

Mrs. Murriel M. Morse
Page Three
May 28, 1971

(3) CASE NO. 2. (SC# A233421) In this case Mr. Wolfer violated Precepts (1), (2), (3) and (4). He testified that the defendant's gun (Serial No. H53725) and no other was the single murder weapon which had fired three bullets into the bodies of three of the victims. The physical evidence, however, upon which his testimony was based established that the three above mentioned evidence bullets removed from victims were fired, not from the defendant's gun but in fact from a second similar gun with a Serial No. H18602. The only possible conclusion that must be reached is that two similar guns were being fired at the scene of the crime. Such a conclusion then leads unavoidably to the question: Which of the two guns fired the single fatal bullet? The presence of the second gun is firmly established in Exhibits A and B attached hereto which are photographs of Court Exhibit 55. This court exhibit is an envelope containing the test bullets which Mr. Wolfer matched with the three evidence bullets mentioned previously. The inscription on the envelope shows that the enclosed test bullets were fired from gun No. H18602 and not from the defendant's gun No. H53725. This is a violation of Precept (1).

Although the inscription on this envelope shows that gun No. H18602 was physical evidence in this case on June 6, 1968, the gun was reportedly destroyed by the Los Angeles Police Department roughly one month later in July, 1968. This is shown in the teletype report of Exhibit C attached.

Substantiating details of the other violations by Mr. Wolfer can be made available.

I find it very hard to believe that a man of the professed expertise of Mr. Wolfer could violate four of the basic precepts of his profession in a single case by sheer accident. I am more inclined to believe that these violations were made in response to an over-zealous desire to help the cause of the prosecution. The choice seems to be rank incompetence on the one hand or morbid motivation on the other.

(4) CASE NO. 3. (SC# A234557) While Mr. Wolfer did not violate any of the above cited Precepts, his handling of the physical evidence amounted to scurrilous tampering. In a vain attempt to make the physical evidence support the prosecution's theory of the murder, he made physical alterations of certain inscriptions on three rifle cartridge cases which were items of prosecution evidence. Please see

EXHIBIT "A"

Mrs. Murriel M. Morsa
Page Four
May 28, 1971

Exhibits D, E and F, attached herewith. These photographs show that a total of 15 characters have been altered on the three cartridge cases. Some of these alterations were made during the course of the trial. Mr. Wolfer admitted that he had made alterations on one of the cartridge cases but denied making any other alterations.

The undersigned has in her possession the documentary evidence to support the above. In addition, attached hereto are three affidavits of criminalists supporting the fundamental precept as set forth in the above.

Very truly yours,

Barbara Warner Blehr
BARBARA WARNER BLEHR

BWB:al

cc: Edward Davis,
Chief of Police,
Los Angeles

Los Angeles Times

Robert L. Meyer,
United States Attorney

EXHIBIT "A"

DECLARATION

My name is Raymond H. Pinker and I reside at 4645 San Andreas Avenue, Los Angeles, California. During the period of time from 1929 to 1965 I was employed by the Los Angeles Police Department Crime Laboratory as a Criminalist and Chief Forensic Chemist. After my retirement from the Los Angeles Police Department, I was Associate Professor in the Department of Police Science and Administration at Los Angeles State College. I was also head of the Master of Science program in criminalistics at Los Angeles State College until 1969. I am now retired.

Any expert testimony which I might give in a case involving firearms identification would be based, at least in part, on the following six Precepts which I consider inviolable.

Precept (1) The positive identification of an evidence bullet as having been fired from a particular gun and no other must be based on a comparison of the evidence bullet with a test bullet recovered from the same evidence gun and no other.

My Opinion: No identification can be made if the test bullet is recovered from some gun other than the evidence gun, even though the test gun may be of the same make and model and have a serial number very close to the serial number of the evidence gun. Such a procedure is a violation of Precept (1).

EXHIBIT "A"

-5-

○ Precept (2) The most accurate and reliable determination of the approximate distance between muzzle and victim (excluding contact) based on powder pattern distribution must be made with the actual evidence gun and no other. It is also important to use the same make and type of ammunition, preferably from the same batch or lot number.

My Opinion: The use of a gun other than the evidence gun, even though it may be the same make and model with a serial number very close to the serial number of the evidence gun is a violation of Precept (2).

(When the evidence gun is not available, a similar gun may be used but the validity of the test is always questionable)

○ Precept (3) The land and groove dimensions (part of the rifling specifications) may be identical or nearly identical between different firearms manufacturers.

My Opinion: A bullet or bullet fragment cannot be identified as having been fired from a particular make of gun on the basis of land and groove dimensions alone.

Precept (4) Very similar copper coatings are used on many different makes of lead revolver bullets.

My Opinion: The positive identification of the make of ammunition from a badly deformed bullet fragment, based on visual, microscopic or photographic examinations of traces of the copper coating attached to the fragment, cannot be made.

EXHIBIT "A"

Precept (5) CLASS CHARACTERISTICS as shown by the rifling impressions on a fired bullet play absolutely no role in the identification of such a bullet as having been fired from one particular gun out of the entire world population of guns having the same class characteristics.

My Opinion: It is a misrepresentation to claim that one or more CLASS CHARACTERISTICS on a fired bullet contribute in any degree to identifying the bullet as having been fired from any particular gun and no other.

Precept (6) A single land of the rifling of a firearm can produce only one land impression on a fired bullet.

My Opinion: An alleged positive identification of an evidence bullet in which it is shown that a single rifling land produced two different land impressions on the same evidence bullet is a violation of Precept (6). The alleged positive identification is therefore not valid.

I declare under penalty of perjury that the foregoing is true and correct.

Raymond H. Pinker

Witness Mark L. Dawson

Executed on May 24, 1971
at Los Angeles, California.

EXHIBIT "A"

DECLARATION

My name is LeMoyne Snyder and I reside at 325 Valley View Drive, Paradise, California. I am a doctor of medicine and also a member of the Bar and for many years have been engaged in the field of legal medicine and in particular homicide investigation. Expertise in this field requires a thorough knowledge of the fundamentals of firearms identification and over several decades I have pursued studies in this field. My book HOMICIDE INVESTIGATION is a standard text in many police academies and it contains a chapter dealing with these fundamentals.

Any expert testimony which I might give in a case involving firearms identification would be based, at least in part, on the following six Precepts which I consider inviolable.

Precept (1) The positive identification of an evidence bullet as having been fired from a particular gun and no other must be based on a comparison of the evidence bullet with a test bullet recovered from the same evidence gun and no other.

Opinion: No identification can be made if the test bullet is recovered from some gun other than the evidence gun, even though the test gun may be of the same make and model and have a serial number very close to the serial number of the evidence gun. Such a procedure is a violation of Precept (1).

EXHIBIT "A"

Precept (2) The most accurate and reliable determination of the approximate distance between muzzle and victim (excluding contact) based on powder pattern distribution must be made with the actual evidence gun and no other. It is also important to use the same make and type of ammunition, preferably from the same batch or lot number.

Opinion: The use of a gun other than the evidence gun, even though it may be the same make and model with a serial number very close to the serial number of the evidence gun is a violation of Precept (2).

(When the evidence gun is not available, a similar gun may be used but the validity of the test is always questionable)

Precept (3) The land and groove dimensions (part of the rifling specifications) may be identical or nearly identical between different firearms manufacturers.

Opinion: A bullet or bullet fragment cannot be identified as having been fired from a particular make of gun on the basis of land and groove dimensions alone.

Precept (4) Very similar copper coatings are used on many different makes of lead revolver bullets.

Opinion: The positive identification of the make of ammunition from a badly deformed bullet fragment, based on visual, microscopic or photographic examinations of traces of the copper

EXHIBIT "A"

coating attached to the fragment, cannot be made.

