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CONFIDENTIAL

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PROSECUTOR

April 14, 1976

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VINCENT J. DE SIMONE, JR.  
CHIEF OF COUNTY DETECTIVES

Robert Del Tufo  
Director of Criminal Justice  
State House Annex  
Trenton, New Jersey 08625

Re: State v. Carter and Artis

Dear Bob:

Enclosed as you requested is an analysis of the evidence in the above matter dated April 14, 1976, prepared by John Goceljak, Chief of our Appellate and Law Section. The analysis was prepared prior to review of the Essex County Grand Jury testimony of Bello and Haggins.

My view, and that of my staff, is as follows: Obviously the case is a very difficult one for the state. The credibility of Bello and Haggins will be sharply attacked by the defense. The passage of over ten years should favor the defense more than the state.

However, in our judgment the totality of the evidence plus considerable discrepancies in the defendants' versions combine to give the state a prima facie and persuasive case resulting in a reasonable chance for a conviction.

None of us have any reasonable doubt as to the guilt of the defendants. The crime was a particularly heinous one. A wanton, deliberate, premeditated, vicious murder of three persons and the maiming of a fourth.

In view of the gravity of the crime, the apparent guilt of the defendants and the prima facie and persuasive case of the state, I believe that the case must be retried.

Best regards.

Very truly yours,

Burrell Ives Humphreys

BIH:awjd

Enc.

cc to: Attorney General William F. Hyland (w/enc.)

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MEMORANDUM

RE: STATE v. CARTER and ARTIS  
ANALYSIS OF SUFFICIENCY OF EVIDENCE FOR RETRIAL

Evidence connecting defendants with the homicides at the Lafayette Grill on June 17, 1966, includes the following:

1. THE CAR

A. Carter had leased and was operating a new, white, 1966 Dodge. This vehicle bore New York license plates, which at the time had a blue background with orange or gold lettering. Most significantly, the vehicle had peculiarly shaped taillights, which tapered from the outside toward the center, and which gave a "butterfly" effect particularly when the brakes were applied.

According to the AAA "book" on American made automobiles, the 1966 Dodge model of the type leased by Carter was unique with respect to that type of taillight at the time.

A white car, containing two black males, bearing license plates with a blue background and gold or orange or yellow letters and with tapered, triangular or "butterfly" shaped taillights, was seen speeding away from the Lafayette Grill immediately after the shootings.

B. Patricia (Graham) Valentine, who lived above the tavern premises, witnessed two black males getting into the car and speeding off. Before the Grand Jury at the pretrial suppression hearing and at the trial, she gave testimony identifying the vehicle she had seen leaving the Lafayette Grill. She described the vehicle as white, with blue license plates with yellow or gold lettering and with taillights "like two triangles starting at the outside of the car and narrowing into the center."

Shortly after police officers arrived at the scene, she drew a diagram of the taillights for Officer Greenough (2T 109-110). When the Carter vehicle was returned to the Lafayette Grill, she was asked to view the vehicle, and later testified "I walked around to the back of the white car and I looked at the taillights and these were the ones I had seen from the window." (2T 112).

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Upon viewing the car, she became upset and began crying. Later that morning she again identified the car at police headquarters, in a statement given to Lt. James Lawless. Her identification is also noted in the police report prepared that morning.

C. The white, 1966 Dodge leased by Carter was also identified that morning by Alfred Bello. When the first police officers (Unger and Greenough) responded to the Lafayette Grill no more than four or five minutes after the shootings, Bello told them that a white car with blue plates and containing two black males had been involved. Shortly thereafter, when Sgt. Capter and Officer De Chellis came to the scene and asked Bello for a description of the car, he told them it had an out-of-state plate and taillights which lit up like a "butterfly" when the brakes were applied. These officers had minutes earlier stopped and released the Carter vehicle, and when they heard Bello's description they looked at each other and immediately left to search for the Carter vehicle, which they located shortly thereafter. Later that morning, Bello identified the Carter vehicle at police headquarters to Lt. Lawless as the one he had seen leaving the Lafayette Grill at the time of the shootings.

