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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CR 92-10369-Z

ZOBEL, D. J.

UNITED STATES OF AMERICA

v.

ALFRED TRENKLER

Second Day of Trial

Second Day of Jury Selection

APPEARANCES:

For the Government:

Paul V. Kelly, Esq., and Frank A. Libby, Jr., Esq.,
Assistant United States Attorneys, Federal Courthouse,
Boston MA 02109.

For the Defendant:

Terry R. Segal Esq., Scott P. Lopez, Esq., and
Brenda Ruel Sharton, Esq., SEGAL & FEINBERG,
210 Commercial Street, Boston, MA. 02109.

Courtroom 3
Federal Courthouse
Boston, Massachusetts

October 26, 1993

Computer-Aided Transcription

1 [Conference at the bench, as follows:

2 THE COURT: One of the jurors, the gentleman in the
3 second row in the blue coat and blue tie, is a juror who
4 jumped the gun. He saw the defendant being brought in in
5 handcuffs.

6 What do you want me to do?

7 MR. LOPEZ: Wasn't he excluded yesterday?

8 MR. SEGAL: I guess we should exclude him. This
9 isn't the first time this has happened. What has been done in
10 the past in a similar situation?

11 THE COURT: What do you mean?

12 Usually the defendant is brought in when the jury is
13 upstairs and before they come down. This morning, this guy
14 for some reason got separated from the pack of jurors.

15 MR. KELLY: Your Honor, is it possible before take
16 that step that we can bring him up and ask him what if
17 anything he saw this morning while he was in the hallway?

18 THE COURT: He saw him in handcuffs, the Marshal told
19 me.

20 MR. KELLY: I've had situations where the Marshals
21 have reported that a person on a regular jury, saw the
22 defendant in handcuffs, then they call the regular jury and
23 the jury saw nothing. They weren't even paying attention.

24 THE COURT: What do you want me to ask him?

25 MR. KELLY: I would just ask him, this morning in the

1 hallway, what if anything did you see relative to this jury
2 selection process? He says, geez, I saw Mr. Trenkler in
3 handcuffs, end of story. If he says, I didn't see anything,
4 the Marshals are wrong.

5 MR. SEGAL: I think I'd rather just have him excused.

6 THE COURT: We have enough jurors. I think it safer
7 just to excuse him.

8 MR. SEGAL: Thank you.

9 THE COURT: I think in order to make it more
10 sanitary, we'll try to find out what his name is. We should
11 call him or do something to excuse him so it doesn't look as
12 though we're excusing him.

13 MR. SEGAL: Is he the gentleman with the white hair?

14 THE COURT: Yes.

15 MR. SEGAL: I think he answered a couple of questions
16 the other day, yesterday, to general questions, he raised his
17 hand, he had some relatives in law enforcement.

18 THE COURT: Mr. Marshal, what did the gentleman in
19 the white hair just ask you?

20 THE MARSHAL: He didn't report down in the lounge.
21 He came right directly up here, wanted to know whether he
22 should go down to the lounge. And I said, no, you were told
23 to report here this morning. So he could still have his
24 card. He came right up here instead of reporting to the jury
25 room.

1 THE COURT: Ask him to come up here, would you,
2 please.

3 (Pause.)

4 THE COURT: Good morning.

5 A JUROR: Good morning.

6 THE COURT: I gather you got confused this morning
7 about where to go?

8 A JUROR: Yes, I did.

9 THE COURT: Tell me, what did you observe about what
10 was happening in the courtroom this morning?

11 A JUROR: People standing around.

12 THE COURT: Did you see the defendant?

13 A JUROR: I saw him come in, yes.

14 THE COURT: What else did you see about him? Did you
15 see him come in by himself?

16 A JUROR: He was with a couple of other guys.

17 THE COURT: Just came in with a couple of other
18 guys?

19 A JUROR: Yes.

20 THE COURT: All right. Do me a favor -- I'm sorry,
21 what is your name, please?

22 A JUROR: David Facey.

23 THE COURT: Mr. Facey failed to go to the jury lounge
24 this morning. He was one of the six who has been missing, I
25 guess.

1 Do you need anything from him?

2 MS. COOK: No, I have to pull his card, however.

3 What's your last name, sir?

4 A JUROR: Facey.

5 THE COURT: Okay. Why don't you return to the back
6 of the courtroom?

7 I think under these circumstances, there is no
8 reason to excuse him. We will proceed.

9 ...end of conference at the bench.]

10 THE COURT: Members of the jury, thank you very much
11 for coming back today, and I very much apologize for having to
12 bring you in again.

13 We will now proceed with the impaneling process, and,
14 although I will repeat what I said yesterday, please not to go
15 away. What I mean is, don't go down to the third floor to get
16 coffee or anything like that. Obviously, if you have to go to
17 the bathroom, go, but just come back quickly.

18 Let us now call two jurors to finish, and we will
19 then repair to the lobby and we will try to do this as quickly
20 as we can.

21 THE CLERK: Seat No. 6, Melissa Mazzearella,
22 No. 77.

23 THE COURT: If you would have a seat in the jury box
24 temporarily, anywhere.

25 THE CLERK: Seat No. 9, Peter Confalone, No. 50.

1 (Lobby.)

2 THE COURT: Ms. Mazzarella, can I talk to you,
3 please?

4 Good morning, have a seat.

5 A JUROR: Good morning.

6 THE COURT: You told us yesterday that you have some
7 relationship to law enforcement?

8 A JUROR: Yes.

9 THE COURT: What is it?

10 A JUROR: My godfather is a police officer, my uncle
11 is a Sergeant, and I have a friend who is a police officer,
12 all for the Fall River Police Department.

13 THE COURT: As you know, this case involves
14 allegations that a police officer was killed and another one
15 injured. Would your relationship with police officers make it
16 in any way difficult for you to be a juror in this case?

17 THE WITNESS: Honestly, I don't know. I guess I
18 would say I have to hear to know how I would feel. At this
19 point, I don't know.

20 THE COURT: Do you think that you would tend to view
21 the evidence differently because a police officer was killed?

22 A JUROR: Possibly.

23 THE COURT: Perhaps we should excuse Ms. Mazzarella.

24 Thank you for coming in. You're free to go home.

25 Start calling again when you are told to call. I guess

1 Friday. Okay?

2 Thank you very much.

3 Good morning, have a seat.

4 You told us that you have some relationship to law
5 enforcement?

6 A JUROR: My brother was an auxiliary policeman
7 outside Dallas.

8 THE COURT: Mr. Confalone, No. 50 on the list.

9 Would that relationship with an auxiliary police
10 officer make it in any way difficult for you to sit on this
11 case?

12 A JUROR: I think it would. He has told me some
13 pretty tremendous stories.

14 THE COURT: All right. I'll excuse you, you're free
15 to go. Keep calling.

16 (Pause.)

17 THE CLERK: Juror No. 59.

18 THE COURT: Good morning, have a seat.

19 Mr. O'Rourke, is it?

20 THE WITNESS: Yes.

21 THE COURT: Have you heard anything about this case.

22 A JUROR: I never have, no.

23 THE COURT: Nothing.

24 A JUROR: Not a word.

25 THE COURT: You don't read the newspapers?

1 A JUROR: No, didn't see it on the news or anything.

2 THE COURT: Let me ask you: If a defendant in a
3 criminal case is accused of unlawful conduct that resulted in
4 the death of a police officer, would your view of the evidence
5 be significantly influenced by the fact that a police officer
6 was killed?

7 A JUROR: No.

8 THE COURT: If a person is arrested, indicted, and
9 brought to trial, would that cause you to believe that the
10 person is probably guilty?

11 A JUROR: Yes.

12 THE COURT: Just because he's been arrested, indicted
13 and brought to trial?

14 A JUROR: Oh, no. No.

15 THE COURT: If a defendant in a criminal case decides
16 not to testify, would you believe that that failure to testify
17 is some evidence of guilt?

18 A JUROR: No.

19 THE COURT: If there is conflicting testimony in fact
20 case by a witness who is a police officer or law enforcement
21 officer and a witness who is not in law enforcement, would you
22 tend to give either more or less credence to the person who is
23 in law enforcement?

24 A JUROR: All people are equal.

25 THE COURT: Do you believe that homosexual relations

1 between consenting adults is morally wrong?

2 A JUROR: No.

3 THE COURT: Would you tend to be affected in your
4 judgment of the credibility of a witness or the guilt of a
5 defendant based on the sexual orientation of the witness
6 and/or the defendant?

7 A JUROR: No.

8 THE COURT: Did you have a problem with the schedule
9 that we had?

10 A JUROR: No, it's not going to cause any major
11 problems.

12 THE COURT: Is there any reason that we haven't
13 specifically talked about why you feel you cannot sit as a
14 juror in this case?

15 A JUROR: No.

16 THE COURT: Mr. Segal, any questions?

17 MR. SEGAL: No questions, your Honor.

18 THE COURT: Mr. Kelly, any questions?

19 MR. KELLY: No questions, your Honor.

20 THE COURT: Thank you, Mr. O'Rourke, please return to
21 the jury box for the moment.

22 80 was the next one.

