

Q Will you answer my question? A They told me to say what they told me, and I said what I saw plus what they told me, otherwise they threatened to send me away.

Q Did they tell you to say that you did not see the man who shot Rizzo -- I want you to answer that question yes or no?

A They kept on telling me to say exactly what they told me to say. It seems to me they never mentioned anything about that particular point.

Q Exactly -- now, why did you say that in court? A I did not see the man who shot Rizzo, but I think I said that the same man that shot the police shot Rizzo.

Q Did you say this in court before Judge Malone, "It was me that volunteered and telephoned" -- did you say that -- referring to the detectives?

THE INTERPRETER: Referring to the detectives coming to the House of Detention to see him?

MR. WASSERVOGEL: Yes.

THE WITNESS: I said that because they kept on asking me and repeating to me to say that.

Q What do you mean by "they"? A Police officers.

Q You mean to say now they told you to say that you telephoned for the police officers to come? A I don't even remember whether I ever telephoned to them or not. I cannot really think for the moment whether this is so or not. I can't remember if they told me to telephone or not.

BY THE COURT:

Q Do you remember whether you testified that you volunteered

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ed? A I can't remember everything.

Q Do you remember that? A I can't remember that.

BY MR. WASSERVOGEL:

Q How long after you were released from the House of Detention did you see Johnny Shilitano? A I don't remember exactly, fifteen, eighteen or twenty days later. I could not tell you.

Q Upon the trial of this case, you knew that Oreste Shilitano, your friend, was represented by a lawyer, did you not?

A How could I know this thing? I was in the House of Detention.

Q You were also in court and you were examined first by myself and then by the lawyer representing the defendant Shilitano?

A First you questioned me, that I remember, and then another man and then the Judge put questions to me, but I don't know who the other man was.

Q Did you complain to Judge Malone or to me or to the lawyer representing the defendant that any police officer had forced you to say anything but the truth in this case? A No.

Q You say the police officers forced you to say that Shilitano was the one who did the shooting, how did they force you to say that? A Well, they compelled me by threats -- they threatened that they would send me away for a long term in jail.

Q You had done no wrong, had you? A Well, I never had seen jail in my life. I did not know how to read and write, and I heard stories of the police officers being able to railroad people to jail at will, and that was what scared me.

Q Do you mean to say you don't know how to read and write?

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A In Italian, yes.

Q You read and write Italian very well, don't you? A Not too well.

Q You signed the affidavits in this case personally? A Yes.

Q You knew that you had committed no crime, did you not?
A Well, not knowing how to read the language of this country and being constantly threatened, I did what they asked me.

Q Look at me and do not look at your fingers -- you knew you had committed no crime, is not that so? A I did know that, yes.

Q Why should these men then send you away for twenty years?
A Because I did not say what they wanted me to say at the beginning.

Q Did you complain to any one at all that police officers wanted to send you away for twenty years unless you said what they asked you to say? A Yes.

Q To whom? A First to my mother and then to my wife.

Q Your mother was not in the House of Detention, was she?
A No, she called to see me.

Q Your wife was not in the House of Detention? A She also called to see me.

Q And your wife knew where the Shilitanos lived? A No, she did not know.

Q You knew where they lived, didn't you? A Neither did I. I knew now where they lived but at that time I did not.

Q You had a number of talks with Mr. Murphy and you had

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several talks with me -- did you ever at any time complain to Mr. Murphy or to me, that the police officers had threatened to send you away for twenty years? A No I did not, because when I saw you I had made up my mind to follow their instructions, because they said to me they would assist me in getting out of where I was.

Q You were questioned through an Italian interpreter when you testified in court on this trial? A Yes.

Q Did you complain to that interpreter that you were forced to say something against your will upon a threat of being sent away to prison? A Well, that was no time for me to complain. I had already started doing it and I finished it up, because they told me they would assist me in getting out of the House of Detention.

Q So at that time you say you were afraid of the police? A Well, I was not afraid at the very moment, but I was afraid they would do something to me and send me away to jail.

Q What caused you to change your mind about the police? A Because my conscience forced me to do it. As a good christian I repented and I want to do right before I die.

Q How old are you? A Twenty-six.

Q How soon after the trial did you make up your mind that you should repent? A When I heard that he had been sentenced to die in the electric chair.

Q And you made an affidavit at the office of the New York World, or signed a statement there rather, is that correct? A Yes

Q You knew what the charge was against your friend Oreste

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Shilitano? A I don't know what you mean.

Q You knew he was charged with murder, didn't you? A No, I did not know.

Q You mean to say now that you did not know that Oreste Shilitano was charged with the murder of three men, two of them police officers? A No.

Q You mean to say now under oath that at the time when you testified before Judge Malone that you did not know that Oreste Shilitano was charged with the murder of two police officers and John Rizzo? A I did not know anything of the proceedings, I simply went there and repeated what the police officers told me.

Q Why then do you suppose that the police officers wanted you to say that it was Oreste that shot these men? A How do I know?

Q What did you think at the time you gave your testimony in this court that Shilitano was charged with? A I really could not tell you. I know there were some proceedings against him and that I was called to testify in that proceeding, but I could not tell you the nature of it.

Q You know what the punishment for murder in the first degree in this State is, don't you? A No.

Q You have heard of the expression the chair, haven't you? A Yes, I heard about the chair, chair, chair, all the time.

Q And you mentioned that word "the chair" in the affidavit or statement that you signed in the office of the World? A I do not remember about that.

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Q Did you say this in the statement signed by you and sworn to by you in the office of Mr. Littleton, "When I testified I did not have any idea what it meant for Oreste Shilitano, and only when I came out of the House of Detention I learned first they were going to send him to the chair"?

MR. WYLIE: Won't you change that question and say in the office of the New York World, because the only reason we had the affidavit re-verified down there was in accordance with the opinion of Judge Cardozo in the Court of Appeals.

MR. WASSERVOGEL: Was this Notary Public connected with your office at the time it was sworn to? If so, my question is correct.

MR. WYLIE: Yes.

MR. WASSERVOGEL: Then my question is correct.

THE WITNESS: That is the truth, after I came out I heard it.

BY MR. WASSERVOGEL:

Q So if Shilitano had been sent away for five or six years your conscience would not have troubled you at all, is that correct? A Well, I might have woke up to the situation even if it was five or six years, but I got a shock when I heard it was the chair.

Q At the time that you gave your testimony, did you believe that Shilitano would be sent away for five or six years? A No, I did not think they would send him away because I did not know anything about it.

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Q What did you think that the nature of the charge was which was pending against him at the time you gave your testimony? A I did not know what the nature of the charge was, I did not know anything about it.

Q What did you think that the nature of the charge against your friend Shilitano was at the time you spoke to the police officers, DeMartini and Degilio? A I was thinking of nothing. I simply did and said what they said to me.

Q You knew at that time that Shilitano was in jail awaiting trial? A Certainly I knew that he was locked up at the time because I had seen it in the papers.

Q You had also seen him in the Tombs yourself, hadn't you?
A Yes.

Q So you knew that outside of reading it in the papers?
A Before I saw him I read it in the paper, and I saw him in the Tombs after I had read the account of his arrest.

Q And when you were in the Tombs and called upon to identify Oreste Shilitano, you were asked to pick out the man who had done the shooting, were you not? A Yes.

Q So that at that time you knew that Shilitano was charged with this shooting, didn't you? A I saw that in the paper.

BY THE COURT:

Q What paper? A The Italian paper.

Q What paper? A I don't remember which one of the three.

BY MR. WASSERVOGEL:

Q And what did you see in the paper? A I read and I was told

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that Shilitano had been arrested.

Q Charged with the shooting of these three men? A I did not see that much. I simply saw Shilitano was arrested.

Q And you read the papers frequently while you were in the House of Detention? A Every day.

Q You read about this shooting frequently, didn't you, in the Italian papers? A Only when the case began.

Q When the case was commenced, is that what you mean? A Yes.

Q So that at that time you knew what the charge was against him, your friend Shilitano? A What did you expect me to know?

Q You knew he had been charged or was charged with the shooting of three men, there is no doubt about that, is there?
A I did not know that.

Q Do you know it now, A From what others told me now I know it.

Q When did others tell you for the first time what the charge against your friend was? A How could I tell you. It is three years now, I can't remember.

Q About how long ago was it -- was it three years ago that your friends told you that Shilitano was charged with this shooting, A I really don't remember whether it was in the House of Detention or outside that some one told me.

Q But it was before the trial? A I don't remember.

Q You were in the House of Detention before the trial, were you not? A Yes.

Q And you were talking about the case there? A I only once

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conversed with some one about the case.

Q You were talking about the case with the detectives?

A They were talking to me but I did not talk to them much.

Q You were talking about the case with Johnny Shilitano, were you not? A No.

Q Weren't you talking with Johnny Shilitano in a saloon where you signed an affidavit? A Before I was put in the House of Detention, yes.

Q And you knew Johnny Shilitano was a brother of your friend Oreste Shilitano? A What do you mean by calling him a friend. I, have no friends.

Q (The question is repeated) A I am telling you and repeating to you again that I have no friends.

Q You knew that Johnny Shilitano was a brother of Oreste Shilitano, that you did know? A So he called himself. One's name was Shilitano and the other's name was Shilitano and he styled himself as the brother of Oreste. I could not tell you if they were brothers or cousins.

Q You knew both these men, didn't you? A Sure I knew them.

Q You knew Johnny Shilitano very well? A I did not know John well before that.

Q When Johnny Shilitano came to you with a lawyer named Aranow, you knew who he was, did you not? A The lawyer told me that he was the brother of Oreste.

An adjournment is now taken until to-morrow afternoon, September 24th, at 2:15 P.M.

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New York, September 24th, 1915,

Hearing continued.

G E N N A R O S E L L I T T O resumes the stand:

CROSS-EXAMINATION CONTINUED BY MR. WASSERVOGEL:

Q You told us yesterday afternoon that your reason for changing your testimony as given on the trial, was because you repented, do you remember that? A Yes.

Q Do you remember that after you went to the office of the World, you saw me in the rooms of the Bar Association, West 44th street? A Yes, sir.

Q And there was a stenographer present there? A Yes, sir.

Q There was an Italian interpreter there, Mr. Fontana? A Yes

Q Were you asked this question and did you give this answer

"Q When did you first find that they were going to send him to the chair? A Seven or eight days after that." -- Was that question put and the answer given by you? A Yes.

Q Were you then asked this question "And then were you sorry", and did you give this answer "Why should I repent for it"?
A I said that it did not displease me, but I did not know what I was talking when I said that. I simply answered -- I remember well what I answered -- "Did it displease me to hear that he got the electric chair" and I answered "No."

Q So that it did not displease you that he was sentenced to the electric chair? A No.

Q You believed he was properly sent to the electric chair

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at that time, did you? A No I did not, but I did not know anything about the proceedings.

Q You were asked this question, were you not, "Q Were you sorry when you heard that he was going to be sentenced to the chair" and did you answer "No"? A Yes, sir, I did.

Q When for the first time after the trial did you see Johnny Shilitano? A About eight days after the trial I came out of the House of Detention but I do not know whether it was ten or fifteen or twenty days or later that I saw Shilitano.

Q Did you meet him on the street or did he come to your home? A In the street.

Q Did you have an appointment to meet him? A No.

Q Do you know whereabouts it was that you met him? A On Mulberry Street.

Q Did you have a talk with him then about the case? A I stopped him and spoke to him.

Q Did you talk to him about the case? A Yes.

Q What did you say about the case at that time? A Well I told him that it grieved me to have to do what I did, but I was coerced by the police to do it.

Q That was about two weeks after the trial, is that correct? A Yes, sir, when I met him.

Q Were you at that time taken to the office of a lawyer to make a statement? A No.

Q As matter of fact you made no statement at all until you made your statement at the office of the New York World, is that correct? A Yes.

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Q How often did you see John Shilitano after the first time that you met him? A Once/after.

Q How long after? A I don't remember -- only when he took me to the lawyer's office -- I want to correct my statement. I met him the second time after I had gone up to 44th street, at the Bar Association.

Q You saw Johnny before, you went to the office of the World didn't you? A That is correct. The first time I met him was when I saw him a few days after the trial. The second time I met him was when I went to the office of the World, that same day.

Q Who was with him at that time? A No one.

Q Was Johnny Verno there? A I did not see him.

Q Did you talk with Shilitano at that time? A Yes.

Q What did he say to you? A He said to me "Come on and let us go up to the newspaper office, because the newspaper man wants to talk to you."

Q Did you have an appointment to meet him that day? A No.
coming

Q Did you know he was ~~going~~ up to your house? A No.

Q Did he call for you at your home? A No.

Q Who was it that took you to Mr. Littleton's office? A He did.

Q Who acted as interpreter for you at Mr. Littleton's office? A I don't know who he is. He was an Italian though.

Q Have you seen Johnny Shilitano since you were at the Bar Association's rooms? A Only when he took me to the office of the lawyer.

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Q When was that? A I don't remember the date.

Q Did you talk with him about the case then? A No, he only said to me "Go down there, the lawyer wants to talk to you."

Q You have seen Johnny Shilitano in here every day, haven't you, in the court building rather? A Yes.

Q Have you spoken to him about the case? A No.

Q Has he spoken to you about the case? A No.

Q And since the day that you were taken to Mr. Littleton's office, when you signed the affidavit on this motion, you have not spoken to Johnny Shilitano about the case, is that right? A No.

MR. WYLIE: If Your Honor please, may it appear on the record that Johnny Shilitano or no one of the Shilitano family have been in the room since the proceeding started.

THE COURT: Yes.

MR. WASSERVOGEL: That is correct.

BY MR. WYLIE:

Q The affidavit you made at the office of the New York World was it the same as the affidavit you made at the office of Martin W. Littleton? A Yes.

Q How long had you known Rinze at the time of his death? A Since I came to New York, about five or six years -- five or six years previous to the date of his demise.

Q Did I understand you to say yesterday that the police officers told you to say that you saw what you saw of the shooting plus the fact that Oreste was the man who did it? A Yes, sir, they told me that.

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Q Why didn't you tell the police that certain police officers had threatened you and were forcing you to tell this untruth? A Well, I did not know all these particular intricate points. I simply said the truth laid in the statement that I gave before the Grand Jury.

Q Why didn't you tell the police you had been threatened?

A What police?

Q Why didn't you tell Mr. Wasservogel or Mr. Murphy that police officers were making you tell an untruth? A Well, because I was threatened at the outset, and because later they told me to say what they suggested to me to say, and that Murphy would help me along.

Q Did I understand you correctly yesterday to say that the only ones who acted as interpreters for you, up to the time of the trial, were police officers? A That is correct.

Q When did Mr. Fontana first interpret for you? A Before the Grand Jury.

MR. WASSERVOGEL: Fontana is not a police officer.

BY MR. WYLIE:

Q Fontana is not a police officer? A I do not know.

Q Did the police officers tell you that they would let your wife come to the House of Detention if you told what they told you to say? A Yes, sir.

Q Did they allow her to come? A Yes.

Q How long since you had seen her before that? A Eighty or ninety or one hundred days, something thereabouts.

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Q When you saw her in the House of Detention, you were allowed to see her alone in a room, were you not? A Yes.

Q How long were you alone with her in this room? A Half an hour or three-quarters of an hour and an hour at a time.

RE-CROSS EXAMINATION BY MR. WASSERVOGEL:

Q You say then it was because the police officers allowed you to be in a room with your wife that you were willing to swear away the life of Oreste Shilitano? A That is one of the reasons-- for that and for other reasons -- one other reason is the fact that they got me drunk.

Q You were not drunk when you were in court on the trial? A No, I was not drunk. They only permitted me to have one glass of beer but no breakfast.

Q You still say that at the time the police officers asked you to testify that Oreste Shilitano did the shooting, that you did not know what the charge was pending against Oreste Shilitano? A Sure.

Q You say this in spite of the fact that you testified yesterday afternoon that when the officers first came to you they told you they were investigating the murder of the three men in Mulberry Street? A I know that they told me "Make that statement and don't worry about it."

Q Will you answer the question? A Well, they did not make any broad statement like that. They said to me "Come along, we have the other one, you have to come too."

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Q You knew the matter they were investigating at that time, didn't you? A Well, what they were looking for was to get a statement from me that I saw the defendant Shilitane fire the shots.

Q Will you answer the question, please? (The question is repeated)? A Well, they told me that he had killed the policemen

FRANK CHIEFFO, called and sworn, testified as follows
(Residence 242 Mott Street)

DIRECT EXAMINATION BY MR. WYLIE:

Q Where have you just been? A Upstairs.

Q Whereabouts? A In the homicide office.

Q Who with? A With Detective Joseph Degilio.

Q Who? A Detective Degilio.

Q Who else? A That is all.

Q Were you here yesterday also? A Yes, sir.

Q Where were you then? A Upstairs outside of Mr. Wasservogel's office.

Q Who was with you then? A Nobody.

Q Did you see Degilio yesterday? A No.

Q Or Gambardella? A No.

Q Did you see any Italian detectives? A No.

Q Were you here the day before that? A No, I was here Tuesday.

Q Where were you then? A Up to Mr. Wasservogel and he told me that he did not need me, and so I went back home again.

Q Did you talk with Mr. Wasservogel each of the three times

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you have been here? A Yes, sir.

Q What did you talk about? A Just asked him if I had to come in Part I or upstairs to his office, and he said "Wait upstairs until they call you and they will send you downstairs."

Q He said that every day? A Yes.

Q Where do you work now? A I don't work at anything now.

Q What are you doing for a living? A Whatever I can get now. I lost my job at the time I had my picture in the paper.

Q When was that? A Last March and the only job I can get now is odd jobs. I go any place and it is only they would hear my name and they would say they would send for me and I never hear any reply to that.

Q That was when you had your picture in the New York World?
A Yes.

Q You testified on the trial of Oreste Shilitano? A Yes.

Q As a witness for the State? A Yes.

Q Did you know what he was charged with? A Yes.

Q What was he charged with? A For murder.

Q Do you remember the date of the first visit you ever made to the District Attorney's office? A Yes.

Q When was it? A Around election time, the year of 1913.

Q In November? A Yes, sir, around November.

Q Who took you there? A Detective Gambardella.

Q Where did he find you? A Home.

Q Any one with him? A Nobody with him.

Q Who did you see when you got to the District Attorney's

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office? A Mr. Wasservogel.

Q What did he say to you? A He asked me to tell the truth about, if I know anything about the case.

Q Did you tell him the truth? A I told him I did not know anything.

Q That was not the truth, was it? A No, sir.

Q You did know something about the case at that time? A Yes.

Q How many times did you go to the District Attorney's office in all? A Before the trial I went down twice. That was once when I went to see Mr. Wasservogel, and the day I was committed to the House of Detention, that was February 3rd, 1914.

Q You told Mr. Wasservogel the first time you were there that you were not at the place of the shooting at all? A No, sir.

Q I say you told Mr. Wasservogel the first time you went to see him that you were not at the place of the shooting at all? A I did, yes.

Q What did you tell him? A I told him that I was at the clubhouse where I belonged, the James E. Brandie Association.

Q What else? A That was all.

Q Didn't he ask you anything more about that club? A No, sir did not ask me anything about the club.

Q Didn't he ask you what you were doing at the club? A He asked me just -- I just go up there and sit down and talk with the boys.

Q Is that what you told him? A Yes.

Q How long did you tell him that you were there? A I told

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him I was there from 8 o'clock until about half past eleven or 12 o'clock.

Q Then where did you go from there? A Home.

Q What did he say to that story? A He just asked me, he says "Mrs. Rizzo says that she seen you there at half past eleven" I said "No, she did not see me."

Q Seen you where? A In the saloon, 233 Mulberry Street.

Q Your mother was with you? A Yes, sir.

Q At that time? A Yes.

Q When you saw Mr. Wasservogel? A Yes, sir.

Q She heard what you said? A Yes, sir.

Q Did she say anything? A No, she did not tell him anything

Q Didn't she say "Tell Mr. Wasservogel that was right, you were at the clubhouse"? A She wanted me to keep out of the case. She did not want me to have nothing to do with it.

Q Didn't she say that to Mr. Wasservogel? A No, she just told me that.

Q Your wife has wanted you to keep out of the case right along? A Yes.

Q She was angry at you because you went to the office of the New York World? A Yes.

Q She was very angry with you when you lost your position, was she not? A Yes, sir.

Q What did she talk to you that night when you came home from the office of the New York World? A Nothing, she was in bed already the night I got home.

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Q She talked to you the first thing in the morning? A In the morning she did not know anything about it, until the following night when I came home from work.

Q What did she tell you to do then? A To tell the truth and nothing but the truth.

Q Didn't she tell you to go around and see the District Attorney? A No, she didn't tell me nothing. She said in case anything comes up, tell the truth.

Q She did not tell you to go around and see the District Attorney? A No.

Q She did not suggest that you go around? A No.

Q She did not suggest to you that you had better stand in with the police? A No.

Q Sure of that? A Yes.

Q Didn't she say the District Attorney would help you get back your position? A No.

Q Did you sign a statement the first time you were in Mr. Wasservogel's office when you said you were at the office of the Brandie Association? A No.

Q When was the next time you came down to the District Attorney's office? A February 3rd, 1914.

Q Who brought you then? A Detective DeMartini.

Q Degilio with him? A No, sir.

Q Have you seen Degilio or any other detective since that time? A No, sir.

Q I will change that question -- have you seen Degilio or

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any of the detectives since your first visit to the District Attorney's office? A No, sir.

Q DeMartini just came down and got you? A Yes, sir.

Q When you got down to Mr. Murphy's office how long did he talk with you? A I went down there at 10 o'clock and talked to me quite awhile.

Q What is quite awhile? A About two hours or so -- told me to tell the truth. I did not want to have anything to do with the case, knowing if I mingled in a case like that, might be trouble for me after and I did not want to mingle in it.

Q What did DeMartini say to you on the way down? A Did not say anything, just told me to tell the truth.

Q Didn't he say why you were wanted at the office of the District Attorney? A Yes, sir, he told me when he came up to the house the night before.

Q What did he say? A He said to me "You are wanted down at the District Attorney's office for a witness on the Shilitano case."

Q Did you see your mother the night before? A Yes, sir, I saw her. Everybody was home.

Q These detectives called at times when you were out and spoke to your mother also. A The second time I was to the District Attorney's office, Degilio and DeMartini, and I was home at the time. When I got home my mother gave me the subpoena to come down to the District Attorney's office in the morning, and I

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went down to Mr. Murphy's office and I found DeMartini and Mr. Murphy.

Q Then they put you in the House of Detention? A Yes, sir.

Q That was on February 3rd? A February 3rd.

Q How long were you there? A Thirty-two days until March 6.

Q You were with Sellitto and Morrelli? A Sellitto was there before me, and then afterwards Verno came and then Morrelli.

Q You had the freedom of the House of Detention, you could talk to each other? A Yes, sir.

Q You played cards together? A Yes, sir.

Q And talked freely about things? A Yes, sir.

Q Did you drink any while you were there? A No, sir.

Q You said on the trial the one forbidden subject of conversation while you were in the House of Detention was this case, is that so? A We never spoke about it.

Q That was the one thing you did not talk about? A That was the one thing, yes.

Q Do you know Bonano? A Frank Bonano?

Q Yes? A No, sir.

Q How do you know his name was Frank? A I heard of him.

Q Who told you about him? A I heard people in the neighborhood speak about him.

Q What? A People in the neighborhood.

Q You have heard a lot about these Italian detectives around your neighborhood? A Yes, sir, heard a whole lot of them.

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Q Did your mother know Frank Bonano? A No.

Q Do you know Fogarty? A Yes, sir.

Q Where did you see him? A I saw him at the time of the trial. Used to take me from the House of Detention to the Court House every morning.

Q What did he say to you on the way down? A He just spoke about different things, to tell the truth, and he said "Don't have to be afraid of nothing."

Q Do you know Frederick Apfel? A Yes, sir.

Q Who is he? A He belongs in the 12th precinct, had the post where I lived.

Q Did you ever talk with him about the case? A He used to tell me different things about -- just say the truth. He said it was a shame for three men to be killed, and he said especially two policemen, that was all we talked about.

Q You say he has the post where you live? A Used to have it.

Q When did he use to have it? A A long time ago.

Q 1913? A No, long before that.

Q Where did you live then? A I lived in Mulberry Street, 238

Q Frederick Apfel at one time had a post in Mulberry Street?

A Yes, sir.

Q You are sure of that, A Yes, sir.

Q Did you see Frederick Apfel in the House of Detention? A Yes

Q He was the uniformed attendant there? A Yes, sir.

Q Did he come there after you came or was he there when you

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came? A He was there before I came.

Q He could speak Italian? A No.

Q Sure of that? A Positive.

Q Do you remember making an affidavit for Mr. Wasservogel?

A Yes, sir.

Q Signing it in his office? A Yes, sir.

Q Do you remember saying this in that affidavit, "Several months after the trial I met Johnny Shilitano in Lafayette Street and he said to me "That was a fine thing you did with my brother" and I said to him "Johnny I can't help it, I am not going to get into trouble for anybody, the law wants me to do this and I have got to do it." Do you remember saying that in your affidavit?

A Yes, sir.

Q Do you remember going to Mr. Wasservogel's office in this building? A Yes, sir.

