

A I wouldn't call it an interview. It would be a conversation.

MR. KUNSTLER: May I have this marked, please, Judge?

(An Albany Police Department report was marked as Defendant Spearman's Exhibit B for identification.)

BY MR. KUNSTLER:

Q I'm going to show you our B for identification and ask you do you know what that form is?

A It's an Albany Police Department crime report. It's known as APD number 2.

Q And does that indicate you were interviewed?

A If it does, I don't see it initially looking right at it.

Q Look at the statement.

A My name is on there.

Q Doesn't it say person interviewed above your name?

A Right, and as this is a block type of form --

Q Can you answer my question? Judge, may I have an answer to the question? The question is does it state that he was the person interviewed.

THE COURT: No. I'm going to let

him answer.

BY MR. KUNSTLER:

Q All right.

A This is a block form. It's done as a crime report due to the number of crimes and the nature of crimes. A person interviewed generally is a witness. And as a witness and a police officer both, I wouldn't call it being interviewed. It would be through conversation with the other officers and myself. The terminology you could use as an interview but --

Q All right.

A As him being a police officer and myself being a police officer --

Q O.K.

A I would say through conversation; that's used as the form. The information that he derived from me is on there.

Q All right. How long after the incident in question did this occur? The interview, whatever you want to call it.

A The interview.

Q Yes.

A It occurred entirely throughout the conversation.  
We work together.

Q All right. But there came a time when --

A Right.

Q This form was typed up.

A Right.

Q That was not at the scene, was it?

A No. That wasn't typed at the scene. That's my  
recollection.

Q Did you tell Officer DePaulo that the car was a  
green car?

A A green?

Q Green.

A Not to the best of my knowledge, no.

Q I'm going to ask you to look at it again.

A That's there and it's incorrect.

Q It's incorrect.

A No. That's not what --

THE COURT: You didn't make that  
out, did you?

THE WITNESS: No. I didn't make  
it out.

BY MR. KUNSTLER:

Q And that is not what you told him.

A Pardon me?

Q That is not what you told him that it was a green car.

A He never asked me the color of the car.

Q O.K.

A This is made out in conjunction with all the officers involved.

Q Did you ever see that report before?

A Have I seen this? Yes.

Q And did you point out to anyone that gave the color of the car as green that that was wrong?

MR. KATZER: Objection.

THE COURT: Sustained.

BY MR. KUNSTLER:

Q O.K. Now, you've testified that when you arrived at the scene, I believe that Officer Lascoe was not there at that moment, but came after you arrived.

A When I arrived, I wouldn't say I arrived. Well, I did arrive but I was the one that called out with it. In other words, it was initiated in the field.

I didn't respond upon a complaint. I was looking --  
it was my own initially.

Q Was Officer Lascoe there?

A No. I was there alone.

Q How long after you were there did you notice  
Officer Lascoe arrive?

A It was a matter of minutes and I really couldn't  
say how long one way or the other.

Q Did you know him prior to that evening?

A No.

Q O.K. Now, prior to that evening, had you ever heard  
the name John Spearman before?

A Never.

Q Ever heard the name Michael Young?

A Never.

Q O.K. You knew on that evening about the Springboks  
controversy, did you not?

A Yeah. I would say that was generally considered  
public knowledge.

Q And when you were at police headquarters at any  
time prior to the 21st, had there been any briefing  
of officers about Springboks?

A None really other than there might be some civil

disturbance and if we do stop any cars, use caution and don't be capricious about things that you do. Don't take calls as routine. That would be the extent of it.

Q Was there any talk about the Ku Klux Klan?

A No, not to my knowledge.

Q Never came up.

A It wasn't mentioned to me.

Q Were there any FBI Agents around that you knew about?

A Not that I knew about.

Q Prior to the 21st.

A Prior to the 21st, not that I know of personally.

Q O.K. I take it your answer would be the same about State Police.

A I'm sorry. I couldn't hear you.

Q Would your answer be the same about -- if I asked you the same question about State Police?

A I'd say I have knowledge of the State Police. Their academy is in Albany and within a half a mile of where we were so I would have to say yes, they are there. That's part of their patrol.

Q All right.

A We co-exist with them. I couldn't say that they are not there.

Q Now, I'll take you back to the 21st. Do you remember what time it was, to the best of your recollection, when you entered the SUNY parking lot that evening?

A When I entered it?

Q Yes.