23 THE CLERK: David Welch, No. 80.

24 THE COURT: Good morning, please be seated.

25 Mr. Welch, you told us you had some relationship with

1 law enforcement?

2 A JUROR: Yes, I am a police officer.

3 THE COURT: You are a police officer?

4 A JUROR: I am.

5 THE COURT: Can you sit as a fair juror in a case
6 that involves the death of a police officer?

7 A JUROR: I don't think so.

8 THE COURT: You are free to go.

9 A JUROR: Honestly, I don't think so.

10 THE COURT: Well, I can understand that.

11 You're free to go, don't even have to keep calling
12 any more.

13 THE WITNESS: Okay.

14 THE COURT: Thank you very much.

15 A JUROR: Thank you.

16 THE CLERK: No. 42, Richard McLaughlin.

17 THE COURT: Good morning.

18 A JUROR: Good morning.

19 THE COURT: Had you heard anything about this case
20 before you came to court yesterday?

21 A JUROR: No, ma'am.

22 THE COURT: Nothing?

23 A JUROR: No, ma'am.

24 THE COURT: Does our schedule cause you any grief?

25 A JUROR: No, it doesn't cause me any grief. I'm not

1 sure about my employer, but right now it doesn't.

2 THE COURT: Well, if at some point, you know, if you
3 do end up serving on this jury, and at some point you have a
4 problem, you will let us know, won't you?

5 A JUROR: Certainly.

6 THE COURT: Let me ask you: If a defendant in a
7 criminal case is accused of unlawful conduct that resulted in
8 the death of a police officer, would your view of the evidence
9 be significantly affected by the fact that a police officer
10 had died?

11 A JUROR: Would I wonder whether, you know, if that
12 would make any difference to me, you mean?

13 THE COURT: Yes.

14 A JUROR: No, I don't think it would.

15 THE COURT: If a person has been arrested and accused
16 and brought to trial, would that cause you to believe that the
17 person is probably guilty?

18 A JUROR: Oh, no. No way.

19 THE COURT: If a defendant in a criminal case decides
20 not to testify, would you believe that that is some evidence
21 of guilt; that is, that the failure to testify is some
22 evidence of guilt?

23 THE WITNESS: No, I don't think so. No.

24 THE COURT: If you were to hear conflicting testimony
25 from a witness who is employed by law enforcement and a

1 witness who is not a law enforcement officer, would you tend
2 to give more or less credence to the witness who is employed
3 by law enforcement?

4 A JUROR: No.

5 THE COURT: That is, would you be affected by the
6 status of the person?

7 A JUROR: No, no. I don't think so.

8 THE COURT: Do you believe that homosexual relations
9 among consenting adults is morally wrong?

10 A JUROR: Yes.

11 THE COURT: Would your views of a witness's
12 credibility or a defendant's guilt be affected by the sexual
13 orientation of the witness or the defendant?

14 A JUROR: No.

15 THE COURT: Is there any reason that we haven't
16 already talked about why you feel you cannot serve as a juror
17 in this case?

18 A JUROR: No.

19 THE COURT: Mr. Kelly, any questions?

20 MR. KELLY: I was just curious about family status,
21 marital status, et cetera, it doesn't indicate it on the
22 sheet.

23 A JUROR: I am married.

24 THE COURT: Do you have any children?

25 A JUROR: Five. All grown.

1 THE COURT: Mr. Segal, any questions?

2 MR. SEGAL: Just wondered if you might ask
3 Mr. McLaughlin if his wife works outside of the house.

4 A JUROR: No, she doesn't.

5 THE COURT: Thank you, Mr. McLaughlin. Would you
6 mind taking a seat in the jury box for the moment, please?

7 Two minutes.

8 MR. SEGAL: I would like to move for cause on the
9 morally --

10 THE COURT: I will not excuse him based on his answer
11 to the next question.

12 MR. KELLY: No challenges.

13 MR. SEGAL: Mr. McLaughlin, Seat No. 9, No. 42.

14 THE CLERK: No. 30, Jennifer Batts.

15 THE COURT: Good morning, how are you?

16 A JUROR: Fine, thank you.

17 THE COURT: You teach at a day care center?

18 A JUROR: Yes.

19 THE COURT: Mrs. Dello Russo's baby is in a day care
20 center, and it's not an altogether happy situation at the
21 moment, however, we wish that she were in yours.

22 Had you heard anything about this case?

23 A JUROR: A little bit on the news.

24 THE COURT: What have you heard?

25 A JUROR: Just that a cop got killed in Roslindale

1 THE COURT: What grade does she teach?

2 A JUROR: Fourth grade.

3 THE COURT: Do you have children?

4 A JUROR: Four kids.

5 THE COURT: All grown?

6 A JUROR: Three in college and one in kindergarten.

7 THE COURT: Have you heard anything about this case?

8 A JUROR: Just what I've read in the paper.

9 THE COURT: What was that?

10 A JUROR: Just probably the basics about it. I don't
11 know names.

12 THE COURT: What were the basics that you remember?

13 A JUROR: Well, just about the bombing and, you know,
14 the people involved in it and the story afterwards that came
15 out.

16 THE COURT: What was that?

17 A JUROR: That, you know, that it wasn't a bomb, that
18 it was done by this fellow's son.

19 THE COURT: Will you be able to put aside what you
20 had learned earlier and decide the case entirely on what you
21 hear in the courtroom if you are seated as a juror?

22 A JUROR: I think that I probably could.

23 THE COURT: Did you have any problem with our
24 schedule?

25 A JUROR: Just the length of time.

1 THE COURT: It is a difficulty but not unmanageable
2 difficulty, right?

3 A JUROR: Right.

4 THE COURT: If a defendant in a criminal case is
5 accused of unlawful conduct that resulted in the death of a
6 police officer, would your view of the evidence be
7 significantly influenced by the fact that a police officer was
8 killed?

9 A JUROR: I don't think so. I don't think so.

10 THE COURT: If a person has been arrested and accused
11 and brought to trial, would that cause you to believe that the
12 person was probably guilty?

13 THE WITNESS: No, I don't think so.

14 THE COURT: If a defendant in a criminal case decides
15 not to testify, would the failure to testify cause you to
16 believe that it is some evidence of guilt?

17 THE WITNESS: Probably would, but, you know, I
18 understand his reasoning for it, I guess.

19 THE COURT: If you're instructed by the Court, as you
20 would be, that you may not take that into account, will you be
21 able to adhere to the Court's instruction and not take it into
22 account?

23 A JUROR: I would.

24 THE COURT: If there is a conflict in the testimony
25 between a witness who is a law enforcement officer and a

1 witness who is not employed in law enforcement, would you tend
2 to give more or less credit to the person who is in law
3 enforcement? That is, would the status the witness in any way
4 affect your judgment of the credibility of the witness?

5 A JUROR: No.

6 THE COURT: Do you believe that homosexual relations
7 between consenting adults is morally wrong?

8 A JUROR: I do, yes.

9 THE COURT: Would your views of a witness's
10 credibility or a defendant's guilt be in any way affected by
11 that person's sexual orientation?

12 A JUROR: No.

13 THE COURT: Is there any reason that we haven't
14 specifically talked about why you feel you cannot serve as a
15 juror in this case?

16 A JUROR: I don't think so. I don't think so.

17 THE COURT: Mr. Segal, any questions?

18 MR. SEGAL: I wonder if you would ask Mr. Weber, it
19 says on occupation, Department Manager, Dole and Manager, what
20 does he do and what's the company that he's with?

21 A JUROR: It's a food service company located in
22 Woburn, and I work in the production department. I head one
23 of the hamburg grinding departments for the company.

24 MR. SEGAL: The grinding department?

25 THE WITNESS: Yes.

1 THE COURT: What do you grind?

2 A JUROR: Hamburg.

3 THE COURT: Mr. Kelly, any questions?

4 MR. SEGAL: I have one other.

5 THE COURT: Oh, I'm sorry.

6 MR. SEGAL: I just wanted to ask Mr. Weber how
7 certain he is that he could set aside his belief the refusal
8 to testify shouldn't influence him?

9 THE COURT: How certain are you?

10 A JUROR: Oh, I believe that I could, you know.

11 THE COURT: Mr. Kelly, any questions?

12 MR. KELLY: No questions, your Honor.

13 THE COURT: Thank you, Mr. Weber. Would you mind
14 taking a place in the jury box for the moment?

15 I guess you need to decide whether you want to
16 challenge, the defendant goes first.

17 MR. SEGAL: Could I step out for one minute, please?

18 (Pause.)

19 MR. SEGAL: We'll challenge, Mr. Weber.

20 THE COURT: All right. Let's bring in somebody else.

21 We're at the point where the Government and the
22 defendant have an equal number of challenges left, so we'll go
23 one and one. Since we only have one left, it doesn't make any
24 difference.