Q After you had made the affidavit at the office of the World? A Yes, sir.

Q Who was present, do you remember? A Mr. Hitchcock.

Q He is a reporter on the New York World? A Yes, sir.

Q Anybody else? A Nobody else.

Q And a stenographer to take down what you said? A That was all.

Q How long had you known John Rizzo at the time he died?

A About six or seven years.

Q Do you remember this question being asked you in the House

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of Detention "How long do you know him? A Between eight and ten, somewhere around there, six or seven." A Nobody asked me in the House of Detention.

Q I mean in Mr. Wasservogel's office? A No.

Q Don't you remember his asking you that question how long you had known Rizzo? A He asked me how long I knew him and I said six or seven.

Q Didn't you say eight or ten? A No.

Q Cannot you fix the time -- how long did you know him -- think it over? A About six or seven years.

Q You had known Oreste Shilitano about that same length of time? A No, longer, about thirteen years. I lived in the same house with him.

Q When did you live in the same house with Oreste? A A long time ago, may be 1900 or 1903.

Q The night of the shooting you had been drinking? A Yes, sir, a few glasses of beer.

Q What do you mean by "A few glasses of beer"? A Two or three glasses.

Q Anything else? A No, sir, that was all.

Q Are you sure that you did not have more than two or three glasses of beer? A Yes.

Q Do you remember being asked this question by Mr. Wasservogel, "What did you drink during the night? A Beer only" -- and this question "How many drinks would you say you had? A About

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eight or ten, that is all"? A About two or three.

Q You did not say eight or ten? A No, sir.

Q You remember being asked about that on the trial, don't you, by Mr. Koenig? A Yes, sir, I was asked by Mr. Koenig.

Q Do you remember what you said in answer to his question? A I said the same thing, two or three.

Q Do you remember these questions being put to you and you giving these answers while you were in Mr. Wasservogel's room, "Did Johnny Shilitano speak to you after the shooting? A No, not after the shooting. Q Did he speak to you before you came down to the District Attorney's office" --

THE WITNESS: No.

Q You don't remember that question? A No, I don't remember it.

Q Wait until you hear the answer, "Q Did he speak to you before you came down to the District Attorney's office" and you answered "Yes, he says to me to try to help him out." Do you remember making that answer to that question? A Why, yes.

Q Then the next question, "How long before you came down to the District Attorney's office the first time did he speak to you? A The first time? Q Yes. A I don't remember, a few days I guess." Do you remember that? A Yes, something about that.

Q Do you remember this question, "Did you tell him that you were subpoenaed to the District Attorney's office? A Yes. Q How did you tell him? A I met him on the way. Q On what way? A I met

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him around -- I don't remember where I met him. I must have met him the night before I was coming down here. Q What did you say to him? A I said I did not want to have anything to do with the case. Q What did he say? A Well, he said, that is right, don't have anything to do with any trouble at all. I said that is what I want to do, I don't want to mix in any trouble, I don't want no trouble at all. Q But you came down to the District Attorney's office/after you had been here did you have any other talk with Johnny the same day, A No. Q Did you the next day? A No. Q Did he ever ask you what you had done in the District Attorney's office? A No, he never asked me" -- you remember those questions and answers? A Yes, sir.

Q "Q Did you talk to Johnny Shilitano before you went to the House of Detention? A No. Q ~~After~~ you testified as a witness upon the trial before Judge Malone, you went back to your home, didn't you? A Yes. Q You went back to your work? A Yes. Q How long after that did you meet Johnny Shilitano for the first time? A About four months. Q Where did you meet him then? A On Lafayette Street. Q Did you talk with him? A Yes. Q What did he say and what did you say? A He said to me that was a fine thing you do with my brother. I said Johnny, I can't help it, I am not going to get into trouble for anybody, the law wants me to do this and I have got to do it. Q What did he say? A Well, he said, try to help me out. We are going to try to get an appeal and I would like to have you help me and I said I will do what I

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can, but what is in is in. I can't do anything more for you."

Do you remember that? A Yes, that is right.

Q "Q When did you next see him (meaning Johnny Shilitano) to talk to him? A When I met him with you (pointing to Mr. Hitchcock) and he gave me the hello." -- Do you remember that question and answer? A Yes.

Q Then Mr. Hitchcock said "Tuesday night" and you answered "Yes, Tuesday night." Do you remember that? A Yes.

Q And then Mr. Wasservogel, "Q How long before you went down to the office of the New York World did you see Johnny Shilitano? A I met him in the morning, Thursday morning" -- do you remember that? A Yes.

Q "Q What did he say? A He said to me then I want you to come down to the World and make a statement. Q Did he say what statement you were to make? A He said to me -- he says to say that what I said on the stand was false. Q What did you say? A I told him I don't think I will be down to-night. Q What did he say then? A So then I went into my place and my mother must have seen him. She followed me right up and she met me in ~~frang~~ front of the place and so then she stood there for him and he did not say anything else. Q Did you see him again that day? A In the evening, yes. Q Where did you see him then? A In the evening I took my lady friend home and I left her about quarter to ten and I was walking up New Bowery and heard people shouting for me Chieffo, Chieffo, but I made out I did not hear him, but kept

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right on the go. When I got to the corner of Chambers Street and New Bowery he came over and he said to me what is the matter, can't you hear. He said why don't you come down to make that statement. I said what do you mean John, what do you want me to do, to put me into trouble, don't you know what trouble I would be in to save your brother. Well, he said, don't worry, the World will stand back of you, he said, you go up there and tell the truth and the World will stand by you." Do you remember that? A Yes.

Q You remember saying that? A Yes.

Q And you remember that is so? A Yes, sir.

Q And you went down with him then, didn't you? A Yes, sir.

Q Do you remember after you had made the statement to Mr. Wasservogel in his rooms that you met Johnny Shilitano in front of 285 Mott Street? A Yes, sir.

Q And there were several other people about? A Only one more.

Q Weren't there? A One more, that was John Verno.

Q Do you remember the questions he asked you then? A I remember a few, yes.

Q What did he ask you? A He asked me to go down to the World and make another statement again.

Q What did you say? A I said no.

Q What else did he ask you? A He said to me "How would you like if any of my friends would meet you in a dark hallway and put a knife in your back."

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Q Are you sure he said that to you? A Yes, sir.

Q What else did he say? A He said "I am going to Italy and my friends will take my case over after I go away."

Q What else did he say? A That is all, then he said to me "Try and go down to the World and try to make another statement." I said I would not do it.

Q Didn't he ask you in the presence of Verne whether he had ever threatened you and didn't you say no? A Never did.

Q Didn't he ask you whether ~~you~~ he had ever threatened to punch you in the nose and you said no? A Never asked me anything.

Q Never asked you any questions like that? A No.

Q What other times has Johnny ever threatened you? A The night when I met him in Lafayette Street.

Q What did he say to you on Lafayette Street? A He said to me that all the witnesses that are going against his brother are going to die.

Q He said that to you? A Yes, sir.

Q Who was with him when he said that? A Those two other friends of his.

Q What were their names, do you know? A Frank Motto and Nigger Motto -- his right name is Mike Motto.

Q What else did he say then? A He said that he had friends and if I told them to go up any place he will put a cannon that big up to them.

Q What else did he say? A That was all.

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Q Did he ever threaten you any other time? A No, that was the only two times.

Q The time you have just described as having taken place in Lafayette Street before you went to the office of the New York World? A Yes.

Q And the other time you have described? A Was --

Q After you had made your statement to Mr. Wasservogel?

A After they refused a new trial by His Honor, Judge Malone.

Q How did you know it was after that? A I know it because I read the paper that day, either that day or the day before, and Johnny Verno was out-of-town at the time and he came back just as the trial was refused, and as I was going home at 5 o'clock I met Verno. I was stopping talking, and while we were talking there Johnny Shields came down the street and Verno told me, he said "Go on and beat it away" and I said "No, I am going to stand here". When Johnny Shields came to me he said to Johnny Verno "Take a walk, I want to talk to your friend alone" and that was the time he threatened me.

Q Can you think of any other time you were threatened by him? A Only two times -- only what I heard every place I went, I used to hear people say that any witnesses in that case will be in Dutch after.

Q Did you ever see Johnny before the trial? A Not before I went to the House of Detention.

Q Do you mean that? A Before the House of Detention, yes.

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Q You mean to say you saw him before you went in the House of Detention? A Yes.

Q Did he ever talk to you about the shooting? A He told me he said to keep out of it.

Q He told you to keep out of it? A Yes.

Q That was the interview you described to Mr. Wasservogel that I read to you a few minutes ago? A Yes, sir.

CROSS-EXAMINATION BY MR. WASSERVOGEL:

Q How old are you? A Twenty-five.

Q You said something about your picture having been in the paper, you mean when you went to the office of the World and made a statement there that the photographs of all the witnesses were put in the paper, is that right? A Yes.

Q It was since that time you ~~had~~ have been out of work? A Yes

Q Up to that time you had been steadily employed? A Yes.

Q In one place? A No, sir, then working for the C. F. Hall Company for eight years, and then I got this position right after the trial. I had a position with better money and so I went over with them.

Q Where were you employed at the time you went to the World office to make a statement? A In the Eagle Building.

Q By whom? A By Sontag & Ball.

Q After your photograph appeared in the paper you were discharged? A Yes, sir, the day after.

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Q On thenight of the 3rd of May you were in Mulberry Street?

A Yes, sir.

Q Did you see Johnny Rizzo? A Yes, sir.

Q Where did you see him? A In the saloon.

Q Which saloon? A 233 Mulberry Street.

Q Did you see him at various times that evening? A I was with him about three hours.

Q What were you doing in the saloon? A Playing.

Q Playing what? A An Italian game.

Q What game? A Playing with the fingers.

Q Did you see Oresto Shilitano that night? A Yes.

Q What time did you first see him? A Just at the time -- as soon as I saw Rizzo fall to the fall I saw Oresto Shilitano running.

Q You mean fall to the ground? A Fall to the ground.

Q In the street? A On the sidewalk.

Q In Mulberry street? A Yes.

Q About what time was this? A Half past eleven.

Q This was after you left the saloon? A Yes.

Q At that time where were you going? A I was going on my way home.

Q You lived where? A 242 Mott Street.

Q You heard a pistol shot? A Yes.

Q And at that time you were going in the direction of away from the saloon? A On the other side of the street.

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Q You were on the other side of Mulberry Street? A Yes.

Q When you heard this pistol shot you say you turned around?

A Yes.

Q And the first thing that you saw was what? A Johnny Rizzo fall to the ground.

Q How far away was Oresto Shilitano from Rizzo at that moment? A About four or five feet.

Q What did you see Shilitano do? A Running towards Prince Street.

Q What was the next thing you saw? A I saw a crowd of people gather in front of 243 Mulberry Street and Policeman Heeney run towards there.

Q Had you ever seen Policeman Heeney before that? A Yes.

Q Did you see Policeman Heeney go towards Oresto Shilitano?

A Yes.

Q And what happened? A I heard another pistol shot and Heeney came out running from the crowd and had his hand to his mouth staggering along the street, and then he fell.

Q How far was Oresto Shilitano from Officer Heeney at that moment? A About three or four feet.

Q Did you hear a pistol shot just before you saw the officer put his hand to his face? A Yes.

Q Did you see Officer Heeney before the shooting? A Yes.

Q Where did you see him? A He was trying the doors of the stores.

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Q That was immediately before the shooting? A Yes.

Q What was the next thing you saw? A I saw Heeney trying the doors and he was running towards --

Q I mean after the shooting? A After the shooting?

Q Of Heeney? A I saw him fall to the floor.

Q What did you do? A I kept on going.

BY THE COURT:

Q You mean the floor or sidewalk? A The sidewalk, the ground.

Q This was out on the public street? A Yes, sir.

Q What street? A Mulberry Street.

BY MR. WASSERVOGEL:

Q You continued on your way home? A Yes, sir.

Q You did not see the shooting of the other police officer?

A No.

Q Have you ever been convicted of any crime? A No, sir.

Q What was it that Johnny Shilitano said about putting a knife into your back, give me his exact words again? A He said to me "How would you like, if my brother goes to the chair and some of my friends will meet you in a dark hall some night and put a knife in your back."

RE-DIRECT EXAMINATION BY MR. WYLIE:

Q Have you told me everything Johnny Shilitano said to you that night on Lafayette Street? A Yes.

Q You are positive? A No, sir, not all.

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Q What else? A He asked me if I would stand perjury.

Q What did you say to that? A I figured it was late at night, to get him away from me I said yes.

Q Was that the time when he talked about the big guns and things like that, to you? A Yes, sir.

Q You remeber being questioned by Mr. Wasservogel about that meeting with Johnny in Lafayette Street, don't you? A Yes.

Q Did you tell him anything about the big gun then? A No.

Q Or about sticking a knife in your back? A At the time of sticking the knife in my back I was not down to Mr. Wasservogel's office at all, but I notified Mr. Deacon Murphy.

Q Did you tell him anything about the big gun in Lafayette Street, when you were in Mr. Wasservogel's office? A No, sir.

Q Did you tell him about any other threats that he had made to you in Lafayette Street? A I told him he wanted to threaten me. That was all.

Q You understand the nature of ~~an~~ the oath you take when you get on the stand? A Yes, sir.

Q Did you understand the nature of that oath when you testified on the trial? A Yes.

Q Did you understand that you were to tell the truth? A Yes.

Q Do you know what perjury means? A Yes, sir.

Q You committed perjury when you signed that affidavit in the office of the World, didn't you? A In a way I did, yes, but I figured, I said, it is late at night and I don't know where I

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am at, he is meeting me here in a dark place, he may do me some harm, and I figured -- I will go down and make it if you want to, and the following day I saw Mr. Hitchcock and I told him what I had said on the stand was true, and I said "I want a little advice from you" and he asked me, he said "Well, all we want to do, I don't favor the police and I don't favor Shilitano, all I want is the truth," and so I said "That is the truth what I said on the stand."

Q Then you went with him to the office of Mr. Wasservogel?

A Yes, sir, I had him make an appointment for me with Mr. Wasservogel, and I went down to see him the following day.

BY THE COURT:

Q Did you see Mr. Hitchcock on your first trip to the office of the newspaper? A Yes, sir, I met him up in the office.

Q You met him there, and did you talk to him there? A Yes.

Q And made this affidavit before him? A Yes, sir.

Q He was there? A Yes, sir.

Q And did you go the next day to see him? A Yes, sir.

Q And you said you wanted some advice from him? A Yes.

Q That what you said the day before was not true, but what you said upon the trial was true? A Yes, sir.

Q Do you know Sellitto? A Yes, sir.

Q Did you know him before the death of Rizzo? A No, sir.

Q And Officer Heeney? A No, sir.

BY MR. WYLIE:

Q Did you understand you were committing perjury when you

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signed this affidavit in the office of the World? A Well yes, I figured it was perjury.

Q Who was present when you signed that affidavit? A John Verno.

Q Was he in the room with you when you signed the affidavit in the office of the New York World? A Yes, sir.

Q You are sure of that? A Yes, sir.

Q Who was present when you were questioned? A Well, for awhile there was John Verno and John Shilitano?

Q In the same room with you when you were being questioned? A Yes.

Q Are you sure of that? A Yes, sir, and then Mr. Hitchcock said to me "Have you got any objection to have John in" and so then John got up himself and walked out of the room.

BY THE COURT:

Q You mean Johnny Shilitano? A Yes, sir.

BY MR. WYLIE:

Q Did John Verno ever threaten you about anything? A No, sir.

Q Did they ask you many questions while you were alone in the room with them, without Johnny Shilitano being present? A A few.

Q Didn't they have you in there about half or three-quarters of an hour with no one else near you at all? A About half an hour but they were not working with me all the time.

Q What? A They were not questioning me all the time.

Q You were talking with them the rest of the time? A No, I

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was all alone there. Mr. Hitchcock went out, was busy -- to get something.

Q Did not Mr. Hitchcock ask you many questions down there?

A Just asked me about what I said on the stand, if it was true or if it was not, and that was all he asked me.

Q He asked you the questions which went to make up the contents of that affidavit which you signed there? A Yes, sir.

Q And you answered him? A Yes, sir.

Q And Johnny Shilitano was not in the room then? A No.

Q You were asked questions by Mr. Swope, the editor? A No.

Q Were you asked any questions by Mr. Robbins? A No, sir.

Q Was not Mr. Robbins present when you made your affidavit?

A I don't remember who Robbins is.

Q How many people were in the room? A There were three of them working on the case as far as I know.

Q They gave you plenty of opportunity to say anything you wanted to there? A Yes, sir.

BY THE COURT:

Q Where was Shilitano? A He was in the other room.

Q And Verno also? A Verno also, yes.

BY MR. WYLIE:

Q Were you down to the office of the World more than once?

A Well yes, after that they promised me a position.

Q Did they give it to you? A No.

Q Did they write your affidavit out and you sign it the

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same night you made your statement to them down there? A Yes.

Q Did not Mr. Hitchcock and others ask you that night whether you were being forced to change your testimony, and did ^{no one} not you answer "No, that was forcing you at all? A Yes, sir.

Q Didn't they ask you that at several different times that night? A No, only once they asked me.

Q Only asked you once? A Yes.

Q Do you remember what you told them and what is in your affidavit as to the route you said you followed from the club when you went home that night? A Yes.

Q What did you say? A Came down 14th into Second Avenue.

Q Then where? A Then through Stuyvesant Street.

Q Then where? A Then through the Bowery.

Q And then where? A Houston Street and then into Mott, home.

Q You remember you told them that that night? A Yes.

Q Do you remember what time you told them it was when you reached home? A I don't remember, I guess it must have been -- I guess I told them about 12 o'clock.

Q That was what you -- do you remember what you told them, as to whether you went to bed right away or whether you stayed up? A I don't remember that.

Q Do you remember what you told them as to how you learned and when you learned that the murder had taken place? A I think I told them that I learned it on the next day.

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Q And that who told you? A Found it out in Mulberry Street saying that Rizzo was shot.

Q Did you discuss the murder with anybody before Gambardella came to get you? A Mrs. Rizzo.

Q Any one else? A That was all.

Q Did not even tell the members of your own family? A No.

Q You said that in your affidavit in the World office, you remember? A No, I did not tell them that I spoke to Mrs. Rizzo about it.

Q But you remember you told them the rest? A Yes.

Q Do you remember saying in your affidavit who came to get you at your home and take you to the District Attorney's office? A Yes, sir.

Q Who did you say? A The first time Gambardella and the second time DeMartini.

Q Do you remember what you said in your affidavit as to what Mr. Wasservogel said to you the first time you saw him in his office? A No, sir, I don't remember.

Q Don't you remember that you said Mr. Wasservogel said "I don't want you to perjure yourself" and do you remember what else you told him as to what you answered to that? A No, sir, I did not say he asked me that.

Q And you answered "I was not perjuring myself" -- don't you remember saying that in the affidavit? A I don't remember that.

Q What did you say in that affidavit about meeting Johnny

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Shilitano after coming to the District Attorney's office on February 3rd? A Just told him that I met him and he said to keep out of the case.

Q When DeMartini came to you did he say anything about Rizzo's mother having said that you saw the shooting? A Yes.

Q What did you answer to him? A I told him first no.

Q Did he say something about taking you down to Headquarters and beating you up? A He told me not to perjure myself.

Q Didn't he say something to you about taking you down to Headquarters and beating you up? A In a way he said that to me.

Q What did he say? A He said "We will take you to Headquarters if you don't tell us the truth."

Q What else did he say? A That was all.

Q Go on, there is some more? A That was all.

Q Did they take you around to Rizzo's mother in handcuffs?

A No, sir.

Q Did Degilio and Gambardella come to see you when you were in the House of Detention? A Gambardella never came to see me.

Q Did Degilio? A No.

Q You never saw Degilio while you were in the House of Detention? A No.

BY MR. WASSERVOGEL:

Q What time was it that you were at the office of the World that day, do you remember, about what time? A At the time I made the affidavit?

Q Yes? A It was after ten.

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Q At night? A Yes, sir .

Q And Johnny Shilitano and John verno were in the next room to the room where you were making the affidavit? A Yes, sir.

Q Did they wait for you until you came out? A Yes.

Q And they accompanied you to your home? A They came as far as the door.

Q As far as your home? A Yes.

BY THE COURT:

Q What hour of the next day did you go back to the newspaper office? A Friday evening, the same day the paper came out.

Q That is the following day after you had been there? A Yes.

Q What time of the day? A Must have been between eight and nine in the evening.

Q Had you seen Shilitano or Verno or any one else on that day? A No, sir.

Q What caused you to go back to the office of the newspaper?

A I knew I was doing wrong by making the false statement.

BY MR. WYLIE:

Q Didn't you meet Mr. Hitchcock on the street? A No, I met him in the office.

BY THE COURT:

Q Did you go down with Verno and Shilitano? A Yes.

Q Had you talked with Verno about the matter before you went to the World office? A No, sir.

Q Did not discuss it between you? A No.

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Q Had you ever talked with the father of Shilitano? A No, I never did.

Q You knew him? A Yes, I knew him.

Q You lived in the same house with him? A Yes.

Q For how long? A We lived there about two years.

Q Was that his house, was he the owner of the house? A He had got a lease of it.

Q You paid rent to him, your family? A Yes.

BY MR. WYLIE:

Q How long have you known Mrs. Rizzo? A Mrs. Rizzo, about the same as I know the son.

Q She and your mother are pretty good friends, are they not? A No, they only made friends since this case -- started to know one another.

Q When did you tell her you had seen the shooting? A The following Decoration Day after the murder, I had gone to the cemetery to visit my sister's grave and I met her there.

ISABELLA GOODWIN, called and sworn, testified as follows:

BY MR. WASSERVOGEL:

(Residence 136 Montague Street, Brooklyn)

Q You are attached to the Police Department of this city?

A Yes, sir.

Q In what capacity? A Acting Detective Sergeant, first grade.

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Q How long have you been connected with the Police Department? A Over nineteen years.

Q How long have you been of this grade you speak of, Acting Detective Sergeant? A About three years and a half.

Q Prior to that time what were you? A A police matron.

Q Do you know Nellie DeCarlo? A Yes.

Q About when did you first meet her? A Two years ago last May.

Q She lived in your home for a year? A For nine months.

Q You are a widow? A I am.

Q Living with whom? A With my daughter at the present time

Q Your daughter's name is what? A Margaret Goodwin.

Q She is a girl about how old? A She is 23 years old.

Q She is twenty-three now? A She is.

Q Nellie DeCarlo lived in your home with you and your daughter for about how long? A About nine months.

Q That was before the trial of this case against Oreste Shilitano? A Yes.

Q After the trial she went back to her home, to her people?
A Yes.

Q During the time Nellie was in your home, did you talk with her about the case against Shilitano at any time? A Yes, I did.

Q What was the talk about generally?

MR. WYLLIE: Will Your Honor place on the record now what the scope is that we are allowed in asking this witness ques-

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tions. Is she just on the stand to corroborate the statements of Nellie DeCarlo made on the original trial, and to discredit certain things she has said here, or is she allowed to give hearsay answers.

THE COURT: I take it my function is to investigate the truth with reference to the testimony and the retraction of the testimony, and anything that is going to aid and assist in the search for the truth, I am going to permit either one of you gentlemen to go into.

MR. WYLIE: We are heartily in accord with that. I just wanted to know before we started.

THE COURT: That applies to any witness who may be called here.

THE WITNESS: The first night she was with me she screamed in the middle of the night and she awakened me and I asked her what was the matter and she said that the thought of that murder made her very nervous. She imagined she was still looking at it.

BY THE COURT:

Q She said that to you, did she? A Yes, and next day she said she would like to talk with me about it, and I said all right. So she told me how she had been looking out of the window and she saw this man, Paper Box Kid, she called him, shoot this officer and some of the details of it, and I said to her "Nellie, this is a very, very serious thing." I said "There is a

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young man's life at stake" and I said "You want to be very very careful about telling the truth." I said "Be careful what you say, because it means so much -- it might be your brother or my brother or my son" and I said "It is a terribly serious thing." She said "I know" and on lots of other occasions she spoke about it to me, and I always tried to impress her with how very very serious it was, and that she should tell the truth. I took her to a church every Sunday morning. She went to confession I think about once every month -- she may have missed one month while she was with me, and she told me on the first occasion that she had talked to the priest and he had told her to tell the truth. She said the only thing was that her brother-in-law would not have anything more to do with her, and she said that if she ever went back she was liable to be hurt -- she knew something would happen to her. She said she was afraid if she went back in that neighborhood that they might kill her for telling the truth. I said "Don't you worry about that, God is good and he will take care of you, all you want to do is to tell the truth", and I kept impressing that upon her mind all the time. I tried to influence her in every way to be very truthful. I was very guarded in what I did myself. I tried to be a good example to her, and during that period I tried to watch myself more zealously than I had even done with my own daughter, so that she could never say at any time that I had ever done or said anything that would be a reflection on either her or myself.

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BY MR. WASSERVOGEL:

Q Did this girl ever say to you that she had not seen the shooting? A No, but she did say one time, when she was angry, that if they did not look out she would say that.

BY THE COURT:

Q What was the cause of the anger on that occasion? A Oh, little things that she -- I don't like to say anything -- it was only a little bit of a child.

