

BY MR. OLIVER:

Q I understand. Was there a State Police vehicle that arrived?

A There was an unmarked unit and I don't know what agency it was from. They were obviously police officers. I don't know. To me, they were obviously police officers. They were armed and they were dressed in civilian attire.

Q Were there other SUNY police units that arrived?

A I believe so, yes.

Q Were there other Albany PD units that arrived?

A Yes. They were called for; a supervisor was called for.

Q And so you would say that there was at least four units that arrived.

A Oh, certainly. Yes.

Q Could be more than that.

A A total of four, to my knowledge, that I was physically aware of.

Q And it could be more than that.

A It could be. When you say could be --

Q Could be more than four units.

A Sure.



Q And is it fair to say that there were a large number of police units in this area on that night?

MR. KATZER: Objection.

MR. OLIVER: Because of the Springboks.

THE COURT: Sustained. Sustained.

THE WITNESS: Because of the Springboks.

THE COURT: Sustained.

THE WITNESS: O.K.

BY MR. OLIVER:

Q Now, when you saw Officer DePaulo with the gun in his hand, how much time passed between the time that you saw Officer DePaulo for the first time with the gun in his hand and the time that Officer DePaulo left the area?

MR. KATZER: Objection to the form.

THE COURT: No. Overruled.

THE WITNESS: I really --

THE COURT: Left the quad, you mean?

MR. OLIVER: Yes.



THE WITNESS: Left the quad, I really couldn't say that because I was pretty excited myself and it could have been ten minutes. It could have been 20 minutes.

BY MR. OLIVER:

Q Could have been 10 or 20 minutes.

A When you say the time I saw Officer DePaulo enter the quad to talk to me and the entire -- you are talking about the entire event on the scene, you mean?

Q Let me clarify what I meant.

A O.K.

Q What I'm asking, sir, is how much time between the time that you saw -- how much time passed between the time that you saw Officer DePaulo recover the gun with the gun in his hand and the time that Officer DePaulo left the area?

A Oh, that would be a few minutes, a few minutes.

Q Very short period?

A Right. It would be a short period. It would be a period of minutes, not a length of time.

Q Would it be longer than five minutes?

A I really couldn't say the length of time for sure.



I didn't have a watch on.

Q O.K.

A I wasn't keeping track of it.

Q When you say it would be a few minutes --

A It would be at least a few minutes.

Q And did you accompany Officer DePaulo?

A Did I accompany Officer DePaulo?

Q Yes.

A Not in his vehicle, no. I went to the station in my own vehicle.

Q All right. Where did you go?

A Well, I went back to the yellow car because I thought that possibly may be involved, too.

Q Involved in what?

A In other criminal activities. Just still didn't look right to me, that yellow car.

Q Then what did you do?

A I ran the VIN number and it came back that it was o.k. It just didn't appear right to me.

Q How did you get the VIN number?

A Pardon me?

MR. KATZER: Objection.

THE COURT: Yes. Sustained.



Sustained.

BY MR. OLIVER:

Q Can you see the VIN number without opening up the vehicle?

MR. KATZER: Objection.

THE COURT: Sustained.

THE WITNESS: Pardon me?

BY MR. OLIVER:

Q And then what did you do?

A Then I went to the station.

Q When you arrived at the station, was Officer DePaulo there?

A Yes, he was.

Q All right. And who took Mr. Spearman to the station?

A I don't know if he got transported in 53 or a police unit took him. I think he went in 53. That would be the paddy wagon.

Q The paddy wagon. So the paddy wagon arrived also.

A I can't remember that part.

Q Had you seen the paddy wagon earlier in the evening?

A Not in regards to this incident, no, not to my knowledge.



Q Had you seen the paddy wagon earlier in the evening?

MR. KATZER: Objection.

THE COURT: Sustained.

BY MR. OLIVER:

Q Was the paddy wagon over to the Hyatt House?

MR. KATZER: Objection.

THE COURT: Sustained.

BY MR. OLIVER:

Q And what time did you arrive at the station, sir, if you remember?

A Well, as soon as I got back in my car I went right to the station. It would be again a matter of minutes. It's only two miles from there.

Q This is the Pine --

A Pardon me, the Pinebush Station. I'd say it was about five minutes because it's only a short ways.

Q Now, I'd like to draw your attention to the time when you were parked by the yellow Mercury and before Mr. Spearman was arrested to the time when you were parked by the yellow Mercury and Officer DePaulo drove over, o.k.?



