

# blowback

## Targets, Testimony, Evidence and Experts

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The operative cliché is "facts don't lie"; but in a court of law, deception, opinion and interpretation can chase the truth into a shadowy wilderness. Though all witnesses are sworn to tell nothing but the truth, the difficulty is to assign value to the weight of their words.

Consider the testimony of county forensic pathologist Dr. Richard Mason. Last week Mason brought along a new set of test-firings to the trial of

subsequent arrest.

The dramatic energy of a murder trial rises and falls with the quality of the witnesses, and the prosecution sought to rest its case with a pair of highly charged bit players. Paula McFarland, who described herself as Richard Bandler's girlfriend, appeared to be in tears as she took the stand in an old-fashioned long blue dress. Answering a summons to testify for the prosecution, McFarland reddened

about a phone conversation with her estranged husband Harry Allison concerning a confession Bandler had supposedly made to her. McFarland answered that no such confession had ever taken place. Although defense attorney Schwartzbach used his cross-examination of McFarland to label Allison a liar and a wife-beater, the witness's prior perjury and her continued financial and romantic links to Bandler overshadowed most of her testimony. It was obvious that whether or not Richard Bandler had confessed to her, Paula McFarland was standing by him.

The final prosecution witness was the aforementioned Allison, a strange visitor from another planet, whose hold on traditional logic was tenuous at best. Fingering a tiny mandala throughout his testimony, Allison used his spacy, tentative remarks to call into question the legal system, lawyers' fees, and one's individual responsibility to society. The gaunt witness with the wispy ponytail inched through descriptions of his phone conversations with McFarland, Bandler and local authorities, veering off at unrelated angles whenever possible.

Although Schwartzbach did get Allison to admit on cross-examination that he had once called McFarland's parents and lied that his wife had been killed in an automobile accident, the witness denied the beating incident. And aside from McFarland's previous statements, the defense has so far presented no police reports or other evidence to corroborate her charges against Allison.

The paired contradictions of Marino, Bandler, Allison and McFarland were extended when the defense began its case. A tenant of Marino described seeing him in possession of firearms on two occasions and a neighbor of McFarland's corroborated the claim that Bandler and his girlfriend were at home hours after the murder snorting coke; but these were minor points compared to the testimony to come.

Although Dr. Mason's opinions continue to be a major stumbling block for the defense, Schwartzbach unleashed a forensic ego equal to that of the county pathologist. Dr. Paul Herrmann, UC Berkeley and Stanford lecturer, is every freshman's nightmare. The sleek, long-winded pedagogue also operates a forensics lab that handles cases for the Alameda County coroner's office. Armed with a series of slides of the human skull and a mighty protractor, Herrmann questioned Dr. Mason's gun-to-victim distance as well as his determination of the bullet's trajectory.

Herrmann, seemingly in love with the sound of his own voice, reeled off a vast quantity of gory geometry. It was Dr. Herrmann's opinion that the muzzle of the weapon was roughly four inches from the victim's face, indicating that gases from the shot would have had to dissipate, preventing the blowback phenomenon. This means that Corine Christensen's blood may have gotten on Richard Bandler's clothing in some other way.

Even if Herrmann's theory is correct, it doesn't eliminate Bandler or implicate Marino as the murderer; but it does refute much of the prosecution's crime scenario. On cross-examination, Herrmann added a few more interesting touches to his testimony. The prosecutor got the witness to admit that an in-person examination of the victim's body, such as Dr. Mason had performed, provided more information than reviewing the autopsy photographs, as Herrmann had done. Herrmann also quoted the fee he was receiving to testify as an expert witness: \$1,000 a day, plus \$150 an hour for waiting time. Herrmann then stated once again that his findings refuted the prosecution's blowback theory, and other defense experts may concur with his forensic reading of the crime.

One member of the jury appears to have a theory of his or her own about the ballistics puzzle. In a note to the

judge, one juror asked Herrmann to consider another factor. The murder weapon has been identified as a .357 Colt Python revolver. Couldn't some particles and powder be expelled from the cylinder portion of the gun? asked the astute juror. Herrmann had to accept the possibility but said the occurrence couldn't have caused the stippling on the right side of Corine Christensen's face. But the distance from the end of the gun barrel to the cylinder is, embarrassingly enough for the defense, Herrmann's proposed four inches.

Judge Cottle, apparently worried about any unstated firearms expertise, thought enough of the question to caution the jury not to conduct any test-firings of their own. The defense will continue its case in the coming week and Schwartzbach may be close to calling his most important witness: accused murderer Richard Bandler.



Assistant DA Gary Fry (left) and defense attorney M. Gerald Schwartzbach confer with Judge Chris Cottle

Richard Bandler. Mason claimed that the new tests support his thesis that Corine Christensen was shot from no more than half an inch away. Although the targets, complete with clear plastic nose projections, mirrored the powder and particulate concentration found on the left side of Christensen's face, the stippling—a gunshot tattooing of unburned, embedded materials on the right side of her face—was never duplicated.

Defense attorney M. Gerald Schwartzbach questioned Mason closely about the witness's apparent disregard for the overall stippling pattern, a preliminary step to help establish a different muzzle-to-victim distance than that put forward by the prosecution. Mason, who has something of a reputation for stubbornness, hung tough, claiming 100 percent certainty that the murder weapon was fired from near point-blank range.

Psychotherapist Christina Hall then nervously delivered testimony that once again lumped together the defendant and chief prosecution witness James Marino as equivalent suspects in the slaying. According to Hall, Bandler aimed a gun at her head when she refused to deed her home back to Marino, the former owner. She went on to say Marino claimed he had gotten revenge on Christensen and Bandler after the murder and

when asked about an instance of perjury earlier in the case. It seems that when officers arrived to arrest Bandler, McFarland lied and said the defendant had spent the night with her and therefore couldn't have committed the murder. Under oath, she said she had been frightened and confused at the time of the arrest. She admitted lying to try and protect Bandler from the charge.

Assistant DA Gary Fry then questioned the agitated, teary witness

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