Q What was it? A Well now, just little things. She cut her eyelashes one time, and another time she took a flower and she wet it and put some red on her face and she would powder her face thickly.

Q You reproved her for that? A I scolded her for that because I did not want her to do that, and when she came to me first she was in the habit of flirting, but I did not hold that against her because I thought the girl did not know any better. She was very illiterate and I tried to teach her to read and spell, and I want to say this, that the girl tried to be very good while she was with me. I like to give her all the credit -- she tried to improve herself, tried to become more truthful, and tried to please me, and I think she was really fond of me, and she tried very hard in spite of herself, to do what she could.

BY MR. WYLIE:

Q You say she tried to become more truthful, had she been an inveterate little liar? A She did tell lies.

Q A good many of them? A Yes, she did, but on this one

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point of the murder, she swore to me she was telling the truth, and when I took her to confession --

Q When you took her to confession what? A To the priest, she told me that the priest told her, -- she had confessed everything to the priest and he told her that she must tell the truth.

Q You said at one time when she was angry she said "If they don't look out she would say she had not seen the shooting", who do you mean by "they"? A Let me see just exactly what that was on that occasion -- we were down in Mr. Wasservogel's office one day and he was asking her a whole lot of questions and she seemed to be a little bit stupid that day, and I don't know if you remember it or not, Mr. Wasservogel, but, when we got outside she was annoyed. ~~that~~ Mr. Wasservogel told her -- he said "You are a big girl and you ought to be able to put your mind down to what I say and pay attention", and she was wandering, she did not put her mind on what Mr. Wasservogel was asking her, and when she got outside she was quite annoyed that day and she said "If they don't look out they will be sorry." "I did not like the way Mr. Wasservogel was to-day, saying those things to me at all." I said "Now, Nellie, Mr. Wasservogel only wanted you to use your brains and your common sense. He wanted you to think when he asked you anything and not to be looking all around the room and not paying any attention."

Q You would say on the whole that she was not a girl that could be trusted very far? A I would not say that, sir.

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Q You would not? A Do you mean about being honest or dishonest or anything?

Q No, I mean as to truthfulness, that is the point? A She was not truthful, but I think that after I had her a short time she had become truthful because she did such things as this: One day she broke a jar of jelly and I said "Who broke that" and she said "I don't know." I said "Nellie, I want to tell you something, if you ever break anything and you come to me and say" -- she always used to call me Honey -- and say "Honey, I did so and so, I will never scold you for it, but I will scold you for telling a lie", and every time she confessed that she had broken it, and every time I used to catch her in a lie, I would say to her "Nellie, you are lying, you are not telling the truth", and I would look at her and then she would confess to me that she had told what was not so, but when she was with me two months I noticed a very marked improvement, and at the end of the time she was an entirely changed girl in every way, became more ladylike and improved in every way.

Q You mean every time you caught her in a lie she confessed to it? A Every time I caught her in a lie I let her know that I caught her in a lie.

Q And then she confessed it? A I made her admit it, and after awhile I noticed that it was quite -- she became quite truthful, but I did not entirely cure her of the habit.

Q Have you seen her lately? A No, I have not.

Q Is your daughter outside? A She is.

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MARGARET T. GOODWIN called and sworn, testified as follows:

(Residence 136 Montague Street, Brooklyn).

BY MR. WASSERVOGEL:

Q You are a daughter of the last witness? A Yes.

Q You know Nellie DeCarlo? A Yes.

Q She lived in your home for some time, did she not? A Yes.

Q Where did you live at that time? A First 35 Charles Street, New York.

Q And after that? A 136 Montague Street.

Q Brooklyn? A Yes.

Q Altogether she was in your home how long? A A period of nine months.

Q Did you ever hear her talk about the Shilitano case to your mother? A Yes.

Q Frequently? A Yes.

Q What would the talk be about, do you recall in a general way? A Well, about how Mr. Shilitano was supposed to have killed this man.

Q Do not be frightened, go right on; in a general way what were they talking about? A My memory is not very -- I have rather forgotten it, Mr. Wasservogel.

Q Did either you or your mother ever suggest that the girl tell a certain story in court? A We simply told her to adhere to the truth.

Q Did you ever go to church with her? A Yes.

Q What church did you go? A To a Catholic church.

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Q What church was that? A I don't know the name of the church.

Q Where was it? A It was out in Brooklyn on Sidney Place.

Q You went to church frequently with her, A I did not.

Q But your mother did? A Yes.

(No cross-examination).

JOSEPH DIGILIO called and sworn as a witness, testified as follows:

DIRECT EXAMINATION BY MR. WASSERVOGEL:

Q You are attached to the Police Force of this city? A Yes.

Q How long have you been a police officer? A A little over twenty-one years now.

Q At the present time what position do you hold in the Department? A Acting Detective Sergeant.

Q Attached to the Detective Bureau? A Detective Bureau, homicide squad.

Q You have been connected with the Detective Bureau for about how long? A A little over ten years.

Q Shortly after the shooting of John Rizzo and Officers Heeney and Teare, were you assigned to this case? A Yes.

Q Against Shilitano? A Yes.

Q Do you know the girl Nellie DeCarlo? A I do now, yes.

Q When did you first meet her? A On May 5th about 8 P.M.

Q What year? A 1913.

Q Where did you see her then? A In front of a grocery store

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at 243 Mulberry Street.

Q Who was with you, if any one? A Detective Leo Gambardella.

Q When you first saw this girl where was she with respect to the grocer's? A She was outside of the grocery store near the window, the store window.

Q Did Gambardella or you talk with the girl then? A Gambardella remained outside of the store and talked to her and I entered the store to talk to the proprietor, Vitacca, who runs the grocery store, relative to the shooting on that previous Saturday night.

Q You came out of the store in a few minutes? A No, Leo Gambardella called me and he said "Joe, this little girl knows something about that." I said "All right, bring her in here and we will see what she knows."

Q What did he say? A He did bring her in there and I said "Now little girl, tell us what you know," and then she went on and she said "I live upstairs on the second floor of 243 Mulberry Street, in the front. I was looking out of my window before the shooting and at the time of the shooting, and I noticed old man Shilitano standing with the son, Oresto Shilitano, known as Paper Box Kid, in front of the door right under the window. Shortly afterwards John Rizzo came out of the cafe and he walked up Mulberry Street, and at this time Oresto Shilitano stepped out and shot John Rizzo down. He fell on the ground and two men took him away in some hallway near the cafe.

Q Did she say she saw the father hand something to the son?

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A Yes, she did.

Q What did she say about that? A She said she noticed old man Shilitano hand a revolver to the son, Oresto Shilitano, known as the Paper Box, and he concealed it up his sleeve.

Q What did she say about the shooting of Officer Heeney, if anything? A . Officer Heeney -- she said "A policeman came across the street running with his stick around the right hand and he made a strike for Oresto Shilitano, and at this time a couple of women jumped in, and Oresto shot the policeman and he dropped on the street at that time. He then started to run up Mulberry Street," she said, "and I shut down the window and I got so frightened I went to bed and I did not see anything else."

The hearing is now adjourned until next Monday
afternoon, September 27th, 1915, at 2:15.

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New York, September 27th, 1915

Hearing resumed.

FRANK CHIEFFO resumed the stand:

BY MR. WYLIE:

Q You remember when you were questioned by Mr. Hitchcock and Mr. Wasservogel after you made the affidavit in the office of the New York World? A Yes.

Q Do you remember Mr. Hitchcock asked you this question, "On this night when you met Johnny on the street, you told me he had two men with him? A Yes, but they did not say a word to me"-- then Mr. Wasservogel asked you, "Did they hear what Johnny was saying to you", and you said "No" -- you remember that? A Yes, sir.

Q That is true, is it not? A Yes, sir.

Q When you were taken by the officers to see Rizzo's mother your mother was present, was she not? A Yes, sir.

Q Didn't you say in response, when you were asked whether you had seen the shooting or not, "How could I have seen it when I was two blocks away"? A No, sir.

Q And didn't your mother say "Of course Frank does not know anything about the shooting or he would have told me about it before this"? A I don't remember it.

Q You remember Mr. Wasservogel asked you this question and you made this reply, "Did Johnny ever say that something might be done to you if his brother went to the chair, or something like that? A No, sir. Q What was your real reason then for going

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down to the World's office and making this statement? A Well, the real reason was I was afraid they might have threatened me. Q They might have what? A They might have threatened me or killed me or something." Do you remember being asked those questions and making those answers? A I don't remember what I answered.

Q Do you remember its being asked by Mr. Hitchcock in relation to your going down to the office of the World --

THE COURT: What is the date of this?

MR. WYLIE: March 13th, 1915.

THE COURT: Is that the following day?

MR. WYLIE: The affidavits, as I remember, were made on March 8th or 9th.

BY MR. WYLIE:

Q Do you remember being asked by Mr. Hitchcock in relation to your going down to the office of the World, "Whether Johnny on that occasion had threatened you" and you answered "No, he did not"? A Mr. Hitchcock never asked me that.

Q Do you remember Mr. Hitchcock asking you this question, "I understood you to say that he said something like that? A No, he did not say that, he never threatened me; the only threaten I got was up in the house"? A I never gave him that answer. Mr. Hitchcock never asked me that.

Q You are sure of that? A Yes, sir, positive.

Q Do you remember being questioned by Mr. Wasservogel about you DeMartini, and he asked you this question, "Did he ever force to

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say anything which was not true", and you answered "Well, DeMartini hollered at me a little, but I guess he did not mean nothing by it. He said, why don't you tell the truth" -- do you remember that? A Yes.

Q And do you remember this question, "Did Johnny Verno, while you were in the House of Detention, ever tell you 'They are forcing me to testify against Oreste Shilitano and I don't want to do it'" and did you answer, "Well, when he told me, he said 'I don't want to be a witness and they are holding me here by force'". Do you remember that question and answer? A I remember that, but never gave that answer. I didn't have no talk with Verno at all in the House of Detention when he first came in.

Q You deny making that answer to Mr. Wasservogel's question?

A Yes, sir.

BY MR. WASSERVOGEL:

Q Did Johnny Verno ever say to you that he had been forced to lie against Shilitano? A No, sir.

Q Either before or after the trial did he say that? A No, never did.

JAMES MORELLI, called and sworn, testified as follows
(Residence 351 Bowery)

DIRECT EXAMINATION BY MR. WYLIE:

Q Are you employed now? A Yes.

Q Where? A Driving the United States mail.

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Q Where did you live at the time of this shooting on May 3d, 1913? A The same address.

Q Did you testify on the trial of The State against Oreste Shilitano? A Yes.

Q As a witness for the State? A As a witness --

Q The District Attorney called you to the stand, you remember? A Yes.

Q Did you make an affidavit in the office of the New York World on March 8th, 1915? A Yes.

Q Is that the affidavit (showing paper)?

MR. WASSERVOGEL: Just look at the signature.

THE WITNESS: Yes.

BY MR. WYLIE:

Q What you said on the trial concerning the shooting on that night and what you said in that affidavit which you made at the office of the New York World on March 8th, 1915, and what you said at Mr. Wasservogel's office to him shortly after that, was substantially the same story, was it not? A Yes, sir.

Q It did not differ in any material details at all, if you remember? A Just a little.

Q What officer did you see first after the shooting on the night of May 3rd, 1913? A What do you mean, in the same block?

Q Were you arrested by some one? A Yes.

Q Who was that? A I think his name is -

QCassetti? A Yes, that is right.

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Q Where did he take you? A Police Headquarters.

Q Did they ask you about the shooting there? A Just a few questions.

Q Who did the questioning there, do you remember? A I don't know.

Q Were there several people present? A Yes, sir, there was quite a few.

Q What did you tell them in regard to the shooting? A Did not know who done it.

Q Did you tell them you had seen the shooting? A No.

Q You told them you had not seen the shooting? A Yes.

Q Had not been there at all, that was what you told them?

A I was not there.

Q You were not at the scene of the shooting, you did not see the shooting, you say? A No, sir.

Q Did not see any part of the shooting? A No, sir.

Q Who served you with the subpoena later on to go to the District Attorney's office? A I don't know exactly, I think it was -- I don't remember his name now.

Q Was it Gambardella, Leo? A He did once, but I don't remember when.

Q Any way some detective served you with a subpoena to go to the District Attorney's office? A Yes, sir.

Q Who did you see there then, do you remember? A Mr. Murphy, I believe.

Q Mr. Murphy or Mr. Wasservogel? A I was told to see Mr.

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Murphy after I went home, and then I saw Mr. Wasservogel.

Q Did Mr. Wasservogel ask you about the shooting? A Yes.

Q What did you tell him? A I told him I did not see it.

Q Did he ask you how you knew it was that Shilitano did the shooting, and did you say that you did not know who did the shooting? A Yes, sir, that is what I said.

Q Then what did he say to you? A He told me, he said "You know you did -- you know you know who done it."

Q He called you a damned liar, didn't he? A Something like that.

Q Do you remember the day you were taken to the House of Detention, the day of the month? A I think it was February 13th.

Q Between the time you had seen Mr. Wasservogel and the time you went to the House of Detention you saw a detective several times? A Yes, sir.

Q Do you remember who they were? A DeMartini; Digilio; Leo--

Q Leo Gambardella? A Yes, sir, Leo Gambardella.

Q Bonnana? A I don't quite remember that.

Q Fogarty? A I seen him but couldn't tell you if it was before or after.

Q And did they talk to you on each occasion about the shooting? A Yes, sir.

Q On February 13th did you see Mr. Murphy? A Yes.

Q Did you sign a statement for Mr. Murphy on that occasion? A I believe I did, I can't quite remember.

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Q At any rate you did sign a statement for Mr. Murphy on some occasion, did you not? A I don't remember if I did.

Q Do you remember signing any statement? A Yes I did.

Q Do you remember whether this is the statement you signed, I will read it to you, dated November 14th, 1913, "I was in the saloon at 233 Mulberry Street on night of 3rd of May, 1913, between 9 and 12 P.M. I heard one shot fired. I went outside to see what the trouble was, but made no inquiries of any one. I saw a large crowd around. I did not know that Rizzo and two police officers had been shot until the next day when I read the newspapers. I knew John Rizzo about three years and Oresto Shilitano about five years. I did not see Oresto Shilitano that night. John Rizzo had been in the saloon about 10 o'clock for a few minutes. I did not see him talk with any one. That is all I know about this matter. Dated November 14th, 1913, and signed James Morelli, 351 Bowery" -- is that the statement that you signed. A Yes, sir.

Q Do you remember the first time they took you out of the House of Detention after you had been there? A I cannot really remember the first time.

Q Was not the first place they took you to see Rizzo's mother? A Yes, sir.

Q Did they take you in handcuffs? A Yes, sir.

Q Who was with you? A DeMartini.

Q Is that all? A Yes.

Q Who was present when you interviewed Rizzo's mother?

A Mrs. Rizzo -- I think her daughter-in-law.

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Q Tell us what was said on that occasion, A She claims I told her that Shilitano done the shooting, and I told her I did not tell her because I did not see. She insisted upon it I did, which I did not.

Q What did DeMartini say? A After I told him, DeMartini would not believe me, so I said "I don't want to stay here any longer, take me out of here", which he did.

Q He took you back to the House of Detention? A Yes.

Q Did DeMartini call upon you many times in the House of Detention? A No, just about a couple of times.

Q Were you questioned in the House of Detention about the shooting at all? A Yes.

Q What did you tell them? A I told them I did not know who done the shooting.

Q Who asked you in the House of Detention? A Fogarty, DeMartini and Mr. Murphy, I believe. I think there were some other men-somebody else, but I don't remember.

Q Frederick Apfel? A I don't know his name.

Q Was that statement you signed for Murphy or Mr. Wasservogel I just read you, was that true? A Which one?

Q The one I just read to you a few minutes ago? A Not all.

Q When did you get out of the House of Detention? A I don't remember the date.

Q It was after the trial? A Yes.

Q When was the first time you saw Johnny Shilitano after the shooting? A After the shooting?

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Q Yes? A It was the night down in the World's office.

Q The night you made the affidavit in the World's office?

A Yes.

Q How long had you known John Rizzo at the time of the shooting? A About four years.

Q He was a strike breaker, wasn't he? A That I don't know.

Q Did you not know him well? A Just to talk to him, hello, and that is about all.

Q Who asked you to make an affidavit in the office of the New York World? A John Verno made the suggestion to me, he said "Did you hear about it"? I said "What?" He said "They are making affidavits down in the World, tell what you know" -- so, I went down that night or rather the night after.

Q Were you asked many questions down there? A Yes.

Q A great many? A Not so many.

Q How long did they keep you there? A They kept me about half an hour questioning me, I believe.

Q Did you go back the next day and sign the affidavit? A No, the same night.

Q That night? A Yes.

Q Had John Shilitano or any friend of Oreste Shilitano, or any relative, ever threatened you? A No, sir.

Q Or asked you to change your testimony in any way? A No, sir.

Q After you gave this affidavit in the World's office, how did it come you went to see Mr. Wasservogel? A Mr. Hitchcock told me.

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Q He asked you to go and see him? A Yes.

Q Mr. Hitchcock is a reporter for the World? A Yes, sir.

Q The night you were at the World's office you did not talk to Johnny Shilitano at all about the case, did you? A No, not about the case.

CROSS-EXAMINATION BY MR. WASSERVOGEL:

Q At the time of the trial of this case you testified that you were a chauffeur, was that testimony true? A Yes, sir.

Q You still live at the same address, 351 Bowery? A Yes, sir.

Q You lived there at the time of the trial? A Yes.

Q At the time of the trial you testified that you had known Oreste Shilitano for about five years -- that testimony was true? A Yes, sir.

Q You also testified that you knew John Rizzo, did you not? A Yes.

Q And that testimony was true? A Yes, sir.

Q You said that you were in the neighborhood of 235 Mulberry Street on the night of the shooting, the 3rd of May, 1913, is that correct? A Yes, sir.

Q That testimony was true, was it not? A Yes, sir.

Q That you were in the poolroom No. 235 Mulberry Street, is that correct? A That night?

Q Did you also testify that you were in the cafe near the poolroom that night? A Yes, sir.

Q At number what? A 233.

Q That was correct and true? A Yes.

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Q Did you say that you had seen the defendant in the cafe or in the poolroom? A I don't quite remember.

Q Were you asked this question, "Where was it that you saw the defendant that night" and did you give this answer "In the cafe, in the poolroom"? A I don't quite remember.

Q Did you see him in either the cafe or the poolroom that night? A Yes.

Q Which was it, the cafe or the poolroom? A I saw him somewhere, but I don't remember.

Q Either the cafe or the poolroom? A Yes.

Q And you were asked "At what time did you see him" and you said "About half past eleven" -- was that correct -- that night?
A About that time.

Q About half past eleven on the night of the 3rd of May, the night of the shooting? A Yes, sir.

Q You testified that you had seen John Rizzo in the saloon, that is the cafe, is that correct? A Yes.

Q Was that true? A Yes, sir.

Q And that cafe was right next to the poolroom? A Yes, sir.

Q You were asked "Did you see Oresto Shilitano on the street after that" and you answered "Yes" -- that was true, was it not? A Yes, sir.

Q You were asked, "Did you see John Rizzo on the street after that" and you said "Yes" -- that was true, was it not? A Yes, sir.

Q You were asked this question, "At the time when you saw Oresto Shilitano, how far was he from John Rizzo, that is when you

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saw him on the street" and you answered "About twenty or twenty-five feet". That was true, was it not? A Yes, sir.

Q You were asked, "At that time in which direction were you facing" and you said "Towards Spring Street". That was true?

A Yes, sir.

Q Then you were asked, "Was John Rizzo in front of you or was he behind you" and you said "In front of me". Was that true?

A Yes, sir.

Q You were then asked "Did you hear anything at that particular time" and you answered "I heard a shot, a pistol shot"-- was that true? A Yes, sir.

Q You were then asked, "At that time did you see Oreste Shilitano" and you said "I don't know where he was just at that second." Is that what you said? A I just said I did not know where he was at the time of the shot.

Q Did you testify "I do not know where he was just at that second". Is that what you said? A Not that second.

Q You don't know where he was just at that moment? A I don't know where he was at the time of the pistol shot.

Q You were asked "How long before the pistol shot was fired or heard by you did you see the defendant" and you answered "About five minutes." Did you give that testimony? A Yes, sir, some time.

Q That was correct, was it not? A Yes, sir.

Q You were asked "Where was he at that time" and you said "In front of the stoop there, in front of No. 241 Mulberry Street". Did you say that? A Yes, sir.

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Q That was true, was it not? A Yes, sir.

Q "Q At that time where were you standing" and you said "On the walk, on the end of the sidewalk"? A Yes.

Q Did you say that? A Yes, sir.

Q That was true? A Yes, sir.

Q How far were you from him at that moment, when you saw him near 241 Mulberry Street and you were standing at the sidewalk, the end of the sidewalk, how far were you from him? A I don't remember.

Q About how far? A I don't remember seeing him at that time.

Q I have just read to you some questions and answers -- questions put to you and the answers which you gave, and you said the questions had been put to you and you had given these answers, and you said what you testified to was true, is not that so? A Yes.

Q You testified that Shilitano, before the shooting, a few minutes before the shooting, was standing near No. 241 Mulberry Street -- that is true? A Yes, sir.

Q And at that time you were standing near the curb of the sidewalk, that is true? A Yes, sir.

Q At the time when you were standing near the curb of the sidewalk and he was standing near 241 Mulberry Street, how much space was there between the two of you, about how much? A About fifteen feet, I guess.

Q All right, that is what I want to know -- you were right near 241 Mulberry Street at the time? A Yes, sir.

Q At the moment when John Rizzo was shot, he was near No. 239

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Mulberry Street? A Near it.

Q You were then asked "What happened in respect to Rizzo when the shot was fired" and you answered "Fell" -- that is true?

A Yes, sir.

Q You saw him fall? A Yes, sir.

Q He fell to the ground? A Yes, sir.

Q You said that you helped carry him into the hallway of building 235 Mulberry Street, that is true? A Yes, sir.

Q And shortly after the shooting police officers took you in custody as a witness in the case? A Yes, sir.

Q You were taken to Police Headquarters? A Yes, sir.

Q You were asked whether you seen the shooting? A Yes, sir.

Q You said you knew nothing about the shooting at all? A No.

Q Is not that correct? A Yes, sir.

Q That was not true, was it? A I did not see the shooting--
that was what they asked me.

Q You told the police you knew nothing about the shooting?

A I did not see the shooting and so I could not tell them.

Q Will you answer me, did you tell that to the police, that you knew nothing about the shooting? A That was what I told them that night.

Q Did you also tell the police that you did not see Oreste Shilitano that night? A Yes, sir.

Q That was not true, was it? A No, sir.

Q Why did you tell the police an untruth at that time?
A Afraid they would hold me.

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Q What? A They would hold me.

Q You wanted to get away from it and did not want to have anything to do with this case at all? A No.

Q You did not want to be a witness at that time? A No.

Q Subsequently you were brought to the District Attorney's office and you signed a statement which Mr. Wylie has read to you?
A Yes, sir.

Q And one of the things which you said at that time was this, "I did not know that Rizzo and two police officers had been shot until the next day when I read the newspapers" -- that was one of the things in that statement? A Yes, sir.

Q That was not true, was it? A No, sir.

Q And you also said "I did not see Oresto Shilitano that night" -- that was not true either, was it? A No, sir.

Q Why did you sign that statement which you now admit that partly untrue? A I thought I would not be bothered any more.

Q You did not want to be held as a witness, is not that so?
A Yes, sir.

Q So when you spoke to me you did lie, didn't you? A At times I did.

Q You certainly did lie about the shooting -- you certainly did lie to me when you said you had not seen Oresto Shilitano that night -- that was not true? A No, sir.

Q How long have you known John Verno, A About four or five years.

Q You have known him very intimately? A Well, going out together quite often.

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Q Used to pal together? A Yes.

Q You saw him quite frequently before the trial, didn't you?

A Yes.

Q And you saw him very often after the trial? A Not so very often.

Q You did see him after the trial? A Yes, sir.

Q Did John Verne ever say to you he had lied on the witness stand? A He never told me nothing.

Q Did Johnny Verne ever tell you that he had been forced to testify in this case? A No, sir, never told me nothing.

Q Nobody ever forced you to say anything, did they? A Not forced me -- threatened me.

Q You told me at the Bar Association rooms that DeMartini said "If I did not tell the truth I would be committing perjury and go to jail" -- did DeMartini say that to you? A If I did not tell the truth?

Q Yes? A Yes.

Q That was what you told me? A Yes, sir.

Q So that the testimony which you gave upon the trial is substantially the truth? A Yes, sir.

RE-DIRECT EXAMINATION BY MR. WYLIE:

Q You had not seen Oresto Shilitano for five minutes before the shooting, had you? A No, sir, I had not seen him five minutes before the shooting.

Q You have not the slightest idea where he was at the time

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the shot was fired, have you? A No.

Q You said something about being threatened, what were the threats made to you? A Threatened me if I did not tell the truth they would send me to prison.

Q What did they say to you? A Told me to tell what I knew.

Q Did they tell you how long you would go to prison? A Said from one to twenty years.

Q Who told you that? A DeMartini.

Q Where was this, in the House of Detention? A No, sir, I believe it was upstairs.