Precept (5) CLASS CHARACTERISTICS as shown by the rifling impressions on a fired bullet play absolutely no role in the identification of such a bullet as having been fired from one particular gun out of the entire world population of guns having the same class characteristics.

Opinion: It is a misrepresentation to claim that one or more CLASS CHARACTERISTICS on a fired bullet contribute in any degree to identifying the bullet as having been fired from any particular gun and no other.

Precept (6) A single land of the rifling of a firearm can produce only one land impression on a fired bullet.

Opinion: An alleged positive identification of an evidence bullet in which it is shown that a single rifling land produced two different land impressions on the same evidence bullet is a violation of Precept (6). The alleged positive identification is therefore not valid.

I declare under penalty of perjury that the foregoing is true and correct.

Robert Wayne Snyder

Witness *Virginia L. Ponder*

Executed on May 19th, 1971
at Paradise, California

EXHIBIT "A"

10

DECLARATION

My name is Walter Jack Cadman and I reside at 1209 W. Jacaranda Place, Fullerton, California. I am a graduate of the University of California at Berkeley holding a Bachelor of Arts degree with a major in Technical Criminology. I have a California Special Teaching Credential to teach Police Science courses. From September, 1948 to date I have been employed by the Orange County Sheriff's Department Criminalistics Laboratory and as Chief Criminalist I have occasion to verify the firearms identification work and am trained and experienced in the procedures and methods of firearms identification. I have presented approximately 24 scientific papers to criminalistic societies, law enforcement groups and chemical societies extending over a twelve year period. These papers deal with various technical problems in the general field of criminalistics. I am a member of the following professional affiliations:

Fellow and past Chairman of the Criminalistics Section of the American Academy of Forensic Sciences.

Southern California Section of the Society for Applied Spectroscopy.

American Chemical Society.

California Association of Criminalists.

American Association for the Advancement of Science.

National Association of Police Laboratories.

EXHIBIT "A"

-11-

Any expert testimony which I might give in a case involving firearms identification would be based, at least in part, on the following six Precepts which I consider inviolable.

Precept (1) The positive identification of an evidence bullet as having been fired from a particular gun and no other must be based on a comparison of the evidence bullet with a test bullet recovered from the same evidence gun and no other.

My Opinion: No identification can be made if the test bullet is recovered from some gun other than the evidence gun, even though the test gun may be of the same make and model and have a serial number very close to the serial number of the evidence gun. Such a procedure is a violation of Precept (1).

Precept (2) The most accurate and reliable determination of the approximate distance between muzzle and victim (excluding contact) based on powder pattern distribution must be made with the actual evidence gun and no other. It is also important to use the same make and type of ammunition, preferably from the same batch or lot number.

My Opinion: The use of a gun other than the evidence gun, even though it may be the same make and model with a serial number very close to the serial number of the evidence gun is a violation of Precept (2).

(When the evidence gun is not available, a similar gun may be used but the validity of the test is always questionable)

EXHIBIT "A"

Precept (3) The land and groove dimensions (part of the rifling specifications) may be identical or nearly identical between different firearms manufacturers.

My Opinion: A bullet or bullet fragment cannot be identified as having been fired from a particular make of gun on the basis of land and groove dimensions alone.

Precept (4) Very similar copper coatings are used on many different makes of lead revolver bullets.

My Opinion: The positive identification of the make of ammunition from a badly deformed bullet fragment, based on visual, microscopic or photographic examinations of traces of the copper coating attached to the fragment, cannot be made.

Precept (5) CLASS CHARACTERISTICS as shown by the rifling impressions on a fired bullet play absolutely no role in the identification of such a bullet as having been fired from one particular gun out of the entire world population of guns having the same class characteristics.

My Opinion: It is a misrepresentation to claim that one or more CLASS CHARACTERISTICS on a fired bullet contribute in any degree to identifying the bullet as having been fired from any particular gun and no other.

EXHIBIT "A"

Precept (6) A single land of the rifling of a firearm can produce only one land impression on a fired bullet.

My Opinion: An alleged positive identification of an evidence bullet in which it is shown that a single rifling land produced two different land impressions on the same evidence bullet is a violation of Precept (6). The alleged positive identification is therefore not valid.

I declare under penalty of perjury that the foregoing is true and correct.

J. Goodman

Witness *[Signature]*

Executed on May 25, 1971,
at Fullerton, California.

EXHIBIT "A"

15
CASE No. A233421
EXHIBIT 55
ADMITTED IN EVIDENCE

LOS AN
CRIM

FEB 24 1969

NAME SILK
ADDRESS _____
MAKE 1965
NO. H-18602
CRIME 18

WILLIAM G. SHARP, County Clerk
BY C. Nicholson
DEPUTY

EXHIBIT "A"

H-18602-CADET MODEL

A

LOS ANGELES POLICE DEPT.
CRIME LAB TEST SHOT

NAME Sirhan, S. B. DATE 6-6-68

ADDRESS _____

MAKE I 9.5 CAL. 22 TYPE Road

NO. H18602 DR. 68-521466

CRIME 187P.C. OFFICER _____

H-18602-CADET MODEL

EXHIBIT "A"

-16-

B

112570 1810
OCS 1410
N CII 503 OCS
SO SAN ANA
ATTN SGT ADELSPERGER/ID SGT
11-25-70 1808 PST
REUR 68 OCS DATE

BUR FILES REVEAL A .22 CAL IVER JOHNSON SERIAL H18602 REPORTED
DESTROYED 7-00-68 BY PD LOS ANGELES CR 67 021065
NO WANTS

CII PROPERTY IDENT UNIT MC GILLIVARY AM/RM

EXHIBIT "A"

-17-

AFFIDAVIT OF CHARLES M. WILSON

STATE OF WISCONSIN }
COUNTY OF DANE } SS.

CHARLES M. WILSON being first duly sworn declares as follows:

My business and occupation is a criminalist and firearms expert. I have had the following special training:

I attended the University of California at Berkeley and for eight years was a staff member, assistant professor of police science and research engineer for Scientific Crime Detection Laboratory of Northwestern University School of Law, Chicago, Illinois. That for nine years I was a staff member and director of the Chicago Police Department Crime Laboratory, Chicago, Illinois. I resigned that position to organize and establish the Wisconsin State Crime Laboratory in Madison, Wisconsin, where I was superintendent for twenty-two years and administrator of the Crime Laboratory Division Wisconsin Department of Justice, Madison, Wisconsin. For thirty-nine years I was a lecturer and consultant in laboratory methods of judicial proof and during this time, was a lecturer, consultant and advisor to U. S. military branches, including CID, located in Chicago, concerning the application of laboratory methods of judicial proof in investigations. I have visited principal government and commercial arms and ammunition plants in the U. S. to study manufacturing processes as they relate to the malfunctioning of firearms and ammunition components involved in testing and identification of firearms and ammunition in criminal and civil proceedings and investigations. I was a consultant and adviser to joint U. S. Military Assistance Group, National Bureau of Investi-

EXHIBIT "B"

-1-

gation of the Philippine Government in Manila and participated in the First Inter-American Conference on Legal Medicine and Forensic Science, sponsored by the Department of Justice, Puerto Rico, and the University of Puerto Rico School of Law. I am a member of the following Professional or Scientific Organizations:

- American Academy of Forensic Sciences, Criminalistic Section;
- Life Member, International Association Chiefs of Police;
- International Association for Identification;
- International Association Arson Investigators;
- Chicago Special Agents Association;
- Past President and long time member Chicago Physics Club;
- Special Agents Association, Chicago.

Attached hereto and marked Exhibit A and incorporated herein is a list of the publications written by me.

