



Willie Rainge

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In 1995, the Illinois Supreme Court unanimously reversed Jimerson's conviction and ordered a new trial due to witness perjury. In 1996, DNA testing exonerated all five defendants and led to the arrests and convictions of the three actual culprits; a fourth was deceased.

In 1999, Cook County settled lawsuits filed by the innocent men — known as the "Ford Heights Four" — for \$36 million, the largest civil rights payment in U.S. history. Rainge's share of the settlement was \$7.3 million. In 2008, Gray's suit against Cook County also settled for an additional \$4 million.

State: Illinois

County: Cook

Most Serious Crime: Murder

Additional Convictions: Rape

Reported Crime Date: 1978

Convicted: 1978

Exonerated: 1996

Sentence: Life

Race: Black

Sex: Male

Age: 20

Contributing Factors: Mistaken Witness ID, False or Misleading Forensic Evidence, Perjury or False Accusation, Official Misconduct

Did DNA evidence contribute to the exoneration? Yes

:

Report an error or add more information about this case.

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Verneal Jimerson

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— *Center on Wrongful Convictions*

State: Illinois

County: Cook

Most Serious Crime: Murder

Additional Convictions: Rape

Reported Crime Date: 1978

Convicted: 1985

Exonerated: 1996

Sentence: Death

Race: Black

Sex: Male

Age: 25

Contributing Factors: Mistaken Witness ID, Perjury or False Accusation, Official Misconduct

Did DNA evidence contribute to the exoneration? Yes

:

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Kenneth Adams

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— *Center on Wrongful Convictions*

State: Illinois

County: Cook

Most Serious Crime: Murder

Additional Convictions: Rape, Kidnapping

Reported Crime Date: 1978

Convicted: 1978

Exonerated: 1996

Sentence: 75 years

Race: Black

Sex: Male

Age: 21

Contributing Factors: Mistaken Witness ID, False or Misleading Forensic Evidence, Perjury or False Accusation, Official Misconduct

Did DNA evidence contribute to the exoneration? Yes

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http://articles.chicagotribune.com/2002-10-13/news/0210130286_1_polygraph-real-spies-false-positives

The truth is that polygraphs lie

October 13, 2002|By Steve Chapman. Steve Chapman is a member of the Tribune's editorial board.

In May 1978, four men were arrested by Cook County Sheriff's deputies for murdering a suburban man and raping and murdering his fiancée (this sentence as published has been corrected in this text). All of the suspects claimed they were innocent, but there was no real doubt about their guilt: Three of them, after all, had failed a polygraph exam.

Eventually, the Ford Heights Four, as they became known, were convicted for these brutal slayings, and two of the defendants were sentenced to death. But in 1996, DNA evidence exonerated all four. They had spent 18 years behind bars, partly because the lie detector lied.

FOR THE RECORD - This story contains corrected material, published Oct. 15, 2002.

A report issued last week by the National Academy of Sciences recommended that the federal government stop using polygraphs to screen for security risks. Why? Because, in the words of the study, these devices are "intrinsically susceptible to producing erroneous results." That's academese for "I wouldn't trust one as far as I could throw it."

The Department of Energy adopted polygraph screening of employees in response to the case of Wen Ho Lee, a scientist who was accused of spying for China but was convicted of only a minor security violation. DOE now tests about 2,000 people a year. But George Mason University systems engineering professor Kathryn Laskey, a member of the NAS committee, noted, "No spy has ever been caught using the polygraph."

There are particular dangers in subjecting lots of people to polygraphs in the effort to find a few wrongdoers, because false positives will greatly outnumber "true" positives. Some employees who have done nothing wrong will nonetheless have physiological reactions that look suspicious. Some accomplished liars will be able to fool the machine.

To nab 8 out of every 10 real spies, the NAS report found, the device would probably have to erroneously implicate nearly 1,600 people. If it were set to minimize false positives, 80 percent of the real spies would slip past. But even then, 20 innocent people would be flagged for every guilty one.

The same fallibility that renders these machines unusable for employee monitoring makes them dangerous for criminal investigations as well. Police and prosecutors regard polygraph results as the closest thing to a dead-bang certainty. But that faith lacks any foundation. "Almost a century of research in scientific psychology and physiology provides little basis for the expectation that a polygraph test could have extremely high accuracy," concluded the panel.

And there is no reason to think better technology will help. People simply don't respond in a clear and predictable way to questions about what they may have done wrong. The "inherent ambiguity of the physiological measures used in the polygraph suggest that further investments in improving polygraph technique and interpretation will bring only modest improvements in accuracy," said the report. Polygraphs are a crude instrument that can't be refined.

The consequences of a misleading polygraph exam are bad enough in the employment arena, where someone can lose a job or not be hired. But they're much worse for criminal suspects, who can be locked away or even put to death because their pulse rate rose too much in a stressful situation.

A polygraph result generally can't be used as evidence in court. But some states allow the information if both the prosecution and the defense concur. So prosecutors may offer suspects the opportunity to clear themselves. Innocent suspects sometimes feel they have nothing to lose and much to gain from going along--only to fail the test.

A couple of weeks ago, one **Jimmy Williams** was officially cleared by an Ohio court after spending 10 years in prison for the alleged rape of a 12-year-old girl. In fact, the rape never happened, but the Akron man nonetheless managed to fail a polygraph exam. Because his lawyer had agreed in advance to admit the results, the jury was told that the lie detector had implicated him.

Other defendants have been victimized not only by the polygraph itself but by its aura of infallibility. **Gary Gauger** was sentenced to death for the murder of his parents on their McHenry County farm but was eventually exonerated. He took a polygraph during his interrogation, and the results were inconclusive. But the police told him he had failed it.

He was so rattled by the news that the cops were able to get him to speculate aloud how he might have killed his parents. Those statements were then used to convict him of a crime he never committed.

Our medieval forebears had their own lie detector test: Suspected witches were dunked in water, on the theory that the innocent would sink and the guilty would float (this sentence as published has been corrected in this text). Polygraphs aren't quite so preposterous, but they're bad enough.



Dennis Williams

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State: Illinois

County: Cook

Most Serious Crime: Murder

Additional Convictions: Sexual Assault, Kidnapping

Reported Crime Date: 1978

Convicted: 1978

Exonerated: 1996

Sentence: Death

Race: Black

Sex: Male

Age: 21

Contributing Factors: Mistaken Witness ID, False or Misleading Forensic Evidence, Perjury or False Accusation, Official Misconduct

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<http://www.victimsofthestate.org/IL/indexSCH.html>

Cook County, IL
Ford Heights Four
May 11, 1978

Kenneth Adams, Dennis Williams, Willie Ränge, and Verneal Jimerson were convicted of gang raping and murdering 23-year-old Carol Schmal and murdering her fiancé, Larry Lionberg. The crimes occurred in the town of Chicago Heights which was subsequently renamed Ford Heights. The four, who later became known as the Ford Heights Four, were sentenced to 75 years, death, life without parole, and death respectively.

Years later, Northwestern University journalism students investigated the case. They uncovered a police file showing that, within a week of the crime, a witness had told the police that they had arrested the wrong men. The witness said he knew who committed the crime because he heard shots, saw four men run away from the scene, and the next day saw them selling items taken from the robbery of the victims. One of the men identified by that witness was by then dead, but the other three ultimately confessed. Then the results of the DNA testing established the innocence of the Ford Heights Four and implicated the three who had confessed. The four were pardoned and released in 1996. In 1999, the four were awarded \$36 million in damages. Their case was the subject of a 1998 book entitled *A Promise of Justice*.

At a retrial in 1987, prosecutor Scott Arthur used blind belief in the police to counter defense arguments. “Maybe the police made up all this evidence ... That's too far-fetched. If your find the defendants innocent, don't do it because [of a specific defense argument.] Do it because you believe the police framed these men – because that's what you would have to believe now.” In 1997, following a federal investigation into Ford Heights police corruption, Chief Jack Davis and five other officers – more than half the town's police department – were convicted of extorting bribes from drug dealers and abetting them in their distribution of heroin and crack. Some of the real killers of Schmal and Lionberg were drug dealers and the police department protected them by charging and convicting four innocents of the murders. (CWC1) (CWC2) (CWC3) (CWC4) (IP1) (IP2) (IP3) (IP4) [1/06]

**Dennis Williams, Illinois
Convicted 1979; Released 1996**

Mr. Williams, along with three other men now known as the "Ford Heights Four," was convicted of a double murder and rape. Mr. Williams and Verneal Jimerson were both sentenced to death for the crime. Mr. Williams was charged based on the statement of a witness who claimed to have seen him near the scene of the crime, and the statement of Paula Gray, a 16-year old retarded girl, who gave a statement that she held a Bic cigarette lighter for more than 30 minutes as the four men each raped one of the victims and then killed them. Shortly after telling this to the police, Paula Gray admitted that this statement was a lie and that she had seen nothing. As a result, prosecutors charged her in the crimes as well. On appeal, the Illinois Supreme Court reversed Mr. Williams' conviction based on ineffective assistance of counsel by his trial lawyer who had since been disbarred. In preparation for retrial, the prosecution convinced Paula Gray to testify for the prosecution once again. In her testimony, Paula Gray denied that she was receiving anything for her cooperation and claimed that she saw Mr. Williams and the others commit the crimes. Mr. Williams was again convicted, and Paula Gray was released. Many years later, she would again recant her testimony and explain that she had been threatened and coerced by the police to give her initial statement and her subsequent testimony. In the meantime, police notes that had been withheld from the defense showed that the police

had received a significant lead just days after the murder from a witness who had seen the killers leaving the scene of the crime. The police never followed up on the lead because they had already committed themselves to charging Mr. Williams and the others. Following up on these notes, journalists interviewed the identified suspects and obtained admissions from two of the real killers, who made it clear that the Ford Heights Four had nothing to do with the crimes. The admissions of these men were corroborated when DNA testing excluded each of the Ford Heights Four and implicated one of the true killers. As a result of this new information, the Cook County State's Attorney dismissed all charges against Mr. Williams and his co-defendants, and obtained convictions of the actual killers. The Governor of Illinois then pardoned the Ford Height Four based on factual innocence. Apologizing to the men for what had been put through, the State's Attorney explained that this case is a "glaring example" of the system's fallibility.

<http://www.law.northwestern.edu/cwc/exonerations/ilWilliamsDSummary.html>

DENNIS WILLIAMS

Police and prosecutorial misconduct put Dennis Williams on death row



Dennis Williams (Photo: Loren Santow)

In what became known as the Ford Heights Four case, Dennis Williams and [Verneal Jimerson](#) were sentenced to death for a 1978 double murder they did not commit. Two other innocent men, Willie Rainge and [Kenneth Adams](#), also were convicted in the case and sentenced to prison for terms of life and 75 years, respectively.

In 1983, [Rob Warden](#) exposed serious problems with the case, but it took another 14 years to exonerate the innocent men. The exoneration came about as a result of monumental efforts by a legal team that included Lawrence C. Marshall and a student investigative team headed by Northwestern Professor David Protess.

By the time the men were freed, [DNA](#) had excluded all of the men. Moreover, the investigative team had uncovered evidence leading to the arrest of the actual killers, who eventually confessed, were convicted, and were sentenced to prison.

The miscarriage of justice resulted from coercion of one witness for the prosecution, perjury by another who had a financial incentive to lie, false forensic testimony, and police and prosecutorial misconduct.

The story of the Ford Heights Four is told in a book Rob Warden co-authored with Northwestern University Professor David Protess — [A Promise of Justice](#), Hyperion (1998).

So egregious was the official misconduct that in 1999 Cook County settled lawsuits filed by the Ford Heights Four for \$36 million — the largest civil rights payment in U.S. history.

CASE SUMMARY

CATEGORY: Exoneration

DEFENDANT'S NAME: Dennis Williams

JURISDICTION: Cook County, Illinois

RESEARCHED BY: Rob Warden
Executive Director
Center on Wrongful Convictions

DATE LAST REVISED: December 9, 2000

FACTS

Date of crime:	May 11, 1978
Convicted of:	Kidnaping, armed robbery, rape, and two murders — at each of two trials, the first in 1978 and the second, after reversal of the initial conviction, in 1987.
Death-qualifying factor(s):	Multiple murder and murder committed in the course of another felony
Date sentenced:	February 6, 1979, first trial; March 1987, second trial
Date released:	June 14, 1996
Months lapsed sentence to release:	209
Defendant's age at time of crime:	21 — born February 13, 1957
Defendant's sex:	Male
Defendant's race:	African American
Victim(s):	Lawrence Lionberg and Carol Schmal
Age of victim(s):	29 and 23
Sex of victim(s):	Male and female
Race of victim(s):	Caucasian
Relationship of victim(s) to defendant:	None
Trial judge:	Dwight McKay, first trial; Frank Meekins, second trial

Prosecutor(s):	Clifford Johnson and J. Scott Arthur, first trial; J. Scott Arthur and Deborah Dooling, second trial
Defense attorney(s):	Archie B. Weston at first trial, Isaiah (Skip) Gant at second trial
Defendant's plea:	Not guilty at both trials.
Did defendant have an opportunity plead guilty in exchange for a lesser sentence?	No
Was guilt phase bench or jury?	Jury at both trials
Was sentencing bench or jury?	Jury at first trial, judge at second
Summary of state's theory of case at trial:	Sometime after 2:30 a.m., Lawrence Lionberg and Carol Schmal, who had just become engaged, were abducted from a gas station near virtually all-white Homewood, Illinois, and taken by Williams and co-defendants Kenneth Adams, Willie Rainge, and Verneal Jimerson to an abandoned townhouse in virtually all-black East Chicago Heights, where Schmal was raped seven times by the four men and, along with Lionberg, shot to death. (Williams, Adams, and Rainge were tried together in 1978. Williams was sentenced to death, Adams and Rainge to long prison terms. For reasons explained below, Jimerson was not tried until 1985. He, like Williams, was sentenced to death. The convictions of Williams and Rainge were reversed in 1982, but they were tried and again convicted in 1987. Williams again was sentenced to death, Rainge to prison.)
Summary of defense:	Mistaken identity, absolute actual innocence.
Did the defendant confess or make an inculpatory statement?	No
Did the defendant testify at trial?	No
Was there eyewitness testimony?	At the 1978 trial, Charles McCraney, who lived near the murder scene, testified that Williams and two co-defendants, Willie Rainge and Kenneth Adams, had been in and around the abandoned townhouse about the time of the crime. At the 1987 trial, McCraney again so testified, but he was joined by Paula Gray, a 17-year-old friend of the defendants, who claimed that she witnessed the rape and murders by Williams, Adams, Rainge, and the fourth co-defendant, Verneal Jimerson.

<p>Was there serological evidence?</p>	<p>Yes. At the 1978 trial, state serologist Michael Podlecki testified that at least one of the rapists had been a type A secretor (a blood characteristic shared by 25% of the population) and that both Williams and Adams were type A secretors. Before the 1987 trial, serological retesting by Edward T. Blake, an independent forensic scientist, established that Podelicki's original testimony had been incorrect and that Williams in fact was a type A non-secretor. Neither the defense nor prosecution introduced serology evidence at the second trial. When the convicted men succeeded in obtaining DNA testing, over strenuous objections from the prosecution, it eliminated them as sources of the semen recovered from the female victim. That testing was conducted by Dr. Edward T. Bing, a Harvard Medical School geneticist.</p>
<p>Was there hair or fiber evidence?</p>	<p>Yes. Michael Podlecki testified at the 1978 trial that three of several Caucasian head hairs allegedly recovered from the back seat and trunk of Williams's car "matched" the hair of Lionberg and Schmal.</p>
<p>Was there other physical evidence?</p>	<p>None purporting to link any of the defendants to the crime.</p>
<p>Was there informant testimony?</p>	<p>Yes. David Jackson, facing burglary charges, testified at the first trial that he had been in a cell with Williams and Rainge shortly after their arrest. Jackson claimed that he overheard Williams and Rainge talking about raping a white woman and killing her boyfriend the night before. Jackson quoted Williams as saying, "They'll never find the pistol, you know. We ain't got nothing to worry about." Jackson did not testify at the second trial.</p>
<p>Did the informant(s) receive anything of value for testifying?</p>	<p>Yes. On October 11, 1994, Jackson recanted, saying he had fabricated his 1978 testimony "because I was offered a deal" by Assistant State's Attorney's Clifford Johnson and J. Scott Arthur. In return for his false testimony, said Jackson's affidavit, Johnson "put me in protective custody and had me flown to Minneapolis, Minnesota, about five days after the trial. I stayed there about six years before returning home."</p>

<p>Was there accomplice testimony?</p>	<p>Not at the first trial, but at the second. Following interrogation spanning more than two days in two motels in May of 1978, Paula Gray gave Cook County sheriff's police a statement saying she had been present when the four defendants raped Carol Schmal seven times and shot Schmal and Lawrence Lionberg to death. Before the first trial, she recanted, whereupon prosecutors charged her with both the murders and perjury. She was convicted and sentenced to a total of 50 years in prison. After the Williams and Rainge convictions were reversed and remanded, prosecutors made a deal with Gray to secure her release from prison if she would testify against the defendants. She took the deal and testified against Verneal Jimerson at his 1985 trial and then against Williams and Rainge at their 1987 retrial.</p>
<p>If so, does it appear that the accomplice(s) received any benefit for testifying?</p>	<p>Yes. Gray, who had been serving a 50-year sentence for her role in the murders, was released from prison on April 23, 1987, seven weeks after Williams was sentenced to death for the second time.</p>
<p>Was there a <i>Batson</i> issue?</p>	<p>Yes. At the 1978 trial, prosecutors used peremptory challenges to exclude all African Americans from the jury. However, the racially discriminatory exercise of peremptory challenges was not then illegal, since <i>Batson v. Kentucky</i> was not decided until 1986. At the 1987 trial, prosecutors exercised peremptory challenges against three African American prospective jurors. However, because Williams's and Rainge's attorney failed to create a record of the race of all jurors selected and excused, Williams could not make a prima facie case that the peremptory challenges violated <i>Batson</i>. See <i>People v. Williams</i>, 147 Ill. 2d 173 (1992).</p>
<p>Was there a <i>Brady</i> issue?</p>	<p>Yes. Following the 1978 trial, it was alleged that the state's star witness, Charles McCraney, had made an initial statement to sheriff's police that had not been turned over to the defense as required by <i>Brady v. Maryland</i>. However, the most significant <i>Brady</i> issue did not become known until 1996, and never was brought to the attention of an appellate court. It was a report of an interview that Sheriff's Officers Howard Vanick and David Capelli conducted with a witness who accurately identified the actual killers on May 17, 1978, five days after the victims' bodies had been found. The witness, Marvin Simpson, heard shots fired and saw Arthur (Red) Robinson, Juan Rodriguez, Ira Johnson, and Dennis Johnson fleeing the murder scene. The report apparently had been turned over to the defense prior to Williams's second trial, but, due to ineffective assistance of counsel, nothing had been done with it. It apparently had been withheld prior to the first trial, in violation of <i>Brady</i>.</p>

Was there evidence of mental illness, retardation, or neurological damage?	No
Principal exculpatory evidence at trial:	Alibi witnesses testified at the 1978 trial that Williams, Rainge, and Adams were elsewhere when the crime occurred. Rainge's girlfriend testified he was with her at his home at the time of the crime. Adams's mother testified that her son was at home asleep.
Evidence introduced in mitigation:	Williams had no record of violence. He was a high school graduate.
Was there any indication of bias on the part of the trial judge?	In denying Williams's request for DNA testing after the second trial, Meekins ignored scientific fact, branding Williams's claim that new DNA tests could establish his innocence as "totally unsupported." Meekins's conclusion was flatly wrong based on the facts presented in support of the petition — and on the result of the DNA testing, which in fact did establish Williams's innocence. (The prosecution eventually agreed to permit the testing notwithstanding Meekins's denial of Williams's petition.)
Defendant's criminal history:	Convicted at age 18, as an adult, of theft of a motorcycle and an arson fire.
Was police misconduct an issue on appeal?	Yes. In appeals of both convictions, Williams argued that sheriff's police lacked probable cause to make an arrest. The extent of police misconduct did not become apparent, however, until 1996, when students working under Professor David Protess of the Northwestern University Medill School of Journalism discovered a file showing that on May 17, 1975, five days after the crime, a witness had made a statement saying he had seen four men flee the scene of the crime. The witness identified the four by name. Ultimately, three of those men confessed (the fourth was deceased) and DNA corroborated their confessions. After the exoneration of Williams, Jimerson, Rainge, and Adams, Cook County agreed to settle federal civil rights claims filed by the four men for \$36 million, the largest civil rights settlement in U.S. history.

<p>Was prosecutorial misconduct an issue?</p>	<p>Yes. The conviction of Verneal Jimerson, who was sentenced to death in 1985, was reversed by the Illinois Supreme Court on May 25, 1995, because Assistant State’s Attorneys J. Scott Arthur and Deborah Dooling failed to correct perjury of Paula Gray, who had denied that prosecutors had offered her anything in exchange for her testimony when in fact they had promised to secure her release from prison. There were other allegations of prosecutorial misconduct, including those made by informant David Jackson, who signed an affidavit saying Assistant State’s Attorneys Arthur and Clifford Johnson had induced him to lie at the 1978 trial of Williams, Rainge, and Adams.</p>
<p>Other major issues on appeal:</p>	<p>After the first trial, ineffective assistance was a major issue, as was the conflict resulting from Archie Weston’s representations of Williams, Rainge, and Gray at the 1978 trial.</p>
<p>Evidence of actual innocence:</p>	<p>DNA testing conducted in 1996 exculpated Williams and all co-defendants and inculpated Arthur (Red) Robinson. Robinson confessed to the crime, inculpating three other persons. One of those was by this time deceased, but the others were convicted of the double murder. (Statute of limitations had run on kidnaping, armed robbery, and rape charges.)</p>
<p>Was the conviction ever affirmed by an appellate court?</p>	<p>Yes. The initial conviction and death sentence, from the 1978-79 trial court proceedings, was affirmed by the Illinois Supreme Court on April 16, 1982. However, on its own motion, the court withdrew that opinion and reversed and remanded the case on November 18, 1982, after the justices learned that defense trial counsel Archie B. Weston had been subject of an attorney disciplinary proceeding at the time of the trial. (Weston ultimately was disbarred for mishandling an estate.) Williams was convicted and sentenced to death for the second time in 1987. The Illinois Supreme Court affirmed the second conviction and death sentence on October 17, 1991.</p>
<p>Did any appellate judge ever raise doubt about guilt?</p>	<p>No. Although the Illinois Supreme Court unanimously reversed and remanded the case for a new trial in 1982, it stated: “In our judgment the evidence warranted submission of the case to the jury. Although the evidence is in large part circumstantial, it does tend toward ‘a satisfactory conclusion’ and produces ‘a reasonable and moral certainty’ that the defendant committed the murders and rape.” <i>People v. Williams</i>, 93 Ill. 2d 309 (1982)</p>
<p>What was the status of the case at time of exoneration?</p>	<p>Williams’s second conviction and death sentence had been affirmed by the Illinois Supreme Court. He was seeking post-conviction relief in the trial court when DNA exonerated him and all co-defendants.</p>

<p>How did exoneration come about?</p>	<p>Students and a private investigator working under the supervision of Professor David Protes of Northwestern University's Medill School of Journalism in 1996 obtained new evidence, including a recantation by Paula Gray, a confession by Arthur (Red) Robinson, and statements from other witnesses implicating Robinson and four others in the crime. Shortly thereafter, DNA testing sought by Williams co-defendant Jimerson eliminated all four of the original defendants as sources of semen recovered from the female victim. It was sheer luck that DNA was testable 17 years after the crime.</p>
<p>Was anyone else charged in the crime?</p>	<p>Yes. Kenneth Adams, Willie Rainge, Verneal Jimerson, and Paula Gray all were charged and convicted.</p>
<p>If others were charged, briefly describe outcome:</p>	<p>Adams, Rainge, and Gray were tried with Williams in 1978. The three were sentenced to long prison terms. Jimerson was not tried until 1985. He was sentenced to death. Rainge's conviction was reversed along with Williams's in 1982, but he was tried again with Williams in 1987 and again convicted.</p>
<p>Appellate counsel:</p>	<p>Robert Byman, Jenner & Block, Chicago (312) 222-9350</p>
<p>Summary of appeals:</p>	<p>Conviction and death sentence affirmed five-two by Illinois Supreme Court on April 16, 1982, in an opinion subsequently withdrawn.</p> <p>Conviction and death sentence unanimously vacated on Illinois Supreme Court's own motion after discovery that trial counsel had been under duress due to a pending attorney disciplinary proceeding.</p> <p>Second conviction and death sentence, imposed in 1987, unanimously upheld by Illinois Supreme Court. <i>People v. Williams</i>, 147 Ill. 2d 173 (1992).</p>

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History of DNA Testing in Criminal Cases

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Michelle L. Guffey

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By Michelle L. Guffey, eHow Contributor

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DNA testing has only been around for about 24 years, but it can mean the difference between life and death for many people charged with---or convicted of---crimes.

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The Facts

With the exception of identical twins, all humans have a unique DNA that is present in their skin, hair, blood and other bodily fluids. Because of this genetic fingerprint, forensic testing has become an invaluable source of physical evidence for law enforcement in obtaining convictions and in exonerating the wrongly accused.