A The time that I was -- and Officer DePaulo arrived on the scene initially?

Q Right.

A To visit me.

Q Right.

A O.K.

Q That would be sometime between after 7 o'clock but before 7:30, o.k. Now, at that time you indicated that Officer DePaulo drove directly to your vehicle; is that correct?

A Initially he drove up to see what I was up -- to see where I was. When I gave my description I said I was in the parking lot a yard south of Washington. It's a big lot and he couldn't find me so I put my red lights on.

Q And were there cars parked all through the lot on that night?

A Spotty. I couldn't remember all the cars. There was a lot of them there but on the area where I was, it would be -- I don't know if you can see it on there, but the building, nearer the building there is people. They park near the building, further away from the building you got the less cars



are there.

Q All right.

A So in the area where I was with the yellow car, it was one or two other cars in that entire lane and, in fact, the whole lot, if there was five cars there -- wasn't more than five cars, to my knowledge.

Q In the whole lot.

A No, just in the area.

Q You mean in this area.

A Right about where your hands are, yeah, right up there (indicating).

Q When Officer DePaulo arrived at that time, was Officer Lascoe there?

A When Officer DePaulo arrived initially?

Q Yes.

A I believe he was. I don't remember. I think they arrived within seconds of each other to see what I was doing.

Q And you had a conversation with Officer DePaulo.

A Well, more he asked me what I had and I said, "I don't know. I'm checking."

Q Now, had anyone instructed you to look through, to



check the cars in the lot?

A My own initiative.

MR. KATZER: Objection.

THE COURT: It's answered. Forget it. I thought he said my own initiative.

THE WITNESS: Yes. Yes, sir.

BY MR. OLIVER:

Q And when Officer DePaulo arrived, was there any conversation? How long did he stay there with you before he left?

A Short while, a minute, couple minutes.

Q And did you run a check on the license plate number that had been broadcast over the radio?

MR. KATZER: Objection.

THE COURT: No. I don't understand the question.

BY MR. OLIVER:

Q I'll rephrase it. Had you run a check on 507JVD at any time prior to the time that Officer DePaulo arrived at the --

A I don't remember if -- as if I did. I remember hearing the plate but I don't remember whether I ran it or what, just to be on the lookout for the



car. I may have requested it and not gotten it.  
I don't remember that part.

Q When you request that, is that something that would  
be reported on the police radio?

MR. KATZER: Objection.

THE COURT: Sustained.

BY MR. OLIVER:

Q Well, when you made a request to check that plate,  
would that be done over police radio?

MR. KATZER: Objection.

THE COURT: Sustained.

BY MR. OLIVER:

Q When you make a check to run -- when you make a  
check on a license plate number, how do you do it?

MR. KATZER: Objection.

THE COURT: Sustained.

BY MR. OLIVER:

Q You testified that you didn't get a report back.

MR. KATZER: Objection.

THE COURT: Sustained.

BY MR. OLIVER:

Q At what time had you made this request?

MR. KATZER: Objection.



THE COURT: Sustained.

BY MR. OLIVER:

Q And during the time that you had the conversation with Officer DePaulo, was there any conversation between Officer DePaulo and Officer Lascoe?

A Might have been; not to my knowledge.

Q Not to your knowledge.

A Not that I am aware of.

MR. OLIVER: Thank you.

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

MR. KATZER: No, Judge. Thank you.

THE COURT: Mr. Kunstler?

MR. KUNSTLER: None, Judge.

THE COURT: That is all. Thank you.

THE WITNESS: Thank you, your Honor.

THE COURT: All right. Ladies and gentlemen of the jury, in view of the hour we'll recess for lunch. Let's figure one hour. Be back here at 1:20.

I want to remind you you are not to discuss this case either among yourselves or



with anybody else. You are to keep an open mind until the matter is finally submitted to you for your determination. See you back here at 1:20. Thank you.

(Luncheon recess taken.)

(After the luncheon 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.

MR. KATZER: Thank you, Judge.

The People call Officer Peter DePaulo.

PETER DE PAULO,

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



DIRECT EXAMINATION

BY MR. KATZER:

Q For the record, Officer, please state your name.

A Peter J. DePaulo.

Q By whom are you employed?

A The Albany Police Department.

Q And in what capacity are you employed?