Any expert testimony which I might give in a case involving firearms identification would be based, at least in part, on the following six Precepts which I consider inviolable.

Precept (1) The positive identification of an evidence bullet as having been fired from a particular gun and no other must be based on a comparison of the evidence bullet with a test bullet recovered from the same evidence gun and no other.

My Opinion: No identification can be made if the test bullet is recovered from some gun other than the evidence gun, even though the test gun may be of the same make and model and have a serial number very close to the serial number of

-3-

the evidence gun. Such a procedure is a violation of Precept (1).

Precept (2) The most accurate and reliable determination of the approximate distance between muzzle and victim (excluding contact) based on powder pattern distribution must be made with the actual evidence gun and no other. It is also important to use the same make and type of ammunition, preferably from the same batch or lot number.

My Opinion: The use of a gun other than the evidence gun, even though it may be the same make and model with a serial number very close to the serial number of the evidence gun is a violation of Precept (2).

(When the evidence gun is not available, a similar gun may be used but the validity of the test is always questionable)

Precept (3) The land and groove dimensions (part of the rifling specifications) may be identical or nearly identical between different firearms manufacturers.

My Opinion: A bullet or bullet fragment cannot be identified as having been fired from a particular make of gun on the basis of land and groove dimensions alone.

Precept (4) Very similar copper coatings are used on many different makes of lead revolver bullets.

My Opinion: The positive identification of the make of ammunition from a badly deformed bullet fragment, based on visual, microscopic or photographic examinations of traces of the copper coating attached to the fragment, cannot be made.

EXHIBIT "B"

-3-

-4-

Precept (5) CLASS CHARACTERISTICS as shown by the rifling impressions on a fired bullet play absolutely no role in the identification of such a bullet as having been fired from one particular gun out of the entire world population of guns having the same class characteristics.

My Opinion: It is a misrepresentation to claim that one or more CLASS CHARACTERISTICS on a fired bullet contribute in any degree to identifying the bullet as having been fired from any particular gun and no other.

Precept (6) A single land of the rifling of a firearm can produce only one land impression on a fired bullet.

My Opinion: An alleged positive identification of an evidence bullet in which it is shown that a single rifling land produced two different land impressions on the same evidence bullet is a violation of Precept (6). The alleged positive identification is therefore not valid.

Executed on May 27, 1971 at Madison, Wisconsin.

Subscribed and Sworn to before me
this 27th day of May, 1971.

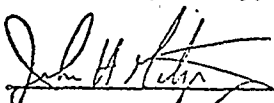

Notary Public In and For Said
County and State

EXHIBIT "B"

Publications by Charles M. Wilson

Observations in a Case Involving Powder Patterns and the Fallibility of Eyewitnesses. The American Journal of Police Science, incorporated in THE JOURNAL OF CRIMINAL LAW AND CRIMINOLOGY, Vol. 26, No. 4, November, 1935, pp. 601-607.

Two New Instruments for the Measurement of "Class" Characteristics of Fired Bullets. The American Journal of Police Science, incorporated in THE JOURNAL OF CRIMINAL LAW AND CRIMINOLOGY, Vol. 27, No. 1, May-June, 1936, pp. 97-107.

An Electron-Tube Rifling Depth Micrometer. The American Journal of Police Science, incorporated in THE JOURNAL OF CRIMINAL LAW AND CRIMINOLOGY, Vol. 27, No. 6, March-April, 1937, pp. 887-894.

The Comparison and Identification of Wire in a Coal Mine Bombing Case. The American Journal of Police Science, incorporated in THE JOURNAL OF CRIMINAL LAW AND CRIMINOLOGY, Vol. 28, No. 6, 1938, pp. 873-903.

The Identification of Extractor Marks on Fired Shells. The American Journal of Police Science, incorporated in THE JOURNAL OF CRIMINAL LAW AND CRIMINOLOGY, Vol. 29, No. 5, January-February, 1939, pp. 724-730.

An Unusual Suicide. The American Journal of Police Science, incorporated in THE JOURNAL OF CRIMINAL LAW AND CRIMINOLOGY, Vol. 36, No. 3, September-October, 1945, pp. 220-221.

The Comparison and Identification of Wire in a Coal Mine Bombing Case. Wire and Wire Products (reprinted from The American Journal of Police Science as listed above), Part I, Vol. 13, No. 9, September, 1938, pp. 444-453; Part II, Vol. 13, No. 12, December, 1938, pp. 723-727, 746.

The Preservation and Transportation of Firearms Evidence (Chapter 8 of Homicide Investigation by LeMoine Snyder, published by Thomas, Springfield, Illinois, 1944). The first edition had eight printings and a second edition was published in 1967. Chapter 8 has never been revised. 50,000 copies of the English edition have been sold. German, Japanese and Spanish editions have also been published.

Principal editor, Scientific and Laboratory Methods of Judicial Proof Manual. University of Wisconsin Extension Division, Madison, 1951, revised 1953, 1955, 1957, and 1959; replaced in 1959 with a series of Training Aids on Physical Evidence (21 in series). Manual and training aids were distributed widely to law enforcement personnel in Wisconsin.

A System of Filing and Recording Firearms Case and Reference Materials. Privately printed and distributed to members of the American Academy of Forensic Sciences, 1961.

Evidence in Firearms Cases. The American Rifleman, Vol. 112, No. 12, December, 1964, pp. 50-53.

Manual for Prosecuting Attorneys (two Vols.). Practicing Law Institute, New York, 1956, Vol. I, pp. 1-8. (Material on pages designated reprinted with permission of Wisconsin State Crime Laboratory and University of Wisconsin Extension Division from the 1954 revision of Scientific and Laboratory Methods of Judicial Proof.)

Criminal Investigation and Physical Evidence Handbook by Staff, Wisconsin State Crime Laboratory, Department of Justice, under the supervision of C. M. Wilson, State of Wisconsin, Madison, 1969. To date, 21,000 copies have been distributed to law enforcement personnel and other persons interested in the law enforcement field.



Place du Château 3
1005 LAUSANNE
Tél. (021) 21 64 10

UNIVERSITÉ DE LAUSANNE
INSTITUT DE POLICE SCIENTIFIQUE ET DE CRIMINOLOGIE

DECLARATION

My name is Jacques MATHER and I reside at 14, rue Voltaire, 1006 Lausanne (Switzerland). I am a graduate of the University of Lausanne (Switzerland) and got in 1946 the "diplôme d'études de police scientifique" and in 1957 the "diplôme d'études de criminologie". I am also a graduate of the University of Lyons (France) and got in 1949 the title of "docteur de l'Université de Lyon" mention très honorable.

From October 1946 to December 1947, I was assistant of late Dr. Edmond LCCAFÉ at the "laboratoire interrégional de police technique de Lyon" (France). From January to December 1948, I was private assistant of late Professor H.-A. BICHSEL at the "Institut de police scientifique et de criminologie" de l'Université de Lausanne and in the same time criminalist at the police laboratory of the "police cantonale vaudoise", in Lausanne. From January 1949 to October 1963, I was assistant and chief assistant at the "Institut de police scientifique et de criminologie" of the University of Lausanne, responsible for the practical training of students in criminalistics, specially in the field of firearms identification. From October 1963 on, I was named as professor at the University of Lausanne for criminalistics and photography and as director of the "Institut de police scientifique et de criminologie".

As professor at the University and director of the institute, I am responsible for the teaching of criminalistics, specially in the field of firearms; I appeared many times in courts in Switzerland in firearms identification's cases.

I am an active member of the "Chambre suisse des experts judiciaires techniques et scientifiques", advisor of the International Criminal Police Organisation - INTERPOL (1965) and corresponding member of the American Society of Questioned Document Examiners and I am also instructor of police corps in Switzerland.