It should be noted that this identification of the car by Bello was made on the morning of June 17, 1966, shortly after the homicides and some four months before he came forward to identify Carter and Artis as the men he had seen. Further, although Bello in 1974 "recanted" his identification of the two defendants, he never recanted his identification of the car. His early identification of the Carter vehicle as the one involved can be substantiated by the testimony of Lt. Lawless, Sgt. Capter and Officer De Chellis, and appears in his statement given early

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in the morning of June 17, 1966 as well as in the police report of that date.

D. His identification of the car is further credited by the testimony of Ronald Ruggiero, who lived a few houses away from the Lafayette Grill. Ruggiero testified that on the morning of June 17, 1966, he heard shots, that shortly after that he heard footsteps running down the street, and was able to recognize Bello when the latter ran past his house. Moments later a white car with two black males sped past in the same direction. Thus, Ruggiero's testimony established that Bello was at least in a position to have seen what had occurred on the corner where the Lafayette Grill was located, that he was obviously running down the street for his own safety, and that a white car with black male occupants sped from the scene.

E. After defendants were taken into custody and the vehicle impounded, a search of the car conducted at police headquarters by Detective Di Robbio disclosed a .32 caliber S & W bullet on the floor near the front seat and a 12 gauge shotgun shell in the trunk. These two calibers matched the two types of weapons used in the shootings an hour and forty-five minutes earlier. Carter at trial testified he had been shown a bullet at headquarters that morning but denied any knowledge of it being in his car.

The .32 caliber S & W bullet was admitted at the trial, but the 12 gauge shotgun shell was excluded. In view of the fact that the New Jersey Supreme Court on the original appeal found that the shell was admissible in evidence, it would be available as evidence at the retrial.

The defense has previously raised the inference that the bullet and shell were "planted" by the police, and can be expected to do this again. Obviously, the presence in a car operated by defendants of two types of ammunition corresponding to those used

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in a crime, is highly incriminatory, especially when it is considered that defendants were observed in the car a scant 10 minutes after the shootings.

Carter in his Grand Jury testimony given two weeks after the event was exhaustively questioned concerning his control of the 1966 white Dodge during all times that evening, and persistently insisted that no one else could have utilized it.

The defense is therefore confronted with the problem of explaining the presence in a car admittedly in the sole control of defendant Carter of the two rounds of live ammunition of the respective calibers used in the shootings. At the original trial the defense attempt to infer that the 32 caliber bullet was planted was obviously ineffectual, and their problem at a retrial will be compounded because of the admissibility of both the bullet and the shotgun shell.

F. The identification of the white, 1966 Dodge with blue license plates and unique taillights by Patricia Graham and Alfred Bello, as well as the finding of the two shells of corresponding calibers to those used in the shootings, in the same vehicle, is highly incriminatory as it relates to defendants.

Initially, the vehicle was leased by Carter, and admittedly had been used by his throughout the evening and night. More importantly, both defendants were observed in that car at 2:40 AM on the morning of June 17, 1966, by Sgt. Capter and Officer De Chellis. This would be no more than 10 minutes after the shootings at the Lafayette Grill.

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The initial call relating to the incident was received at police headquarters at 2:34 A.M. and the testimony of Patricia Graham Valentine, who first called the police, indicates that it would have been made only two or three minutes after the car sped from the scene. The Carter vehicle was initially stopped by Sgt. Capter at Broadway and 14th Street, which is only one or two minutes driving time from the Lafayette Grill. This would have allowed several minutes for the vehicle to have made a stop or stops in the interim, i.e., to pick up the additional passenger observed by Sgt. Capter, or to dispose of weapons.

In light of the identification of the Carter vehicle as that seen leaving the Lafayette Grill immediately after the shootings, and the finding in the vehicle of ammunition of the type calibers used in the killings, the presence of defendants in the vehicle only ten minutes after the crime alone must create a presumption that defendants either were direct participants or knew who the perpetrators of the offense were. In his statements and Grand Jury and trial testimony, Carter insisted that he was in control and possession of his car during that entire night, so the possibility that someone else may have used the vehicle without his knowledge has been eliminated by his own admission.