Q Upstairs in this building? A Yes, sir.

Q And in the Homicide Bureau? A No, it was in some other office.

JOSEPH DIGILIO resumes the stand:

DIRECT EXAMINATION CONTINUED BY MR. WASSERVOGEL:

Q The first time that you saw Nellie DeCarlo was on the evening of the 5th of May, 1913? A Yes.

Q That is two days after the shooting? A Yes, sir.

Q When did you next see her? A It was on the 13th of May.

Q And where did you see her then? A I was instructed to go up to her house and bring her down to Police Headquarters.

Q Did you go to her house? A Yes.

Q Was anybody with you then? A No.

Q Did you bring her to Headquarters? A I did.

Q Whom did you see when you arrived at Headquarters? A My,

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Inspector Faurot, Acting Captain McKinney and Acting Captain Tunney, Detective John O'Connell, Micelli -- they were all in the office.

Q Did the girl make a statement on that occasion? A Yes, sir.

Q That statement was signed by her? A Yes, sir.

Q That is the statement which is in evidence here? A Yes, sir.

Q Did you ever strike this girl ~~xx~~ in the grocery store? A No.

Q Slap her face? A No.

Q Pull her around? A No.

Q Did you at any time lay hands upon this girl? A Never, at no time.

Q The girl testified after she had signed the statement at Police Headquarters you took her into another room and told her to sit down in a chair, and that after she had sat down on the chair, the chair suddenly shot up to the ceiling and came down again and she fell to the ground -- did anything like that occur? A No, there ~~x~~ is no such chair up there. She was told to go in the next room while the preparation of drawing up the statement was being made ready to sign, and we took her in the next room where Captain Dunn sits, and there is no such chair there.

Q She never complained to you that she had been compelled to sit down in a chair that shot up to the ceiling and that she fell? A No, she never complained.

Q You never heard of such a thing until this hearing? A No.

BY THE COURT:

Q It is sort of a reception room? A It is the office of the

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Detective Bureau, a desk is there and in the next room is the Inspectors' room.

Q The Captain sits there? A Captain Dunn sits there and Lieutenants.

Q Some chairs there? A Yes, sir, it is like a reception room.

Q Did she go into that room, and was she directed to any particular place? A Yes, sir, they go in there and directed to go here or there.

Q Was there more than one chair there? A Yes, there was.

Q Was she asked to take any certain chair? A We told her to sit down. Did not tell her to take any certain chair.

Q Anybody else there besides yourself at that time? A I don't remember whether Captain Tunney and some men from the office were present or not at that time.

BY MR. WASSERVOGEL:

Q Did you ever see Officer Gambardella or any other person connected with the police force, strike this girl? A No, sir.

Q What became of the girl after she signed the statement?
A I was instructed to take her home.

Q Did you take her home? A Yes.

Q When did you next see her, A The following morning.

Q That was the 14th of May? A Yes.

Q What did you do with the girl then? A I was instructed to take her home that night previous, and to watch the premises.

Q What do you mean by "that night previous"? A That is on the 13th.

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Q On the 13th you received instructions? A To take her home and stay around the neighborhood and see she did not leave. The next morning I took up again about 6 o'clock and about 10 o'clock Detective Miccelli --

Q You took up where? A I stayed around the neighborhood.

Q Where did you take her to? A To her home -- told her to come home.

Q That was the 13th? A Yes.

Q You are talking about the next morning -- where did you take her the next morning? A To Headquarters.

Q How long did she remain at Headquarters? A About an hour.

Q Did she sign a statement the second day? A I don't remember if she did or not before Commissioner Dougherty.

Q Inspector Faurot was there also? A I don't remember if he was there at that time.

Q At any rate, didn't she remain at Headquarters? A She remained in Headquarters, in the Commissioner's office, for about an hour.

Q Then what did you do with her? A I was instructed to take her up before Coroner Feinberg in the afternoon.

Q And after that? A She made a statement to Coroner Feinberg that afternoon, and Coroner Feinberg said he would not commit her to the House of Detention, but he would commit her in the custody of some Matron, and told me to take her back to the Commissioner's office. I took her back to the Commissioner's office. Commissioner Dougherty then sent me to Matron or Detective

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Sergeant Isabella Goodwin, on Charles Street, and I left her there.

Q You took her there? A Yes.

Q You left her there? A I left her at Mrs. Goodwin's home.

Q Did you see Nellie DeCarlo after that? A Yes.

Q Did you ever talk with her about the facts in this case after that? A Did not go into it, no. She was complaining that she had said her little piece and now Shilitano -- she said she had said her little piece and she was afraid Shilitanos might get to the old folks.

Q And do what? A I did not ask her any more, I did not want to frighten the girl.

Q Did you ever suggest that this girl should say that she saw the shooting? A No, sir, I never did.

Q Did you ever tell her what to testify to? A No.

Q Did any police officer in your presence, ever tell the girl what to testify to? A No.

Q Did any police officer in your presence at any time ever make any threats to the girl? A No.

Q Of any kind? A No.

Q Did this girl at any time complain that she was in bed and asleep at the time of the shooting and had not seen the shooting?
A She said that afterwards, yes.

Q When? A Why, after they tried to make her insane - they were trying to get up a petition that she was insane, and then she said she was in bed.

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Q When was that, A That must have been about two weeks after the shooting.

Q Where was this? A It was down at the Coroner's office --

Q What happened there? A She made a statement there.

Q What happened about this that you tell us now? A About the affidavit -- she did not tell me that.

Q Who did? A I heard that in the neighborhood, in Mulberry Street.

Q I am asking you whether the girl at any time told you "I was in bed at the time of the shooting and did not see the shooting"? A No, she did not.

Q She never said that to you? A No, she did not. I misunderstood you.

Q You heard some Italians in the neighborhood say that?

A Yes, sir, heard some Italians in the neighborhood say that.

Q Do you know Gennaro Silletto? A Yes, sir.

Q When did you see him for the first time? A It was about, I think, midnight or a little after midnight the night of the shooting.

Q Did you talk with him then? A I talked with him a little while in the station house of the 12th precinct.

Q What talk did you have with him then? A I was trying to ascertain --

Q What talk did you have with him then? A I wanted to find out about the shooting.

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Q What did you say and what did he say? A I wanted to know whether he was there present and if he could give me a description of the man who done the shooting.

Q What did he say? A He said that about quarter past eleven on May 3rd he left his home and he went to a grand opening of a poolroom parlor, 235 Mulberry Street. He sat there at the table with three other men drinking wine. He says there were about fifty or sixty men in the place. Some of them he knew by sight but not by name. About 11:45, he says "I heard a pistol shot on the street and I ran out. I ran out and went up street, and I noticed John Rizzo lying on the sidewalk shot. Immediately after a policeman came south on Mulberry Street and he was also shot by the same party, and then a minute after another policeman came and he was also shot. After that another policeman came" and, he said, "I told him that the same man had shot Rizzo shot the two policemen, and heran into 241 Mulberry Street." Then he says more policemen came and I assisted in searching the premises, the rooms, the roof, and the yard, &c. When I came out I went down to the pool parlor again and I saw John Rizzo there.

Q You mean he saw his body? A The body -- he was not dead at the time. He then went to John Rizzo's mother, 41 Spring Street and told her of it, and after that, he says, "I was arrested and taken to the station house.

Q When did you next see this man, A I saw him about 3 o'clock on the morning of May 4th, in Inspector Faurot's office, Police Headquarters.

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Q That was the second time you saw him? A Yes.

Q Did you talk with him then, A Yes.

Q What talk did you have with him then, A I wanted to get a description of the man that done the shooting. He says the man was about twenty-two years old, five feet four inches, smooth face, about 140 pounds, wore a light suit of clothes and a black Fedora hat.

Q Did you see him after that? A Yes.

Q How long after? A I believe I saw him at the Coroner's office.

Q Were you one of the detectives that brought him back to New York from Tarrytown? A Yes, sir.

Q It was then he was committed to the House of Detention, wasn't he? A Yes, sir, he was committed first to the House of Detention.

Q But he was released on bail and then brought back from Tarrytown? A Yes, sir.

Q And he was again ~~xx~~ put in the House of Detention? A Yes.

Q Did you ever receive word from Sellitto that he wanted to see you? A Yes.

Q When was that? A That was on February 2nd, 1914.

Q How do you know that he wanted to see you? A There was a telephone message upstairs in the Homicide Bureau of the District Attorney's office that Sellitto wanted to see me.

Q How did you know the telephone message was sent, did you talk with Sellitto about that? A Why, they told me upstairs.

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Q After they told you that upstairs, what did you do, did you talk with Sellitto? A We telephoned -- I telephoned up to the House of Detention to the officer in charge and he said "Yes, come up, Sellitto wants to say something to you."

Q Did you see Sellitto? A Yes.

Q Did you ask him if he had sent for you? A Yes.

Q What did he say? A He said that he had.

Q Did you talk with him then? A Yes, sir.

Q What did you say to him and he to you? A I said "Did you want to see me?" He said "Yes." "Did you send for me?" He said "Yes". I said "What is it" and he said "I tell you, I want to tell ~~the~~ the truth", he said. He said "I have been promised \$2,000. and I have not seen anything yet". I said "Then we will go down to the District Attorney's office and you can tell the truth there"

Q Did he tell you by whom he had been promised \$2,000.?

A Yes, sir, he said John Shilitano and some lawyer went up to Tarrytown and made him sign some statement to that effect.

Q To what effect? A That he was to get \$2,000. if he did not identify or testify against Oreste Shilitano.

Q No, you say the lawyer and Johnny Shilitano had him sign a statement -- to what effect was that statement which he signed -- did he tell you that? A He said the statement -- I don't know what it was about, only that he said they promised \$2,000.

Q Did you bring him down to Mr. Murphy? A Yes.

Q Did you bring him down to Mr. Murphy at any time after that? A Yes, sir, once after.

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Q The first time was when? A February 2nd.

Q And the second time was when? A February 7th.

Q Did he send for you the second time? A He sent a message down to Mr. Murphy, and Mr. Murphy sent us up there to get him.

Q Did you talk with him on the way to the House of Detention?

A Yes.

Q What talk did you have with him then? A No talk about the case. He wanted to buy some cigar clippings -- wanted to buy a shirt and belt and wanted to walk around and at last he said he wanted an Italian dinner.

Q Did you take him into a restaurant? A Yes.

Q Did he have dinner there? A Yes.

Q Did you ever give this man any drinks? A Well, he pleaded and begged so hard that I told him he could have some.

Q That one occasion? A Yes, sir.

Q How many drinks did he have? A I really don't know, two or three glasses.

Q Of what? A Wine.

Q Italian wine? A Yes.

BY THE COURT:

Q Claret? A Claret.

BY MR. WASSERVOGEL:

Q Was that the only time that you took him into a restaurant? A Yes, sir, that was the only time I did.

Q Did you ever take him into any saloon? A Why, that same afternoon when we came out of there he wanted to see his step-

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father and we took him around to a place on Mott Street and we waited for him. He sent for him and could not find him.

Q Waited for whom? A For the step-father.

Q Did he have anything to drink there? A Not to my knowledge.

Q You would have seen him if he had taken anything? A Yes.

Q Did you ever see Sellitto drunk? A No.

Q Did you ever try to make him drunk? A I had no reason for making him drunk.

Q Yes or no? A No.

Q Did any other police officers in your presence ever try to make him drunk? A No.

Q Did you ever tell Sellitto he should make any particular statement either before Mr. Murphy or in court when testifying as a witness? A No, I never told him anything.

Q Did you ever threaten that you would have him sent to jail for twenty years or any other term unless he said Oreste Ghilitano did the shooting? A No, sir.

Q Sure about it? A Yes, I am sure.

Q Did any other police officer in your presence ever make such a threat to him? A No, not to my knowledge.

BY THE COURT:

Q Did you have anything to do with Verne? A No, sir.

CROSS-EXAMINATION BY MR. WYLIE:

Q On Friday you said when Nellie DeCarlo told you about the shooting that she said she saw the father hand the son, Oreste

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Shilitano, a revolver? A Yes, sir.

Q Is that what she told you? A She told me that.

Q Do you remember what she testified to on the stand at the trial, concerning that, A I was not at the trial.

Q You also said she told you that two women got in the way of Oresto? A Yes.

Q What more did she say about that? A She said just two women were there present when Policeman Heeney was shot. She thought one was the baker woman who lives in 241, and the other was the mother or the aunt, I don't recollect now, of Shilitano.

Q Do you remember what she testified to on the trial about that? A I do not.

Q You talked with the girl for some time before Gambardella came that day, in the grocery store? A No, he talked to her first outside of the grocery store.

Q You were left alone then with her inside? A No, I was called. Gambardella said "Joe, this little girl knows about the case." I said "All right, bring her in here and we will see what she knows", and Gambardella was present at the time we talked to her inside of the grocery store.

Q Was Gambardella with you all the time you were with her in the grocery store? A I guess he was. He was right alongside of us all the time.

Q Did you have any wine to drink in there that day? A No.

Q You did not have wine and sausage that day? A No, sir.

Q You know Vitacca well? A I do, he is from my native town-- a townsman of mine.

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Q You mean in Italy? A Yes.

Q You knew him a great many years? A Only in this country.

Q Never knew him there? A No, sir.

Q Because of the fact that you are fellow townsmen, you have a pretty friendly feeling for him? A Not any more than any other man.

Q Who came from your own town? A I would not have any more feeling because he is my own townsman.

Q Why did you mention it then? A I meant I was friendly -- as you said, that I was friendly.

Q You have known him for a long time? A About fifteen years I suppose.

Q What did you mean by the girl saying that she had said her little piece, tell us some more about that? A I don't know what she meant. I took it that, when she said that, it meant that she had made a statement or had told the police about it, that was the way I took it.

Q That when she had said Oreste Shilitano had done the shooting, she was through with the case? A I don't know that, if she was through with it or not.

Q That was a thing she had to say, her little piece, was it, that Oreste Shilitano did the shooting? A I suppose that was what she meant. I don't know what she meant, but I took it.

Q What did you hear of her about her being in bed that night, in the neighborhood, that you started to tell Mr. Wasservogel?

A There were some men talking in the vicinity of Mulberry that

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they were trying to get a petition to have the girl declared insane, that she did not know what she was saying, that she was not out of the window, but in bed.

Q Who were those men? A Her own brother-in-law was one of them.

Q You investigated the case, that matter? A Yes.

Q Did you find out anybody else that was interested in it?

A Not that I know of.

Q Did you ever see the paper? A Which paper?

Q That they were signing? A No, sir, I did not.

Q Did you ever talk to anybody who had signed the paper?

A No, sir.

Q It was just rumor that you had heard? A Yes.

Q That the little girl was in bed the night of the shooting?

A That was all.

Q And these people said she was crazy because she testified that she saw him? A Yes, sir, that was all, that was just rumor.

Q You say the first time you saw the girl on May 5th, you did not see her again until May 13th? A I may have seen her in the street but I did not see her to take her to Headquarters.

Q She told you on May 5th, according to your story, that she saw the shooting? A She did.

Q You knew she was a material witness in the case? A Yes.

Q You did not see her again? A Not to speak to.

Q Did you watch her during those eight days? A Some of the time.

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Q You were very sure she was in the house all that time?

A Well, I was not the only man watching her there.

Q You did not bring her down to Headquarters any sooner?

A No, sir, according to my instructions I was told to leave her there until they were ready to send for her.

Q What else did Sellitto tell you about this \$2,000. some lawyer had promised him? A He said John Shilitano and a lawyer went up to Tarrytown and he made a statement and they promised him \$2,000. if he did not testify or identify Oreste Shilitano.

Q Did he tell you who the lawyer was? A No.

Q Were you in the court room at the time of the trial? A No.

Q Not at all? A Not at all.

Q Were you with the witnesses at the time of the trial? A No.

Q Did you take the witnesses or any of the witnesses to the Grand Jury room when they testified there? A I don't remember. I may have been there when Nellie testified, Nellie DeCarlo, that is the only one that I know of.

Q When Nellie testified before the Grand Jury she was being taken care of by Mrs. Goodwin? A I say I may have been there. I don't remember taking anybody to the Grand Jury, no.

Q You may have been there, don't you remember that you were there when Nellie testified? A I was in the Grand Jury room.

Q You were there when the other witnesses testified?

MR. WASSERVOGEL: When they testified. One witness at a time in the Grand Jury room.

THE WITNESS: I did not hear any one testify.

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BY MR. WYLIE:

Q Didn't you hear any one being asked questions in the Grand Jury room? A No.

Q Who did you take to the Coroner's Court besides Nellie?

A I did not take Nellie.

Q Weren't you before the Coroner when Nellie was before the Coroner? A You mean on the 14th?

Q Whenever it was? A I took her there alone.

Q Did you take any one else there? A Not that day.

Q Another day then? A I don't remember.

Q What rank police officer are you now? A Acting Detective Sergeant.

Q What rank were you in April, 1913? A The same thing.

Q Did you see any of these witnesses after they made affidavits in the office of the New York World? A No, sir.

Q Did not see Chieffe after that, did you? A Yes, sir, I saw him once in Mr. Wasservogel's office.

Q When was that? A That was sometime in April of this year.

Q You were upstairs with him day before yesterday also, were you not, Friday? A I was up there, yes. He was there and I was sitting up there.

Q You have not seen Nellie DeCarlo since March 8th, 1915, have you? A March 8th, 1915?

Q Have you? A I don't think I saw her that day.

Q I did not say you did -- I said have you seen her since that time? A No, sir -- only here Friday in the court building.

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Q Did not Mr. Murphy or Mr. Wasservogel ever ask you why you brought people to them who did not know anything about this shooting? A Yes, sir, I think he did.

Q You looked up Rizzo during this case? A Which Rizzo?
pretty thoroughly

Q The one that was killed? A Why, I did not know him. I knew he was shot and killed.

Q Didn't you try to find out who he was? A Found out his family relations, yes.

Q Didn't you try to find out anything else about him? A Yes, I heard that he was a strike breaker.

Q What else did you hear about him? A I heard that Oresto Shilitano and John Rizzo were strike breakers and the trouble all came about some revolver that Oresto Shilitano had given John Rizzo --

Q I am asking you just whether or not -- who Rizzo was and what he was? A I don't know anything about it.

Q Did you look up to see if he had a past record or not?
A No, I knew he was arrested once before.

Q You knew what for? A Yes, sir, I knew that he had shot somebody at the corner of Broome or Broadway, around there, somewhere, or Crosby Street.

Q And ran down into the subway? A Ran into the subway.

Q Down on the tracks? A Yes, sir.

Q And they caught him? A Yes, sir, I knew that.

Q Don't you know in what connection that was? A No, I did not.

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Q Did you find out the name of the man he shot? A No.

Q Did not find out by whom the man was employed that was shot? A No, I had not that investigation.

Q You did not look that up at all? A No.

Q You did not look up to see if Rizzo had a record or not?
A No.

Q Did you have anything to do with the arrest of Loretto at one time ^{who} who was charged with the murder of John Rizzo? A He was brought in Police Headquarters.

Q Did you bring him in? A No.

Q Didn't you know in your investigation of Rizzo that Rizzo had also shot Loretto as well as this other man? A Loretto did tell me ~~yes~~ that he did shoot him about five months before that.

Q On the corner of Prince and Mulberry? A Yes.

Q Did you investigate that further? A He would not make a complaint, Loretto would not.

Q You were on that case at that time? A At that time, yes. He would not tell then who shot him.

Q When did you find out who did shoot him? A When he was arrested on May 3rd or May 4th, rather, in 1913.

Q When he was arrested for the murder of John Rizzo he told you that night that he had been shot by John Rizzo? A Yes, sir.

Q Four or five months previous? A Five months previous.

Q Where did he tell you that? A In the station house, 12th precinct.

Q Told all the rest of them also that night? A I don't know

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as he did. There were some detectives, I don't know who, who were present, but there were so many detectives there that night.

Q Were you present when Oreste Shilitano gave himself up?

A I was not present when he gave himself up. I saw him down at Police Headquarters that morning.

Q Do you remember a talk you once had with John Shilitano in a saloon on the corner of Mott and Kenmare Street? A Yes, sir.

Q Do you remember who else was present? A There was four or five men there.

Q Did you have anybody with you? A Yes, sir, Gambardella was there and Frank Bonnano was there and a butcher on Mulberry Street was there and a restaurant keeper in Coney Island was there, by the name of Morano.

Q Did not Shilitano accuse you then of framing up his brother? A No, he did not accuse me of framing him up.

Q He did or did not? A No. He called me a stoolpigeon.

Q What else did he call you? A That was all.

Q Do you remember the last thing you said to Johnny Shilitano at that interview? A No.

Q Didn't you say you would fix him? A No, I never told him that.

Q What part did you have in the conversation with John Shilitano? A What conversation?

Q Didn't you talk to John Shilitano when he said you were a stoolpigeon? A I did not say anything to him further than I told him I was not a stoolpigeon.

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Q He said "You are a stoolpigeon" and you said you were not?
A Then he offered to take me outside and fight me, and I told him that was no proper time for anything like that.

Q Was that all that was said? A That is all I remember.

Q You wanted to forget that? A No, sir, I did not want to forget it. I am truthful about it.

RE-DIRECT EXAMINATION BY MR. WASSERVOGEL:

Q Did you see Oreste Shilitano between the night of the shooting and the day when he was taken to Headquarters after his arrest? A I never saw him, no, sir, until he was taken in -- that morning he came in at Police Headquarters.

Q He disappeared after the shooting? A Yes, sir, he disappeared. The building was searched two or three times that night.

Q I do not know if I asked you this question -- did you ever threaten Nellie DeCarlo in any way? A No, sir, never.

Q Did you ever hear any other police officer threaten her?
A No.

Q Did you ever tell Nellie DeCarlo to say that she was looking out of the window at the time of this shooting and had seen the shooting? A No.

Q Did you ever hear any other police officer tell her to testify to that? A No.

FREDERICK APFEL, called as a witness, being duly sworn and examined, testified as follows:

DIRECT EXAMINATION BY MR. WASSERVOGEL:

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Q How long have you been a police officer of this city?

A Thirteen years.

Q Did you ever see Gennaro Sellitto? A Yes.

Q He was a witness in this case, was he not? A Yes.

Q Did you ever tell Gennaro Sellitto that he should testify that he had seen Oresto Shilitano shoot some police officers? A No.

Q On the night of the 3d of May? A No, sir.

Q Did you ever tell Gennaro Sellitto he would have to testify that he had seen the man who did the shooting? A No, sir.

Q Did you ever threaten Gennaro Sellitto in any way? A Certainly not.

Q Did you ever hear any other police officer threaten Gennaro Sellitto? A No, sir.

Q Did you at any time hear any police officer say to Gennaro Sellitto "Unless you testify that you saw Oresto Shilitano do the shooting, we will send you to prison"? A No, sir.

(No cross-examination).

MR. WASSERVOGEL: May the record show, if Your Honor please, that the witnesses who were detained in the House of Detention, were paid at the rate of \$3. per day for each day they were so detained, pursuant to an order of this Court.

THE COURT: That is the fact?

MR. WASSERVOGEL: That is the fact.

THE COURT: There is no question about that, Mr. Wylie?

MR. WYLIE: Not if Mr. Wasservogel says so.

THE COURT: My impression is that I fixed it at the

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largest amount I was able to under the Statute.

ISABELLA GOODWIN recalled:

BY MR. WASSERVOGEL:

Q I think you told us on Friday that Nellie DeCarlo had accompanied you to a Catholic church on a number of occasions while she was living in your home? A Yes.

Q Do you remember that? A I do.

Q That was true? A It was.

Q How often did she go to church with you would you say?

A She went to mass every Sunday morning except once when I was ill.

Q How often would you say she went to confession? A She went to confession and received communion once a month.

Q You say she received communion? A Yes, sir, she did.

Q What was done by her in order to receive communion? A She went to mass and she went to the altar rail at the time the communion was administered by the priest.

Q Did she go to confession the same day she received communion? A No, I took her on Saturday night and she received communion on Sunday morning after.

Q On the occasions when she went to communion, she would go to confession first on Saturday night? A Yes, sir.

Q You know she went to confession on Saturday night? A Yes, sir, positively.

Q You were with her at the time? A Yes, sir.

Q You did not go into the confessional with her? A No, I remained outside.

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Q The next morning, Sunday morning, she would go to the same church and receive communion? A Yes.

Q How did you know she received communion? A Because I was there and I saw her.

Q Which part of the church were you in at the time when you say she received communion? A In the body of the church.

Q What did she do at that time? A I saw Nellie at the railing in front of the priest.

Q You know she received communion? A Positively.

Q Are you a Catholic? A Yes, sir.

Q Then she received absolution before she received communion? A You cannot receive communion without receiving absolution.

Q When did you last see this girl prior to seeing her in the Court House Friday? A On Lincoln's Birthday, in February.

Q Of this year? A Yes, sir.

Q Where did you see her then? A At my home, 136 Montague Street.

Q She came to visit you there? A She did.

Q That was shortly before she made a statement at the office of the New York World? A I don't remember just when she ~~xxx~~ made the statement.

Q You do know she called at your home on Lincoln's Birthday? A Yes.

Q Did you talk with her? A Yes.

