MURDER AT MOUNT PLEASANT

From Case to Conviction

By

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PREFACE

This series is the result of trial preparation in the capital murder case of State of Ohio v. Daniel French. In complex cases, Butler County Prosecutor Michael Gmoser writes the case in story form to prepare the sequence of events of the case and its development for jury presentation. It occurred to the Prosecutor that the family of Barbara Howe, the victim, would like her story told beyond the limitations of courtroom press reporting and with their agreement he freely offered this series to the community newspaper of Butler County- the Hamilton Journal News.

CHAPTER ONE

Sensational murders are sensational for many reasons. Some are simply gruesome with unspeakable brutality. These cases appeal to ordinary normal people because the facts are light years beyond their daily life experience. It is only human to be curious. Other cases are intriguing because of the calculated nature of the crime complete with detailed planning to commit the crime and avoid detection and capture. Still others involve motives that result from simple human desires carried to extremes and death. Seldom does a murder bring together all of these factors, but such was the case involving the murder of Barbara Howe.

In October of 2012, Barbara Howe was a delightful lady who had been nearly a life long resident of Middletown, Ohio. Her family gained local prominence through her husband’s automotive business, Howe Motors, a Chevrolet dealership serving the Middletown area for many years. Barbara Howe and her husband raised three daughters. Barbara, Nancy and Donna and after the death of her husband in 1998 she remained very close to them and the friends she had through the years as well as her sister Patricia who lived in nearby Hamilton, Ohio.

At eighty seven years of age she was vibrant. She was able to drive without difficulty. She visited friends and was able to maintain her own home with little assistance. She was meticulous in her personal appearance and it might be said that she dressed to the nines. Her daughter Donna described her as “selfless, refined, engaging and beautiful”

“Selfless in that she devoted her life to her husband and daughters-always a homemaker, she maintained a tidy home, was an excellent cook and made sure we were taken care of in every way. She was frugal with herself in order to give ‘all’ to the family. She was interested in everything the family did- never tiring of visiting with her grandchildren and great grandchildren. She gave us all a warm, comforting place to go- someone who made everything better- a place where grown daughters could feel like special little
girls, up until her death.

Refined in manners, temperament and appearance. Always well groomed, was a strict rule follower and never procrastinated. She loved every occasion where she could ‘dress up’ and kept herself looking trendy and fashionable—never dowdy—up until her death.

Engaging and generous—she kept a myriad of long time friends and enjoyed community involvement. Barbara maintained a lively social life—participated in all events at Mt. Pleasant, such as local day trips, and looked forward to every Wine Tasting. She loved attending the Middletown Symphony and was generous in her support of the Arts in Middletown and Miami University Middletown. Her social calendar was the envy of all her friends and family, up until her death.

Beautiful—voted the ‘Prettiest Girl at Hamilton High School, Class of 1943’ and her beauty stayed with her all her life. At 87, most people thought she wasn’t a day over her early 70’s. She was much disciplined in maintaining a healthy lifestyle and filling her days with long walks and Zumba classes. She was sharp as a tack and remembered most things that others forgot, up until her death.”

She and her husband had made a good life together and her children wanted the very same to continue for her. As easily expected her children saw that the old family home was too much work and an unnecessary expense and suggested to Barbara that perhaps it was time to let others help make life easier for her. They suggested that Barbara would be much safer living in an assisted living community with people in similar circumstances. Downsizing appealed to Barbara and, always the adventurer, she welcomed the idea of a lifestyle change without being too far from family and friends. Ironically, seeking a safer environment would lead to her tragic end.

CHAPTER TWO

For Barbara Howe, the Mount Pleasant Retirement Village was the perfect solution for a woman of her age and vitality and she relocated there in 2007. Situated in the City of Monroe, Ohio, she was able to have her own home on one level—no stairs and no basement—with easy access to all surrounding local communities. A few miles to the East was I-75 and another less traveled road to friends in Middletown. She could travel West a short distance to Hamilton or go North or South to the many local shopping and outlet malls available in the area. Her home was located in a neighborhood with a winding road and similar homes and neighbors with similar interests. Mt. Pleasant is much like a college campus with red brick buildings that evoke a sense of community and security. There are employees who handle the landscaping and a maintenance crew always available to fix a leaking faucet or running toilet. There was also a medical alert system for each home that required each owner to check in each night or receive a check up visit from management to see if all was well. Whenever a person was away overnight, the system was required to be placed in the away mode to avoid such a visit. Perhaps because of her age or perhaps because of her strict attention to detail, Barbara Howe always set this
system in accordance with the stated instructions. This isolated fact would later be essential in the investigation of the murder of Barbara Howe.

The physical description of her home would also be significant to the investigation to follow. Her home was built on a shallow foundation the walls of which are four feet high and with a concrete floor. This is not a basement in the typical sense, but is called a sub basement which allows access to plumbing, heating and electrical facilities of the home. Access to the sub basement is through a two foot square portal in the floor where the furnace, water heater and water softener are located. Some may call it a trap door and without its picture frame border, one may not recognize it as even being there. This, too, would play an important part of the investigation.

The living quarters are divided for easy use with an open kitchen and a master bedroom to the rear. This bedroom is spacious with plenty of drawers and closet space especially for a single woman. Barbara Howe was meticulous with her housekeeping and her home appeared much as a photograph would from Better Homes and Gardens magazine. Attached to the home was a garage where Barbara Howe kept her bright red 2005 Cadillac at the ready, always washed and well maintained.

CHAPTER THREE

As the end of October 2012 approached the nights came progressively earlier and the chill of fall was in the air. It was the time of Halloween- the time for trick-or-treat- and so it was for Barbara Howe. On October 29, 2012, Barbara Howe’s sister, Patricia, called in the afternoon to check on her and got no answer. She waited a few hours and called back - still no answer. As night fell, she became more concerned and called the staff of Mt. Pleasant to check on her sister. As a result, a member of the maintance staff who took the call went to the home of Barbara Howe. He had a pass key and as he came upon the front porch he found the Monday paper of Barbara Howe from the day before and took it inside. There was no obvious evidence of a forced entry and upon entering, he found nothing unusual except a throw rug and towel in her bedroom that seemed out of place. He checked every room and found no one home. He was aware of the medical alert system and found it to be in the “away” mode. He opened the side door to the garage and saw that her Cadillac was also gone. It seemed to him that she was simply away and made his report to her family.

The next day, October 30, 2012, Barbara Howe’s daughter, Donna, was now deeply worried. It was totally uncharacteristic of her mother to leave her home for any overnight period without letting her know. She and her husband decided to visit her mother’s home and see if there was anything out of the ordinary that may have been missed by maintenance not accustomed to the lifestyle of her mother. On checking, everything was as had been reported so calling the police to report a missing person was the only option.

The police department of the City of Monroe was only a short distance away and a police detective responded immediately and confirmed that Barbara Howe represented a missing person. An additional detective was also assigned and a search was initiated. Given that Barbara Howe’s red Cadillac was also missing, it was logical to assume that she left with it and was at a
place with a disabled car. A police bulletin was issued to all local law enforcement departments to be on the lookout for her vehicle and an Ohio State Patrol aircraft was also dispatched to the area to look for her vehicle that may have accidentally left a roadway. Detective Meyers of the Monroe Police Department, who would also play a leading role in the investigation, rode along in the aircraft as a spotter without success except to find the airbag.