History

In 1985, Professor Alec Jeffreys of the University of Leicester discovered that each person carried a genetic fingerprint in his or her DNA. This discovery was first put to the test in an immigration case; a year later, DNA profiling was used in a criminal case---a double homicide in England---and helped prove the innocence of a man who gave police a false confession.

The DNA obtained from crime scenes in 1983 and 1986 proved that the same man raped and killed the two young girls. With the killer's DNA on file and new crime fighting technology at their disposal, police collected blood samples from more than 5,000 men in the community. The killer was eventually caught.

In the United States, in 1987, a rapist in Florida was the first person to be convicted through the use of DNA evidence.

Function

In addition to helping capture criminals, DNA testing has been instrumental in identifying human remains, such as in the Sept. 11, 2001, attacks, and in proving the innocence of some who have been falsely imprisoned. According to the Innocence Project, about 240 convictions have been overturned across the U.S. thanks to DNA testing.

One such person is Kirk Bloodsworth, who was found guilty in a Baltimore court of sexually assaulting and murdering a young girl. In 1993, more than eight years after his arrest, DNA evidence compared to Bloodsworth's DNA did not match.

In another case, DNA testing trumped a polygraph test that was used to convict four men of two murders in Chicago in May 1978. The men claimed they were innocent, but three failed a polygraph exam. The four men were convicted, and two were sentenced to death. The men spent 18 years in prison, but in 1996, DNA evidence proved their initial claim of innocence.

Effects

Since 1985, DNA evidence has dramatically changed the landscape of crime-fighting. According to the DNA Initiative website, "The development and expansion of databases that contain DNA profiles at the local, state, and national levels have greatly enhanced law enforcement's ability to solve cases with DNA. Convicted offender databases store hundreds of thousands of potential suspect DNA profiles, against which DNA profiles developed from crime scene evidence can be compared."

Warning

DNA testing doesn't lie, but it can, at times, be misleading as in the recent case of a mother who almost lost her children and was under suspicion because her DNA did not match that of her children. Further research showed that the DNA in her blood did not match the DNA in other parts of her body. The woman had a condition known as chimera---the merging of two nonidentical twins in the womb in a very early stage of development.

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Dennis Williams

Dennis Williams testified that he is currently 42. (Tr. of Evidentiary Hr'g of 4/29/99, at 262). He stated that he assists Professor David Protes, of Northwestern University, with an investigative journalism class. (Tr. of Evidentiary Hr'g of 4/29/99, at 262). Mr. Williams also stated he oil paints and is studying criminal justice administration at Triton College. (Tr. of Evidentiary Hr'g of 4/29/99, at 262).

Dennis Williams indicated that in 1978, he lived at 1433 Embassy Lane in East Chicago Heights, currently known as Ford Heights. (Tr. of Evidentiary Hr'g of 4/29/99, at 262). He testified that the next two streets north of Embassy Lane, and which are between Embassy Lane and Cannon Lane, are Northwood and Hammond. (Tr. of Evidentiary Hr'g of 4/29/99, at 263).

Mr. Williams stated that in 1974, he knew the Gray sisters, Paulette and Paula, and that they lived at 1525 Hammond. (Tr. of Evidentiary Hr'g of 4/29/99, at 263). He believed that he met them "sometime in 1974." (Tr. of Evidentiary Hr'g of 4/29/99, at 264). In fact, he stated, he knew the entire Gray family: Louise Gray, the mother; Bernard, Wayne and Torrey Gray, the brothers, with Bernard being the oldest and Torrey "pretty much a kid"; and Paulette, Tammy and Paula Gray, the sisters. (Tr. of Evidentiary Hr'g of 4/29/99, at 264). Dennis Williams testified that from 1974 to 1978, he saw the Gray family members "maybe four or five days" each week. (Tr. of Evidentiary Hr'g of 4/29/99, at 264). He additionally stated that during that same four year period, he believed Paula Gray attended "some type of special school." (Tr. of Evidentiary Hr'g of 4/29/99, at 265). Also, during the 1974 to 1978 period, he testified that he knew Kenny Adams, who lived a block east of him at 1533 Embassy Lane. (Tr. of Evidentiary Hr'g of 4/29/99, at 265). Dennis Williams further stated that he had known Verneal Jimerson since the late 1970's. (Tr. of Evidentiary Hr'g of 4/29/99, at 265-66). He indicated that Verneal Jimerson's relatives lived near him [Dennis Williams]. (Tr. of Evidentiary Hr'g of 4/29/99, at 266). Mr. Williams testified that by the spring of 1978, Mr. Jimerson was living on the north side of Chicago, perhaps on a street named "Sawyer." (Tr. of Evidentiary Hr'g of 4/29/99, at 266).

He also stated that during 1977 and 1978, Kenny [Adams] and Verneal [Jimerson] frequented the front of the Gray's residence, but not Willie Rainge, who lived on the front end of Hammond Lane. (Tr. of Evidentiary Hr'g of 4/29/99, at 267). Mr. Williams testified that the people spending time on a regular basis at the Gray house at the same time as he did were Kenneth [Adams], Willie King Watson [the same person testifying at Petitioner's evidentiary hearing], and Michael Franklin. (Tr. of Evidentiary Hr'g of 4/29/99, at 267). He indicated that they were all friends, and though not proud of their then activity around or in the Gray house, some of them used to smoke marijuana and drink beer. (Tr. of Evidentiary Hr'g of 4/29/99, at 267-68).

Dennis Williams also testified that in 1978, he "knew of Ira Johnson...heard of Dennis Johnson...[and] didn't know Arthur Red Robinson or Juan Rodriguez," although he had heard of a family whose "last names were the Rodriguezes." (Tr. of Evidentiary Hr'g of

4/29/99, at 268). He further stated that he never saw any of these four men in the vicinity of the Gray house, nor Paula Gray ever in the company of any of these four men. (Tr. of Evidentiary Hr'g of 4/29/99, at 268-69).

Mr. Williams added that the Jimerson girls, Clotee, Aletha, Deborah, Doris, Annette, and occasionally Vera, the oldest Jimerson sister, were also around the same age and spent time with him, Kenny, Willie King Watson, Michael Franklin, and the Gray family. (Tr. of Evidentiary Hr'g of 4/29/99, at 269).

Dennis Williams testified that during the evening of May 10th, 1978, he was rewiring a stereo in his automobile, after having much earlier replaced some carpeting. (Tr. of Evidentiary Hr'g of 4/29/99, at 269). He stated that at about 10 p.m., when the news was coming on, Verneal Jimerson, who was visiting his brother-in-law's house across the street, came over and asked if he [Dennis Williams] could give him and his family (wife and perhaps three kids) a ride home to the north side of Chicago. (Tr. of Evidentiary Hr'g of 4/29/99, at 270). Mr. Williams testified that he agreed to do so after finishing the work on his car and picking up all of his stuff. (Tr. of Evidentiary Hr'g of 4/29/99, at 270). He stated he completed the work on his vehicle, went in his house, cleaned up, drove around front and picked up Mr. Jimerson and his family, and took them home. (Tr. of Evidentiary Hr'g of 4/29/99, at 270-71). Thereafter, he testified he drank a beer and looked at television with Mr. Jimerson, not leaving until 3 to 5 minutes before twelve [midnight], because he wanted to listen to a particular jazz song, or Herbie Hancock's Brazil, on WBMX radio station. (Tr. of Evidentiary Hr'g of 4/29/99, at 271-72).

From the Jimerson home, Mr. Williams stated that he returned to Ford Heights and parked alongside and spoke for about five minutes with Kenny Adams and Paula Gray in Kenny's car, in front of the Gray house. (Tr. of Evidentiary Hr'g of 4/29/99, at 272). He indicated that when Kenny and Paula rolled their window down, he heard them listening to Barry White's music. (Tr. of Evidentiary Hr'g of 4/29/99, at 273). Mr. Williams testified that after talking with them a few minutes, he started up his car and went home, where he stayed the remainder of the evening. (Tr. of Evidentiary Hr'g of 4/29/99, at 273). He confirmed that that was Thursday morning, May 11th [1978]. (Tr. of Evidentiary Hr'g of 4/29/99, at 273).

Dennis Williams testified that on May 12th [1978], around "10...[or]...close to 11 [a.m.]," he went to the Gray house because he had promised Mrs. Louise Gray a day or two earlier to take her to the Lincoln Mall for Mother's Day shopping. (Tr. of Evidentiary Hr'g of 4/29/99, at 273-74). He further stated that the Gray's did not have a car, but he believed they had a telephone. (Tr. of Evidentiary Hr'g of 4/29/99, at 274). He indicated that he had frequently run errands for or took Mrs. Gray shopping. (Tr. of Evidentiary Hr'g of 4/29/99, at 274). Mr. Williams testified that upon arriving at the Gray house Friday morning, he noticed a series of cars, including a "couple of police [vehicles]," going towards Deer Creek, an area where he indicated "you would wonder...why...there [are] so many cars going in that direction..." (Tr. of Evidentiary Hr'g of 4/29/99, at 275). He viewed Plaintiff's [or Petitioner's Evidentiary Hr'g] Exhibit No. 1 for identification and confirmed that Deer Creek was indicated "winding around" on this exhibit north of

Cannon Lane. (Tr. of Evidentiary Hr'g of 4/29/99, at 275-76). Mr. Williams further stated he saw the cars near Deer Creek. (Tr. of Evidentiary Hr'g of 4/29/99, at 276).

He testified that he proceeded over to the area, where a crowd of community people had begun gathering. (Tr. of Evidentiary Hr'g of 4/29/99, at 276). Dennis Williams indicated that between a half hour and hour later, a news crew appeared. (Tr. of Evidentiary Hr'g of 4/29/99, at 276). He stated he had parked his car at the end of Hammond Lane, east of the apartment buildings along Hammond. (Tr. of Evidentiary Hr'g of 4/29/99, at 277). He indicated that the people he saw whom he recognized were Willie King Watson, Michael Franklin, Mrs. Louise Gray, Willie Harper, several of the Jimerson sisters, including, he believed, Aletha and Anita Jimerson. (Tr. of Evidentiary Hr'g of 4/29/99, at 277-78). Mr. Williams concluded that "[t]here was a really big crowd of people that had started to form," some of whose names he recalled and some he didn't. (Tr. of Evidentiary Hr'g of 4/29/99, at 278). He further testified that the "area was crawling with police." (Tr. of Evidentiary Hr'g of 4/29/99, at 278).

Dennis Williams indicated he initially didn't see Verneal Jimerson, and that Mr. Jimerson came up about a half hour to 45 minutes later. (Tr. of Evidentiary Hr'g of 4/29/99, at 278-79). He stated that Verneal and he exchanged greetings and that Mr. Jimerson asked him for his sunglasses which he thought were still in Mr. Williams' car; thereafter Mr. Jimerson went to the car, discovered it locked, returned to him for the keys and went back to the car. (Tr. of Evidentiary Hr'g of 4/29/99, at 279). Dennis Williams stated that "the next thing he knew" a man named Dan Fallwhite "(phonetic)" told him "they got Lurch [Verneal Jimerson's nickname] over there," and he noticed Verneal with his hands behind his back apparently handcuffed. (Tr. of Evidentiary Hr'g of 4/29/99, at 279-80). Mr. Williams testified that he was about twenty-five yards from Mr. Jimerson. (Tr. of Evidentiary Hr'g of 4/29/99, at 280). He stated he also noticed an unknown man moving around inside of his car. (Tr. of Evidentiary Hr'g of 4/29/99, at 280). He additionally indicated that when he went over to his vehicle to inquire, he saw George Nance and asked him about Verneal, and who was the guy in his car and "what [was] his business in [Mr. Williams'] car." (Tr. of Evidentiary Hr'g of 4/29/99, at 281-82). [Parenthetically, Mr. Williams testified that everybody calls George Nance by his first name because "he [George Nance] knew everybody in the neighborhood." (Tr. of Evidentiary Hr'g of 4/29/99, at 281)]. He stated that George told him he [Williams] ought to inquire. (Tr. of Evidentiary Hr'g of 4/29/99, at 282).

Dennis Williams testified he noticed that the man [in his car] was in brown overalls with what he believed was a yellow Cook County Sheriff's emblem on his back. (Tr. of Evidentiary Hr'g of 4/29/99, at 282). However, he stated that before he could inquire, the man "raised up out of the car" and asked him if this was his car, to which he responded in the affirmative, and also "where is the gun, or something like that." (Tr. of Evidentiary Hr'g of 4/29/99, at 282-83). Mr. Williams answered "what gun [and that he]...don't own...[or]...carry a gun." (Tr. of Evidentiary Hr'g of 4/29/99, at 283). Dennis Williams further indicated that this officer ultimately took his badge out and identified himself as "P.J. Pastirik, Cook County Sheriff[s] Police." (Tr. of Evidentiary Hr'g of 4/29/99, at 283). Mr. Williams stated he was upset because he didn't think that P.J. Pastirik "should

be associating [his] car with whatever was going on out there,” and therefore responded “so” to P.J. Pastirik’s identification. (Tr. of Evidentiary Hr’g of 4/29/99, at 283-84).

Dennis Williams indicated that Officer Pastirik asked him to search his car trunk, after “pretty much [ransacking the] whole car.” (Tr. of Evidentiary Hr’g of 4/29/99, at 284). He testified that when he asked if Officer Pastirik had a warrant, the Sheriff’s policeman responded “I don’t need no damn warrant.” (Tr. of Evidentiary Hr’g of 4/29/99, at 284). He therefore complied and removed the clothes hangar wire holding the trunk shut and opened the trunk for him. (Tr. of Evidentiary Hr’g of 4/29/99, at 284). He further stated that after being told to step back from the car, his trunk was searched. (Tr. of Evidentiary Hr’g of 4/29/99, at 284). Dennis Williams also indicated that during the search, Mr. Jimerson was standing back while being held, he believed, by another officer named Dave Capelli, whom he later learned was Mr. Pastirik’s partner. (Tr. of Evidentiary Hr’g of 4/29/99, at 285). He stated that upon the completion of the trunk search, he was arrested, and taken by squad car, along with Verneal Jimerson, to the Homewood Cook County Sheriff’s facility, which he believed to be located at 1154 Ridge Road. (Tr. of Evidentiary Hr’g of 4/29/99, at 285-86). He further stated that charges were not lodged upon their arrival at the facility, though they were orally informed what they “might be charged [with] by [Officer P.J. or Patrick James Pastirik,] Officer Krupowitz (phonetic), Dave Capelli, James Houlihan and Howard Vanick.” (Tr. of Evidentiary Hr’g of 4/29/99, at 287). Mr. Williams testified he later learned that Howard Vanick was the “chief.” (Tr. of Evidentiary Hr’g of 4/29/99, at 287).

Dennis Williams additionally testified that he was physically struck and verbally abused by the police. (Tr. of Evidentiary Hr’g of 4/29/99, at 287, 288). He described this attack in the following manner:

There was an officer that met me and walked me from the squad car that I exited outside when I was first brought to the police station, Officer [sic] put his hands on my shoulder and walked me in and he says we really been waiting on you. We really got a lot questions [sic] that we would like to ask you and you’re going to cooperate with us, aren’t you?

I said cooperate about what. I don’t know what I should be cooperating about. And, so, when I got in the station, my best memory is that it was Officer Pastirik that says sit your ass down, nigger.

And, so, I sat down. And, so, he then ordered me to get up. Officer Capelli, I believe Officer Capelli was the one that suggested to him that we be checked, you know, that we take our shirts off.

And, so, we took our shirts off. When I say ‘our,’ that would be Verneal Jimerson and myself. We took our shirts off and so they took a look at us and threw our shirts back to us and said put these stinkin’ shirts back on.

So I believe it was Officer Krupowitz that started to accuse and threaten me at the same time. Nigger, why did you kill those two white kids out there, that's what he said. And I said Officer, you don't know what you're talking about. I didn't kill anybody, you know.

Well, we know that you did it because, you know, the suggestion was that they knew that we had did it because somebody had already told them.

And I just continued to deny having hurt or killed anybody. And, so, Officer Krupowitz told P.J. Pastirik and Dave Capelli to move back.

And, so, he went over and he opened this drawer, you know, in the police station. He opened a drawer and pulled out what appeared to be some kind of automatic gun and he told me that if I didn't tell the truth that he was going to blow my black ass away.

(Tr. of Evidentiary Hr'g of 4/29/99, at 289-91).

Mr. Williams added that when he first got to the station, Officers Pastirik and Capelli asked where he had been Wednesday night and if he didn't tell the truth, that they would start kicking his ass. (Tr. of Evidentiary Hr'g of 4/29/99, at 291). He stated that Officer Houlihan participated for awhile, but basically acted as a good guy and told him that he [Houlihan] could help him if he [Williams] cooperated. (Tr. of Evidentiary Hr'g of 4/29/99, at 291). Mr. Williams testified he continued responding "[He] didn't know what to tell him to cooperate." (Tr. of Evidentiary Hr'g of 4/29/99, at 291-92).

He also indicated all of the policemen present, Howard Vanick, David Capelli, P.J. Pastirik, and Houlihan, essentially told him that the allegations were that:

two Caucasian people, Carol Schmal and Lawrence Lionberg, had been abducted from a 24-hour gas station in Homewood, and that...Carol Schmal had been raped and murdered and that Lawrence Lionberg had been murdered.

(Tr. of Evidentiary Hr'g of 4/29/99, at 292).

Dennis Williams additionally testified that another officer was present named Louis Salla, but he didn't talk to that officer until much later. (Tr. of Evidentiary Hr'g of 4/29/99, at 292).

He indicated that all of this started out downstairs in what he guessed would be called the interrogation room. (Tr. of Evidentiary Hr'g of 4/29/99, at 293). Ultimately, Mr. Williams testified, he was taken upstairs in the police station and put in a cell. (Tr. of Evidentiary Hr'g of 4/29/99, at 293). He stated that he told the policemen what he had done Wednesday night and Thursday morning, but "[didn't] think they believed anything [he] said." (Tr. of Evidentiary Hr'g of 4/29/99, at 294). He testified that the police

responded by calling him black “lying son-of-a-bitches, murderer [sic], nigger...black motherfucker.” (Tr. of Evidentiary Hr’g of 4/29/99, at 293). In fact, he stated, these policemen basically called him names “throughout his tenure in the police station.” (Tr. of Evidentiary Hr’g of 4/29/99, at 294). Mr. Williams also indicated that before “[he] was taken upstairs,” Det. Krupowitz told him “why don’t you make a play for it, why don’t you make a run for it nigger.” (Tr. of Evidentiary Hr’g of 4/29/99, at 298).

Mr. Williams testified he was fingerprinted by the chief, or Howard Vanick, before being taken upstairs. (Tr. of Evidentiary Hr’g of 4/29/99, at 295). He thereafter detailed what happened in the upstairs cell:

Officer Krupowitz came to the cell a little after I had gotten there and he started to — well, the first officer up there was — to the best of my recollection, the first officer was Houlihan. And Mr. Houlihan never struck me, never threatened me, that I recall. So he was — he had a role that he acted out.

* * *

He said if you cooperate with me and just tell me the truth, I can keep those guys off of you.

And, so, I said I kept stating my possession [sic], I don’t know what you are talking about. I have not done anything, I don’t know anything.

And, so, he says well, don’t look like I can help you. It looks like you want to take all the weight, you know, by yourself.

I said I don’t, what weight are you talking about. I haven’t done anything.

So the next thing I know, shortly after Houlihan leaves, here is Officer Krupowitz, pulls a gun and tells me, he says put your head in that stool, nigger, and when I say ‘stool’, I mean toilet stool, and I told him that I was not going to do it, you know, and he yelled, you know, put your head in that stool, nigger, and I said no.

And, so, he then took out a key, proceeded into the cell, came in and physically attacked me.

And there was another officer, I believe some minutes later, maybe seconds later, that accompanied him in that attack. I don’t recall that officer’s name, I only know him by face.

(Tr. of Evidentiary Hr’g of 4/29/99, at 295-96, 296-98).

Dennis Williams then stated that when Mr. Krupowitz began attacking him, he “start[ed] to cover [himself] and [they] started to tussle...and he [Krupowitz] told [him], he said nigger, you better let me go over [sic], I will kill your fucking ass...that is what he said.” (Tr. of Evidentiary Hr’g of 4/29/99, at 298).

He testified that they fell on the double bunk bed in the cell, Krupowitz broke free and struck him several times, and that a policeman with a bad complexion, whose photograph Mr. Williams remembers seeing but whose name he couldn’t recall, “proceeded to attack [him] also.” (Tr. of Evidentiary Hr’g of 4/29/99, at 298-99). Specifically, recalled Mr. Williams:

...Krupowitz moved away [and the officer with the bad complexion]...came in and I guess you can say took over from where Krupowitz had left off.

And, so, he started striking me in the face, and so what I did was grab at his hands until I was able to grab his head and so then we got into a tussle and then so he says you wait a minute you black son-of-a-bitch, I’m going to kill you, wait until I get back, and he ran out of the cell and locked the door back, you know, but he never did — he didn’t return as he had said that he would.

He later returned but this time he returned as a friend, you know, the same way that Mr. Houlihan had come in.

(Tr. of Evidentiary Hr’g of 4/29/99, at 299-300).

Mr. Williams further testified that the foregoing attack in the cell occurred “just about dark.” (Tr. of Evidentiary Hr’g of 4/29/99, at 300). He indicated that later that day he was taken to an abandoned building at 1528 Cannon Lane by:

P.J. Pastirik...Officer Krupowitz...Louis Salla...David Capelli [and]...another officer that seemed to be younger than the rest of them...[but he didn’t know his name...though he knew] him when [seeing] his face.”

(Tr. of Evidentiary Hr’g of 4/29/99, at 300-01).

Mr. Williams stated he was taken upstairs at 1528 Cannon Lane where the policemen accused him and the other [Ford Heights Four] of having killed Carol Schmal. (Tr. of Evidentiary Hr’g of 4/29/99, at 301). To the best of his recollection, he stated they were the first people to arrive, along with what he vaguely recalled was a second squad car. (Tr. of Evidentiary Hr’g of 4/29/99, at 301-02).

Mr. Williams stated that the following discourse transpired with Officer Krupowitz:

He [Krupowitz] told P.J. Pastirik what, you scared to kill that nigger, Pat. Give me the gun. I'll kill that black son-of-a -bitch. And, so, the other officers proceeded to act like they was trying to stop him from killing me.

(Tr. of Evidentiary Hr'g of 4/29/99, at 302).

Dennis Williams added that Det. Krupowitz made a point while they went up the steps to shine his flashlight on a dead rat and tell him [Williams] something he couldn't presently recall. (Tr. of Evidentiary Hr'g of 4/29/99, at 303). He also stated that upon being taken to the upstairs level, he was shown a "very visible" puddle of blood which had "[run] towards the steps," and then the following activity transpired:

[Mr. Williams thinks that Detective or Officer Salla]...took a photograph out of his pocket...He [Salla] produced one from somewhere and he showed me that photograph and he says, you ever saw these two people before, Dennis? I said no, no, I never saw them before.

And he said, do you know that the lady on that picture was my niece, and I said, no.

And, so, he says if you don't tell us the truth, you see what is down there, you know, motioning towards the blood. Your blood is going to be down there, too.

(Tr. of Evidentiary Hr'g of 4/29/99, at 304).

Dennis Williams testified that Det. or Officer Salla told him the woman in the photo was Carol Schmal. (Tr. of Evidentiary Hr'g of 4/29/99, at 304). Mr. Williams added that Patrick Pastirik was also present in the [upstairs] room at the same time as the foregoing conversation with Mr. Salla, and Dennis Williams went on to explain how Mr. Pastirik used a gun on him in that room:

...At one point, Officer Pastirik placed a gun to the back of my [Williams] head and he told me, he says to the effect, nigger, I'm going to count to three and if you don't tell me what happened, you know, if you don't tell the truth, I am going to splatter your God damn [sic] brains on the wall the same as you did Carol's. That's the effect of what he said.

* * *

[Then] Mr. Pastirik yelled once, are you going to tell me what happened, nigger, and I said I don't know, Officer, I don't know anything. He said well, I'm going to kill you, you know.

And, so, I recall him [sic] saying something to the effect that, at the time that I had never died before, so I don't know what it's like to be dead, so I

guess all of us got to die one day, so I guess you might as well kill me because I am not going to tell you I did something I didn't do.

So, at that point he started to, you know, shake, started to tremble and, so, one of the officers ran over and acted as if they were defending me and moved him away.

* * *

[Thereafter] Officer Krupowitz said to P.J. Pastirik, what, are you scared to kill that son-of-a-bitch. Pat, give me the gun, I will kill that son-of-a-bitch, you know.

And so, at that point, that is when a struggle, or what appeared to be a struggle ensued, as if they were trying to stop Krupowitz from killing me because clearly, Officer Krupowitz appeared to be acting as if he was the wildest one in the bunch.

(Tr. of Evidentiary Hr'g of 4/29/99, at 305-06).

Mr. Williams stated that after a "few minutes," he was taken by unmarked squad car back to the Sheriff's facility at 1154 Ridge Road. (Tr. of Evidentiary Hr'g of 4/29/99, at 306-07). He testified that he was in custody the next day, Saturday, May 13th [1978], at the Homewood facility. (Tr. of Evidentiary Hr'g of 4/29/99, at 308). Mr. Williams also testified that he wasn't questioned "a whole lot" on Saturday and he believed that reporter statements were take from him and the other men on Sunday night, [May 14th, 1978], when he continued to maintain his innocence. (Tr. of Evidentiary Hr'g of 4/29/99, at 307, 308-09). He further stated that he thinks [the Ford Heights Four] were charged on Sunday evening. (Tr. of Evidentiary Hr'g of 4/29/99, at 308-09).

