

1 Q and I believe in having had a little knowledge
 2 A of psychology, you are sincere.

3 Select Commission But in making your report to the

4 Q Governor, what I have said may not make a lot
 5 background? of sense to you right now but my case and

6 A others like mine is the beginning and was the
 7 New Jersey beginning to the end.

8 Q Major, You have to start someplace and you
 9 did you multiply mine by others and others and others
 10 that have been and what do you get? You get the rebellion,
 11 County Prison the hurt, not hate.

12 A That's Lerol Jones doesn't hate.

13 Q Is it? CHAIRMAN LILLEY: Mrs. Ford, I think
 14 from the we have listened to your message and gotten it
 15 specific and we will consider it.

16 A I received THE WITNESS: Thank you very much. I
 17 to give the hope I have been of service to you.

18 Q No. I think * * *
 19 exhibit.

20 A All right. I received the three as the copy

21 JOHN A. FITZSIMMONS, Sworn.

22 EXAMINATION BY MR. JAFFE:

23 Q Give your full name and address, please.

24 A John A. Fitzsimmons, 21 East Short Trail,

25 Sparta, New Jersey. MR. JAFFE: Could we mark all the autopsy

1 Q By whom are you presently employed?

2 A I am presently employed by the Governor's
3 Select Commission To Study Civil Disorders.

4 Q Could you just briefly give us your employment
5 background?

6 A I recently retired as of June 1 as a major in the
7 New Jersey State Police after having put in 27 years.

8 Q Major, pursuant to directions of the Commission
9 did you procure and do you have with you 26 autopsy reports
10 that have been received from Dr. Albano and the Essex
11 County Prosecutor's Office?

12 A That's right, sir.

13 Q Is it 23 of those or 24 from Dr. Albano and
14 3 from the Prosecutor's Office? I don't recall the
15 specific designation.

16 A I received the three on the top. Do you want
17 me to give the names of them?

18 Q No. I think we can just mark them all as one
19 exhibit.

20 A All right. I received the three on the top
21 from the Prosecutor's Office and the other 23 you had
22 received from Dr. Albano.

23 Q And sent to the Commission?

24 A Right.

25 MR. JAFFE: Could we mark all the autopsy

1 ballistics reports in as one exhibit?

2 (File containing reports marked Exhibit
3 C-112 in evidence.)

4 Office Q Major, do you also have in your possession
5 various ballistics reports?

6 A Yes, I do.

7 in here Q Could you tell me how many ballistics reports
8 you have and where they come from?

9 A I have nine ballistics reports, nine copies of
10 ballistic reports that I received from the Newark Police.

11 report that you MR. JAFFE: Would you mark those in as
12 that you did an exhibit, nine ballistics reports from the
13 Newark Police.

14 (Reports marked Exhibit C-113 in evidence.)

15 of the Q For the purpose of the record would you read
16 those nine names in.

17 A Leroy Boyd, Robert Rizzuti. Incidentally I
18 may mention here that this as far as we are able to find up
19 to the present time has no connection per se with the riots
20 but it was included with them.

21 Detective Frederick Toto, Jessie Jones, Rose
22 Abraham, Michael Moran, Isaac Harrison, Rufus Council,
23 Rufus Hawk.

24 Lt. That's it.

25 Q Now Major, could you tell us how many other

1 ballistics reports you have and where you received them
2 from?

3 A Nine ballistic reports from the Prosecutor's
4 Office.

5 Q Are those the same ones?

6 A That's Essex County. There is one difference
7 in here.

8 Q One extra one?

9 A Yes.

10 Q Could you give us the name of the ballistic
11 report that you received from the Prosecutor's Office
12 that you did not receive from the Newark Police Department?

13 A James Rutledge.

14 Q All the other ballistics reports are copies
15 of the nine that we have?

16 A That's right.

17 MR. JAFFE: May I have those marked as
18 an exhibit, please?

19 (Reports marked Exhibit C-114 in evidence.)