## 2. IDENTIFICATION OF DEFENDANTS

A. ALFRED BELLO. The account given by Bello to the first responding policeman, Officer Greenough, was noted as describing the two males who departed the scene in a white car with blue plates as being two colored males, thin built, each about 5' 11".

Two hours later, in a written, signed statement given to Lt. Lawless, Bello described the two men as having come out from the front door, that "one was about as tall as me, the other was a little taller than the first man. The short one had on a light

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colored jacket, and he was carrying a pump shot gun. The tall one, his clothes were dark in color and he was wearing a hat."

The following day, June 18, 1966, Bello in an interview with Lt. De Simone gave a description which was identical with that of Carter and consistent with that of Artis, but equivocated in making a positive identification of the two, and as a result he was released and his identification of the men he had seen was not followed up until he came forward to Detective Le Conte in early October, 1966.

On October 3, 1966, Bello identified Carter and Artis as the two men he had seen, to Le Conte, and later that night to Le Conte and Detective Sgt. Mohl. On October 11, 1966, he again identified the two to those detectives and to Lt. De Simone during the taped interview.

In an affidavit and in his testimony given at the recantation hearing in 1974, Bello stated that his testimony at trial that Carter and Artis were the two men he had seen leaving the bar that morning was not true. However, he has since essentially withdrawn his recantation, and in affidavits given to Assemblyman Hawkins, states that he did see Carter and Artis outside the bar at the time of the shootings, although two other black males were involved in the actual shootings.

Bello's original testimony was that he had seen Carter and Artis coming around the corner, carrying guns, shortly after he had heard shots while he was approaching the bar. His affidavits, referred to above, again have the defendants outside of the bar, with two other black males as having been inside the bar doing the shooting. Thus, while his original testimony and his latest statements differ as to where Bello was when the shooting took place and as to the number of men and cars involved, Bello in both instances places the two defendants at the scene.

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That he was in a position to see who was in the area of the Lafayette Grill can be verified through the testimony of Ronald Ruggiero, who saw Bello running down the street and followed by a white car, as previously noted. It can also be substantiated by the fact that Bello had seen Patricia Graham looking out of the window, as she had testified she had done, and as Bello had related to Bradley and to the police before he had occasion to know that Graham had been looking out that window.

Bello's identification of defendants as having been involved in the shootings can further be substantiated by Kent Kellogg, who testified before the Grand Jury that when Bello was released by the police on that morning, he came back to the apartment and, when asked by Kellogg as to what had happened, replied that "Rubin Carter shot up the whole bar." This testimony was not utilized at the original trial, but might be on the retrial for the purpose of rehabilitating Bello's identification testimony.

B. ANNIE RUTH HAGGINS. Haggins was initially brought into the investigation involuntarily when a taxi driver, Van Gelder, informed authorities that a female fare had behaved suspiciously on the morning of June 17, 1966, a few hours after the Lafayette Grill shootings.

She reluctantly disclosed that on that morning, a black male she identified as Roosevelt Davis, had placed a pistol in her handbag, indicating that it may have been used for some "terrible" purpose that night.

During the course of an intensive investigation which followed upon her statements, it was developed that there were many inconsistencies and lies in her various versions of what had transpired, and eventually Roosevelt Davis was cleared of

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involvement after the entire matter was aired before the Grand Jury.

The matter was not pursued further in light of the apparent lack of credibility of her story, and was all but forgotten after Bello and Bradley came forward to identify Carter and Artis as the men involved.

This aspect of the investigation was pursued last Fall, by Assemblyman Hawkins, who contacted Haggins at her home in South Carolina and obtained new statements from her.

Her statements now place defendants Carter and Artis at the scene of the shootings, although she involves two other named individuals as the actual gunmen.

As a witness at the retrial, Haggins will of course be highly vulnerable because of her various previous versions of what allegedly had occurred on the night of June 16-17, 1966.

However, she does place the two defendants at the scene of the shooting. Further, her affidavit is interesting because it at one point had stated that Carter had a prior unpleasant incident at the Lafayette Grill involving the bartender, Oliver. If true, this would tend to establish a motive for the Lafayette Grill shootings in light of the earlier shooting that evening of a black bar owner, who was the stepfather of the bartender at the Nite Spot, the bar which Carter frequented.

