

SUMMARY OF TESTIMONY OF RICHARD IVY  
ON DECEMBER 12, 1969, in PEOPLE VS.  
HIBBITT

DIRECT EXAMINATION BY MR. HARRISON:

Police officer for the city of Detroit (3). With his brother-in-law, and driver, Gerald McKinny, seated on right side of front seat, and in the rear was Willie Barry, Jr. (4). As approached Euclid saw traffic congested with a police car at the head of the traffic at an angle. Thought it was an accident. Told McKinny to back up and go up Euclid to get around it. Then observed an individual standing between the two cars on the right side of the street with a rifle up to his shoulder and shoot through the rear window of the police car (4). Shot approximately five to six shots (5). McKinny car was near the first alley-way going into the gas station (5). Was about 15 or 20 feet to the south of the south wall of the church (6). About five to six automobiles between their car, on both sides of the street, and the police car (6). Places the police car adjacent to the door of the church 15 feet from Philadelphia side of the church (6-7). The front end of the police car was toward the curb, but the rear was out in the street (7). About two to three cars parked near the curb; does not remember any parked north or in front of the police car at the curb (7). Saw no police officers around the automobile or on the sidewalk area next the the church (7). Saw about five to six individuals standing together on the sidewalk (7). They were in khaki-type military fatigues (8). They were south of that door; he just glanced at them and could not estimate their distance south of the door, as he was concentrating on the individual shooting. That individual was out from them and by the curb, and he too was dressed in a uniform. He saw one or two individuals out there with rifles--that is among the group

of five or six (8). As he told his brother-in-law to back up he heard and saw the shooting; traffic was behind them then too (9). The individual fired several shots through the rear window.

Witness could see there was a hole in the window and he could see the right hand side of the scout car and did not see anyone sitting there. Says he could see a blur on the other side of the scout car, the entire window was shattered, but there was a hole in the--and after he fired so many times the car began to idle off as if someone had placed it in gear and then all of a sudden it was as if someone hit the gas, it just went off and took a sharp right (9-10). He does not know what happened to the men who were on the sidewalk (10). \*\*\*\*\* As the scout car was idling off the shooter fired one or two more shots and then he turned and ran back toward me, sought on Linwood (10). Ivy told his brother-in-law to back up because he felt he was going to run across and he was going to try to catch him. The person made a turn, which the witness describes but which the record does not really reveal, and Ivy could see him for a while but then he lost sight (10-11). They had backed all the way around the corner. Ivy got out. He did not see anyone in the alley. He described a fence back there that is taller than he is (11). He did not see the fence there that night but he knew a fence was back there but he really couldn't tell it then (12-13). The portion of the fence that he could see (apparently that night) was taller than he (13). The next day or so Ivy went back to that area. He apparently then confirmed that the fence was the same height all the way along there (14-15). He saw nobody climb over the fence (15). He saw no one in the alley. As the individual was running the car was backing around the corner. Ivy had

him in sight until the individual got to a certain point. Ivy was thinking that he was just going to run all the way to the alley then because he didn't come across, Ivy lost contact with him (15). When Ivy lost contact with him the automobile was backing up (15-16). The car backed up to the alley, he got out, and did not see the person. As Ivy returned to the car his brother-in-law and Barry said "There goes one of them now dressed like those guys in front of the church." Ivy asked them where and they said "Across the street" (16). Ivy went to the building; saw one individual in the fatigues pushing a buzzer; he was in the vestibule where two other individuals were standing (16). Ivy went in and told the individual in uniform to come out. He had his service revolver; he brought him out, put his hands on the wall, searched and found that he had no weapons (17). That person was Clarence Fuller. Fuller was perspiring quite a bit. (17).

One of the individuals Ivy had earlier seen had a regular army helmet on. He also saw what looked to be a tam or beret of some sort. At the time Ivy witnessed the shooting he said that there were "people all over the street on both sides of the street on the Clark Gas Station". They were just standing there. He did not see the police car crash but heard it. He was watching the person running. He did not hear any other gunfire from that weapon. (18) He cannot remember hearing any gunfire before that (19). He did hear gunfire after that. He heard it from in front on the side of the church. After turning Fuller over to uniformed officers he was going to find his brother-in-law. He then heard firing again so he stopped and pursued it across the street. He then went across Linwood to the southwest

corner to a closed gas station where he saw his brother-in-law (19-20). Looking up Linwood he saw gunfire from the western wall of the church (20).