Mr. Williams indicated that he didn't go to court until Monday, May 15th [1978], and that while in the lock-up outside or near the court his features were still swollen from the [police] beating he'd previously received. (Tr. of Evidentiary Hr'g of 4/29/99, at 309). Mr. Williams also testified that from May 12th, 1978 until June 14th, 1996, "[he] was not free," and that "on June 14th, 1996, [he] was finally freed." (Tr. of Evidentiary Hr'g of 4/29/99, at 309).

Dennis Williams stated that he was convicted in his first trial in 1978 and received the death penalty. (Tr. of Evidentiary Hr'g of 4/29/99, at 310). He further stated that pursuant to an order for a new trial, he was retried in [1987] and reconvicted. (Tr. of Evidentiary Hr'g of 4/29/99, at 310). He indicated that Paula Gray testified against him for the State at his [1987 retrial]. (Tr. of Evidentiary Hr'g of 4/29/99, at 310).

On cross-examination, Mr. Williams stated that Paula Gray did not testify against him in his earlier [1978] trial, but reiterated that she testified against him in his 1987 trial. (Tr. of Evidentiary Hr'g of 4/29/99, at 311). He stated that in 1987 he was tried along with Willie Rainge before Judge Meekins. (Tr. of Evidentiary Hr'g of 4/29/99, at 311). He

also indicated that Isaiah Gant was his 1987 trial attorney and that Maurice Scott was Willie Rainge's attorney during that same trial. (Tr. of Evidentiary Hr'g of 4/29/99, at 311, 312).

Mr. Williams additionally testified that he had heard of Dennis Johnson, but didn't know what he looked like, nor was he able to identify Red Robinson. (Tr. of Evidentiary Hr'g of 4/29/99, at 314, 314-15). He stated that he knew what Ira Johnson looked like because he and Ira had had a confrontation. (Tr. of Evidentiary Hr'g of 4/29/99, at 314). Mr. Williams indicated he knew the Rodriguez family by sight, including the "Rodriguez boys" [Respondent's terminology], but couldn't identify individual members of the family, or tell the difference between Pedro Rodriguez and Juan Rodriguez. (Tr. of Evidentiary Hr'g of 4/29/99, at 315). He stated that he didn't know if there was another brother in the Johnson family named Nathaniel, and that to his knowledge, Paula Gray was not dating any member of the Johnson family. (Tr. of Evidentiary Hr'g of 4/29/99, at 315).

Mr. Williams repeated that he was convicted at his 1987 trial. (Tr. of Evidentiary Hr'g of 4/29/99, at 315). He stated that Martin Carlson, his appellate defender [for his 1978 trial conviction] testified on his behalf at his 1987 sentencing hearing. (Tr. of Evidentiary Hr'g of 4/29/99, at 316, 317). Dennis Williams agreed that Mr. Carlson had filed a brief and rendered oral argument which resulted in his [1978] case being sent back. (Tr. of Evidentiary Hr'g of 4/29/99, at 316).

He stated that Martin Carlson was "just brought... in [to the 1987 sentencing proceeding]" and put on the stand by his attorney, Mr. Gant, without having first been questioned or prepared for anything. (Tr. of Evidentiary Hr'g of 4/29/99, at 317-18). Mr. Williams testified that Mr. Gant explained to him that Mr. Carlson was being brought in as a mitigation witness, as opposed to aggravation evidence which the prosecution would introduce. (Tr. of Evidentiary Hr'g of 4/29/99, at 321-22). He indicated that he understood his attorney was entitled to introduce mitigation [evidence], or "good things about [him]" [Respondent's terminology], and that the prosecutor would introduce "aggravating [or] bad things about [him]" [Respondent's terminology]. (Tr. of Evidentiary Hr'g of 4/29/99, at 322). Also, Mr. Williams confirmed that both he and Judge Meekins heard Mr. Carlson testify [in mitigation at his 1987 sentencing proceeding]. (Tr. of Evidentiary Hr'g of 4/29/99, at 322).

Dennis Williams additionally confirmed that he had seen the Capelli notes for the first time in late 1995, to the best of his recollection. (Tr. of Evidentiary Hr'g of 4/29/99, at 322-23). He stated that he didn't know whether or not Mr. Gant had the Capelli notes. (Tr. of Evidentiary Hr'g of 4/29/99, at 323).

Mr. Williams also stated that prior to Mr. Carlson's mitigation testimony, they had discussed appellate issues both before and after his [1978] case was sent back for another trial. (Tr. of Evidentiary Hr'g of 4/29/99, at 323-24). He indicated that during the course

of those conversations, Mr. Carlson did not tell him he had any information concerning who the real killers were, but that:

...Mr. Carlson had hearsay. [Dennis Williams'] best understanding is that it was hearsay. Nothing had been confirmed and [they] had no street files, [they] had no direct admissions coming from any of the people that proved to be the culprit.

(Tr. of Evidentiary Hr'g of 4/29/99, at 324).

Mr. Williams additionally indicated that Mr. Carlson told him that he [Carlson] had heard from Rene Brown that other people were responsible for the killing. (Tr. of Evidentiary Hr'g of 4/29/99, at 324). Rene Brown, testified Mr. Williams, was an investigator hired by the Williams' family in 1980 or 1981, which was after his first trial [in 1978] and before his second trial [in 1987]. (Tr. of Evidentiary Hr'g of 4/29/99, at 325). Dennis Williams also stated that he was the one who had told Mr. Carlson about Rene Brown looking into his case, but everything Mr. Williams told Mr. Carlson was "pretty much speculative," by reason of Dennis Williams' inability to investigate because of his incarceration. (Tr. of Evidentiary Hr'g of 4/29/99, at 330-31). He confirmed that Rene Brown and Martin Carlson were "on the streets." (Tr. of Evidentiary Hr'g of 4/29/99, at 331). He also stated that:

Rene Brown never told [Dennis Williams] that he was absolutely certain, he was still digging and was not getting the kind of cooperation that neither [sic] he, nor [Dennis Williams], expected, or that [they] wanted to get.

So [they] had nothing specific, nothing concrete.

(Tr. of Evidentiary Hr'g of 4/29/99, at 331).

Mr. Williams stressed that because he knew that he and the other Ford Heights Four were not responsible for the [subject] crimes, he was aware that somebody else had to be responsible. (Tr. of Evidentiary Hr'g of 4/29/99, at 331).

He testified that in 1980 or 1981, Dennis Johnson made a statement in the presence of Rene Brown, James Williams, [Dennis'] brother, Margaret Roberts, a reporter working with Rob Warden, and Myra [Mara] Siegel [Siegal], an attorney working with Rene Brown on [Dennis Williams'] case. (Tr. of Evidentiary Hr'g of 4/29/99, at 334-35, 338).

[In Martin Carlson's March 4th, 1987 testimony at Dennis Williams' sentencing hearing for his 1987 trial, he [Carlson] stated that he, Dennis Johnson, Mara Siegal, Rene Brown, and he believed, James Williams, were present at the aforementioned meeting with Dennis Johnson. Mr. Carlson also stated that he became involved in the investigation of Dennis Johnson pursuant to his appellate representation of Dennis Williams, Willie Rainge and Kenny Adams for their 1978 trial conviction, and that in August of 1985, he

prepared an affidavit which indicated that the above referenced meeting with or interview of Dennis Johnson occurred on August 18th, 1980. At that meeting, Dennis Johnson stated that Williams, Rainge and Adams were not responsible for the Lionberg/Schmal crimes and that he knew the names of the four men responsible. He would not disclose their names, but identified them as in their early 20's and that the vehicle they drove the night of the subject crimes was a 1970 or 1971 off-gray Buick Electra 225. Mr. Johnson claimed the men dropped him off at a pool hall and returned about 2:00 a.m. advising him they got some money. Johnson claimed that several days later, one of the men, whom he described as a friend, sold him a .32 [probably a .38 based on a reading of the entire affidavit] and told him it'd been used in a stick-up and shooting. His friend also told him that he and three other men had robbed the gas station and took Lionberg and Schmal to avoid identification, but that there had been no initial intent to kill them. The friend also admitted that Ms. Schmal was raped. Mr. Johnson was additionally advised that two guns were involved, a .25 caliber and a .38 caliber, and that his friend had a .25. Johnson advised his friend to get rid of the .25 and learned that the .38 he'd bought had been used in the murders. Johnson thereupon sold it to a friend who went to Minnesota. Johnson also confronted the man about selling him a hot gun and the man virtually admitted shooting Ms. Schmal. Johnson additionally stated that some leather-and blue jean vests had been taken from the gas station and he bought one for \$7.00 from the same man who sold him the .38. Johnson stated that he would not testify against his friend under any circumstances and would testify against the other three men only if he was granted immunity because he feared prosecution and retaliation. Johnson stated he was convicted of theft in 1971 and robbery in 1974, and sentenced to 4 to 8 years and was paroled in 1977. He indicated that he was off parole. Johnson stated he used to hang around Willie Rainge but knew Dennis Williams and Kenny Adams only by sight. Upon being asked by Rene Brown to ask his friend to talk to Mr. Brown, Johnson responded he would think about it.

On cross-examination by the People, who strenuously contested Mr. Carlson's mitigation testimony and foregoing affidavit, Martin Carlson added that according to his notes of the foregoing conversation with Dennis Johnson, Rene Brown met the man who sold Dennis Johnson the gun, and that this man pretty much admitted that he shot Carol Schmal, but Mr. Carlson never learned the identity of this individual from Mr. Brown. Martin Carlson's notes also indicate that Mr. Brown "never talked to the other two guys" involved, and that the guy who owned the car moved to Texas. Martin Carlson conceded, however, that his notes contain no reference to Mr. Brown having met this man who did this crime, nor the admissions made by the man that he was involved. Mr. Carlson also testified that he was familiar with Rob Warden's [July, 1982 article in the Chicago Lawyer] in which Dennis Johnson [apparently related some of the same information he told Martin Carlson and the others at the August 18th, 1980 meeting or interview], and that he [Carlson] did not provide Mr. Warden with the information for that article. Finally, Mr. Carlson stated that he did not know whether Mr. Gant, Dennis Williams's counsel for the 1987 retrial, knew the name of the person known by Rene Brown who "supposedly" [prosecutor's terminology] shot Carol Schmal. He [Carlson] additionally conceded, on further cross-examination, that though conferring with Mr. Gant, he did not recall discussing with him the name of this person, though he conceded it might have been significant to Dennis Williams' defense in his retrial. Mr. Carlson also did not call

the police or State's Attorney's Office after speaking with Dennis Johnson. On re-direct, Martin Carlson testified that he had no knowledge of the State's Attorney's Office pursuing any of the information contained in The Chicago Lawyer [July, 1982] article after it came out, nor efforts by the People to locate Dennis Johnson. (Respondent's [Evidentiary Hr'g] Ex. 8; Respondent's Group Ex. 11 Item A)].

Mr. Williams testified as to the substance of Dennis Johnson's statement in response to the Respondent's inquiry that Dennis Johnson "had confessed being involved in the crime to someone else," by stating:

Dennis Johnson hadn't confessed to anything. What he did was, I guess if you interpreted it as a confession, maybe that is what it is [sic] your understanding of it, but what Dennis Johnson, what was said that Dennis did is that he pinned – he pinned the allegation, or he pinned the charges on other people, but he said that he was present, according to Mr. Brown, but we found out later that that was not completely the truth.

He said he was present for the robbery and abduction at the gas station, the kidnapping of Lawrence Lionberg and Carol Schmal but that he was not present when they were killed.

(Tr. of Evidentiary Hr'g of 4/29/99, at 333-34).

Mr. Williams emphasized that Dennis Johnson never came to him [and made the aforementioned statement], but instead gave it to the [four] persons Mr. Williams previously indicated. (Tr. of Evidentiary Hr'g of 4/29/99, at 337). He reiterated that this information was related sometime in 1980 or 1981, before his second trial in 1987. (Tr. of Evidentiary Hr'g of 4/29/99, at 337).

Dennis Williams further testified that he shared the foregoing [Dennis Johnson] information with his attorney, Mr. Gant, but that:

...Mr. Gant had no more than what Archie Weston had, and that was half truths.

As we found out later, the truth – one aspect of the truth was that Johnson was present. The lie was that he was not the ring leader, and he was, and the other difference is that he didn't name people at that time back in '80, '81.

Q. Okay.

But in '80, '81, you're telling me that Mr. Johnson turned out not to be very reliable because he claimed he hadn't had anything to do with it, and you later found out that he did have something to do with it. He was one of the participants, right?

A. Yes.

* * *

THE WITNESS: According to all the evidence, Dennis Johnson was the ring leader.

MR. BURNHAM: Q. Now, then, in '81, you knew that there was person [sic] by the name of Dennis Johnson, out on the street, who had already made statements to at least four people that he knew who the true killers were, is that right?

A. He said he knew but he never named them, and he said that the only way that he would name them is that if he could receive prosecutorial immunity.

Q. Okay.

A. And that was never granted. The States Attorney's office, as to the best of my knowledge, never exercised an interest in doing that.

Q. Do you know if that issue was ever bought [sic] to the State's Attorney's office?

A. I can't be certain.

Q. So you don't even know that they knew what you knew about Dennis Johnson?

A. Well –

Q. Back in '81?

A. I couldn't understand why they wouldn't know because it was thrown across the front page of the press.

(Tr. of Evidentiary Hr'g of 4/29/99, at 338-40).

Mr. Williams thereafter identified two news articles relating Dennis Johnson's account: a 1982 article [by Rob Warden] in the Chicago Lawyer, and a 1984 article by Michael Walsh in the Chicago Heights Star. (Tr. of Evidentiary Hr'g of 4/29/99, at 340, 341). He confirmed that Dennis Johnson was not named in the Chicago Lawyer article, and that this story only cited an anonymous source as knowing who the real killers were. (Tr. of Evidentiary Hr'g of 4/29/99, at 341). He also testified that "...if [he] were the State's Attorney, [he] would inquire about the information [contained in the Chicago Lawyer article] because if [he] had the wrong people locked up, [he] would want to make certain that [he] locked up the right people." (Tr. of Evidentiary Hr'g of 4/29/99, at 340). Mr. Williams additionally noted that the Chicago Heights Star article, which he read, did name Dennis Johnson as being a witness to these murders. (Tr. of Evidentiary Hr'g of

4/29/99, at 341-42). He testified that the Star article said, “to the best of [his] recollection,” that:

...Johnson knew what had occurred...but it didn't — there wasn't any admission, on Johnson's part, that he had did anything.

(Tr. of Evidentiary Hr'g of 4/29/99, at 342).

He additionally stated that Dennis Johnson claimed in the Star article to be a witness and “only...[peripherally] involved” in that he was a witness to the abduction and robbery of the gas station and “that he [Johnson] was [thereafter] dropped off at a pool hall.” (Tr. of Evidentiary Hr'g of 4/29/99, at 342, 343).

Dennis Williams testified that he brought the foregoing 1982 and 1984 articles to the attention of Mr. Gant, who said, to the best of his recollection, that “he would look into the information.” (Tr. of Evidentiary Hr'g of 4/29/99, at 343). Mr. Williams also testified that “his understanding of [Mr. Gant's follow-up] was that Mr. [Rene] Brown, at the urging of Mr. Gant, couldn't get any more cooperation out of Dennis Johnson.” (Tr. of Evidentiary Hr'g of 4/29/99, at 343-44).

Mr. Williams indicated that “he would imagine [that this information] would have been” shared by Mr. Gant with Maurice Scott. (Tr. of Evidentiary Hr'g of 4/29/99, at 344). Also, Dennis Williams testified that “[w]hatever he had by way of hearsay or whatever it was, [he] shared...with Mr. Rainge,” including the information from the 1982 and 1984 articles and the names of the four people who had talked to Dennis Johnson. (Tr. of Evidentiary Hr'g of 4/29/99, at 344). Mr. Williams additionally confirmed that from the time he first heard about Dennis Johnson until the commencement of his trial in 1987, that the foregoing information was the extent of the information that he had received regarding Dennis Johnson, Ira Johnson, Red Robinson, or Juan Rodriguez. (Tr. of Evidentiary Hr'g of 4/29/99, at 345). Mr. Williams reiterated that the information he had regarding Dennis Johnson “was just unclarified [sic] hearsay.” (Tr. of Evidentiary Hr'g of 4/29/99, at 345).

Dennis Williams indicated that when he appeared in court before the Judge on Monday, May 15th, [1978,] that both his cheeks from above his eyes down to his jawbone were swollen, and that his face did not have its usual appearance, but it “wasn't... deformed.” (Tr. of Evidentiary Hr'g of 4/29/99, at 346). He further testified that he was struck in the face on Friday, [May 12th, 1978], but he doesn't recall being hit in the face on Saturday, [May 13th, 1978]. (Tr. of Evidentiary Hr'g of 4/29/99, at 347). On Saturday, he indicated he was called some names and perhaps shoved around. (Tr. of Evidentiary Hr'g of 4/29/99, at 347). Mr. Williams stated that on Sunday night, Assistant State's Attorney DiBenedetto told him that if he didn't cooperate, or if he was not telling the truth, that “[he] might be facing the electric chair.” (Tr. of Evidentiary Hr'g of 4/29/99, at 348). Mr. Williams also said that ASA DiBenedetto told him that:

...you do know what happens to people that is [sic] found guilty of crimes like this, and so [Dennis Williams] said what are you talking about, and so he says, they're put in the electric chair.

(Tr. of Evidentiary Hr'g of 4/29/99, at 349).

Dennis Williams stated that he interpreted Mr. DiBenedetto's remarks as a "threat." (Tr. of Evidentiary Hr'g of 4/29/99, at 349).

Mr. Williams doesn't remember if ASA Lerner spoke to him on Sunday, but he [Lerner] could have. (Tr. of Evidentiary Hr'g of 4/29/99, at 349). He also testified that after speaking with the assistant State's Attorney or Attorneys, he gave the court reporter a statement consisting of his responses to questions posed by the ASA(s). (Tr. of Evidentiary Hr'g of 4/29/99, at 350). Dennis Williams testified that all his responses were truthful except his statement that he had been treated okay, because:

[he] didn't know whether the bad treatment would start back up again, so [he] didn't want it to start again and so [he] said yes, I have been treated okay.

(Tr. of Evidentiary Hr'g of 4/29/99, at 350).

Mr. Williams indicated that it was his understanding that Mr. DiBenedetto was posing the questions, as opposed to ASA Lerner, but agreed the record would show who it was. (Tr. of Evidentiary Hr'g of 4/29/99, at 351). He further indicated that whichever assistant State's Attorney questioned him, that they identified themselves as a State's Attorney. (Tr. of Evidentiary Hr'g of 4/29/99, at 351). Mr. Williams confirmed that the court reporter took down the questions and answers on a machine not unlike the one being used by the gentleman at Petitioner's evidentiary hearing. (Tr. of Evidentiary Hr'g of 4/29/99, at 351-52). He also confirmed that he received a statement, and was asked by one of the assistant State's Attorneys to review and correct it, which he did. (Tr. of Evidentiary Hr'g of 4/29/99, at 352, 353). He testified that this all occurred at the police station. (Tr. of Evidentiary Hr'g of 4/29/99, at 352). He stated he may have made one correction and then he signed the statement. (Tr. of Evidentiary Hr'g of 4/29/99, at 354). Then Mr. Williams indicated that one or both of the State's Attorneys signed the statement. (Tr. of Evidentiary Hr'g of 4/29/99, at 354). Mr. Williams testified he didn't remember ever having a picture taken. (Tr. of Evidentiary Hr'g of 4/29/99, at 354-55).

Dennis Williams further indicated that he never told ASA's DiBenedetto or Lerner that the police had beaten him, because "[he] didn't think it would do any good to tell them." (Tr. of Evidentiary Hr'g of 4/29/99, at 355).

Mr. Williams also stated that by 1981, Martin Carlson said to him "[something like] Dennis [Johnson] is not telling us [sic], you know, that he don't come across so clean." (Tr. of Evidentiary Hr'g of 4/29/99, at 356-57).

Dennis Williams reiterated that Verneal Jimerson had at least three or four sisters and that Clotea, Doris and Annette were the ones that he knew. (Tr. of Evidentiary Hr'g of 4/29/99, at 357). He additionally testified that he didn't recall speaking to these three Jimerson sisters between his first and second trials. (Tr. of Evidentiary Hr'g of 4/29/99, at 358). He also stated that he did not receive information from them regarding the true killer in the Lionberg/Schmal case, nor had he heard from anyone else that these girls knew something. (Tr. of Evidentiary Hr'g of 4/29/99, at 358). Furthermore, Mr. Williams testified that he didn't recall communicating to anyone in writing that they ought to check with Jimerson's sisters for information they had about the real killers. (Tr. of Evidentiary Hr'g of 4/29/99, at 358-59).

On re-direct, Mr. Williams testified that whenever he was in the vicinity of the Gray house, or other areas around Ford Heights, he always saw Paula either with people he associated with or people that she knew, and never with men she didn't know. (Tr. of Evidentiary Hr'g of 4/29/99, at 361). He also testified that all of Paula's friends were known to him and they would have been known to everybody in that community, and those were the same people he previously named at the hearing, with the exception of Ira Johnson, Dennis Johnson, Warren [sic] Rodriguez, and Arthur Robinson. (Tr. of Evidentiary Hr'g of 4/29/99, at 361-62).

On re-cross, Mr. Williams identified Respondent's Exhibit No. Three as a three page letter dated November 4th, 1985 which he wrote and sent to Isaiah Gant on that same date. (Tr. of Evidentiary Hr'g of 4/29/99, at 363-64). He additionally confirmed that the center paragraph on page 3 states:

'[b]ased upon my being informed he [Jimerson] had three witnesses we definitely need.'

(Tr. of Evidentiary Hr'g of 4/29/99, at 365).

Mr. Williams indicated that he didn't currently know the names of these three witnesses. (Tr. of Evidentiary Hr'g of 4/29/99, at 366). The People again referenced the letter's contents that "Mr. Jimerson had informed [Mr. Williams] that one of [Jimerson's] sisters saw people and things at the crime scene on the night [of the crime]," to which Dennis Williams responded:

[He didn't] remember that specific time. [He didn't] recall back to what was going on in [his] mind as to this matter.
It was something that apparently Verneal had said. [Mr. Williams'] best understanding [was], though, that Verneal was not certain, no one was certain about anything, other than speculation.

(Tr. of Evidentiary Hr'g of 4/29/99, at 366-67).

Mr. Williams also confirmed that this information was certain enough for him to pass it on to Mr. Gant, or the specifics of what one of Mr. Jimerson's sisters knew, and Mr. Gant

“checked that [information] out [and]...got nothing from it.” (Tr. of Evidentiary Hr’g of 4/29/99, at 367). He additionally stated that he didn’t remember “with any specificity” what he told Mr. Gant that Verneal Jimerson’s sister knew about this case. (Tr. of Evidentiary Hr’g of 4/29/99, at 368).

On re-direct, Mr. Williams confirmed that the name of Dennis Johnson didn’t appear on either of the three pages of his letter, and that he didn’t remember whether he was thinking about the name Johnson in connection with his case in November of 1985 because “it [has] been so long.” (Tr. of Evidentiary Hr’g of 4/29/99, at 369).

He indicated that the last paragraph of the letter referred to David Jackson as being an untruthful witness at his 1978 trial. (Tr. of Evidentiary Hr’g of 4/29/99, at 369). He further testified, however, that he didn’t know who David Jackson was until he appeared on the witness stand and falsely testified against him. (Tr. of Evidentiary Hr’g of 4/29/99, at 369-70). He also didn’t recall being in a cell with David Jackson at Cook County Jail because he “didn’t know who he was” at the time. (Tr. of Evidentiary Hr’g of 4/29/99, at 370).

Mr. Williams concluded that when he was first at Cook County Jail, he “absolutely [did] not” talk with any of his co-defendants and make admissions about having participated in the [subject] murders. (Tr. of Evidentiary Hr’g of 4/29/99, at 370).

Kenneth Adams

Kenneth Adams testified that on May 10th, 1978, he was 20 years old and lived at 1533 Embassy Lane in East Chicago Heights, Illinois, which is currently Ford Heights, Illinois. (Tr. of Evidentiary Hr’g of 4/30/99, at 4, 10). He stated that he had known Paula Gray since approximately 1974 and considered her a friend. (Tr. of Evidentiary Hr’g of 4/30/99, at 4-5). Mr. Adams saw Paula, who lived around the corner from his house, almost every day. (Tr. of Evidentiary Hr’g of 4/30/99, at 5). He indicated that he knew Ms. Gray’s friends, and those with whom she socialized, who were the people in the “general area” and close to where her mother stayed; and consisted of the Jimerson girls, Willie Watson, Dennis Williams, and Verneal Jimerson. (Tr. of Evidentiary Hr’g of 4/30/99, at 5-6). Kenneth Adams stated that he didn’t know how well Paula knew Willie Raigne, though she might have known who he was. (Tr. of Evidentiary Hr’g of 4/30/99, at 6).

Mr. Adams testified that he never saw Paula Gray in the company of Ira Johnson, Dennis Johnson, Arthur Robinson, or [Johnnie] Rodriguez, nor did he ever see these men around the Gray house. (Tr. of Evidentiary Hr’g of 4/30/99, at 6-7).

