

police, and other unknown officers, how many participated in actually searching the apartment?

A I have no idea.

Q Did you take a list of the members of the Albany Coalition Against Apartheid?

MR. KATZER: Objection.

THE COURT: Sustained.

Q Did you seize a list of the members of the Albany Coalition Against Apartheid?

MR. KATZER: Objection.

THE COURT: In the apartment on that occasion?

MR. OLIVER: In the apartment at that time.

THE COURT: Overruled.

A I don't recall seizing one.

Q Did you seize a mailing list for the Albany Coalition Against Apartheid?

A Not that I know of.

Q Did you seize Miss Michaelson's address and personal telephone book?

A I don't recall.

Q Do you recall if any other members of the Albany

Police Department took the official list of the Albany members of the Albany Coalition Against Apartheid?

A I don't know.

Q Do you know if any members of the search party took the mailing list of the Albany Coalition Against Apartheid, to your knowledge?

A I have no knowledge of that.

Q To your knowledge do you know if any members of the search party took Miss Michaelson's personal telephone address book?

A I have no knowledge of that either.

Q Aren't you responsible for filing a sworn statement about what was taken from the apartment?

MR. KATZER: Objection.

THE COURT: Did you file a return?

THE WITNESS: Yes, Your Honor, I did.

THE COURT: Very well.

BY MR. OLIVER: (cont'd)

Q Doesn't that return state that the following is a true and detailed inventory of all property taken by me on the search warrant filed here?

A I don't know. I would have to look at the

return, sir.

(Document was duly marked
Defendant Young's Exhibit AA for identification.)
(Document was handed to the witness.)

A Yes, sir.

Q None of these items, the list of coalition members,
the coalition membership mailing list, personal
address and telephone books, are listed on your
return, are they?

MR. KATZER: Objection. He is not
being contradictory in his testimony about that.

THE COURT: I'm going to sustain
the objection.

Did you make a return?

THE WITNESS: Yes, Your Honor, I did.

THE COURT: What is on the return?

Not what isn't on it. What is on it?

BY MR. OLIVER: (cont'd)

Q Is that return sworn to?

A When I do it, yes, sir, it is.

Q Did you make the return for the entire search party?

A Yes, sir.

Q The return is supposed to represent everything that

was contained from the apartment by the search party, is that correct?

A That's correct.

Q Now, in fact, that coalition list was taken from the apartment by the search party, wasn't it?

MR. KATZER: Objection.

THE COURT: Sustained. He has already testified he doesn't know.

BY MR. OLIVER: (cont'd)

Q Subsequently did you learn that the coalition membership list was taken from the apartment by members of the search party?

MR. KATZER: Objection.

THE COURT: Overruled.

A No, I never learned that.

Q You never learned that?

A No, I did not.

Q Subsequently you learned that Miss Michaelson's personal telephone and address book was taken from the apartment?

A I never learned that either. No, I did not.

Q Did you learn that her long distance telephone call slips were taken from the apartment?

A No, I had no knowledge of that.

Q Did you learn that newspaper clippings concerning the Ku Klux Klan were taken from her apartment?

A No, sir.

Q You didn't know anything about that?

A Not the items you mentioned. No, sir. I have no knowledge of them then or now.

Q At anytime while you were in the apartment or as you were leaving the apartment did you see a clear plastic bag filled with papers taken from the apartment?

A No, sir, I did not.

Q You are the arresting officer of Miss Michaelson, is that correct?

A That's correct.

Q Were you the arresting officer of Mr. Estes?

A That's correct.

Q So you arrested them?

A Pardon me, sir?

Q You arrested them?

A That's correct, I did.

Q Did you take from Mr. Estes his personal address and telephone book?

A No, sir, I did not.

Q Did you take his books?

A Books? I didn't take any books. What books are you talking about?

Q You didn't take any books?

A No, sir, I did not.

Q Do you recall a clipboard with various documents being taken from the apartment?

A I don't recall any clipboard. No, sir.

Q Now, subsequent to the search on the 22nd were you informed by any police agencies or any fellow officers that all of these items I have referred to were returned in the presence of Dr. Barry Sample and Mr. Frank T. Fitzgerald to Miss Michaelson by Detective Murray at Division II at approximately 7 P.M. on September 30, 1981?

A No, I was never told that.

Q You had no idea how Detective Murray came into possession of all of these personal items?

A The personal items you mentioned in particular I know nothing about them. There were papers taken out of that apartment that I took. As far as what they were, I have no idea what they were.

Q So you did take papers out of the apartment?

