

about this case.

A Brief, yeah.

Q And do you know where that took place?

A I believe it was in this building.

Q Did you just happen to run into them or was there any prearrangement for that meeting?

A No. I was here to review my testimony. I believe it was possibly prior to the suppression hearing or maybe before that. I was here to review my testimony and I believe they were here to review theirs.

Q Review it with whom?

A Mr. Katzer.

Q And did you review it together?

A No. We each were -- went through a review separately.

Q And reviewed separately and was your discussion with them before or after that review?

A I believe it was after. I'm not really sure.

Q Now, prior to coming in here today, in your discussions with Mr. Katzer either today or any of the past two times you've met with him, did he indicate to you he wasn't going to ask you any

questions about the front seat of that vehicle
or the gun being found under the front seat?
Did that subject come up at all?

A He didn't indicate that he wasn't going to ask me
any questions about it.

Q All right. Did the subject of the gun, your report
and the gun being under the front seat in the re-
port come up with Mr. Katzer at all?

A Yes, it did.

Q And Mr. Katzer questioned you about that, didn't
he?

A Yes, he did.

Q You gave him answers.

A Yes, I did.

Q And did he say to you in words or substance he
would not go into that area?

MR. KATZER: Objection.

BY MR. KUNSTLER:

Q When you were on the stand.

THE COURT: Sustained.

MR. KUNSTLER: O.K. I have no further
questions.

THE COURT: Mr. Oliver, you may examine.

CROSS-EXAMINATION

BY MR. OLIVER:

Q Officer Lascoe, sir, you indicated in your testimony that at one point, I believe sometime around 7:30, Officer Igoe was checking a vehicle in the State quad parking lot.

A That's correct. He was checking out a parked vehicle.

Q And he is in an Albany Police unit.

A That is correct.

Q Now, is that normal procedure?

MR. KATZER: Objection.

THE COURT: Sustained.

BY MR. OLIVER:

Q Do Albany Police, as part of standard operating procedure, come on to the SUNY campus?

MR. KATZER: Objection.

THE COURT: Sustained.

BY MR. OLIVER:

Q Is there, to your knowledge, an agreement between the Albany Police Department and the State University Police Department that Albany Police do not come on to the campus?

MR. KATZER: Objection.

THE COURT: Sustained.

BY MR. OLIVER:

Q Prior to the week of September 20, that week, have you ever seen an Albany Police unit driving around the parking lots checking vehicle registrations?

MR. KATZER: Objection.

THE COURT: Sustained.

MR. OLIVER: Of SUNY. Well,

Judge --

THE COURT: Sustained.

BY MR. OLIVER:

Q What is the jurisdiction of your police unit?

MR. KATZER: Objection.

THE COURT: What do you mean,

SUNY police?

MR. OLIVER: (Indicating.)

THE COURT: Overruled.

THE WITNESS: Our jurisdiction

is the campus and all the campus properties, uptown campus, the Draper complex, the Alumni complex and all adjoining roadways.

BY MR. OLIVER:

Q And that's the jurisdiction of your department.

A That's correct. And unless we are in close pursuit, then we can follow anywhere in the State as any other police agency can.

Q So if you are in close pursuit, you can leave your jurisdiction and go off campus.

MR. KATZER: Objection.

THE COURT: Sustained.

BY MR. OLIVER:

Q Now, you indicated that on the night in question, you had your weapon; is that correct?

A That is correct.

Q Now, ordinarily when you're on duty, do you carry a weapon?

MR. KATZER: Objection.

THE COURT: Sustained.

THE WITNESS: Yes, I do.

BY MR. OLIVER:

Q Prior to your going on duty, had you been advised by your superior officers concerning the fact that the Springboks rugby team was staying at the Hyatt House?

A No.

Q Across from the campus.

A No.

Q You had not.

A Not advised by my superiors, no.

Q Who were you advised by?

A I really don't recall, but I did get the information that they were staying there. It was not from my superiors, not an official briefing.

Q Was it from fellow officers?

A I really don't recall. It might have been from fellow officers.

Q And were you advised that there would be Albany Police units on campus at that period?

MR. KATZER: Objection.

THE COURT: No. Overruled.

THE WITNESS: Could you repeat the question, please?

BY MR. OLIVER:

Q Were you advised that there would be Albany Police units on campus during that period?

A No. No, I was not.

Q You were not. Now, the fact that a vehicle doesn't

have a SUNY decal on it, is that ordinarily cause for you, as part of your standard operating procedure of your unit, to stop and question the driver of the vehicle?

MR. KATZER: Objection.