25 THE CLERK: No. 66, Lewis Waugh.

1 THE COURT: Good morning, how are you?

2 A JUROR: Hanging in there.

3 THE COURT: Are you okay?

4 A JUROR: I'm fine. I just have a problem, I can't
5 sit for any length of time.

6 THE COURT: You can't sit for a long time?

7 A JUROR: No.

8 THE COURT: What do you need to do, get up
9 periodically?

10 MR. SEGAL: Yes, like every 45 minutes.

11 THE COURT: Well, the fact is that when we try the
12 case, I regularly have us all stand and stretch about every
13 half hour or so. So if at some point you get to the point
14 where you need to get up, signal me and we'll just stop and
15 stretch. We do it regularly because otherwise we all fall
16 asleep and get stiff, so it's not just you.

17 A JUROR: I have had four knee surgeries on this.
18 And I have a bad nerve in it, so they are trying to get that
19 squared away properly.

20 THE COURT: Will it interfere with your ability to
21 serve?

22 A JUROR: If the pain gets real great. Other than
23 that, what can I say? I live with the pain right now, that's
24 it.

25 THE COURT: Is it such that it prevents you from

1 concentrating?

2 A JUROR: Yes, it does. It will make my eyes water.
3 Yes, it will, that's how bad it is. That's why they are
4 trying to -- like I'm supposed to see some nerve specialist
5 once they get their act together and come to who is going to
6 see me.

7 THE COURT: Any reason not to excuse Mr. Waugh?

8 MR. SEGAL: No.

9 THE COURT: All right. Go home and take care of your
10 knee.

11 THE CLERK: No. 18. Marjorie, I'll spell it for you,
12 K A L O Y A N I D E S.

13 THE COURT: Yes, do tell me, too, how to pronounce
14 your name, please.

15 A JUROR: Kaloyanides.

16 THE COURT: Ms. Kaloyanides, have you heard anything
17 about this case before you came to court yesterday?

18 A JUROR: I remember reading something in the paper
19 and hearing the news about it.

20 THE COURT: When?

21 A JUROR: Oh, gosh, has it been a couple of years,
22 maybe.

23 THE COURT: Do you remember what you read?

24 A JUROR: A son put a bomb under a car, his father's
25 car, I believe. And then I don't know how the policeman came

1 involved, but somehow there was a policeman that got killed.

2 THE COURT: Will you be able to decide the case, if
3 you're seated at juror, based only what you hear in the
4 courtroom and not on what you may have heard earlier?

5 A JUROR: I think so.

6 THE COURT: Did our schedule cause you any serious
7 grief?

8 A JUROR: No.

9 THE COURT: If a defendant in a criminal case is
10 accused of unlawful conduct that resulted in the death of a
11 police officer, would your views of the evidence be
12 significantly affected by that fact; namely, the death of the
13 police officer?

14 A JUROR: No.

15 THE COURT: If a person is arrested, accused and
16 brought to trial, would that cause you to believe that the
17 person is probably guilty?

18 A JUROR: No.

19 THE COURT: If a defendant in a criminal case decides
20 not to testify, would you believe that the failure to testify
21 is some evidence of guilt?

22 THE WITNESS: I don't believe so.

23 THE COURT: If there is a conflict in the testimony
24 between a witness who is employed by law enforcement, who is a
25 law enforcement officer, and a witness who is not so employed,

1 would you tend to believe the law enforcement officer more or
2 less than the other person?

3 A JUROR: I don't believe so. I think I would look
4 at it as the person and not the job.

5 THE COURT: Do you believe that homosexual relations
6 between consenting adults is morally wrong?

7 A JUROR: Whatever they do is, if it doesn't affect
8 me or my family, I don't have any problems with that.

9 THE COURT: Would your views of a witness's
10 believability or a defendant's guilt be in any way affected by
11 that person's sexual orientation?

12 A JUROR: No. No.

13 THE COURT: Is there any reason that we haven't
14 specifically talked about why you feel you cannot serve as a
15 juror in this case?

16 A JUROR: Not that I know of, no.

17 THE COURT: Mr. Kelly, any questions?

18 MR. KELLY: No, your Honor.

19 THE COURT: Mr. Segal, any questions?

20 MR. SEGAL: No, your Honor.

21 THE COURT: Thank you, Ms. Kaloyanides.

22 A JUROR: Very good.

23 THE COURT: Have a seat for a moment, please.

24 MR. SEGAL: May we go out for one minute?

25 (Pause.)

1 THE COURT: Government goes first.

2 MR. KELLY: We will challenge Mrs. Kaloyanides.

3 THE COURT: Go ahead and excuse her and bring someone
4 else in.

5 (Pause.)

6 THE CLERK: No. 45. Abigail Hurlbut.

7 THE COURT: Good morning, how are you?

8 THE WITNESS: Fine.

9 THE COURT: Had you heard anything about this case?

10 A JUROR: Not really, certainly not recently. I
11 remember vaguely something which might have been this case.

12 THE COURT: What do you remember vaguely?

13 A JUROR: I remember something about an explosive in
14 a driveway, and perhaps officers that were called not wearing
15 protective gear. Beyond that.

16 THE COURT: Would you be able to put aside and decide
17 the case entirely -- put aside what you had earlier learned
18 and decide the case entirely on what you hear in the
19 courtroom?

20 A JUROR: Yes, I believe I can, because I don't
21 really remember who any of the players were or what the
22 follow-up was.

23 THE COURT: Did our schedule present you with any
24 serious difficulties?

25 A JUROR: No.

1 THE COURT: If a defendant in a criminal case is
2 accused of unlawful conduct that resulted in the death of
3 police officer, would your view of the evidence be
4 significantly affected by the fact that a police officer was
5 killed?

6 A JUROR: Significantly? No.

7 THE COURT: In any way?

8 A JUROR: I would find it difficult to -- perhaps in
9 some small way, but I don't believe significantly.

10 THE COURT: Explain what you mean. How would it
11 affect your --

12 THE WITNESS: Well, I feel that, that the law is
13 there to protect everyone, be they a housewife or a judge or a
14 store clerk or whatever.

15 THE COURT: The law doesn't protect judges. Just
16 kidding.

17 THE WITNESS: In any event, and that you should not
18 single out one particular group for undue punishment nor for
19 the opposite.

20 THE COURT: If a person is arrested, accused and
21 brought to trial, would that cause you to believe that the
22 person is probably guilty?

23 A JUROR: No.

24 THE COURT: If a defendant in a criminal case decides
25 not to testify, would that failure to testify, in your mind,

1 be some evidence of guilt?

2 A JUROR: No.

3 THE COURT: If there is a conflict in the testimony
4 between a witness who is a law enforcement officer and a
5 witness who is not employed in law enforcement, would you tend
6 to give either more or less credence to the law enforcement
7 witness?

8 THE WITNESS: I think it would depend on the
9 testimony and I don't think that I would give him either more
10 or less until I heard the testimony.

11 THE COURT: Do you believe that homosexual
12 relationships between consenting adults is morally wrong?

13 A JUROR: No, I do not believe they are morally
14 wrong.

15 THE COURT: Would your views of a witness's
16 credibility or a defendant's guilt be in any way affected by
17 that person's sexual orientation?

18 A JUROR: No.

19 THE COURT: Is there any reason that we haven't
20 specifically talked about why you feel you cannot serve as
21 jurors in this case?

22 A JUROR: No.

23 THE COURT: Mr. Segal, any questions?

24 MR. SEGAL: I wonder if you would ask if Mrs. Hurlbut
25 has been employed at any time outside the home?

1 THE WITNESS: Back during the pyramids.

2 MR. SEGAL: The pyramids?

3 A JUROR: Right.

4 MR. SEGAL: I see. I understand.

5 A JUROR: I was employed prior to producing heirs to
6 the throne. I'm now busy in volunteer work with United States
7 swimming.

8 MR. SEGAL: I wonder if you might ask Mrs. Hurlbut
9 what sort of engineer her husband is, what type of engineer?

10 A JUROR: My husband is a staff engineer at Charles
11 Stark Draper Laboratories, involved with undersea sonar.

12 THE COURT: So you're both on and under the water.

13 THE WITNESS: Yes.

14 THE COURT: Mr. Kelly, any questions?

15 MR. KELLY: No, your Honor, thank you.

16 THE COURT: Thank you, Ms. Hurlbut. Would you mind
17 taking a seat in the jury box, please?

18 (Pause.)

19 THE COURT: Does the defendant challenge the
20 witness?

21 MR. SEGAL: Defendant is satisfied.

22 MR. KELLY: Government challenges.

23 THE COURT: The Government is challenging anybody who
24 looks at all reasonable.

25 MR. KELLY: Just exercising our rights, your Honor.

1 THE COURT: Indeed.

2 MR. SEGAL: Are we at three and one?

3 THE COURT: Right.

4 THE CLERK: No. 47 Deborah Nager.

5 THE COURT: Good morning, how are you?

6 A JUROR: Hi.

7 THE COURT: Have a seat.

8 Ms. Nager, had you heard anything about this case
9 before?

10 A JUROR: Yes, I have.

11 THE COURT: What have you heard?

12 A JUROR: Well, my husband and his friend are from
13 Hull during the summer, and they grew up there.

14 THE COURT: In Hull?

15 A JUROR: In Hull, which is part of Nantasket. And
16 apparently a friend of my friend, by the name of Marty Cohen,
17 knows one of the gentlemen involved in the case. And he had
18 just said several months ago that -- when we were chatting,
19 that he was as guilty as sin. It was one of those kind of
20 conversations. And that's the extent of that one.

