

23. JAMES RUTLEDGE

DATE: July 16, 1967

TIME: Between 5:05 and 5:12 P.M.

PLACE: Tavern and Liquor Store located at Bergen Street and Custer Avenue

James Rutledge was fatally shot by police officers while burglarizing the package store annex of a tavern at Custer Avenue and Bergen Street. The County Medical Examiner testified that the autopsy report showed evidence of four, or possibly five, separate shotgun wounds in the back and six bullet wounds in the back of the head, any of which could have been fatal. He further testified that, based on the condition of the body tissues, all of these shots had been fired within seconds of one another, almost simultaneously.

Shortly after 5:00 P.M. a car containing four Newark police officers closely followed by several cars of State Police had arrived at the tavern in response to a radio alarm advising of breaking and entering and possible larceny at the location. They found the tavern closed and completely boarded up except for a window on the Custer Avenue side, where the boards had been partially removed. Inside this window, stacks of beer were observed. Two Newark police officers entered the tavern through this window and began to search the premises; they were followed shortly by two State Police officers. All testified that the interior of the tavern and adjoining liquor store was very dark and the visibility correspondingly poor. Their testimony as to what then occurred inside the tavern is conflicting, vague and in many respects contradictory. The consensus of their testimony, substantiated by physical evidence at the scene,

indicates that the fatal shooting of Rutledge occurred in the liquor store annex of the tavern and that the victim at the time was behind a counter located along the wall of the store next to the tavern and near the entrance from the tavern. The Newark police, after a search of the tavern, entered the adjoining liquor store with the State Police close behind. As they moved towards the center of the store, which was in extreme but not total darkness, they suddenly observed a man rise from behind the counter, holding a knife in a raised position; the police opened fire simultaneously. The testimony of most witnesses, including officers stationed outside the tavern, agreed that the shots were fired in rapid succession, although a few witnesses reported a pause between the first shots and the final shot or shots.

The testimony of a ballistics expert indicated that at least two revolvers and one or more shotguns had been fired, but none of the spent bullets or slugs could be traced to any particular gun although tests were conducted. Testimony of police radio personnel placed the elapsed time between the first alarm as to "looting" at the tavern and the final report of the shooting of the suspect at only seven minutes.

The Jury also heard testimony to the effect that three juveniles, who had accompanied Rutledge to the tavern were later apprehended in the back room of the tavern some distance from the package store. These juveniles had previously made statements to the effect that they were eyewitnesses to the shooting of Rutledge but they repudiated these statements before the Grand Jury.

The Jury finds that, although some of the testimony was conflicting as to the actual chain of events

inside the tavern after the arrival of the police officers, certain facts are supported by the preponderance of evidence heard:

1. A breaking and entering had been committed at the scene of the tavern.

2. Intent to commit larceny was clearly evident from the cases of beer stacked inside the opened window.

3. A knife was recovered near the victim.

After considering all of the facts, the Jury found that the police officers were justified in their use of firearms, although too many shots were fired from too many guns. This manifest error in judgment on the part of the police the Jury attributes to the conditions prevailing in Newark at the time, and more specifically to the conditions within the darkened tavern and liquor store where the officers confronted the suspect. The Jury further found no evidence of malice, criminal intent or wanton use of unreasonable force. In the absence of such criminal misconduct, the Jury found no cause for indictment.

It has come to the Jury's attention that many erroneous and deliberately false accounts of this incident have been published and transmitted to various government agencies and to the public, in the form of leaflets, news accounts and a book entitled "Rebellion in Newark." Moreover, the Jury found that a distorted photo of the victim depicting a complete mutilation of the body, not resulting from the shooting was distributed in Newark with the inflammatory leaflets attached. The Jury finds this act to be despicable and flagrantly

irresponsible and designed to inflame unnecessarily an already troubled community. The Jury is concerned and believes that adequate steps should be taken by responsible persons in the various agencies such as Newark Legal Services Project and The American Civil Liberties Union to assure themselves that irresponsible and unauthorized persons should not and will not have access to documents and physical evidence, including photographs, which are the work product of said agencies.