Any expert testimony which I might give in a case involving firearms identification would be based, at least in part, on the following six Precepts which I consider inviolable.

EXHIBIT "C"

-1-

Precept (1) : The positive identification of an evidence bullet as having been fired from a particular gun and no other must be based on a comparison of the evidence bullet with a test bullet recovered from the same evidence gun and no other.

Opinion : No identification can be made if the test bullet is recovered from some gun other than the evidence gun, even though the test gun may be of the same make and model and have a serial number very close to the serial number of the evidence gun. Such a procedure is a violation of Precept (1).

Precept (2) : The most accurate and reliable determination of the approximate distance between muzzle and victim (excluding contact) based on powder pattern distribution must be made with the actual evidence gun and no other. It is also important to use the same make and type of ammunition, preferably from the same batch or lot number.

Opinion : The use of a gun other than the evidence gun, even though it may be the same make and model with a serial number very close to the serial number of the evidence gun is a violation of Precept (2). (When the evidence gun is not available, a similar gun may be used but the validity of the test is always questionable).

Precept (3) : The land and groove dimensions (part of the rifling specifications) may be identical or nearly identical between different firearms manufacturers.

Opinion : A bullet or bullet fragment cannot be identified as having been fired from a particular make of gun on the basis of land and groove dimensions alone.

Precept (4) : Very similar copper coatings are used on many different makes of lead revolver bullets.

Opinion : The positive identification of the make of ammunition from a badly deformed bullet fragment, based on visual, microscopic or photographic examinations of traces of the copper coating attached to the fragment, cannot be made.

Precept (5) : CLASS CHARACTERISTICS as shown by the rifling impressions on a fired bullet play absolutely no role in the identification of such a bullet as having been fired from one particular gun out of the entire world population of guns having the same class characteristics.

Opinion : It is a misrepresentation to claim that one or more CLASS CHARACTERISTICS on a fired bullet contribute in any degree to identifying the bullet as having been fired from any particular gun and no other.

3.-

Precept (6) : A single land of the rifling of a firearm can produce only one land impression on a fired bullet.

Opinion : An alleged positive identification of an evidence bullet in which it is shown that a single rifling land produced two different land impressions on the same evidence bullet is a violation of Precept (6). The alleged positive identification is therefore not valid.

I declare under penalty of perjury that the foregoing is true and correct.

Lausanne, June 24, 1971.

Professeur J. MATHYER
Institut de Police scientifique et
de criminologie - Pl. du Château 3
LAUSANNE

J. MATHYER

No. 594 VU A LA CHANCELLERIE D'ÉTAT, POUR LÉGALISATION
DE LA SIGNATURE ET DU SCEAU Du professeur J. MATHYER,
à l'Institut de police scientifique et de criminologie de
l'Université de Lausanne (Vaud, Suisse)
LAUSANNE, LE 25 juin 1971.



pr LE CHANCELIER D'ÉTAT

Moraw
vica-chancelier

EXHIBIT "C"

-3-

DECLARATION

My name is Lowell W. Bradford and I reside at 31 N. Carlyn Ave., Campbell, CA 95008. I am the Director of the Laboratory of Criminalistics, which is a Division of the Department of District Attorney of Santa Clara County, California. I also engage in private practice as a Physical Evidence Consultant.

Attached as Appendix I is an excerpt of Curriculum Vitae which is pertinent to forensic firearms examination and the general practice of Criminalistics. All of the firearms identification problems of proof concerning investigations of the cities and unincorporated areas of the County of Santa Clara and the training of my professional staff in the handling of these matters has been my responsibility for twenty-three years. I have also been involved in the problem of proof concerning forensic firearms matters as a consultant to other municipal agencies, defense attorneys and in civil litigation.

Any expert testimony which I might give in a case involving firearms identification would be based, at least in part, on the following six Precepts which I consider inviolable.

Precept (1) The positive identification of an evidence bullet as having been fired from a particular gun and no other must be based on a comparison of the evidence bullet with a test bullet recovered from the same evidence gun and no other.

My Opinion: No identification can be made if the test bullet is recovered from some gun other than the evidence gun, even though the test gun may be of the same make and model and have a serial number very close to the serial number of the evidence gun. Such a procedure is a violation of Precept (1).

Precept (2) The most accurate and reliable determination of the approximate distance between muzzle and victim (excluding contact) based on powder pattern distribution must be made with the actual evidence gun and no other. It is also important to use the same make and type of ammunition, preferably from the same batch or lot number.

My Opinion: The use of a gun other than the evidence gun, even though it may be the same make and model with a serial number very close to the serial number of the evidence gun is a violation of Precept (2).

(When the evidence gun is not available, a similar gun may be used but the validity of the test is always questionable.)

Precept (3) The land and groove dimensions (part of the rifling specifications) may be identical or nearly identical between different firearms manufacturers.

My Opinion: A bullet or bullet fragment cannot be identified as having been fired from a particular make of gun on the basis of land and groove dimensions alone.

Precept (4) Very similar copper coatings are used on many different makes of lead revolver bullets.

My Opinion: The positive identification of the make of ammunition from a badly deformed bullet fragment, based on visual, microscopic or photographic examinations of traces of the copper coating attached to the fragment, cannot be made.

Precept (5) CLASS CHARACTERISTICS as shown by the rifling impressions on a fired bullet play absolutely no role in the identification of such a bullet as having been fired from one particular gun out of the entire world population of guns having the same class characteristics.

My Opinion: It is a misrepresentation to claim that one or more CLASS CHARACTERISTICS on a fired bullet contribute in any degree to identifying the bullet as having been fired from any particular gun and no other.

Precept (6) A single land of the rifling of a firearm can produce only one land impression on a fired bullet.

My Opinion: An alleged positive identification of an evidence bullet in which it is shown that a single rifling land produced two different land impressions on the same evidence bullet is a violation of Precept (6). The alleged positive identification is therefore not valid.

I declare under penalty of perjury that the foregoing is true and correct.

Lowell W. Bradford
LOWELL W. BRADFORD

WITNESS: Ann Marie Cebal

Executed on the 11th day of June, 1971
at San Jose, California

Page 2 of 2

EXHIBIT "D"

-2-

APPENDIX I

EXCERPT OF BIOGRAPHICAL INFORMATION

BRADFORD, LOWELL W.

EDUCATION:

1. B.S. - College of Chemistry, University of California, Berkeley, 1941
2. Graduate student 1946-47, Div. of Biochemistry of Medical School, University of California, Berkeley. 1968-70, School of Criminology.

WORK EXPERIENCE:

1. Ordnance Officer in U.S. Army, WWII, specializing in ballistics training, field service of weapons and ammunition.
2. State Criminologist, Department of Justice, Sacramento, California - June, 1947 - December, 1947
3. Director, Laboratory of Criminalistics, Department of District Attorney, County of Santa Clara, California - December, 1947 to present time.
4. Consultant in Physical Evidence and Criminalistics -- Case work and consultant in selected cases involving Forensic Science in civil litigation and for law enforcement agencies in other counties. Court appointments to advise defense counsel in criminal cases. Study and make recommendations for organization and management of Forensic Science systems for cities, counties and states. Consultant to research organization in connection with systems for solving problems in Forensic Science.
5. Responsibility for conduct of Criminalistics program at University of California, Berkeley 1970-71, Fall 1970.

TEACHING APPOINTMENTS:

1. Assistant Professor of Police, San Jose State College, 1949-1960.
2. Lecturer in Criminology, 1952-1954, City College of San Francisco
3. Lecturer in Criminalistics 1970-71, University of California, Berkeley. Fall, 1970.