MR. OLIVER: Or --

THE COURT: Sustained. Sustained.

BY MR. OLIVER:

Q Anybody can drive onto the SUNY campus whether or not they have a decal; is that right?

MR. KATZER: Objection.

THE COURT: No. Overruled.

THE WITNESS: That's correct.

BY MR. OLIVER:

Q O.K. And if you see a car, if I drive on the SUNY campus and I don't have a decal, you are not going to go calling and checking my license plate, are you?

MR. KATZER: Objection.

THE COURT: Sustained.

BY MR. OLIVER:

Q Well, is it part of the standard operating procedure of your department to check every license plate of a

vehicle that does not have a SUNY decal?

MR. KATZER: Objection.

THE COURT: Sustained.

BY MR. OLIVER:

Q You indicated that there came a point when Officer DePaulo came into the State quad parking lot and asked you for some information about the gray Mercury, I believe; is that correct?

A That is correct.

Q What did he ask you?

A Just for any further description that I could give of it, whether it had any dents or markings of any sort, anything further, the size of the vehicle.

Q Did he ask you how many people you had seen in it?

A I don't believe he asked me because that was put out on the radio broadcast earlier.

Q And did he ask you the license plate?

A No. That was on the broadcast earlier also.

Q That was the broadcast that Sergeant Epting put out.

A That's correct.

Q And did he ask you who the car was registered to?

A I don't believe he did, no.

Q Did he indicate who the car was registered to?

A No, not to my recollection, no.

Q Did he ask you for a description of the occupants?

A I don't recall whether he asked me for it. I might have volunteered what I had observed just to refresh his memory from the dispatch.

Q And then you indicated what happened concerning the vehicle in the parking lot coming back into the parking lot; is that correct, the Mercury?

A The incident at 7:30, you are referring to?

Q Yes.

A Yes.

Q Then at the time that the vehicle drove back into the parking lot, Officer DePaulo was in the parking lot, Officer Igoe was in the parking lot and you were in the parking lot; is that correct, three police vehicles?

A Officer Igoe and myself were in the parking lot, to my knowledge, after the fact I found out that Officer DePaulo was still in the parking lot. I did not know at that time that he was.

Q O.K. And at that time were there any other police vehicles in the parking lot?

A At that time, no.

Q And from where you are there in the parking lot, can you see the Hyatt House?

A Yes.

Q And to your knowledge was there a demonstration going on at the Hyatt House at that time?

MR. KATZER: Objection.

THE COURT: Sustained.

BY MR. OLIVER:

Q What was the next police vehicle to arrive in the parking lot?

A At what point, sir?

MR. KATZER: Objection as to time.

MR. OLIVER: O.K. I'll be more specific.

Q After, assuming that there was your vehicle, Officer DePaulo's vehicle and Officer Igoe's vehicle, what was the next police vehicle that arrived in the parking lot?

A I really couldn't say which was the next vehicle to arrive.

Q All right. Well, is it true that a State Trooper vehicle arrived at some point?

A At some point a Trooper vehicle, I believe, did arrive.

Q All right. Is it true that there were other SUNY police vehicles that arrived?

A Yes.

Q How many?

A I believe at least two.

Q O.K. Is it true that there were other Albany Police vehicles that arrived?

A I believe so, yes.

Q How many?

A No idea; at least one, at least the Lieutenant's vehicle. I don't recall any other officers there.

Q Did you see Detective Murray there?

A I wouldn't know Detective Murray. I can't coordinate the name with the face. I don't know their personnel that way.

Q Did you see Detective Tanchak there?

A Eventually, yes.

Q Can you tell us how many Albany Police Officers arrived?

A No, I cannot.

Q More than two?

A Possibly. I really cannot say.

Q Is it fair to say there were at least five or six police vehicles from various agencies that arrived?

MR. KATZER: Objection.

THE COURT: Sustained.

MR. OLIVER: No. I have no further questions, your Honor.

THE COURT: Very well. Anything further of this witness, Mr. Katzer?

MR. KATZER: No, Judge.

THE COURT: Mr. Kunstler, anything further?

MR. KUNSTLER: No, Judge. I have nothing.

THE COURT: Very well. That's all. Thank you.

We will take a short recess, ladies and gentlemen.

(Recess taken.)

(After the recess, the following transpired:)

THE COURT: Bring the jury down, please.

(The jury was brought down.)

THE COURT: Let the record indicate the presence of the defendants, their respective counsel. The People are represented by Mr. Katzer. Let the record further indicate the presence of the 14 sworn jurors.

Call your next witness, please.