A Papers but not what you had stated. No, sir.

Q What papers did you take out of the apartment?

A I believed that they were of verification of address for Vera Michaelson along with the search warrant. When I found out they weren't, I turned them over to Lieutenant Murray.

Q How did you find out they weren't?

A I looked at the top sheet.

Q What was that? A list of members of the Albany Coalition?

A No. I believe it had something to do with the Communist Workers Party.

Q What was that?

A I don't know if it was a fan letter or what it was but it was something with the C.W.P. I didn't really read it. I didn't have the time to.

Q You say that Miss Michaelson's personal address and phone book -- that was in with the Communist Workers Party literature, you said?

A Like I said, I have no idea if it was or not.

Q You picked them all up in one place? The books --

A I didn't see any books. I don't recall any books.

Q And the coalition mailing list?

A I have no knowledge of it.

Q But you do know these items were returned to Miss Michaelson in the presence of Professor Sample and Mr. Fitzgerald by Lieutenant Murray on September 30, 1981?

MR. KATZER: Objection.

THE COURT: Sustained.

BY MR. OLIVER: (cont'd)

Q Now, did you make copies of the coalition membership list?

MR. KATZER: Objection.

THE COURT: Overruled.

A No, I never even seen it. No, sir.

Q Is it your testimony that you never saw the address books?

MR. KATZER: Objection.

THE COURT: Sustained.

Q Did you make copies of the address books?

MR. KATZER: Objection.

THE COURT: Sustained.

Q I believe you testified that you were present at the State Quad parking lot at approximately 7:30 on

September 21, is that correct?

A Somewhere around that time I was called there.
Yes, sir.

Q Who else was present at that time, to your knowledge?

A To my knowledge Officer DePaulo, Officer Igoe,
there was a couple of campus security officers
there, Lieutenant Kosakowski was there, Lieutenant
Murray, a gentleman identified to me as Mr.
Spearman. I don't even know the rest of them.
There were a lot of other people there. I don't
know who they were.

Q A lot of other people?

A Yes, sir.

Q Were there state police officers there?

A I believe there were.

Q In marked cars?

A No, there weren't any marked cars.

Q Unmarked cars from the state police?

A I don't know. There were unmarked detective
units. It could have been F.B.I. or state police
or Albany.

Q F.B.I. was there?

A I believe they were there too.

Q Do you know who, from the F.B.I.? Was it Agent Rose?

A Jim Rose?

Q Jim Rose.

A I don't recall seeing him there.

Q Agent Bross?

A I don't recall if he was there or not. He may have been. I didn't see him.

Q You know there was the F.B.I. there?

A They may not have been. They may have been state police. I don't know the gentlemen.

Q Was Detective Murphy there?

A No, sir.

Q How many Albany police were there?

A My partner was with me, Detective Johnson. He was in the car with me. As far as how many Albany police were there, an estimate would probably be maybe ten.

Q Was Deputy Chief Reed there?

A I can't say. I don't know.

Q But Detective Lieutenant Murray was there?

A Yes, he was there. Yes, sir.

Q Was he in plain clothes?

A Lieutenant Murray?

Q Yes.

A Yes, sir. He was dressed like you are. In a suit.

Q Were there any other Albany police there in plain clothes?

A Well, myself, my partner, Lieutenant Murray. I think there might have been F.B.I. in plain clothes from Albany. I'm not really sure but I would have to say I think that was it.

Q Were there any unmarked cars from Albany?

A Yes, sir.

Q Whose were they?

A One was the one I was driving.

Q The detective cars are unmarked?

A Yes, sir.

Q When you arrived at the State Quad parking lot were you told somebody was under arrest?

A Yes, sir.

Q Was the name Michael Young mentioned to you at that time?

A No, not at that time it wasn't. No, sir.

Q It's your testimony that at that time you never heard of Michael Young?

A At that particular instant, no, I had never heard of him.

Q You had never heard of him?

A No, sir.

Q You knew that the Springboks were residing in the Hyatt House on Washington Avenue there?

A I was aware of that.

Q You were aware of the controversy that concerned the Springboks appearance in Albany?

MR. KATZER: Objection.

THE COURT: Overruled.

A I was aware of the newspaper accounts and what was going on around me. Yes, sir.

Q Is it a fact that overtime for Albany police had been cancelled on that night?

MR. KATZER: Objection.

Q I'm sorry. Vacation time. Vacation time had been cancelled?

THE COURT: If you know.

A I don't know if it was or not. Days off might have been. I don't think vacation.

Q Days off were cancelled?