21 THE COURT: I guess you don't feel that you can serve
22 as an impartial juror?

23 A JUROR: I guess it would be hard. This was put in
24 my mind months ago.

25 THE COURT: All right. I will excuse you.

1 MR. SEGAL: I wonder if we can ask a question whether
2 you could put that aside and judge this case on the evidence
3 and --

4 THE COURT: She just told us it would be hard.

5 A JUROR: It would be hard considering the
6 conversation was at a party and everyone was talking about it.

7 And it was one of those things that, in honesty, it would be
8 hard.

9 THE COURT: Where you talking about Mr. Trenkler,
10 this defendant, Mr. Trenkler.

11 A JUROR: Yes.

12 MR. SEGAL: Okay.

13 THE COURT: Thank very much. You are excused and
14 free to go.

15 THE CLERK: No. 46, Nora Byrnes, B Y R N E S.

16 THE COURT: Good morning, have a seat. How are you?

17 A JUROR: Fine, thank you. How are you?

18 THE COURT: Okay.

19 A JUROR: Fine.

20 THE COURT: Ms. Byrnes, had you heard anything about
21 this case before you came to court yesterday?

22 A JUROR: Yes, I have.

23 THE COURT: What have you heard and how did you hear
24 it?

25 A JUROR: Okay. No. 1, I live in the neighborhood,

1 two streets over from Eastbourne Street where it happened, so
2 I was up there.

3 THE COURT: I guess you can't be a juror.

4 A JUROR: And then the Parkway Transcript has been,
5 you know, constantly writing things on it.

6 THE COURT: I will excuse you from further service
7 from this case.

8 A JUROR: I figured I wouldn't be called, right.

9 THE COURT: Thank you very much.

10 A JUROR: Okay, thank you.

11 THE CLERK: Janet Talbot, 19.

12 THE COURT: Good morning, how are you?

13 Ms. Talbot, you told us yesterday that you knew some
14 of the witnesses?

15 A JUROR: Just one, Alan Pransky of Dedham.

16 THE COURT: How do you know him?

17 A JUROR: Socially and he's done -- he's an attorney
18 who's done work for me. He drew up a will for me.

19 THE COURT: Would that make it anyway difficult for
20 you to judge his believability? That is, would you be able to
21 judge his believability in the same way as you judge everybody
22 else's?

23 A JUROR: Yes.

24 THE COURT: Or would you tend to believe him more
25 because you already know him?

1 A JUROR: I like him. I don't know if that would do
2 anything about my judgment.

3 THE COURT: You also told us that you had some
4 relationship to law enforcement?

5 A JUROR: My father and my grandfather both are
6 patrolmen.

7 THE COURT: In Boston?

8 A JUROR: No, up in the North Shore, Danvers.

9 THE COURT: Would that fact make it difficult for you
10 to sit on a case that involves the death of a police officer?

11 A JUROR: Yes, I have very strong feelings.

12 THE COURT: All right. I guess I'll excuse you from
13 further service. Thank you very much.

14 A JUROR: Thank you.

15 You are free to go permanently, and I thank you.

16 THE CLERK: No. 61, James Robinson.

17 THE COURT: Good morning. How are you?

18 A JUROR: Good, and yourself?

19 THE COURT: Mr. Robinson, our poop sheet doesn't tell
20 us what you do for a living.

21 A JUROR: Right now, nothing. I was starting a new
22 job yesterday.

23 THE COURT: That job is still there for you, isn't
24 it?

25 A JUROR: I hope so.

1 THE COURT: If you serve as a juror, will your job be
2 impacted adversely?

3 A JUROR: I'm not sure. He called me Monday to work,
4 I said I had jury duty. He called me again last night to
5 work, I said, I'm still there, and he said, okay, well, call
6 my when your done.

7 THE COURT: Well, if you were to be a juror, would
8 your job be available for you?

9 A JUROR: What did you say, it was like three weeks?
10 I don't think so.

11 THE COURT: What's the nature of the work?

12 A JUROR: It's masonry. It's a trade.

13 THE COURT: Are you hired through a union hall?

14 A JUROR: No, it's a private contractor.

15 THE COURT: So what's your feeling about it?

16 THE WITNESS: Well, I haven't worked in over a year,
17 so I was kind of hoping on this job.

18 THE COURT: Do you want to call him and find out
19 whether he'll hold the job for three weeks, or is he not
20 likely to be able to tell you that?

21 THE WITNESS: I asked him for a job months ago. He
22 said as soon as he had work, he'd call me. He called me
23 Sunday night, actually.

24 THE COURT: Should we excuse --

25 MR. SEGAL: I think it would an unfair strain.

1 THE COURT: Why don't you go and report to work there
2 instead of here?

3 A JUROR: Thank you very much.

4 THE CLERK: No. 23. Marc Anderson.

5 THE COURT: Good morning.

6 A JUROR: Good morning.

7 THE COURT: How are you?

8 A JUROR: All right.

9 THE COURT: Mr. Anderson, had you heard anything
10 about this case before yesterday?

11 A JUROR: I don't believe so, no.

12 THE COURT: Nothing?

13 A JUROR: I can't -- I thought about it and I don't
14 remember hearing anything about it.

15 THE COURT: If a defendant in a criminal case is
16 accused of unlawful conduct that resulted in the death of a
17 police officer, would your view of the evidence be
18 significantly affected by the fact that a police officer was
19 killed?

20 A JUROR: I don't think so.

21 THE COURT: If a person is arrested, accused and
22 brought to trial, would that cause you to believe that the
23 person is probably guilty?

24 A JUROR: No.

25 THE COURT: If a defendant in a criminal case decides

1 not to testify, would you believe that the failure to testify
2 is some evidence of his guilt?

3 A JUROR: No.

4 THE COURT: If there conflicting testimony between a
5 witness who is in law enforcement and one who is not employed
6 by law enforcement, would your view of the credibility of
7 these witnesses be in any way affected by the fact that one is
8 a police officer or a law enforcement officer?

9 A JUROR: No, I don't think so.

10 THE COURT: Do you believe that homosexual
11 relationships among consenting adults are morally wrong?

12 A JUROR: No.

13 THE COURT: Would your views of the credibility of a
14 witness or the guilt of a defendant be in any way affected by
15 the sexual orientation of that person?

16 A JUROR: No.

17 THE COURT: Is there any reason -- I didn't ask you
18 about the schedule, did I? Does that cause you any serious
19 grief?

20 A JUROR: Other than Thanksgiving, no.

21 THE COURT: Thanksgiving shouldn't a problem because
22 we will not sit the Friday after Thanksgiving, so if the case
23 doesn't finish before, we will continue it the Monday after.

24 A JUROR: No problem then.

25 THE COURT: Is there any reason, other than what we

1 have specifically talked about, why you feel you cannot serve
2 as a juror in this case?

3 A JUROR: No.

4 THE COURT: Thank you. Would you mind taking a seat
5 in the jury box, please?

6 (Pause.)

7 MR. SEGAL: Does the Government go first in this
8 round?

9 THE COURT: Yes.

10 MR. KELLY: No challenge.

11 MR. SEGAL: Satisfied.

12 THE COURT: Ah, we have a jury, just as I had totally
13 run out of space for Juror No. 9.

14 All right. Yes, take Mr. Anderson upstairs.

15 And, Judy, if you can call four to the jury box to be
16 the alternates, please.

17 (Pause.)

18 THE CLERK: 68, 58, 29 and 75.

19 68, Ms. King.

20 THE COURT: You are a chef at the South Shore Bank?

21 A JUROR: Yes, I am.

22 THE COURT: What a lucky bank.

23 What do you have to do there, do they have a dining
24 room for the employees?

25 A JUROR: It's dining for the executives.

1 THE COURT: Only the executives?

2 A JUROR: Yes. And their guests.

3 THE COURT: Had you heard anything about this case?

4 A JUROR: I've read in the papers.

5 THE COURT: When?

6 A JUROR: When it all came out, you know.

7 THE COURT: Year and a half, two years ago?

8 A JUROR: Yes.

9 THE COURT: Three years ago, I guess.

10 A JUROR: Yes.

11 THE COURT: What do you remember about what you had
12 read?

13 A JUROR: I remember that there was a bomb under an
14 automobile out in Roslindale, I think it was or -- Roslindale,
15 I guess. And that the son disappeared for a while, and he was
16 charged I guess. That's what I remember.