MR. KATZER: Thank you, Judge.

The People call Officer William Igoe.

WILLIAM IGOE,

having first been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. KATZER:

Q Officer, for the record, please state your name and your occupation.

A William Igoe. I'm a police officer in the City of Albany.

Q How long have you been a police officer for the City of Albany?

A For seven years.

Q Were you so employed on September 21, 1981?

A Yes, I was.

Q And what was your tour of duty that evening?

A Four to twelve tour of duty.

Q That would be 4 p.m. till midnight.

A Yes, 4 p.m. till midnight.

Q And what type of duty were you on?

A I was on a regular marked patrol unit duty, regular duty.

Q And what does an Albany patrol car look like or the one that you were in?

A It's a black and white police cruiser with two red lights on the top.

Q And were you in uniform that particular evening?

A Yes, I was.

Q And would that be basically the same uniform you are wearing today?

A Yes, it was.

Q Now, I'm going to call your attention to approximately 7 p.m. that evening and ask if you had occasion to receive a certain radio bulletin.

A Yes, I did.

Q And what was the substance of that bulletin?

A To be on the lookout for a car that was stolen and was being driven by two subjects and I believe the

plate was New York passenger 507JVD and it was supposed to appear on a Mercury and the color was gray.

Q Now, approximately where were you when you received that police bulletin?

A It was in the vicinity of Washington Avenue and Fuller Road when I got the transmission.

Q Did you have occasion after receiving that bulletin to go to the State University of New York at Albany campus?

A Yes, I did.

Q And specifically at approximately 7:30 p.m., did you have a particular occasion to be in the State quad parking lot?

A Yes, I did.

Q And that's the State parking lot located across from the Thruway House; is that correct?

A Yes.

Q Now, I'm going to show you what's in evidence as People's 3 and that is a diagram of the State quad parking lot; is that correct?

A That's one of the lots; that's the lot I was in, I believe.

Q O.K. And this looks familiar to you, correct?

A Yes, it does.

Q As a matter of fact, you reviewed this map before testifying here today and you've looked it over.

A Yes, I have.

Q Now, again calling your attention to approximately 7:30 p.m., were you actually in this lot?

A Prior to 7:30, yes. I was in that lot.

Q And were you with another officer?

A Initially, no. I was by myself and I called out of service in regards to that transmission. I was checking a yellow Mercury. The reason I checked the yellow Mercury was that 7 o'clock, around September, the color of a car could be incorrect.

Q Was that yellow Mercury parked?

A It was parked unoccupied. It was a four-door sedan.

Q Now, did there come a time when another police officer joined you?

A Yes, there did.

Q Who was that other police officer?

A It was Officer Michael Lascoe, University Police Department.

Q And Officer Lascoe has testified here today and he indicated that his vehicle --

MR. KUNSTLER: Oh, your Honor. I'm going to object to what he indicated.

THE COURT: Yes. Sustained.

MR. KATZER: With the Court's permission, can the Officer come to the map and describe his whereabouts?

THE COURT: Very well.

BY MR. KATZER:

Q Officer Igoe, I'm going to give you a blue ink pen and just, if necessary, show the jury where you were at approximately 7:30 p.m.

A Where I was, o.k. I would be -- this would be the entrance to the parking lot (indicating). This would be the entrance to the parking lot. This is Washington Avenue. That's generally the direction of north. O.K. I had entered, when I was entering, I came like this. I was checking all the parked cars. I was looking for the stolen car. When I came upon the yellow car, it had a temporary Pennsylvania registration so I stopped to check it and where I checked it, to the best of my recollection,

would be in this area here and not very northerly but just north of there. This would be a concrete median. These would be light poles and this would be a median with trees. This would be another concrete median. Here would be the row of parking, driving lane for the parking, row of parking, another row of parking and a driving lane. I was in the driving lane right here. I was in this driving lane and I had the front of my car facing generally what would be an easterly direction. So if I opened my driver's door, I could get out and look right into the Pennsylvania car.

Q Now, you have testified that Officer Lascoe arrived on the scene where you were; is that correct?

A Yes, he did.

Q Where was he?

A He would be parked parallel to me, just southerly of me, almost perfectly parallel.

Q Now, what was the condition of your marked police vehicle at that time with respect to its equipment?

A I had my P.A. on.

Q Well, tell the jury what --

A I had my P.A. on and I had my red lights on.

Q What is a P.A.?

A Public address system, loudspeaker.

Q And these red lights were on -- where are they located?

A They are on the top of the car.

Q The roof.

A Yes.

Q Did there come a time when another police officer joined where you and Officer Lascoe were?