Q What talk did you have with her then? A She came in without my expecting her and she asked me if she could kiss me. I said yes,

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Q Yes? A It was the night down in the World's office.

Q The night you made the affidavit in the World's office?

A Yes.

Q How long had you known John Rizzo at the time of the shooting? A About four years.

Q He was a strike breaker, wasn't he? A That I don't know.

Q Did you not know him well? A Just to talk to him, hello, and that is about all.

Q Who asked you to make an affidavit in the office of the New York World? A John Verno made the suggestion to me, he said "Did you hear about it"? I said "What?" he said "They are making affidavits down in the World, tell what you know" -- so, I went down that night or rather the night after.

Q Were you asked many questions down there? A Yes.

Q A great many? A Not so many.

Q How long did they keep you there? A They kept me about half an hour questioning me, I believe.

Q Did you go back the next day and sign the affidavit? A No, the same night.

Q That night? A Yes.

Q Had John Shilitano or any friend of Oreste Shilitano, or any relative, ever threatened you? A No, sir.

Q Or asked you to change your testimony in any way? A No, sir

Q After you gave this affidavit in the World's office, how did it come you went to see Mr. Wasservogel? A Mr. Hitchcock told me.

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Q He asked you to go and see him? A Yes.

Q Mr. Hitchcock is a reporter for the World? A Yes, sir.

Q The night you were at the World's office you did not talk to Johnny Shilitano at all about the case, did you? A No, not about the case.

CROSS-EXAMINATION BY MR. WASSERVOGEL:

Q At the time of the trial of this case you testified that you were a chauffeur, was that testimony true? A Yes, sir.

Q You still live at the same address, 351 Bowery? A Yes, sir.

Q You lived there at the time of the trial? A Yes.

Q At the time of the trial you testified that you had known Oresto Shilitano for about five years -- that testimony was true?
A Yes, sir.

Q You also testified that you knew John Rizzo, did you not?
A Yes.

Q And that testimony was true? A Yes, sir.

Q You said that you were in the neighborhood of 235 Mulberry Street on the night of the shooting, the 3rd of May, 1913, is that correct? A Yes, sir.

Q That testimony was true, was it not? A Yes, sir.

Q That you were in the poolroom No. 235 Mulberry Street, is that correct? A That night?

Q Did you also testify that you were in the cafe near the poolroom that night? A Yes, sir.

Q At number what? A 233.

Q That was correct and true? A Yes.

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Q Did you say that you had seen the defendant in the cafe or in the poolroom? A I don't quite remember.

Q Were you asked this question, "Where was it that you saw the defendant that night" and did you give this answer "In the cafe, in the poolroom"? A I don't quite remember.

Q Did you see him in either the cafe or the poolroom that night? A Yes.

Q Which was it, the cafe or the poolroom? A I saw him somewhere, but I don't remember.

Q Either the cafe or the poolroom? A Yes.

Q And you were asked "At what time did you see him" and you said "About half past eleven" -- was that correct -- that night?
A About that time.

Q About half past eleven on the night of the 3rd of May, the night of the shooting? A Yes, sir.

Q You testified that you had seen John Rizzo in the saloon, that is the cafe, is that correct? A Yes.

Q Was that true? A Yes, sir.

Q And that cafe was right next to the poolroom? A Yes, sir.

Q You were asked "Did you see Oresto Shilitano on the street after that" and you answered "Yes" -- that was true, was it not? A Yes, sir.

Q You were asked, "Did you see John Rizzo on the street after that" and you said "Yes" -- that was true, was it not? A Yes, sir.

Q You were asked this question, "At the time when you saw Oresto Shilitano, how far was he from John Rizzo, that is when you

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saw him on the street" and you answered "About twenty or twenty-five feet". That was true, was it not? A Yes, sir.

Q You were asked, "At that time in which direction were you facing" and you said "Towards Spring Street". That was true?

A Yes, sir.

Q Then you were asked, "Was John Rizzo in front of you or was he behind you" and you said "In front of me". Was that true?

A Yes, sir.

Q You were then asked "Did you hear anything at that particular time" and you answered "I heard a shot, a pistol shot"-- was that true? A Yes, sir.

Q You were then asked, "At that time did you see Oreste Shilitano" and you said "I don't know where he was just at that second." Is that what you said? A I just said I did not know where he was at the time of the shot.

Q Did you testify "I do not know where he was just at that second". Is that what you said? A Not that second.

Q You don't know where he was just at that moment? A I don't know where he was at the time of the pistol shot.

Q You were asked "How long before the pistol shot was fired or heard by you did you see the defendant" and you answered "About five minutes." Did you give that testimony? A Yes, sir, some time.

Q That was correct, was it not? A Yes, sir.

Q You were asked "Where was he at that time" and you said "In front of the stoop there, in front of No. 241 Mulberry Street". Did you say that? A Yes, sir.

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Q That was true, was it not? A Yes, sir.

Q "Q At that time where were you standing" and you said "On the walk, on the end of the sidewalk"? A Yes.

Q Did you say that? A Yes, sir.

Q That was true? A Yes, sir.

Q How far were you from him at that moment, when you saw him near 241 Mulberry Street and you were standing at the sidewalk, the end of the sidewalk, how far were you from him? A I don't remember.

Q About how far? A I don't remember seeing him at that time.

Q I have just read to you some questions and answers -- questions put to you and the answers which you gave, and you said the questions had been put to you and you had given these answers, and you said what you testified to was true, is not that so? A Yes.

Q You testified that Shilitano, before the shooting, a few minutes before the shooting, was standing near No. 241 Mulberry Street -- that is true? A Yes, sir.

Q And at that time you were standing near the curb of the sidewalk, that is true? A Yes, sir.

Q At the time when you were standing near the curb of the sidewalk and he was standing near 241 Mulberry Street, how much space was there between the two of you, about how much? A About fifteen feet, I guess.

Q All right, that is what I want to know -- you were right near 241 Mulberry Street at the time? A Yes, sir.

Q At the moment when John Rizzo was shot, he was near No. 239

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Mulberry Street? A Near it.

Q You were then asked "What happened in respect to Rizzo when the shot was fired" and you answered "Fell" -- that is true?

A Yes, sir.

Q You saw him fall? A Yes, sir.

Q He fell to the ground? A Yes, sir.

Q You said that you helped carry him into the hallway of building 235 Mulberry Street, that is true? A Yes, sir.

Q And shortly after the shooting police officers took you in custody as a witness in the case? A Yes, sir.

Q You were taken to Police Headquarters? A Yes, sir.

Q You were asked whether you seen the shooting? A Yes, sir.

Q You said you knew nothing about the shooting at all? A No.

Q Is not that correct? A Yes, sir.

Q That was not true, was it? A I did not see the shooting--
that was what they asked me.

Q You told the police you knew nothing about the shooting?

A I did not see the shooting and so I could not tell them.

Q Will you answer me, did you tell that to the police, that you knew nothing about the shooting? A That was what I told them that night.

Q Did you also tell the police that you did not see Oreste Shilitano that night? A Yes, sir.

Q That was not true, was it? A No, sir.

Q Why did you tell the police an untruth at that time?
A Afraid they would hold me.

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Q What? A They would hold me.

Q You wanted to get away from it and did not want to have anything to do with this case at all? A No.

Q You did not want to be a witness at that time? A No.

Q Subsequently you were brought to the District Attorney's office and you signed a statement which Mr. Wylie has read to you?
A Yes, sir.

Q And one of the things which you said at that time was this, "I did not know that Rizzo and two police officers had been shot until the next day when I read the newspapers" -- that was one of the things in that statement? A Yes, sir.

Q That was not true, was it? A No, sir.

Q And you also said "I did not see Oresto Shilitano that night" -- that was not true either, was it? A No, sir.

Q Why did you sign that statement which you now admit that partly untrue? A I thought I would not be bothered any more.

Q You did not want to be held as a witness, is not that so?
A Yes, sir.

Q So when you spoke to me you did lie, didn't you? A At times I did.

Q You certainly did lie about the shooting -- you certainly did lie to me when you said you had not seen Oresto Shilitano that night -- that was not true? A No, sir.

Q How long have you known John Verno, A About four or five years.

Q You have known him very intimately? A Well, going out together quite often.

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Q Used to pal together? A Yes.

Q You saw him quite frequently before the trial, didn't you?

A Yes.

Q And you saw him very often after the trial? A Not so very often.

Q You did see him after the trial? A Yes, sir.

Q Did John Verno ever say to you he had lied on the witness stand? A He never told me nothing.

Q Did Johnny Verno ever tell you that he had been forced to testify in this case? A No, sir, never told me nothing.

Q Nobody ever forced you to say anything, did they? A Not forced me -- threatened me.

Q You told me at the Bar Association rooms that DeMartini said "If I did not tell the truth I would be committing perjury and go to jail" -- did DeMartini say that to you? A If I did not tell the truth?

Q Yes? A Yes.

Q That was what you told me? A Yes, sir.

Q So that the testimony which you gave upon the trial is substantially the truth? A Yes, sir.

RE-DIRECT EXAMINATION BY MR. WYLLIE:

Q You had not seen Oreste Shilitano for five minutes before the shooting, had you? A No, sir, I had not seen him five minutes before the shooting.

Q You have not the slightest idea where he was at the time

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the shot was fired, have you? A No.

Q You said something about being threatened, what were the threats made to you? A Threatened me if I did not tell the truth they would send me to prison.

Q What did they say to you? A Told me to tell what I know.

Q Did they tell you how long you would go to prison? A Said from one to twenty years.

Q Who told you that? A DeMartini.

Q Where was this, in the House of Detention? A No, sir, I believe it was upstairs.

Q Upstairs in this building? A Yes, sir.

Q And in the Homicide Bureau? A No, it was in some other office.

JOSEPH DIGILIO resumes the stand:

DIRECT EXAMINATION CONTINUED BY MR. WASSERVOGEL:

Q The first time that you saw Nellie DeCarlo was on the evening of the 5th of May, 1913? A Yes.

Q That is two days after the shooting? A Yes, sir.

Q When did you next see her? A It was on the 13th of May.

Q And where did you see her then? A I was instructed to go up to her house and bring her down to Police Headquarters.

Q Did you go to her house? A Yes.

Q Was anybody with you then? A No.

Q Did you bring her to Headquarters? A I did.

Q Whom did you see when you arrived at Headquarters? A My,

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Inspector Faurot, Acting Captain McKinney and Acting Captain Tunney, Detective John O'Connell, Micelli -- they were all in the office.

Q Did the girl make a statement on that occasion? A Yes, sir.

Q That statement was signed by her? A Yes, sir.

Q That is the statement which is in evidence here? A Yes, sir.

Q Did you ever strike this girl ~~mx~~ in the grocery store? A No.

Q Slap her face? A No.

Q Pull her around? A No.

Q Did you at any time lay hands upon this girl? A Never, at no time.

Q The girl testified after she had signed the statement at Police Headquarters you took her into another room and told her to sit down in a chair, and that after she had sat down on the chair, the chair suddenly shot up to the ceiling and came down again and she fell to the ground -- did anything like that occur? A No, there ~~X~~ is no such chair up there. She was told to go in the next room while the preparation of drawing up the statement was being made ready to sign, and we took her in the next room where Captain Dunn sits, and there is no such chair there.

Q She never complained to you that she had been compelled to sit down in a chair that shot up to the ceiling and that she fell? A No, she never complained.

Q You never heard of such a thing until this hearing? A No.

BY THE COURT:

Q It is sort of a reception room? A It is the office of the

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Detective Bureau, a desk is there and in the next room is the Inspectors' room.

Q The Captain sits there? A Captain Dunn sits there and Lieutenants.

Q Some chairs there? A Yes, sir, it is like a reception room.

Q Did she go into that room, and was she directed to any particular place? A Yes, sir, they go in there and directed to go here or there.

Q Was there more than one chair there? A Yes, there was.

Q Was she asked to take any certain chair? A We told her to sit down. Did not tell her to take any certain chair.

Q Anybody else there besides yourself at that time? A I don't remember whether Captain Tunney and some men from the office were present or not at that time.

BY MR. WASSERVOGEL:

Q Did you ever see Officer Gambardella or any other person connected with the police force, strike this girl? A No, sir.

Q What became of the girl after she signed the statement?

A I was instructed to take her home.

Q Did you take her home? A Yes.

Q When did you next see her? A The following morning.

Q That was the 14th of May? A Yes.

Q What did you do with the girl then? A I was instructed to take her home that night previous, and to watch the premises.

Q What do you mean by "that night previous"? A That is on the 13th.

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Q On the 13th you received instructions? A To take her home and stay around the neighborhood and see she did not leave. The next morning I took up again about 6 o'clock and about 10 o'clock Detective Miccelli --

Q You took up where? A I stayed around the neighborhood.

Q Where did you take her to? A To her home -- told her to come home.

Q That was the 13th? A Yes.

Q You are talking about the next morning -- where did you take her the next morning? A To Headquarters.

Q How long did she remain at Headquarters? A About an hour.

Q Did she sign a statement the second day? A I don't remember if she did or not before Commissioner Dougherty.

Q Inspector Faurot was there also? A I don't remember if he was there at that time.

Q At any rate, didn't she remain at Headquarters? A She remained in Headquarters, in the Commissioner's office, for about an hour.

Q Then what did you do with her? A I was instructed to take her up before Coroner Feinberg in the afternoon.

Q And after that? A She made a statement to Coroner Feinberg that afternoon, and Coroner Feinberg said he would not commit her to the House of Detention, but he would commit her in the custody of some Matron, and told me to take her back to the Commissioner's office. I took her back to the Commissioner's office. Commissioner Dougherty then sent me to Matron or Detective

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Sergeant Isabella Goodwin, on Charles Street, and I left her there.

Q You took her there? A Yes.

Q You left her there? A I left her at Mrs. Goodwin's home.

Q Did you see Nellie DeCarlo after that? A Yes.

Q Did you ever talk with her about the facts in this case after that? A Did not go into it, no. She was complaining that she had said her little piece and now Shilitano -- she said she had said her little piece and she was afraid Shilitanos might get to the old folks.

Q And do what? A I did not ask her any more, I did not want to frighten the girl..

Q Did you ever suggest that this girl should say that she saw the shooting? A No, sir, I never did.

Q Did you ever tell her what to testify to? A No.

Q Did any police officer in your presence, ever tell the girl what to testify to? A No.

Q Did any police officer in your presence at any time ever make any threats to the girl? A No.

Q Of any kind? A No.

Q Did this girl at any time complain that she was in bed and asleep at the time of the shooting and had not seen the shooting? A She said that afterwards, yes.

Q When? A Why, after they tried to make her insane - they were trying to get up a petition that she was insane, and then she said she was in bed.

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Q When was that, A That must have been about two weeks after the shooting.

Q Where was this? A It was down at the Coroner's office --

Q What happened there? A She made a statement there.

Q What happened about this that you tell us now? A About the affidavit -- she did not tell me that.

Q Who did? A I heard that in the neighborhood, in Mulberry Street.

Q I am asking you whether the girl at any time told you "I was in bed at the time of the shooting and did not see the shooting"? A No, she did not.

Q She never said that to you? A No, she did not. I misunderstood you.

Q You heard some Italians in the neighborhood say that?

A Yes, sir, heard some Italians in the neighborhood say that.

Q Do you know Gennaro Silletto? A Yes, sir.

Q When did you see him for the first time? A It was about, I think, midnight or a little after midnight the night of the shooting.

Q Did you talk with him then? A I talked with him a little while in the station house of the 12th precinct.

Q What talk did you have with him then? A I was trying to ascertain --

Q What talk did you have with him then? A I wanted to find out about the shooting.

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Q What did you say and what did he say? A I wanted to know whether he was there present and if he could give me a description of the man who done the shooting.

Q What did he say? A He said that about quarter past eleven on May 3rd he left his home and he went to a grand opening of a poolroom parlor, 235 Mulberry Street. He sat there at the table with three other men drinking wine. He says there were about fifty or sixty men in the place. Some of them he knew by sight but not by name. About 11:45, he says "I heard a pistol shot on the street and I ran out. I ran out and went up street, and I noticed John Rizzo lying on the sidewalk shot. Immediately after a policeman came south on Mulberry Street and he was also shot by the same party, and then a minute after another policeman came and he was also shot. After that another policeman came" and, he said, "I told him that the same man had shot Rizzo shot the two policemen, and heran into 241 Mulberry Street." Then he says more policemen came and I assisted in searching the premises, the rooms, the roof, and the yard, &c. When I came out I went down to the pool parlor again and I saw John Rizzo there.

Q You mean he saw his body. A The body -- he was not dead at the time. He then went to John Rizzo's mother, 41 Spring Street and told her of it, and after that, he says, "I was arrested and taken to the station house.

Q When did you next see this man, A I saw him about 3 o'clock on the morning of May 4th, in Inspector Faurot's office, Police Headquarters.

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Q That was the second time you saw him? A Yes.

Q Did you talk with him then, A Yes.

Q What talk did you have with him then, A I wanted to get a description of the man that done the shooting. He says the man was about twenty-two years old, five feet four inches, smooth face, about 140 pounds, wore a light suit of clothes and a black Fedora hat.

Q Did you see him after that? A Yes.

Q How long after? A I believe I saw him at the Coroner's office.

Q Were you one of the detectives that brought him back to New York from Tarrytown? A Yes, sir.

Q It was then he was committed to the House of Detention, wasn't he? A Yes, sir, he was committed first to the House of Detention.

Q But he was released on bail and then brought back from Tarrytown? A Yes, sir.

Q And he was again ~~lx~~ put in the House of Detention? A Yes.

Q Did you ever receive word from Sellitto that he wanted to see you? A Yes.

Q When was that? A That was on February 2nd, 1914.

Q How do you know that he wanted to see you? A There was a telephone message upstairs in the Homicide Bureau of the District Attorney's office that Sellitto wanted to see me.

Q How did you know the telephone message was sent, did you talk with Sellitto about that? A Why, they told me upstairs.

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Q After they told you that upstairs, what did you do, did you talk with Sellitto? A We telephoned -- I telephoned up to the House of Detention to the officer in charge and he said "Yes, come up, Sellitto wants to say something to you."

Q Did you see Sellitto? A Yes.

Q Did you ask him if he had sent for you? A Yes.

Q What did he say? A He said that he had.

Q Did you talk with him then? A Yes, sir.

Q What did you say to him and he to you? A I said "Did you want to see me?" He said "Yes." "Did you send for me?" He said "Yes". I said "What is it" and he said "I tell you, I want to tell ~~xx~~ the truth", he said. He said "I have been promised \$2,000. and I have not seen anything yet". I said "Then we will go down to the District Attorney's office and you can tell the truth there"

Q Did he tell you by whom he had been promised \$2,000.?

A Yes, sir, he said John Shilitano and some lawyer went up to Tarrytown and made him sign some statement to that effect.

Q To what effect? A That he was to get \$2,000. if he did not identify or testify against Oreste Shilitano.

Q No, you say the lawyer and Johnny Shilitano had him sign a statement -- to what effect was that statement which he signed -- did he tell you that? A He said the statement -- I don't know what it was about, only that he said they promised \$2,000.

Q Did you bring him down to Mr. Murphy? A Yes.

Q Did you bring him down to Mr. Murphy at any time after that? A Yes, sir, once after.

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Q The first time was when? A February 2nd.

Q And the second time was when? A February 7th.

Q Did he send for you the second time? A He sent a message down to Mr. Murphy, and Mr. Murphy sent us up there to get him.

Q Did you talk with him on the way to the House of Detention?
A Yes.

Q What talk did you have with him then? A No talk about the case. He wanted to buy some cigar clippings -- wanted to buy a shirt and belt and wanted to walk around and at last he said he wanted an Italian dinner.

Q Did you take him into a restaurant? A Yes.

Q Did he have dinner there? A Yes.

Q Did you ever give this man any drinks? A Well, he pleaded and begged so hard that I told him he could have some.

Q That one occasion? A Yes, sir.

Q How many drinks did he have? A I really don't know, two or three glasses.

Q Of what? A Wine.

Q Italian wine? A Yes.

BY THE COURT:

Q Claret? A Claret.

BY MR. WASSERVOGEL:

Q Was that the only time that you took him into a restaurant? A Yes, sir, that was the only time I did.

Q Did you ever take him into any saloon? A Why, that same afternoon when we came out of there he wanted to see his step-

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father and we took him around to a place on Mott Street and we waited for him. He sent for him and could not find him.

Q Waited for whom? A For the step-father.

Q Did he have anything to drink there? A Not to my knowledge.

Q You would have seen him if he had taken anything? A Yes.

Q Did you ever see Sellitto drunk? A No.

Q Did you ever try to make him drunk? A I had no reason for making him drunk.

Q Yes or no? A No.

Q Did any other police officers in your presence ever try to make him drunk? A No.

Q Did you ever tell Sellitto he should make any particular statement either before Mr. Murphy or in court when testifying as a witness? A No, I never told him anything.

Q Did you ever threaten that you would have him sent to jail for twenty years or any other term unless he said Oresto Ghilitano did the shooting? A No, sir.

Q Sure about it? A Yes, I am sure.

Q Did any other police officer in your presence ever make such a threat to him? A No, not to my knowledge.

BY THE COURT:

Q Did you have anything to do with Verno? A No, sir.

CROSS-EXAMINATION BY MR. WYLIE:

Q On Friday you said when Nellie DeCarlo told you about the shooting that she said she saw the father hand the son, Oresto

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Shilitano, a revolver? A Yes, sir.

Q Is that what she told you? A She told me that.

Q Do you remember what she testified to on the stand at the trial, concerning that, A I was not at the trial.

Q You also said she told you that two women got in the way of Oresto? A Yes.

Q What more did she say about that? A She said just two women were there present when Policeman Heeney was shot. She thought one was the baker woman who lives in 241, and the other was the mother or the aunt, I don't recollect now, of Shilitano.

Q Do you remember what she testified to on the trial about that? A I do not.

Q You talked with the girl for some time before Gambardella came that day, in the grocery store? A No, he talked to her first outside of the grocery store.

Q You were left alone then with her inside? A No, I was called. Gambardella said "Joe, this little girl knows about the case." I said "All right, bring her in here and we will see what she knows", and Gambardella was present at the time we talked to her inside of the grocery store.

Q Was Gambardella with you all the time you were with her in the grocery store? A I guess he was. He was right alongside of us all the time.

Q Did you have any wine to drink in there that day? A No.

Q You did not have wine and sausage that day? A No, sir.

Q You know Vitacca well? A I do, he is from my native town-- a townsman of mine.

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Q You mean in Italy? A Yes.

Q You knew him a great many years? A Only in this country.

Q Never knew him there? A No, sir.

Q Because of the fact that you are fellow townsmen, you have a pretty friendly feeling for him? A Not any more than any other man.

Q Who came from your own town? A I would not have any more feeling because he is my own townsman.

Q Why did you mention it then? A I meant I was friendly -- as you said, that I was friendly.

Q You have known him for a long time? A About fifteen years I suppose.

Q What did you mean by the girl saying that she had said her little piece, tell us some more about that? A I don't know what she meant. I took it that, when she said that, it meant that she had made a statement or had told the police about it, that was the way I took it.

Q That when she had said Oreste Shilitano had done the shooting, she was through with the case? A I don't know that, if she was through with it or not.

Q That was a thing she had to say, her little piece, was it, that Oreste Shilitano did the shooting? A I suppose that was what she meant. I don't know what she meant, but I took it.

Q What did you hear of her about her being in bed that night, in the neighborhood, that you started to tell Mr. Wasservogel?

A There were some men talking in the vicinity of Mulberry that

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they were trying to get a petition to have the girl declared insane, that she did not know what she was saying, that she was not out of the window, but in bed.

Q Who were those men? A Her own brother-in-law was one of them.

Q You investigated the case, that matter? A Yes.

Q Did you find out anybody else that was interested in it?

A Not that I know of.

Q Did you ever see the paper? A Which paper?

Q That they were signing? A No, sir, I did not.

Q Did you ever talk to anybody who had signed the paper?

A No, sir.

Q It was just rumor that you had heard? A Yes.

Q That the little girl was in bed the night of the shooting?

A That was all.

Q And these people said she was crazy because she testified that she saw him? A Yes, sir, that was all, that was just rumor.

Q You say the first time you saw the girl on May 5th, you did not see her again until May 13th? A I may have seen her in the street but I did not see her to take her to Headquarters.

Q She told you on May 5th, according to your story, that she saw the shooting? A She did.

Q You knew she was a material witness in the case? A Yes.

Q You did not see her again? A Not to speak to.

Q Did you watch her during those eight days? A Some of the time.

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Q You were very sure she was in the house all that time?

A Well, I was not the only man watching her there.

Q You did not bring her down to Headquarters any sooner?

A No, sir, according to my instructions I was told to leave her there until they were ready to send for her.

Q What else did Sellitto tell you about this \$2,000. some lawyer had promised him? A He said John Shilitano and a lawyer went up to Tarrytown and he made a statement and they promised him \$2,000. if he did not testify or identify Oresto Shilitano.

Q Did he tell you who the lawyer was? A No.

Q Were you in the court room at the time of the trial? A No.

Q Not at all? A Not at all.

Q Were you with the witnesses at the time of the trial? A No.

Q Did you take the witnesses or any of the witnesses to the Grand Jury room when they testified there? A I don't remember. I may have been there when Nellie testified, Nellie DeCarlo, that is the only one that I know of.