Kenneth Adams stated that most of the time he, Paula Gray and their [previously named] friends mingled and talked in front of the Gray house or in the general area. (Tr. of Evidentiary Hr’g of 4/30/99, at 7). He indicated that Paula was kind of quiet and shy, and really didn’t go out of her general area to meet other people. (Tr. of Evidentiary Hr’g of 4/30/99, at 7-8).

On the evening of May 10th, 1978, Kenny Adams testified that he went to Paula's house where she braided his hair in the kitchen. (Tr. of Evidentiary Hr'g of 4/30/99, at 8). He stated that after Ms. Gray finished braiding, they went outside in his car and listened to tapes for maybe an hour, or an hour and a half. (Tr. of Evidentiary Hr'g of 4/30/99, at 8). He further stated that Dennis Williams pulled up in his car and the three of them spoke through their open drivers' side windows. (Tr. of Evidentiary Hr'g of 4/30/99, at 9). Mr. Adams testified that eventually, Dennis Williams left, and he [Kenneth Adams] made sure Paula got inside safely, and then he went home. (Tr. of Evidentiary Hr'g of 4/30/99, at 10).

Kenny Adams stated that he knows Petitioner's mother, Louise Gray. (Tr. of Evidentiary Hr'g of 4/30/99, at 10). He indicated that Mrs. Gray knew most of the people who "hung around her house" and welcomed them all in her home. (Tr. of Evidentiary Hr'g of 4/30/99, at 10). He testified that she treated them all like family. (Tr. of Evidentiary Hr'g of 4/30/99, at 10).

Mr. Adams testified that by May 10th, 1978, he had completed Bloom Township High School and was seeking new employment at the Chicago Extruded Metal Company through a friend, after ending a previous job. (Tr. of Evidentiary Hr'g of 4/30/99, at 11). He stated that he had played varsity baseball in high school and hoped to get into a junior college with the small savings he had accrued and perhaps play baseball. (Tr. of Evidentiary Hr'g of 4/30/99, at 11-12). He further testified that he had received letters from Blackhawk Junior College and other schools. (Tr. of Evidentiary Hr'g of 4/30/99, at 12).

Kenny Adams stated that he left Paula's house about 12:30 or 1:00 a.m., though he's unsure of the exact time, went home, warmed some food, popped some popcorn, and relaxed on the couch looking at T.V. in his mom's basement. (Tr. of Evidentiary Hr'g of 4/30/99, at 12-13). Mr. Adams indicated that it was "just a normal day for him." (Tr. of Evidentiary Hr'g of 4/30/99, at 13). He testified that he did not leave the house, and he believes he drifted off to sleep. (Tr. of Evidentiary Hr'g of 4/30/99, at 13).

On Thursday, May 11th, 1978, Mr. Adams stated that nothing unusual happened, though he really has no memory about Thursday except for taking his mother to work and picking her up after she got off. (Tr. of Evidentiary Hr'g of 4/30/99, at 13-14).

On Friday, May 12th, 1978, Kenny Adams indicated that an unusual occurrence took place in that a body was recovered from the creek. (Tr. of Evidentiary Hr'g of 4/30/99, at 14). He further indicated that he didn't know if it was Larry Lionberg or Carol Schmal, but he noticed that police cars and a crowd were near the area. (Tr. of Evidentiary Hr'g of 4/30/99, at 14). Mr. Adams stated that the area where the body was discovered was right around the corner from [his home], so he joined the crowd to find out what was happening. (Tr. of Evidentiary Hr'g of 4/30/99, at 14-15). He indicated that Cook County Sheriff's Police were the type of police present, but he did not know who was conducting the investigation. (Tr. of Evidentiary Hr'g of 4/30/99, at 15-16). Mr. Adams stated that the only policeman he saw who wasn't with the County Sheriff's Police was

Sgt. Nance, who appeared to be acting in a crowd control capacity. (Tr. of Evidentiary Hr'g of 4/30/99, at 16).

Kenny Adams testified that he saw police following Verneal Jimerson walking toward Dennis Williams' vehicle and handcuff him at the car; and then seeing Dennis Williams walk to his car after seeing Mr. Jimerson handcuffed, at which point he saw Mr. Williams being handcuffed and taken to a Cook County Sheriff's police squad car. (Tr. of Evidentiary Hr'g of 4/30/99, at 16-17).

Mr. Adams additionally testified that later that Friday afternoon, he was taking his pregnant sister to the clinic when they were stopped by a police vehicle pulling in front of his car, another in back, and a third one on his side. (Tr. of Evidentiary Hr'g of 4/30/99, at 17-18). They ordered Kenny Adams out of his automobile, and searched both him and the inside and trunk of his vehicle. (Tr. of Evidentiary Hr'g of 4/30/99, at 18). He stated that the police told him that they would take his sister to the clinic, because they wanted him to accompany them to the Homewood Cook County Sheriff's Police Department. (Tr. of Evidentiary Hr'g of 4/30/99, at 18). Mr Adams stated that he was escorted to the Sheriff's headquarters and that he "had absolutely no choice but [to] go with them." (Tr. of Evidentiary Hr'g of 4/30/99, at 18-19). He also stated that he had not violated any law, nor had any outstanding warrant when he was initially pulled over by the police. (Tr. of Evidentiary Hr'g of 4/30/99, at 19).

Kenneth Adams indicated that he arrived at the station about 2:00 or 2:30 in the afternoon and remained there until approximately 12 midnight. (Tr. of Evidentiary Hr'g of 4/30/99, at 19-20). He testified he was later taken to a room and questioned "over and over" by unknown officers of the Cook County Sheriff's Department. (Tr. of Evidentiary Hr'g of 4/30/99, at 20, 21). Mr. Adams stated that he told them he knew nothing about what had taken place, or what happened to the people, or how it happened, and that he was curious like everybody else. (Tr. of Evidentiary Hr'g of 4/30/99, at 20).

Kenneth Adams testified that thought he was at the station to help, but "otherwise it was no sense in [him] being there because [he] knew nothing about the crime." (Tr. of Evidentiary Hr'g of 4/30/99, at 21).

After he was released, he indicated that he drove Paula and Willie Rainge home. (Tr. of Evidentiary Hr'g of 4/30/99, at 21). Mr. Adams testified that he found out later, on Saturday morning, that his car had been fingerprinted. (Tr. of Evidentiary Hr'g of 4/30/99, at 21-22). He indicated that he woke up and went out to wash his car as he usually did on Saturday morning and discovered "ink and powder and traces of powder all over [his] car and [he knew he] had not put it there." (Tr. of Evidentiary Hr'g of 4/30/99, at 22). Kenneth Adams testified that he hadn't seen Dennis Williams at the police station, though he assumed Dennis was there. (Tr. of Evidentiary Hr'g of 4/30/99, at 22).

Mr. Adams additionally testified that he began washing his car when two detectives pulled up and told him they needed him for further questioning at the Cook County

Sheriff's Headquarters. (Tr. of Evidentiary Hr'g of 4/30/99, at 23). Kenny Adams stated that pursuant to their request on whether he wanted to ride with them, he responded he would come to the station after finishing washing his car. (Tr. of Evidentiary Hr'g of 4/30/99, at 23). He testified that after washing off the powder and ink, he showered, dressed and drove to the Cook County Sheriff's Police Station in Homewood-Flossmoor off of Ridgeland. (Tr. of Evidentiary Hr'g of 4/30/99, at 23-24).

Mr. Adams stated that upon arriving at the station at about 6 p.m., he was taken to a room and questioned for about the first hour similarly as before by, he believes, Detectives Houlihan and Krupowitz. (Tr. of Evidentiary Hr'g of 4/30/99, at 24, 25). He testified that again, as an innocent person, he thought he was there to help. (Tr. of Evidentiary Hr'g of 4/30/99, at 24). Then, he indicated, the questioning took more of an "aggressive turn" and he realized he was there "as though he was going to be accused of this crime." (Tr. of Evidentiary Hr'g of 4/30/99, at 25). Mr. Adams stated that this was because the detective he later learned to be Krupowitz, who was husky and had a black mole or wart on his face, suddenly began beating him with his fists on his [Kenny Adams'] shoulder, chest, rib and abdominal area, but not his face, and constantly called him different racial slurs, [such] as nigger, and cursed him out. (Tr. of Evidentiary Hr'g of 4/30/99, at 26, 29-30, 31). Mr. Adams also stated that he was seated in a chair when this attack occurred. (Tr. of Evidentiary Hr'g of 4/30/99, at 29). Kenneth Adams indicated that at one point while being beaten, Det. Krupowitz said "You dirty nigger, you are not going to get away with this crime, you are not going to get away with killing this couple." (Tr. of Evidentiary Hr'g of 4/30/99, at 27). Mr. Adams further stated that after a few minutes of being hit "numerous times," Det. Houlihan pulled Det. Krupowitz off of him, but Det. Krupowitz continued calling him a dirty nigger and dirty motherfucker who shouldn't have killed this couple. (Tr. of Evidentiary Hr'g of 4/30/99, at 30-31). Kenny Adams testified that Det. Houlihan had to continue holding Det. Krupowitz until he calmed down. (Tr. of Evidentiary Hr'g of 4/30/99, at 31). Mr. Adams further stated that he didn't attempt to defend himself and strike back until the end, right at the point Det. Krupowitz was pulled away. (Tr. of Evidentiary Hr'g of 4/30/99, at 31-32).

Kenneth Adams stated that all kinds of feelings were running through him at the time; that he now felt he was being treated as if he'd committed this crime; that this was his first time in jail, and in the presence of the Cook County Sheriff's Police; and that he didn't know what to expect or how to react, but he was scared. (Tr. of Evidentiary Hr'g of 4/30/99, at 32-33). He further testified that Det. Houlihan then tried to befriend him, telling him the other officer [Det. Krupowitz] wanted to beat him up but that he [Houlihan] didn't want to beat him and that he'd protect him if he [Kenny Adams] cooperated. (Tr. of Evidentiary Hr'g of 4/30/99, at 33). Mr. Adams stated that he was able to identify both Detectives Houlihan and Krupowitz because they were the same Cook County Sheriff's policemen who'd stopped at his mother's house [on Saturday, May 13th, 1978] asking him to come back down to the station. (Tr. of Evidentiary Hr'g of 4/30/99, at 33).

Mr. Adams indicated they questioned him a little more and then took him to another room where Paula Gray, her mother, and perhaps her twin sister, Paulette, and other detectives, were present. (Tr. of Evidentiary Hr'g of 4/30/99, at 34, 35). This was about 9:00 or 9:30 p.m., he thinks, because it was dark outside and he'd been at the station maybe two or three hours. (Tr. of Evidentiary Hr'g of 4/30/99, at 34). Kenny Adams stated that he was told they wanted him to hear what Paula had to say. (Tr. of Evidentiary Hr'g of 4/30/99, at 35). Paula then said that he'd come by and she had braided his hair. (Tr. of Evidentiary Hr'g of 4/30/99, at 35). Afterwards, she said, they went out and sat in his car, listened to tapes, and had a three way conversation with Dennis Williams until he left. (Tr. of Evidentiary Hr'g of 4/30/99, at 35). Then "she said she went in the house and [that]...[he] went in the house." (Tr. of Evidentiary Hr'g of 4/30/99, at 35). Mr. Adams further indicated that Paula said that "later Dennis came back and picked her up and took her around to the back where the abandoned buildings were and she said that when she got there that [he] was there." (Tr. of Evidentiary Hr'g of 4/30/99, at 35). After she said that, Kenneth Adams testified that he became "kind of hysterical because [he] was trying to figure out what was going on, here, now, why [was] she saying this [and]...what happened to make her come up with this particular story." (Tr. of Evidentiary Hr'g of 4/30/99, at 35-36). Kenny Adams stated that Paula started crying and getting hysterical when she saw his reaction. (Tr. of Evidentiary Hr'g of 4/30/99, at 36). He additionally testified that Paula looked "stressed out" and "exhausted." (Tr. of Evidentiary Hr'g of 4/30/99, at 36).

Kenny Adams stated he didn't know what time Paula had been brought back to the Cook County Sheriff's Police Station, but she looked as if she'd been there "for quite awhile." (Tr. of Evidentiary Hr'g of 4/30/99, at 36). In fact, he testified that he did not even know Paula was at the station until he was brought into the room with her. (Tr. of Evidentiary Hr'g of 4/30/99, at 36). Mr. Adams further indicated that after Paula broke down and started crying, she "stopped [her] statement." (Tr. of Evidentiary Hr'g of 4/30/99, at 37). Kenny Adams stated that he was also upset and "they quickly hustled [him] out of the room" for more questioning. (Tr. of Evidentiary Hr'g of 4/30/99, at 37).

Mr. Adams indicated that later that evening, he was taken to a jail cell. (Tr. of Evidentiary Hr'g of 4/30/99, at 37). He testified that he had never been in a jail cell before, and he felt like he was suffocating. (Tr. of Evidentiary Hr'g of 4/30/99, at 37).

Kenny Adams stated that on the next day they were taken to Maywood, to what he thinks was the Crime Lab, for a polygraph test, which they [the Ford Heights Four] had requested. (Tr. of Evidentiary Hr'g of 4/30/99, at 37-38). He stated that he didn't know at the time that polygraph tests were inadmissible. (Tr. of Evidentiary Hr'g of 4/30/99, at 38). Mr. Adams further indicated that he was not free to go home until July 2, [1996]. (Tr. of Evidentiary Hr'g of 4/30/99, at 38).

He testified that he knew nothing about the Carol Schmal and [Larry] Lionberg murders. (Tr. of Evidentiary Hr'g of 4/30/99, at 39). In fact, the first time he ever saw the victims was in 1986 [sic], when Dennis Williams showed him a newspaper clipping during "that

second trial.” (Tr. of Evidentiary Hr’g of 4/30/99, at 39). He stated that “[he] learned about this case as [he] was being tried for it.” (Tr. of Evidentiary Hr’g of 4/30/99, at 39).

Kenny Adams testified he initially learned about Dennis Johnson and Ira Johnson’s involvement in this crime when he first found out about the street files in 1996. (Tr. of Evidentiary Hr’g of 4/30/99, at 39). He did not tell Paula Gray about these files because he had no contact with her at that time. (Tr. of Evidentiary Hr’g of 4/30/99, at 40). In fact, Mr. Adams indicated, the only contact he had had with Paula after his arrest was sitting together at their first trial [in 1978]. (Tr. of Evidentiary Hr’g of 4/30/99, at 40). He also stated that he never related any information regarding this case to Paula Gray or her attorney, including that concerning Ira Johnson and Dennis Johnson. (Tr. of Evidentiary Hr’g of 4/30/99, at 40).

Mr. Adams testified he was present for the deposition of Dave Capelli early [in 1999] or late [1998]. (Tr. of Evidentiary Hr’g of 4/30/99, at 40-41). Kenny Adams stated that prior to Dave Capelli’s deposition, he did not know who authored the notes of the Simpson interview. (Tr. of Evidentiary Hr’g of 4/30/99, at 41). He additionally testified that “[he] had no knowledge” that Mr. Podlecki had done testing on Negroid pubic hairs found on Carol Schmal’s socks that were inconsistent with [the pubic hairs] of the Ford Heights Four. (Tr. of Evidentiary Hr’g of 4/30/99, at 42). Mr. Adams indicated he learned of this information in 1999, and that prior to 1999, he never received a copy of the Sheriff’s Department master file, nor the notes contained in this file. (Tr. of Evidentiary Hr’g of 4/30/99, at 42).

In response to the Court’s inquiry about taking a polygraph test, Kenneth Adams stated that “[the Ford Heights Four] had no other recourse than to ask for [the tests] thinking...[that]... they would prove [the Ford Heights Four] were telling the truth and so we requested them.” (Tr. of Evidentiary Hr’g of 4/30/99, at 45-46). He further responded that at that point in time, he didn’t find out what the results [of the polygraph tests] were. (Tr. of Evidentiary Hr’g of 4/30/99, at 46).

On cross-examination, Mr. Adams repeated that he first saw the street file, or Capelli notes, when [the Ford Heights Four] got released in July 1996 after all the charges were dropped. (Tr. of Evidentiary Hr’g of 4/30/99, at 47). [As previously noted in this Memorandum at 8-9, the indictment against Verneal Jimerson for the subject crimes was dismissed on June 24, 1996, pursuant to his motion to dismiss; and the indictments against Kenneth Adams, Dennis Williams, and Willie Rainge for these crimes were dismissed on July 2, 1996, pursuant to the People’s motion to *nolle prosequere* the charges. See also Memorandum “Judicial Notice” paras. 4, 5.c., at 225, 225-26]. Kenneth Adams stated that he believes that Mr. Urdangen, one of his attorneys, was one of the sources showing him the Capelli notes. (Tr. of Evidentiary Hr’g of 4/30/99, at 47-48).

Mr. Adams additionally testified that prior to his 1978 trial, he was aware that pubic hair samples were taken from him. (Tr. of Evidentiary Hr’g of 4/30/99, at 48). He indicated that Mr. Creswell was his attorney at the time and that he [Kenny Adams] didn’t tell Mr. Creswell that pubic hairs were taken from him by the police. (Tr. of Evidentiary Hr’g of

4/30/99, at 49). However, Mr Adams stated that Mr. Creswell was aware that samples were taken by reason of the court order requiring Kenny Adams', [and that of the other Ford Heights Four, pubic] hair. (Tr. of Evidentiary Hr'g of 4/30/99, at 49). Also, to the best of Kenneth Adams knowledge, he indicated that Mr. Creswell was present during argument about whether or not hairs should be taken. (Tr. of Evidentiary Hr'g of 4/30/99, at 49).

Mr. Adams repeated that he was initially stopped by the police while driving his sister to the clinic; that the police took his sister to the clinic, where he learned she had arrived; and that he drove his own car to the police station. (Tr. of Evidentiary Hr'g of 4/30/99, at 50). He also reiterated that he drove Paula Gray and Willie Rainge home in his car, and thereafter returned to his home in the area in which they lived. (Tr. of Evidentiary Hr'g of 4/30/99, at 51). Mr. Adams stated that he didn't notice any dust, dirt or fingerprint powder on his clothing when he got home that night. (Tr. of Evidentiary Hr'g of 4/30/99, at 51-52). Kenneth Adams additionally repeated that on Saturday, the police who pulled up while he was washing his car allowed him, pursuant to his request, to drive to the station after he finished washing his vehicle. (Tr. of Evidentiary Hr'g of 4/30/99, at 52).

Kenneth Adams also testified that "[he] initially thought the [polygraph] tests were inconclusive, but [his] previous civil attorneys told [him] the test [sic] came out against [the Ford Heights Four], not in [their] favor." (Tr. of Evidentiary Hr'g of 4/30/99, at 54). He indicated that he doesn't recall the name of the examiner, except it was someone who worked for the State, and that the test was conducted at the Illinois Crime Lab in Maywood, Illinois. (Tr. of Evidentiary Hr'g of 4/30/99, at 55). Mr. Adams stated that he did not know a Nathaniel Johnson, and that the only boyfriend he was aware Paulette Gray had between 1974 and 1978 was Bill, who he thinks was killed in a motorcycle accident in 1977. (Tr. of Evidentiary Hr'g of 4/30/99, at 55). He can't remember Bill's last name. (Tr. of Evidentiary Hr'g of 4/30/99, at 55).

Kenneth Adams additionally stated that on Sunday morning [May 14th, 1978,] he was still at the police station; that he thereafter went to Maywood where he thinks he spent the night, in that he recalled while there his name being announced on the television as having been "arrested for a murder which [he] had not committed"; and was subsequently returned to the [police] station. (Tr. of Evidentiary Hr'g of 4/30/99, at 56).

Mr. Adams testified that his signature appears to be on the last page of Respondent's Exhibit Number Four and that his initials "K-A" appear to be on the other pages. (Tr. of Evidentiary Hr'g of 4/30/99, at 59). [Pursuant to the Court's inquiry, Respondent identified Respondent's Exhibit Number Four as a statement of Kenneth Adams dated Sunday, May 14th, 1978, at 10:50 p.m., and reported by a Court reporter named Blanca Lara]. However, Mr. Adams does not recall if he did or did not speak to an assistant State's Attorney on Sunday, [May 14th, 1978]. (Tr. of Evidentiary Hr'g of 4/30/99, at 58). He further indicated that he does not recall if he did or did not complain to anybody at the police station about [his] alleged punching [by the police] that had occurred. (Tr. of Evidentiary Hr'g of 4/30/99, at 61). Mr. Adams also testified that he didn't know if there were assistant State's Attorneys at the police station because "there [were] plenty of

people dressed in civilian clothes and there were people in uniform, so [he] couldn't [distinguish] who was who." (Tr. of Evidentiary Hr'g of 4/30/99, at 61-62). He additionally indicated that there may have been a person there with a machine like the man [at the evidentiary hearing] making notes while he [Mr. Adams] [was] being asked questions and giving answers [at the herein proceeding]. Tr. of Evidentiary Hr'g of 4/30/99, at 62).

On re-direct, Mr. Adams testified that at every stage of this investigation and his arrest, he attempted to cooperate with the police. (Tr. of Evidentiary Hr'g of 4/30/99, at 62). He indicated that he did not try to make trouble for the police. (Tr. of Evidentiary Hr'g of 4/30/99, at 62).

Paula Gray

Paula Gray testified that she grew up in Chicago Heights with her mother, four sisters and two brothers. (Tr. of Evidentiary Hr'g of 4/30/99, at 66). Ms. Gray and her family subsequently moved to 1525 Hammond Lane in East Chicago Heights, currently known as Ford Heights, though she was unable to remember the exact date of the move. (Tr. of Evidentiary Hr'g of 4/30/99, at 67).

Paula Gray finished Woodlawn grade school through the eighth grade while in Ford Heights, where she attended EMH classes. (Tr. of Evidentiary Hr'g of 4/30/99, at 67). She later attended Prairie State in an effort to get her GED. (Tr. of Evidentiary Hr'g of 4/30/99, at 68).

After leaving school in the 9th grade, Ms. Gray looked after her baby brother, Torry Gray, and would sweep and mop the living room floor at home. (Tr. of Evidentiary Hr'g of 4/30/99, at 68, 69). She also took Torry to and from his school. (Tr. of Evidentiary Hr'g of 4/30/99, at 69).

Ms. Gray had very few friends as a child growing up and sometimes played by herself. (Tr. of Evidentiary Hr'g of 4/30/99, at 69-70). In Ford Heights, her friends were Kenny Adams, Dennis Williams and "Lurch," or Verneal Jimerson. (Tr. of Evidentiary Hr'g of 4/30/99, at 70). She met Willie Rainge through Dennis Williams, and only saw him one time. (Tr. of Evidentiary Hr'g of 4/30/99, at 70-71). She had 3 girlfriends: Clothe, whose house she visited, and Arletha and Debra Jimerson, who she talked to and who also lived nearby. (Tr. of Evidentiary Hr'g of 4/30/99, at 71). She played basketball by herself. (Tr. of Evidentiary Hr'g of 4/30/99, at 72).

By the spring of 1978, Ms. Gray was seventeen years old, and had been caring for Torry and doing house cleaning chores for several years. (Tr. of Evidentiary Hr'g of 4/30/99, at 72). There were no magazines regularly in her home, nor telephone, and no one owned a car. (Tr. of Evidentiary Hr'g of 4/30/99, at 72, 73). She had never been to Lake Michigan, or downtown Chicago; nor to a movie or play. (Tr. of Evidentiary Hr'g of

4/30/99, at 72, 73). Ms. Gray sometimes read newspapers at home and she and her friends had fun by playing cards and listening to music at her mother's house. (Tr. of Evidentiary Hr'g of 4/30/99, at 73).

In 1978, Paula Gray's friends were nice to her mother, giving her rides for shopping, and her mother liked her friends. (Tr. of Evidentiary Hr'g of 4/30/99, at 73-74). There were no gangs in Ms. Gray's neighborhood, and she and her friends did not get into fights with people. (Tr. of Evidentiary Hr'g of 4/30/99, at 74). Petitioner neither met nor knew Ira Johnson, Dennis Johnson, Arthur Robinson, Juan Rodriguez, or Marvin Simpson. (Tr. of Evidentiary Hr'g of 4/30/99, at 74-75).

On Friday, May 12th, 1978, there was a crowd outside Paula Gray's house. (Tr. of Evidentiary Hr'g of 4/30/99, at 75). Police wearing "regular clothes" came to her home while conducting door-to-door questioning. (Tr. of Evidentiary Hr'g of 4/30/99, at 75-76). The police asked Petitioner her age and she told them she was 13, when she was actually 17. (Tr. of Evidentiary Hr'g of 4/30/99, at 76). She was frightened. (Tr. of Evidentiary Hr'g of 4/30/99, at 76). Paula Gray had never been arrested before, or questioned by police, or told by the police she had done something wrong. (Tr. of Evidentiary Hr'g of 4/30/99, at 76). Her mother came to the door and told the police she was 17. (Tr. of Evidentiary Hr'g of 4/30/99, at 77).