There are many tools available for the search of a lost vehicle and one involves all manner of surveillance cameras used by municipalities for traffic control and enforcement to commercial enterprises for their establishments near roadways. All of these resources were checked and only one, a late night stop light camera, yielded any possible results. A camera in Middletown did show what appeared to be a red Cadillac early in the morning of October 30, 2012 on a road that would have led close to Mt. Pleasant, but the license tag was unreadable and the driver could not be recognized even after scientific enhancement. Nothing was found on the 30th of October and the police went to the residence on the 31st to make their own investigation. Perhaps something was there that could possibly explain her absence even though nothing seemed out of the ordinary to the family. On checking the home, the medical alert was confirmed to be in the “away” mode consistent with her absence; the Sunday paper was found opened near a living room chair and the Monday paper was located where the maintenance person said he left it after finding it on the porch two days before. There was also a telephone answering machine that was sequestered that would also prove vital to the investigation, but still no evidence concerning any foul play was observed in that encounter. By the end of October 31, 2012, the family and police were at a total loss to explain Barbara Howe’s disappearance. She had vanished without a trace.

CHAPTER FOUR

By November 1, 2012, a full scale county-wide search was under way using all resources available to the police. Finding the Cadillac of Barbara Howe was key to a solution and every road patrol police officer was on the lookout to find it. Finally in the afternoon of November 1st a Middletown road patrol office found the Cadillac parked in the Woodridge apartment complex in Middletown, Ohio not far from I-75 and a parallel county road, Cincinnati-Dayton Road that leads directly to the City of Monroe five miles away. The doors of the vehicle were locked including the trunk and no one was seen through the windows. Middletown detectives were called to take the next investigative steps at the scene.

Detectives Bush and Swartzel arrived to take charge. They had wide experience as seasoned detectives and homicide investigators and knew how to protect a potential crime scene. While Barbara Howe was nowhere to be seen it did not mean she was not in the trunk or that evidence of a crime may be rendered irretrievable by a misstep at this point. On visual inspection there was seen a dust like litter undisturbed on the front seats of the Cadillac and a tuft of hair was seen protruding from the trunk lid. A strong smell of cleaning fluid was also present in the trunk area lending concern about its contents. The Monroe Police Department was also contacted and the decision was made by Monroe Detective Meyers to bring in the mobile crime unit of the Bureau of Criminal Identification and Investigation, B.C.I., to make a contact investigation of the car, both exterior and interior. Also, the decision was made to obtain a search warrant to investigate the contents of the Cadillac. These were the first of many
excellent investigative decisions made in this case. As luck would have it, B.C.I. was already in-route to the Monroe Police Department to make a forensic examination of the home of Barbara Howe. This type of examination captures details often missed by those not scientifically trained to discover the smallest details of criminal activity and BCI has equipment for this purpose far beyond what is typically available in the tool kits of local law enforcement. There was much anticipation while waiting for the unit to arrive and fortunately it was early afternoon on a clear and dry day. There was also a mix of hope and anxiety that an answer to the mysterious disappearance of Barbara Howe would soon arrive.

By mid-afternoon, everyone necessary for the investigation was assembled at the Cadillac. A search warrant had been requested and provided with the cooperation of the Butler County Prosecutor. B.C.I. was now on scene and used a special tool to open the lock of the car. This set off the theft alarm so the hood was opened next to disconnect the battery and disable that alarm. Carefully the trunk lid was opened and the worst fears of all concerned were instantly realized. Barbara Howe was found and she had been murdered.

CHAPTER FIVE

The brutality of the murder was immediately apparent. The body of Barbara Howe was contorted and nearly naked except for her pants slip. Her neck had been slashed close to decapitation and she had been stripped of her humanity. Coordination of a full scale homicide investigation was now underway. Finding the body in the car indicated the prospect of multiple crime scenes. No doubt Barbara Howe was either kidnapped or murdered elsewhere and there was consideration that everything involved in this case began at her home.

The focus on the body was of extreme importance, but not to the exclusion of evidence that might be retrieved in the immediate area. Consequently, detectives began to canvas the area for any physical evidence nearby which included the contents of a dumpster as well as interviewing all apartment tenants who may have witnessed anything unusual or out of the ordinary. While these investigations began, the Cadillac was carefully placed on a flat bed truck and taken to the Monroe Police Department where a decision was made to relocate it to a secure facility. That facility was a City of Monroe fire station and all essential personnel to the investigation assembled there. These included a team of forensic specialists from B.C.I., Monroe and Middletown detectives, County Coroner Lisa Mannix, Assistant Prosecutor Brad Burress, and Prosecutor Michael Gmoser.

It was now early evening and everyone except the B.C.I. technicians kept a respectful distance from the vehicle to avoid any possibility of contamination. This gave an opportunity for rampant speculation by the distant observers on all of the “who, what, where why and when” questions typically associated with such a violent case. The decision was made that time by the Prosecutor to maintain a total media blackout of any details of the investigation. The reason for the blackout was designed specifically to avoid media contamination of any statement potentially given by a suspect. That is, if all the facts are out in public view, a statement may be easily recanted by a suspect expressing that the suspect was only retelling what was already told in the newspapers. If a statement was all investigators eventually had, a recantation based on
media exposure would be a disaster. On the other hand, if a statement gave details that only the killer knew, a confession would be enough to prove guilt beyond a reasonable doubt with little else.

Investigations proceed from macroscopic to microscopic analysis, from the very large to the very small, and this case was no exception. First, there was the big picture. A murder victim found in a car in a parking lot of an apartment complex represents one such picture. The home of the victim where the victim likely came from represents another. Nothing, however, could be taken for granted. Without more, nothing could be assumed which is the first rule of investigations and prosecutions. All those now involved in the investigation knew that every step taken would be subject to excruciating review by a defense attorney so attention to detail and documentation of details were essential and are the places where successful prosecutions and defenses reside.

The B.C.I. investigators could be seen pouring over the vehicle collecting swabs for trace evidence, brushing for finger prints and carefully photographing the body of Barbara Howe and her Cadillac. The immediate family of Barbara Howe had been notified and her daughters wanted to know essential details of her death that they would be prohibited to know for many months to come. Because nothing could be assumed, it could not be assumed that the family of Barbara Howe was not some how involved or that they could be trusted not to talk about the brutal details of her death. Of course, this did not sit well with the family as expected, but they resigned, at least early on, to cooperate in this regard. They did inquire if the ring of Barbara Howe was on her finger because it was large and extremely valuable- a diamond of 3.3 carats. This fact was important to know, but information of its location could not be shared, at least at that time. Also, in fact, it was not found on the body of Barbara Howe suggesting robbery as a motive.

As the Cadillac was being examined, the home of Barbara Howe was secured as a crime scene. From this point forward, no one except trained investigators would be allowed to inspect it. This is no place for the simply curious who have no role to play. Nothing is worse than finding unknown DNA at a crime scene only to find months later it belongs to someone dropping off a pizza for the investigators.

Allocation of resources was necessary. One crime clearly occurred in Middletown by the mere presence of a vehicle containing a murder victim which at a minimum would be the crime of tampering with evidence even if the identity of the killer could not be determined. This venue would require the resources of Middletown where there was a heightened interest because Barbara Howe had been a prominent citizen of that city. At this point, with the Cadillac removed to Monroe, it would fall upon Middletown detectives to canvas the immediate area in the search for clues. The City of Monroe would be responsible for investigating anything associated with its geographic location and with a small police department, the use of B.C.I. was invaluable. Because Barbara Howe was a resident of Monroe, both Middletown and Monroe police departments decided that Monroe Detective Gregg Myers would be the lead detective in charge of coordinating and maintaining the investigative file in this case and he had his work cut out for him. He had only been a detective for the prior two years with ten years on road patrol before that. As his first homicide investigation, he was now running the investigation of one of the most complex homicide investigations in Butler County history.
CHAPTER SIX

The examination of the vehicle provided a wealth of information for thoughtful analysis and raised many questions. The GPS locating system, trade marked “On Star”, had been disabled. Was this done by the killer or did Barbara Howe just let her subscription lapse? Did the killer bring the Cadillac to the parking lot five miles from where Barbara Howe lived or did someone else do so merely helping the killer? Where, when and how did the person or persons go after leaving the Cadillac? Did the person or persons who brought the vehicle leave anything behind such as fingerprints or DNA? There is an old saying among homicide detectives that a killer always leaves something behind and this would again prove true later in this case.