A Yes, there did.

Q And who was that?

A That was Officer DePaulo.

Q And who was Officer DePaulo?

A Officer Peter DePaulo works for Pinebush Substation.

Q Albany Police Officer.

A Yes, he is, and he was assigned to unit 15.

Q And what did Officer DePaulo do with respect to you and Officer Lascoe?

A He pulled up and he said, "Well, what have you got?" And I said, "I don't know if this is the car or not. I am going to see if I get -- if I can get the VIN, Vehicle Identification Number off it. It might be the car that they are looking for." The

reason I did that was because it had a cardboard plate on it and it just didn't look right to me.

Q Well, what did Officer DePaulo then do after having that conversation with you?

A I said, "I am going to check around." I said, "It might not be the right car. I am going to look around, see if maybe --"

Q Did there come a time when Officer DePaulo left the area?

A Yes, there did.

Q And it would just be yourself and Officer Lascoe; is that correct?

A That's correct.

Q Now, did there come a time when you heard or saw something which caused you to leave that area where you were with Officer Lascoe?

A Yes, there did.

Q Now, please tell the jury what you saw or heard which caused you to leave the area.

A Well, first is what I heard. I was still looking into the Pennsylvania car and I heard Pete's voice.

Q Pete being Officer DePaulo.

A I heard his voice yelling and I heard it on the P.A. that I have indicated. You couldn't mistake it at all. And he said, "He's coming your way. He's over here." And I -- that made me look up. When I looked up I saw Officer DePaulo. He was on this side of the lot. He would be facing generally in the southwesterly turning to go more westerly, coming this way with his red lights on and appeared that he was stopping a car.

Q Now, did there come a time when you left your location over here?

A Yes, there did.

Q And where did you go?

A I went directly -- I went from here. Officer DePaulo --

Q Why don't you draw where you went?

A O.K.

Q I'm concerned right now with you.

A O.K. I believe this might be a little out of proportion. I believe he was over here and I drove like that.

Q O.K. And where did you place your vehicle?

A I placed my vehicle right behind the Mercury.

Q Why don't you draw for the jury where your vehicle was, to the best of your recollection?

A O.K. (Witness complied.)

Q Why don't you put an I there for Igoe, o.k.?

No. Please put an I there. Now, what other vehicles were at that location, at that approximate location?

A O.K. There was a gray car and as I was approaching I saw the plate. It was New York passenger 507 John Victor David.

Q Would you draw the location of that vehicle, please?

A The pointed part would be the front of the car. I don't know if they can see that from here.

Q That's o.k., Officer, and that would be the Mercury; is that correct?

A Yes.

Q Would you just put an M for Mercury?

A This might be a little out of proportion. He might have been a distance of about a foot or less.

Q O.K. Would you mind resuming the witness stand? Thank you. Now, Officer, we have you located where

you've indicated the I for Igoe.

A Yes.

Q Behind the Mercury; is that correct?

A That's correct.

Q What, if anything, was facing the Mercury?

A Unit 15 with Officer DePaulo's car was facing.

Q Now, as you went from your location, from the west end of the lot to where the Mercury was, what if anything did you hear?

A I heard Officer DePaulo saying, "Put your hands up." I don't remember exactly how he said it. He said, "Put both hands up. Get the hands up where I can see them."

Q Now, there came a time when you arrived in this location behind the Mercury; is that correct?

A That's correct.

Q Now, tell the Court and the jury what you did upon arriving at that location.

A Upon arrival, I put my vehicle in park and I got out immediately because --

Q Just tell us what you did.

A Oh, o.k. I got out of the car and I approached the suspect car from the passenger's side of the suspect

car.

Q Now, were you able to look into that Mercury as you approached it?

A Yes. It had windows. You could look right in.

Q How many occupants were in the car?

A There was one guy in the car.

Q Did there come a time when you went to a specific portion of that Mercury?

A Yes, but I was moving at that time. I approached it.

Q When you stopped your movement and you wound up at a particular location, what was that location?

A That was looking in the driver's window and that was partially open.

Q The window was partially open.

A To the best of my knowledge it was partially open.

Q Now, do you see an individual in the courtroom here today who was driving, who was operating the car at that time?

A Yes, sir.

Q Could you point the individual out?

A Right there (indicating).

Q Could you describe his clothing?

MR. KUNSTLER: We'll stipulate, Judge.

THE COURT: Very well.

MR. KATZER: Stipulate to the defendant Spearman?

MR. KUNSTLER: Yes.