A I don't know that for sure. It may have been.

THE COURT: You were working your regular shift?

THE WITNESS: I was working my regular tour of duty.

BY MR. OLIVER: (cont'd)

Q Did you enter the vehicle at all?

MR. KATZER: Objection.

Specification of the vehicle, if Your Honor please.

Q All right. Did you enter the vehicle Mr. Spearman was arrested in?

A When?

Q At the State Quad parking lot.

A No, sir, I did not.

Q And when, for the first time, did you hear the name Michael Young?

A When I returned to my office to draw up a search warrant to search the car.

Q Agent Rose from the F.B.I. told you about Michael Young?

MR. KATZER: Objection.

THE COURT: Sustained.

Q Who told you about Michael Young?

MR. KATZER: Objection.

THE COURT: No, overruled.

A I called the teletype operator and asked him to return the plate 507-JVD, at which time it printed out on our teletype machine that it belonged to Michael R. Young from downstate in the state. That was when I heard about Michael R. Young.

Q Was Agent Rose there with you at that time?

A He wasn't with me.

Q Was Mr. Donnelly with you?

A He wasn't with me.

Q Detective Lieutenant Murray?

A He wasn't with me.

Q Who was with you?

A When I was typing the search warrant? Is that what you're asking?

Q Yes.

A Myself.

Q And the name Michael Young meant nothing to you?

A It didn't mean a thing to me.

Q When did you receive your next information concerning Michael Young of that teletype?

MR. KATZER: Objection.

THE COURT: Overruled.

A Later that evening.

Q When?

A I don't know what time it was. It was later that evening before midnight.

Q And who did you receive it from? Agent Rose?

A There were a number of law enforcement officers.

Q Was Agent Rose one of them?

A Yes, I believe he was one of them. Yes, sir.

Q Was Detective Lieutenant Murray another one?

A Yes, sir, I believe he was.

Q And was Mr. Donnelly another one?

A Yes, sir, he was.

Q Who else, if anyone, gave you information about Michael Young?

A I believe Detective Chief Reed and other than that I think that was it.

Q Is it fair to say that the primary source of your information about Michael Young was Agent Rose?

Is that fair to say?

A My direct primary source?

Q Yes.

A No.

Q What was it?

A My superiors from the Albany Police Department.

Q Where did they get their information from? Agent Rose, is that correct?

MR. KATZER: Objection.

THE COURT: Sustained.

BY MR. OLIVER: (cont'd)

Q Did they tell you they got their information from Agent Rose?

MR. KATZER: Objection.

THE COURT: Sustained.

Q Was Agent Rose in the room with you?

A When?

Q At the time you received your information from him.

MR. KATZER: Objection.

THE COURT: Sustained.

Q At the time you received information from him concerning Michael Young --

MR. KATZER: Objection.

THE COURT: Sustained.

Q How did you receive the information from Agent Rose?

MR. KATZER: Objection.

THE COURT: Sustained.

MR. OLIVER: No further questions.

THE COURT: Very well. Mr. Kunstler?

CROSS EXAMINATION

BY MR. KUNSTLER:

Q Detective Tanchak, we have only met when you testified at a previous hearing, is that correct?

A Yourself and myself? That's correct.

Q Yourself and myself.

A That's correct.

Q Now, you indicated in response to some of the questions from my brother, Oliver, that you entered the apartment 7-K at 400 Central Avenue with a key, is that correct?

A We had a key, that's correct.

Q Where did you get the key?

A I don't know who we got it from. It was an apartment that was, I believe, on the fourth floor. It may have been the building superintendent or manager.

Q Well, you had the key, didn't you?

A I had it in my hand. I didn't obtain it.

Q Who gave it to you?

A It may have been -- I'm not sure -- I could say Lieutenant Murray but I'm not positive.

Q In any event some police officer gave you a key to Apartment 4-K?

A To Apartment 7-K.

Q At 400 Central Avenue?

A That's correct.

Q When did he give you that key -- do you remember? -- in relationship to arriving at 400 Central Avenue?

A I entered the apartment at about 3:15. We probably got the key five minutes earlier.

Q And that was from Lieutenant Murray?

A As I recall. I'm not positive.

Q Now, the search warrant was obtained at what time?

A It was signed approximately, I would say, 1 A.M. by Judge Keegan.

Q And was that at Judge Keegan's house?

A That's correct.

Q Were you the one that went to Judge Keegan to obtain the search warrant?

A I was one of the ones, yes, sir.

Q What was that?

A I was one of the ones; yes, sir.

