-H, Judge.

THE COURT:

Thank you.

Q (By Mr. Laurie) There you are.

A This is another view of what we saw in the first photo. I showed you the wound, I think this is a better view, because you can see almost the entire face, the ear, and then in this, right here, (indicating), the entrance wound on the left side of the neck.

The next one will be 1-F, which is the -- which will be the right side of the face. Turn it around, please.

Q Turn what around?

A Turn it around, because these are the injuries I am going to show on the right side of the face. That's it, this is the right side of the face. Now what you're looking at here, these irregular, reddish-brown, indiscreet -- that means ill-defined -- markings, this, this, this, and that (indicating), are abrasions -- those are scrapes, you know, like floor burns you get when you play on a basketball court.

Q Is that it?

A I had a couple of others showing exit wounds but you took them out, I believe. That's all we have here.

Q All right, Doctor, did you bring some still shots that correspond with what these shots you have just shown us?

A Yes, I did.

MR. FLEMING: Your Honor, we request those slides they withdraw from evidence remain with the Court so that our pathologist can use them.

THE COURT: They will remain.

Counsel intends to substitute some still photographs for some of these slides?

MR. LAURIE: Yes, Judge.

THE COURT: Could that be done at some other time?

MR. LAURIE: We will do it right now.

THE COURT: Well, all right, I thought you could do it at a recess or something like that.

MR. LAURIE: No problem. Will you mark these, please?

(State's Exhibits 4-A through 4-F, inclusive, marked for identification.)

MR. FLEMING: We have no objection based upon the authentication, but we except to the photographs.

MR. LAURIE: The State offers Exhibits 4-A through 4-F, and we will withdraw State's Exhibits 1-C, 1-D, 1-E, 1-F, 1-G and 1-H,

which correspond to the same subject matter.

THE COURT: Very well, State's Exhibit 4-A through F will be admitted, but leave the slides here.

(State's Exhibits 4-A through 4-F, inclusive, received in evidence.)

(State's Exhibits 1-C, 1-D, 1-E, 1-F, 1-G, 1-H, withdrawn.)

MR. LAURIE: We will mark the slides and leave them here.

THE COURT: As a matter of fact, wasn't 1 withdrawn as a duplication?

MR. LAURIE: Yes, you have got 6 there and we originally identified 5, originally, and 1-D, that was withdrawn.

Is there a still photograph of what has been 1-D but was withdrawn? No, I included it -- no, I didn't include it earlier, 1-D.

THE COURT: Well, the Doctor said it was a duplication and he wasn't going to use it.

MR. LAURIE: Well, we are withdrawing it, anyway. We have identified it as 1-D, originally.

THE COURT: I take it what you

have here, you still have 6 still photographs?

MR. LAURIE: Yes.

THE COURT: And you had 5 slides, one of the slides had been withdrawn.

MR. LAURIE: All right, I will take that completely out, then, Judge. So that means we will withdraw all slides and in their place we have submitted the still pictures.

THE COURT: Yes, but I understand, but the still pictures, one of the still pictures apparently was a duplication, was a print of a slide that was withdrawn because the slide had been a duplication. You originally had one that you said was a duplication of some other slide and that was withdrawn.

MR. LAURIE: That's this one; I am withdrawing the slide.

THE COURT: I take it then, you have a photograph that is the same as the slide that was withdrawn that you are now putting into evidence. You understand?

MR. LAURIE: Yes, I am looking for it. We are not including it in evidence.

THE COURT: Well, you have 5 slides and you have now got 6 photographs. Well,

continue with your examination.

MR. LAURIE: One picture depicts something different that was not on one of the slides, Judge, which makes up the extra still picture.



THE COURT: All right, if  
that's the fact -- is that a fact, Doctor?

THE WITNESS: May I see those?  
Oh, that wasn't shown, that wasn't shown; this  
was shown; this wasn't shown.

MR. FLEMING: You said this wasn't  
shown, three times on three photographs?

THE WITNESS: No, I have got --  
let me count them up, one, two, three -- no, two  
are duplicates, so one, two. Two photographs.

THE COURT: Take out the  
duplicates and we will strike those as being in  
evidence or offered. Is that satisfactory,  
Mr. Laurie?

MR. LAURIE: All right.

THE WITNESS: These are  
duplicates.

MR. LAURIE: Let's have the  
duplications.

THE COURT: There are two?

MR. LAURIE: These are  
duplicates.

THE WITNESS: They are duplicates  
of two that I have in here.

MR. LAURIE: We are withdrawing

4-C and 4-D, Judge.

(State's Exhibits  
Nos. 4-C and 4-D  
were withdrawn.)

MR. FLEMING:  
State's Exhibit 4?

How does that leave

THE COURT:  
be 4-A, -B, -D, -E, and -F.

The exhibit would

MR. LAURIE:  
State's Exhibits 5-A and 5-B.

Would you mark

(State's Exhibits  
Nos. 5-A and 5-B  
were marked for  
identification.)

Q (By Mr. Laurie) Doctor, handing you what has been  
marked for identification purposes as State's Exhibit 5-A  
and 5-B, examine each of those and tell us, if you can  
identify them?

A Yes, sir. Exhibit 5-A is a fragment or portion of  
metal which I recovered from the muscles of the left side  
of the neck of Lieutenant Jones.

State's Exhibit 5-B is a portion of the metal which  
I recovered from the muscles of the right side of the neck  
of Lieutenant Jones.

MR. LAURIE: At this time,  
your Honor, the State will offer into evidence  
State's Exhibits 2, 5-A, and 5-B.

MR. TOLLIVER:                      Objection, Judge,  
until at least we have had an opportunity to cross-  
examine.

THE COURT:                      We will withhold  
ruling on it until you have had time to cross-  
examine the witness on it.

MR. LAURIE:                      That's it.

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