20 Q Major, who did you discuss the matter of
21 ballistics reports with in the Prosecutor's Office?

22 A Prosecutor Brendan Byrne initially and then
23 Assistant Prosecutor Andrew Zazzali, Chief Anderson,
24 Lt. Ryall and Detective Fred Reitzel.

25 Q Are the ten ballistics reports you received

1 from the Prosecutor's Office the only ballistics reports
2 that they have on the 26 deaths?

3 A I have been told that, yes, sir.

4 Q Who told you this?

5 A All of the men that I just mentioned.

6 Q Are there are no other ballistics reports that were
7 given to you after you made a request for all that we could
8 obtain?

9 A That's right.

10 Q Now Major, do you have with you seven incident
11 and arrest reports that were sent to the Commission from
12 Director Spina?

13 A I have five incident reports, one of which is
14 more or less of a double. It mentions two defendants so
15 it could be classified as six incident reports, nine
16 arrest reports. Some are duplicated. One defendant was
17 arrested twice, for instance.

18 Q I see. But the total number of defendants
19 that are involved in the reports that you have are seven?
20 There are seven defendants?

21 A That's right.

22 Q Could you tell me what you did with those
23 reports pursuant to my directions?

24 A Right. I checked the seven arrest reports and
25 incident reports with the Prosecutor's Office and verified

1 that the arrest had been forwarded over there for further
2 prosecution, in some instances indictments which are
3 indicated in this report.

4 Q Now did the Prosecutor's Office inform you that
5 the seven individuals that are named in those reports that
6 you have are the seven individuals that the Director of
7 Police, Dominick Spina, referred to when he testified before
8 this Commission that these were the people involved in
9 sniping or related incidents?

10 A That's right.

11 Q Now who informed you of that?

12 A Captain Dughi of the Prosecutor's Office.

13 Q Do you have a copy of the report that you made
14 to me on your follow-through with the Prosecutor's Office
15 as to the current status of those seven matters?

16 A Yes, sir, I have.

17 MR. JAFFE: May I have the seven incident
18 reports marked in as one exhibit?

19 (Reports marked Exhibit C-115 in evidence.)

20 MR. JAFFE: May I also have marked in
21 as an exhibit his report to me?

22 (Report marked Exhibit C-116 in evidence.)

23 Q Major, pursuant to my directions did you
24 prepare a chart of the homicides that occurred during
25 the riot in Newark in July of 1967 between the period of

1 7/13 and 7/18?

2 A Yes, sir, I did.

3 MR. JAFFE: May I have this chart marked
4 in evidence, please?

5 (Chart marked Exhibit C-117 in evidence.)

6 Q Major, could you for the record just briefly
7 describe the chart and what it depicts and also tell us how
8 you prepared it.

9 A The chart indicates 26 victims, their addresses,
10 age, race and so forth, location of incident, time, autopsy
11 report and ballistic report.

12 Q How did you prepare that?

13 A These were prepared from checking records at
14 the Prosecutor's Office. The information was taken down
15 and set up in a chart form.

16 Q Now the information that is set forth under
17 autopsy report and ballistic reports was taken from the
18 autopsy reports and ballistic reports which have already
19 been introduced in evidence, is that correct?

20 A That's right.

21 Q The information that is set forth there as to
22 location, etc, is information that was obtained by you
23 at the Prosecutor's Office and given to you by the
24 Prosecutor's Office, is that right?

25 A That's right.

1 Q And the information that is set forth, name,
2 address, age and race, was taken from information in the
3 Prosecutor's Office and also from the autopsy reports which
4 were introduced in evidence, is that correct?

5 A That's right, sir.

6 Q Now that chart is characterized on the top by
7 the phrase "Homicides During July 1967-Newark Riot-
8 7-13, 7-18".

9 Could you tell us the reason for the characterization
10 "homicide"?

11 A The characterization was taken from the records
12 of the Prosecutor's Office. This is the way they were listed
13 in the Prosecutor's Office.