The driver’s area was highly important because contact DNA and fingerprints may be located on the shift lever and steering wheel. After all, the vehicle did not drop out of the sky by magic. These areas were swabbed and brushed for such collection. Of great interest and most unusual was the dusty litter covering both the driver and passenger seats. Noteworthy, the dust was uniform on the seats evidencing that it had not been disturbed by anyone sitting on it. The obvious and correct conclusion was that this material had been dumped on the seats after the vehicle was parked and after the driver had exited it for the last time. This material gave every appearance of coming from a vacuum cleaner bag and a search of the immediate area including a nearby dumpster failed to uncover one or anything else out of the ordinary. Determining where this material came from would go a long way in finding the person or persons responsible for putting it on the seats and a long way in solving this case. This material was collected and tagged as evidence for later microscopic examination at the laboratory of B.C.I. Nevertheless, it was a good guess that the contents were put on the seats in an effort to mask any effort to find trace evidence of the killer. From the police perspective it was a conscious act of deception and something left behind that may lead to such identity by other means.

The contents of the trunk were photographed from every conceivable angle. Again, what appeared to be the contents of a vacuum cleaner bag had been strewn all over the body of Barbara Howe and mixed with a fair amount of her blood coming from severe slash wounds to her neck. When first seen, her body was on its side exposing her naked back and buttocks because her remaining pants slip had been pulled down to her knees. There was a checkered pattern of lividity on her back which was identical to the pattern of the cargo net on the trunk floor and not in contact with her body. This was an important observation. Lividity is a medical term used to describe the purplish-red appearance of skin of a dead body caused when blood settles by gravity to a low point shortly after death when blood no longer circulates and before it coagulates which stops the process. In the case of Barbara Howe this was evidence that shortly after she died, probably within a few hours, she was placed into the trunk of the Cadillac on her back and on the checkered pattern of the cargo netting. As her blood settled, it settled around the pattern of the cargo netting pressed upon her skin and leaving those tell-tale cargo netting marks behind. It was apparent that the debris had been placed both on and under her body and most likely she was rolled over at the parking lot to put debris under her as well as over her. Rigor mortis had been relaxed which also is a sign concerning the time of death. Rigor mortis is a natural consequence of death and starts noticeably within hours of death. It is characterized by a stiffening of muscles that react to chemical changes in muscles of the body after death. What is not generally known by the public is that rigor mortis will relax over time
and after thirty-six hours, rigor mortis is usually no longer detectable. It is far from an exact science regarding the time of death and is affected by many factors such as air temperature and the age of the individual. Nevertheless, a likely narrative was beginning to build.

There was a noticeable smell of cleaning fluid around the Cadillac and even stronger at the trunk. When it was opened the reason was obvious considering the condition of the body. There was also a strong odor of what was believed to be ammonia or a bleach like liquid that had been poured all over the body and again in what was believed to be an attempt to destroy trace evidence such as DNA. This, too, was seen as an act of conscious deception, but that was not all. The hair of Barbara Howe had been cut in several places with a few tufts left behind on a rear seat and in the seal of the trunk lid. The person tampering with evidence was careful, but not perfect and this fact of cutting hair was so unusual, keeping it secret for use during any future interrogation was essential. Thus anyone who knew this fact was somehow involved and not just a psycho-confessor who learned details from the press as sometimes happens.

The technicians were meticulous in their search for evidence in the trunk. The finger nails of Barbara Howe were collected and every body opening was swabbed for trace evidence. All of this was accomplished in that first encounter and before the body was turned over to the Coroner for a determination of cause and manner of death.

One last piece of significant evidence was found in the trunk which was the purse of Barbara Howe. It was later determined that her credit card was missing and no cash was found in it. An immediate alert was issued concerning any use of the credit card that may lead to anyone involved. With her missing ring and the condition of her purse the conclusion of robbery was obvious, but several more significant conclusions would be made when the home of Barbara Howe was thoroughly investigated.

CHAPTER SEVEN

The lead Monroe Detective Greg Meyers was aware that the home of Barbara Howe had been entered at least two times after she was reported missing. The first entry was by a maintance worker of Mt. Pleasant who checked and double checked to see if Barbara Howe was home and observed that her Cadillac was also missing from her garage. The second time was by Detective Gregg Myers along with two daughters of Barbara Howe who again checked the home for anything suspicious two days before her Cadillac was discovered in Middletown. Detective Meyers did not see anything out of the ordinary, although he did see a small brown smudge on a wall. Although not the ideal way to examine and collect evidence, he touched it with his finger thinking it may be blood which it would later turn out to be, but not enough to cause immediate concern.

Once the body of Barbara Howe was discovered, her home was immediately treated as a crime scene and protected and sealed from any further intrusion until B.C.I. could make a full investigation. Again, there was painstaking attention to detail and all the scientific resources available were utilized. After thoroughly checking all doors and windows, it was apparent that there was no forced entry. Her home was well kept. Very little was out of place. Her bed covers were pulled down, but the bed had not been slept in. There were no obvious signs of blood, but
in the area where Detective Myers had found a smudge of what he thought was blood, there were a few pin-head blood drops of what would later be determined to be from Barbara Howe. There was also a phone answering machine that had recorded that the last call to her phone was made at 8:54 p.m. on Sunday, October 28, 2012. This matched her phone records and the duration of the call to establish that it was an answered call presumably by Barbara Howe. If it was a short call there would be support for the conclusion that Barbara Howe was unavailable and the machine took the call which did not occur. Also, phone records established that the call was made from a phone within the Mt. Pleasant system and not from outside the complex. Who made that call could not be determined at that time, but this evidence would play an important role later as evidence was strung together with another piece of evidence that spoke volumes of how and what the killer was thinking.

At the time of the murder, all of the residential homes of Mt. Pleasant were served by a medical alert system that was designed to notify Mt. Pleasant personnel in the event a resident was incapacitated. While not fool proof, it was a simple device that had to be turned off each night or an automated message would be sent that the system was not turned off as required. When such a message was sent someone from Mt. Pleasant would check on the resident to see if all was well or render assistance as needed. If a resident was out of town or away from home overnight, there was a switch to place the system in the “away” mode so that no automatic message would be sent. When this system was checked during the investigation, the system was found to be in the “away” mode and not likely to have been placed there by Barbara Howe. The location of this system was not in an obvious location and was located in her bedroom. With the logical assumption that Barbara Howe did not set this system in the “away” mode, it could also be considered that only someone with specialized knowledge of the system placed it there. In police speak an “inside job” was beginning to take shape early on.

Over all, the investigation of the home of Barbara Howe was revealing little out of the ordinary, except for a few specks of blood and the issue with the medical alert system. As the team of B.C.I. investigators was about to leave the home and seal it, one of the investigators looked into what could be called the furnace room. It was a small facilities room near the entry way to the attached garage. In addition to the furnace there was a water heater and water softener plus shelves that held cleaning and other household supplies. Just as the investigator was about to leave that area, a small two foot square area was noticed in the floor with what appeared to be a picture frame molding that outlined the square area. It was barely visible with a number of boxes and containers stacked on it. The investigator asked if anyone knew what this small area was and he was told that it was a hatch way, a portal, to the sub basement of the residence and used to service heating, plumbing and electrical equipment of the home. It was secured with a lid that matched the floor linoleum. Although as large as the first floor area, the sub-basement was only four feet deep and there was no stairs. It had to be checked.