Q All right. And who made the decision, if anybody did, to go to the apartment house at 400 Central

Avenue at 3:15 or thereabouts, if you know?

MR. KATZER: Objection.

THE COURT: Overruled.

A I don't know who made that decision.

Q All right. In any event it wasn't you?

A No, it was not me.

Q Now, were you the one who typed up the application for the search warrant?

A No, sir, I did not.

Q Do you know who did?

A Yes, sir, I do.

Q Who was that?

A Assistant District Attorney Joseph Donnelly.

Q Was that done at Albany police headquarters?

A I believe it was.

Q The application consists of an affidavit, does it not?

A That's correct.

Q Reciting why you think you are entitled to the search warrant?

A That's correct.

Q And whose affidavit was that?

A Well, it was the input of several law enforcement

officers.

Q Who signed the affidavit and swore to it?

A I did.

Q Now, you indicated, I think, in response to one of my brother's questions, that you had not heard the name John Spearman prior to his arrest on the night of September 21st?

A I didn't hear his name. No, sir.

Q You never heard his name before?

A No, sir.

Q You've also indicated that you had not heard of Michael Young certainly before the arrest of Mr. Spearman?

A That's correct, I did not.

Q You didn't see Michael Young on television that evening, did you?

A No, sir, I did not.

Q September 21?

A No, sir, I did not.

Q All right. Now, isn't it a fact that in the affidavit you presented to Judge Keegan you told him a lot about John Spearman, didn't you?

MR. KATZER: Objection.

THE COURT: Sustained.

MR. KUNSTLER: Judge, he has testified that he went --

THE COURT: As to form. Told him a lot. What does that mean?

BY MR. KUNSTLER: (cont'd)

Q When you presented the affidavit to Judge Keegan, didn't that contain information about John Spearman?

A I believe it did.

Q Didn't it contain information that John Spearman was a member of the Communist Workers Party engaged in activities in Albany regarding disruption of the Springboks by violence?

A I don't recall that. Can I see it?

MR. KUNSTLER: I would have this marked, Judge. What I am having marked, Judge, is the search warrant itself and the application for the search warrant and the return.

(Six-page document was duly marked Defendant Spearman's Exhibit E for identification.)

BY MR. KUNSTLER: (cont'd)

Q Now, Officer Tanchak, take a look at your affidavit that you submitted to Judge Keegan. I'm

referring to paragraph second.

A Pardon me? Paragraph what?

Q Second.

A Paragraph second?

Q Right.

A I see where you are.

Q If you will just keep that and refresh your recollection as you need it. Did you not state in your affidavit that you presented to Judge Keegan that John Spearman was a member of the Communist Workers Party?

A That's correct.

Q Didn't you also state, in words or substance, that he had been engaged in activities in the Albany area relating to the disruption by violence of the rugby game?

A That's correct.

Q You referred specifically to the rugby game being scheduled to be played at Bleeker Stadium on September 22, 1981, did you not?

A That's correct.

Q And didn't you go on to state in your affidavit that John Spearman had come to Albany in order to

coordinate the violent activity planned by the Communist Workers Party with reference to this game?

A That's correct.

Q Didn't you also state that he had come and he was armed with, I believe you said, firearms and other weaponry?

A That's correct.

Q All right. This information you gave to Judge Keegan, when did you receive it?

A Probably midnight.

Q At midnight?

A Probably 11:30, midnight. I'm not sure.

Q From where did you receive it?

MR. KATZER: Objection.

THE COURT: No, overruled.

A A number of law enforcement officers and from Assistant District Attorney Joseph Donnelly.

Q All right. Didn't you also receive it from a confidential informant?

MR. KATZER: Objection.

MR. KUNSTLER: I'll withdraw that..

BY MR. KUNSTLER: (cont'd)

Q You didn't tell Judge Keegan you got it from

district attorneys and law enforcement officers,
did you?

A I believe I did.

Q You did? Where did you say that in the affidavit?

A I told him verbally. You're asking if I told
him.

Q Where did you say it in the affidavit? We are only
on the affidavit.

MR. KATZER: Objection.

THE COURT: Overruled.

A I didn't say it on the affidavit.

Q But you did say where you got it from in the
affidavit?

A That's correct.

Q Didn't you say you got it from a confidential
informant?

A That's what it starts with, yes, sir.

Q What is the name of that confidential informant?

MR. KATZER: Objection.

THE COURT: Sustained.

BY MR. KUNSTLER: (cont'd)

Q Was that a confidential informant, to your
knowledge, who was relating what was going on in

the campaign against the game?