A This particular lot or --

Q This particular lot.

A It would be prior to my calling out. I think it would be somewhere around 7:20 or 7:15. I really couldn't say for sure.

Q 7:20, 7:15, and how long after you entered did you become conscious of this Mercury Monarch?

A That particular lot, well, like I said, I work my way through the lot. As soon as I saw it, it didn't appear right to me so I called right out with it.

Q Well, how long would that be after you arrived?

THE COURT: Talking about the yellow Mercury?

THE WITNESS: The yellow Mercury.

BY MR. KUNSTLER:

Q No. I am talking about the gray Mercury Monarch.

A I was unaware of where it was. I knew that it was seen in the area but the only time I saw it was when Officer DePaulo called out with it.

Q Well, that's what I'm getting to. How long after you arrived in this particular lot were you conscious of the Mercury?

A You're saying the Mercury, the suspect --

Q The gray Mercury.

A It had to be a period of 15 minutes that transpired. I was still checking and waiting for a Motor Vehicle check on the yellow car and I had to wait there.

Q All right. When you were conscious of the gray Mercury, when you came in its vicinity, were there police officers there at that time, police vehicles, police officers?

A Yes. Officer DePaulo had the car stopped.

Q And can you describe how it was stopped, the position of Officer DePaulo's vehicle and the position of the gray Mercury Monarch?

A The Mercury, when I saw it, was ten feet from where



I showed it on there going in generally the same direction. Officer DePaulo would be going in more westerly but I would say southwesterly, canted into the front of the car slightly.

Q Would you say they were almost bumper to bumper give or take a little?

A At an angle bumper to bumper.

Q At an angle. All right. Now, when you say that vehicle stopped by or blocked by Officer DePaulo's car, did you see Officer Lascoe at that time?

A I wasn't paying attention to Officer Lascoe. He didn't need me right away. I went over to the officer that I worked with generally and I got to him right away.

Q All right. And there came a time when you left your car. What number is your car?

A Mine would be as marked on there as unit 14 or the vehicle on the chart.

Q And Officer DePaulo's is unit 15.

A Yes.

Q All right. There came a time, as I understand you, that you left your vehicle and went over in the direction of the gray Mercury; is that correct?

A I approached it from the driver's side rear. That would be the driver's side of my car.

Q Now, when you came up physically in the proximity of the driver's side of the gray Mercury, where was Officer DePaulo?

A He was outside of his vehicle. He had the driver's door of his vehicle opened. He had his weapon drawn and he was still ordering, "Both hands up. Put your hands where I can see them."

Q Where was he physically when he did this?

A Physically he was facing in a westerly direction.

Q Well, rather than westerly direction or easterly or southerly, where was he in relation to the gray Monarch?

A He is standing in front of it.

Q Where?

A Right in front of it.

Q Directly in front of it?

A I would say so because his car was angled.

Q All right. And was Officer Lascoe there at that time?

A If he was, I wasn't cognizant of his -- where he was. I wasn't watching him. I was watching Officer

DePaulo.

Q All right. Did there even come a time when you saw Officer Lascoe in the vicinity of the gray Monarch?

A He was there that I know of, but exactly what time he arrived and how he approached the vehicle, I wasn't watching him.

Q All right. Now, when he arrived, when you were conscious that he arrived, where was Mr. Spearman?

A When I was conscious of --

Q That Officer Lascoe was there.

A It would be afterwards. I didn't pay any attention to Officer Lascoe at all.

Q When you say afterwards, what do you mean by that in point of time?

MR. KATZER: Objection.

THE COURT: Yes. Sustained as to form.

MR. KUNSTLER: What was that, Judge?

THE COURT: Sustained as to form.

BY MR. KUNSTLER:

Q All right. Officer Igoe, when Officer Lascoe

arrived, where was Mr. Spearman?

A Where was Mr. Spearman?

Q Yes.

A I couldn't say. Like I said, I wasn't watching Officer Lascoe that close.

Q But you were conscious at some time that Officer Lascoe had arrived on the scene, weren't you? You physically saw him.

A It would be peripherially. I didn't concentrate my action on him.

MR. KUNSTLER: I am not asking him to concentrate.

THE COURT: When you first realized that Officer Lascoe was on the scene, where was Mr. Spearman at that time? Had he been cuffed?

THE WITNESS: I believe he had been cuffed.

THE COURT: Was he in the rear of unit 15, if you recall?