After the containers were removed from the portal and the lid removed, a small throw rug could be seen below which matched another above. Photographs were taken as standard procedure and an investigator went down to check out the area. At that time a small pool of what appeared to be dried blood was seen several feet away from the portal entrance on the floor and it further appeared that whatever it was had drained to a seam between the concrete floor and concrete wall. Located in the area of what appeared to be dried blood there was also a short length of clear plastic not unlike plastic used to protect dry cleaning. Additional photographs were taken of this along with samples of what appeared to be blood and the
plastic was tagged for later examination. Because of this find, the portal took on immediate interest and the investigators carefully took swabs of its perimeter in the hope that trace evidence such as contact, or touch, DNA would also be disclosed as well as blood. Contact DNA can result when an object is touched by any part of a body leaving behind minute amounts of genetic material that can be compared to the person who left it behind with great certainty. After the area of apparent blood was found a closer inspection of the portal revealed additional evidence that made the inescapable conclusion that Barbara Howe had been in the sub basement. There were additional brown stains on the framework of the portal consistent with blood and there was a watch clasp that appeared to have broken off a wrist watch—probably a lady's— that was imbedded in the framework. All of this now raised more questions than were answered. Barbara Howe had been in the sub-basement, but why? Was she murdered there? What was she doing there? If forced into the sub-basement, why was she then taken out? Could this be the act of one person or were more involved? And ultimately, who would have known about the very existence of the sub-basement, except someone with specialized knowledge of the home design? The field of potential suspects was suddenly becoming narrow indeed.

CHAPTER EIGHT

Very early after the discovery of the Cadillac, there was a fear that this was the random act of someone coming off I-75 a short distance from Mt. Pleasant and able to make a clean departure with no incriminating evidence left behind. Now the evidence was mounting for a suspect with close ties to the facility. While Middletown detectives were busy canvassing the area around the apartment complex, Monroe Detective Myers began to catalog all Mt. Pleasant personnel who had any involvement with the residence of Barbara Howe and beginning with all past and present maintenance employees.

Although no forensic test results were yet available and the Coroner had not completed the autopsy, a meeting was scheduled with the Butler County Prosecutor to keep him in the loop on the investigation. At that time there were unsolved homicides in other local jurisdictions and the City of Monroe did not want to be on that list. The prosecutor met with the detectives where the need for secrecy was again stressed with the reason stated. There was a level of tension between the prosecutor and Detective Meyers because earlier when asked by the Prosecutor about the presence of blood at the residence, Detective Myers stated that the residence was “as clean as the driven snow” with no blood in sight. This was totally untrue, but totally in line with the admonition of the Prosecutor given at the beginning of the investigation and carried out to a fault. The Prosecutor considered this a part of the detective’s learning curve and tried to put this behind him which he did for the most part as time went by.

Overall the meeting was very productive and a blue print for the investigation began to take shape, although a clear narrative and sequence of events remained elusive. Trace evidence may have been left behind and it would be some time before those results were known. What was known was that apparent vacuum cleaner debris had been purposely left behind and the Prosecutor wanted to know where it came from. If that debris matched any debris inside any facility vacuum cleaner, the range of suspects would be narrowed down considerably. He requested Detective Myers to immediately check all facility vacuum cleaners and report back. As requested, the vacuum cleaners were checked and one was found to be missing its bag. This was
not fatal to the inquiry because the vacuum cleaner had a brush roller and internal tubing that would have collected hairs and dust for comparison. He requested the vacuum cleaner be sent off to B.C.I. for testing and looked forward to the results because it was his pet idea. Unfortunately Murphy's Law, the law that says "what can go wrong will go wrong" would apply to this seemingly bright idea as the Prosecutor would learn months later.

Detective Myers had his hands full. He was coordinating the investigation between two departments and fielding tips that came in daily. The only one that seemed to be missing was that this was an alien abduction from outer space. Each one had to be logged and investigated. One notable false lead came in with the caller stating that she saw the Cadillac of Barbara Howe being driven on the morning the day before she was reported missing and at a time she had probably already been murdered. The caller stated that the driver was a black man with dreadlocks. At the suggestion of the Prosecutor, an ever widening geographic search was made through the Ohio Department of Motor Vehicles to locate the owner of every red 2005 Cadillac that may have been in the area where the observation and tip came from. It would not be until nearly two years later that the caller realized that she was a week wrong on the date and the car she saw was seen a week after Barbara Howe's Cadillac was found in Middletown.

The most significant tip came from an unexpected source. Because there was no apparent forced entry and knowledge of the sub basement was limited to a few such as maintenance personnel, every Mt. Pleasant employee, past and present, associated with maintenance had to be questioned. One of those on the list was Daniel French. He no longer worked at Mt. Pleasant and resigned about a year and a half before the murder for health reasons. To find him Detective Myers contacted his brother and he made a remarkable revelation. He reported that Daniel French may be involved. After the murder was reported in the press he saw his brother who was returning from a visit to their sister in Monroe. He acted strangely, seemed depressed almost as if he was saying good bye and was wearing a Mt. Pleasant embossed maintance shirt. He said that Daniel French lived with their other sister in Berea, Kentucky and he had a cell phone number to make contact. This was one of many keys to unlock the mystery of this case.

Armed with the cell phone number, Detective Myers contacted B.C.I. for technical assistance and together they made an immediate search of all recent records associated with that cell phone number as well as locations from which calls were made. This was done before any contact with Daniel French and had to be done before any such records were deleted from the cell phone provider in the usual course of its business. The results were placed on a map of Butler County and showed that early on Monday morning, October, 29, 2012, Daniel French made a call that was transmitted from a cell tower less than a mile away from where the Cadillac was found and to a cab company located in Middletown. The investigators learned from the cabbie that the caller, presumably Daniel French, phoned for a ride from the Middletown Wal-Mart to Monroe with the story that his car had broken down and he could not reach his wife for help. The caller asked for a ride to the downtown area of Monroe, but on the way changed the drop off to a street located less than a mile from Mt. Pleasant. Working backwards, the investigators next went to Wal-Mart and obtained the surveillance video of both the store and parking lot to see if there was any footage of the person who called for the cab and found exactly that. There was the person who not only made the call, but showed him in physical detail walking with agility to the store across a lengthy parking lot as well as his action in the store while waiting for his ride. This would also prove vital to the investigation.
CHAPTER NINE

While Detective Myers was working through the maintance personnel and resulting leads, Middletown detectives were busy canvassing the apartment complex for anyone that may have seen anything unusual on the morning Daniel French took his cab ride. As luck would have it, one tenant, an early riser, saw a man with facial hair and a knit cap standing next to the Cadillac. She had previously heard seconds before the sound of a trunk lid closing and then saw the man opening the driver’s doors and moving something around without getting in. Much later when shown the video of the man at Wal-Mart she could not be sure if they were one and the same, but she was sure of the conduct she saw from her apartment door.

Another vital tip again came from an unusual source and was instrumental in putting together the complete narrative of events. The Director of Mt. Pleasant notified Detective Myers that another elderly resident received a call early in the evening on Sunday, October 28, 2012 from a person who identified himself as a maintance worker for Mt. Pleasant. The caller stated that there was a malfunction with the medical alert system that needed to be fixed and asked if he could come over to fix it. It was the good fortune of the resident that she was just getting ready for bed and abruptly said “no-come back tomorrow”. The next morning and at a time when Barbara Howe was not reported as missing, the resident waited for maintenance to arrive which never occurred. She was understandably put out and remarked to her neighbor about how uncaring maintenance was of her time little knowing that her life had probably been saved by not allowing the purported fix to her alert system. Shortly after Barbara Howe was found murdered, the resident told management about the incident as something unusual and this information was relayed to Detective Meyers.