A I'm a patrolman.

Q Were you so employed on September 21, 1981?

A I was.

Q And were you on duty during some portion of that day?

A Yes, I was.

Q When were you on duty then, Officer?

A On the 4-to-12:30 shift out of the Pinebush Substation.

Q That would be 4 p.m. to 12 midnight.

A That's correct.

Q What was the nature of your duty at that particular time?

A I was assigned to unit 15 which is a black and white patrol unit.

Q Marked police vehicle; is that correct?

A Yes, sir.



Q Were you in uniform at that time?

A Yes, I was.

Q Would that be substantially the same uniform that you are wearing today?

A Yes, it would.

Q Now, approximately 7 p.m., 7:05 p.m., did you have occasion to receive a certain radio bulletin over your police radio?

A Myself along with unit 14 received a call to be on the lookout for a stolen vehicle, New York registration 507JVD.

Q And that came over the Albany police radio; is that correct?

A That's correct.

Q Now, when you received that transmission, approximately, what was your location?

A I think it was upper Washington Avenue above Fuller Road area. I don't know exactly where I was.

Q Did there come a time when you arrived on the State University of New York at Albany campus?

A When we received the call over the police radio, we were ordered to move. Unit 15 was ordered to move down into the campus area where the vehicle



was seen.

Q And again, unit 15 was your unit; is that correct?

A Yes.

Q Now specifically, did there come a time when you went into the State quad parking lot at SUNY?

A Unit 14 had called out with a -- I think it was a temporary Pennsylvania registration on a Mercury and I in turn went to his location to back him up.

Q Unit 14 was occupied --

A Officer Igoe.

Q That would be William Igoe, correct?

A Yes, sir.

Q Now, did you in fact go to back up Officer Igoe?

A Yes. Upon getting there, he was assisted by a SUNY police officer.

Q Where is this quote there unquote that you are just referring to?

A It would be the parking lot directly across the street from the Hyatt House off of Washington Avenue.

Q Officer, I am going to ask you to take a look at People's 4 in the evidence. Do you recognize this?

A It appears to be the same parking lot.



Q It's a map of the parking lot; is that correct, and you've seen this before testifying here today; is that correct?

A Yes.

Q Now, if you would, with the Court's permission, would you come to this exhibit and indicate where you initially went to when you responded to the State quad parking lot and met Officer Igoe and Officer Lascoe? I am going to hand you a blue pen with blue ink and indicate where Officer Lascoe and Igoe were.

A Officer Igoe and the SUNY unit was right about in this area here (indicating).

Q Would you, if you could, draw a little diagram of their cars to indicate Lascoe by an L and Igoe with an I?

A (Witness complies.)

Q What did you put in there?

A This is unit 14.

Q O.K. What is unit 14?

A Black and white Albany police unit.

Q And who was occupying it?

A Officer Igoe, William Igoe.



Q Would you just put an I there?

A Again, I don't know the SUNY unit. It was someplace in this area here. I don't know the number of their units but there was vehicles parked here that he was checking.

Q And in the SUNY unit was Officer Lascoe; is that correct?

A Right.

Q Would you put an L indicating Officer Lascoe?

A (Witness complies.)

Q Now, Officer DePaulo, there came a time when you arrived at this location; is that correct?

A Yes.

Q What did you then do at that location?

A Being that he had enough assistants, I took my unit and proceeded back here and parked it here.

Q O.K. Now, Officer, at this time I'm going to give you a green marker and indicate where you parked your police vehicle. You could be a little bolder with that. Why don't you put a 15? That was your unit, correct?

A Yes, sir.

Q O.K. Now, about what time did you station yourself



over there?

A Approximately 7:15.

Q What were you doing right there?

A Well, I found instead of riding around the area because we were getting a lot of traffic coming in the campus both going west and east, so I figured I would position myself here and actually found out what that temporary plate was on that vehicle.

Q Was your motor running on the police vehicle?

A Yes, but the lights were off.

Q Did there come a time when you saw the Mercury license plate 507JVD enter the lot?

A I observed a vehicle probably around this area here and it had 507JVD.

Q With this red marker, if you would, Officer, would you trace the path of that vehicle and as you are so doing, describe for the jury the path of that vehicle. If you could, could you supplement your drawing with your testimony?

A All right. There is a stop sign here which the vehicle stopped. And I observed him proceeding across into the parking area which this would be



west; had slowed down, started backing up again, went around the light pole, started heading back out of the lot or heading toward in my direction.