Describes shooter: "About five-ten, five-eleven; weighed about 160, 165, maybe 70 pounds. Just--he was dark complected. And, well, he was slim, but he was--he wasn't heavy or stocky, he seemed to be quite agile. And he was dressed in that fatigue uniform with a tam of some type on his head" (21). The tam was dark colored. He could not really estimate his age--"I seen him for a few minutes only because he was at an angle from me, and when he turned around he was at a crouch" (22). Asked if he saw any cars immediately behind the police car facing north. Answered, there were two cars there. The individual that was doing the shooting was between these two cars and one car was at the curb but behind the police car (22). This is in the parking lane. Mentions also that he did see one or two cars in the driving lane (22).

CROSS-EXAMINATION BY RAVITZ:

Age 26. With DPD a year and a half. Patrolman assigned to number ten, though at that time assigned to number sixteen (22-23). Graduate of high school in Detroit (23). Married. When they left the scene they went over to Barry's house where Ivy's wife was. He got his car and wife and proceeded to the 10th Precinct (25). He did not do a PCR that night or the next morning, but did it three or four days later (25). He went to number ten to make a report because he had arrested someone. That report is a PCR. But he did not do the PCR (25). He did not do so because a person behind the desk, after he told him he was on Linwood and had

observed certain things and inquired if they wanted a report, said they didn't need a report (26). He went to the 10th Precinct because he knew this was an important event. He knew in accordance with departmental regulations that it was his obligation to file the appropriate reports. He knew PCR's were to be done immediately and that is standard operating procedure which he is obliged to follow. Would even do so on a misdemeanor (29). That on this occasion the officer told him to forget it. (29) He does not know if that person was an officer or who he was; he was an individual in civilian clothes (29). He told the guy he had arrested someone and turned him over to uniformed officers. He explained that he was from the 16th Precinct then showed his identification. He said that he observed shooting and arrested an individual in uniform and asked if the man wanted him to fill out a report. The man said "No, we won't need one" (30). He describes the interior of No. 10 (30-31). Wife stayed in the car. There were people all over, in uniform and civilian clothes (31). Things were fairly unusual inside and the talk concerned itself about New Bethel (32). It appeared to be the cause of some of the confusion inside and the matter of priority attention (32). Ivy has the capacity to identify a ranking officer present and in charge. There were persons there on that night in uniform (33). He did not see any ranking officers. The person behind the desk was in civilian clothes and there were other patrolmen back there. The patrolman seemed to be available for conversation and the patrolman appeared busy, so he spoke to the man in civilian clothes (34). Does not claim that it was his judgment that he had been ordered by a superior officer to ignore the departmental regulations. Admits he could have asked

for appropriate forms to do a write-up. He had his identification and he had a badge. He knows that they keep PCR and other complaint forms there at the precinct and he knew it was his duty to do the report (35). He went home and went to bed. (35-36) The next morning he told his lieutenant. His lieutenant told him that he should have asked to make a statement of some kind. He already knew that. A lieutenant notified the sergeant and the sergeant notified homicide (36). Homicide told him to come down the next morning, not even that day. That is, he went to work Sunday at No. 16 and then Homicide was contacted. They told him to come to Homicide on Monday (37). He had read the newspapers. He knew one police officer had been killed. He is not even sure that he went to Homicide on Monday (38). But he knows he made a statement and the statement was sent down to Homicide and he was told to come to Homicide to make another statement. He was told this by Sgt. Wagner. He wrote a statement on a regular statement form and it was not even a PCR (38). It was an inter-office memorandum, not a PCR (39). He typed it; he believes it was five pages (39). It was a detailed statement and it was mailed to Homicide on Sunday, he believes (40). Homicide subsequently called the station and he was instructed to go there to make a statement. He went there right away at that time. He was going to see Wagner, who was not there at the time but was at No. 10. Ivy went to No. 10 (40). He spoke to Wagner at No. 10. He was questioned by Wagner as any police officer would question a witness. He spoke a couple of hours to Wagner, and it was a detailed conversation. Wagner had his prior statement at that time on the desk. Wagner took notes during their conversation. He added the matters contained in the statement (41). Ivy had not yet done a PCR. He never

got around around to doing a PCR. He went back to see Sgt. Wagner once or twice after that; Wagner had notified him to go to Homicide after he got off work (42). Within a week or two he had one or two subsequent meetings at Homicide with Wagner (43). In the subsequent one or two meetings with Sgt. Wagner, Wagner took notes (43).

Summarizing and correcting, on Sunday or Monday Ivy typed, himself, a one-page (with five copies) inter-office memorandum (44). Thereafter he met with Wagner two or three times and Wagner took long-hand notes. He also signed a statement, at the 10th Precinct meeting, for Wagner (45). That meeting took place, as he remembers, before noon. Wagner wrote the statement; he read each page and signed it (45). Ivy then corrects himself: HE WAS MISTAKEN WHEN HE SAID HE DID THE FIRST WRITE-UP (INTER-OFFICE MEMORANDUM, ON SUNDAY THE 30th OR MONDAY THE 31st; IN FACT HE PUT NOTHING IN WRITING UNTIL APRIL 5 (46). The fact that he was off duty at the time is in no way explanatory of the delay. Whenever a police officer sees a crime he is instantaneously on duty and the departmental regulations state that he was on duty 24 hours a day when he perceives a crime (47-48). Ivy accepts this, but highlights the difference between being there in civilian clothes with a gun and being there in uniform. The difference he admits is in how he might be treated (as a black man) by other officers (48). And then he stated: "And in a situation like this, I mean, I turn this individual over. I didn't--I didn't see this individual do anything, more or less."