EDITORIAL APPOINTMENTS:

1. Editorial Consultant -- Journal of Forensic Sciences.
2. Editorial Consultant -- California Association of Criminalists. (Journal of the Forensic Science Society).

PROFESSIONAL AFFILIATIONS:

1. American Academy of Forensic Sciences (Fellow).
2. American Chemical Society.
3. California Association of Criminalists
4. Forensic Science Society (of Great Britain).
5. National Rifle Association (Life Member).
6. Photographic Society of America.
7. Royal Microscopical Society (of Great Britain).
8. Association of Firearm and Tool Mark Examiners.
9. ASTM Committee on Forensic Science

EXHIBIT "D"

-3-

PROFESSIONAL ORGANIZATION EXECUTIVE APPOINTMENTS:

1. Executive-Secretary, California Association of Criminalists, 1952-1956.
2. Chairman, Criminalistics Section, American Academy of Forensic Sciences 1957-
3. Executive Committee, American Academy of Forensic Sciences, 1966-1967.

PUBLICATIONS IN THE PROFESSIONAL AND SCIENTIFIC MEDIA

A. BOOKS

1. KIRK, Paul L., and BRADFORD, Lowell W., The Crime Laboratory, "Organization and Administration", Charles Thomas, 1965
2. Chapter on Firearms Identification in Gradwohl's "Forensic Medicine", edited by Dr. Francis Camps, published by John Wright & Sons, Ltd., London, 1968 (Chapter 20, and p693)

B. BOOK REVIEWS

1. "Review of 'The Identification of Firearms and Forensic Ballistics'". J. Crim. Law & Police Science Vol 43 No. 3 1952 (420-421)
2. "Review of 'Methods of Forensic Science - Vol. III'". J. Crim. Law, Criminology and Police Science, Vol. 56 No. 3 1965 (394-396)
3. "Criminalistics 'Journal of Forensic Sciences'". Vol. 13, No. 3 July 1968 (414)
4. "The Crime Laboratory 'Journal of Forensic Sciences'". Vol. 14, No. 3 July 1969 (404)
5. "Interior Ballistics, How A Gun Converts Chemical Energy Into Projectile Motion 'Journal of Forensic Sciences'". Vol. 14, No. 3, July 1969 (407)

C. C. JOURNAL ARTICLES

Firearms:

1. "The Identification of a Particular Make of Firearm from a Fired Bullet" Identification News, March p3-5 -- July Vol. 3 No. 7 p1-5 (1953)
2. "Problems and Advantages of Test Firing Weapons into Water" J. of the Forensic Science Society Vol 6., No. 2 April (1966)

General Criminalistics and Forensic Science:

1. "Microscopic Evidence in Criminal Cases" Temple Law Quarterly Vol. 31 No. 4 (1958) (330--340)
2. "Physical Evidence Bulletin-Manual" Published by Laboratory of Criminalistics, San Jose, California, 1959, Revised 1965, 1970
3. "The California Association of Criminalists" J. Crim. Law, Criminology, and Police Science, Vol. 53 No. 3 Sept. (1962) (375-379)
4. "Physical Evidence Examination, An Orientation for Lawyers" Hawaii Bar Journal Vol. 1 No. 8 October (1963) (29-32).
5. "General Criminalistics in the Courtroom" Journal of Forensic Sciences Vol. 11 No. 3 July (1966)
6. "Concepts in Planning a Criminalistics Operation", Presented at the American Academy of Forensic Sciences 19th Annual Meeting, February, 1967 -- submitted to J. of Forensic Sciences
7. "Criminalistics Looks Forward" -- Presented at the Second National Symposium on Law Enforcement Science and Technology, Chicago, Illinois, April 18, 1968 J. Crim. Law, Criminology and Police Science, Vol. 60, No. 1 (1969) pp 127-130

C. JOURNAL ARTICLES (CONTINUED)

(General Criminalistics and Forensic Science)

8. "Scanning Electron Microscopy -- Application Potential in Criminalistics" *Journal of Forensic Sciences*, Vol. 15, No. 1, January 1970.
9. "Research and Development Needs in Criminalistics" Proceedings of the Third National Symposium on Law Enforcement Science and Technology, Chicago, Ill., April 1970.

EXHIBIT "D"

-5-
3

DECLARATION

Any expert testimony which I might give in a case involving firearms identification would be based, at least in part, on the following six Precepts which I consider inviolable.

Precept (1) The positive identification of an evidence bullet as having been fired from a particular gun and no other must be based on a comparison of the evidence bullet with a test bullet recovered from the same evidence gun and no other.

Opinion: No identification can be made if the test bullet is recovered from some gun other than the evidence gun, even though the test gun may be of the same make and model and have a serial number very close to the serial number of the evidence gun. Such a procedure is a violation of Precept (1).

Precept (2) The most accurate and reliable determination of the approximate distance between muzzle and victim (excluding contact) based on powder pattern distribution must be made with the actual evidence gun and no other. It is also important to use the same make and type of ammunition, preferably from the same batch or lot number.

EXHIBIT "E"

-1-

Opinion: The use of a gun other than the evidence gun, even though it may be the same make and model with a serial number very close to the serial number of the evidence gun is a violation of Precept (2). (When the evidence gun is not available, a similar gun may be used but the validity of the test is always more questionable.

Precept (3) The land and groove dimensions (part of the rifling specifications) may be identical or nearly identical between different firearms manufacturers.

Opinion: In many firearms of a given calibre, the land and groove dimensions may be so close to being identical from one make to a different make as to be indistinguishable. These dimensions may not remain constant from one production run to another. However, there are certain brands, e.g. Cooney 8 right and Marlin Micro-Groove Barrel which do have unique rifling processes and specifications. Therefore, although as a general rule, a bullet or bullet fragment cannot be identified as having been fired from a particular make of gun on the basis of land and groove dimensions alone, there may be a few exceptions to this.

EXHIBIT "E"

Precept (4) Very similar copper coatings are used on many different makes of lead revolver bullets.

Opinion: The positive identification of the make of ammunition from a badly deformed bullet fragment, based on visual, microscopic or photographic examinations of traces of the copper coating attached to the fragment, cannot be made.

Precept (5) CLASS CHARACTERISTICS as shown by the rifling impressions on a fired bullet play no significant role in the identification of such a bullet as having been fired from one particular gun out of the entire world population of guns having the same class characteristics.

Opinion: Although non similarity of class characteristics would lead to the exclusion or non identity of a particular fired bullet with a test fired bullet, similarity of class characteristics does not contribute in any significant degree to the identification of a bullet as having been fired from a specific gun and no other.

EXHIBIT "E"

Precept (6) A single land of the rifling of a firearm can produce only one land impression on a fired bullet.

Opinion: In normal operation of a firearm using standard ammunition, one land could be expected to produce only one land impression on a fired bullet. However, should a previously fired bullet be recovered and re-loaded for the second firing in the same firearm, then accordingly one land could produce more than one land impression. In addition, with a cartridge whose bullet diameter is smaller than that of the bore diameter of the firearm in which it is fired, it would be possible to have the bullet accept an impression of one land, totally lose contact with that same land momentarily and then for a second time achieve contact with the same given land and hence receive a second impression from that same land but not necessarily coincidental to the first land impression. Additionally, some shots fired from revolvers may travel for a distance along the barrel before they take up rotation due to the rifling's twist.

R. C. Nichol

R. C. Nichol
Firearms Examiner

1 June 71
Date

*Sworn before me in the
Judicial District of York,
this 2nd day of June, 1971.
H. H. Graham
A Commissioner for Taking Affidavits
in and for the Province of Ontario
My Commission expires March 13, 1972*

EXHIBIT "E"

SUPPLEMENTAL AFFIDAVIT OF CHARLES
M. WILSON

STATE OF WISCONSIN. }
County of Dane } ss

I, Charles M. Wilson, being first duly sworn,
depose as follows:

My business and occupation is a criminalist and
firearms expert. My qualifications are set forth in detail
in my prior affidavit filed with the Civil Service Commission
under date of May 27th, 1971.