Q When Nellie testified before the Grand Jury she was being taken care of by Mrs. Goodwin? A I say I may have been there. I don't remember taking anybody to the Grand Jury, no.

Q You may have been there, don't you remember that you were there when Nellie testified? A I was in the Grand Jury room.

Q You were there when the other witnesses testified?

MR. WASSERVOGEL: When they testified. One witness at a time in the Grand Jury room.

THE WITNESS: I did not hear any one testify.

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BY MR. WYLIE:

Q Didn't you hear any one being asked questions in the Grand Jury room? A No.

Q Who did you take to the Coroner's Court besides Nellie?

A I did not take Nellie.

Q Weren't you before the Coroner when Nellie was before the Coroner? A You mean on the 14th?

Q Whenever it was? A I took her there alone.

Q Did you take any one else there? A Not that day.

Q Another day then? A I don't remember.

Q What rank police officer are you now? A Acting Detective Sergeant.

Q What rank were you in April, 1913? A The same thing.

Q Did you see any of these witnesses after they made affidavits in the office of the New York World? A No, sir.

Q Did not see Chieffo after that, did you? A Yes, sir, I saw him once in Mr. Wasservogel's office.

Q When was that? A That was sometime in April of this year.

Q You were upstairs with him day before yesterday also, were you not, Friday? A I was up there, yes. He was there and I was sitting up there.

Q You have not seen Nellie DeCarlo since March 8th, 1915, have you? A March 8th, 1915?

Q Have you? A I don't think I saw her that day.

Q I did not say you did -- I said have you seen her since that time? A No, sir -- only here Friday in the court building.

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Q Did not Mr. Murphy or Mr. Wasservogel ever ask you why you brought people to them who did not know anything about this shooting? A Yes, sir, I think he did.

pretty thoroughly
Q You looked up Rizzo during this case? A Which Rizzo?

Q The one that was killed? A Why, I did not know him. I knew he was shot and killed.

Q Didn't you try to find out who he was? A Found out his family relations, yes.

Q Didn't you try to find out anything else about him? A Yes, I heard that he was a strike breaker.

Q What else did you hear about him? A I heard that Oreste Shilitano and John Rizzo were strike breakers and the trouble all came about some revolver that Oreste Shilitano had given John Rizzo --

Q I am asking you just whether or not -- who Rizzo was and what he was? A I don't know anything about it.

Q Did you look up to see if he had a past record or not?
A No, I knew he was arrested once before.

Q You knew what for? A Yes, sir, I knew that he had shot somebody at the corner of Broome or Broadway, around there, somewhere, or Crosby Street.

Q And ran down into the subway? A Ran into the subway.

Q Down on the tracks? A Yes, sir.

Q And they caught him? A Yes, sir, I knew that.

Q Don't you know in what connection that was? A No, I did not.

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Q Did you find out the name of the man he shot? A No.

Q Did not find out by whom the man was employed that was shot? A No, I had not that investigation.

Q You did not look that up at all? A No.

Q You did not look up to see if Rizzo had a record or not?
A No.

Q Did you have anything to do with the arrest of Loretto ^{who} at one time who was charged with the murder of John Rizzo? A He was brought in Police Headquarters.

Q Did you bring him in? A No.

Q Didn't you know in your investigation of Rizzo that Rizzo had also shot Loretto as well as this other man? A Loretto did tell me ~~yes~~ that he did shoot him about five months before that.

Q On the corner of Prince and Mulberry? A Yes.

Q Did you investigate that further? A He would not make a complaint, Loretto would not.

Q You were on that case at that time? A At that time, yes. He would not tell then who shot him.

Q When did you find out who did shoot him? A When he was arrested on May 3rd or May 4th, rather, in 1913.

Q When he was arrested for the murder of John Rizzo he told you that night that he had been shot by John Rizzo? A Yes, sir.

Q Four or five months previous? A Five months previous.

Q Where did he tell you that? A In the station house, 12th precinct.

Q Told all the rest of them also that night? A I don't know

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as he did. There were some detectives, I don't know who, who were present, but there were so many detectives there that night.

Q Were you present when Oresto Shilitano gave himself up?

A I was not present when he gave himself up. I saw him down at Police Headquarters that morning.

Q Do you remember a talk you once had with John Shilitano in a saloon on the corner of Mott and Kenmare Street? A Yes, sir.

Q Do you remember who else was present? A There was four or five men there.

Q Did you have anybody with you? A Yes, sir, Gambardella was there and Frank Bonnano was there and a butcher on Mulberry Street was there and a restaurant keeper in Coney Island was there, by the name of Morano.

Q Did not Shilitano accuse you then of framing up his brother? A No, he did not accuse me of framing him up.

Q He did or did not? A No. He called me a stoolpigeon.

Q What else did he call you? A That was all.

Q Do you remember the last thing you said to Johnny Shilitano at that interview? A No.

Q Didn't you say you would fix him? A No, I never told him that.

Q What part did you have in the conversation with John Shilitano? A What conversation?

Q Didn't you talk to John Shilitano when he said you were a stoolpigeon? A I did not say anything to him further than I told him I was not a stoolpigeon.

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Q He said "You are a stoolpigeon" and you said you were not?

A Then he offered to take me outside and fight me, and I told him that was no proper time for anything like that.

Q Was that all that was said? A That is all I remember.

Q You wanted to forget that? A No, sir, I did not want to forget it. I am truthful about it.

RE-DIRECT EXAMINATION BY MR. WASSERVOGEL:

Q Did you see Oresto Shilitano between the night of the shooting and the day when he was taken to Headquarters after his arrest? A I never saw him, no, sir, until he was taken in -- that morning he came in at Police Headquarters.

Q He disappeared after the shooting? A Yes, sir, he disappeared. The building was searched two or three times that night.

Q I do not know if I asked you this question -- did you ever threaten Nellie DeCarlo in any way? A No, sir, never.

Q Did you ever hear any other police officer threaten her? A No.

Q Did you ever tell Nellie DeCarlo to say that she was looking out of the window at the time of this shooting and had seen the shooting? A No.

Q Did you ever hear any other police officer tell her to testify to that? A No.

FREDERICK APFEL, called as a witness, being duly sworn and examined, testified as follows:

DIRECT EXAMINATION BY MR. WASSERVOGEL:

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Q How long have you been a police officer of this city?

A Thirteen years.

Q Did you ever see Gennaro Sellitto? A Yes.

Q He was a witness in this case, was he not? A Yes.

Q Did you ever tell Gennaro Sellitto that he should testify that he had seen Oresto Shilitano shoot some police officers? A No.

Q On the night of the 3d of May? A No, sir.

Q Did you ever tell Gennaro Sellitto he would have to testify that he had seen the man who did the shooting? A No, sir.

Q Did you ever threaten Gennaro Sellitto in any way? A Certainly not.

Q Did you ever hear any other police officer threaten Gennaro Sellitto? A No, sir.

Q Did you at any time hear any police officer say to Gennaro Sellitto "Unless you testify that you saw Oresto Shilitano do the shooting, we will send you to prison"? A No, sir.

(No cross-examination).

MR. WASSERVOGEL: May the record show, if Your Honor please, that the witnesses who were detained in the House of Detention, were paid at the rate of \$3. per day for each day they were so detained, pursuant to an order of this Court.

THE COURT: That is the fact?

MR. WASSERVOGEL: That is the fact.

THE COURT: There is no question about that, Mr. Wylie?

MR. WYLIE: Not if Mr. Wasservogel says so.

THE COURT: My impression is that I fixed it at the

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largest amount I was able to under the Statute.

ISABELLA GOODWIN recalled:

BY MR. WASSERVOGEL:

Q I think you told us on Friday that Nellie DeCarlo had accompanied you to a Catholic church on a number of occasions while she was living in your home? A Yes.

Q Do you remember that? A I do.

Q That was true? A It was.

Q How often did she go to church with you would you say?

A She went to mass every Sunday morning except once when I was ill.

Q How often would you say she went to confession? A She went to confession and received communion once a month.

Q You say she received communion? A Yes, sir, she did.

Q What was done by her in order to receive communion? A She went to mass and she went to the altar rail at the time the communion was administered by the priest.

Q Did she go to confession the same day she received communion? A No, I took her on Saturday night and she received communion on Sunday morning after.

Q On the occasions when she went to communion, she would go to confession first on Saturday night? A Yes, sir.

Q You know she went to confession on Saturday night? A Yes, sir, positively.

Q You were with her at the time? A Yes, sir.

Q You did not go into the confessional with her? A No, I remained outside.

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Q The next morning, Sunday morning, she would go to the same church and receive communion? A Yes.

Q How did you know she received communion? A Because I was there and I saw her.

Q Which part of the church were you in at the time when you say she received communion? A In the body of the church.

Q What did she do at that time? A I saw Nellie at the railing in front of the priest.

Q You know she received communion? A Positively.

Q Are you a Catholic? A Yes, sir.

Q Then she received absolution before she received communion? A You cannot receive communion without receiving absolution.

Q When did you last see this girl prior to seeing her in the Court House Friday? A On Lincoln's Birthday, in February.

Q Of this year? A Yes, sir.

Q Where did you see her then? A At my home, 136 Montague Street.

Q She came to visit you there? A She did.

Q That was shortly before she made a statement at the office of the New York World? A I don't remember just when she ~~was~~ made the statement.

Q You do know she called at your home on Lincoln's Birthday?
A Yes.

Q Did you talk with her? A Yes.

Q What talk did you have with her then? A She came in without my expecting her and she asked me if she could kiss me. I said yes.

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she could. I gave her my cheek to kiss, and I said "I am in a hurry, Nellie, I have to go out and attend to business, but I will make you a cup of tea and give you a little bite to eat." She said "All right." So I made a cup of tea and fixed something for her. I said "How are you getting along, Nellie?" She said "My family are very poor, and they need money for rent" and, she said, "we are very hard up." She kept talking about that and I said "Nellie, I cannot let you have any money for rent, because", I said, "I have some property that you know, and it takes all my money to pay that and pay my expenses." I said "I should think your brother-in-law would help your folks."

Q Did she say anything else? A Why she just talked along those lines, and that is about all I remember.

Q And she went away? A Yes -- I went out first and left her with my daughter.

Q Did this girl ever claim to you that she had lied upon the witness stand? A She never did.

Q Did she ever say to you she had not seen the shooting?
A She never did.

CROSS-EXAMINATION BY MR. WYLIE:

Q You do not know whether she went to communion, of your own knowledge, do you, after she left your custody? A No, sir, I do not

Q While Nellie was with you did she read the papers pretty consistently, newspapers? A She could not read. She tried to, she just read a couple of words.

Q She could discern her own name if it was in print?

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A Possibly discern her own name, but she was remarkably illiterate

Q You helped her? A I did. She could not spell rat or cat when she came to me. I never saw anything like it.

Q She was a rather dramatic girl, she liked the sensational?

A Yes, sir, she liked moving pictures and things of that sort.

Q She liked to be in the limelight herself, didn't she?

A Well, that I cannot say.

Q Did she seem to enjoy going on the stand in this trial?

A I could not answer that question.

Q How did she seem when she came off the stand? A When she came off the stand she seemed to be pretty well tired out.

Q She did not cry or carry on much? A She was very quiet.

Q She seemed to have liked the experience? A I don't think she did.

PIETRO VITACCA called as a witness, being duly sworn and examined, testified through the official interpreter, Mr. Deville, as follows:

(Residence 243 Mulberry Street).

DIRECT EXAMINATION BY MR. WASSERVOGEL:

Q What is your business? A Grocery store.

Q Where is your grocery store? A 243 Mulberry Street.

Q How long have you been there? A About fifteen years in that particular store, in those premises, three to four years.

Q Do you remember the night of the shooting of two police officers, May 3rd, 1913? A Yes.

Q That was on a Saturday night? A Yes.

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Q Did you see the shooting? A No.

Q Do you know Nellie DeCarlo? A Yes.

Q How long have you known her? A She resides just above my store.

Q How long have you known her? A Since childhood.

Q And she resides right above your store, in the same building as your store is? A Yes.

Q Do you know Police Officers Joseph Digilio and Leo Gambardella? A Yes.

Q You have known them for some time, haven't you? A I had heard of those names before, but did not know them; I never saw them until the night of the shooting or after that.

Q Did you see Nellie DeCarlo on the Monday following the shooting? A Well, I saw her on the Monday in question before and after.

Q Before and after what? A Before and after that Monday.

Q You saw her on that Monday -- that is all I ask you now?
A I don't remember really whether I saw her that Monday -- I am always in my store and I don't pay much attention to who comes in and out.

Q Did you see Detectives Gambardella and Digilio on the Monday following the shooting? A I did not see Digilio and Gambardella on the morning following the shooting. I saw other police officers that morning, but I did not see Digilio and Gambardella.

Q On the Monday following -- not the morning following? A Yes

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I saw them on Monday.

Q Did you see Nellie DeCarlo the same day? A I don't remember well, really. I believe I saw her, but I am not sure.

Q You saw Nellie DeCarlo talking with those officers at some time? A Yes, sir, I did see them talking together.

Q How often did you see Nellie DeCarlo talking with those two policemen? A Once or twice at most.

Q That was near the grocery store or right near your grocery store? A They were outside my grocery store. They were in the hallway of the premises 243, but they were not inside of my store.

Q That is the hallway right next to your grocery store, is that what you mean? A Yes.

Q That is your best recollection? A It must be in the hall that they were talking.

Q Did you at any time see either of those police officers strike Nellie, or in any way lay their hands upon her? A No, sir.

Q Did you at any time see Nellie DeCarlo cry? A No, sir.

Q Did you at any time hear Nellie DeCarlo complain that some one had struck her? A No, sir.

Q Did you at any time hear either Leo Gambardella or Joseph Digilio tell Nellie DeCarlo she should say that she saw the shooting of the policemen or of John Rizzo? A No, sir.

CROSS-EXAMINATION BY MR. WYLIE:

Q Do you understand English? A Very little.

Q The two officers were speaking to the girl in English, were they not? A To tell you the truth I saw them conversing together,

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but I could not tell you what language the conversation was held in I was paying attention to my business and not to what they were talking.

Q You were not paying any attention to them at all, were you? A No, sir, there were people in my store purchasing, and I could not pay attention to them.

Q How far away from you were they? A Three feet -- about three feet away from me, but there was a wall between us.

Q You could not see them then? A No, I could not see them. The wall was intervening.

Q Do you sell liquor in your shop? A I have a wholesale liquor license.

Q Did Gambardella and Digilio have anything to drink? A No.

Q Did they eat a sausage there? A No.

Q You have known Digilio for a long time? A I told you already that I heard of those men before, but I made his acquaintance since the homicide in question.

Q Don't you know that he came from your home town in Italy? A He comes from the same province but not the same township. He comes from the outskirts of my town, but I did not know him and did not meet him until that day.

Q You have seen a great deal of Digilio and Gambardella since the shooting, have you not? A They came on several occasions to inquire about the murder.

An adjournment is now taken until to-morrow afternoon, September 28th, 1915, at 2:15.

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New York, September 28, 1915

Hearing resumed.

JENNIE ROSE, called as a witness, being duly sworn and examined, testified as follows:

(Residence 411 West 128th street).

DIRECT EXAMINATION BY MR. WASSERVOGEL:

Q What is your business? A In regard to this Shilitano case-

Q Listen, please. I ask for your business -- you are in business? A Yes.

Q What business are you in? A Negligee business -- dress-making business -- had charge of the negligee department formerly.

Q At the present time what is your occupation? A The same line of business.

Q Employed by some one? A Yes, sir, by H. Bendel, 12 West 57th.

Q Where were you employed in the month of May, 1913? A With the Maloney Company.

Q Where was their place of business? A West 23d Street, I think it was 18.

Q How long were you with that company? A Over ten years.

Q Were you in charge of a department there? A I had charge of the negligee department.

Q While you were employed by the Maloney Company did you become acquainted with a girl named Nellie DeCarlo? A Yes.

Q Did she work there? A Yes, sir, she worked in my department.

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Q How long would you say she worked in your department, about how long? A I just can't remember.

Q About? A Two months, if I remember, about.

Q Do you know if she worked there in the month of May, 1913, the early part of that month? A Yes, sir, I think she did.

Q Did you have any talk with this girl in the early part of May regarding a shooting? A Yes, sir, I did.

Q Tell us when that was, if you can remember, about when?

A It was about the 5th of May, 1913, on Monday morning.

Q You know it was on Monday? A Yes, sir, Monday morning, I remember that very well.

Q Was the girl in the place at that time? A Yes, sir, she was in the place at first and I observed she was crying, and I asked her what the trouble was.

Q What did she say? A She said that she had seen the murder of Shilitano -- the murder of the two officers, rather.

Q What else did she say that you remember? A She said that she had seen a man by the name of Shilitano pass a revolver to his son, and she had seen him shoot the officers, and she saw a large pool of blood on the ground, and she would never forget her experience. She also stated that she knew the family.

CROSS-EXAMINATION BY MR. WYLIE:

Q This was Monday morning, May 5th, that she told you this?

A If I remember well.

Q Don't you remember? A Yes, as near as I can remember it was May 5th.

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Q She came to work that Monday morning, you remember that?

A Yes.

Q Nellie DeCarlo testified as follows on the trial of this action -- I read from page 82 of the record -- she was being asked about Monday, "And did you go to work the following day (meaning Monday)? A No, sir. Q You stayed at home? A No, I was laid off that day because the forelady told me there was not any work for me, and she told me not to come on Monday. Q She told you that on Saturday? A Yes, on Saturday night, not to come on Monday morning, and so I did not go. Q You did not go to work at all? A No." -- Did Nellie DeCarlo lie when she said that?

MR. WASSERVOGEL: I object to that question as not proper form.

MR. WYLIE: I think Mr. Wasservogel should not have asked this witness anything. He is contradicting testimony that the State's witness gave on the trial of this case.

THE COURT: We are here searching for the truth sternly, and that is my function in this hearing.

MR. WYLIE: The purpose of this witness is to discredit the testimony of Nellie DeCarlo given on the trial?

MR. WASSERVOGEL: Given on this hearing.

THE COURT: I am not here except to obey the directions of the Court of Appeals. I think perhaps Mr. Wylie your purpose can be accomplished by re-framing the question.

BY MR. WYLIE:

Q Do you still say Nellie DeCarlo came to work Monday morning, May 5th? A Yes, sir.

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Q And did tell you those things? A Yes, sir, certainly did

Q When did you first tell Mr. Wasservogel about that?

A About four months ago, I should judge, if I remember well.

Q In March of this year? A No, it was later.

Q Later? A I think it was May -- May 1st, around that time.

JOSEPH A. FAUROT, called as a witness, being duly sworn and examined, testified as follows:

DIRECT EXAMINATION BY MR. WASSERVOGEL:

Q You are an Inspector of Police? A Yes.

Q How long have you been connected with our Police Department? A Nineteen years.

Q You know Nellie DeCarlo? A I do.

Q When did you see her for the first time? A On May 13th.

Q 1913? A 1913.

Q And where did you see her then? A In my office, Police Headquarters.

Q Do you know who brought her there? A Detective Joseph Digilio.

Q Was Commissioner Dougherty there at the time? A No, sir.

Q He was not? A No.

Q Did he come there at all during the time that the girl was at Headquarters? A Not in my office, not that day, he was not present.

Q The girl Nellie DeCarlo testified that when she was first brought into Headquarters you asked her what she knew about the

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shooting and that she told you that she knew nothing about the shooting. Is that so? A That is not so.

Q There was a statement which was signed by her that day, was there not? A Yes, sir.

Q You have seen the statement? A Yes.

Q That is the statement which you delivered to me and which was made part of the papers in opposition to this motion? A Yes.

Q What did she say to you before that statement was signed by her, do you recall? A Yes, in a general way, at least -- she went on at greater length than in the statement.

Q You asked her what she knew of the shooting? A Yes.

Q What did she say? A You want the gist of the whole thing?

Q The substance of what she said? A She stated she was on the second floor of her apartment living with her folks, came to the window and saw the father and son, Shilitano and son, and the father passing a shiny object to the son, and a man by the name of Rizzo coming from a certain address -- I do not just recall the number -- and Oresto Shilitano taking this shiny object from the sleeve of his coat and firing a shot, Rizzo falling to the ground; he running away; the officer coming up, firing a shot at the officer and seeing the officer fall, and then she said she moved away from the window, closed it down and went to bed, very much frightened.

BY THE COURT:

Q She said that, Inspector? A Yes.

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BY MR. WASSERVOGEL:

Q The substance of what she said was written out by a stenographer and signed by her on that occasion? A Yes.

Q Did she ever sign any other statement that you know of?

A Not to my knowledge.

Q Did this girl ever claim to you she had been threatened or coerced by a police officer to make the statement made by her? A No.

Q Did she ever claim that any one had struck her? A No, sir.

Q Did she ever say to you any police officer had slapped her face? A No.

Q Did she ever claim to you that any police officer had told her to say the things which were contained in that statement? A No.

Q Or to which she testified later on the trial? A No.

Q You saw her several times after that 13th of May? A Yes, she was under the care of a matron of the Police Department.

Q Mrs. Goodwin? A Yes.

Q Did you ever speak to her about the case after that first time? A I do not believe I ever did. I have spoken to her occasionally in the hall, meeting her, but not referring to the case.

Q You never told her she should testify to the things contained in that statement? A No, sir.

CROSS-EXAMINATION BY MR. WYLIE:

Q You did not see Nellie DeCarlo until the 13th of May, ten days after the shooting? A Yes, sir.

Q You did see her? A I did not.

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THE COURT: Will you take up the subject of the chair in the room adjoining the Inspector's office or the Commissioner's office.

MR. WASSERVOGEL: Yes.

BY MR. WASSERVOGEL:

Q Where is your office at Headquarters? A It is in the southern end of Police Headquarters, the Grand Street side, Grand and Centre, corner.

Q Where is Commissioner Dougherty's office with respect to your office, where was his office? A It was on the second floor at the head of the stairs.

Q It was not on the same floor with your office? A No, sir, quite distant.

Q Where was Nellie DeCarlo at the time she made this statement which is part of the papers in this case? A She was in my office.

Q And of how many rooms did your office consist? A At that time it consisted of my office, a room adjoining for clerical work and a room adjoining that for a desk.

Q Are there clerks in each one of the rooms? A Yes, sir.

Q Always present? A Always present.

Q What sort of furniture was there in your office? A A desk, several hardwood chairs and office chairs.

Q What sort of furniture was there in the two adjoining rooms belonging to your offices? A Practically the same, only more chairs.

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Q The chairs are the ordinary chairs? A Yes, sir, heavy wooden chairs.

Q Such as the chair upon which you are sitting now? A Yes.

Q The girl has testified that after she had signed the statement in your room that she was taken into an adjoining room and asked to sit down on a chair and that the chair upon which she did sit down suddenly shot up to the ceiling and then came down upon the floor and she was thrown to the floor, did you ever hear of anything like that? A No, never.

Q Was there any complaint ever made to you by the girl or any one else that such a thing had occurred? A No.

Q Was there any chair in Headquarters at all, in any room, which could be used for such a purpose? A No, not to my knowledge

Q You would know about it as Inspector in charge of the Detective Bureau? A I do not know of any.

Q Was there any such furniture in the room which was used by Commissioner Dougherty? A No, sir.

Q While he was connected with the Police Department? A No.

Q Commissioner Dougherty is no longer connected with the Police Department? A No.

BY THE COURT:

Q After this statement was given, was it taken down by a typewriter and submitted to Nellie DeCarlo? A Yes, sir, it was read to her and she read it herself.

Q Did she at that time go to another room and await the work being done? A The stenographer went to the next room in which she was seated.

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Q She stayed right in your room? A Yes, sir, there were four present, four other witnesses.

BY MR. WASSERVOGEL:

Q The persons who were present signed the statement as witnesses? A Yes, sir, and there were still others coming in and out besides those.

FELIX B. De MARTINI, called as a witness, being duly sworn and examined, testified as follows:

(Third Branch detective Bureau)

DIRECT EXAMINATION BY MR. WASSERVOGEL:

Q You are a police officer of this city? A Yes.

Q How long have you been attached to our Police Department?

A It was ten years in May.

Q What position do you now hold? A Detective Sergeant, first grade.

Q When did you for the first time have anything to do with the Shilitano case? A I think it was February 2nd or 3rd -- I think it was on the 2nd of February.

Q What year? A Of 1914.

Q Did you at that time come in contact with a man named John Verno? A Pardon me -- I made a little mistake. I first had something to do with the Shilitano case about January 1st, 1914.

Q Do you know a man named John Verno? A I do.

Q Do you know a man named Gennaro Sellitto? A I do.

Q When for the first time did you see Verno? A I saw Verno

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for the first time in February 1914, I should judge about the 5th or 6th.

Q Where did you see him then? A I first saw him at the corner of Spring, or Prince and Mulberry Street.

Q What was the occasion of your seeing him at that time?

A To locate him in order that Mr. Murphy would be able to get a statement from him.

Q You mean Mr. Murphy of the District Attorney's office?

A Yes.

Q Did you serve Verno with a subpoena on that occasion? A No, I did not have any.

Q Did you ask him to go to the District Attorney's office?