This evidence proved vital to the case for the prosecution. Detective Myers was able to establish that no maintenance worker employed by Mt. Pleasant was detailed to repair the claimed defective alert system and he was also able to document that the call to the resident was made from within the facility. Like Barbara Howe, the resident was a widow, elderly, lived alone and at that time she wore many noticeable and expensive rings on each hand.

This call to the resident was then compared to the last call that was made to the home of Barbara Howe and showed that the resident’s call was first and, if the developing narrative was correct, the next call was to the unsuspecting Barbara Howe who was meticulous about the maintenance of all systems of her home to include the medical alert system. As Detective Meyers pieced together the developing narrative, he, along with an investigator from B.C.I., became convinced that Daniel French had now achieved the singular status as a person of interest and it was time to pay him a visit in Berea, Kentucky.

As Detective Myers and the B.C.I. investigator drove south on I-75 they mulled over what they had and how to approach their first and possibly last encounter with Daniel French before he obtained an attorney usually marking the end of such encounters. They concluded that they had a circumstantial case that showed that Daniel French was somehow involved, but not enough to prove beyond a reasonable doubt that he was a murderer. There was a vast amount of forensic
evidence that had yet to be tested and B.C.I was working on it as quickly as it could, but the statement of Daniel French had to be taken without those results in hand which changed the investigative approach. As a person of interest in a murder case, there could be no justification for not talking to him even without test results to obtain from him whatever he may wish to say about his visit to Monroe in October. The decision was made to approach Daniel French without telling him any information they had concerning him including what his brother had said about his suspicions. They would approach Daniel French just as they would any one else in canvassing all other past and present employees of Mt. Pleasant and without any accusatory remarks. The approach was simply to get him to talk about his visit to Monroe at the time of the murder and hopefully filter out something that may help the investigation or solve it. Whatever his story would be they wanted it etched in store for comparison with developing facts not subject to change and evidence that Daniel French did not know the police had found.

CHAPTER TEN

The first police interview with Daniel French was arranged by his sister in Berea, Kentucky where Daniel French was staying. He would not be under arrest and the interview was scheduled to take place at the Berea Police Department on January 18, 2013. Daniel French was told by Detective Meyers that the officers were simply conducting interviews of everyone connected with Mt. Pleasant, past and present, so he was not being treated differently. He was also told that Miranda warnings were being given to him in the ordinary course of their protocol for such interviews and a request was also made at that time for a sample of his DNA which he agreed to provide. Miranda warnings are required when a person under arrest is questioned by police, but are not required when a person is not under arrest. Nevertheless, in an abundance of caution, Daniel French was told he had a right to remain silent, anything he may say can and would be used in a court of law against him, that he had he right to consult with an attorney before and during any questioning and have a lawyer present during questioning. Also, if he could not afford a lawyer, one would be appointed for him, free, before any questioning and that he could stop talking at any time during questioning. Daniel French was asked if he understood his rights and would agree to be questioned without an attorney present.

Even though Daniel French had become a prime suspect, they did their utmost to disarm him regarding his status in their questioning. They began by asking about the type of work the maintenance crew at Mt. Pleasant does in general and how well he liked his job. He explained that he did everything technical concerning electrical, plumbing and heating, but in his later years with the facility he had major heath problems that forced him to resign. Eventually he stated that he hated his job and working for the elderly residents because they were too demanding. He described his present circumstances as being a loner virtually living in a wooded area near Berea and filled his days in a fantasy world of being a super hero with many identities. At times he would imagine himself as an army fighter like G.I. Joe or Robin Hood to name a few. He explained that he had been married now divorced, and had a son and two daughters. He was close to his son, but had little contact with his daughters. At 56 years of age, he said that he survived without a job on the charity of his sisters and money he received from selling off guns, as needed, from his collection. He also claimed his health had failed to the point he could hardly walk and then only for short distances suggesting that he was physically incapable of any type of
violent crime. Detective Myers struggled to remain quiet about the Wal-Mart video that proved the opposite and did an excellent job of being listener instead of an interrogator that would no doubt have been counter productive.

When asked about knowing about the murder of Barbara Howe he claimed no knowledge and no interest. He was familiar with the neighborhood where she lived, but had no recollection of what she looked like and the investigators did not have a picture of her with them to jog his memory. As Daniel French became more comfortable with the non confrontational approach of the investigators, they turned the conversation to his sister in Monroe around the time of the murder. He related to them that he stayed close to her house and left only briefly to go to the Middletown Wal-Mart twice, once with his son to look for a bicycle part and another by himself for the same purpose. He said he used his car most of the time, but once used his sister’s because his tags had expired. He claimed there were no mechanical problems with his car and never needed assistance because of a mechanical breakdown. Absent a confession, these statements were the most important results of the meeting and would play a role in developing the case against him.

Eventually, when he thought he had gained the confidence of Daniel French, Detective Myers began an approach to coax him into admitting his crime. Essentially, he asked him if truly good people could do really bad things that they needed to get off their conscience and Daniel French agreed. However, every time the conversation turned to something approaching an accusation, Daniel French stated that he did not do anything and if they thought he did they should just arrest him and get him a lawyer. This sequence was repeated many times until finally Daniel French refused to talk further and the meetings ended without a confession or an arrest, but with what the investigators could now prove were lies about his conduct during his October visit and most importantly, they had his DNA.

CHAPTER ELEVEN

Not long after the first meeting with Daniel French, forensic results began to filter in for comparison with other evidence. The last person to see Barbara Howe alive was one of her close friends who visited for dinner on Sunday, October 28, 2015. He recalled seeing her wearing her signature diamond ring and described the clothing she was wearing. Also of significance, he recalled the afternoon meal she prepared which included mushroom gravy. Among the many findings of the autopsy, it revealed the presence of undigested mushrooms which could be used to establish a time of death within eight hours of when those were eaten.

The DNA results were received with mixed reviews. The police were ecstatic to find that the DNA found on the sub-basement portal frame lid indicated that it came from Daniel French, the comparison was not perfect in the expert analysis of the B.C.I. technician, but was enough to point to Daniel French as the person who left that DNA behind at some time. The question of when still remained. An examination of the work order records of Mt. Pleasant were proof that Daniel French had worked in that area for Barbara Howe prior to her murder and his DNA could have been left behind prior to his leaving that employment over a year earlier. On learning this,
the Prosecutor asked that all other sub-basements of residents worked on by Daniel French be checked for his DNA and none were found. A further inquiry was made of Barbara Howe’s cleaning lady to see if perhaps she had washed the floor sometime after the departure of Daniel French and she recalled never having done so. Ultimately, the presence of his DNA was tantalizing to the investigators, but its use as proof was questionable.

Further DNA testing was equally troubling. DNA was found under the finger nails of Barbara Howe that could be identified as coming from a male and nothing more. There was also DNA that was found on the steering wheel of the Cadillac and its shift lever and it too came from a male, but with no matches to any other including Daniel French. The final kick in the rear came from a finding of additional DNA on the sub-basement portal frame that was also from a male and without any match to anyone tested. All DNA was also checked against the national data bank of DNA samples and no matches were found. With all the testing that was done, the Prosecutor hoped to find that at least there would be a match between the residual contents of the facility vacuum cleaner and the debris found on the body of Barbara Howe and he asked for those results. There would be none because it was determined that the vacuum had not been sequestered, had never been sent to B.C.I. for testing and had simply been put back into service without any way of telling which one it was.

The Prosecutor and investigators now realized that if this case was no more than a circumstantial case, which still could be successful, a process of exclusion had to be conducted in exhausting detail and the Prosecutor asked that everyone be polygraphed. He had asked for this early on but other demands of the investigation sidelined his request. The Prosecutor considered that people would more readily accept being polygraphed early on because early on it was understandable that no one was a suspect and everyone was a suspect. When a long period of time goes by and suddenly a person is asked to be polygraphed, the person is more likely to be resistant with a belief that something about him has raised real suspicions. Eventually everyone associated in some way with the case was polygraphed except for Daniel French. Interestingly, a grand daughter of Barbara Howe failed a polygraph, but other positive and concrete evidence proved that she had no involvement along with the others who passed the test. Polygraph examinations can be useful because a refusal to take one can suggest involvement where involvement is not suspected. Nevertheless, grading such examinations is as much an art as a science and the results are justifiably inadmissible in court as this examination proved.