If called as an expert witness, I would give, in
substance, the following testimony:

On August 19th, 1968, while in Los Angeles, I
visited the Office of the County Clerk, Criminal Division,
in the Hall of Justice to examine certain items of physical
evidence in the case of People v. Kirschke, SC # A222633.
I was accompanied by Mr. William W. Harper.

My examinations included microscopic studies of the
"Drankham Fatal Bullet", the "Kirschke Fatal Bullet", five
test bullets, and visual studies of Court Exhibits 99, 100,
101, and 102. In particular, my studies were concerned with
the microscopic examinations of the surface structures of
the "Drankham" bullet and one of the five test bullets as
shown in Exhibits 101 and 102. From these studies and
examinations, I reached the following conclusions:

EXHIBIT "F"

-1-

1. It is my opinion that the two land impressions on the "Drankham" bullet used for matching with the test bullet in Exhibits 101 and 102 are approximately 120 degrees apart around the circumference of the bullet.

2. It is also my opinion that the microscopic surface structures of the test bullet land impression used for the matching with the two land impressions on the "Drankham" bullet, as depicted in Exhibits 101 and 102, show unquestionably that one and the same land impression on the test bullet has been used for matching with two different land impressions on the "Drankham" bullet. The top portion of the test bullet land impression (near the ogive) has been used in the photomicrograph comparison shown in Exhibit 101, while the lower portion of the same land impression (near the bullet base) has been used in the preparation of Exhibit 102.

3. It is my further opinion that this fundamental error in using one land impression on the test bullet to identify two different land impressions on the "Drankham" fatal bullet completely destroys any contention or opinion that the test and fatal bullets were fired by the same weapon.

4. Since the test and fatal bullets cannot be in phase in two angular positions simultaneously, the single individual characteristic shown in Exhibit 100 is completely

EXHIBIT "F"

-2-

without merit in establishing a positive identification of the fatal bullet as having been fired by the same weapon that fired the test bullet.

5. It is also my opinion that the single individual characteristic shown on Exhibit 99 (pertaining to the "Kirschke" fatal bullet) is grossly inadequate in supporting a positive firearms identification

Executed on June 1971, at Madison, Wisconsin.

Charles M. Weiss

Subscribed and sworn to before me this 22nd day of June, 1971.

Robert H. Vareskook
Notary Public in and for the
said County and State

(SEAL)

ROBERT H. VARESKOOK
NOTARY PUBLIC STATE OF WIS.
MY COMMISSION EXPIRES NOV. 24, 1974

EXHIBIT "F"

46.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

(PROOF OF SERVICE BY MAIL-1013a, 2015.5 C.C.P.)

STATE OF CALIFORNIA }
COUNTY OF } ss.

I am a citizen of the United States and a resident of the county aforesaid; I am over the age of eighteen years and not a party to the within entitled action; my business address is:

458 South Spring Street, Los Angeles, California
On September 2, 1971, I served the within ANSWER OF DEFENDANT BARBARA WARNER BLEHR on the Attorney for Plaintiff in said action, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States mail at 458 South Spring Street, Los Angeles, California addressed as follows:

JOHN T. LA FOLLETTE
Attorney at Law
Suite 2600 Equitable Plaza
3435 Wilshire Boulevard
Los Angeles, California 90010

I certify (or declare), under penalty of perjury, that the foregoing is true and correct.

EXECUTED: on September 2, 1971 at Los Angeles, California.


LINDA SORENSEN

THE UNIVERSITY OF SOUTHERN CALIFORNIA - UNIVERSITY PARK - LOS ANGELES

July 26, 1926
WOLFER, DEWAYNE ALLAN
 DATE AND PLACE OF BIRTH: Los Angeles, Calif.
 DATE OF ENTRY: 19-13-43
 DATE OF GRADUATION: June 14, 1955
 NAME AND ADDRESS OF PARENT OR GUARDIAN: 5065 Vineyard Ave., Los Angeles 16, Calif.
 PREPARATORY HIGH SCHOOL: Los Angeles, Calif.
 ADMISSION TESTS: English 3, Latin 3, French 3, German 3, Spanish 3, Econ. Sci. 3, U.S. Hist. & Civics 3, Other Sci. 3, Algebra 3, Geometry 3, Trig 3, Physics 3, Chemistry 3, Inter. Science 3, Biology 3, Botany-Zoology 3, Physiology 3, Micro 3, Plant 3, Soil 3
 STATEMENT OF ADMISSION: 9-23-43 - Granted A. B. admission, short, Schol. Apt. Tests.

COURSE	1ST SEM.	2ND SEM.	COURSE	1ST SEM.	2ND SEM.	COURSE	1ST SEM.	2ND SEM.
1943-44			1944-45 (Cont.)			Pre-Flight		
Chem. 2aL	(4) W		Ger. 1b, 56a	3 C	3 D	Geo. 1b, 56a	3 D	3 W
Engr. A	0 C		Gen. Stud. 51, 54a	3 D	3 W	Math. 1, 56a	3 D	3 W
Germ. 1a	3 C		Engr. 10L, 50L	2 B	2 C	Math. 1, 56a	3 D	3 W
Ph. Ed. 8	1 C		Fine Arts 58			Math. 1, 56a	3 D	3 W
Math. 1a	(2) W		1947 Summer	8 W	4 W	Math. 1, 56a	3 D	3 W
1943-44	Fall		Gen. Stud. 51a, b	2 D	2 W	Math. 1, 56a	3 D	3 W
Civ. Aero. 100	3 B		Cancelled 8-13-47			Math. 1, 56a	3 D	3 W
1945-46			1947-48			Math. 1, 56a	3 D	3 W
Zool. 1a, 56a	4 C	4 D	Ger. 56b	3 C		Math. 1, 56a	3 D	3 W
Gen. Stud. 1a, 56a	4 C	4 D	Psych. 11a	3 C		Math. 1, 56a	3 D	3 W
Ger. 1a	3 C	3 D	Zool. 100L, 100L	5 C	5 D	Math. 1, 56a	3 D	3 W
Engr. 1a	3 C	3 D	Chem. 10L	2 B	2 C	Math. 1, 56a	3 D	3 W
Ph. Ed. 6a	1 C	1 D	Zool. 100L, 100L	2 B	2 C	Math. 1, 56a	3 D	3 W
1946-47			O. St. 64b	2 D	2 W	Math. 1, 56a	3 D	3 W
Chem. 10a, 24L	4 C	4 D	U.S. Cont. is met by Gen. Stud. 1b			Math. 1, 56a	3 D	3 W

Certified to be a true copy of the academic record of DeWayne A. Wolfer
 Page 1 of 2
 Registrar
 University of Southern California

EXHIBIT "C"

-1-

WOLFER, DEWAYNE ALLAN

NAME				REG. OFFICE BUILDING			
COURSE	1ST SEM.	2ND SEM.		COURSE	1ST SEM.	2ND SEM.	
UN. CREDIT	UN. CREDIT	UN. CREDIT	UN. CREDIT	UN. CREDIT	UN. CREDIT	UN. CREDIT	UN. CREDIT
1949-50 (cont)							
Encl. 250a, 250a	12	17	2	Encl. 250a			
Encl. 250b	2	0		Encl. 250b			
Phys. Ed. 117		1	8	Phys. Ed. 117			
Cinn. 127a		2	0	Cinn. 127a			
Arch. 217		3	0	Arch. 217			
1950-51 CC							
Pub. Adm. 342		13	1A	Pub. Adm. 342			
1951-52							
Pub. Adm. 342	2	8	1	Pub. Adm. 342			
Pub. Adm. 350, 351	2	8	2	Pub. Adm. 350, 351			
1952-53							
Pub. Adm. 342		2	0	Pub. Adm. 342			

Certified to be a true copy of the academic record of DeWayne A. Wolfer

Page 2 of 2

[Signature]
Registrar
University of Southern California

EXHIBIT "C"

-2-

JUL 29 1971

GOOD STAFFS GOOD
[Signature]

(SPACE BELOW FOR FILING STAMP ONLY)

1 BARBARA WARNER BLEHR
2 ATTORNEY AT LAW
3 488 SOUTH SPRING STREET
4 LOS ANGELES, CALIFORNIA 90018
5 TELEPHONE (213) 624-3451

6 Attorney for In Pro Per

7 SUPERIOR COURT OF THE STATE OF CALIFORNIA
8 FOR THE COUNTY OF LOS ANGELES

9
10 DE WAYNE A. WOLFER,

11 Plaintiff,

NO. C 8080

12 vs.