THE WITNESS: As I recall to the best of my knowledge, he was in the rear of 15.

BY MR. KUNSTLER:

Q All right. When you saw Officer Lascoe, did he have his gun drawn, if you can recall?

A When I first was aware that he was immediately in my vicinity, no.

Q And when you were first aware that he was in your immediate -- in your vicinity, where physically was he with relation to either unit 14, 15 or the gray Monarch?

A When I was first aware of him?

Q Yes.

A He would be, I'd say, on the driver's -- not the driver's, the passenger's rear. He was behind the car.

Q Behind the car. And now you've indicated on your direct testimony that Mr. Spearman was told to put both hands up on the wheel, I think you said, by you, two or three times.

A Right.

Q And by, I take it, Officer DePaulo in a loud voice.

A Very loud.

Q More times.

A Yes.

Q And at that time you said that he had his left hand on the steering wheel.

A Mr. Spearman had his left hand on the steering wheel.

Q Mr. Spearman, and his right had was somewhere else.

A No. I didn't say it was somewhere else.

Q Where was it?

A It was off of the steering wheel. It wasn't where -- he wasn't doing what he was told to do.

Q Where was his right hand?

A It was off of the steering wheel.

Q Just off of the steering wheel?

A No. It was off and down, palm down.

Q Palm down.

A Not with the fingers out like this (indicating), but like this off of the steering wheel.

Q You say almost out like this?

A Not outstretched. You are sitting like this.

Q Show the jury.

A Not out like this.

Q Right.

A But like this (indicating).

Q Sort of a hand like the way I am illustrating to the jury?

A Right.

Q Elbow crooked.

A As if he didn't know what quite to do yet and he wasn't doing what he was told to do.

Q O.K. Now, would it be your testimony that no one said to him, neither you nor Officer DePaulo, that he was to freeze and stay in the vehicle?

A To freeze and stay?

Q Yes, words to that effect.

A The assumption would be --

THE COURT: Not the assumption.

THE WITNESS: O.K.

THE COURT: What, if anything, was said?

THE WITNESS: Just to put his hands on the vehicle. That's all that I have recollection of.

BY MR. KUNSTLER:

Q And did there come a time when he was taken from the vehicle?

A Yes, he was.

Q Who did that?

A Officer DePaulo did that.

Q And I take it Officer DePaulo took him and put him in unit 15; is that correct, after handcuffing him?

A Officer DePaulo and myself did. We walked him back.

Q And yourself. And were the handcuffs in front or in back?

A Handcuffed behind him.

Q And he was placed in the rear of 15.

A On the driver's side rear, yes.

Q Now, after he was placed in the rear -- withdrawn. And did you pat him down, you or Officer DePaulo?

A Officer DePaulo patted him down for a weapons check.

Q O.K. And nothing was found.

A On his person, no.

Q Now, did there come a time after he's in the vehicle that the interior of the gray Monarch was searched?

A Which? That's a little confusing. Could you repeat that?



MR. KUNSTLER: All right. Judge, may I have it read back?

(Last question read back.)

THE WITNESS: And he -- you mean Mr. Spearman was in the back of the police car?

BY MR. KUNSTLER:

Q Yes.

A Yes, it was.

Q We are following the order sequentially. And who searched the gray vehicle?

A It would be Officer DePaulo.

Q And did you watch him search the vehicle?

A No. I kept my eyes on him.

Q And so I take it you didn't see what happened with reference to that search.

A I seen the police officers enter the car to search it. The one I did see, that I can say I saw, was Officer DePaulo.

Q Well, what police officers entered the vehicle, to your knowledge?

A I believe that Lieutenant Kosakowski is also aiding in this search.

Q All right. And did this search take place

immediately after Mr. Spearman was put in the rear of unit 157

A As soon as the supervisor arrived; I would say immediately and that being a period of three to five minutes.

Q Three to five minutes and the supervisor is the Lieutenant.

A He's a Street Lieutenant. We called for a supervisor. We didn't say a sergeant or a lieutenant. We got a lieutenant.

Q Now, I take it that you did not see any weapon recovered from the gray Monarch.

A Yes, I did.

Q Did you see where it was recovered from?

A It would be from the passenger's side of the car. It came out of the car.

Q All right. And where in the passenger's side of the car?

A It would be the front part of the car.

Q Front part of the car. Now, you physically saw it come out of the vehicle.