The blood found in the sub-basement was in fact determined to be the blood of Barbara Howe and was considered the likely place where her throat had been cut. But was she alive at that time? At first the forensic pathologist of the Coroner’s Office considered that she was probably dead because photos of that area of the sub-basement did not show any signs of arterial flow under pressure that would be indicated by a spurtling trail of blood. Arterial flow is blood from the arteries coming out of the heart. This blood is under greater pressure than blood returning to the heart and when an artery is cut the blood from it will spurt a considerable distance in feet as opposed to inches. When the photographs were reviewed by the Prosecutor he followed what he always preached to his assistant prosecutors. “Listen to the pictures.” In the photograph of the pool of blood there appeared to be a piece of plastic not unlike the material used to bag the delivery of dry cleaning. Could it be that this plastic was used by the killer to avoid the spurtling of blood especially onto him? This theory was posited to the pathologist who readily agreed and had not recognized the significance of the plastic in the blood because no
one had told him about it before. He did not know what the object was in the blood and did not ask. To him, in the absence of evidence of spurting blood, there was just a pool of blood without evidence of spurting indicating that the heart had stopped pumping with blood merely draining from the neck wound. Also, and unknown by the pathologist, there was no blood trail from the bottom of the portal entrance to the sub basement to where the plastic and pooled blood were found indicating that the throat of Barbara Howe took place there and not elsewhere.

The Prosecutor then asked the investigators to locate the plastic held in evidence and that it be sent to B.C.I. for testing. He also wanted to know if any finger prints were on the plastic and if any surface had no blood at all indicating that it had been wrapped around the neck of Barbara Howe before her throat was cut. Also, the photograph of this object in the blood under magnification appeared to have slice marks that would confirm the theory of its use by the killer and he was looking for confirmation. Detective Myers located this tagged and bagged evidence and personally transported it to B.C.I. where it was lost before any further tests could be performed.

CHAPTER TWELVE

By March, 2013, Detective Myers had as much information and evidence that he thought was possible to make a case against Daniel French and told the family that there was nothing more that could be done except presentation to the Grand Jury by the Prosecutor concerning a suspect he developed. The family was justifiably pleased that a solution was at hand, the case was solved and it was just a matter of time before a criminal indictment for murder would come down from the Grand Jury. When nothing happened immediately and time dragged on, the family met with the Prosecutor who was unaware of the confidence in the case that was shared with them by Detective Myers. At this meeting they listened attentively and the Prosecutor later learned that they were unimpressed with his analysis of problems still confronting the investigation based on what they understood was available and the significance of it.

What they did not know were the factual and legal problems with the proof of the case. It was indeed a circumstantial case and the circumstances likely could and would lead to different conclusions regarding guilt. Was Daniel French probably involved? Yes, but to what extent? Was he the killer or just involved in the cover-up as one of the Prosecutor’s seasoned assistants suggested. The family had learned from a source that the DNA of a suspect was found which in their minds solved the case. This was also the conclusion of an expert in scene examination brought into the case by Detective Myers to review the evidence. To this expert it was a “slam dunk for conviction” because the DNA of the suspect was found on the sub-basement portal framework. When the Prosecutor learned about this expert’s involvement and report he called him personally in New Jersey and asked if he was aware that the suspect also worked in the very area where the DNA was found and thus there was a legitimate reason for the suspect’s DNA to be found where it was. He was not aware and fell all over himself with apologies for not having complete information and making the report that he submitted to Detective Myers. The family was next to be told by the Prosecutor. The Prosecutor had the confidence by that time that no one in the family was involved and only good could come from giving them critical details. Misinformation had caused damage that needed to be corrected. The reputation of a
Prosecutor’s office is vital to the administration of justice and any thought that the most significant murder case in Butler County history was being mishandled had to be straightened out. Misinformation was way out of hand. Out of understandable frustration with the slow pace of the investigation, one of the family members complained with a flurry of emails to the Ohio Attorney General that the Prosecutor was mishandling the case and fortunately the Attorney General knew better without the need for any response. What was most disconcerting to the Prosecutor was the police attempt to push the case against Daniel French to the Grand Jury without sufficient evidence to either indict or convict. To the Prosecutor, the reason for the push was obvious. Once presented to the Grand Jury the case would be out of the hands of the police and in the hands of the Prosecutor and Grand Jury. The Prosecutor would own it. Either one could then be blamed if the case went no where or was lost at trial. Thus, if it was a case good enough for the Prosecutor to take and the Grand Jury to indict, it was his problem and off the back of the investigating departments as an unsolved case. This situation is not unknown to all prosecutors across the county and not just in Butler County, Ohio.

The Prosecutor scheduled another meeting with the family to put the evidence in perspective with what needed to be done even if an investigator was of the opinion that every thing possible was done and nothing more could be done- that “no more lip stick was needed” using a phrase the police officer used with the family. With this newly disclosed information, the frustration of the family was understandable and it was caused by allowing them more information than they should have known early on or without telling the whole story which could not be done without damage to the case. Unfortunately for them, that was the way it would have to remain at least for a while. When Detective Myers finally asked the Prosecutor what more did he need to bring the case to the Grand Jury, the Prosecutor’s answer was simple and direct. “Tell me who owns the unidentified DNA!”

CHAPTER 13

Detective Myers held out little hope that he could find the sources of the unidentified DNA, but did have a legitimate belief that Daniel French was the murderer and could be cajoled into a confession. He, along with a B.C.I. investigator, decided to try talking with Daniel French one more time and there was no legal reason another try could not be made. Perhaps keeping the pressure on would bring him around. At this point he felt that nothing ventured, nothing gained. This time, however, the tone would be a little more accusatory without specific accusations along with disclosing general details that would lead Daniel French to believe they were on to him.

This interview was conducted at the home of the sister of Daniel French. The conditions were not ideal, distracting and complete with a barking dog. The investigators once again told Daniel French that he was not under arrest and his Miranda warning were given once again. Detective Meyers began by telling him that some of the things he had told them before were not adding up and clarification and explanation were needed. Detective Myers gave lengthy reasons why he should give more and honest information and essentially feel better by bearing his soul if he was somehow involved only to be rebuked by the same old statement that he didn’t do anything and that they should just arrest him and get him a lawyer. This sequence was repeated numerous times and at a point when they thought Daniel French would end the interview, they told him
his DNA was found at the home of Barbara Howe where they told him the murder took place. Daniel French quickly and calmly countered that his DNA should be expected to be found there because he worked there and this alone could be the perfect defense to the implications of such usually damning evidence. Once again the interview ended with little to show for it.

The drive back from Berea gave a few hours for uninterrupted reflection on where the investigation was and where it may be going. The Prosecutor was not inclined to take the case to the Grand Jury to prove little more that Daniel French lied about his early morning visit to Wal-Mart and probably had some participation in leaving the Cadillac in the parking lot a mile away. Circumstantially he was involved, but too many reasonable questions remained to identify him as the murderer beyond a reasonable doubt. A Grand Jury only has to consider a probability, but if that is all they had without any confidence in proof beyond a reasonable doubt required for a conviction, an indictment was unlikely. The Prosecutor made it clear to Detective Meyers that the police could bring their own charge without an indictment, but that may well lead to a dismissal at a preliminary hearing instead of a bind over to the Grand Jury if the Prosecutor was right and cripple the future of the case with required disclosures of evidence at that time. That would be the worst outcome short of an acquittal. Both agreed, however, that if an indictment for murder was returned, Daniel French may break under that pressure.