It is also interesting to note that certain of Haggins' statements given in 1966 when, for all practical purposes, the investigation had dropped Carter as a viable suspect, are consistent with other evidence of his involvement and with her version given to Assemblyman Hawkins.

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Although her credibility can be readily attacked, Haggins' testimony is highly incriminatory of defendants for several reasons. As already stated, she places them at the scene of the murders. She establishes the motive for the shootings, which is consistent with other evidence. Her statements apparently are corroborative of Bello's most recent statement of what he observed. Further, she has not been brought forth by the police or prosecution, but by an independent investigator commissioned to look into the matter.

C. ARTHUR DEXTER BRADLEY. In view of the fact that Bradley has "recanted" his trial testimony, in which he had identified Carter as one of the men he saw in the area of the Lafayette Grill at the time of the shootings, he would be of little value to the State as an identification witness at a retrial. This notwithstanding that his recantation testimony was found to be unworthy of belief by Judge Larner, which finding was sustained by the New Jersey Supreme Court. If called as a State witness at all, it would be only for the limited purpose of corroborating certain of Bello's testimony relative to being in the area that morning and the latter being in a position to see the perpetrators.

D. WILLIAM MARINS. Although he is now deceased, Marins' testimony at the first trial is available. However, it does little more than confirm that there were two black males who came into the bar and did the shootings. From the State's point of view, his testimony as to identification of the men involved is at best equivocal, and does not directly incriminate defendants.

E. PATRICIA GRAHAM VALENTINE. Her testimony as to the identification of the black males she saw fleeing in the white

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car with blue license plates would presumably remain the same as that given in the first trial. Other than that they were black males, wearing sport jackets, she could give no further identification. Her testimony concerning the car, however, is highly incriminatory.

F. HAZEL TANIS. Such statements as were made by Hazel Tanis to police officers while she lay critically wounded were not admissible as dying declarations at the first trial, and it is problematical as to whether they might be used in some fashion at the retrial - probably only if initiated by the defense.

G. RONALD RUGGIERO. Although he testified at the first trial that he was able to briefly see a white car with black males in the front seat speed past his house, he could not identify the car as Carter's, and could not identify the males. However, his testimony will be useful in corroborating Bello and in establishing that a white car with black males was involved.

H. SGT. CAPTER AND OFFICER DE CHELLIS. These witnesses testified that at 2:40 A.M. they stopped the Carter vehicle and observed the two defendants and a third person in the car. This was only ten minutes after the shooting. Their testimony would likewise corroborate the description of the getaway car given by Bello, which corresponded to the Carter vehicle.

I. OFFICER GREENOUGH. His testimony would corroborate Patricia Graham Valentine's description of the car she saw leaving the scene as having triangular shaped taillights and a blue license plate, and as identifying the Carter vehicle when it was returned as the same car.

J. Taking, in toto, the evidence relative to the identification of Carter's car as being the one seen fleeing the Lafayette Grill, the evidence relative to the bullets found in his car, the presence of defendants in the car minutes after the shootings, and prospective testimony by Bello and Haggins

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placing defendants at the scene of the shootings, certainly, at the least, a jury question is presented.

3. MOTIVE.

A. The testimony and statements of William Marins, and a statement of Hazel Tanis confirm that robbery was not the motive for the shootings at the Lafayette Grill, since each agreed the gunmen walked in and without saying a word started shooting everyone present. In view of the fact that only a few hours earlier a black bar owner had been shot dead by a white, a revenge motive may be postulated for the Lafayette Grill homicides.

B. Carter and Artis in their respective statements and Grand Jury testimony stated they were aware of the earlier homicide, and that there was talk and concern regarding same throughout the black community that night. Carter in his testimony before the Grand Jury referred to talk that there would be a "shaking" in Paterson as a result of the death of the black bar owner.