(48) I DIDN'T--I DIDN'T SEE THIS INDIVIDUAL DO ANYTHING,  
MORE OR LESS."

He continues: "But I can identify him as of doing--I seen him in this uniform and I turned this individual over to uniformed officers. I can't swear to the fact that this was the individual I seen in front of the church doing the shooting" (49).

We bring out his concern and apprehension there in plain clothes on the street. He says "Yes, I was quite concerned." (49). It is brought out that this would affect his conduct on the street, and it did inasmuch as he turned Fuller over to other officers whom he was quick to show his badge to and then get out of the area (49). Witness then admits that once he was at the 10th Precinct, with his I.D. and his badge and within the confines of the precinct his conduct did not have to be any different in terms of being in plain clothes or being in a police uniform (50). He accepts this and then offers the following explanation: "What am I to do there? I don't know this individual's name or anything. I don't know anything about him, more or less, except that he had this uniform and I caught him here and I gave him to two uniformed officers. And I went in to make a statement as to what I saw and I asked him did he want the statement." Ivy states that he is sure he reported it to his lieutenant the next Sunday or Monday (50), and his lieutenant stated he did not see why they did not ask for a statement (51). But Ivy then states that that which was unusual continued to be unusual for a full week, with people higher than Ivy in terms of the chain of command knowing about it and not demonstrating by their conduct doing anything about it with regard to Ivy (51). The witness states that he has no other explanation for the week delay (51). There were numerous cars between his car and the police car, five or six cars (52). When asked, states that yes it was possi-



ble there could have been as many as seven to ten (52-53). All traffic was at a stand still. He payed no attention to traffic and cannot say if any cars drove by the police car (53). He places the police car near the front side door with the back portion of the car near the side door (54). He did not at that time locate it with respect to the door and did not know anything about that door; he never saw that door open (54). He can describe none of the cars numbering possibly seven to ten, on the street (54-55). He saw no cars in front of the police car facing north on Linwood. There may have been some cars facing south but he saw none facing north (55). In fact, as he previously testified, he saw the police car as the "front" car (55). He places the shooter as standing between two cars parked at the curb and standing right on the curb with a small rifle, probably a carbine raised to his shoulder (58). He fired six, seven shots in rapid succession (59). It could have been a couple less or more. All the shots came from this one weapon. He saw other persons on the street closer to the church, right next to the church and also to the rear of the police vehicle and a little more to the rear than the shooter (59-60). He cannot describe these persons or they were in uniform. He does not know if all of them were in uniform. He did not see any of them pointing any weapons. During the six or seven shots the police car began moving. He doesn't know where the cars behind him went, but they started backing up (60). There was no difficulty backing up and they backed all the way to Eublic and around the corner (61). There were no vehicles in the way impeding their backing up. He drove all the way around to the south of the alley in reverse (61-62). He did so at a little faster than

normal speed. When the scout car began to idle off at a slow pace the shooter stepped down as if he was going to follow the car. He fired one or two shots then turned and ran, running a crouched position, holding the rifle in one hand. He was running fast in a crouched position and carrying the rifle and running toward their vehicle which was already backing up (62-63). During the time it took for them to back up from the gas station driveway closest to the church to the corner the shooter had already run the distance near the front of the church all the way back nearly the length of the church (63-64). He had run about twice the distance they had driven. They then backed around the corner and at about the same speed backed all the way to the mouth of the alley (64). Ivy believed that if they went to the alley he could maybe observe the person coming out of it (64). He got out the front right door and walked into the alley, which was just a couple of steps (65). He looked up the alley and did not see anyone (65). He came out of the alley and the other two in his car informed him that an individual had gone into the apartment on Euclid (66). He had stood at the alley 15-20 seconds (66). It was dark in the alley, he had just come off the street and was trying to focus and to see if he could see anything (66). The map does not show the extension of the alley running east and west and Ivy cannot testify to its existence; he does not know (67). He did not see the person enter the apartment on Euclid, the person was already there (67). He took out his service revolver, saw Fuller pushing buttons, arrested him, searched him outside and found no weapons (68). He had observed the floor of the vestibule and saw nothing on the floor; there was no question in his mind that if Fuller had a rifle in that