A Not at that time.

Q Did you have any talk with him then? A I did.

Q What talk did you have with him? A I spoke to him regarding the Shilitano case.

Q What talk did you have with him? A I told him that I had information that he was present, that he had witnessed the killing of the two officers and Rizzo, and that he should do his duty and go down and tell the truth.

Q What did he say? A He told me then that he did not know anything, that when the thing happened he was up to his mother's house.

Q Did you see him again after that? A I did.

Q When? A That was at his home.

Q How long after? A Oh, I should judge about two days after.

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Q Did you have another talk with him then? A I did.

Q Tell us what it was about? A I told him that it was his duty as a citizen to go down and tell the truth and that I had a subpoena for him and he was to go to Mr. Murphy's office, the District Attorney. He said "I am tired, I don't want to be bothered and mixed up in these things."

Q You served him with the subpoena? A Yes.

Q He did go to Mr. Murphy's office the next day? A Yes.

Q When did you next see him? A I saw him then at the House of Detention when I was sent up there by Mr. Murphy to take him to the office.

Q District Attorney's office? A The District Attorney's office.

Q Did you have any talk with him then? A I did.

Q What was it? A Going down he spoke to me and he said "I do not see why they want me." He said "I don't know anything." I said "You tell the District Attorney, and if you don't know anything, tell him, but", I said, "I would advise you to tell the truth."

Q Did you at any time have another talk with him after that that you recall now. A Yes.

Q How long after? A That was on another occasion when I took from him at the House of Detention to the District Attorney's office and it was practically the same conversation went on as the first time.

Q Did you ever tell John Verno that he would have to testify

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that Oreste Shilitano did the shooting? A No, sir.

Q Did you ever threaten John Verno in any way that unless he did testify that Shilitano did the shooting that Verno would go to jail? A No, sir.

Q And that you would see that he would go to jail? A No.

Q When for the first time did you see Sellitto? A The first time I saw Sellitto was when I went to the House of Detention to interview one of the witnesses I had in the case named Burke, but I did not speak to him, but I remember going back there with Officer Digilio which was on February 3rd.

Q What talk did you have with Sellitto then? A He had sent down that he wanted to come to the District Attorney's office or he wanted to speak to Mr. Murphy, wanted to tell him something, and I accompanied Digilio to the House of Detention. When we got there I said "What does he want." He said "I want to tell the entire truth regarding the Shilitano case", and then Digilio and I took him to Mr. Murphy's office of the District Attorney's office, and there he made the statement.

Q Did you ever see this man Sellitto drunk, or in a drunken condition? A No.

Q Did you ever give him anything to drink? A No.

Q Did you ever tell Sellitto that unless he would testify that he saw Oreste Shilitano do the shooting, that you would have him sent to jail? A No.

Q Did you ever threaten him in any way at all? A No.

Q Did you ever hear any other police officer threaten either

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John Verno or Gennaro Sellitto? A No.

Q Did you ever hear any police officer say to either one of those men "Unless you testify that Shilitano did the shooting, we will send you to jail"? A No, sir.

CROSS-EXAMINATION BY MR. WYLIE:

Q You signed an affidavit for Mr. Wasservogel? A I did.

Q Do you remember the last sentence says "I have at no time done anything by way of threats or otherwise to induce either the said John Verno or Gennaro Sellitto to say anything but the truth in this case". Do you remember that? A Yes.

Q You had quite a hard time getting them to say the truth?

A I did not have no hard time at all .

Q It was easy, was it? A He told it himself. I had nothing to do with telling of the truth. It was up to himself.

Q How did you know he told the truth? A That was after what he was telling, that he had received money and they took him to a place around Tarrytown or New Rochelle where they had him in a saloon up there and had him sign some affidavits.

Q Were you the one to determine what the truth was? A I think it is up to the Court to decide what the truth was, and then judging from what he told me, I was convinced he was telling the truth at that time.

Q You determined that was the truth? A Well, that was the way I thought.

Q And got him to tell it? A I did not get him to tell it.

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Q You did not ask him to tell the truth? A I told him to tell the truth, but in no way did I tell him what he should say.

Q You took Morelli to see Rizzo's mother? A Yes.

Q In handcuffs? A Yes, I think it was.

Q Do you remember about that interview? A I think I can remember the substance of it.

Q Tell us the substance of it? A I told Morelli that I had received information that he was present and that he saw some of the shooting and Morelli said "Well, you take me there, and if she can say so, I am willing to submit", and I did take him there and Mrs. Rizzo had said he had been near the scene, or had seen the shooting -- she said he had seen the shooting.

Q He told her that he had seen the shooting? A No, he did not tell her that. That was what Mrs. Rizzo said, nothim.

Q Did he deny it? A Yes.

Q In the presence of Mrs. Rizzo, A He did.

Q Who else was there, do you remember? A I am not sure if her daughter was there. She was laying in bed then, she had a fractured ankle and I think her daughter was there.

Q Morelli said he was two blocks away from the shooting when it took place? A I cannot say how far but I know he said that he was not there.

Q What did you understand him to mean by saying he would submit if she said that? A Why, if she could prove to him, he would tell the truth that he was there.

Q If she could prove to him the truth, he would tell it, is

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that what he said? A That was what I could make up from his remark.

Q But he did not understand what the truth was? A That I do not know.

Q You saw Sellitto after quite often in the House of Detention? A No, not quite often. I don't think more than three -- that is when I took him from the House of Detention to Mr. Murphy's office.

Q You never went down to see him alone? A Not that I remember.

Q You never talked with him with Fogarty present? A Fogarty used to go with me part of the time.

Q You brought his wife down there to see him? A I delivered a message to him for his wife.

Q A message to Sellitto from his wife? A From Sellitto to his wife that he wanted to see her.

Q That was after he had said that Oresto Shilitano had done the shooting? A That I could not say, I am not so positive about that.

Q Did you tell his wife she should go down there and see him? A I told her that he wanted to see her, and I think my instruction to her was that she should go to the District Attorney's office where she could speak to him.

Q Do you know whether she saw him in the House of Detention or the District Attorney's office? A She used to go to the House of Detention to see him, because she went there most every day.

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Q After he said that he saw Oreste Shilitano do the shooting? A I think she went there -- she continued to go there.

Q Do you remember what day Verno told the District Attorney that it was Oreste Shilitano that did the shooting? A Let me see-- it was either the 10th or the 11th of February.

Q Wasn't it the 11th of February he went to the House of Detention? A It was about two days before the trial of Shilitano had commenced -- I think it was about February 21st.

Q You had several interviews with him just before he told the District Attorney this? A I used to talk to him as I took him up and down. I conversed with him.

Q You acted as interpreter for any of these men? A Only for Sellitto.

Q Every time you took him to the District Attorney's office you acted as interpreter for him? A I wouldn't say -- I think I did but wouldn't say positively. He may have been there or taken down times I was not with him.

Q But every time you were there you interpreted for him?
A Yes, pretty near.

Q You took Chieffe to the House of Detention also? A I did.

Q Do you remember the day that he told Mr. Wasservogel that Oreste Shilitano was the man who had done the shooting? A Well, he told that as soon as he was arrested. He was brought right to the District Attorney's office, Mr. Murphy's office, and he told the story right there.

Q That was February 3rd, the day he went to the House of

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Detention? A That was the same day he went to the House of Detention.

Q Did you arrest him? A Yes.

Q Where did you pick him up? A It was at his mother's house.

Q Did you take any one else to see Mrs. Rizzo? A He.

Q You took him to see Mrs. Rizzo? A Yes.

Q Do you remember that conversation? A I do. I had told --

Q Just wait a second, do you remember who else was present at that conversation, A I think only Mrs. Rizzo and I am not sure if Officer Digilio was there with me or not. I am not positive.

Q Chieffo's mother was there too? A At Mrs. Rizzo's house? Not that I know of.

Q I may be mistaken, but I understood Chieffo to say the other day on the stand that his mother was present at the interview when you took him to see Mrs. Rizzo. A No -- may have been present in the office with Mr. Murphy, but not at Mrs. Rizzo's house that I can remember.

Q Do you know whether Chieffo ever saw Mrs. Rizzo in Mr. Murphy's office? A She did see him there.

Q She did? A She had been there already when Chieffo was at Mr. Murphy's office.

Q Chieffo saw Mrs. Rizzo quite often? A Mrs. Rizzo?

Q Yes? A No, I am saying Mrs. Chieffo -- not Mrs. Rizzo.

Q What was said at that interview? A Why I told him, I said "Now, Chieffo, Mrs. Rizzo says you were present and was there in the hall even after the shooting, and that you were also present

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at the shooting" and he said "No." I said "You come up and you will hear what she has to say" and I took him to Mrs. Rizzo's house. I said "You sit there and you tell him, Mrs. Rizzo, what you told me" and she told him -- she said "Weren't you there, don't you remember me." He said "All right, I will tell the truth but I am afraid, Mrs. Rizzo." I said "All right, I will take you right down to the District Attorney's office" and I took him down to Mr. Murphy's office.

Q Did Mrs. Rizzo say she had seen Chieffo there at the shooting? A Yes, sir, she said he was there.

Q Did she say she saw him there? A I couldn't say positively, but she did say he was there, that I am positive of.

Q Don't you know Mrs. Rizzo was present when her son was shot? A Yes, sir, she told me she helped her son.

Q She saw the shooting? A If my recollection is right, she told me he was in the hall, she saw him in the hall.

Q What -- in the hallway? A Chieffo -- I wouldn't say positively.

Q Didn't she tell you she saw the shooting herself? A No, she did not.

Q You just said she was present at the shooting? A That was after he was shot and he was lying in the hallway.

Q It was after the shooting she was present? A Yes.

Q And she saw Chieffo then? A Yes.

Q That was what she said? A Yes.

Q Did you ever take any of these men out of the House of De-

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tention, Morelli, Sellitto, verne or Chieffo, to go any other place than to see Mr . Rizzo's mother or to the District Attorney's office? A Yes, I think I took Chieffo once to his home. He had written a letter or requested Mr. Murphy that he be given permission to go and see his mother, or he wanted to get something, and I took him to his mother's house and then took him back.

Q Any one else? A And Sellitto, the same thing, he requested that he be taken to his home, and I took him once to his house.

Q Did you stop anywhere on the way when you took Sellitto?

A No.

Q Did you go to a saloon with him? A Positively not.

Q Any one else with you? A I don't know if Fogarty was with me or not. Fogarty may have been with me. I am not sure. I know I took him.

Q What grade officer were you at the time of the shooting?

A At the time of the shooting -- let us see -- that was -- I think I was second grade.

Q You were advanced soon after that? A No, I was advanced in May.

Q Were you in the court room at the time of the trial? A No, sir. I may have walked in and out, but I did not --

Q You were around at the time of the trial? A Yes.

Q You were in the building? A Yes.

Q And saw the witnesses? A I did.

Q Were you in the Grand Jury room when this case was taken up there? A In before the Grand Jury?

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Q Yes? A No, I was not in before the Grand Jury.

Q Did you take any of the witnesses to the Grand Jury room?
A I am not sure, I think -- I couldn't say. I don't remember that.

Q Don't you know the Grand Jury acted on this case the year before you came into it? A I had nothing to do with the beginning of the case.

Q You heard of course that these witnesses made affidavits in the office of the World in March of this year? A So I heard.

Q Have you seen any of those witnesses since that time?
A Why, I saw Chieffo maybe three or four times. Morelli I had not seen until I saw him the other day. I saw Verne out in the corridor, but I have not spoken to him.

Q You have not spoken to any of them except Chieffo?
A Chieffo was the only one I spoke to.

Q Where did you see him? A He came to the District Attorney's office.

Q And were you sent for then to talk to him? A He came up there looking for me and looking for Mr. Murphy, both of us, either one of the two, or Mr. Wasservogel.

Q He was there looking for you? A He was looking for either one of the three.

Q He was looking for Digilio too? A No, he did not ask for Digilio.

Q He saw Digilio up there, don't you know that? A That I do not know.

Q Were you asked to investigate Rizzo? A No, I was asked

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to -- no, I was not.

Q Do you know anything about Rkmo? A Nothing outside of what I heard.

Q Did you ever look up his record? A I did not.

Q Did you have anything to do with him before the night he was killed? A No, I did not.

Q Did you know that he shot a man over here near Spring Street? A Not outside of what I heard.

Q That is all you know, what you hear and see? A Well --

Q Who did you hear that from? A That was talk in general.

Q You knew he was a strike breaker also? A That was what I heard.

Q You knew he shot a man named Loretto? A That was what I heard.

Q At Prince and Mulberry Street about four months before this other shooting? A I heard it was a few months before, but don't remember the exact date.

Q Were you present when Oreste Shilitano came to the police?
A No, sir.

THE COURT: Mr. Wylie, something was brought out by some of the witnesses that they were advised that they had better go down and satisfy Mr. Murphy. Will you probe into that subject.

BY MR. WYLIE:

Q Did you ever tell any of the witnesses in the House of Detention that Mr. Murphy wanted to see them? A No, sir.

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Q Did you ever tell them that Mr. Murphy wanted to know about who did the shooting and they had better tell him? A I may have said this, that Mr. Murphy had charge of the investigation, and they had better tell the truth.

Q They had better tell the truth or what? A Just tell the truth. I told them it makes no difference whether I am a policeman or not, tell the truth -- you owe it to yourself and owe that to your family.

Q Did you say what would happen if they did not tell the truth? A No.

Q Did you tell them when the trial was going to take place? A No, because I did not know what day the trial would be set for.

Q Didn't you tell them the trial would not take place until they told what you called the truth? A No, I did not, because I did not know -- I would only have to guess, if I had to tell when the trial would take place.

Q You understood they would be in the House of Detention for an indeterminate length of time unless they told the truth?

A That I did not know, how long they would keep them up there.

Q Didn't they ever ask you how long they were going to be kept there? A They may have asked me and I could not tell them how long they would be kept there.

Q Don't you remember the answers you gave them? A That would be the answer, because I could not give any other answer. I could not tell how long they would be kept there -- they would be kept there until the case would be called for trial.

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Q Didn't you tell them the case could not be called for trial unless they told the truth? A No.

Q You did tell them that Murphy had charge of the case and they had better tell the truth? A Yes.

BY MR. WASSERVOGEL:

Q Did you ever say to any of these witnesses "If you want to get out of the House of Detention you will have to satisfy Mr. Murphy and say what he wants you to say"? A No.

Q Did you ever hear any other police officer say anything of that kind? A No, sir.

Q Did you ever say to Sellitto "If you will testify that Oreste Shilitano did this shooting, we will allow you to see your wife alone in the House of Detention"? A No, sir.

Q Did you ever hear any other police officer say any such thing? A I did not.

Q Do you know whether Sellitto was ever allowed to be alone in a room with his wife? A Not that I know of.

Q Did you ever hear anything of that kind? A No, never heard of it.

LIBORIO GAMBARDILLA, called as a witness, being duly sworn and examined, testified as follows:

DIRECT EXAMINATION BY MR. WASSERVOGEL:

Q Where do you live? A 2094 Washington Avenue.

Q In the month of May, 1913, were you connected with the Police Department? A Yes.

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Q You are no longer attached to the Police Department? A No.

Q Do you know Nellie DeCarlo? A Yes.

Q Did you see her on the 5th of May, 1913? A Yes.

Q At about what time of the day? A I guess about 6 or 7, around like that.

Q In the evening? A Yes.

Q Who was with you, if any one? A Joe Digilio.

Q Was he a Detective Sergeant? A Yes.

Q Where did you see the girl? A On Mulberry Street, I guess it is 241 -- 245, something like that, in front of a grocery store.

Q Do you know whose grocery store it was? A Vitacca -- a man by the name of Vitacca.

Q Did you talk with the girl? A Sir?

Q Did you have a talk with the girl? A Yes.

Q Where did you talk with her? A In front of the store.

Q What did you say to her? A I said about the case --

Q What did you say, the first thing you said to her was what? A I just don't remember what I said to her first.

Q Give us your best recollection? A I said "What do you think about this thing here."

Q What thing? A About the shooting -- I said "What do you think about the shooting" and she said "Yes, I was up at the window and I saw Shilitano's father hand Shilitano a shiny thing -- Harry Shields, and he walked up and Rizzo was coming along and he shot Rizzo."

Q Where was Digilio when she said that? A Digilio was in-

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side the store.

Q After the girl said that to you, where did you go? A I took her by the arm and brought her inside to Digilio.

Q Then what was done? A Digilio was questioning her.

Q He asked her questions? A Yes.

Q Tell us all that Digilio said? A Digilio asked her what she knew about it, and she was kind of scared first to say anything, and she said that she saw Shilitano's father hand Harry Shields a shiny thing, she did not know what it was.

Q And then what else -- tell us all she said? A I don't just remember, Mr. Wasservegel, at this time. She said that Risse was walking towards the house and Shilitano shot him and then the nice blue-eyed policeman was shot by Harry Shields too.

Q Do you remember anything else she said then? A I don't just remember everything -- if you can remind me -- I made a statement.

Q Did you strike this girl? A No, sir.

Q Did you slap her face? A No.

Q Did you tell this girl she would have to say that she saw Oreste Shilitano do the shooting? A No, sir.

Q Did Digilio do any of the things I have just mentioned to you? A No.

Q You are sure about that, are you? A Yes, sir -- not in my presence, no, sir.

Q Were you present at Police Headquarters at any time when this girl was questioned by either Commissioner Dougherty or

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Inspector Fauret? A No.

Q Were you present at the time when she signed a statement at Police Headquarters? A No.

Q You were not on duty at that time at Headquarters at all?
A No.

Q Did you ever strike this girl at Headquarters or any other place? A No.

Q Did you ever tell this girl to sit down upon a chair in one of the rooms at Headquarters, and that after she did sit down on this chair, the chair shot up to the ceiling and that the chair came down to the floor and she fell to the ground? A No.

Q Do you know anything about that at all? A No, I was not there at Headquarters.

Q You never did anything like that? A No.

Q Did any other police officer, to your knowledge, do this?
A Not that I know of, no, sir.

Q Did you ever tell this girl she would have to swear that Shilitano did this shooting? A No.

Q Did you ever tell any of the other witnesses in this case that they would have to swear that Oreste Shilitano did the shooting? A No, sir.

Q Did you ever hear any police officer say to any witness in this case that that witness would have to swear or testify that he or she saw the shooting? A No, sir.

Q (Continued) By Oreste Shilitano? A No.

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CROSS-EXAMINATION BY MR. WYLIE:

Q And this first little conversation that you had with the girl outside of the store, when Digilio was inside the store, did she tell you she had seen the shooting or did she tell you that the shooting occurred, and describe it, but did not say she saw it? A She said Shilitano's father handed him a shiny thing -- she did not know what it was.

Q She said she saw it? A Yes, I am pretty sure.

Q She said "I saw the shooting and I saw the father give the son this" or did she say it occurred? A No, she said she saw it -- she did -- I think --

Q Is that what she said, that she saw it? A Yes.

Q She did not say that the father gave the son a revolver? A No, not a revolver, a shiny thing -- she did not know -- she said -- she was up in the window.

Q That was what she told Digilio also? A Yes.

Q About the shiny thing -- not a revolver? A Yes, sir. We asked her whether she saw a revolver.

Q You said the girl was sort of scared? A Yes, sir.

Q What was she scared of? A She did not want to talk first right there.

Q She knew you were police officers? A Yes, sir, she knew me

Q She knew you before? A Yes, she knows me.

Q You know where she lived? A Yes.

Q You knew it at the time you spoke to her in front of the grocery store? A Yes, sir.

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Q Did Digilio talk to the girl for any length of time when you were not present? A When I was not present? --

Q When you were away? A No.

Q Did you leave him in the store with her alone? A Just on the door -- this was in the back of the store and we walked in.

Q You did not go out and leave these two alone in there together? A No.

Q Did you take the DeCarlo girl to the Coroner's Court? A No.

Q Did you take any one there, do you remember, any witness?
A No, sir.

Q Did you take any one to the Grand Jury room? A No.

Q Were you present in the Grand Jury room when proceedings were being had there in this case? A No, sir.

Q Sure of that? A Not at the Grand Jury, no, sir.

Q You were in the court room at the time of the trial? A No.

Q You were around the building? A No, sir.

Q You were assigned to the case from the very start, were you not? A Yes.

Q You mean at the time of the trial you were not in the building? A No, sir.

Q And did not look after the witnesses at all? A No.

Q Do you remember where you were at the time of the trial?
A Yes, sir, I was in bed.

Q Sick? A Yes, sir, I had my nose broke.

Q Did you see Nellie DeCarlo at Mrs. Goodwin's? A No, sir.

Q Did you go to Mrs. Goodwin's at all to see her? A No.

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Q Did you arrest Morelli? A Morelli?

Q Yes? A I did not arrest him, no, sir, but I brought him to the District Attorney's office.

Q You found him at Prince and Mulberry street? A Yes.

Q Did you talk to him on the way down? A Yes.

Q Do you remember what you said to him? A I asked him if he knew anything about the shooting.

Q What did he say to that? A He said he did not see it. He was not around there.

Q But you took him down to the District Attorney's office?
A Yes.

Q You called upon him, as I remember his testimony, several times just after this? A Yes.

Q Do you remember what you talked about then? A I asked him if he knew anything about the shooting, that Rizzo's mother told me that he told her that he had seen the shooting.

Q What did he say to that, A He said "She is a liar" and I did not see anything about the shooting.

Q Was this in the House of Detention you asked him this, or before? A No, sir, on Mulberry Street.

Q Did you see him the day he was taken to the House of Detention? A No.

Q You saw him in the House of Detention, you saw him while he was in there? A No.

Q Never saw Morelli in the House of Detention? A No.

Q Did you take Sellitto to Police Headquarters at any time?

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A Not to Police Headquarters, no, sir.

Q Where did you take him, do you remember? A I got him up in -- I think it was North Tarrytown, and brought him down here in company with Digilio.

Q Do you remember what he said to you when you got him in Tarrytown? A Yes.

Q What did he say? A He said "If he would see the man that done the shooting he would know him."

Q Did you ask him whether Oreste Shilitano had done the shooting? A He said he did not know the name, but he said if he seen him that he would know the man.

Q Did you ask him whether he knew Oreste Shilitano? A Yes.

Q What did he say to that? A He said he knew Oreste Shilitano.

Q Did you ask him whether Oreste Shilitano did the shooting? A Yes.

Q What did he say to that? A He said "Let me see if it is the man -- I only saw him from the back -- if I could see him I might know if it is him."

Q Later on you did take him to see Oreste Shilitano?

A Me and Captain Reilly took him to the Tombs.

Q Had a line-up there? A Yes.

Q Oreste Shilitano was in the line-up? A Yes.

Q Did Sellitto pick Oreste Shilitano out of the line-up as the man who did the shooting? A No, he did not pick any one.

Q What else did he say to you in Tarrytown when you were

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bringing him down? A That was all he would say, "If he would see the man that he saw that night, he only saw him from the back," he said "he would know him."

Q He did not deny at all that he was present at the shooting? A No.

Q Did he tell you that some lawyer for the defense had come up to see him in Tarrytown and offered him \$2,000. not to testify on the trial? A No, sir.

Q Did you talk to him on the way down about what he had been doing? A Yes.

Q And what he knew about the case? A Yes.

Q He never told you that, A No, sir.

Q Did you ever hear of that before? A No, sir.

Q After you had taken him to the line-up, did you bring him to the District Attorney's office to see some one? A Yes, sir.

Q Did you act as interpreter for him, do you remember, or did Digilio? A I don't remember who acted as interpreter.

Q The day of the line-up he was taken to the House of Detention? A Yes.

Q You saw him often in the House of Detention? A Yes.

Q Talked to him about the shooting? A No, sir.

Q What did you talk about? A Did not talk about anything at that time.

Q When did you next talk to him about the shooting? A I did not talk to him any more. I have not seen him any more since.

Q Didn't you see him in the House of Detention? A Yes, sir,

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once, that is right.

Q Did you bring his wife down there to see him or send her?

A I don't quite remember, I might have.

Q You took him out of the House of Detention once, didn't you, with another officer -- didn't you and Digilio take him out of the House of Detention and take him home? A Before we took him to the House of Detention we took him to his home.

Q Did you take him to a saloon, do you remember that? A Yes, sir, that is before we took him to his home at all.

Q What saloon did you take him to, do you remember? A On Broome Street -- he was hungry and we took him in the saloon.

Q What did he have to drink? A He had a little wine and some macaroni.

Q He did not drink the macaroni? A Well --

Q Where else did you ever see him drink? A That is all.

Q Did you ever see him drink in the House of Detention? A No.

Q When did you first see Verno? A Verno?

Q Yes? A I don't know him by that name -- they have nicknames, that is the man they call Swiff -- I don't know --

Q You don't remember John Verno? A I don't know him by name

Q Whendid you first see Chieffo, Frank Chieffo? A I seen him after the crime was committed.

Q Do you remember what he said to you -- do you remember where you saw him? A At his home.

Q What did he say, A I asked him about the case and he said he didnt know anything about the case, that he was two blocks

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away when the thing was committed. I told him Mrs. Rizzo said that he had told her that he had seen the shooting.

Q What did he say to that? A I gave him a subpoena to come down to Mr. Wasservogel's office.