A I saw it come out of the front of the car.

Q Who brought --

A From where I was standing. From where I was standing, I saw it come out of the car.

Q How far were you from the vehicle?

A The distance from the passenger's side of the suspect vehicle to the rear driver's side of where I was standing.

Q How many feet would that be?

A Length of a car.

Q All right. And when you saw the gun come out of the car, who had it?

A I believe Officer DePaulo had it, to the best of my knowledge.

Q Did he say anything?

A He said, "Look at this."

Q He said, "Look at this." The Lieutenant didn't say that, did he?

A Pardon me?

Q The Lieutenant didn't say that, did he?

A I heard a voice. I don't know exactly who said it but I heard, "Look at this," saw the gun coming out.

Q You know Officer DePaulo's voice, don't you?

A Pardon me?

Q You know Officer DePaulo's voice, don't you?

A Yes, I do.

Q You heard it many times, haven't you?

A Yes, enough.

Q Can you say was it Officer DePaulo's voice you heard?

A Not to the best of my recollection.

Q And whoever said it, where was the gun physically, in whose hand?

A That part I would say is Officer DePaulo, to the best of my knowledge.

Q O.K. Now, did you see that weapon come out of the glove compartment?

A I couldn't from where I was standing.

Q All right. And so I take it you had no knowledge as you sit there where that gun came from; is that correct?

A The only --

Q Except that it came --

A Came out of the inside of that car. That's the only knowledge I have of it.

Q Right. And did there come a time when someone informed you where that gun was found?

MR. KATZER: Objection.

THE COURT: Sustained.

BY MR. KUNSTLER:

Q O.K. Now, you indicated, I believe, that you somewhat explained the circumstances of why Mr. Spearman was being stopped to him. And I think you said that that happened after he was physically taken out of his vehicle, the vehicle in which he was riding.

A Right. He was advised of it.

Q Who did that?

A Both of us.

Q And what did you say?

A We both interviewed him.

Q What did you say to Mr. Spearman?

A We said, "where did you get this car?" And he didn't respond at all. We weren't getting any answers.

Q All right. And would it be your testimony that the only statement that he said essentially was, "Am I under arrest?"

A That's correct. That's all that he said. He said it a couple of times but it was an inquiry.

Q Did you answer him?

A Pardon me?

Q Did you answer him?

A Yes. I said, "You are under arrest for possession of this car."

Q And was that after that that you read him his rights or someone read his rights?

A Well, we told him he was under arrest after he couldn't give a viable account of why he had the car or he wasn't responding.

Q Right. Now, did you know what his name was at that time?

A No, not at all.

Q Well, did you ever see his driver's license that night?

A That night, myself, not to the best of my knowledge.

Q Did anybody, to your knowledge?

A I don't know.

Q Well, did you ask him for his driver's license?

A Did I?

Q You or did you hear Officer DePaulo ask him for his driver's license?

A Officer DePaulo may have. I was at the Pinebush

Station and I was generally keeping an eye on Mr. Spearman in the cell.

Q All right. And did you ever hear from Officer DePaulo that the man's name was John Spearman?

A It would be considerably after he had arrived at the station. I have no idea. I had no idea who he was.

Q Now, in addition to what I have referred to as an interview and which you have explained to the jury, Defendant's Exhibit B for identification, did you know what kind of a weapon it was that was discovered?

A Did I know?

Q Yes.

A The only knowledge I could see, what I physically saw, it appeared to be a revolver from where I was standing.

Q And did you know what kind it was?

A I found out hours afterwards but I didn't know on the scene.

Q And I take it you found out later at the station-house.

A At the station I was told, yes.

Q All right. By the way, you found out that it was a .38 caliber revolver, did you not?

A Yes, I did.

Q And you've seen .38 caliber revolvers before this of this nature, haven't you?

A Yes; not that particular model now, but I've seen them, similar revolver. I know what a revolver is when I see one.

Q All right. And is there a place at the headquarters or any stationhouse where the police property clerk, that kind of a person, to whom guns which are taken from people are delivered?

MR. KATZER: Objection.

THE COURT: Sustained.

BY MR. KUNSTLER:

Q You've seen guns around the stationhouse that are not police officers' guns, haven't you?

MR. KATZER: Objection.

THE COURT: Sustained.

MR. KUNSTLER: Judge, that is part of our case.

THE COURT: Make it part of your case. This is cross-examination.