The same police returned to Ms. Gray's home later on May 12th and took her to the police station, or Sheriff's jail. (Tr. of Evidentiary Hr'g of 4/30/99, at 77, 87, 88-89). She doesn't remember the time of their return [to her home] on Friday. (Tr. of Evidentiary Hr'g of 4/30/99, at 77-78). Petitioner had never been to the Sheriff's jail before. (Tr. of Evidentiary Hr'g of 4/30/99, at 87). She was put in a waiting room, and saw "Kenny" and "Dennis." (Tr. of Evidentiary Hr'g of 4/30/99, at 78). Shortly thereafter, she was put in another room where two policemen in "regular clothes" entered the room together and questioned her. (Tr. of Evidentiary Hr'g of 4/30/99, at 78-79). Their names were "Jackson" and "Houlihan." (Tr. of Evidentiary Hr'g of 4/30/99, at 78). When asked what she knew about the "dead people," she responded that she didn't know anything and hadn't seen anything. (Tr. of Evidentiary Hr'g of 4/30/99, at 79). The police told her she was "lying" and "taking up for the guys." (Tr. of Evidentiary Hr'g of 4/30/99, at 79). Ms. Gray repeated to them "I don't know nothing, I have not seen nothing and I told [the policeman] I was telling the truth and they kept going on and on and I got scared." (Tr. of Evidentiary Hr'g of 4/30/99, at 79). She just wanted to go home. (Tr. of Evidentiary Hr'g of 4/30/99, at 79). The police then showed her photos of the dead man and woman and Paula Gray continued telling them she had not seen anything. (Tr. of Evidentiary Hr'g of 4/30/99, at 79).

Ms. Gray testified that she was telling the police the truth and they called her "bitches," "whores," and "sluts," and she got scared. (Tr. of Evidentiary Hr'g of 4/30/99, at 80). Jackson grabbed her wrist, kept squeezing it and wouldn't let it go, and she told him he was hurting her, and Houlihan flicked his finger on her head. (Tr. of Evidentiary Hr'g of 4/30/99, at 80).

The police wanted Paula Gray “to put the guys away for life” and to say that the men took turns raping the woman while Petitioner held a black [this term may have been misheard or mistranscribed by the court reporter as “black” instead of “Bic”] lighter. (Tr. of Evidentiary Hr’g of 4/30/99, at 80). The police investigators also wanted her to say Dennis shot the woman twice in the head before they went downstairs. (Tr. of Evidentiary Hr’g of 4/30/99, at 81). [At this point in the evidentiary proceeding, Petitioner appeared as if she needed a break while being examined by her own counsel regarding this police interrogation, but she declined the Court’s and both sides’ offer to take one. (Tr. of Evidentiary Hr’g of 4/30/99, at 81-82)].

The police told Petitioner to say that they all went downstairs to the creek; that Dennis shot the man twice in the head; that he gave the gun to Willie Rainge, who shot the man once in the back, and returned the gun to Dennis; that Dennis “threw” the gun in the creek; and that “if [she] say[s] anything to anybody, that Dennis would kill [she] and [her] family.” (Tr. of Evidentiary Hr’g of 4/30/99, at 82). Paula Gray’s repeated response to this story was “I don’t know nothing. I haven’t seen it. I was telling them the truth.” (Tr. of Evidentiary Hr’g of 4/30/99, at 82).

She told the police that she was with Kenny on Wednesday night, that he had come over and she got in his car and they listened to music, and that she braided his hair, which she had done for other people around 1978. (Tr. of Evidentiary Hr’g of 4/30/99, at 82-83). Dennis Williams pulled up in his car, rolled down his window and asked them if they wanted some malt liquor 800, to which they responded they didn’t. (Tr. of Evidentiary Hr’g of 4/30/99, at 83). Dennis remained for awhile and then left. (Tr. of Evidentiary Hr’g of 4/30/99, at 83-84). Ms. Gray listened to some more music, told Kenny she was sleepy, left him and entered her house, and went to sleep. (Tr. of Evidentiary Hr’g of 4/30/99, at 84). She did not leave her house after Wednesday night. (Tr. of Evidentiary Hr’g of 4/30/99, at 84).

Paula Gray told all of this to the police who responded by telling her to say that she heard a strange noise and that she went to 1527, the house next to her house, peeped out the curtain, and to say Dennis came back and got her. (Tr. of Evidentiary Hr’g of 4/30/99, at 84). Petitioner stated that the police told her “[t]o put the guys away for life,” and that if she didn’t do what they wanted her to, she would go to prison for life. (Tr. of Evidentiary Hr’g of 4/30/99, at 85). Ms. Gray got scared. (Tr. of Evidentiary Hr’g of 4/30/99, at 85). The police also told her that “[she] would never see her family again,” and “that what happened to the woman would happen to her.” (Tr. of Evidentiary Hr’g of 4/30/99, at 85).

The other policeman Petitioner talked to that Friday night, also in “regular clothes,” was Patrick Pastirik, who came in the room while Houlihan and Jackson were still there and told Ms. Gray that her twin sister, Paulette, said that Petitioner confessed to her. (Tr. of Evidentiary Hr’g of 4/30/99, at 85-87). This was not true. (Tr. of Evidentiary Hr’g of 4/30/99, at 87). [Though the transcript indicates “Pasturik,” the correct spelling is “Pastirik” according to this officer’s August 1st, 1978 grand jury testimony and police reports filed in the Lionberg/Schmal case. (Respondent’s Group Ex. 11 Item H at

PD00054, PD00056, PD000114)]. Patrick Pastirik also told her “I got you, nigger.” (Tr. of Evidentiary Hr’g of 4/30/99, at 87).

Paula Gray was never alone without a policeman present. (Tr. of Evidentiary Hr’g of 4/30/99, at 88). Different policemen in “regular clothes,” and whose names she doesn’t know, were coming in and out of the room she was in. (Tr. of Evidentiary Hr’g of 4/30/99, at 88). Ms. Gray was at the Sheriff’s jail overnight, though she doesn’t remember the exact time she left. (Tr. of Evidentiary Hr’g of 4/30/99, at 88-89). Kenny Adams took her home. (Tr. of Evidentiary Hr’g of 4/30/99, at 89).

Ms. Gray doesn’t recall if anyone was home when she arrived, but she sat up in bed, with all of her clothes and shoes on, continually nodding off and then awakening, so she did not go to sleep that night. (Tr. of Evidentiary Hr’g of 4/30/99, at 89-90). [The Court noted that Ms. Gray pauses at least 10 to 15 seconds “to get her thoughts together” before answering every question. (Tr. of Evidentiary Hr’g of 4/30/99, at 90)].

The police returned to Petitioner’s home Saturday evening, questioned her again about the “dead people,” and she again responded she did not know anything and had not seen anything. (Tr. of Evidentiary Hr’g of 4/30/99, at 90-91). They also searched her house and took Paulette’s boots, leaving a card, and telling her not to say anything. (Tr. of Evidentiary Hr’g of 4/30/99, at 91).

Later that same evening, police whom Petitioner did not know, returned to her home and took her back to the Sheriff’s jail. (Tr. of Evidentiary Hr’g of 4/30/99, at 91-92). She was taken to a room, again by police she didn’t know, and they said the same things to her she had heard the night before, to which she responded she didn’t know anything. (Tr. of Evidentiary Hr’g of 4/30/99, at 92). The police did not write down Ms. Gray’s [foregoing] responses. (Tr. of Evidentiary Hr’g of 4/30/99, at 92-93). Petitioner was called “bitches, whores and sluts,” but Ms. Gray doesn’t remember the names of the policemen calling her these names. (Tr. of Evidentiary Hr’g of 4/30/99, at 93). The policemen told her the same story as the night before that they wanted her to say. (Tr. of Evidentiary Hr’g of 4/30/99, at 93). She was again threatened that if she didn’t tell them what they wanted to hear, “what happened to the woman could happen to [her].” (Tr. of Evidentiary Hr’g of 4/30/99, at 94). Ms. Gray was also threatened with being sent “to the county [jail]” if she didn’t tell the police what they wanted to hear. (Tr. of Evidentiary Hr’g of 4/30/99, at 94).

Later that night, when it was “dark out,” Petitioner was taken to the building where the policemen told her the murder of the woman had occurred. (Tr. of Evidentiary Hr’g of 4/30/99, at 94). There were no lights on in the building, which is less than a block from her home. (Tr. of Evidentiary Hr’g of 4/30/99, at 94-95). A flashlight was used. (Tr. of Evidentiary Hr’g of 4/30/99, at 95). Ms. Gray at first thought the policemen were taking her home. (Tr. of Evidentiary Hr’g of 4/30/99, at 95-96). She remembers it was “sprinkling outside.” (Tr. of Evidentiary Hr’g of 4/30/99, at 95). There were two more people out there when they arrived at the building on Cannon Lane. (Tr. of Evidentiary Hr’g of 4/30/99, at 96). Ms. Gray testified:

I didn't want to go in, I was afraid and I had no other choice but to go in.

It was dark. I walked up some steps, and the further I got up to the steps going towards the room in the back, that is when I seen the puddle of blood and that is where they showed me where they said that Dennis killed the woman, that she was – they pointed and showed me where she was face-down and to say that I threw the gun – or excuse me, that I threw the lighter in the corner.

I was so terrified of seeing all that blood, I just wanted to run go home.

Then we went downstairs. We went over by the creek where they showed me where the man was face-down and to say that he got shot in the head twice and Willie Rainge shot him in the back, and that Willie Rainge gave the gun back to Dennis, and they pointed to where the gun was thrown in the creek by Dennis and to say, if I say anything to anybody, that Dennis would kill me and my family.

Q. Was this what you were suppose to say, Dennis Williams had said to you after the man was killed?

A. That is what they wanted me to say, that Dennis told me to say this, but they are the ones that told me to say it.

And on the way going, before I left, I got a gun pulled out on me and I was scared and I started crying.

I thought they was going to kill me out there. I just wanted to go home. That is all I wanted to do, was to go home, and then we left and went back to the station and they told me don't tell nobody.

(Tr. of Evidentiary Hr'g of 4/30/99, at 96-97).

Paula Gray only remembers the names of Vanick and Houlihan as two of the policemen who took her to the empty building. (Tr. of Evidentiary Hr'g of 4/30/99, at 98). She doesn't remember the name of the policeman who pulled the gun on her. (Tr. of Evidentiary Hr'g of 4/30/99, at 98).

Before going to that abandoned building, Paula Gray told the police she would tell the story they wanted her to tell. (Tr. of Evidentiary Hr'g of 4/30/99, at 98-99). The police kept going over the story, telling her "to repeat behind them." (Tr. of Evidentiary Hr'g of 4/30/99, at 99). Paula Gray did so because "[she] didn't have no other choice but to do it." (Tr. of Evidentiary Hr'g of 4/30/99, at 99). She repeated the story a number of times. (Tr. of Evidentiary Hr'g of 4/30/99, at 99).

Ms. Gray was taken from the abandoned house back to the Sheriff's jail, where she remained overnight. (Tr. of Evidentiary Hr'g of 4/30/99, at 99). When Petitioner got home Sunday morning, on May 14th, 1978, it was light outside. (Tr. of Evidentiary Hr'g of 4/30/99, at 101).

On Monday, May 15th, Petitioner saw a woman prosecutor at Cliff Johnson's office. (Tr. of Evidentiary Hr'g of 4/30/99, at 101-02). Patrick Pastirik and Houlihan were the only policemen present. (Tr. of Evidentiary Hr'g of 4/30/99, at 102). Ms. Gray repeated the story on Monday that the police had asked her to tell. (Tr. of Evidentiary Hr'g of 4/30/99, at 102).

Petitioner spent Monday night at a motel with a woman police officer named Mathews. (Tr. of Evidentiary Hr'g of 4/30/99, at 102-03). [Note that "Mathews" is the correct spelling according to the "Supplementary Report," dated May 16th, 1978, filed by this officer, which consisted of a 3-page narrative of her contact with Ms. "Grey." Also, Ms. Mathews is apparently a Cook County Sheriff's police officer by reason of the reference in her "Supplementary Report" of being contacted at home by Lt. Vanick, a CCSP supervisor, to file a written report on the matter. (Respondent's Group Ex. 11, Item K at PD00051-00053).

Note also Petitioner's June 18th, 1996 statement, contained in Inv. Kelly's June 25th, 1996 report of his interview of Ms. Gray (see Respondent's Joint Mot. Ex. G. at 041098-041102; Memorandum "Evidentiary Hearing" Dr. Robert Clinton Watkins, Jr. at 64), conducted in the presence of her attorney (Thomas Decker) and the prosecution (Mike Baumel), pertaining to her affidavit dated February 8th, 1996 supporting Dennis Williams' Motion for Remand to the Trial Court. (Respondent's Joint Mot. Ex. G; Respondent's [Evidentiary Hr'g] Ex. #10, at 046272-046273). Based on this June 25th statement written and signed by Mr. Kelly (with the co-signature of his supervisor), but not that of the Petitioner, Ms. Gray stated that "maybe the day after she was picked up by the police [and spent a night alone in a police cell]," that she was taken by seven plain-clothed police officers to a motel where they told her the "facts of the case...and that policemen kept pressuring her to say she was involved...and that if she didn't tell them what happened, she would get into trouble, go to jail and never see her family again if she didn't tell them what happened." They continuously told her that "Kenny, Dennis, Verneal and Willie killed the people and that she could also be raped and murdered." The following day, Petitioner appeared before a judge in the Markham courthouse, with a public defender named Mr. Weston being present in court. After the proceeding, Paula Gray stated she was taken to another motel by a black female police officer where she stayed "maybe" two days and made no phone calls (because her mother had no telephone and she couldn't remember the phone numbers of her friends), nor was she questioned by the police. At some point, perhaps "the day she was taken to the first motel," she was brought to the Homewood Police Station at the same time that her mother, Paulette, Adams, Rainge, Williams and Jimerson were present at the same police facility, where "the police gave her some water and a 'pill' which made her dizzy." (Respondent's Joint Mot. Ex. G at 04198-04199, 04100, 041102).

Ms. Gray further indicated in the June 18th interview that “she never told either her sister, Paulette, or her mother, that Adams, Williams, Rainge, and Jimerson killed the people[.]” (Respondent’s Joint Mot. Ex. G at 041100).

In addition, Inv. Kelly’s report indicated that “Paula has a problem remembering the sequence of events and court appearances from the time sh [sic] was picked up by the police until she was sentenced to prison. (Respondent’s Joint Mot. Ex. G at 041100). It concluded that:

[d]uring this interview with Paula, the R/I [Jack Kelly] had to repeat a number of questions because it appeared that Paula did not understand. At one point, a question was asked to Paula and it took nearly 60 seconds before she gave a response.

(Respondent’s Joint Mot. Ex. G at 041102)].

The next day [Tuesday, May 16th, 1978], Ms. Gray and Officer Mathews went to Cliff Johnson’s office at 26th and California, where the [County] jail and courtrooms are located. (Tr. of Evidentiary Hr’g of 4/30/99, at 103-04). [Note again that Officer Mathews’ “Supplementary Report” confirms this May 16th, 1978 visit by Petitioner with the “State’s Attorney” at 26th & California, Chicago, Illinois.” (Respondent’s Group Ex. 11 Item K at PD00050-00053; see also Inv. D. Capelli’s report dated June 6, 1978, which referenced the foregoing May 16th, 1978 meeting with A.S.A. Johnson at approximately 1200 hrs and Paula Gray’s subsequent testimony that same date before the Grand Jury at approximately 1400 hrs. (Respondent’s Group Ex. 11 Item K at PD00053). Neither report indicates that Ms. Gray was either given or waived her Miranda rights.)). Also present at this meeting were Patrick Pastirik, Houlihan and Vanick. (Tr. of Evidentiary Hr’g of 4/30/99, at 104-05). At first, Paula Gray didn’t answer any questions because she was scared. (Tr. of Evidentiary Hr’g of 4/30/99, at 105). When Cliff Johnson told Officer Mathews to leave, Petitioner answered Cliff Johnson’s questions. (Tr. of Evidentiary Hr’g of 4/30/99, at 105-06).

That same day, Ms. Gray testified before a grand jury relating “[t]he same story that they wanted [her] to say.” (Tr. of Evidentiary Hr’g of 4/30/99, at 106).

About a month later, Paula Gray and other family members were living with Dennis [Williams’] mother and father, when Dennis’ mother got a phone call and told Petitioner she had to go to court. (Tr. of Evidentiary Hr’g of 4/30/99, at 107, 108). Mrs. Williams didn’t tell her she’d have to testify and Petitioner was given a ride to court by the Williams,’ where she saw Cliff Johnson, Archie Weston and a judge. (Tr. of Evidentiary Hr’g of 4/30/99, at 107, 108). At court, Ms. Gray was told she’d have “to talk to the judge.” (Tr. of Evidentiary Hr’g of 4/30/99, 108). Petitioner stated in the courtroom, while seated next to the judge, that she “[told] the story what they wanted me to say.” (Tr. of Evidentiary Hr’g of 4/30/99, at 109). When asked if she testified the same way as in the grand jury that she, Dennis, Kenny, Willie and Verneal had committed the

murders, Ms. Gray again responded “[t]hey told me what to say.” (Tr. of Evidentiary Hr’g of 4/30/99, at 109).

On August 31st, [1978], Petitioner was arrested and taken to the County jail where she was placed on Tier A-3. (Tr. of Evidentiary Hr’g of 4/30/99, at 109-10). After a couple of months, she was transferred to Tier B-3, which was a different tier also on the third floor. (Tr. of Evidentiary Hr’g of 4/30/99, at 110-11). While on A-3, Petitioner’s trial started in a courthouse with Dennis and Kenneth and Willie and Verneal present. (Tr. of Evidentiary Hr’g of 4/30/99, at 111). Ms. Gray was on trial for murder and rape and she doesn’t remember the other charges. (Tr. of Evidentiary Hr’g of 4/30/99, at 111). Petitioner was transported daily from Cook County Jail, where she was housed, to Markham for her trial. (Tr. of Evidentiary Hr’g of 4/30/99, at 111-112). She couldn’t see the four guys nearby in other cells while she was in her cell at the Markham courthouse. (Tr. of Evidentiary Hr’g of 4/30/99, at 112). Ms. Gray occupied her Markham cell alone, watched by a Sheriff’s policeman. (Tr. of Evidentiary Hr’g of 4/30/99, at 112). This policeman gave her no privacy, despite repeated requests by Ms. Gray, and on one occasion he unlocked her cell, came in and “put his tongue in [her] mouth.” (Tr. of Evidentiary Hr’g of 4/30/99, at 112-13).

Petitioner was also strip searched every time she returned to the County Jail by different female officers who, after she removed her clothes, would touch her breasts. (Tr. of Evidentiary Hr’g of 4/30/99, at 113-14). Also, while on Tier A-3, Ms. Gray was raped in her cell by four inmates after returning from showering. (Tr. of Evidentiary Hr’g of 4/30/99, at 116). She gave the following account:

I went in to take a shower and they would come in and watch me take a shower and I asked them to leave, but they wouldn’t, and they would touch my breasts and touch me between my legs.

I got out of the shower, I went into the room, I thought they left.

I took my towel off, my back facing the door, and I got jumped from the back, and the next thing I know, it was a pillow thrown over my face.

They put me on the floor and I was hurting so bad down below. I didn’t know that someone can do that to you.

I couldn’t really get up off the floor.

I finally got up. I couldn’t hardly walk. It’s painful for someone like me to get raped in the County Jail. I didn’t know they could do that to nobody like that.

I didn’t tell nobody, I was so afraid when it was over, I stayed in my room.

The guard came down the corridor, she asked me did I want to be locked in, was I all right.

I told her to lock my door. I was so terrified, I was so scared, I didn't tell nobody what happened to me.

From time to time when I am home, I dream about what happened to me.

It hurted me so bad. It was painful to walk.

(Tr. of Evidentiary Hr'g of 4/30/99, at 116-17).

[The Court thereupon took a recess, with Ms. Gray returning from the recess appearing "worse" to the Court than before the break. A second recess was taken until Ms. Gray "at least [stopped] rocking" and upon the Court's assurance to Petitioner that "nobody is going to harm her." Ms. Gray ultimately decided to go forward, declining the Court's offer of a weekend break in her testimony. (Tr. of Evidentiary Hr'g of 4/30/99, at 117-19)].

At her 1978 trial, stated Ms. Gray, she testified before a jury that she was innocent and didn't know anything about these crimes. (Tr. of Evidentiary Hr'g of 4/30/99, at 119-20). At the end of her trial, she was found guilty of murder, and after several months began serving a 50 year sentence at Dwight. (Tr. of Evidentiary Hr'g of 4/30/99, at 120).

A couple of years later, the [Seventh Circuit Court of Appeals] gave her a new trial. (Tr. of Evidentiary Hr'g of 4/30/99, at 120-21). Prior to that new trial, she spoke to either Cliff Johnson or Scott Arthur at Dwight, both of whom were at her 1978 trial. (Tr. of Evidentiary Hr'g of 4/30/99, at 121, 122). Ms Gray doesn't remember if her own attorney came to Dwight, but [apparently] both Mr. Johnson and Mr. Arthur came to the prison, along with her mother, based on Petitioner's following testimony at the evidentiary hearing:

Q. And before you had that new trial, did you have a talk with any prosecutors?

A. Yes.

Q. And who was that?

A. I don't remember their name [sic].

Q. Do you remember who the prosecutors were at your 1978 trial?

A. Cliff Johnson.

Q. Do you remember if there were any other prosecutors?

A. Scott Arthur.

Q. Was it one of those two gentlemen who talked with you after you got a new trial?

A. Yes.

* * *

Q. ...Did anybody else hear what you were talking about?

A. No.

Mr. Decker: Q. And where was this conversation? Where did it take place?

A. In Dwight.

Q. And do you remember if there was one prosecutor or two came [sic] down there?

A. There was *two*.

Q. Did your mother come there with them?

A. Yes.

Q. Did a lawyer for you come down there with them?

A. I don't remember.

Q. Well, did you have a conversation with one of the prosecutors about what you should do during this visit, or what he could do for you?

A. Yes.

Q. And was your mother or your lawyer right there? Could they hear when you had this conversation with the prosecutor?

A. No.

Q. What did the prosecutor say to you?

A. That *they* wanted me to keep the guys in prison for life.

Q. What were they going to do for you?

A. *They* wanted to move me and my mother and my sister out of the state, and I told them no.

Q. Did they say anything to you about coming into court and talking to a judge and telling him that original story that the police had given you?

A. Yes.

Q. And what do you remember was said to you about that?

A. *They* told me that *they* wanted me to say that the guys raped and killed her and the same thing with the man, killed him.

Q. Did you say anything to them after, or him, after you heard this?

A. To my attorney?

Q. No, to the prosecutor who was talking to you?

A. I just told him I don't know nothing, I haven't seen nothing.

Q. At some point did you decide that you would testify in accordance, like you did, originally, when the police told you what to say?

A. Yes.

Q. And did anybody tell you whether your jail time would be affected or reduced if you did give your original testimony saying that the guys did it?

A. *They* told me stick to the story that they told me to say and if I did that, that they would get me out of prison.

* * *

Mr. Decker: Q. Did you agree to do that at some point?

A. Yes, because I was scared.

* * *

Q. You were scared of jail?

A. I said yes, I was scared and I went along with what they wanted me to do.

Q. So, [sic] you would get out of jail?

A. Yes.

Q. While you were in Dwight, Ms. Gray, did any inmates or guards bother you?

A. Just the inmates.

Q. At some point did you come back up to Cook County Jail?

A. Yes.

Q. At Cook County Jail, did any inmates bother you?

A. Yes.

(emphasis added) (Tr. of Evidentiary Hr'g of 4/30/99, at 121-25).

[Note that the June 25th, 1996 report of Inv. Kelly indicates that Ms. Gray stated that “[w]hile in Dwight Correctional Center, *two male state’s attorneys* came down and interviewed her,” though she did not remember their names or what year it was. (Respondent’s Joint Mot. Ex. G at 041100-041101). Ms. Gray added that these state’s attorneys told her that her new trial was coming up and that if she “‘stuck’” to her story about the Ford Heights Four being involved, they could not hurt her and she would be able to go home. (Respondent’s Joint Mot. Ex. G at 041100-041101). Petitioner related that she was scared and lied and said she would stick to her story even though it was untrue. (Respondent’s Joint Mot. Ex. G at 014401). She added “‘my mind was so messed up, I didn’t know if I was coming or going.’” (Respondent’s Joint Mot. Ex. G at 041101). The State even convinced her at some point that the guys actually committed the murders. (Respondent’s Joint Mot. Ex. G at 041101). She related she would get two years “‘paper’” if she testified. (Respondent’s Joint Mot. Ex. G at 041101). Ms. Gray additionally stated that the state’s attorneys thought that what she told the grand jury was the truth and that they never told her to lie. (Respondent’s Joint Mot. Ex. G at 041101).

Note also that at the evidentiary hearing testimony of Mr. James Reddy, Petitioner’s appellate attorney for her 1983 writ and second chair for her new trial ordered by the Seventh Circuit, corroborates Ms. Gray’s testimony that there was more than one prosecutor present for discussions had with her at Dwight in which they sought Petitioner’s cooperation with the State, in that Mr. Reddy refers plurally to the “prosecutors” going to the prison and conversing with Ms. Gray. (Tr. of Evidentiary Hr’g of 5/4/99, at 34, 35; Memorandum “Evidentiary Hearing” James Reddy at 133, 133-34).