Q Did he see Mrs. Rizzo down there? A No, Mrs. Rizzo was not there.

Q You did not take him to see Mrs. Rizzo? A Yes.

Q Do you remember what was said there? A Yes.

Q Do you remember who was present there? A I know there was Joe Digilio with me.

Q Was Chieffo's mother there? A Yes.

Q Can you tell me what was said? A I brought him before Mrs. Rizzo to let her question him, and she told him that he had told her that he seen the shooting, in front of her daughter and before the daughter-in-law, and he said that he had not seen the shooting, that if he had seen the shooting he would be willing to tell, and the mother says "God will pay that you are not telling the truth" -- that is Mrs. Rizzo.

Q You knew Rizzo before he was killed? A Yes.

Q You knew him pretty well? A Yes.

Q He lived in that neighborhood and you did also at one time? A Yes.

Q You knew Oreste Shilitano too? A Yes, sir, for many years.

Q Both lived in the same neighborhood? A Yes.

Q As well as Rizzo? A Yes.

Q You were often with Rizzo and Shilitano, were you not?

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A Yes.

Q Did you see them together long before this shooting? A No.

Q Do you remember how long before the shooting you did see them together? A Maybe three or four months previous.

Q They were on good terms? A They were together.

Q Don't you know -- you knew them before that pretty well?

A I knew them by name.

Q You knew them well enough to know that they were friends?

A I would think they were friends if they were together.

Q You knew Oreste Shilitano had loaned money to Rizzo and Rizzo had paid him back? A I don't know that.

Q Didn't you know old man Shilitano had done that, loaned Rizzo money? A Might have, I don't know.

Q You knew they were on pretty good terms together? A Yes.

Q You never heard of any scrap between those two? A No.

Q Or between Rizzo and old man Shilitano? A No, sir.

Q You knew what Rizzo did for a living? A I knew Rizzo was a good boy previous to when he got in the strike breaking profession.

Q And then he was not such a good boy? A He was mixed up in some shooting right after that.

Q Do you remember whom he shot? A No.

Q You were not assigned to that case? A No.

Q You know something about the shooting? A No.

Q Don't you know anything about it? A I could not talk intelligently about it.

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Q Don't you remember Rizzo shot a man while he was doing some strikebreaking work and then ran down in the subway and they chased him on the tracks and caught him? A Yes, I know that.

Q Did you ever hear the people who employed the man Rizzo shot threaten Rizzo's life? A No.

Q You never heard that? A No.

Q Did you know it was a Jewish man that Rizzo shot? A I cannot quite remember.

Q Did you ever have anything to do with the arrest of Loretto and charging him with the crime of Rizzo's death? A No, sir, I did not.

Q Did you know that Rizzo had shot Loretto a little while before this? A Yes.

Q Tell us what you know about that? A I only knew that after this thing was happened, that Loretto was accused of him shooting Rizzo, and that is all I know about it.

Q Did you know Loretto? A Yes.

Q Did Loretto ever tell you that Rizzo shot him? A No.

Q Did you know that Loretto and Nellie DeCarlo were good friends? A Yes, sir.

Q Did you see them together often? A I seen them around the door.

Q Do you know that they were rather attached to each other? A No, I could not say that.

Q You were present when Oreste Shilitano came to the police? A Yes.

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Q You remember that he came voluntarily, don't you? A Yes.

Q You did not catch him or anything like that? A No.

Q He came and gave himself up? A Yes.

Q And his brother was along with him, John Shilitano? A Yes.

Q Do you remember being in a saloon at the corner of Mett and Kemmere Street when Johnny Shilitano and Digilio had some words? A Yes.

Q Can you tell us about that, what was the conversation, what was said and done in there? A Why, we were drinking there and several others there, and Johnny Shields started to talk something and I don't just quite remember, with Digilio, and they got in hot words together, and I guess Shilitano got near Joe Digilio, and Joe Digilio, the only thing I heard him say was, he said, "I will get you."

Q Digilio said that to Shilitano? A That was all he ever said.

Q "I will get you"? A That was all -- there was no fight or anything.

Q But that was what he did say, "I will get you"? A Yes, sir, there was no fight.

Q Did Johnny call Digilio a stoolpigeon -- you don't remember that, A I can't quite remember that.

Q Was it Johnny accused Digilio of framing up Oresto? A No, I would not swear to that.

Q Anyway it started -- A Started in some way I can't remember now.

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Q But the talk in general was something to do with this case? A Yes, it was.

Q Were you discharged from the police force? A Yes, sir.

Q I am sorry, but I will have to ask you why you were discharged? A I was charged with attempted extortion, and I had my indictment dismissed.

RE-DIRECT EXAMINATION BY MR. WASSERVOGEL:

Q No criminal charges of any kind pending against you now?

A No.

Q Did you ever see Sellitto drunk? A No, sir.

Q Outside of the one occasion that you speak of when you took him into this saloon or restaurant, was anything given him to drink? A We had a bottle of wine and he was drinking with us.

Q That was the only time? A That was the only time.

Q You had a meal there? A Had something to eat.

Q That was a restaurant and saloon? A Yes, sir.

Q Restaurant cafe? A Yes, sir, saloon and restaurant in the back.

Q Did you make any search for Oreste Shilitano after the shooting? A Yes.

Q What efforts did you make to find Oreste Shilitano? A I made all the efforts --

Q What did you do, you said something before about the defendant having voluntarily given himself up, tell us first whether you made any efforts to find him? A I made efforts to find him. I was detailed on the opposite side of his house to watch his

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house. That was all the detail I was given to do.

Q Did you see him go into his house or leave his house at any time? A No, sir.

BY THE COURT:

Q How long did that assignment continue? A I had it for about a month.

Q Doing that every day for a month, were you? A I had it night times.

Q And other officers relieved you? A Yes.

Q As far as you know, the place was covered for about a month, A About a month, yes.

BY MR. WASSERVOGEL:

Q Then there was some arrangement made with Johnny Shilitano, was there, by which information was received by the police as to where Oresto would be at a certain time, and there the police took him. A Shilitano's mother says to me "I know you for a good many years, Leo" -- she says "My son, I understand, is wanted by the police and he is innocent ~~at~~ of this crime, but they say if they get him they are going to kill him. Now if I give him to you will you guarantee me that they won't hit him." I said "Yes." She said "As soon as I find out where my son is, I will give him to you."

Q Did you ask her where her son was at that time? A Yes.

Q What did she say? A She said she did not know.

BY MR. WYLIE:

Q You had quite a hard time to get these witnesses to tell

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the truth? A Yes, sir, quite hard.

Q But you finally succeeded in getting them to tell the truth? A As far as I could get -- what I could get out of them.

Q At any rate you got them to tell something? A Yes.

Q Did you determine what was the truth in this case -- how did you know they were telling the truth? A I said what I could get out of them -- that was all we could get -- but they said they did not know anything about the case -- all I could get out of them.

BY MR. WASSERVOGEL:

Q You did not get the final statements from these witnesses, you did not have charge of these men when they were brought down from the House of Detention? A At the last part of it?

Q Yes? A No, sir.

Q Officers Digilio and DeMartini had charge of the case at that time? A I don't know.

JOSEPH DIGILIO recalled:

BY MR. WASSERVOGEL:

Q Did you ever say to any of the witnesses who were confined in the House of Detention, the witnesses in this case, that in order to get out of the House of Detention they would have to satisfy Mr. Murphy? A No, sir.

Q Did you ever hear any other police officer say anything of that kind? A No, sir.

Q To any witness in the House of Detention in this case?

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A No, sir, I did not.

Q Did you ever say to Sellitto that if he would testify that he saw Oresto Shilitano do the shooting, that you would allow him to remain alone in a room with his wife? A No, sir.

Q Did you ever hear any other police officer say that to Sellitto? A No, sir.

Q Do you know whether Sellitto was ever permitted to be alone with his wife in a room in the House of Detention? A I do not know.

Q You never heard of that? A No, I never heard of it.

BY MR. WYLIE:

Q You had a pretty hard time getting the truth out of these witnesses? A Why, I didn't have any time with them. I tried to get what I could and it was up to the District Attorney to get it.

Q You helped all you could? A I tried to get some. It was my duty as a police officer.

Q You did get some? A I did not get much. I got some but not much.

Q They were not very willing? A Witnesses were not very willing?

Q Yes? A None of the witnesses are ever willing at times.

Q But you finally prevailed and some of the truth, didn't you? A I did not get it myself. The District Attorney got it.

Q You knew it was the truth? A Well, I thought it was the truth.

Q You still think it is the truth? A I still think so, yes.

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MR. WASSERVOGEL: If Your Honor please, I have been trying to locate ex-Commissioner Dougherty and have been told he will probably be able to be here to-morrow. I also want to call Detective Fogarty to-morrow. He is busy with the primary election to-day. With Your Honor's permission I will ask for an adjournment until to-morrow, and I think we will finish up at that time.

The hearing is now adjourned until September 29th, 1915, at 2:15 P.M.

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New York, September 29th, 1915,

Hearing resumed.

JOHN J. FOGARTY, called as a witness, being duly sworn and examined, testified as follows:

DIRECT EXAMINATION BY MR. WASSERVOGEL:

Q How long have you been connected with the Police Department? A About fourteen years.

Q And what position do you now hold? A Detective Sergeant.

Q You have something to do with the Shilitano case? A Yes.

Q When did you come into the case? A About the latter part of November or December of 1913.

Q Do you know the witness John Verno? A Yes.

Q Do you know Gennaro Sellitto? A Yes.

Q And Morelli? A Yes, sir.

Q And Frank Chieffo? A Yes.

Q You never had anything to do with the girl Nellie DeCarlo?
A I talked to her.

Q Did you talk with her about the case? A Yes, in a kind of a casual way.

Q What was the occasion for your talking with her, when was that? A That was while the trial was going on. She was upstairs and I was in the room she was in, and we simply talked about what she saw. She told me she was looking out of the window and she saw the defendant Shilitano downstairs under the window at her door, and she said that she saw him come down the street and saw him shoot Rizzo, and then she saw him shoot Heeney, and I believe

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she said that then she went inside and closed the window.

Q Did you at any time suggest to this girl that she should say she saw Oreste Shilitano do the shooting? A No, I did not.

Q Did you ever tell her what to say? A No.

Q Did you ever hear any other police officer suggest anything to the girl as to what she should testify to in this case? A No, sir.

Q Did you ever talk with any of the other witnesses whose names I have mentioned to you, about the case? A Yes, sir, I talked with Verne.

Q When was that, before the trial, of course? A That was before the trial.

Q What talk did you have with him? A Well, the only thing I told Verne was -- he said something about him being in an awful mix-up and seeing very much trouble about being in the case, and I told him "If you have anything to say about this case, you might just as well tell the truth." He did not tell me anything about what he saw or what he could say.

Q That was before he made his statement to Mr. Murphy finally? A Yes.

Q Did you talk with any of the other witnesses, Morelli or Chieffo? A Morelli never told me anything about the case. I talked to him.

Q How about Chieffo? A Chieffo, I don't remember Chieffo ever telling me anything about the case.

Q How about Sellitto? A Talked very little to Sellitto,

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because it is very hard for him to talk English and hard for him to understand English.

Q Speaks Italian mostly? A Yes.

Q Did you ever suggest to any one of these men whose names I have just mentioned to you what they should testify to upon the trial? A No, sir, I never did.

Q Did you ever make any threats to any one of those men?
A No.

Q Did you ever say to any one of those men they should say they saw the shooting, and that the shooting was done by Oreste Shilitano? A No.

Q Did you ever hear any other police officer make such a suggestion to any one of those men? A No.

Q Did you ever hear any other police officer threaten these men in any way? A No, sir, I never did.

Q Did you ever see Sellitto drunk? A No, sir.

CROSS-EXAMINATION BY MR. WYLIE:

Q You had just been made a detective at the time this case came to trial? A What is that?

Q (Question repeated)? A Oh no, I had been a detective long before that.

Q I understood from your affidavit you signed for Mr. Wasservegel not long ago that you said you had been a detective for three years now? A Well, since February 4th or February 3d, 1913, and then for about six years and a half before that with a period of about eighteen months in between.

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Q Were you in the court room at the time of the trial? A No, -- yes, I was part of it, the latter part of the trial.

Q Were you in the Grand Jury room when any proceedings were being had there? A No.

Q In the Coroner's Court? A No.

Q You were present when Digilio or Gambardella talked with Sellitto? A No, sir.

Q You were present when Digilio or Gambardella or DeMartini talked to Verno? A DeMartini and I went to Verno's house one night for the purpose of serving a subpoena upon Verno. I think that is about the only time I was present when DeMartini talked to Verno. I did no work with anybody else but DeMartini.

Q You were present when DeMartini talked to Sellitto in the House of Detention? A Yes.

Q On several occasions? A No, maybe once or twice.

Q Maybe more than that. A Well, I don't think it would be more than three times.

Q He spoke in Italian? A Yes.

Q You were the one that took Morelli to the District Attorney's office when he first went there? A Well now, there was one occasion when the four, Verno, Sellitto, Chieffo and Morelli were taken to the District Attorney's office.

Q From where? A From the House of Detention.

Q Didn't you pick up Morelli on the street with another officer at one time and take him down to the District Attorney's office to see Mr. Murphy? A No, I did not.

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Q This talk you said you had with Nellie DeCarlo was that during the course of the trial? A That was while she was upstairs in the District Attorney's office. I was in the room and it was the first time I ever spoke to her. I had seen her probably three or four times before that but never spoken to her.

Q Was the trial going on when you saw her? A I think it was.

Q She had testified, had she not, then? A I am not sure if she had testified up to that time or not.

Q You knew she was one of the first witnesses for the State? A Yes, I recall she was the first witness -- at least I think she was the first witness but whether she had testified or not, I do not know.

Q What she told you was either what she had testified to or what she was going to testify to? A Yes, sir.

GEORGE S. DOUGHERTY called as a witness, being duly sworn and examined, testified as follows:

DIRECT EXAMINATION BY MR. WASSERVOGEL:

Q In 1913 you were connected with the Police Department of this city, were you not? A I was.

Q In what capacity? A Second Deputy Commissioner.

Q Of Police? A Yes, sir, of Police.

Q You had supervision over the Detective Bureau at that time?

A I did.

Q Do you remember the shooting of two police officers on the 3rd of May, 1913, in Mulberry Street? A I do.

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Q There were three men killed that night, do you remember that? A There were.

Q An Italian named John Rizzo and two policemen, one named Heeney and the other Teare, do you recall that? A I do, yes, sir.

Q After the shooting did you at any time meet a girl named Nellie DeCarlo? A I did.

Q Where did you see her? A I saw her in my office at Police Headquarters.

Q And do you remember what officers brought her to your rooms at Police Headquarters, or don't you recall that? A One was Detective Sergeant Digilio.

Q And when the girl was brought to your office at Headquarters, did you have a talk with her? A I did.

Q Tell us what you said and what she said, just the substance of it? A She told me that she lived upstairs over the place where the crime was committed. She said that about the time the crime was committed she was looking out of the window, that she saw the father of Shilitano hand him something that was shiny, that subsequently she saw Shilitano shoot at a policeman.

Q Did she mention Rizzo at that time, do you remember? A She mentioned the shooting of Rizzo, but I am not quite clear as to what she said now.

Q Do you happen to remember the day when this conversation took place? A The 14th of May.

Q Was it the 14th or the 13th of May? A My recollection, I have refreshed my recollection a little -- is that it was the 14th,

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but of that I am not sure.

Q Was it the same day that a statement was signed by the girl or the next day, do you remember that? A That I could not say.

Q Where is your office at Police Headquarters, or where was it at that time? A It was on the second floor facing on Centre Street.

Q How many ~~xxx~~ rooms did you have there? A We had an ante-room, the first room of entrance for detectives and prisoners and some clerical staff; we had a second room that was used by my secretary with a clerical staff, and then my room.

Q Will you in a general way describe the furniture of those three rooms? A The first room entered by the detectives and prisoners contained some filing cases and some chairs and one bench and typewriter -- typewriter's chair. The second one contained my secretary's desk, a flat-topped one, and several other flat-topped desks, typewriters, filing cases, chairs -- the usual furniture.

Q And your room? A My room contained one table, a number of chairs, a clothes press to hang clothing in, a safe and a couch.

Q Nellie DeCarlo testified that on one occasion when she was at Police Headquarters, after she had made a statement, that she was taken to a room adjoining the room in which the statement had been made by her, that she was told to sit down on a chair, that she did sit down on the chair and that then the chair upon which she sat down suddenly shot up to the ceiling, and then fell to

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the ground, and that she fell to the ground also -- did you ever hear anything about that? A I never did.

Q Did the girl ever complain to you that she had been placed in any such chair? A She did not.

Q She calls it an electric chair -- was there any such chair anywhere at Police Headquarters? A No. I would like to explain that this girl informed me that because she became a witness against Shilitano that her father and mother would not permit her to enter her home any more, that they would not let her come to the house, and subsequently the father came to see me with the mother and stated that they would not let her come in the house again while she was a witness -- and, she is a young girl, as you know, and I thought she would be better off if she was properly taken care of and I selected Matron Goodwin who took her and got some clothing for her and one thing and another, and I saw her a number of times afterwards and she never mentioned anything about the slightest ill treatment.

Q Did this girl ever complain to you that Officer Digilio or Officer Gambardella or any other police officer had struck her or slapped her face. A Why, she never did. I recollect an interview in regard to -- I wanted to be absolutely certain about information she gave. It was my habit to review statements, and to be sure they were correct, and I went over these statements very carefully with her in a genteel quiet way, and asked her if they were all correct and she asserted they were.

Q You never suggested she say she saw this shooting by

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Oreste Shilitano? A No, sir.

Q Did you ever hear any other police officer suggest that she say this? A No, sir, I never did.

Q Did you threaten this girl in any way? A No.

Q Did you hear any other officer threaten her in any way?
A No, I never did.

Q Do you know what became of Oreste Shilitano immediately after the shooting, on the night of the shooting? A I did not know exactly what became of him that night. He was searched for and he could not be found. We subsequently learned that he was in hiding and made an effort to locate him by all the known police methods. We sent a bulletin all over the country and sent a bulletin to members of the Detective Bureau and to the entire members of the force and published a bulletin in every New York paper that would take it, and we had a lot of of people, commonly known as covering people that he might come in contact with, in the effort to locate him.

Q You directed that his house be watched, his home? A Yes.

Q You directed the search for this man yourself, you took personal charge of that part of it? A Yes.

Q And your men acted under your directions? A Yes, sir.

CROSS-EXAMINATION BY MR. WYLIE:

Q He gave himself up? A He did.

Q Did you at first doubt the statements Nellie DeCarlo made to you? A I did not doubt them but I reviewed them.

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Q Do you now doubt anything she said ? A I have not the slightest reason to.

Q Do you believe she is a truthful girl? A I believed so when I spoke to her.

Q Do you believe so now? A I have no reason to believe otherwise.

Q Your judgment of her was that she told the truth when she made these statements to you? A Why, I could not think otherwise. I could not see what her motive would be to come in there and make these statements unless they were so.

Q That was what you believed, that she was telling the truth? A Yes, sir, I did.

Q Did you send her to Mrs. Goodwin? A I had Mrs. Goodwin come to the Bureau and explained the situation to her, and asked her to take the very best care of the young girl.

Q I may be mistaken, but I understood the Coroner ordered that she should go to the police matron, or was it you suggested it first? A I suggested it at the start.

Q You suggested it to the Coroner, A I may have. I know it originated with me.

Q It originated with you? A Yes, sir.

Q Did you know that a witness named Rosie Menta testified as a witness for the defendant on the trial that this girl Nellie DeCarlo had told her she was placed in an electric chair at Headquarters? A No.

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Q That was never brought to your attention? A I never heard of it.

Q You spoke of the girl's father and mother coming to see you and saying they would not allow her to come back to the house if she became a witness -- didn't they say the reason they would not have her in the house was because they did not want a liar there, because she would not tell the truth if she said Oreste Shilitano had done the shooting? A I do not recall anything of that kind.

Q What was the reason they gave you for saying she could not come back to the house? A They came to find out where their daughter was.

Q They did not even know where she was? A I don't think they did.

Q Didn't you notify them when you sent her with Mrs. Goodwin? A The detectives may have, but I did not.

Q Isn't it your duty when you have a witness committed or detained some place, to inform their friends or relatives? A I believe it was all attended to by the detectives.

Q You left it to them? A Yes, sir.

Q You say her father and mother gave you no reason at all for saying she could not come back to their house? A They did not want her to be a witness.

BY THE COURT:

Q They said that, did they? A Yes.

BY MR. WYLIE:

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Q They said if she was a witness she could not come back to the house? A Yes.

Q Didn't you ask them why she could not come back to the house? A They said they did not want her.

Q Didn't you question them at that time? A I did. They spoke Italian and it was interpreted to me by the Italian detectives who informed me they said they did not want her back.

Q You got no further reason than that from them, that if she was a witness she could not come back, that was all there was to it? A That was my understanding.

Q Your understanding was not that they would not have her back if she said Oresto Shilitano did the shooting because that would be a lie and they did not want a liar around, you did not understand that? A No.

Q Who were the detectives who interpreted for you? A I think Mr. Digilio and I cannot recall who the others were.

BY MR. WASSERVOGEL:

Q You were asked whether the defendant gave himself up and you said that he did, tell us under what circumstances that happened? A He surrendered himself through his brother Johnny Shilitano. Arrangements were made whereby we were to meet Johnny Shilitano, his brother, at 123d Street and Morningside Avenue. My understanding from them was that he had been in the residence of some friend and stayed there continually from the time the crime was committed up to the time his brother arranged to surrender him.

Q During the time you were searching for him? A Yes, sir.

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He had a very -- quite a marked scar upon his head.

MR. WYLIE: Just wait a second about that.

BY MR. WASSERVOGEL:

Q Do you remember when it was that he was brought to Headquarters, about when? A It must have been, oh, it was five or six weeks after the crime was committed.

Q Was there anything about his physical appearance that you noticed in particular at that time?

MR. WYLIE: If Your Honor please, I do not object to it, but I know what the question will call forth. It will call forth the fact that when he gave himself up he had or was supposed to have some mark upon his head. I have looked into that and found out that there was another reason for it. If the District Attorney wants to go into that, I will call these other witnesses to testify how he got that mark upon his head, but it seems to me like re-trying the case, and that is what we are asking for.

THE COURT: If the subject is gone into, I will permit you to call any witnesses you desire.

MR. WYLIE: Of course, the real witness to it would be the defendant himself. These other people just know from what they saw.

I do not object at all.

BY MR. WASSERVOGEL:

Q Answer the question, please? A I asked him how he --

Q What did you see, what was there about his physical ap-

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pearance? A He had a scar on the top of his head, rather a marked scar.

Q Describe that scar? A To my recollection, it was on the left side of the head, about here (indicating).

Q How did it appear, what was the color of it? A It was in the process of healing, still red. I asked him where he got that scar, whether he had that scar before the shooting. He said he had not. I asked him how he got the scar and he said he did not care to answer the question.

BY MR. WYLIE:

Q He did not tell you he was drunk and fell down and cut his head? A No.

Q He did not tell you who was with him when he was drunk and fell down, A No, I had my ideas about how he got the scar.

Q I do not care about your ideas, Mr. ex-Commissioner?
A It was his brother practically told me --

Q I ask you about what he told you about how he got the scar on his head? A He said he preferred not to answer.

BY MR. WASSERVOGEL:

Q You said something about his brother, what was that?
A His brother asked me not to go ahead and ask any further questions of him about how he got the scar. He said he guessed I knew how he got it, and to not go into that.

Q You know at the time Police Officer Heeney was shot, he struck at the defendant, you know about that? A Yes.

MR. WYLIE: I ask the District Attorney to concede that

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Frank Chieffe, in Mr. Wasservogel's office, was asked the following questions and made the following answers among others, "Q What did you drink during the night (meaning the night of the shooting)? A Beer only. Q How many drinks would you say you had? A About eight or ten. That is all. Q Did Johnny Verno, while you were in the House of Detention ever tell you 'They are forcing me to testify against Oreste Shilitano and I don't want to do it?' A Well, when he told me, he said 'I don't want to be a witness and they are holding me here by force.'"

MR. VASSERVOGEL: That is conceded.

MR. WYLIE: We move the judgment of conviction be reversed and a new trial granted the defendant upon the ground of newly discovered evidence which shows, among other things, clearly, that all the main witnesses for the State committed perjury on the trial of this case. Even if it did not show this, it does reveal fully the character of the testimony and of the witnesses in such a light that justice demands another jury to pass on the case with all these new matters before it.

We have courted the fullest inquiry into this matter and have welcomed this opportunity to get at the real underlying truths in the case. We have attempted to more or less impartially lay before this Court all the facts in our possession.

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People V Oresto Shilitano

MOTION before James T. Malone, J.

September 3 0th 1915

MR. WYLIE: I move to strike out the testimony of Police Officer, Inspector George Dougherty, concerning the physical condition of Oresto Shilitano, when he gave himself up to the Police, as testimony not in any way within the scope of this investigation. It is new and independent testimony.

THE COURT: I quite think so.

MR. WASSERVOGEL: Your Honor thinks so?

THE COURT: I will strike it out.

MR. WASSERVOGEL: All right.

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