ANSWER OF DEFENDANT

13 BARBARA WARNER BLEHR, et al.,

BARBARA WARNER BLEHR

14 Defendants.

15 COMES NOW the defendant BARBARA WARNER BLEHR and answering
16 the complaint on file herein for herself only, admits, denies,
17 and alleges:

18 I

19 Answering Paragraph II of said complaint, this answering
20 defendant denies each and every allegation contained therein.

21 II

22 Answering Paragraph IV, this answering defendant admits
23 that on or about May 28th, 1971 she addressed a letter to Mrs.
24 Murriel Morse, the General Manager Personnel Department, of the
25 Civil Service Commission of the City of Los Angeles, regarding
26 the proposed appointment of plaintiff as head of the Los Angeles
27 Police Department Scientific Investigation Division Crime Labor-
28 atory, and defendant alleges that Exhibit "A" attached to the
29 complaint is incomplete in that the exhibits attached to said
30 letter were not included, defendant further alleges that the
31 Exhibit "A" attached to the within answer constitutes the com-
32 plete letter addressed to the said Civil Service Commission on

1 May 28th, 1971. Except as expressly admitted herein, defendant
2 denies generally and specifically each and every other allegation
3 contained in said paragraph.

4 III

5 Answering Paragraph V of said complaint, this answering
6 defendant denies generally and specifically each and every alle-
7 gation contained in said paragraph.

8 IV

9 Answering Paragraph VI, defendant denies generally and
10 specifically each and every allegation contained therein; defend-
11 ant further denies that plaintiff was damaged in any manner by
12 reason of any wrongful act upon her part.

13 V

14 Answering Paragraph VII, defendant denies generally and
15 specifically each and every allegation contained therein; defend-
16 ant further denies that plaintiff was damaged in any manner by
17 reason of any wrongful act upon her part.

18 VI

19 Answering Paragraph VIII, defendant denies generally and
20 specifically each and every allegation contained therein; defend-
21 ant alleges that as a citizen, she possess a public interest in
22 the subject matter of the letter in question, and that said lette
23 was sent in good faith pursuant to said public interest, to the
24 end, that only a qualified person would be appointed to the publi
25 office as head of the Los Angeles Police Department Scientific
26 Investigation Division Crime Laboratory.

27 AND FOR A SEPARATE, FURTHER, AND AFFIRMATIVE DEFENSE NUMBE
28 ONE, defendant alleges:

29 I

30 That the statements contained in the said letter addressed
31 to the Civil Service Commission under date of May 28th, 1971, are
32 absolutely privileged under the provisions of Section 47, Sub-

1 Division 2, Civil Code of the State of California, in that they were
2 made by defendant in an official proceeding authorized by the Los
3 Angeles City Charter, and the Rules and Regulations of the Los
4 Angeles Civil Service Commission; that said letter and statements
5 were relevant to the matter then pending for decision before the
6 Civil Service Commission, to wit: the matter of the qualifications
7 of plaintiff for appointment to the vacant civil service office as
8 Chief of the Los Angeles Police Department Scientific Investigation
9 Division Crime Laboratory; that said letter was relevant to the
10 matter of the qualifications of plaintiff for said permanent civil
11 service appointment, and upon said receipt, became a part of the
12 official record of said Civil Service Commission, and absolutely
13 privileged.

14 AND FOR A SEPARATE, FURTHER AND AFFIRMATIVE DEFENSE
15 NUMBER TWO, defendant alleges:

16 I

17 That the said letter and statements contained in said
18 letter to the Civil Service Commission under date of May 28th,
19 1971 are absolutely privileged under the provisions of the First
20 Amendment, United States Constitution, and Section 47, Subdivision
21 2, Civil Code of the State of California, in that they were made
22 by defendant in furtherance of her Constitutional right of
23 freedom of speech, and her Constitutional right to petition the
24 Government for a redress of grievances, to wit: the protesting
25 of the proposed appointment by the State of California, acting
26 through the Civil Service Commission of the City of Los
27 Angeles, of plaintiff to the vacant civil service office as
28 head of the said Los Angeles Police Department Scientific Investiga-
29 tion Division Crime Laboratory, which appointment was being
30 considered by said Civil Service Commission; that the filling
31 of said vacancy was authorized by the Los Angeles City Charter,
32 and the Rules and Regulations of the Los Angeles Civil Service
33 Commission; that by reason thereof, the publication and delivery

1 of said letter said Civil Service Commission constituted a
2 petition to the government for a redress of grievances with-
3 in the operation of the First Amendment, United States Con-
4 stitution, and the pending civil service appointment pro-
5 ceedings constituted an official proceeding authorized by
6 law within the "in any other official proceeding author-
7 ized by law" provision of Section 47, Subdivision 2 (3),
8 California Civil Code; that by reason thereof, the publi-
9 cation of said letter was absolutely privileged.

10 AND FOR A SEPARATE, FURTHER AND AFFIRMATIVE
11 DEFENSE NUMBER THREE, defendant alleges:

12 I
13 That the statements contained in the said letter
14 to the said Civil Service Commission under date of May 28th,
15 1971, are privileged under the provisions of Section 47,
16 Subdivision 3, Civil Code of the State of California in that
17 said letter was sent without malice by defendant, to a per-
18 son interested therein, to-wit: Mrs. Murriel Morse, who
19 at the time in question was the duly appointed, qualified
20 and acting General Manager of the Civil Service Commission
21 of the City of Los Angeles.

22 AND FOR A SEPARATE, FURTHER AND AFFIRMATIVE
23 DEFENSE NUMBER FOUR, defendant alleges:

24 I
25 That the statement contained in Exhibit "A" as
26 follows:
27 " Mrs. Murriel M. Morse
28 General Manager Personnel Department
29 Civil Service Commission
30 Room 400, City Hall South
31 Los Angeles, California "
32 is true in that Mrs. Murriel M. Morse was and is in truth and

1 fact the General Manager of the Personnel Department of the
2 Civil Service Commission of the City of Los Angeles.

3 II

4 That the statement contained in said letter as
5 follows:

6 " Re: Appointment of DeWayne A. Wolfer"
7 is true in that plaintiff was on May 28th, 1971, under con-
8 sideration for an appointment by the Civil Service Commission.

9 III

10 That the statement made in said letter as follows:

11 " A request is hereby made by the under-
12 signed for a hearing before the Civil
13 Service Commission as to the qualific-
14 ations of the above named person as head
15 of the Los Angeles Police Department
16 Scientific Investigation Division Crime
17 Laboratory."

18 was true in that such a request was made by defendant, and
19 plaintiff was on May 28th, 1971, under consideration for the
20 appointment to said office on a permanent basis.