BY MR. KATZER:

Q Now, Officer Igoe, upon reaching the driver's side and looking into the partially-opened window, what observations of the defendant Spearman did you make?

A He was facing Officer DePaulo. He was facing in an easterly direction as the car was easterly, as he being the driver of the car. And he had his left hand on the steering wheel and when I first approached I couldn't see his right hand and I understood why Officer DePaulo was saying put those hands on the wheel. And as I approached it his right hand was off the wheel with the palm down and he was leaning to the right.

Q Now, did you yourself say anything to the defendant Spearman when you reached the front driver's side window?

A Yes, I did. I said -- repeated what Officer DePaulo said.

Q Which was in substance what?

A In substance, "Get both hands on the wheel."

Q Now, were you armed at the time?

A Yes, I was.

Q And what, if anything, did you do with your weapon?

A Well, I initially approached; I unsnapped it and as he was approaching I looked in. When I looked in and I saw he wasn't doing what Officer DePaulo was ordering him to do, I unholstered my weapon.

Q And what did you do with your weapon after you unholstered it?

A After I unholstered my weapon I approached the driver's side so I would be looking face-- my vision would be facing southerly directly into the window and I drew my weapon and I ordered him again. And I think I said, "Are you deaf? Put both hands on the wheel."

Q And did you point your weapon?

A Yes, I did, because he wasn't doing what he was told to do.

Q Who did you point it at?

A I pointed it at the suspect.

Q Now, did there come a time when the defendant did, in fact, place both hands on the wheel?

A Yes, he did.

Q And this was after he had been ordered to do so by you and Officer DePaulo; is that correct?

A I told him two or three times and Officer DePaulo told him audibly enough that I could hear him across the lot, so --

Q Now, what happened after the defendant finally placed both hands on the wheel?

A Then we asked him is this your car and he wouldn't respond.

Q Just -- what, if anything, was done with respect to the defendant Spearman inside or outside the vehicle?

A Inside, he was taken out of the vehicle by Officer DePaulo and I backed off. I walked, I backed in a westerly direction.

Q What did Officer DePaulo do with the defendant Spearman?

A He physically took him out of the car.

Q And after he was removed from the car, from the Mercury, what then occurred?

A He was patted down and handcuffed.

Q That's the defendant Spearman.

A Mr. Spearman was patted down and handcuffed.

Q And what happened then?

A Then he was taken to the rear of unit 15 on the passenger's side.

Q And who took him there?

A Officer DePaulo and myself both.

Q That would be Officer DePaulo's car; is that correct?

A That's correct.

Q O.K. And when you and Officer DePaulo and the defendant Spearman reached Officer DePaulo's car, what then happened?

A We explained the circumstances of why he was stopped and we explained to him why he was stopped in the manner he was stopped because as far as we were concerned he was in the possession of a stolen car. He wasn't talking to us at all.

Q Now, what then happened after you reached Officer DePaulo's car?

A He was advised of his Miranda rights because the one thing he did ask us is, "Am I under arrest?"

And we said yes, you are.

Q Now, upon reaching Officer DePaulo's car, what then did you do?

A I stood by. I asked him what his name was and I didn't get any response at all.

Q What did you then do after you reached Officer DePaulo's car? Did you stay there or did you go?

A I stayed with the suspect. He was handcuffed and I stood outside the driver -- the passenger door in the rear so he didn't walk away.

Q And where did Officer DePaulo go, do you know?

A He went around to the other side of the unit 15 and I don't know if it was himself or myself called for a supervisor.

Q And did there come a time when Officer DePaulo left his police vehicle?

A Left it?

Q Left the area in which you were with the defendant.

A Yes, he did. He returned to the other car.

Q And do you recall where he went to?

A Pardon me?

Q Do you recall where he went to?

A Yes, he did. He returned to the suspect vehicle, the

Mercury.

Q And all this time you stayed with the defendant in Officer DePaulo's police car; is that correct?

A Yes, I did.

MR. KATZEK: Thank you, Officer.

Nothing further.

THE COURT: You may examine.

MR. KUNSTLER: Thank you, Judge.

CROSS-EXAMINATION

BY MR. KUNSTLER:

Q Officer Igoe, my name is William Kunstler. I am the attorney for Mr. Spearman. We have never met and talked, have we?

A No. Good morning.

Q And good morning. With reference to this incident that night, did you take any notes yourself on the scene?

A No. I didn't have time.

Q Did you ever fill out a report?

A No. It wasn't my responsibility to do so.

Q All right. But you were interviewed, were you not?

A Interviewed by who?

Q Well, were you interviewed by Officer DePaulo at all?