As time went by, the investigators were at a stand still. They had done their level best to seal the holes in the case as requested by the Prosecutor without any success and when added to the mistakes that usually occur during any complex investigation, hope for a successful conclusion was running out. Waiting for a break seemed to be the last resort and was extremely painful for the family who had somehow gotten wind of the stalled investigation.

CHAPTER FOURTEEN

The investigation was now into its second year. Daniel French had been interviewed a third time with no results and more of the same denials. He had to know he was a suspect and also knew that there was not enough evidence to arrest him or that would have been done. There is an old saying in law enforcement that a fish only gets caught if he opens his mouth and Daniel French was not about to make that mistake. To him the day to worry would be the day he was arrested and to him that may never happen.

This situation was not lost on the Prosecutor and investigators. An indictment may well be a game changer and, as suggested by a B.C.I. investigator, the only way Daniel French might crack would be with an indictment and his arrest. An indictment, however, can never originate for that purpose, but an indictment for something provable was not out of the question. For months, the Prosecutor and several of his assistants engaged almost daily in brainstorming on how each piece of evidence was held together with all others to tell the story of this case with Daniel French as the primary author. They were convinced circumstantially that the murderer was connected to Mt. Pleasant and not some wandering stranger who just happened to be in the neighborhood of Barbara Howe. The killer had to have advance knowledge of the medical alert system and the sub- basement as well as the location of the portal leading to it in the facilities closet. Everything pointed to a maintenance person, past or present, and all of those presently employed had been excluded to the satisfaction of the investigators and Prosecutor through interviews and polygraphs. Ordinarily, finding the DNA of Daniel French would be
enough, but he had a scientifically justifiable reason for it to be there. He worked where it was found destroying its use. Daniel French did lie to the investigators about his visits to Wal-Mart and the investigators learned that while visiting his sister he told an acquaintance that he met from Mt. Pleasant while he was in town not to mention being seen. Was he in fact the person seen in the parking lot with the Cadillac? Perhaps, but the witness could not make a positive identification. These facts, while suspicious and convincing to the investigators and Prosecutor still did not prove that he was the murderer.

To the Prosecutor, the question became whether or not there was any offense that applied to Daniel French which also became a daily topic of discussion with his assistants. If circumstantially Daniel French could be tied to the Cadillac in the parking lot by his lies about the break down of his car and never taking a cab from Wal-Mart along with the description that suggested he was the one who contaminated the Cadillac with debris, then he could at least be charged with tampering with evidence and abuse of a corpse even if not charged with the murder, That still could occur at a later date. The down side would be that Daniel French would be aware that there was not ample evidence to charge murder and he may very well be content to plead guilty to tampering and abuse. This he could do claiming that he was only acting to protect someone else such as his son who also had worked at Mt. Pleasant at one time and had been fired. Also, any such lesser charge would require full disclosure of every shred of evidence which would disclose just how weak any murder charge would be at a later time based on available evidence. Ultimately, the Prosecutor decided that the risk of damage to a later murder charge was too great and only charging a lesser crime was not a workable strategy.

The decision not to take any charge against Daniel French to the Grand Jury was not entirely up to the Prosecutor. He had made it known to Detective Meyers that the detective could file charges on his own that would send the case to a preliminary hearing before a judge to see if there was enough evidence to then send it on to the Grand Jury. The Prosecutor also explained this was risky business because the good, the bad and the ugly about the investigation would all come out publicly in that venue and possibly do more damage than good. As it turned out, Detective Meyers never planned to take that approach to move the case forward on his own and he realized that no amount of outside pressure would force the Prosecutor to bring an indictment he considered untimely and insufficient.

As the two year anniversary of the murder approach, it was apparent to the Prosecutor that Detective Myers had assembled a tremendous amount of physical evidence that needed to be organized and explained to that point and the Grand Jury was the best place to do just that. The Prosecutor decided to present this evidence not as a specific case against Daniel French, but in a general way that might encourage witnesses to expand on statements already given to the police and give new leads. This would be an investigative Grand Jury which can be done and, as a Grand Jury stenographer noted, had not been done in decades. The presentation would not be titled in the usual way with the name of a proposed defendant such as Daniel French, but simply titled “in the Matter of an Investigation”. Evidence would be presented and then the Grand Jury would actually participate in asking for specific answers and proof of specific issues not ordinarily presented in Grand Jury proceedings where there is an identifiable or charged Defendant and ample evidence usually to support an indictment from the start. While the family of Barbara Howe did not know the ultimate limitations of such an investigation, they found some solace in this turn of events and that an end may finally be in sight. As for Detective
Myers he realized he had a new mountain of work to climb and he was up to the task without hesitation.

CHAPTER FIFTEEN

In the criminal justice system there are two types of juries. One is entirely public and the other is entirely private. A public criminal felony trial has twelve jurors, is called a petit jury, and its sole purpose is to determine guilt by proof beyond a reasonable doubt. Determining innocence is never a goal or required. Has the state proved its case by the required proof is the only question? A grand jury is composed of nine jurors and its proceedings are secret. The goal of a grand jury is to determine if probable cause exists that a crime has been committed and a person or persons probably committed the crime. Probable cause is a lesser standard than proof beyond a reasonable doubt and only requires a finding that it is more likely than not that a crime has been committed by a person or persons which results in what is called an indictment. This is a document that spells out both the identity of the crime and the identity of the person charged with it.

The deliberations of a grand jury may not be disclosed under any circumstances although the evidence received may be released by a court order. This is directly opposite of a public trial where all evidence is open to the public and jurors deliberations are open to public review and disclosure following a verdict. Consequently, the deliberations and evidence presented to the investigative grand jury cannot be disclosed, but it can be said that the investigation lasted three months resulting in an indictment against Daniel French for aggravated murder with death penalty specifications. The Grand Jury is to be commended for its tireless dedication to this case and attendance was one hundred percent at all meetings. During this three month period there was a turning point in the mind of the Prosecutor that changed the course of this case from one that questioned whether or not any charge could reasonably be indicted to a case containing nearly absolute proof of guilt against Daniel French with or without his ultimate confession. It would ultimately depend on the believability of an otherwise inconsequential witness.

A complicating factor in the evidence had always been that while the DNA of Daniel French was found on the lid to the sub-basement, as a former maintenance worker there was a reasonable explanation for it being there. The house keeper had given a statement to Detective Meyers that she never cleaned the facilities closet where the lid was located and undisturbed DNA would not have degraded from the last time Daniel French was legitimately working in that area. With unidentified DNA found under the finger nails of Barbara Howe that could reasonably be considered as coming from her attacker, his identified DNA with a legitimate excuse would only prove his former employment. That would change. The house keeper was asked by the Prosecutor in Grand Jury to describe the facility closet and she told him it contained a furnace, a water heater, shelves and a water softener and when she recalled the water softener she had what might be called a eureka moment. Suddenly she recalled that the water softener had overflowed and the entire area was awash in a saltwater brine solution that Barbara Howe paid her extra to clean up. She would check her records to be positive, but seemed certain that the overflow happened after Daniel French had left the employment with Mt. Pleasant. The Prosecutor was ecstatic. This was the break he was waiting for. Soon after this disclosure, the
Prosecutor, his assistant prosecutor Brand Burress, Detective Myers and the house keeper went to the home of Barbara Howe with the Prosecutor’s personal Go-Pro camera to record a demonstration of exactly what she did to clean the area. Detective Myers made an exact duplicate of the lid for use to preserve the original and the house keeper washed it down exactly as she had done. She also provided the records she kept documenting the extra amount she had charged for the service to Barbara Howe as well as when it was done. Ordinarily, Grand Jury testimony is not subject to disclosure and would not be permitted to be released. However, as the case progressed, the Prosecutor felt compelled to release the contradictory statement of the cleaning lady to the defense even though he was confident that her later statement was true. A court order was granted requiring the release and public availability.