21 IV

22 That the statement contained in said letter as
23 follows:

24 " It is my understanding that Mr. Wolfer
25 is now acting head on a temporary basis
26 for said laboratory and that his appoint-
27 ment is due to become final July 1st."

28 was true in that plaintiff was acting head of said depart-
29 ment pursuant to appointment made April 1, 1971 by the
30 Los Angeles Police Department under the provisions of Sec-
31 tion 109 of the Los Angeles City Charter, and was to become
32 final on July 1st, 1971.

V

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

The statement contained in said letter:

" My belief that Mr. Wolfer is completely unqualified for the position is supported by the following considerations:

(1) There are numerous fundamental precepts upon which the science of firearms identification is based. All criminalists and firearms examiners must abide by the precepts and disciplines of their profession. Six of these precepts, which Mr. Wolfer has violated, are listed below:

Precept (1) The positive identification of an evidence bullet as having been fired from a particular gun and no other must be based on a comparison of the evidence bullet with a test bullet recovered from the same evidence gun and no other.

Precept (2) The most accurate and reliable determination of the approximate distance between the muzzle and victim (excluding contact) based on powder pattern distribution must be made with the actual evidence gun and no other. It is also important to use the same make and type of ammunition, preferably from the same batch or lot number. (When the evidence gun is not available a similar gun may be used but the validity of the test is always more questionable.)

Precept (3) The land and groove dimensions (part of the rifling specifications) may be identical or nearly identical between different firearms manufacturers.

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30
- 31
- 32

They are truisms in the same sense, for example, that the assertion "a single blade of a plow can cut only one furrow as it moves over the ground" is a truism

VI

-7-

1 "The violations of the above precepts by
2 Mr. Wolfer will be pointed out briefly in
3 two of the three cases abstracted herewith."
4 is true in that said statements were set out in said letter of
5 May 28th, 1971.

6 VII

7 That the statements contained in said letter as follows
8 "CASE NO. 1. (SC# A222633) In this case Mr.
9 Wolfer testified he had made a positive ident-
10 ification of the defendant's gun as the murder
11 weapon. In making this identification Mr.
12 Wolfer produced in evidence enlargements of
13 ballistic comparison photmicrographs to support
14 his testimony. A very thorough study of these
15 photographs and the evidence bullets disclosed,
16 however, that Mr. Wolfer had matched a single
17 land impression on the test bullet with TWO
18 different land impressions 120 degrees apart
19 on the fatal bullet. This amounts to saying
20 that a single blade of a plow cuts TWO furrows
21 in the ground over which it moves - an obvious
22 impossibility. His procedure and testimony are
23 thus a clear-cut violation of Precept (6) and
24 completely invalidates the identification of
25 the defendant's gun as the murder weapon."

26 are true in that:

27 On October 24th, 1967, plaintiff testified in the above
28 case (People vs. Kirschke), that the fatal bullets (herein de-
29 signated as "Kirschke" and Drankham") were fired in the same
30 gun and no other gun in the world. In truth and fact, plaintiff
31 in his preparation of Exhibits 101 and 102, used in substanti-
32 ating the identification of the "Drankham" fatal bullet, employed

1 a single land impression on the Sheriff's test bullet to identify
2 two different land impressions on the "Drankham" bullet thus
3 violating Precept (6). The upper portion of the land impression
4 on the test bullet was matched with one of the land impressions
5 on the "Drankham" bullet to prepare Exhibit 101, while the lower
6 portion of the same test land impression was matched with a
7 second and different land impression of the same fatal bullet.
8 In truth and fact, plaintiff intentionally and deliberately made
9 a reversal or transposition of the evidence and test bullets in
10 order to prepare the photographs of Exhibits 101 and 102, know-
11 ing that a bullet cannot be fired in two distinct phase positions
12 at the same time, thus invalidating the use of said Exhibits 101
13 and 102. Taking into account the extreme deformation of the
14 evidence, combined with the fact that Exhibits 101 and 102 are
15 out of phase with each other, the single alleged individual
16 characteristic shown in Exhibit 100 is of no substantial probative
17 value in making a positive identification. Again taking into
18 account the extreme deformation of the "Kirschke" fatal bullet,
19 the single alleged individual characteristic demonstrated in
20 Exhibit 99 in said case would have no probative value in est-
21 ablishing a positive identification. By so testifying, plaintiff
22 violated Precept (6) set forth above which states:

23 "A single land of the rifling of a firearm
24 can produce only one land impression on a
25 fired bullet."

26 attached hereto, marked Exhibit "F" and by reference made a part
27 hereof, is an affidavit of Charles M. Wilson in support of the
28 above.

29 VIII

30 That the statement contained in said letter:

31 : "Mr. Wolfer also violated Precept (5) by
32 indicating certain CLASS CHARACTERISTICS as.

1 part of the proof of "matching" between test
2 and fatal bullets."

3 is true in that plaintiff, further testifying in the case of
4 People vs. Kirshcke, on or about October 24th, 1967, introduced
5 into evidence four comparison photomicrographs, Exhibits No. 99,
6 100, 101 and 102. Each of these photographic exhibits carries
7 arrows placed thereon by plaintiff, who defined the significance
8 of these arrows as follows:

9 "The arrows here indicate areas of concern and
10 points of comparison."

11 There are a total of 13 such arrows on the four exhibits, indic-
12 ating that plaintiff had found 13 points of similarity between
13 the two fatal bullets and the test bullet; 10 points of
14 similarity on the "Drankham" bullet and 3 points of similarity
15 on the "Kirschke" bullet. In truth and fact, of the 13 points o
16 comparison, seven points are class characteristics only and do
17 not contribute in any way to the positive identification of a
18 weapon. Assuming the remaining points are valid, 5 on the "Dran
19 ham" and 1 on the "Kirschke", this would leave only six points
20 of individual characteristics which might lead to a positive
21 identification of the weapon. In truth and fact, such points
22 are insufficient for a positive identification.

23 IX

24 That the statement contained in said letter:

25 " His testimony combined with his very eso-
26 teric photographic manipulations label his
27 work in this instance nothing but perjury"

28 is true in that as set forth in Paragraph V hereinabove and
29 incorporated herein by reference, plaintiff falsely prepared
30 exhibits to support his testimony that the fatal bullets "matche
31 the test bullets, and when said exhibits were presented in court
32 to support his testimony that said bullets did in fact match,

1 plaintiff knowingly, falsely, and deliberately presented false
2 evidence to a court of law, thus committing perjury.

3 X

4 That the statement contained in said letter as
5 follows:

6 "CASE NO. 2 (SC # A233421) In this case Mr.
7 Wolfer violated Precepts (1), (2), (3) and
8 (4). He testified that the defendant's gun
9 and no other was the single murder weapon
10 which had fired three bullets into the
11 bodies of three of the victims. The
12 physical evidence, however, upon which his
13 testimony was based established that the
14 three above mentioned evidence bullets
15 removed from victims were fired, not from
16 the defendant's gun but in fact from a
17 second similar gun with Serial no. H18602.
18 The only possible conclusion that must be
19 reached is that two similar guns were being
20 fired at the scene of the crime. Such a
21 conclusion then leads unavoidably to the
22 question: Which of the two guns fired the
23 single fatal bullet? The presence of the
24 second gun is firmly established in Exhibits
25 A and B attached hereto which are photographs
26 of Court Exhibit 55. This court exhibit is an
27 envelope containing the test bullets which
28 Mr. Wolfer matched with the three evidence
29 bullets mentioned previously. The inscription
30 on the envelope shows that the enclosed test
31 bullets were fired from gun No. H18602 and
32 not from the defendant's gun No. H53725."