MR. KATZER: Objection.

THE COURT: Sustained.

BY MR. KUNSTLER: (cont'd)

Q In any event you told Judge Keegan it came from a confidential informant in your affidavit, is that correct?

A In the affidavit; yes, sir.

Q And from no other source -- isn't that correct? -- in the affidavit?

A Well, it was personal knowledge in there too.

Q Do you have personal knowledge about John Spearman?

A No. You said in the affidavit.

Q I'm asking about John Spearman.

A Yes, that he was arrested that night with a loaded .38. Yes, I had personal knowledge of it.

Q I'm talking about John Spearman's plans for violence that we were just talking about.

A The only information I had about that is what is stated.

Q Didn't you also state in your affidavit, in words or substance, to Judge Keegan that members of the Communist Workers Party accompanied Spearman to the

Albany area and were also armed and intended to engage in violent activities to disrupt the rugby game and to engage in violence against the Albany Police Department?

A That's correct.

Q Was that also from the confidential informant?

A That's correct.

Q All right. Do you have any idea when the confidential informant got that information or relayed it to anybody?

MR. KATZER: Objection.

THE COURT: Sustained.

BY MR. KUNSTLER: (cont'd)

Q How did you find out -- withdraw that. Did you ever speak to the confidential informant yourself?

MR. KATZER: Objection.

MR. KUNSTLER: Judge, I don't see what is objectionable about that.

THE COURT: I don't see the relevancy of it either.

MR. KUNSTLER: Judge, it all depends. You know what our theory is.

THE COURT: I understand that but

this witness has just indicated he first got the information at approximately 11:30 P.M. on the 21st.

MR. KUNSTLER: All right. I'll accept that.

BY MR. KUNSTLER: (cont'd)

Q That's the first time you got the information?

THE COURT: That's what I understood him to say.

A As far as I recall, it is.

Q And the information you got did not come directly to you from any confidential informant, did it?

MR. KATZER: Objection.

THE COURT: Overruled.

A Directly to me? No, sir, it did not.

Q It came from Albany police officers?

A Among others.

Q What other officers told you about that?

A Lieutenant Murray, Deputy Chief Reed.

Q What about James Rose whom you refer to as Jim Rose of the F.B.I.

A You asked about Albany officers.

Q I'll go to him next.

A That's right. He was there.

Q Did he give you some information too?

A That's correct, he did.

Q Anybody from the state police give you information?

A I don't believe so.

Q Would it be fair to say from your experience that night that these officers of the F.B.I. and the Albany Police Department that you mentioned were worried about violence occurring around those games?

MR. KATZER: Objection.

THE COURT: I'm going to sustain the objection. Rephrase the question, please.

BY MR. KUNSTLER: (cont'd)

Q All right. Was it your impression as you were down there at headquarters that night and getting this information to fill out this application for a search warrant that there was genuine worry in the Albany Police Department or in the F.B.I. or both that there would be violence around the games?

MR. KATZER: Same objection.

THE COURT: Worry?

MR. KUNSTLER: I will take away

worry.

BY MR. KUNSTLER: (cont'd)

Q Did you get the impression as you were down there that people were concerned about violence at the games and not having it occur if humanly possible?

A Not having the game occur?

Q No. The violence occur.

A I don't know if they were -- no, it didn't impress me that anybody was really upset about violence. It was more crowd control.

Q Nobody in the Albany Police Department that evening was, to your impression, concerned about violence occurring around the Springboks game?

A You're asking my impression and I gave it to you.

Q Did you have any impression prior to that night that there was a concern about violence in this city?

MR. KATZER: Objection.

THE COURT: Sustained.

BY MR. KUNSTLER: (cont'd)

Q Now, when you filled out the application for the search warrant you have already testified that the information that you were getting came not from the confidential informant that is mentioned in there but from police officers, F.B.I. agents -- you

remember those at least two sources?

A That's correct.

Q And it is a fact, is it not, that in what they told you they mentioned the fact that John Spearman was thought to have come to Albany to create violence, didn't they?

A That's correct.

Q All right. Now, is it not a fact also that the same police officers or some of them also told you that he had brought Mike Young with him to participate in that violence?

A I don't know if they told me that or not. They may have. I don't recall.

Q Look at your affidavit. The second page of it, I believe.

A O.K. I'm sorry. You're right, sir. I didn't recall. I didn't read that far down.

Q They told you Mike Young and someone by the name of William Robinson had come with John Spearman to create violence at the games?

A That's correct.

Q Now, all of the material you put in this affidavit of yours with reference to the creation of violence