17 THE COURT: If you serve as juror in this case, will
18 you be able to decide it, not in any way based on what you had
19 learned earlier, but only on what is presented to you in the
20 courtroom?

21 A JUROR: I don't really know. I mean. I really
22 don't know. I read it in paper and it is somewhere in my
23 brain, that's all I know.

24 THE COURT: Do you remember anything else that you
25 had read about it?

1 A JUROR: And there was somebody badly hurt, too, I
2 remember that.

3 THE COURT: If a defendant in a criminal case is
4 accused of unlawful conduct that results in the death of a
5 police officer, would your view of the evidence be
6 significantly affected by the fact that a police officer was
7 killed?

8 A JUROR: I don't think so.

9 THE COURT: Does our schedule cause you any grief,
10 serious grief?

11 A JUROR: No, I work and that can be taken care of,
12 but the fact that I am just doing over my house and I'm into
13 architects and workmen and all that, that's the thing. And
14 there's another fact, I don't hear too well. I mean, I hear
15 you. But when there's noise, I have difficulty.

16 THE COURT: Well we have microphones for the
17 witnesses. Did you have trouble hearing yesterday in the
18 courtroom?

19 A JUROR: Not really, no, but I had to, you know,
20 that kind of stuff.

21 THE COURT: If a person is arrested, indicted and
22 brought to trial, would that fact cause you to believe that
23 the person is probably guilty?

24 A JUROR: Maybe, maybe not, I can't really say. I
25 doubt it.

1 THE COURT: If a defendant in a criminal case decides
2 not to testify, would you believe that his failure to testify
3 is some evidence of his guilt?

4 A JUROR: I think I might.

5 THE COURT: I think perhaps I should excuse Ms. King.

6 Thank you very much for coming around today. You are
7 excused to go back to your architects and to your kitchen.

8 A JUROR: Thank you very much.

9 THE COURT: Thank you.

10 THE CLERK: Mr. Stengel, No. 58.

11 THE COURT: Good morning. It says here that you are
12 an exercise leader for Texas Instruments?

13 A JUROR: Yes.

14 THE COURT: What kind of exercise?

15 A JUROR: I do strength training with senior
16 citizens.

17 THE COURT: At Texas Instruments?

18 A JUROR: They have a corporate fitness center on
19 site.

20 THE COURT: Had you heard anything about this case?

21 A JUROR: Maybe just vaguely when it first came out,
22 but I have no idea of any of the details.

23 THE COURT: What do you remember about what you had
24 heard?

25 A JUROR: I just remember seeing the headlines in the

1 paper when it first happened, and I never really read about
2 the story at all.

3 THE COURT: Does our schedule cause you any serious
4 inconvenience?

5 A JUROR: No.

6 THE COURT: If a defendant in a criminal case is
7 accused of unlawful conduct that resulted in the death of a
8 police officer, would the fact that a police officer was
9 killed affect your views of the evidence in any way?

10 A JUROR: No.

11 THE COURT: If a person is arrested and accused and
12 then brought to trial, would that cause you to believe that
13 the person is probably guilty?

14 A JUROR: No.

15 THE COURT: If a defendant in a criminal case decides
16 not to testify, would the failure to testify cause you to
17 believe that that is some evidence of guilt?

18 A JUROR: No.

19 THE COURT: If there is conflicting testimony between
20 a witness who is a law enforcement officer and one who is not
21 in law enforcement, would you tend to give either more or less
22 credence to the person who is in law enforcement?

23 A JUROR: No.

24 THE COURT: Do you believe that homosexual relations
25 between consenting adults are morally wrong?

1 A JUROR: No.

2 THE COURT: Would your views of the believability of
3 a witness or the guilt of the defendant be in any way affected
4 by that person's sexual orientation?

5 A JUROR: No.

6 THE COURT: Is there any reason why you feel you
7 cannot serve as a juror in this case?

8 A JUROR: No.

9 THE COURT: Anything that we haven't talked about
10 specifically?

11 A JUROR: No, not that I can think of.

12 THE COURT: Mr. Segal, any questions?

13 MR. SEGAL: No questions, your Honor.

14 THE COURT: Mr. Kelly, any questions?

15 MR. KELLY: No, your Honor.

16 THE COURT: Thank you very much. Would you mind just
17 taking a seat in the jury box?

18 Next is No. 29 who is Ms. Tillotson.

19 Good morning, how are you?

20 A JUROR: How are you?

21 THE COURT: The sheet tells me that you are an oiler
22 APPR/NCC.

23 A JUROR: Apprentice.

24 THE COURT: What does that mean?

25 A JUROR: I'm working on the tunnel, the third artery

1 tunnel, I'm an oiler on a drill and a crane.

2 THE COURT: You are not married?

3 A JUROR: No, I'm not.

4 THE COURT: Had you heard anything about this case?

5 A JUROR: Well, I heard it on the news and in the
6 paper.

7 THE COURT: Do you remember what you heard?

8 A JUROR: Well, that the police officer was killed,
9 obviously, and the explosives were put underneath the car, and
10 just basically what, you know, from the newspaper and what was
11 advertised on the TV.

12 THE COURT: Recently or some time ago?

13 A JUROR: Well, I heard it when it first aired, but I
14 haven't heard anything recently.

15 THE COURT: Would you be able to decide the case
16 based only on what you hear in the courtroom and not affected
17 by what you had read earlier?

18 A JUROR: I think I could separate the two.

19 THE COURT: Does our schedule cause you any serious
20 inconvenience?

21 A JUROR: Well, I think it would jeopardize my
22 apprenticeship. I'm in my second year and we have to put in
23 so many hours, and I think it would jeopardize my
24 apprenticeship.

25 THE COURT: You think it would or you're pretty sure

1 it would?

2 A JUROR: Well, I'm pretty sure it would. I have to
3 do so many hours per week in order to say I'm in the
4 apprenticeship.

5 THE COURT: Who decides whether you stay in or not,
6 the employer or the union?

7 A JUROR: The union.

8 THE COURT: And the union would hold it against you
9 that you are on jury duty?

10 A JUROR: They wouldn't hold it against me, but I
11 would have to -- like each year you have so many classes you
12 have to do, and I would have to wait until next year to make
13 up the classes for this year, and it would run me over.
14 Instead of doing a four-year apprenticeship, I would end up
15 doing a five-year apprenticeship.

16 THE COURT: The fact that you would be here only in
17 the morning doesn't help?

18 A JUROR: No. No, it doesn't change it.

19 THE COURT: What is counsel's view?

20 MR. SEGAL: I think we should excuse her because it
21 would be inconvenience for her job.

22 MR. KELLY: I don't have any objection, your Honor.

23 THE COURT: Go back and drill.

24 A JUROR: Okay. Thank you very much. Have a nice
25 day.

1 THE CLERK: Mr. Corelle, No. 75.

2 A JUROR: Good morning.

3 THE COURT: Good morning. How are you?

4 A JUROR: Fine, thanks. Yourself?

5 THE COURT: How do you pronounce your name?

6 A JUROR: Corelle. Doesn't look Italian but it's
7 Italian.

8 THE COURT: You are not married?

9 A JUROR: Yes, I am.

10 THE COURT: And what does your wife do?

11 A JUROR: She's a bookkeeper.

12 THE COURT: Oh, I see.

13 Had you heard anything about this case?

14 A JUROR: Vaguely, when it was on TV.

15 THE COURT: When was that?

16 A JUROR: Couple of years ago. I really don't recall
17 very much.

18 THE COURT: What do you remember?

19 A JUROR: Something about a policeman dying from a
20 bomb explosion.

21 THE COURT: What else?

22 A JUROR: It had something to do with the son, I
23 think. Have I got the wrong thing?

24 THE COURT: I'm just asking. I'm trying to find out
25 what you do know.

1 That's it?

2 A JUROR: That's about it.

3 THE COURT: Does our schedule cause you any serious
4 inconvenience?

5 A JUROR: No.

6 THE COURT: If a defendant in a criminal case is
7 accused of wrongful conduct that resulted in the death of a
8 police officer, would the fact that police officer died cause
9 you to view the evidence significantly differently? Would it
10 have an affect on your view of the evidence?

11 A JUROR: Because he was a police officer?

12 THE COURT: Yes.

13 A JUROR: No.

14 THE COURT: If a person is arrested, accused and
15 brought to trial, would that cause you to believe that he's
16 probably guilty?

17 A JUROR: No.

18 THE COURT: If a defendant in a criminal case decides
19 not to testify, would you believe that the failure to testify
20 is some evidence of his guilt?

21 A JUROR: No.

22 THE COURT: If you were to hear conflicting testimony
23 from a witness who is a law enforcement officer and one who is
24 not a law enforcement officer, would you tend to give more
25 credence or less credence to the person who works in law

1 enforcement?

2 A JUROR: I'd have to judge the testimony of both. I
3 wouldn't say either one would sway me.

4 THE COURT: Do you believe that homosexual relations
5 between consenting adults is morally wrong?

6 A JUROR: Between consenting adults? No.

7 THE COURT: Would your views of a witness's
8 believability or a defendant's guilt be in any way affected by
9 that person's sexual orientation?