Q And what did you do? You, signifying the police vehicle.

A I turned the red lights on, the red lights on and proceeded here.

Q O.K. Now, if you could, could you draw two vehicles as they approached and subsequently stopped?

A (Witness complies.)

Q O.K. Thank you, Officer. You can resume the witness chair. Now, Officer DePaulo, you indicated on this marking that you took your police vehicle from the area where it was rested and you blocked the other vehicle; is that correct?

A That's correct.

Q Could you describe the position that your vehicle was in and the position that the other vehicle was in?

A It was head on.

Q About what distance separated the front of your vehicle from the front of the Mercury?



A Approximately a foot, foot and a half.

Q And were the lights on in your police vehicle?

A Yes. Both the headlights and the roof lights.

Q And the what?

A The roof lights, the rotating red lights.

Q Red roof lights; is that correct?

A Yes.

Q Is your police vehicle also equipped with a spotlight?

A Yes, and that was also on.

Q Where was that spotlight aimed at?

A In the windshield of the car.

Q Now, what did you then do upon bringing the car to the position that you just indicated?

A I grabbed the radio or the microphone and told the dispatcher I have -- I don't know the exact words, whether I had the stolen car but I have the vehicle stopped.

Q And what did you then do after you did that?

A I think I threw the mike onto the seat and opened up the prowl car door and stood between the door opening and the opened door.

Q And what did you then do?



A I ordered the subject behind the steering wheel to put both hands on the steering wheel.

Q O.K. Let me stop you for a minute. You indicated there was a subject in the Mercury; is that correct?

A Yes, behind the wheel of the vehicle.

Q How many individuals were in there?

A One.

Q And do you see that individual in the courtroom here today?

A It's the gentlemen right here with the blue V-neck, with the glasses on (indicating).

MR. KUNSTLER: So stipulated.

MR. KATZER: With respect to the defendant Spearman.

Q Now, you testified that you got out of your prowl car, stood between the door of your prowl car and the car and ordered the defendant to put both hands on the wheel; is that correct?

A Yes.

Q What response, if any, did the defendant make to that order?

A I noticed -- I observed only one hand on the



steering wheel and the subject had a tilt to his body to the right.

Q What hand was on the steering wheel?

A His left.

Q Were you able to see his right hand?

A No.

Q After you made that first order and the defendant failed to respond, what then did you do?

A My weapon was already drawn and it was on my right side. The second time I told him, I pointed my weapon at him.

Q And what did you tell him?

A And I ordered him to put both hands on the steering wheel.

Q What observations of the defendant did you make after this second order?

A Still he did not react. There was just one hand. His left hand was on the steering wheel. His right hand I could not see.

Q What did you then do?

A The third time I ordered him to put his hands on the steering wheel, I cocked the hammer of the service revolver.



Q And again you ordered him to put both hands on the steering wheel.

A That's correct.

Q What was his response to this third order?

A None. He was -- the right hand was still off the wheel and he still had a tilt to his body and I think the fourth time I had told him approximately a second or two later, Officer Igoe had pulled his unit in directly behind the car and was out of the unit, had ordered him to put his hands on the steering wheel.

Q And where did Officer Igoe go with respect to the Mercury and with respect to the defendant Spearman?

A He was directly behind the driver's door.

Q And did you see if Officer Igoe had his weapon drawn?

A Yes, he did.

Q Did there come a time when the defendant Spearman did finally place both hands on the steering wheel?

A When Officer Igoe ordered him, he had put both hands on the wheel.

Q And what then did you do?



A I holstered my service revolver, walked between the two cars, opened up the car door.

Q What car door would that be?

A Of the 507JVD, took the defendant out of the car, put his hands on the roof of the vehicle, searched him, placed his hands behind his back, handcuffed him and took him back to unit 15, where I placed him in the back seat and read him his rights.

Q And unit 15, once again, would be your police vehicle.

A That's correct.

Q Indicated by this green diagram.

A He was placed in the back seat of the prowl car behind the passenger's side.

Q And did Officer Igoe accompany you to unit 15?

A Yes.

Q And what happened then?

A He was read his rights. Officer Igoe stood by with the prisoner and I went back to the 507JVD.

Q Did you request any superior officers to come to the scene?

A At this time there was police cars everywhere. There was quite a few people around.