In addition, Ms. Gray indicated in the foregoing June 25th report that as late as 1996, ASA Bob Milan, of the Cook County State’s Attorney’s Office, “threatened her that she would never see her [six] children again [who had apparently been taken away by DCFS] if she did not stick with her grand jury testimony. She related that she got phone calls from Mr. Milan and that this scared her.” Petitioner also stated in the June 25th report that ASA Milan came to talk with her on four or five occasions [in 1996]. (Respondent’s Joint Mot. Ex. G at 041101).

Note further that Petitioner's evidentiary hearing testimony as to having been "bother[ed]" at both Dwight and Cook County Jail may have included, in addition to the one County Jail rape she has already testified to, a second rape at the County Jail, and an ongoing process of verbal and physical abuse at both the County Jail and Dwight, but these matters were not related by Petitioner. Moreover, as this Court previously noted on the record, while Petitioner was recounting her County Jail rape, she didn't stop rocking and had to be verbally calmed by the Court in order to continue her testimony, with a weekend recess almost required for her to complete it. Petitioner's conduct, therefore, would suggest that she is extremely traumatized by recounting even one rape incident while she was incarcerated. (Tr. of Evidentiary Hr'g of 4/30/99, at 117-19); see also Dr. David Scott Levin's testimony regarding his evaluation of Petitioner in which he testified that Ms. Gray told him that at the County Jail in, he believes, September of 1978, "she had been subject to numerous assaults, sexual assaults and sexual abuse." (Tr. of Evidentiary Hr'g of 4/28/99, at 88).

Recall also Inv. Kelly's June 25th, 1996 report indicating his observation that Paula Gray had difficulty in the June 18th, 1996 interview remembering "the sequence of events and court appearances" from the time she was initially picked up by the police, until her imprisonment, and also difficulty in responding to his questions. (See Respondent's Joint Mot. Ex. G at 041100, 041102)].

Petitioner was returned to Cook County Jail, where she was again "bother[ed]" by the inmates. (Tr. of Evidentiary Hr'g of 4/30/99, at 125). [See Court's comments re "bother[ed]" in previous paragraph]. But Officer Hulk, a County jail guard, and Warden Hopkins, of the Cook County Jail, treated Ms. Gray well. (Tr. of Evidentiary Hr'g of 4/30/99, at 125-26).

Petitioner went to court several times and testified in response to questions by Cliff Johnson or Scott Arthur. (Tr. of Evidentiary Hr'g of 4/30/99, at 126). In 1987, after appearing before a judge, Ms. Gray spent the night in jail and was released. (Tr. of Evidentiary Hr'g of 4/30/99, at 126). In her 1987 court appearance prior to her release, Petitioner went before a judge and got two years probation. (Tr. of Evidentiary Hr'g of 4/30/99, at 126, 128). Ms. Gray doesn't remember what she had to do to get two years probation and doesn't know what perjury is. (Tr. of Evidentiary Hr'g of 4/30/99, at 128). She understood the judge as telling her she was guilty of the crime of murder, though she also indicated she doesn't remember. (Tr. of Evidentiary Hr'g of 4/30/99, at 128-29). Petitioner was released from jail the next day and hasn't been back since. (Tr. of Evidentiary Hr'g of 4/30/99, at 129).

During the time that Ms. Gray was in jail, she knew nothing about David Jackson. (Tr. of Evidentiary Hr'g of 4/30/99, at 129). She also did not and does not know [Sherry] McCraney, nor about an interview with Mrs. McCraney. (Tr. of Evidentiary Hr'g of 4/30/99, at 129). Petitioner knew nothing about a piece of paper completed by Willie King Watson for the police, nor did she see any paper that set forth what she said to the police in May, 1978. (Tr. of Evidentiary Hr'g of 4/30/99, at 129-30). She did not know about a rumor that Dennis Johnson may have been involved in the May, 1978 murders,

nor was she aware of Marvin Simpson giving information to the Sheriff's police on May 17, 1978. (Tr. of Evidentiary Hr'g of 4/30/99, at 130).

Prior to on or about July, 1997, when Petitioner's current attorney, Thomas Decker, spoke to her about a lawsuit before Judge Maddox, Ms. Gray had not seen any papers regarding Marvin Simpson, Dennis Johnson, or David Jackson, nor had anyone spoken to her about who may actually have killed the people in Ford Heights on May 11, 1978. (Tr. of Evidentiary Hr'g of 4/30/99, at 130-31).

On cross-examination, Petitioner testified that in early 1978, when she was living at home with her mother, she could read and write a "little bit," which was what she had learned in school. (Tr. of Evidentiary Hr'g of 4/30/99, at 132). Reading and math were her favorite subjects in school and she doesn't remember her other classes. (Tr. of Evidentiary Hr'g of 4/30/99, at 133). She watched television at home alone. (Tr. of Evidentiary Hr'g of 4/30/99, at 133-34).

On the day the bodies were found, she saw the police going door-to-door. (Tr. of Evidentiary Hr'g of 4/30/99, at 135). They came to the rear door of her house, where she was sitting in the kitchen, and while her mother was at home. (Tr. of Evidentiary Hr'g of 4/30/99, at 134, 135). When the police asked her her age, she told them 13, because she thought she was 13. (Tr. of Evidentiary Hr'g of 4/30/99, at 136). Her mother corrected her by telling the police she was 17, as to which Ms. Gray was surprised. (Tr. of Evidentiary Hr'g of 4/30/99, at 136).

Ms. Gray went to the police station Friday night without her mother, and she didn't know her mother was at the station until she "came in the room." (Tr. of Evidentiary Hr'g of 4/30/99, at 137). Kenny Adams later drove her home alone from the station. (Tr. of Evidentiary Hr'g of 4/30/99, at 137-38).

On Saturday, policemen again came to Ms. Gray's house and told her they wanted to search it. (Tr. of Evidentiary Hr'g of 4/30/99, at 139). One was Houlihan and the others' names she doesn't remember. (Tr. of Evidentiary Hr'g of 4/30/99, at 139). She asked them if they had a search warrant, but doesn't recall their response. (Tr. of Evidentiary Hr'g of 4/30/99, at 139-40). The police took her sister's boots, left a card on the table and told her "not to say nothing." (Tr. of Evidentiary Hr'g of 4/30/99, at 138, 140).

Petitioner also testified that it was the police's idea to say that certain activities occurred in the townhouse and field, that Petitioner was holding the lighter, and that Mr. Williams had thrown the gun in Deer Creek. (Tr. of Evidentiary Hr'g of 4/30/99, at 141). She stated that she added nothing to the story she later told to the grand jury, that the whole story was what "[she] was told by the police, told [her][sic] what to say." (Tr. of Evidentiary Hr'g of 4/30/99, at 142). After being taken to the scene by the police, she was taken back to the police station, and given a ride home by the police the following morning. (Tr. of Evidentiary Hr'g of 4/30/99, at 142). Her mother was not with them. (Tr. of Evidentiary Hr'g of 4/30/99, at 142-43). Two policemen were seated in the front of the car and she was in back. (Tr. of Evidentiary Hr'g of 4/30/99, at 143). Petitioner

doesn't remember speaking to Assistant State's Attorney DiBenedetto that day, or if he was one of the two people she rode with in her police ride home. (Tr. of Evidentiary Hr'g of 4/30/99, at 143-44).

Ms. Gray additionally stated she didn't look out of her window or door [the day the bodies were found] and see the crowd of people near her house, and didn't know any "dead people" [Respondent's words] were found in the field near her house. (Tr. of Evidentiary Hr'g of 4/30/99, at 145-46). So when the police knocked at her door, she had no idea why they were there. (Tr. of Evidentiary Hr'g of 4/30/99, at 146).

Petitioner also testified that police officer Houlihan is a white person and Officer Jackson is a black man. (Tr. of Evidentiary Hr'g of 4/30/99, at 147). She doesn't remember if the assistant State's Attorney she saw at Cliff Johnson's office on Monday was named Loretta Hardiman, or if she was a black lady. (Tr. of Evidentiary Hr'g of 4/30/99, at 148). Officer Mathews, who stayed with Ms. Gray at the motel, was black. (Tr. of Evidentiary Hr'g of 4/30/99, at 148-49). Petitioner repeated that Officer Mathews was nice to her. (Tr. of Evidentiary Hr'g of 4/30/99, at 149). She further stated that she slept in her shoes and clothes at the motel, and that her mother didn't visit her at the motel, though adding later that she doesn't remember her mother visiting her. (Tr. of Evidentiary Hr'g of 4/30/99, at 149-50). Ms. Gray also didn't remember her mother asking her why she slept last night with all her clothes on. (Tr. of Evidentiary Hr'g of 4/30/99, at 150).

Between her grand jury appearance and her return to court with Dennis Williams' mother and father, Paula Gray was living with the Williams. (Tr. of Evidentiary Hr'g of 4/30/99, at 150-51). She does not know why she was not living with her mother. (Tr. of Evidentiary Hr'g of 4/30/99, at 151). When Dennis Williams' mother and father took Petitioner to court, she saw [Cliff] Johnson and Archie Weston there. (Tr. of Evidentiary Hr'g of 4/30/99, at 151). Ms. Gray went to court "because [she] had to be there." (Tr. of Evidentiary Hr'g of 4/30/99, at 153). She didn't know what was going to happen when she arrived. (Tr. of Evidentiary Hr'g of 4/30/99, at 153). Archie Weston was her attorney, but she doesn't know when he first became her lawyer. (Tr. of Evidentiary Hr'g of 4/30/99, at 154).

When Petitioner was on Tier A-3, all the inmates were women, and there were both male and female guards. (Tr. of Evidentiary Hr'g of 4/30/99, at 154-55). Paula Gray repeated she was raped there by four inmates and doesn't remember if she was bleeding as a result of the rape. (Tr. of Evidentiary Hr'g of 4/30/99, at 155). She didn't tell anyone about the rape, including Archie Weston and her family, because she didn't want to get hurt anymore. (Tr. of Evidentiary Hr'g of 4/30/99, at 155-56).

After her guilty verdict at her first trial and transport to Dwight, she was represented by Mr. Reddy in her appeal, who "did the best he could for [her]" and whom she felt was on her side. (Tr. of Evidentiary Hr'g of 4/30/99, at 156-57). She was visited at Dwight by prosecutors and her mother, but she doesn't recall Mr. Reddy or any other lawyer "on [her] side" being present. (Tr. of Evidentiary Hr'g of 4/30/99, at 157-58). Ms. Gray

testified that the prosecutors said “if [she] didn’t help them, then [she] would be in the penitentiary for life.” (Tr. of Evidentiary Hr’g of 4/30/99, at 158). If she did help them, “they would move [she] and [her] mother and sister out of the state.” (Tr. of Evidentiary Hr’g of 4/30/99, at 159). Petitioner’s response to the Respondent’s inquiry as to whether she wanted to be back with her family was “that is my family, I love them.” (Tr. of Evidentiary Hr’g of 4/30/99, at 159). Ms. Gray declined the prosecutors’ [1983] offer [at Dwight]. (Tr. of Evidentiary Hr’g of 4/30/99, at 159-60).

Petitioner repeated that Mr. Reddy “did the best he could” for her, but doesn’t remember that Mr. Reddy was able to get her guilty finding and fifty year sentence thrown out. (Tr. of Evidentiary Hr’g of 4/30/99, at 160-61). When Ms. Gray was removed from Dwight back to County Jail, she came to Markham “a lot” and Mr. Reddy was still her attorney. (Tr. of Evidentiary Hr’g of 4/30/99, at 161). She doesn’t remember [George] Morrissey as another one of her attorneys. (Tr. of Evidentiary Hr’g of 4/30/99, at 161).

Petitioner testified that in the police station when Mr. Pastirik came in the room and told her Paulette had told him that Paula had confessed to her, Petitioner’s mom was also brought into the same room and told Paula to tell the truth. (Tr. of Evidentiary Hr’g of 4/30/99, at 162-64). Ms. Gray can’t recall if her mother was in the room when Patrick Pastirik told her about her [purported] confession to Paulette. (Tr. of Evidentiary Hr’g of 4/30/99, at 162).

Petitioner repeated that when she testified at the Jimerson trial, Mr. Reddy was her attorney. (Tr. of Evidentiary Hr’g of 4/30/99, at 165). She testified to the same thing as she did in the grand jury, and stated at the evidentiary hearing that “that [was] what they told [her] to say...” (Tr. of Evidentiary Hr’g of 4/30/99, at 165). She also gave the same testimony at the later Williams and Rainge trial as at the grand jury. (Tr. of Evidentiary Hr’g of 4/30/99, at 165). She repeated that she said “what they wanted [her] to say”; that her testimony was not true; and that “they made [her] tell that story.” (Tr. of Evidentiary Hr’g of 4/30/99, at 165-66).

Later, Petitioner received two years’ probation from a judge and was released from County Jail the next day; periodically reported to a probation officer for two years; and successfully completed her probation. (Tr. of Evidentiary Hr’g of 4/30/99, at 166-67). When released from County Jail, they wanted to give her tokens to get home, but she didn’t know her way back. (Tr. of Evidentiary Hr’g of 4/30/99, at 168). She was finally driven home by Mr. Reddy to her mother and sister Paulette. (Tr. of Evidentiary Hr’g of 4/30/99, at 168).

Subsequently, Paula Gray signed a lease and moved into a one room apartment at “19460.” (Tr. of Evidentiary Hr’g of 4/30/99, at 169-70, 171). She presently lives by herself and pays rent at this address. (Tr. of Evidentiary Hr’g of 4/30/99, at 169, 171). Ms. Gray earns money by cleaning people’s houses and babysitting. (Tr. of Evidentiary Hr’g of 4/30/99, at 171, 172). She’s paid in cash for these jobs. (Tr. of Evidentiary Hr’g of 4/30/99, at 171-72, 173). She doesn’t babysit by the hour, and doesn’t know how the people determine what they pay her; she just “know[s] they give [her] money” when they

get paid, and she trusts them for the money. (Tr. of Evidentiary Hr'g of 4/30/99, at 172-73). Ms. Gray also receives SSI, which comes the first of each month. (Tr. of Evidentiary Hr'g of 4/30/99, at 174, 175). Someone else filled out the paperwork for her to receive SSI. (Tr. of Evidentiary Hr'g of 4/30/99, at 174).

Petitioner chose the dress she currently wore in court; she put the beads in her own hair; and she asked someone else to give her a French braid, which she doesn't know how to do. (Tr. of Evidentiary Hr'g of 4/30/99, at 176). She always wears her hair in braids. (Tr. of Evidentiary Hr'g of 4/30/99, at 177). The furniture in Ms. Gray's apartment was given to her, but she picked out some of the items in the apartment and paid for them herself. (Tr. of Evidentiary Hr'g of 4/30/99, at 178). She receives and pays her electric bill, as well as rent and telephone bills. (Tr. of Evidentiary Hr'g of 4/30/99, at 178-79). She pays these bills in cash, as she doesn't know how to write a check. (Tr. of Evidentiary Hr'g of 4/30/99, at 179). When she receives a bill, she looks at it to see how much she owes, and then she counts out that amount of money and pays it to whomever it's owed. (Tr. of Evidentiary Hr'g of 4/30/99, at 179). Ms. Gray has someone go with her to buy groceries so that she will feel safe. (Tr. of Evidentiary Hr'g of 4/30/99, at 180). Sometimes Petitioner gives the cashier too much money for her food and they give her her money back. (Tr. of Evidentiary Hr'g of 4/30/99, at 180). She "just put[s] the change]...in [her] pocket and walk[s] out the store." (Tr. of Evidentiary Hr'g of 4/30/99, at 180). Ms. Gray called the telephone company and arranged for caller ID when she was getting phone calls from people she didn't want to talk to. (Tr. of Evidentiary Hr'g of 4/30/99, at 180-81).

At Dwight, when Ms. Gray wanted to be in a cell by herself, or in "segregation," and not residing in a cottage with other women, she would curse out a guard. (Tr. of Evidentiary Hr'g of 4/30/99, at 181-182). Once, a guard cursed out Petitioner and the guard was reprimanded pursuant to Ms. Gray's complaint. (Tr. of Evidentiary Hr'g of 4/30/99, at 182-83).

Ms. Gray testified that only Officer Pastirik, and no other policeman, told her that Paulette told him Paula had confessed to her. (Tr. of Evidentiary Hr'g of 4/30/99, at 183-84).

Petitioner stated that Mr. Decker and Mr. Berg are currently her attorneys and she doesn't remember when she first met Mr. Decker. (Tr. of Evidentiary Hr'g of 4/30/99, at 184-85). [In colloquy between opposing counsel and the Court, Mr. Decker represented that "[he] did not come into contact with Ms. Gray on account of anything relating to her children," but instead became Ms. Gray's counsel in connection with a grand jury proceeding and a planned retrial of Verneal Jimerson, as well as her "status as a potential witness in that case." (Tr. of Evidentiary Hr'g of 4/30/99, at 187)].

On re-direct, Paula Gray testified that ever since she got out of jail, she's been asking people to go shopping with her in order to feel safe. (Tr. of Evidentiary Hr'g of 4/30/99, at 188). At Dwight, Ms. Gray requested protective custody because the inmates there

were threatening her, but her request was denied. (Tr. of Evidentiary Hr'g of 4/30/99, at 188).

Respondent's Witnesses

Mark Richard Termolen

Mark Richard Termolen is an attorney with Chicago's Mayor, Brown and Platt, who initially represented Verneal Jimerson in 1991 in his post-conviction petition challenging his conviction for the murders of [Mr. Lionberg] and [Miss] Schmal. (Tr. of Evidentiary Hr'g of 5/3/99, at 18-19). Mr. Termolen subsequently represented Mr. Jimerson in his civil suit against Cook County and others for his wrongful conviction and incarceration. (Tr. of Evidentiary Hr'g of 5/3/99, at 19).

Pursuant to Mr. Jimerson's post-conviction petition, Mr. Termolen filed a motion to dismiss the charges and conducted an investigation thereto. (Tr. of Evidentiary Hr'g of 5/3/99, at 19). With respect to the motion to dismiss, and subsequent to a response by the People, on June 21st, 1996, Mark Termolen filed a reply brief in the 6th District, which he identified at the evidentiary hearing as Respondent's Exhibit No. Five. (Tr. of Evidentiary Hr'g of 5/3/99, at 21-22, 27-28). Attached to the reply brief was a handwritten declaration by Ira Johnson, brother of Dennis Johnson, in which Ira Johnson states that Dennis Johnson confessed to and described in detail the crimes committed against Mr. Lionberg and Miss Schmal; described the weapons used; implicated 2 other unnamed individuals in the crimes other than [Verneal] Jimerson; and indicated that vests, cigarettes and other items taken from the subject gas station were sold immediately after the crime. (Tr. of Evidentiary Hr'g of 5/3/99, at 22-23). Mr. Termolen received Ira Johnson's affidavit in approximately May of 1996. (Tr. of Evidentiary Hr'g of 5/3/99, at 28). Mark Termolen identified Respondent's [Evidentiary Hr'g] Exhibit Six, dated May 30th, 1996, as an affidavit from Ira Johnson which he believes states substantially the same as Ira Johnson's handwritten declaration attached to Mr. Jimerson's reply brief, except that in the affidavit, Ira Johnson puts himself as being involved in the crime; it names the other individuals involved; and it excludes Mr. Adams, Mr. Williams and Mr. Rainge, as well as Mr. Jimerson, as being involved in the Lionberg/Schmal crimes. (Tr. of Evidentiary Hr'g of 5/3/99, at 26-27).

Mark Termolen also identifies Petitioner's [2-1401 Mot.] Exhibit G as the Capelli notes, or what he thinks are "draft reports," and indicates that he first saw these notes, or document, in approximately January of 1996. (Tr. of Evidentiary Hr'g of 5/3/99, at 29-30). He received this document from Sharon Clyborn, a paralegal at his office. (Tr. of Evidentiary Hr'g of 5/3/99, at 30). Between January and June of 1996, Mr. Termolen recalls discussing these notes with his office colleagues, the lawyers representing the other men [apparently the Ford Heights Four], as well as Attorney Bob Byman of Jenner and Block, other attorneys working with Mr. Byman, including Rea Marshall and Matthew Kennelly, and the student associates of Mr. Byman and Mr. Kennelly, along with perhaps additional counsel working with these two men. (Tr. of Evidentiary Hr'g of 5/3/99, at 30-31). He also discussed the document with David Protest [sic][the Court will

take judicial notice that the correct spelling is David *Proress*], a Professor at Northwestern University's School of Journalism and his students, who were investigating the Lionberg/Schmal case, as well as Renee Brown, an investigator working with Mr. Proress and his students. (Tr. of Evidentiary Hr'g of 5/3/99, at 31, 33)

Mark Termolen also occasionally met with Professor Proress from January to June, 1996, regarding his investigation of the Lionberg/Schmal case. (Tr. of Evidentiary Hr'g of 5/3/99, at 31-32).

Mr. Termolen recalls a brief or petition filed by Jenner and Block with the Illinois Supreme Court on behalf of Dennis Williams, which he believes included many of the same affidavits as those attached to his reply brief for Mr. Jimerson. (Tr. of Evidentiary Hr'g of 5/3/99, at 33-34).

On cross-examination, Mr. Termolen testified that there is no reference to Paula Gray in [Petitioner's 2-1401 Mot.] Exhibit G, or the Capelli notes or "draft reports." (Tr. of Evidentiary Hr'g of 5/3/99, at 36).

Superintendent Debra Hopkins

Debra Hopkins is currently the Superintendent of Division Four of the Cook County Department of Corrections (CCDOC). (Tr. of Evidentiary Hr'g of 5/3/99, at 37). Division Four, along with Division Three, are the two women's divisions of the 10 division CCDOC. (Tr. of Evidentiary Hr'g of 5/3/99, at 40). Division Three opened for female pretrial detainees on December 26, 1973 and Division Four in 1996. (Tr. of Evidentiary Hr'g of 5/3/99, at 40, 41).

Superintendent Hopkins has been employed with the CCDOC since 1973, first as a correctional officer in Division Three, then Sergeant, Training Director, Captain, and finally Superintendent of each of the two women's divisions. (Tr. of Evidentiary Hr'g of 5/3/99, at 38, 39, 41). Ms. Hopkins was Superintendent of Division Three from 1984 until 1991. (Tr. of Evidentiary Hr'g of 5/3/99, at 41). The capacity of Division Three was 365 in the 1970's and currently has the same capacity. (Tr. of Evidentiary Hr'g of 5/3/99, at 41).

In the 1970's, Division Three had three floors, with two wings on each floor; the A side and the B side, with each wing containing a housing unit totalling six such units for the entire division: A-1 and B-1 on the first floor; A-2 and B-2 on the second floor; and A-3 and B-3 on the third floor. (Tr. of Evidentiary Hr'g of 5/3/99, at 42, 43, 47). The first floor also contained the combined dining room/recreation room, and receive and discharge or intake area (RCDC). (Tr. of Evidentiary Hr'g of 5/3/99, at 42, 46). The second floor had social workers' offices and school rooms on the A side and the chapel on the B side. (Tr. of Evidentiary Hr'g of 5/3/99, at 43). The third floor had the medical offices, and executive lock-up for women detainees, or those with specific issues such as contagious diseases or who set fires, and who were housed there upon superintendent approval. (Tr. of Evidentiary Hr'g of 5/3/99, at 43).

Also in the 1970's, Ms. Hopkins was assigned as a correctional officer to the receiving-discharge unit of Division Three. (Tr. of Evidentiary Hr'g of 5/3/99, at 43-44). Upon intake at that time, an inmate's property was taken. (Tr. of Evidentiary Hr'g of 5/3/99, at 42). She was also booked on her mittimus, fingerprinted, photographed, and allowed to make a phone call. (Tr. of Evidentiary Hr'g of 5/3/99, at 42). Additionally, her history was taken, she was strip searched with her clothing inventoried and tagged, put in uniform, and delivered to her assigned wing. (Tr. of Evidentiary Hr'g of 5/3/99, at 42).

Based on the detainee's history, each inmate was classified for assignment to a particular tier. (Tr. of Evidentiary Hr'g of 5/3/99, at 44-45). The history consisted of the detainee's name, address, next of kin, prior history in the criminal justice system and any special needs, such as receiving a particular medication. (Tr. of Evidentiary Hr'g of 5/3/99, at 44). The types of CCDOC Division Three classifications in the 1970's were psychological/psychiatric; transit; board of education; non-aggressive medium bond; aggressive high bond; non-aggressive high bond; and lesbian. (Tr. of Evidentiary Hr'g of 5/3/99, at 45). Minimum, medium and maximum bond classifications referred to the type of charge and the number of times the detainee had been in the system. (Tr. of Evidentiary Hr'g of 5/3/99, at 45). The reasons for assigning a classification to each inmate at intake was to keep peace among the women by matching the detainee with the right housing area, along with officers also matched to the appropriate housing area. (Tr. of Evidentiary Hr'g of 5/3/99, at 46).

Superintendent Hopkins testified that outside police agencies never had anything to do with classification of women during intake. (Tr. of Evidentiary Hr'g of 5/3/99, at 46-47). These agencies simply dropped off the detainees and CCDOC made sure they received the female's property and legal papers from the police agency. (Tr. of Evidentiary Hr'g of 5/3/99, at 47).

At intake, the correctional officer would check on and complete any additional necessary medical attention or "psych" evaluation for each detainee. (Tr. of Evidentiary Hr'g of 5/3/99, at 47). They were fed, taken to their housing unit to drop off their belongings, given sheets, allowed to make up their beds, and then returned to the dining room. (Tr. of Evidentiary Hr'g of 5/3/99, at 47).