10 A JUROR: No.

11 THE COURT: Is there any reason why you feel you that
12 you cannot serve as a juror in this case, any reason that we
13 may not have touched on in these questions?

14 A JUROR: Not really.

15 THE COURT: Any questions, Mr. Kelly?

16 MR. KELLY: I was wondering if we could find out
17 whether Mr. Corelle had any children?

18 A JUROR: I have two sons and a stepson from my
19 second marriage.

20 THE COURT: Mr. Segal, any questions?

21 MR. SEGAL: Yes. Would your Honor ask Mr. Corelle
22 what he does as a supervisor, for what company?

23 THE COURT: Osram Sylvannia it says.

24 A JUROR: I work for Osram Sylvannia, and I am
25 supervisor of the department that's -- we make fluorescent

1 lamps. And I supervise the coating that goes inside, the
2 phosphorus coating that goes inside the fluorescent tubes.

3 THE COURT: Thank you, Mr. Corelle. If you would
4 kindly take a seat in the jury box.

5 Do we really need four alternates? Didn't lose
6 anybody the last time, did we?

7 MR. KELLY: I think it would be wise, three or four.
8 It's the cold and flu season, your Honor.

9 (Pause.)

10 THE CLERK: 56 and 3.

11 THE COURT: You are Mr. Fay?

12 A JUROR: Yes, I am.

13 THE COURT: Mr. Fay, had you heard anything about
14 this case before you came to court yesterday?

15 A JUROR: Yes.

16 THE COURT: What did you hear?

17 A JUROR: Just on the news about a bomb exploding and
18 killing a police officer, about the Shay kid and stuff.

19 THE COURT: What else?

20 A JUROR: That's about it.

21 THE COURT: When did you hear it?

22 A JUROR: I know he got convicted a few weeks ago.

23 THE COURT: Had you read anything about it when it
24 happened two years ago?

25 A JUROR: No, I don't think so.

1 THE COURT: Do you think you would be able to decide
2 this case based only what you hear in the courtroom in this
3 case, without reference to anything you may have read in the
4 newspaper or seen on television?

5 A JUROR: It's tough to say right now.

6 THE COURT: Did our schedule cause you any grief?

7 A JUROR: Well, I just started a new job about a
8 month ago. So it is kind -- this week, last week and this
9 week, I was in a training class. So I'm missing all this
10 week. It's not the worst thing in the world, but it's not the
11 best either.

12 THE COURT: You work for State Street Bank?

13 A JUROR: Yes.

14 THE COURT: Does the bank hold it against you that
15 you are here rather than there?

16 A JUROR: No, they can't.

17 THE COURT: Mr. Segal, do you wish to ask any
18 questions about Mr. Fay's ability to put aside what he may
19 know?

20 MR. SEGAL: I just wonder if Mr. Fay's employment,
21 and where it's a new job, would be a distraction that he might
22 not be able to be fully attentive?

23 A JUROR: I don't know if it would be a distraction
24 to my attention, but it's not the best thing that can happen
25 to me right now.

1 THE COURT: Mr. Kelly, any questions?

2 MR. KELLY: No, your Honor.

3 THE COURT: I guess I'm a bit concerned about whether
4 what you have learned about the other trial, if you will,
5 would in any way affect the trial in that case, your view of
6 the evidence in this case.

7 THE WITNESS: Do I think it would?

8 THE COURT: Yes.

9 A JUROR: Like I said, it's tough to say. I can't --
10 I would have to listen to what this trial is about, yes.

11 THE COURT: What else do you know about the other
12 case?

13 THE WITNESS: Just what I told you. I mean, I don't
14 know anything in depth.

15 THE COURT: If a defendant in a criminal case is
16 accused of unlawful conduct that results in the death of a
17 police officer, would the fact that a police officer was
18 killed significantly influence your view of the evidence?

19 A JUROR: I think if anybody was killed. Not just a
20 police officer, no.

21 THE COURT: If a person is arrested, accused and
22 brought to trial, would that cause you to believe that the
23 person is probably guilty?

24 THE WITNESS: Yes.

25 THE COURT: If a defendant in a criminal case decides

1 not to testify, would you believe that the failure to testify
2 is some evidence of his guilt?

3 A JUROR: No, because I feel that it has something to
4 do with the lawyers in the way they are handling the case.

5 THE COURT: If there is a conflict between the
6 testimony of a law enforcement officer and somebody who is not
7 in law enforcement, would you tend to give more or less
8 credence to the law enforcement person?

9 A JUROR: No.

10 THE COURT: Do you believe that homosexual relations
11 between consenting adults is morally wrong?

12 A JUROR: Yes.

13 THE COURT: Would your view of the credibility of a
14 witness or the guilt of a defendant be in any way affected by
15 that person's sexual orientation?

16 A JUROR: Would I know about it?

17 THE COURT: If you know?

18 THE WITNESS: No.

19 THE COURT: I mean, if you are told, this witness is
20 a homosexual or this defendant is a homosexual would you
21 believe --

22 A JUROR: I don't condone it, but I wouldn't hold it
23 against him, I mean.

24 THE COURT: Thank you. Would you mind returning to
25 the jury box, please, for a moment?

1 MR. SEGAL: I would like to move for cause on that
2 one, the juror.

3 THE COURT: I'll excuse him.

4 No. 3, and then a replacement for Mr. Fay who has
5 been excused.

6 THE CLERK: Mr. Kaswell, No. 3.

7 THE COURT: Good morning.

8 A JUROR: Good morning.

9 THE COURT: Mr. Kaswell, had you heard anything about
10 this case?

11 A JUROR: No.

12 THE COURT: Nothing?

13 A JUROR: No.

14 THE COURT: Does our schedule cause you any serious
15 inconvenience?

16 A JUROR: No.

17 THE COURT: Your business won't suffer if you're
18 here?

19 A JUROR: No -- well, my dad is active in the
20 business, too, so we have discussed that.

21 THE COURT: What does your wife teach?

22 A JUROR: She teaches two days a week at a nursery
23 school.

24 THE COURT: If a defendant in a criminal case is
25 accused of unlawful conduct that resulted in the death of a

1 police officer, would that fact significantly influence your
2 view of the evidence? That is, that a police officer was
3 killed?

4 A JUROR: I'm not sure I understand.

5 THE COURT: Would your view of the evidence be
6 significantly influenced by the fact that a police officer was
7 killed?

8 A JUROR: Yes.

9 THE COURT: You would see the case differently
10 because a police officer was killed than if somebody else was
11 killed or nobody else was killed?

12 A JUROR: I think so.

13 THE COURT: I guess we should excuse Mr. Kaswell.

14 Thank you very much.

15 THE WITNESS: Thank you.

16 (Pause.)

17 MR. SEGAL: At some point, should we discuss whether
18 there would be any reference to the prior conviction in this
19 case? How we deal with that?

20 THE COURT: You tell me what you want me to do?

21 MR. SEGAL: I think it is something we should
22 discuss. The gentleman raised it.

23 THE COURT: You can talk to each other and then tell
24 me what you want me to do.

25 THE CLERK: 37 and 78.

1 THE COURT: Good morning, how are you?

2 A JUROR: Fine. And you?

3 THE COURT: Mr. Hemmer, is it?

4 THE WITNESS: Yes.

5 THE COURT: What does Sunnyside Gardens do?

6 A JUROR: We do floral design, you know, florists,
7 the work. And I'm the only full-time employee there.

8 THE COURT: You have a problem?

9 A JUROR: Yes. Like with the holiday, November,
10 December, it's a very tough time, you know, what I mean, to be
11 away from there. And, you know.

12 THE COURT: Are you the one who makes the floral
13 designs?

14 A JUROR: Yes, I do all the design. So what it does,
15 it puts a burden on the boss, you know what I mean, because
16 I'm not there, basically.

17 THE COURT: The fact that you're here only in the
18 morning and could help him or her out in the afternoon?

19 A JUROR: That's really not enough. It really
20 isn't.

21 THE COURT: Are we agreed that we should excuse
22 Mr. Hammer?

23 All right, thank you.

24 A JUROR: Sorry. Thank you.

25 THE CLERK: No. 78.

1 MR. KELLY: This is the woman who knows everybody.

2 THE COURT: Hi, Ms. Walsh.

3 A JUROR: Hello.

4 THE COURT: You know Mr. Shay?

5 A JUROR: No.

6 THE COURT: You know Ms. Shay?

7 A JUROR: Yes.

8 THE COURT: How do you know her?

9 A JUROR: Thomas Shay, Jr.

10 I work at Quincy District Court, the names are all
11 familiar to me.

12 THE COURT: Do you know her personally or only
13 because you work at the court?

14 A JUROR: Only because I work for the court.

15 THE COURT: You also said that you knew a witness, I
16 guess it must be the Quincy Police officer?

17 A JUROR: Yes.

18 THE COURT: Again, because you work at the court?

19 A JUROR: Correct.

20 THE COURT: Will you be able to decide the
21 credibility of those witnesses whom you know from working in
22 court, as you would decide the credibility of any other
23 witnesses or would you be affected in any way by the fact that
24 you know them?