Q Did there come a time when you conducted a search of the automobile, the Mercury?

A After I had read the defendant, subject his rights, I went back to the car and opened up the driver's side and started going underneath the seat.

Q O.K. Now, why don't you explain to the jury in detail what you did in conducting that search, e.k.?

A I opened up the driver's side door.

Q Would that be the front door?

A Right.

Q O.K.

A Entered behind the steering wheel. I started running my hands underneath the seat, under the driver's side (indicating). I think I also put my fingers inside where the two, the bottom seat and the front seat come together, running my fingers through there over the hump and --

Q Now, while you were doing this, was there another police officer involved in the search?

A Lieutenant Kosakowski had entered the vehicle from the passenger's side.



Q Would that be the passenger's front side?

A Yes.

Q O.K. So you were both in the front together pretty much; is that correct?

A Correct.

Q Please continue with your testimony.

A We were searching under the seat or I was searching under the seat and there came a time when the glove compartment -- and I pulled a brown-handled revolver out of the glove compartment.

Q Now, do you recall opening the glove compartment yourself?

A I cannot say whether I opened it up or the Lieutenant opened it up.

Q Do you recall seeing something in the glove compartment?

A I observed a brown handle.

Q What did you do upon observing that brown handle?

A I took the gun out of the glove compartment which was in a holster, took it out of the holster, opened the cylinder up, removing five live rounds out of the weapon.

Q And where did you do this?



A Inside the car.

Q And what did you do after you removed the ammunition?

A Gave it to Lieutenant Kosakowski.

Q And where did you give it to Lieutenant Kosakowski?

A He was in the car also, or sticking halfway in the car.

Q Now, do you know what Lieutenant Kosakowski did with the weapon?

A He took it out of the vehicle and then he had handed it back to me which I, in turn, I think I gave it to Lieutenant Murray.

Q And then do you know what Lieutenant Murray did with the weapon?

A He returned it to me.

Q What did you then do with the weapon?

A I placed it in my pocket and took it to the Pinebush Substation.

Q Did you make any markings on the weapon?

A I put my initials on it in two separate places, one on the butt, one on the frame.

(Revolver in an envelope marked  
People's Exhibit 5 for identification.)



BY MR. KATZER:

Q Officer, I hand you People's 5 for identification and ask you if you can identify that?

A It has my initials both on the inside frame and also on the butt.

Q What is People's 5?

A It's a model 37 S and W revolver, five-shot.

Q And when did you first see that?

A When I took it out of the glove compartment of 507JVD.

Q Now, is that revolver, People's 5 for identification, in the same or substantially the same condition today as it was when you so removed it from the glove compartment on September 21, 1981?

A Yes, except the bullets are out of it. When I first --

MR. KATZER: At this time I offer People's 5 into evidence.

MR. KUNSTLER: No objection.

THE COURT: Any objection?

MR. OLIVER: I would like an opportunity to see what's inside here.

THE COURT: That's not being



offered, is it? The weapon itself is being offered.

MR. OLIVER: Just the weapon.

THE COURT: Yes.

MR. OLIVER: No objection.

THE COURT: Received without objection.

(People's Exhibit 5 for identification was received and marked in evidence.)

BY MR. KATZER:

Q Officer, I'm going to show you People's 5 now in evidence and ask you once again to show the jury where you made your markings on that.

A The initials FDP are here on the frame right in here and they are also here on the butt next to the serial number.

Q Now, how did you make your markings on that?

A I scratched it with a -- it's a steel pen.

Q And where did you do that?

A At the Pinebush Substation, I believe.

MR. KATZER: O.K. Thank you. I would like this marked as People's 6.



(A holster was marked People's Exhibit 6 for identification.)

BY MR. KATZER:

Q Officer, I show you People's 6 for identification and ask if you recognize that?

A It's the holster that the revolver was found in.

Q O.K. And is that in the same or reasonably the same condition today as it was when you discovered it on September 21, 1981?

A Yes.

MR. KATZER: I offer People's 6 into evidence.

MR. KUNSTLER: No objection.

MR. OLIVER: No objection.

THE COURT: Received without objection.

(People's Exhibit 6 for identification was received and marked in evidence.)

BY MR. KATZER:

Q Now, Officer, I'm going to show you People's 5 in the evidence again. When you took that revolver out of the glove compartment, how did you do it? How did you handle it?