lobby area he would have observed it; there was none there (68). Took Fuller to other officers, crossed Linwood and then to McKinny's car (68). When he turned Fuller over to the other officers they asked him if he had seen Fuller shooting and he said no (69). Ivy is asked how tall Fuller was and he states he doesn't know the person leaning against the wall while being frisked; he's reminded that the person also walked with him and asked if Fuller is not shorter than he, he being five foot 11. He states this is possible, right (69). He's asked if Fuller isn't several inches shorter and he states he does not know (70). Ivy then resists saying that the man he saw running was thin, but is then reminded he himself used the word "slim" (70). He's then asked to define the word slim and states that it is one built similar to himself (70). Ivy is 5-11, 165 pounds. He is asked if it would be fair to say that the shooter fit his description and he stated that this could be possible, yes (71). He was then asked: "And there was in your mind, as you arrested Mr. Fuller that night, that you had not seen him shooting?" Answer: "Well, because the individual I seen had a hat and a rifle and I really didn't see him that good. And then I see Fuller and he doesn't have a hat on and he doesn't have a rifle (71). The shooter was dark complected. He had something on his head, a tam or some kind of hat (71-72). Hibbitt was not the shooter, he is sure of that (72). He described the person, by the manner in which he ran in a crouch, as agile (72). He admits that he could not see the fence that night. (73). But states that he knew a fence was back there (73-74). The fence is taller than he. He believes it is plywood (74). As far as he knew when he

left the scene the person he had seen shooting had not been apprehended. As far as he knew, the person he had seen shooting had not re-entered the church (74-75). He testified and repeated that the other persons he saw standing he thought were south of the shooter, but he can really not specify how far south they might have been, he just saw them in a passing glance (75). Does the exhibit diagram (75-76). He did not hear any shooting until the first shot described from the rifleman he described (77). He saw no one else run into that area behind the church and in the Clark Gas Station. Persons could have gone in there later on, he doesn't know (78). \*\*\*\*\* (Careful; this is the wrong order). Took about five or six minutes from the time they started backing the McKinny car up until the time he turned Fuller over to the officers. They then stayed on the scene about another 20-25 minutes across on Linwood (78). He saw shots coming from behind a scout car directed at the church (78-79). Could have been from a rifle or a shotgun. He's unable to estimate the number of such shots (79). He doesn't know to whom he turned Fuller over and could not make a note of it because when he turned him over there was firing; to this day he's not had any conversations with whomever it was he turned Fuller over to. He did not state to them that he saw Fuller shooting because, in point of fact, he did not (79).

RE-DIRECT EXAMINATION BY HARRISON

Tenth Precinct was not his regular precinct and he did not know the person behind the desk. He assume he was in charge (80). He saw the man run from the curb to the end of the building (12-1/2 inches), and from there to the northwest peak of the building--the far peak, a distance of nine inches (82). The

car backed up from the driveway to the corner (9-1/2 inches) and from the corner to the alley (11-1/2 inches) (82). In red ink on our exhibit Ivy marks in the location of the McKinny car at the time he saw the gunman round the corner of the church, that is the southwest corner (84). He also labels the approximate location of where he stood in the alley and also where the apartment was where he arrested Fuller (84-85). He does not know if the shooter was or was not Clarence Fuller. States its possible it could have been Fuller. States complexion and height were more or less (some inference he meant the same ) but that Fuller seems to be a little--"Well, at that time he was a little bigger than the individual I seen, but I could possibly in wrong in his weight (85-86). Identifies exhibits the alley at the rear of the Clark Station.

Defendant's Exhibit AA:

The Court then permitted Ravitz to read the inter-office memorandum into evidence before the jury. And, thereafter, he let Harrison read whatever portions he elected to. See Pages 88-92.

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THE INTER-OFFICE MEMORANDUM POINTS OUT THAT THE OFFICERS ASKED IVY IF HE HAD OBSERVED FULLER SHOOTING AND HE SAID NO. HE ALSO STATED THAT THE SHOOTER HAD A RAG OR TURBAN OF SOME KIND ON HIS HEAD (THIS IS NOT PARTICULARLY HELPFUL, AS WE WOULD WANT HIM TO HAVE A BETTER VISION OF THE SHOOTER WHO WAS NOT FULLER). FUNDAMENTALLY WE SHOULD SHOW THAT ABOVE ALL, IVY IS STILL A COP. THE LAST SENTENCE OF HIS REPORT WAS "WOW, WERE--WE WERE PINNED DOWN AT THE GAS STATION I OBSERVED FLASHES COME FROM THE CHURCH." (92). HE NEGLECTS TO MENTION THE MANY, MANY MORE SHOTS BEING

FIRED AT THE CHURCH. THE MAN IS NOT OBJECTIVE AND IMPARTIAL.