25 A JUROR: I don't believe I would be affected at all.

1 THE COURT: Do you know anything about this case?

2 THE WITNESS: From the news two years ago. Other
3 than that.

4 THE COURT: What do you know from the news two years
5 ago?

6 A JUROR: When they showed the bomb squad on that
7 road that the house was on.

8 THE COURT: What do you remember about what you saw?

9 THE WITNESS: What I remember? Just the bomb squad
10 being there on that street.

11 THE COURT: Does our schedule cause you any serious
12 inconvenience?

13 A JUROR: Not at all.

14 THE COURT: What is your job at the Quincy -- you
15 work at the Quincy District Court?

16 A JUROR: Yes.

17 THE COURT: How long have you been there?

18 A JUROR: Ten years.

19 THE COURT: And what's your job there?

20 A JUROR: I originally worked in Clerk's Office,
21 doing criminal. Now I'm downstairs transcribing tapes and
22 computer work.

23 THE COURT: If a defendant in a criminal case is
24 accused of unlawful conduct that results in the death of a
25 police officer, would your views of the evidence be

1 significantly affected by the fact that a police officer was
2 killed?

3 A JUROR: No.

4 THE COURT: If a defendant has been arrested,
5 indicted and brought to trial, would you believe that that
6 is -- that he's probably guilty?

7 A JUROR: No.

8 THE COURT: If a defendant declines to testify, would
9 you regard that failure as some evidence of his guilt?

10 A JUROR: No.

11 THE COURT: If there is a conflict in the testimony
12 between a law enforcement officer and a person who is not in
13 law enforcement, would you tend to give more or less credence
14 to the law enforcement witness?

15 A JUROR: No.

16 THE COURT: Do you believe that homosexual relations
17 between consenting adults is morally wrong?

18 A JUROR: No.

19 THE COURT: Would your view of the credibility of a
20 witness or the guilt of a defendant be in any way affected by
21 their sexual orientation?

22 A JUROR: No.

23 THE COURT: Is there any reason that we haven't
24 specifically talked about why you cannot serve as a juror in
25 this case.

1 A JUROR: I don't believe so, no.

2 THE COURT: Any questions, Mr. Kelly?

3 MR. KELLY: No, your Honor.

4 THE COURT: Mr. Segal, any questions?

5 MR. SEGAL: No questions.

6 THE COURT: Thank you, Ms. Walsh. If you would
7 kindly take a seat in the jury box, I would appreciate it.

8 THE COURT: Have we replaced Juror No. 1. What's the
9 number?

10 MR. SEGAL: 3.

11 (Pause.)

12 THE CLERK: No. 5, Judge, Curtis Rule.

13 THE COURT: Good morning.

14 A JUROR: Good morning.

15 THE COURT: How are you?

16 A JUROR: Fine, thank you.

17 THE COURT: Mr. Rule, is it?

18 A JUROR: Yes, your Honor.

19 THE COURT: It says here that you are an assembler,
20 Level 1 Tech, what does that mean?

21 A JUROR: We assemble electrical mechanical devices.

22 THE COURT: And what does a Level 1 Tech refer to,
23 the product or?

24 A JUROR: The product. We assemble blood warming
25 machines, I.V. tubes for hospitals.

1 THE COURT: And your wife is unemployed at the
2 moment?

3 A JUROR: Correct.

4 THE COURT: What does she do when she's working?

5 A JUROR: Office work.

6 THE COURT: Had you heard anything about this case?

7 A JUROR: Television, it's probably been a week or
8 so. I didn't pay too much attention at the time.

9 THE COURT: What do you recall of what you did see?

10 THE WITNESS: Mainly just the name Shay and the
11 murder in Boston.

12 THE COURT: Would you be able to decide this case
13 based entirely on what you will hear in the courtroom and in
14 no way what you may have seen on division?

15 A JUROR: It's hard to say. People say things and
16 you remember things that you heard in the past.

17 THE COURT: What else do you remember about what you
18 heard a week ago or so ago, whenever you heard what you
19 heard?

20 A JUROR: Not very much. I really didn't pay much
21 attention.

22 THE COURT: Besides the name Shay, what do you
23 recall?

24 A JUROR: Just involving the murder of a police
25 officer. That's about all I can recall.

1 THE COURT: If a defendant -- I forgot to ask you,
2 what is your view of our schedule? Do you have a problem with
3 our schedule?

4 THE WITNESS: Yes. For length of time it would be,
5 my wife not working, bills are starting to pile up. There's a
6 lot of overtime right now.

7 THE COURT: You don't get paid when you are not
8 working, you get paid hourly?

9 A JUROR: Right.

10 THE COURT: And the company doesn't pay you when
11 you're here?

12 A JUROR: They make up the difference between what I
13 get paid here and what I would be paid normally during the day
14 on an eight-hour day.

15 THE COURT: So what you lose is the overtime?

16 A JUROR: Yes.

17 THE COURT: And would that cause you serious grief?

18 A JUROR: It's getting tough right now with her not
19 working.

20 THE COURT: Do you agree we should excuse
21 Mr. Rule?

22 MR. SEGAL: Yes.

23 THE COURT: All right. Go back to work.

24 A JUROR: Okay. Thank you very much.

25 [Pause.]

1 THE CLERK: No. 54. Joan Shippie.

2 THE COURT: Good morning.

3 A JUROR: Good morning.

4 THE COURT: How are you?

5 A JUROR: Fine, thank you, and yourself?

6 THE COURT: Ms. Shippie, right?

7 A JUROR: Yes.

8 THE COURT: Had you heard anything about this case?

9 A JUROR: No.

10 THE COURT: Nothing?

11 A JUROR: No.

12 THE COURT: Does our schedule cause you any serious
13 inconvenience?

14 A JUROR: No. I work full time, but they will let me
15 go.

16 THE COURT: If a defendant in a criminal case is
17 accused of unlawful conduct that results in the death of a
18 police officer, would your view of the evidence be
19 significantly affected by the fact that a police officer was
20 killed?

21 A JUROR: No, a life is a life.

22 THE COURT: If a person is arrested, accused and
23 brought to trial, do you believe that he's probably guilty
24 because he was arrested, indicted and brought to trial?

25 A JUROR: No.

1 THE COURT: If a defendant in a criminal case decides
2 not to testify, do you believe that his failure to testify is
3 some evidence of his guilt?

4 A JUROR: No.

5 THE COURT: If you were to hear conflicting testimony
6 from a witness who was employed in law enforcement and one who
7 is not in law enforcement, would you tend to give more or less
8 credence to the law enforcement witness?

9 A JUROR: I'd tried to judge the truth regardless of
10 who it was.

11 THE COURT: Do you believe that homosexual relations
12 between consenting adults is morally wrong?

13 THE WITNESS: None of my business. No, I can't say
14 it is, no.

15 THE COURT: Would your views of a witness's
16 credibility or a defendant's guilt be in any way affected by
17 that person's sexual orientation?

18 A JUROR: No.

19 THE COURT: Is there any reason why you feel -- that
20 we haven't specifically talked about, why you feel that you
21 cannot serve as a juror in this case?

22 A JUROR: No.

23 THE COURT: Mr. Segal, any questions?

24 MR. SEGAL: No, your Honor.

25 THE COURT: Mr. Kelly, any questions.

1 MR. KELLY: No, your Honor.

2 THE COURT: Thank you, Ms. Shippie. You would mind
3 taking a seat in the jury box, please?

4 You've got four minutes.

5 (Pause.)

6 MR. SEGAL: Is Mrs. Shippie the first alternate?

7 THE COURT: Alternate 1 is 54, Alternate 2, 58,
8 Alternate 3, 74 and Alternate 4, 75.

9 MR. KELLY: Government challenges Juror No. 58 in
10 Seat No. 2.

11 THE COURT: Mr. Segal, any challenges?

12 MR. SEGAL: No.

13 THE COURT: Anything else, Mr. Kelly?

14 MR. KELLY: No.

15 (Pause.)

16 THE CLERK: No. 62.

17 THE COURT: Good morning.

18 A JUROR: Good morning.

19 THE COURT: How are you?

20 A JUROR: Fine.

21 THE COURT: Tell me, please, how do you pronounce
22 your name?

23 A JUROR: Salvail.

24 THE COURT: You had told us that you are related to
25 law enforcement in some way?

1 A JUROR: My husband is a Lieutenant for Sheriff
2 Nelson in North Dartmouth.

3 THE COURT: Does that relationship make it in any way
4 difficult for you to sit in a case that involves death and
5 injuries to police officer?