Tier A-1, in the 1970's, was for inmates with psychiatric issues, and the back part was for rules and regulation violators, or disciplinary segregation. (Tr. of Evidentiary Hr'g of 5/3/99, at 47-48). B-1 was for low bond transit, or inmates who wouldn't be housed in the department for long, such as pick pocket, petty theft, prostitution detainees, or those with no prior record, coupled with low bonds. (Tr. of Evidentiary Hr'g of 5/3/99, at 48). A-2 on the second floor was for non-aggressive females, mainly those with robbery cases, who were attending school. (Tr. of Evidentiary Hr'g of 5/3/99, at 49). B-2 was for medium bond, non-aggressive inmates such as burglary, deceptive practice, or violation of probation. (Tr. of Evidentiary Hr'g of 5/3/99, at 49).

A-3 on the third floor was for the lesbian population and high bond aggressive inmates. (Tr. of Evidentiary Hr'g of 5/3/99, at 49-50). The lesbian population was always in the minority on A-3 and they were grouped together by reason of the belief that there would be fewer love affairs resulting in less friction and less fights. (Tr. of Evidentiary Hr'g of 5/3/99, at 50). Superintendent Hopkins testified that the longer an inmate stayed in jail, the more inclined she was to be in a lesbian relationship. (Tr. of Evidentiary Hr'g of 5/3/99, at 50). The Superintendent also testified that lesbian inmates were not necessarily more aggressive, but were very manipulative. (Tr. of Evidentiary Hr'g of 5/3/99, at 51).

Detainees were classified as aggressive based on charges indicative of aggressive conduct, such as murder, aggravated battery and home invasion. (Tr. of Evidentiary Hr'g of 5/3/99, at 51).

B-3 was for high bond, non-aggressive type inmates. (Tr. of Evidentiary Hr'g of 5/3/99, at 52). If a detainee in A-3 was non-aggressive, she was sometimes transferred to B-3. (Tr. of Evidentiary Hr'g of 5/3/99, at 51). Illness, behavior, stability and safety were factors considered in determining whether to transfer a person. (Tr. of Evidentiary Hr'g of 5/3/99, at 52).

Again in the 1970's, an inmate charged with murder would usually go to the third floor, unless she had psychiatric problems, and transfers between A-3 and B-3 may have been effected due to overcrowding. (Tr. of Evidentiary Hr'g of 5/3/99, at 52, 53). The third floor often housed long term stay inmates because of the charge and bond amount. (Tr. of Evidentiary Hr'g of 5/3/99, at 53). On the third floor, there were 3 officers assigned: one inside on the A wing, one inside on the B wing, and one monitor. (Tr. of Evidentiary Hr'g of 5/3/99, at 53-54).

Superintendent Hopkins also testified that during the 1970's, she was "absolutely not" aware of many instances where group rape was alleged to have occurred on the third floor of Division Three. (Tr. of Evidentiary Hr'g of 5/3/99, at 54).

Some time during the period from 1984 through 1991, the Superintendent knew Paula Gray because Ms. Hopkins was often inside of Division Three, especially the third floor, interacting with the inmates. (Tr. of Evidentiary Hr'g of 5/3/99, at 54-55, 56). She also recalls the day and was present when Ms. Gray left the institution, though she doesn't remember the exact date. (Tr. of Evidentiary Hr'g of 5/3/99, at 56). She testified that Petitioner was very young at the time and a person whom the Superintendent felt it her responsibility to provide guidance. (Tr. of Evidentiary Hr'g of 5/3/99, at 56). Paula communicated well with Ms. Hopkins and she with Paula. (Tr. of Evidentiary Hr'g of 5/3/99, at 56-57). Paula Gray told Superintendent Hopkins what she wanted and what her thoughts were on a particular subject. (Tr. of Evidentiary Hr'g of 5/3/99, at 57). Ms. Hopkins stated that Petitioner was not a disciplinary problem and that the other inmates were protective of her like a baby and as one who was new to the system. (Tr. of Evidentiary Hr'g of 5/3/99, at 57).

On cross-examination, Superintendent Hopkins testified that in the 1970's, there was no separate section for teenage detainees, and they were placed throughout the jail. (Tr. of Evidentiary Hr'g of 5/3/99, at 58). Nor were there separate sections for inmates who were slight of build or mentally slow. (Tr. of Evidentiary Hr'g of 5/3/99, at 58-59). Ms. Hopkins stated that at intake, the circumstances of each inmate's case was not considered, only the charge itself, because it wasn't the correction officers' job to "make personal assessments" as to whether a person was an active or a fringe participant. (Tr. of Evidentiary Hr'g of 5/3/99, at 60). If the intake officers felt a woman had a psychiatric issue, as evidenced by psychiatric medication, prior institutionalization, or acting out at intake, they took her to a psychiatrist for confirmation of same. (Tr. of Evidentiary Hr'g of 5/3/99, at 60, 61).

Inmates were not strip searched upon returning from court until the 1980's. (Tr. of Evidentiary Hr'g of 5/3/99, at 62). However, the strip searches did not include body cavity examinations. (Tr. of Evidentiary Hr'g of 5/3/99, at 62-63). Prior to the 1980's, inmates were patted down on their return from court appearances. (Tr. of Evidentiary Hr'g of 5/3/99, at 64). Superintendent Hopkins stated that they always strip searched when the detainee was initially brought into the jail from the street. (Tr. of Evidentiary Hr'g of 5/3/99, at 64). Ms. Hopkins reiterated that high bond aggressive inmates were assigned to wing A-3. (Tr. of Evidentiary Hr'g of 5/3/99, at 65). Aggressive inmates for assignment purposes included high profile cases, detainees displaying such conduct at intake, or those who were too aggressive for B-3 and transferred to A-3, or were transferred to A-3 because the B side was full, and then didn't want to return to B-3. (Tr. of Evidentiary Hr'g of 5/3/99, at 65). Superintendent Hopkins defined a high profile case as one which had gotten in the media. (Tr. of Evidentiary Hr'g of 5/3/99, at 65-66). An inmate's aggressive potential was determined at intake by their juvenile arrest record, history and prior arrests in the adult system. (Tr. of Evidentiary Hr'g of 5/3/99, at 66). According to Ms. Hopkins, any kind of arrest in the juvenile system suggested an aggressive inmate at that time, as well as a high bond. (Tr. of Evidentiary Hr'g of 5/3/99, at 66-67).

The Superintendent recalls that Paula Gray was arrested in connection with a high profile case. (Tr. of Evidentiary Hr'g of 5/3/99, at 67). A woman arrested who dressed and wore her hair like a man would not have tended to be classified as aggressive, but was instead "typecast a lesbian" and assigned to A-3 on that basis. (Tr. of Evidentiary Hr'g of 5/3/99, at 68). Superintendent Hopkins went in the jail every day and communicated with the inmates and spent on average 90 minutes on each side, regardless of the floor. (Tr. of Evidentiary Hr'g of 5/3/99, at 69, 70). The Superintendent spent the least amount of time on A-2 due to its school and if she was in the jail a long time, she spent the majority of her time on the 3rd floor as these inmates were incarcerated longer and therefore had more issues with their children. (Tr. of Evidentiary Hr'g of 5/3/99, at 70).

Ms. Hopkins further testified that in the 1970's, she heard of group rapes, or those involving 2 or more perpetrators, occurring in the male division, but "[t]hey didn't happen in Division Three." (Tr. of Evidentiary Hr'g of 5/3/99, at 68).

On re-direct examination, Superintendent Hopkins reiterated that Paula Gray was in Division Three some time between 1984 and 1990, and that she recalls when Ms. Gray left the institution, which was before Ms. Hopkins left Division Three. (Tr. of Evidentiary Hr'g of 5/3/99, at 71, 72). Also, in the 1970's, if a woman was arrested and brought to intake with a charge of murder, and she had no special needs, she would have been assigned to the third floor. (Tr. of Evidentiary Hr'g of 5/3/99, at 72).

Earnest DiBenedetto

Earnest DiBenedetto has been an attorney licensed in the State of Illinois for 23 years. (Tr. of Evidentiary Hr'g of 5/3/99, at 74). On May 14, 1978, he was an assistant State's Attorney in the Felony Review unit of the Cook County State's Attorney's Office. (Tr. of Evidentiary Hr'g of 5/3/99, at 75). He had been with the State's Attorney's Office since October or November of 1976. (Tr. of Evidentiary Hr'g of 5/3/99, at 75). Felony review involved pairs of assistant States Attorney's working 12 hour shifts from 7 a.m. to 7 p.m. and 7 p.m. to 7 a.m., to answer calls for Chicago and suburban Cook County police departments. (Tr. of Evidentiary Hr'g of 5/3/99, at 76). Primarily, they were called by these departments for approval of felony charges. (Tr. of Evidentiary Hr'g of 5/3/99, at 76). Depending upon the nature of the charge, the felony review prosecutor "might respond to the police station and interview witnesses, possible subjects, and then make a decision whether or not to place the charges that the police were seeking." (Tr. of Evidentiary Hr'g of 5/3/99, at 76). In May of 1978, Felony Review Assistants did not have courtroom assignments. (Tr. of Evidentiary Hr'g of 5/3/99, at 76).

On Saturday, May 13, 1978, Mr. DiBenedetto began his 7 p.m. to 7 a.m. shift at the southside felony review office at 51st and Wentworth, making Mr. DiBenedetto responsible for, by today's terminology, the Sixth District, or Markham Courthouse, in addition to other suburban municipalities and several Chicago police districts. (Tr. of Evidentiary Hr'g of 5/3/99, at 77-78). At approximately 2:00 a.m. on Sunday, May 14, 1978, ASA DiBenedetto went to the Homewood Sheriff's facility pursuant to calls from ASA Cliff Johnson, the Markham supervising prosecutor, and Lieutenant Vanick, requesting assistance in an investigation. (Tr. of Evidentiary Hr'g of 5/3/99, at 79-80). Mr. Johnson had initially telephoned Mr. DiBenedetto advising him that he might be receiving a call from the Cook County Sheriff's Investigation Bureau, south side, regarding a kidnapping and murder case, and requesting that he go out and assist them. (Tr. of Evidentiary Hr'g of 5/3/99, at 79-80). ASA DiBenedetto thought at the time it was the Clark gas station matter. (Tr. of Evidentiary Hr'g of 5/3/99, at 79). Thereafter, Mr. DiBenedetto received a call from Lieutenant Vanick asking for assistance in an investigation. (Tr. of Evidentiary Hr'g of 5/3/99, at 80).

Upon arrival at the [Homewood Sheriff's] police station, ASA DiBenedetto first met with Lt. Vanick, who he believes was the ranking supervising officer for the Sheriff's Police that morning. (Tr. of Evidentiary Hr'g of 5/3/99, at 80-81). Thereafter he met Detectives Pastirik and Capelli. (Tr. of Evidentiary Hr'g of 5/3/99, at 81). He had never met these three police officers before. (Tr. of Evidentiary Hr'g of 5/3/99, at 81). They gave Mr. DiBenedetto a synopsis or outline of their investigation and what had transpired

as involving a kidnapping, which ASA DiBenedetto believes occurred a couple days earlier, where two people were taken from a Clark gas station to an area where the woman was raped and both were shot and killed. (Tr. of Evidentiary Hr'g of 5/3/99, at 81). The police officers also filled in Mr. DiBenedetto on the nature of their investigation. (Tr. of Evidentiary Hr'g of 5/3/99, at 81).

ASA DiBenedetto then spoke to Paulette Gray in a room at the station by herself. (Tr. of Evidentiary Hr'g of 5/3/99, at 82). Investigator Pastirik, who was also present for the interview, may have introduced Mr. DiBenedetto to Paulette Gray. (Tr. of Evidentiary Hr'g of 5/3/99, at 82). Mr. DiBenedetto introduced himself to Paulette Gray as an assistant State's Attorney and requested whatever information she had regarding the case. (Tr. of Evidentiary Hr'g of 5/3/99, at 82). ASA DiBenedetto testified that Paulette told him that Paula had said to her on what he believes was Thursday morning, that there was a dead woman and dead man out behind their building and that she [Paula] had witnessed these two persons being killed and the woman being raped. (Tr. of Evidentiary Hr'g of 5/3/99, at 88). Paulette, according to Mr. DiBenedetto, told him that she was skeptical of Paula's story and Paula either showed her or talked about some boots that she had. (Tr. of Evidentiary Hr'g of 5/3/99, at 88). Paulette also told Mr. DiBenedetto that she (Paulette) and Paula then went, he thinks, either late morning or early afternoon on Thursday to their mother, and Paulette repeated Paula's story, whereupon Mrs. Gray confronted Paula about it, and Paula told her mother she had witnessed this crime. (Tr. of Evidentiary Hr'g of 5/3/99, at 88-89). [The January 29th, 1979 transcript of Paulette Gray's testimony in mitigation for the defense at Petitioner's 1978 trial, indicates that Paulette testified that while at the police station on May 13th, 1978, she did not, at any time, speak to Assistant State's Attorney DiBenedetto, or any other assistant State's Attorney, nor had Paula discussed the murder case with her. In fact, P.J. Pastirik specifically asked Paulette if Paula had spoken with her about the murder case, and Paulette advised him that she had not. Mr. Pastirik only asked Paulette questions about her boots. Paulette also testified that at that point [May 13th], she did not know any information [sic] pertaining to the [Lionberg/Schmal] murder. (Petitioner's Answer to Respondent's Mot. To Dismiss Ex. C); see also the First District Appellate Court opinion for the 1978 jury trial conviction of Willie Rainge, one of Petitioner's 3 co-defendants, reiterating Paulette Gray's foregoing testimony in mitigation that "she was not told the incidents of May 11 by her sister [and further] denied making any statements to the police concerning her knowledge of the events and the involvement of her sister." Rainge, 112 Ill.App.3d at 407].

Mr. DiBenedetto and Investigator Pastirik then went to another interview room at the station and ASA DiBenedetto was introduced by Mr. Pastirik to both Paula Gray, and her mother, Mrs. Gray, by Mr. Pastirik, though he doesn't remember Mrs. Gray's first name. (Tr. of Evidentiary Hr'g of 5/3/99, at 83). Mr. DiBenedetto "was lead to learn [sic]" that Paula was the sister of Paulette. (Tr. of Evidentiary Hr'g of 5/3/99, at 83). ASA DiBenedetto, Investigator Pastirik, Paula Gray and Paula Gray's mother were all present for the ensuing interview. (Tr. of Evidentiary Hr'g of 5/3/99, at 83).

Mr. DiBenedetto advised Petitioner that he was an assistant State's Attorney and that he was aiding the police in their investigation of the crime that had occurred, and asked her to tell him as best she could about the incident involving the persons killed and the woman who was raped. (Tr. of Evidentiary Hr'g of 5/3/99, at 83-84). [In ASA DiBenedetto's February 15th, 1999 deposition testimony in the 1997 and 1998 civil actions instituted by the Ford Heights Four and Paula Gray against Cook County and other parties, he testified that he did not advise Petitioner of her rights because neither the police nor Paulette had led him to believe that "[Paula Gray] was involved in any accountable sense..." Mr. DiBenedetto also testified that "[the police] certainly weren't asking for a charge on [Peticioner]. I don't remember them telling me anything or Paulette telling me anything that would make me think that Paula Gray was -- could be accountable for the conduct of the persons she was talking about." (Respondent's Joint Mot. Ex. B at 85, 86)]. At first, Ms. Gray did not respond to ASA DiBenedetto because "[s]he was sort of scared." (Tr. of Evidentiary Hr'g of 5/3/99, at 84). The delay was long enough for either Det. Pastirik or her mother to speak to her, and Mr. DiBenedetto is not sure who was the first to do so. (Tr. of Evidentiary Hr'g of 5/3/99, at 84). ASA DiBenedetto also spoke to Paula Gray. (Tr. of Evidentiary Hr'g of 5/3/99, at 84). He thinks the policeman said "This man is not here to get you in trouble, he just wants to know the truth. He wants to know what happened" or, he thinks, words to the effect that "[t]his is the man I told you would be coming out who wants to hear what you know about this case." (Tr. of Evidentiary Hr'g of 5/3/99, at 84). Mrs. Gray said to Paula, according to Mr. DiBenedetto, "Paula, just tell this man the truth. He wants to help." (Tr. of Evidentiary Hr'g of 5/3/99, at 85).

Again asking Petitioner to tell him what she knew about the case, Mr. DiBenedetto generally recalls Paula Gray telling him that she and her boyfriend, Kenny Adams, who was at the time a suspect at the police station, were listening to music in his car and that she went in her house. (Tr. of Evidentiary Hr'g of 5/3/99, at 85, 86). She later heard a noise, looked out, and saw a car stuck in the mud, as well as Dennis Williams, he thinks Kenny Adams, and two persons by nicknames. (Tr. of Evidentiary Hr'g of 5/3/99, at 86). A white male and white female were in the car. (Tr. of Evidentiary Hr'g of 5/3/99, at 86). Petitioner went out and Dennis Williams told her to come with them. (Tr. of Evidentiary Hr'g of 5/3/99, at 86). They took the persons next door, or perhaps she said an "abandoned actual residence," where someone held the man downstairs while Paula Gray went upstairs with Dennis Williams, the woman, and maybe one or two others. (Tr. of Evidentiary Hr'g of 5/3/99, at 86). Ms. Gray held a lighter for them to see and each of the men raped the woman. (Tr. of Evidentiary Hr'g of 5/3/99, at 86). Dennis Williams thereafter shot the woman twice in the head, and according to ASA DiBenedetto, Paula Gray was specific as to "where" the woman was shot, but he doesn't remember what she said. (Tr. of Evidentiary Hr'g of 5/3/99, at 86-87). They went downstairs and the man was taken out back near the creek where he was shot several times, again Mr. DiBenedetto cannot recall where Paula told him, but he thinks "she was...pretty specific." (Tr. of Evidentiary Hr'g of 5/3/99, at 87).

ASA DiBenedetto also asked Petitioner if she had told the same story to Paulette on Thursday morning and she confirmed that she had. (Tr. of Evidentiary Hr'g of 5/3/99, at

88). He then asked Paula Gray if she had told this story to her mother, and she again confirmed that she had. (Tr. of Evidentiary Hr'g of 5/3/99, at 89). [In ASA DiBenedetto's February 15th, 1999 deposition testimony he stated that he was in the room with Petitioner for 20 minutes to a half hour, and that he did not take any notes when he was interviewing Paula Gray because "he just wanted to talk to her...and didn't think it was necessary to write down what she said, not to stop the conversation." Mr. DiBenedetto also indicated that he did not think Detective Pastirik took any notes while Mr. DiBenedetto was interviewing the Petitioner. (Respondent's Joint Mot. Ex. B at 90)].

Mr. DiBenedetto remained at the Homewood facility to interview the men in custody whom Paula Gray had named as being participants in the crime. (Tr. of Evidentiary Hr'g of 5/3/99, at 89-90). Three of the men were already in custody, with Verneal Jimerson later coming to the station with his wife as the interviewing was taking place. (Tr. of Evidentiary Hr'g of 5/3/99, at 89-90). Mr. DiBenedetto does not know whether Mr. Jimerson was under arrest or whether he came to the station on his own volition. (Tr. of Evidentiary Hr'g of 5/3/99, at 90).

One of the men ASA DiBenedetto interviewed was Dennis Williams. (Tr. of Evidentiary Hr'g of 5/3/99, at 90). Mr. DiBenedetto testified that he spoke to Mr. Williams more than once. (Tr. of Evidentiary Hr'g of 5/3/99, at 90). After introducing himself, Mr. DiBenedetto testified that he asked Mr. Williams if he had been mistreated or if he was okay and he said "No," though ASA DiBenedetto cannot remember his exact words. (Tr. of Evidentiary Hr'g of 5/3/99, at 91, 92-93). Mr. DiBenedetto testified that Dennis Williams made a written statement before Blanca Lara, a Court Reporter who was working for the State's Attorney's Office and whom Mr. DiBenedetto knew. (Tr. of Evidentiary Hr'g of 5/3/99, at 93-94).

ASA DiBenedetto identified [Respondent's Joint Mot.] Exhibit Number Seven as a photograph of Dennis Williams, in that he has a "vague recollection of [Mr. Williams]." (Tr. of Evidentiary Hr'g of 5/3/99, at 94). Also, Mr. DiBenedetto testified that this photograph was signed on the back by Dennis Williams in the presence of himself and Investigator Capelli, and that it's also dated and timed. (Tr. of Evidentiary Hr'g of 5/3/99, at 94). Upon reviewing the photograph and observing that it indicates that it was taken on Monday, May 15th, 1978 at 12:25 a.m., ASA DiBenedetto explained that he left the Homewood facility between 7 a.m. and 10 a.m. on Sunday [May 14, 1978] and returned to the police station at 7 p.m. that night because the investigation was ongoing. (Tr. of Evidentiary Hr'g of 5/3/99, at 95). He further testified that at some point that evening, noting that he did not have the information in front of him, a Court Reporter was brought out and court reported statements were taken of all the persons in custody, including Dennis Williams. (Tr. of Evidentiary Hr'g of 5/3/99, at 95). Mr. DiBenedetto does not recall if he actually took Mr. Williams statement, but he does remember being present when it was read to Dennis Williams and when the photograph was taken and signed. (Tr. of Evidentiary Hr'g of 5/3/99, at 95-96). To the best of ASA DiBenedetto's knowledge, this photograph truly and accurately represents Mr. Williams' appearance at that time. (Tr. of Evidentiary Hr'g of 5/3/99, at 96).

On cross-examination, Mr. DiBenedetto stated that when he arrived at the [Homewood] Sheriff's Office at 2 a.m. Sunday, he knew that he was the first prosecutor at the police station regarding this matter and that he was charged with commencing the investigation by the State's Attorney's Office. (Tr. of Evidentiary Hr'g of 5/3/99, at 97-98). He also stated that upon meeting with Howard Vanick, Dave Capelli and Patrick Pastirik, they told him in so many words that Paula had made a statement as to being present at the murders and rapes. (Tr. of Evidentiary Hr'g of 5/3/99, at 98). ASA DiBenedetto does not recall being told by any of these officers that Paula Gray had recently been taken to the crime scene by Sheriff's officers. (Tr. of Evidentiary Hr'g of 5/3/99, at 98-99). Mr. DiBenedetto confirmed that the officers additionally related to him that both Paulette and Petitioner's mother said that Paula told them each the facts that he later received in talking with Paula. (Tr. of Evidentiary Hr'g of 5/3/99, at 99).

ASA DiBenedetto reiterated that he first spoke with Paulette and he believes that she indicated to him that she was at home, Thursday morning, when she got this information from Paula. (Tr. of Evidentiary Hr'g of 5/3/99, at 100). Mr. DiBenedetto cannot recall whether he inquired as to the reason Paulette was home Thursday morning, or whether she worked or not. (Tr. of Evidentiary Hr'g of 5/3/99, at 100). He could have asked these questions and Paulette could have given him answers, but he doesn't presently recall either having occurred. (Tr. of Evidentiary Hr'g of 5/3/99, at 101). Mr. DiBenedetto spoke with Paulette Gray for 15 to 20 minutes. (Tr. of Evidentiary Hr'g of 5/3/99, at 101).

ASA DiBenedetto recalls that he testified two different times, and perhaps three times, at trials resulting from these criminal charges, including a trial in the fall of 1978. (Tr. of Evidentiary Hr'g of 5/3/99, at 101-02). He does not recall whose trial it was in 1978. (Tr. of Evidentiary Hr'g of 5/3/99, at 101-02). This case, he confirmed, is what used to be called a heater case. (Tr. of Evidentiary Hr'g of 5/3/99, at 102).

When Mr. DiBenedetto testified in Markham in the fall of 1978, he is sure he met with the trial prosecutors who he thinks were Cliff Johnson and Scott Arthur. (Tr. of Evidentiary Hr'g of 5/3/99, at 103). He recalls no conversation with the prosecutors or anyone else informing him that Louise Gray and Paulette Gray had testified for the State, or that neither Louise nor Paulette Gray were ever asked whether or not Paula made any incriminating statements to them. (Tr. of Evidentiary Hr'g of 5/3/99, at 103-04). ASA DiBenedetto reiterated that after arriving at the police station at 2 a.m. Sunday, Mrs. [Louise] Gray told him that Paula told her the same thing Thursday afternoon as she had told Paulette, which Mr. DiBenedetto again confirmed were the same things Paula told him. (Tr. of Evidentiary Hr'g of 5/3/99, at 104).

ASA DiBenedetto testified that when he interviewed Paula Gray, in a separate room from his initial questioning of Paulette Gray, that Paula and her mother appeared to be calm when he entered the room. (Tr. of Evidentiary Hr'g of 5/3/99, at 105). Refreshing Mr. DiBenedetto's recollection with a transcript of his [February 15th, 1999] deposition [Respondent's Joint Mot. Ex. B], ASA DiBenedetto conceded that he described Paula

Gray as being “very articulate,” “coherent,” “responsive,” and the manner of her presentation as “coherent.” (Tr. of Evidentiary Hr’g of 5/3/99, at 105, 107-08; see also Respondent’s Joint Mot. Ex. B). [In ASA DiBenedetto’s February 15th, 1999 deposition, he used the foregoing terminology in describing the manner in which Ms. Gray presented herself to conclude that “[t]here were things that [Paula Gray] was saying that [he] found to be very compelling in terms of...not only the content, but the way she said it.” (Respondent’s Joint Mot. Ex. B at 90-92)]. Mr. DiBenedetto stated that after talking with Paula Gray, he spoke with Dennis Williams, Adams and Rainge. (Tr. of Evidentiary Hr’g of 5/3/99, at 108).