14 MR. JAFFE: Are there any other questions
15 of the witness?

16 MR. DRISCOLL: Major, you served for a
17 long time in the State Police.

18 During any period of that time did the
19 State Police have rifles?

20 THE WITNESS: The State Police did have
21 up until the time I left on June 1 a small
22 number of rifles, yes.

23 MR. DRISCOLL: What caliber?

24 THE WITNESS: Thirty-thirty, 1894
25 Winchester carbines.

1 that MR. DRISCOLL: In the course of your
2 investigation did you learn whether or not the
3 State Police were issued rifles by the National
4 Guard during the course of the riots in the
5 City of Newark?

6 THE WITNESS: No, sir, I did not learn
7 that.

8 MR. DRISCOLL: You don't know whether
9 they had rifles or not?

10 THE WITNESS: No, sir, I do not.

11 MR. DRISCOLL: That is all I have.

12 Q The person who is listed as having expired as
13 a result of an overdose of narcotics, how did they list that
14 and why is it included in the so-called list of victims, which
15 I think is the word you used?

16 A I think the reason that was done was that they
17 took it in the very broad sense of the word. They took any
18 homicides, anything that they considered a homicide that
19 happened in that time and they included that in there. It
20 is far-fetched.

21 VICE CHAIRMAN BROWN: A homicide, as I
22 laboratory. understand it, is a situation where someone's
23 and exited at life is taken by someone else.

24 Q THE WITNESS: That's right.

25 VICE CHAIRMAN BROWN: Did they suggest

1 for that? that they were given an overdose by someone else?

2 A Yes. THE WITNESS: No, there is no suggestion
3 of that kind. It is just like they had a woman
4 in there as deceased who was involved in an
5 accident with a piece of fire apparatus. That
6 is included.

7 VICE CHAIRMAN BROWN: She died as a result
8 of a heart attack, didn't she?

9 THE WITNESS: No. She died as a result
10 of a broken pelvis.

11 VICE CHAIRMAN BROWN: There has been no
12 definition beyond that that is available on
13 the record?

14 THE WITNESS: No, sir.

15 Q Major, on that chart and from your review
16 there are some deaths by shooting in which there are no
17 ballistic reports.

18 The Commission is now in the possession of ten. Do
19 you have an explanation for some of those?

20 A Yes. Some of them are where the bullet passed
21 clear through so there was nothing to send to the
22 laboratory. The bullet went through one part of the anatomy
23 and exited at another and there is no slug.

24 Q Are there cases in which the bullet did not
25 go through the body and we do not have a ballistic report

1 for them?

2 A Yes. I think there are six or seven of them
3 where we do not have the reports.

4 Q Did you have any explanation when you inquired
5 from the Prosecutor's Office as to why we do not have those?

6 A No, there is no explanation.

7 Q But you did request those?

8 A That's right.

9 MR. JAFFE: That is all I have.

10 I would like to also put on the record
11 that I would like to introduce in the record
12 the 275 affidavits from the Newark Neighborhood
13 Legal Services which have been turned over to
14 this Commission.

15 These affidavits are relevant to the
16 testimony of Mr. Dickinson Debevoise, who has
17 previously testified.

18 I would like to introduce this in the
19 record after that.

20 (Affidavits marked Exhibit C-118 in
21 evidence.)

22 MR. JAFFE: This is a memorandum to the
23 Governor's Select Commission On Civil Disorder
24 from Colonel Kelly, subject: Supplementary
25 Information Concerning The Newark Riots of

1 July 1967" and it is pursuant to the request of
2 the Commission for a count of the ammunition
3 expended by the State Police by caliber during
4 the riots in Newark.

5 I would like to mark that as an exhibit.

6 (Report marked Exhibit C-119 in evidence.)

7 MR. JAFFE: For the record I would like
8 to introduce two photographs of clip of M-1
9 bullets. The clip of bullets shown in the
10 two photographs was referred to by Miss Nancy
11 Ferguson in her testimony before the Commission.
12 She brought with her at that time the clip.
13 She did not want to introduce it into evidence
14 and wished to retain possession of it but she
15 consented to photographs of it and for that
16 purpose I am putting these in the record. Mark
17 these two in the record.

18 (Photographs marked Exhibits C-120
19 and C-121 in evidence.)

20 MR. JAFFE: That is all.

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22 * * *
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