6 A JUROR: I believe it would. I certainly believe it
7 would.

8 THE COURT: All right. We'll excuse you, go home.

9 THE WITNESS: Thank you.

10 THE COURT: Don't come back. Thank you.

11 THE WITNESS: Thank you.

12 THE CLERK: No. 39. Mr. Trung.

13 THE COURT: Good morning.

14 A JUROR: Good morning.

15 THE COURT: Had you heard anything about this case,
16 Mr. Trung, before you came to court yesterday?

17 A JUROR: I don't think so. Could be messed up with
18 the other case, this happened on the train station.

19 THE COURT: Which station?

20 THE WITNESS: The station at the end of the Ashmont.
21 I've forgotten. It could be not the one.

22 THE COURT: What do you remember about this?

23 A JUROR: I heard something like explosion have
24 occurred the cars.

25 THE COURT: When did you hear that?

1 A JUROR: I heard about almost months ago from my
2 friends.

3 THE COURT: From your friends?

4 A JUROR: Yes.

5 THE COURT: Not from the newspapers?

6 A JUROR: No.

7 THE COURT: What did your friends tell you?

8 A JUROR: Just about the thing happened.

9 THE COURT: That there was an explosive under a car?

10 A JUROR: I think so. Either an explosion or the gun
11 fired through the door, the glasses through the other cars.

12 THE COURT: If you were to be a juror in this case,
13 would you be able to decide it based only on what you hear in
14 the courtroom and not on what your friends told you?

15 A JUROR: Yes, I could.

16 THE COURT: Does your schedule cause you any
17 difficulty?

18 A JUROR: No.

19 THE COURT: You did say no?

20 A JUROR: I say no.

21 THE COURT: If a defendant in a criminal case is
22 accused of unlawful conduct that resulted in the death of a
23 police officer, would your view of the evidence be
24 significantly affected by the fact that a police officer was
25 killed?

1 A JUROR: Yes. I would. Assume -- we have to go by
2 the evidence.

3 THE COURT: Well, would you have a different view of
4 the case because a police officer was killed from the view you
5 would have if it was somebody else other than a police
6 officer? Do you understand what I mean?

7 THE WITNESS: Yes, I understand. Yes, I think the
8 same, either policeman or another human being. It's not just
9 a policeman where you look at it differently.

10 THE COURT: Do I understand correctly it wouldn't
11 make a difference whether a police officer or somebody else?

12 A JUROR: No, I don't think so.

13 THE COURT: If a person is arrested and accused and
14 brought to trial, would that cause you to believe that the
15 person is probably guilty?

16 A JUROR: When the case is not decided yet, I don't
17 think he's guilty at that moment.

18 THE COURT: If a defendant in a criminal case decides
19 not to testify, would you believe that that failure to testify
20 is some evidence that he's guilty?

21 A JUROR: I think so.

22 THE COURT: You would think that it is some evidence
23 that he's guilty?

24 A JUROR: Yes.

25 THE COURT: If you were told by the Court that you

1 may not take that into account in deciding guilt, would you be
2 able to do that?

3 THE WITNESS: It is a difficult. Can you repeat it
4 again?

5 THE COURT: Yes.

6 Assume that you are a juror and I instruct you that
7 you may not take into consideration when you decide whether
8 this defendant is guilty, that he did not testify, assume for
9 the moment that he doesn't testify, would you be able to put
10 it out of your mind that he didn't testify and decide just
11 based on the evidence that you have in deciding guilt?

12 Do you understand what I mean?

13 A JUROR: Yes, but I don't know, maybe too many
14 things going into my mind. I could make it clearly at that
15 moment, but I think should be go by the evidence what I
16 believe myself. But I have no thought.

17 THE COURT: If there were to be a conflict in the
18 testimony of somebody who works for a law enforcement agency
19 and somebody who doesn't work for law enforcement, would you
20 tend to give -- to believe more the law enforcement officer
21 than the person who is not in law enforcement?

22 A JUROR: It depends more on the law enforcement
23 force.

24 THE COURT: You would believe that the law
25 enforcement person is more likely to tell the truth than a

1 person who is not in law enforcement?

2 A JUROR: Yes, I think so.

3 THE COURT: Do you believe that homosexual relations
4 between consenting adults is morally wrong?

5 A JUROR: I think so, too.

6 THE COURT: It is morally wrong?

7 A JUROR: Yes.

8 THE COURT: Would your views of a witness's
9 credibility, that is, whether the witness is telling the
10 truth, or a defendant's guilt be in any way affected by that
11 person's sexual orientation? That is, if the witness were
12 shown to be a homosexual or the defendant was shown to be a
13 homosexual, would you tend to think that the witness probably
14 isn't telling the truth and the defendant probably is guilty?

15 THE WITNESS: I don't think he's guilty if I don't
16 have enough evidence.

17 THE COURT: Is there any reason that we haven't
18 specifically talked about why you feel that you cannot serve
19 at a juror in this case?

20 A JUROR: I think I can serve in this case. The
21 thing is what would bother me is this case is taking three
22 weeks, every day?

23 THE COURT: Every day, except November 17, 18 and
24 19.

25 A JUROR: It would affect on my work, but hopefully

1 my boss will understand. Right now the situation is very
2 tight. We just have only three people. If I was out for
3 three weeks, I think they have a hard time what they
4 schedule.

5 THE COURT: All right.

6 A JUROR: For myself, I don't think there's any.

7 THE COURT: Why don't you take a seat in the jury box
8 for the moment, please?

9 A JUROR: Thank you.

10 MR. SEGAL: I ask he be excused for cause, your
11 Honor.

12 THE COURT: I think so.

13 I was reluctant to do it on my own in the middle of
14 it all.

15 Excuse him and find somebody else.

16 THE CLERK: No. 8. Raymond Woo.

17 THE COURT: Good morning. How are you?

18 A JUROR: Good morning.

19 THE COURT: Mr. Woo, you had told us earlier that you
20 have some relationship to law enforcement.

21 A JUROR: Yes, my nephew works for the Customs
22 Service.

23 THE COURT: In Boston?

24 A JUROR: In Boston.

25 THE COURT: Would that relationship make it any way

1 difficult for you to sit in a criminal case?

2 A JUROR: No. It would not.

3 THE COURT: Had you heard anything about this case?

4 A JUROR: Yes. Stories in the paper, the TV,
5 originally.

6 THE COURT: What do you recall of what you heard?

7 A JUROR: The fact that it was police were involved
8 and there was a bomb that was left at the father's home under
9 a car.

10 THE COURT: When did you hear all that?

11 A JUROR: Whenever it happened. I don't remember
12 when the case happened, whenever it happened, some time ago.

13 THE COURT: Have you heard anything recently about
14 this case?

15 A JUROR: No.

16 THE COURT: Will you be able to put aside what you
17 had previously heard from the newspapers or television and
18 decide the case entirely on what will be presented to you in
19 the courtroom.

20 A JUROR: I believe so.

21 THE COURT: Does our schedule cause you any serious
22 inconvenience?

23 A JUROR: I don't think so.

24 THE COURT: If a defendant in a criminal case is
25 accused of unlawful conduct that results in the death of a

1 A JUROR: No.

2 THE COURT: Is there any reason that we haven't
3 specifically talked about why you feel you cannot serve as a
4 juror in this case?

5 THE WITNESS: I don't think so. None whatsoever.

6 THE COURT: Mr. Segal, any questions?

7 MR. SEGAL: Just would you ask Mr. Woo what he does
8 as a contract manager for D and M Tech, please?

9 A JUROR: Involves dealing with a customer, whether
10 it be the government or commercial customer, negotiating
11 contracts, discussing terms and conditions.

12 MR. SEGAL: Thank you.

13 THE COURT: Mr. Kelly, any questions?

14 MR. KELLY: No, your Honor.

15 THE COURT: Thank you, Mr. Woo. Would you mind
16 having a seat in the jury box for moment, please?

17 You go first, Mr. Segal.

18 (Pause.)

19 MR. SEGAL: Satisfied.

20 THE COURT: No challenge?

21 MR. KELLY: No challenge.

22 We are reasonable.

23 (In open court.)

24 THE COURT: Mr. Woo, you are part of this jury.

25 The rest of you are all excused, I thank you for

1 yesterday and today for all of your service on behalf of the
2 of this Court.

3 Thank you.

4 [Conference at the bench, as follows:

5 THE COURT: A member of the press has a problem, he's
6 right handed, he was playing basketball, and he asks leave to
7 be able to record.

8 MR. KELLY: No objection.

9 MR. SEGAL: No objection.

10 MR. RANALLI: Thank you.

11 THE COURT: Let's take ten minutes.

12 The Government will take how long?

13 MR. KELLY: Last time we took 25 minutes, your
14 Honor. I expect to be about the same, 25 to 30.

15 MR. SEGAL: Are you going to open now?

16 MR. SEGAL: 30, 35.

17 THE COURT: Let's take ten minutes and bring the jury
18 down and start.

19 [Recess.]

20
21 **CERTIFICATE**

22 I certify that the foregoing is a correct
23 transcription of my computer-aided stenographic notes of the
24 proceedings in the above-entitled matter.

25 _____
James E. McLaughlin