BY MR. KUNSTLER:

Q All right. How long after the supervisor, the Lieutenant arrived, were you conscious that a gun had been found in the vehicle somewhere?

MR. KATZER: I object to the form.

THE COURT: No. Overruled.

THE WITNESS: How long after he arrived?

BY MR. KUNSTLER:

Q Yes; was the gun found?

A Short while after they were searching the car.

Q And well, when you say a short while, can you put it into minutes for us?

A That's as close as I can put it, minutes. It would be a couple minutes.

Q Couple of minutes. And there is no question in your mind that the first person you saw with that gun was Officer DePaulo?

MR. KATZER: Objection.

THE COURT: Sustained.

BY MR. KUNSTLER:

Q Now, after this incident, after the defendant is removed from the scene, after the gun was found and

so on, did you become aware that Mr. Spearman had been charged with possession of a weapon?

MR. KATZER: Objection.

THE COURT: Just a moment.

Sustained.

BY MR. KUNSTLER:

Q Have you had any conversation with Mr. Katzer about this incident at all?

A Yes, I have.

Q And how many have you had?

A Well, we had two when you weren't here, when Mr. Kunstler wasn't present. We were waiting and apparently you were tied up on another case.

Q You mean at an earlier call of the case?

A Right, when we were called into Court to appear here and you were apparently tied up.

Q Yes. And you had a discussion with Mr. Katzer then.

A Yes, we did.

Q And when you say we, who do you mean by we?

A Officer DePaulo, Officer Lascoe and myself.

Q Were you together with him?

A Certainly.

Q The three of you.

A Yes.

Q And in general, I don't care specifically what you discussed, did you discuss this case?

A Yes, we did.

Q O.K. And I take it that at least you knew then that you were going to be a witness in this case.

A I was told that I may testify, I may not.

Q Now, after that occasion, did you have any further discussion with Mr. Katzer about your testimony here between that time which I think was February 16 and today?

A Additionally this morning, yes, the same conversation.

Q And do you remember who was present at that conversation?

A The same parties.

Q The same parties, the three of you and Mr. Katzer.

A That's correct.

MR. KUNSTLER: No further questions.

THE COURT: Mr. Oliver, do you have any questions of this witness?

CROSS-EXAMINATION

BY MR. OLIVER:

Q Officer Igoe, do you have any standing instructions with regard to Albany Police Department units going onto the State Campus?

MR. KATZER: Objection.

THE COURT: No. Overruled.

THE WITNESS: None to my knowledge.

It's part of the City of Albany. We patrol it.

BY MR. OLIVER:

Q To your knowledge, is there any agreement between the Albany Police Department and the SUNY security force?

MR. KATZER: Objection.

THE COURT: Sustained.

BY MR. OLIVER:

Q Well, prior to September 21, have you ever gone onto a SUNY parking lot to check for a stolen car?

MR. KATZER: Objection.

THE COURT: Sustained.

BY MR. OLIVER:

Q Now, you indicated that it's your testimony that you first saw a gun in Officer DePaulo's hand near

the passenger's side of the vehicle; is that correct?

A To the best of my recollection, it was Officer DePaulo, yes.

Q How long have you known Officer DePaulo?

A Since I have been on the police department.

Q How long is that?

A Seven years.

Q Seven years. So was it Officer DePaulo or not?

MR. KATZER: Objection.

THE COURT: Read the question preceding.

(Preceding question read back.)

THE WITNESS: Yes.

BY MR. OLIVER:

Q And what exactly did Officer DePaulo say?

A He said, "Look at this."

Q And Officer DePaulo said that.

A I believe it to be Officer DePaulo and a comment like that may have been made by the Lieutenant also. I would have said it myself if I had been there.

Q But who said it?

MR. KATZER: Objection.

THE COURT: Sustained.

BY MR. OLIVER:

Q Did you say it?

MR. KATZER: Objection.

THE WITNESS: No, I didn't.

THE COURT: Sustained. Oh,

please.

BY MR. OLIVER:

Q Now, how many officers went into the vehicle to search it?

A Two, to my knowledge.

Q Could there have been others?

A Certainly.

Q How many vehicles arrived at the scene while you were there?

MR. KATZER: Objection.

THE COURT: Overruled.

THE WITNESS: To the best of my knowledge, there was at least four and I wasn't keeping check of who was there other than the prisoner. That was my duty and I stuck with it.