As is standard practice in Felony Review, ASA DiBenedetto would have filled out a felony review folder later that “Sunday evening” or “Monday morning” “before [he] concluded [his] work [at the Homewood Sheriff’s facility].” (Tr. of Evidentiary Hr’g of 5/3/99, at 108-09). The principal reason for doing so was to provide assistance to the prosecutors taking over this case should it go further. (Tr. of Evidentiary Hr’g of 5/3/99, at 109). As such, Mr. DiBenedetto provided brief summaries as to what the accused and important witnesses had to say. (Tr. of Evidentiary Hr’g of 5/3/99, at 109-10). ASA DiBenedetto then identified pages 047485, [0474]86 and [0474]87 of Exhibit 14 of the Petitioner’s Additional Authorities as his felony review folder for May 15th, 1978. (Tr. of Evidentiary Hr’g of 5/3/99, at 110-11). The cover letter [dated January 28, 1999] and page number 047483, which he believes to be part of his log book, were not in his felony review folder, though they are included in Exhibit 14. (Tr. of Evidentiary Hr’g of 5/3/99, at 110). Also, the front page of his felony review folder is missing from this exhibit. (Tr. of Evidentiary Hr’g of 5/3/99, at 111).

Mr. DiBenedetto testified that what he had to say in his Felony Review folder about Paula Gray is that this witness is reluctant. (Tr. of Evidentiary Hr’g of 5/3/9, at 111; see also Petitioner’s Add’l Auth’s and Mat’ls Ex. 13, at 047486). Mr. DiBenedetto had nothing to say about his interview of Paulette Gray in his Felony Review folder, nor is there a reference to Louise Gray. (Tr. of Evidentiary Hr’g of 5/3/99, at 111-12). There is an entry in his folder for Charles McCraney, who is the gentlemen Mr. DiBenedetto was told had witnessed some of the action preceding the murders. (Tr. of Evidentiary Hr’g of 5/3/99, at 112). ASA DiBenedetto does not currently recall interviewing Mr. McCraney on the morning of May 15th, 1978. (Tr. of Evidentiary Hr’g of 5/3/99, at 112-13). He testified that he either interviewed him, or the information about Mr. McCraney in Mr. DiBenedetto’s Felony Review folder was provided to him from Howard Vanick, Patrick Pastirik or David Capelli. (Tr. of Evidentiary Hr’g of 5/3/99, at 112-13). Mr. DiBenedetto’s summary in his folder indicates that Charles McCraney puts the offenders’ car on the scene and that he saw no faces. (Tr. of Evidentiary Hr’g of 5/3/99, at 114). ASA DiBenedetto agreed that a fair representation of that phraseology is that Mr. McCraney did not see the faces of the people who were involved in the action preceding the murders, and then adding “[r]eally as today goes, I don’t know.” (Tr. of Evidentiary Hr’g of 5/3/99, at 114).

On re-direct, Mr. DiBenedetto stated that the only significance of Paulette having had the conversation with Paula regarding the crimes on Thursday morning was that that

conversation would have been before the police or authorities discovered the bodies. (Tr. of Evidentiary Hr'g of 5/3/99, at 115). He reiterated that he found Paula to be articulate, coherent, cohesive and responsive in his conversation with her at the police station. (Tr. of Evidentiary Hr'g of 5/3/99, at 115). Mr. DiBenedetto explained that what he meant by the term reluctant with respect to Paula Gray in his Felony Review folder, and the reason he entered the term, is that he thought that she was a little hesitant to become involved in this matter because she knew the persons [arrested], one of the suspects was her boyfriend, and she lived in the area of the crime, and as he recalls, where most of the suspects lived. (Tr. of Evidentiary Hr'g of 5/3/99, at 116). Mr. DiBenedetto also mentioned that "one night we took [Paula Gray] and her mom home from the police station that morning..." (Tr. of Evidentiary Hr'g of 5/3/99, at 116). Neither Paulette Gray nor Mrs. Gray had first-hand knowledge of the subject crimes. (Tr. of Evidentiary Hr'g of 5/3/99, at 116). ASA DiBenedetto did not mention them in his Felony Review folder because he didn't feel they were significant witnesses to the actual case, the police knew them, they were available, and he didn't think that they would be witnesses at the trial. (Tr. of Evidentiary Hr'g of 5/3/99, at 116-17).

ASA DiBenedetto conceded that it was common place for young female witnesses to violent crimes to be reluctant to get involved against their own neighbors. (Tr. of Evidentiary Hr'g of 5/3/99, at 118). The following questions and answers ensued:

Q Why did you think that putting in your felony folder the sentence, "This witness is reluctant" would be helpful to the prosecutors who took over and handled the case from there?

A One of the things that had happened, before I left there, I don't know if it was that clear, but I started on Sunday morning, I went home, came back again Sunday night, stayed until Monday. One of the issues regarding Paula Gray was what to do in terms of – there was a Court Reporter there, there was some discussion about should we take a court reported statement from her and I was advised – it really wasn't my call, Mr. Decker, but I was advised that by [sic] my superiors that on Monday morning she would be – the case would be brought into the actual trial prosecutors and that most likely she would be put in the grand jury. So that's the only thing I can think of that. It was a note in there that I just thought maybe somebody should know. I don't know. That's the only thing I can think of that it would have been to let somebody know, if they ever saw this thing or read this note I left, that she was a little reluctant to get involved because she knew the people and lived there and that maybe that would help influence them to put her in the grand jury in case later she would come to some pressure to change her story or something.

Q You thought maybe the prosecutors assigned to the case might not know that Paula Gray would be reluctant to testify against her friends?

A I think they probably would. I don't know why I wrote that down. It's just my impression it was the truth. It was the way I felt and I entered it. I don't know if I gave it as much thought as you are trying to give me credit for.

Q And in fact, there were no notes or reports about what Paula Gray said to you or to the policemen on the night of the 13th, the morning of the 14th, were there?

* * *

A Did I make any notes? No.

Mr. Decker:

Q Or did you see any notes?

A I can't say that I did.

(Tr. of Evidentiary Hr'g of 5/3/99, at 118-20)

ASA DiBenedetto stated that the screening [or felony review] folder is transmitted to the assistant State's Attorneys prosecuting the case and that the page missing from the folder is taken to the preliminary hearing court where the person handling the case makes entries on it. (Tr. of Evidentiary Hr'g of 5/3/99, at 120-21).

Upon further examination by both counsel, Mr. DiBenedetto additionally explained that the missing page is similar to a judge's half sheet for the assistants working in preliminary hearing court to make entries as to the case status, such as motion defendant, grand jury indictment. (Tr. of Evidentiary Hr'g of 5/3/99, at 120-21). ASA DiBenedetto also identified the page "numbered 047484" in Petitioner's [Evidentiary Hr'g] Exhibit 9-A for Identification as the missing cover page of his Felony Review file, because most of the writing on this exhibit he confirmed as being his. (Tr. of Evidentiary Hr'g of 5/3/99, at 122-23). [Stipulation by both counsel, as well as Mr. DiBenedetto's testimony, confirm that the missing page from Mr. DiBenedetto's Felony Review folder is contained in documents comprising Petitioner's [Evidentiary Hr'g] Exhibit 9-A which were furnished on January 28th, 1999 to Petitioner's counsel and others in discovery in an unrelated case. (Tr. of Evidentiary Hr'g of 5/3/99, at 122, 123, 125-26, 127, 128)].

Upon reviewing the cover or front page of his Felony Review folder from Petitioner's Exhibit 9-A for Identification, Mr. DiBenedetto testified that as there were no entries under motions and rulings, he surmised that it was not used in court, though he doesn't know what that means. (Tr. of Evidentiary Hr'g of 5/3/99, at 128). ASA DiBenedetto also confirmed, upon reviewing the entries of this cover page, that in June of 1978, someone other than himself in the State's Attorney's Office had possession of his Felony Review folder. (Tr. of Evidentiary Hr'g of 5/3/99, at 129-30).

Judge Frank W. Meekins

Frank W. Meekins is a judge in the Criminal Division for the Circuit Court of Cook County. (Tr. of Evidentiary Hr'g of 5/3/99, at 133). He has been a judge since April 16th, 1979. (Tr. of Evidentiary Hr'g of 5/3/99, at 134). He has been an attorney licensed in Illinois for 32 years. (Tr. of Evidentiary Hr'g of 5/3/99, at 133-34).

From 1979 until 1987, his judicial experience in criminal cases included a short Traffic Court assignment in 1979, followed by misdemeanor court, and in the early 1980's he began trying felony cases assigned to the Sixth Municipal District. (Tr. of Evidentiary Hr'g of 5/3/99, at 134). Thereafter, again in the early 1980's, and pursuant to Judge Fitzgerald's request, he was transferred to the Criminal Division. (Tr. of Evidentiary Hr'g of 5/3/99, at 133-34). However, Judge Meekins continued hearing Sixth District felony cases per agreement between Judge Fitzgerald and Judge Paul Gerrity, then presiding judge of the District. (Tr. of Evidentiary Hr'g of 5/3/99, at 135). Subsequently, he was appointed Chief of the Felony Division for the Sixth Municipal District by Judge Ron Crane, and after his passing was appointed Presiding Judge of the Sixth District by Chief Judge Harry Comerford. (Tr. of Evidentiary Hr'g of 5/3/99, at 135). After about seventeen or nineteen months as Presiding Judge, during which time he retained a felony trial courtroom and preliminary hearing courtroom, he returned to the Criminal Division under Judge Thomas Fitzgerald. (Tr. of Evidentiary Hr'g of 5/3/99, at 135). He is presently assigned to Bridgeview in one of three Criminal Division courtrooms hearing only Chicago cases, as there is no room at 26th [and California]. (Tr. of Evidentiary Hr'g of 5/3/99, at 135).

Also, while in private practice, Judge Meekins handled both civil and criminal matters over a twelve year period. (Tr. of Evidentiary Hr'g of 5/3/99, at 135-36).

As a judge, at least ninety-five percent of his cases have been criminal matters. (Tr. of Evidentiary Hr'g of 5/3/99, at 136). As such, he has taken thousands of pleas from defendants. (Tr. of Evidentiary Hr'g of 5/3/99, at 136). Prior to 1987, on more than one occasion, he has refused to accept a plea from a defendant if he was not satisfied. (Tr. of Evidentiary Hr'g of 5/3/99, at 136). For example, where it appeared to him that a defendant did not know what was transpiring, or did not understand the ramifications of his admonitions, he would reject the plea. (Tr. of Evidentiary Hr'g of 5/3/99, at 136-37). Judge Meekins has also requested, on his own motion, a BCX, based on his personal observation [of the defendant]. (Tr. of Evidentiary Hr'g of 5/3/99, at 137).

Judge Meekins was familiar with Paula Gray because in about February of 1987, she was called as a State's witness against Dennis Williams and Willie Rainge in a jury trial over which he presided. (Tr. of Evidentiary Hr'g of 5/3/99, at 137). Mr. Williams was represented by Isaiah Skip Gant and Mr. Rainge's attorney was Maurice Scott, who has passed. (Tr. of Evidentiary Hr'g of 5/3/99, at 137). Paula Gray testified and Mr. Gant filed a motion in limine to bar Paula Gray from testifying on the grounds of alleged incompetency. (Tr. of Evidentiary Hr'g of 5/3/99, at 138). Mr. Gant wanted to call

Petitioner as a witness [in a competency hearing] to establish she was incompetent [and thereby bar her testimony at trial]. (Tr. of Evidentiary Hr'g of 5/3/99, at 138). Judge Meekins determined that he would not allow Isaiah Gant to call Ms. Gray for that purpose, unless Mr. Gant had first established by credible evidence a good faith showing that there was some basis for the allegation [of incompetency]; otherwise, in a criminal matter, either the State or the defense "could do that as to every single witness." (Tr. of Evidentiary Hr'g of 5/3/99, at 138). Either days or weeks later, a hearing was had in which Mr. Gant called Dr. Watkins, a general practitioner or family doctor, who had seen Ms. Gray once but not in the last eight years prior to trial, and on cross-examination revealed that he had no training in psychiatry, psychology nor licensing, registration or practice. (Tr. of Evidentiary Hr'g of 5/3/99, at 139). Therefore, Judge Meekins ruled that Mr. Gant could not ask Dr. Watkins a hypothetical question calling for an expert opinion, because the defense had not established a good faith showing, and thus could not call Paula Gray. (Tr. of Evidentiary Hr'g of 5/3/99, at 139). Isaiah Gant called no further witnesses and Judge Meekins testified that that procedure was affirmed by the Illinois Supreme Court. (Tr. of Evidentiary Hr'g of 5/3/99, at 139).

Paula Gray was thereafter called as a witness against Mr. Williams and Mr. Rainge. (Tr. of Evidentiary Hr'g of 5/3/99, at 139). Ms. Gray testified before Judge Meekins and the jury, and was subjected to cross-examination "at great length" by both defense counsel, because the Judge "allowed probably the greatest latitude in cross-examination to the defense." (Tr. of Evidentiary Hr'g of 5/3/99, at 140). Judge Meekins did not observe or hear anything in Petitioner's testimony that caused him to reconsider his view that she was competent to testify. (Tr. of Evidentiary Hr'g of 5/3/99, at 140).

The jury returned guilty verdicts to at least two counts of murder as to Larry [Lionberg] and Carol Schmal, which the Judge accepted. (Tr. of Evidentiary Hr'g of 5/3/99, at 140-41). He doesn't recall the total number of counts as to which the defendants were found guilty. (Tr. of Evidentiary Hr'g of 5/3/99, at 141).

Judge Meekins identified Respondent's [Evidentiary Hr'g] Exhibit Number Eight as truly and accurately reflecting the testimony of Martin Carlson given in the mitigation and aggravation hearing for Mr. Williams' 1987 trial, and this exhibit was accepted into evidence. (Tr. of Evidentiary Hr'g of 5/3/99, at 143).

Sometime after this 1987 trial, Paula Gray entered a plea of guilty before Judge Meekins. (Tr. of Evidentiary Hr'g of 5/3/99, at 143). Upon calling the case, George Morrissey, who was Ms. Gray's attorney, stated, "Judge, the State (probably represented by ASA Richard Burke, the Judge's first chair) and I have...reached an agreement." (Tr. of Evidentiary Hr'g of 5/3/9, at 143-44). There was never a 402 conference. (Tr. of Evidentiary Hr'g of 5/3/99, at 144).

Upon Judge Meekins probable inquiry as to the nature of the agreement, Mr. Morrissey responded that in exchange for a guilty plea to perjury, which allegedly occurred during the preliminary hearing following [Ms. Gray's] 1978 grand jury [appearance], Petitioner would receive a sentence of 2 years probation and the *nolle prosequi* of "all other

pending murder counts, etcetera, by the State.” (Tr. of Evidentiary Hr’g of 5/3/99, at 145). Judge Meekins did not object to this agreement. (Tr. of Evidentiary Hr’g of 5/3/99, at 145).

The Judge thereafter would have advised Ms. Gray as to his understanding that Petitioner would be entering a plea of guilty; the nature of the plea agreement; and the fact that he and Petitioner would be discussing the plea of guilty. (Tr. of Evidentiary Hr’g of 5/3/99, at 145). He read the entire charge, as he has done in every plea, and does not allow attorneys to coach a defendant, and requires that the defendant maintain eye contact with him during their ensuing colloquy. (Tr. of Evidentiary Hr’g of 5/3/99, at 145). This is what he “absolutely” did with Paula Gray. (Tr. of Evidentiary Hr’g of 5/3/99, at 145).

Judge Meekins “went through his entire admonitions” with Petitioner and invited Ms. Gray to stop him if she doesn’t understand anything. (Tr. of Evidentiary Hr’g of 5/3/99, at 145-46). Petitioner responded “yes” to the Judge’s inquiry as to whether she understood this instruction. (Tr. of Evidentiary Hr’g of 5/3/99, at 146).

Judge Meekins advised Petitioner of all Supreme Court Rule 402 admonitions; the State offered a factual basis, to which the Judge did not allow her attorney to respond “[s]o stipulated.” (Tr. of Evidentiary Hr’g of 5/3/99, at 146). The Judge inquired of Ms. Gray as to whether “...that [was] what happened and are those the facts to which you are pleading guilty,” to which Paula Gray responded “[y]es.” (Tr. of Evidentiary Hr’g of 5/3/99, at 146). Prior to Petitioner’s affirmative response, Judge Meekins testified that he “may be off a word or two because that’s the terminology I have been using for 20 years...” (Tr. of Evidentiary Hr’g of 5/3/99, at 146). [Judge Meekins’ Supreme Court Rule 402 admonishment as to the sentence he could impose on Petitioner, ranging from imprisonment to probation or conditional discharge, was incorrect, and the subsequent 2 year sentence of probation was void, because as of the April 23rd, 1987 date of Ms. Gray’s perjury plea, she had already served the maximum sentence allowable by state law for such a charge, and any excess sentence was void, and can therefore be raised in a section 2-1401 petition. (See discussion and ruling in Memorandum “Preliminary Findings of Law” para. 9., at 311-12)].

While Judge Meekins was giving Petitioner his admonishments and accepting her plea, he did not observe her say or act in such a manner that indicated she didn’t understand the charges against her; nor the consequences of her plea, or that she could not have assisted her counsel. (Tr. of Evidentiary Hr’g of 5/3/99, at 146-47). The Judge was also satisfied as to the voluntariness of Paula Gray’s plea, particularly in view of his eye-to-eye contact with Ms. Gray, whereupon she exhibited no rejection of the plea nor evidence in some manner that it was a lie, such as a shaking of the head, or rolling of the eyes. (Tr. of Evidentiary Hr’g of 5/3/99, at 147). Ms. Gray thereupon entered a plea of guilty before Judge Meekins, who sentenced her to two years probation, and ordered the murder and rape charges *nolle prosequi* pursuant to the State’s motion. (Tr. of Evidentiary Hr’g of 5/3/99, at 147-48).

On cross-examination, Judge Meekins testified as to his private practice experience in handling state felony and misdemeanor cases over a 12 year period in a “general type practitioner firm.” (Tr. of Evidentiary Hr’g of 5/3/99, at 148-49). Judge Meekins also did part time prosecutorial work for municipalities, noting that the Attorney General deemed such work permissible provided he did not defend a case in a municipality for which he was also prosecuting. (Tr. of Evidentiary Hr’g of 5/3/99, at 149-50).

Judge Meekins identified Petitioner’s [2-1401 Mot.] Exhibit F as a transcript of Petitioner’s plea on April 23rd [1987]. (Tr. of Evidentiary Hr’g of 5/3/99, at 150). [Respondent’s [Joint Mot.] Exhibit A is also a copy of this same transcript] The Judge reiterated that Ms. Gray’s attorney, [George] Morrissey, along with ASA Burke, who was first chair in his courtroom, were present for her plea. (Tr. of Evidentiary Hr’g of 5/3/99, at 150). [ASA] Deborah Dooling, who was second chair in the Judge’s courtroom, may have been in the room, but he didn’t think [ASA] Scott Arthur was present. (Tr. of Evidentiary Hr’g of 5/3/99, at 151). He is unaware of the presence of any other counsel for the State or the defense, and doesn’t know the identity of other persons who may have been seated in the courtroom at the time of the plea. (Tr. of Evidentiary Hr’g of 5/3/99, at 151).

If Judge Meekins knew a State or defense witness’ testimony to be untruthful, he would not allow such a witness to testify by reason of Supreme Court Rule 63, Rules of Professional Conduct, and other such guidelines. (Tr. of Evidentiary Hr’g of 5/3/99, at 153-54). Judge Meekins read the perjury charge to Petitioner, as evidenced by page four of Petitioner’s [2-1401 Mot.] Exhibit F. (Tr. of Evidentiary Hr’g of 5/3/99, at 154-55). He indicated that Ms. Gray was charged with perjury because her preliminary hearing testimony was inconsistent with her testimony in the grand jury. (Tr. of Evidentiary Hr’g of 5/3/99, at 155). Judge Meekins stated that “the basis of the perjury charge” was her false preliminary hearing statement that the Ford Heights Four, or Kenny Adams, Willie Rainge, Dennis Williams and Verneal Jimerson, were not involved [in the Lionberg/Schmal crimes]. (Tr. of Evidentiary Hr’g of 5/3/99, at 155).

Judge Meekins agreed that at the Dennis Williams and Willie Rainge 1987 trial [over which he presided], Paula Gray was the only person right there at the scene when the victims were murdered, and was probably an important witness. (Tr. of Evidentiary Hr’g of 5/3/99, at 156). The Judge also mentioned Charles McCraney as an eyeball witness, but conceded that Mr. McCraney was not present at the scene when the murders were committed. (Tr. of Evidentiary Hr’g of 5/3/99, at 156). In response to whether blood, hair or fingerprint evidence was offered against these two defendants at trial, the Judge stated that experts for both sides agreed that scientific evidence was useless, so no scientific evidence was introduced or heard at trial. (Tr. of Evidentiary Hr’g of 5/3/99, at 156).

The Judge testified that Paula Gray now knows, and not him, whether she committed perjury when she testified these men were not involved. (Tr. of Evidentiary Hr’g of 5/3/99, at 156-57). However, Judge Meekins does not presently believe that Ms. Gray

committed perjury when she testified at the February, 1987 Williams and Rainge trial. (Tr. of Evidentiary Hr'g of 5/3/99, at 157).

[As petitioner's counsel referenced the transcript of the February, 1987 Williams and Rainge trial,] Judge Meekins had difficulty recalling specific testimony of this trial. (Tr. of Evidentiary Hr'g of 5/3/99, at 158). However, the Judge agreed that Paula Gray had admitted at [apparently at] her [1978] trial that she testified before the grand jury, but on cross-examination in the 1987 trial, could well have testified that she did not recall this testimony. (Tr. of Evidentiary Hr'g of 5/3/99, at 157). Judge Meekins also believes that Paula Gray testified on direct examination [at the 1987 trial] that she saw two white people in the back of Dennis Williams' car. (Tr. of Evidentiary Hr'g of 5/3/99, at 157-58). Refreshing his recollection with a transcript of the 1987 trial, the Judge confirmed that on cross-examination, Petitioner testified there were no white people in the back seat of Dennis Williams' car. (Tr. of Evidentiary Hr'g of 5/3/99, at 158). Additionally, Ms. Gray did not know what the word "leniency" meant, and she testified that she did not expect to receive a lesser sentence. (Tr. of Evidentiary Hr'g of 5/3/99, at 159). Judge Meekins stated that perhaps at the 1987 trial, Paula Gray did not remember testifying at her own 1978 trial. (Tr. of Evidentiary Hr'g of 5/3/99, at 159-60). The Judge agreed that Petitioner did not recall at the 1987 trial as having been tried in 1978 for certain offenses, which the Judge felt to be unusual in light of the nine years she spent in jail for her 1978 [conviction]. (Tr. of Evidentiary Hr'g of 5/3/99, at 160). Judge Meekins confirmed the 1987 transcript testimony by Ms. Gray that she did not understand that she was to get a new trial, or remember whether George Morrissey spoke to her the day before about a new trial. (Tr. of Evidentiary Hr'g of 5/3/99, at 161, 163). The Judge additionally confirmed testimony by Ms. Gray at the 1987 trial that she could not remember, or affirm, that the date October 7, 1978 was about eight or nine years ago, nor that she had testified several previous times [regarding the Lionberg/Schmal crimes]; or remember the last time she spoke to George Morrissey, or if it was within the last three years "since [she has] been...at the County Jail," or "within the last week," or even as early as the day before, though she testified "maybe," after previously responding "I'm not for sure." (Tr. of Evidentiary Hr'g of 5/3/99, at 160-62).

With the exception of Petitioner's statement that "I'm doing it on my own" in response to Judge Meekins' inquiry as to whether her guilty plea was voluntary, all other questions by the Judge directed at Ms. Gray required only a "yes or no" answer. (Tr. of Evidentiary Hr'g of 5/3/99, at 163).

On re-direct, Judge Meekins confirmed that "I don't remember" is not an unusual response, particularly when most lawyers advise their clients not to lie, and to give this response when they don't know or remember. (Tr. of Evidentiary Hr'g of 5/3/99, at 164). He doesn't know whether Paula Gray was expecting leniency, or made any deal, but he affirms Justice Freeman's conclusion that "she was getting some kind of deal" because "you would have to be an idiot that a woman doing all these years for murder who is now testifying for the State isn't getting some kind of deal." (Tr. of Evidentiary Hr'g of 5/3/99, at 165). Nor does Judge Meekins feel that it is unusual to give different answers on cross-examination than those on direct to the same or similar questions, because

“that’s what trials are all about.” (Tr. of Evidentiary Hr’g of 5/3/99, at 165). It is still Judge Meekins belief, subsequent to the “number of answers... [Petitioner’s] counsel gave to him from the transcript] out of context” [Respondent’s words], that Ms. Gray was competent to render testimony at the Williams and Rainge trial. (Tr. of Evidentiary Hr’g of 5/3/99, at 166). The Judge confirmed that there was a finding of guilty in that trial. (Tr. of Evidentiary Hr’g of 5/3/99, at 166).