C. Both Carter and Artis were well acquainted with Eddie Rawls, the bartender at the Nite Spot, whose stepfather, Roy Holloway, was the victim of the earlier homicide. When Rawls stopped at the Nite Spot on his way back from the hospital, Carter spoke to him and offered his condolences. Rawls then apparently went to police headquarters demanding to see his stepfather's murderer. Carter in his Grand Jury testimony stated that when he saw Rawls at the Nite Spot that evening, the latter said that he would later be at Richie's Hideaway, a bar in another section of Paterson. Afterwards, Carter went to that bar, and Rawls and his

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brother, "Moose" Brown came there a little after 1 A.M. Carter testified he left that bar and returned to the Nite Spot shortly before 2 A.M. Rawls and his brother ostensibly returned to their stepfather's house where they stayed until after 3 A.M.

D. Annie Ruth Haggins in an affidavit given to Assemblyman Hawkins states that she left the Nite Spot with Carter, Artis, Eddie Rawls and Elwood Tuck, and went to the Lafayette Grill. She also stated that the reason they went to that tavern was because James Oliver, the bartender there, had once previously had a run in with Rubin Carter, however, this part of her affidavit was later scratched out by her.

E. Carter in his Grand Jury testimony admitted that in the hours preceding the Lafayette Grill shootings, he had an argument with Neil Morrison concerning several guns which Morrison had supposedly stolen from Carter's training camp. These guns included a twelve gauge pump shotgun. This argument eventuated into a confrontation among Carter, Morrison and one Annabelle Chandler, an acquaintance of both, at her apartment. The result of this confrontation was not determined, and Annabelle Chandler, who was terminally ill at the time, died shortly afterwards. However, it can be established from Carter's own testimony that he was concerned with the location of his stolen weapons on that particular evening, and could be confirmed as well by the testimony of Morrison and one Jerry Reeves, who was with them at the time.

F. Another aspect which might be developed at trial should the occasion allow would be Carter's familiarity with guns. In

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his Grand Jury testimony, he stated that he used them for target practice at his training camp. Further, several rifles and a pump shotgun he owned were stolen from him, allegedly by Neil Morrison. When he was arrested for the Lafayette Grill homicides, additional weapons were found in his home.

G. None of the testimony relative to the earlier homicide was developed at the first trial, nor was the evidence of Carter's attempt to ascertain the location of his guns shortly prior to the shootings brought into focus at the trial.

4. ALIBI.

A. Should defendant Carter take the stand in his own defense, he would be very vulnerable with respect to his alibi testimony. Early in the investigations Carter and Artis gave statements to Lt. De Simone, subsequently each gave lengthy testimony before the Grand Jury concerning their respective whereabouts that evening and night. Each testified at trial. A reading of all of this material shows significant discrepancies.

B. Carter's alibi testimony at the first trial was premised upon him being in the company of one Katherine Mc Guire and her mother, Mrs. Mapes, during the critical period between 2 A.M. and 2:30 A.M. That alibi was weakened at the first trial by major discrepancies shown in the testimony of those two witnesses, particularly with respect to the date.


C. The existence of additional materials, apparently not known or available at the time of the first trial, would be very useful

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in demonstrating that Carter's alibi was a fabrication and that he had prompted certain of his alibi witnesses to testify in the manner they did. Both Carter and any of those alibi witnesses would be hard put to explain the purpose and intent of these materials, and their respective credibility would certainly be affected. A showing that Carter's alibi was a complete fabrication taken in conjunction with the identification of his car at the scene of the shootings, would be destructive to the defense case, and the present knowledge by the defense of these materials\* might prompt them to keep defendants from taking the stand.

  
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John P. Goceljak  
Assistant Prosecutor

DATE: April 5, 1976

\* Assemblyman Hawkins was given completely free access to all of our files. He xeroxed and took away with him copies of much of our files, including letters, interoffice memos, attorney's work product, correspondence, etc., much of which would not be discoverable by the defense under any theory. As set forth in a letter by us to Assemblyman Hawkins given in connection with our turnover of the material to him, this material was given on a confidential basis only and not be distributed to anyone other than the Governor or Attorney General. Notwithstanding the foregoing, and over Prosecutor Humphreys' stated objection, I understand that the Governor's office authorized Assemblyman Hawkins to turn over all of such material to the defense.

JPG:ms