The recording was then sent to the lab technician at B.C.I. with a simple question. Would the overflow and subsequent wash down by the housekeeper as shown be sufficient to destroy any DNA left behind by Daniel French during his service to the home of Barbara Howe? “Yes” was the answer and to a reasonable scientific certainty. To Detective Myers and the Prosecutor, this evidence solved everything. Daniel French could be now concluded to have murdered Barbara Howe and was responsible for putting or dropping her into the sub-basement. He did leave something behind- his DNA that excluded the world population except for him. Of course this new evidence would be challenged. Could the B.C.I. expert be certain the wash down was complete to remove the DNA of Daniel French? The expert may not be certain beyond all possibilities, but reasonable certainty was all that was required.

In the years he worked at Mt. Pleasant Daniel French became aware of those residents with advance age and wearing valuable jewels. As a retirement facility, the residents all started with significant financial means. Unlike any other place for an attack, he was aware that there would be a legitimate excuse for finding his DNA at a crime scene as long as it was not on the body. All of the pieces were coming together and most importantly Detective Myers and the Prosecutor now had confidence in the eventual outcome with the indictment with this new evidence.

CHAPTER SIXTEEN

After the indictment was returned by the Grand Jury, the Prosecutor filed it under seal with the Butler County Clerk of Courts on December 10, 2014. This meant that until Daniel French was arrested in Berea, Kentucky pursuant to the indictment, the public would not know an indictment had been returned by the Grand Jury. Once it was filed, however, Detective Meyers was immediately notified by the Prosecutor as a courtesy for all his time and effort he had put into the case over the past two years. In that conversation, Detective Meyers said that he should accompany the Kentucky State Patrol when Daniel French was arrested because Daniel French knew him well and they had a cordial relationship resulting from the three prior statements given by him. To this, the Prosecutor said that was exactly the reason Detective Myers should not attend. Daniel French did not need another opportunity to deny his conduct and may find it hard to admit the truth to Detective Meyers having lied to him on the three prior occasions they had met.

Because the tampering with evidence and abuse of a corpse charges against Daniel French originated in Middletown, Ohio, the Prosecutor decided to send Middletown Detectives Rick Bush and Jon Hoover armed with the indictment on December 10, 2014 to arrest and question
Daniel French. Before they went, the Prosecutor met with these detectives and briefed them thoroughly on the facts that had been established evidencing guilt. These facts would be instrumental in convincing Daniel French that he had been caught and that further denials would serve no useful purpose or defense.

The detectives arrived late in the morning at the home where Daniel French was staying and accompanying a Kentucky State Trooper who made the arrest. Daniel French was found asleep at a desk where a loaded .22 caliber rifle was found next to him along with what was considered to be a suicide note. Very likely Daniel French was aware that his sisters, brother and son had all been questioned by the police and Grand Jury and he knew the end was probably near. He wanted to leave this world on his own terms by means of a bullet and not a verdict. Interestingly, however, Daniel French later confessed that he loaded the rifle and in was loaded with five live rounds. Obviously, these were a few more than would be needed for a suicide.

He was immediately arrested, handcuffed and served with the indictment and arrest warrant. He was taken to the local Kentucky State Patrol Post where an interrogation room was made available. Detective Bush is an imposing figure. Easily six feet tall with the confirmation of a lumber jack, he has a friendly, but serious demeanor. He began by telling Daniel French that it was no longer a question of who murdered Barbara Howe and that it had been established that he did it. Detective Bush once again advised him of his right to remain silent and all other rights that are required to be given when a person is arrested. He then used all his training to ask just the right questions to encourage him to confess. His approach to this end was perfect. He began the questioning not by an accusation or the logic associated with the evidence of guilt, but by a process known as minimization. This is the process of giving an individual the opportunity to admit guilt, but in a way that lessens the severity and callousness of the individual’s actions. In a sense, it encourages the “I didn’t mean to do it” defense. This is what the detective hoped for because the admission of the identity of the murderer from the murderer in this case was more important than any explanation that he might otherwise give concerning his motive.

Detective Bush began by telling Daniel French that he expected to see a monster, but that he didn’t look like one. And he said “either you are a horrible monster or something went wrong and it was an accident or it just didn’t go down the way it was supposed to.” To this, Daniel French began his confession by saying that it was an accident and provided details that only the murderer would know. Detective Bush later remarked that the story told by Daniel French almost matched exactly with the narrative that had been pieced together from the evidence by the Prosecutor and Detective Meyers and kept top secret in the event of a confession.

Certain details he provided, however, did not match up and were explainable in the minimization process of Daniel French. He claimed the murder of Barbara Howe was an accident because she fought against being immobilized by his use of a stun gun. As a result, when she fought back he claimed he strangled her, but there was no evidence of strangulation. He also claimed that he cut her throat after she was strangled to death to make it look worse than it was and that this took place in the trunk of the Cadillac. Unknown to Daniel French at the time, the evidence established that he cut her throat in the sub basement and while she was alive.

In any prosecution, there is a popular misconception that motive must be proved, but it is actually not required. Motive may help explain why someone commits a crime and it certainly helps to further prove the identity of the perpetrator as it did in this case. The motive stated by
Daniel French was as old as time—simple greed. He had no money and grew tired of taking the charity of others to survive day to day. He stole from Barbara Howe all that she had, eighteen dollars, her diamond ring and her life. Next would be the challenge of a trial and the preliminary matters that precede a death penalty case.

CHAPTER SEVENTEEN

News of the confession was met with great relief by the Prosecutor and Detective Myers. Their greatest fear was that without a confession, the murder case was essentially circumstantial. They knew that every piece of incriminating evidence had a defensive flip side that would be challenged by the experienced attorneys appointed in capital murder cases and beginning with the DNA found on the lid of the sub-basement portal. Why was it that the housekeeper just happened to forget about the wash down only to remember it when it became a deciding factor? Was this simply the invention of the Prosecutor to obtain an indictment? There are indeed jurors who buy into such claims and look for the worst instead of the best in police and prosecutors. Next would be the questionable identification of the person seen in the apartment parking lot. Her spoken description seemed to match the description of Daniel French seen on the Wal-Mart video, but when shown a photograph of him in the video she was less certain which was sufficient for reasonable doubt. Daniel French did lie about his reason for taking a cab from Wal-Mart back to Monroe and his health was not shown on video to be as impaired as he wanted the investigators to believe, but did this make him the murderer? Other than the DNA found on the lid of the sub basement there was not one shred of physical evidence tying Daniel French to the scene and that DNA evidence could and would be challenged. Furthermore there was unidentified DNA under the fingernails of Barbara Howe and the most likely place it may be found from a violent attack. Daniel French was still the likely suspect, but jurors dig beyond likely and require proof beyond a reasonable doubt. The judge would instruct them that such proof is of such character that they would rely upon it in the most important of their own affairs and could they be counted on to convict without a confession? The Prosecutor and Detective Myers were cautiously optimistic that would not have to be answered.

Following the arrest, the court process began in earnest. Daniel French was now the Defendant and he had the protection of all his rights going into a trial. First, he had to be arraigned and bond considered. An arraignment is nothing more than a formal court hearing where the charges are read to the Defendant and a plea given and all of that occurred within the following week of his arrest. Also, bond in most cases is required to be set by a judge, but in a capital case where the death penalty may be imposed, a Defendant may be held without bond as was the case regarding Daniel French.

Although the Prosecutor was optimistic about the implications of the Defendant’s confession, it was not evidence until submitted at trial and could be challenged by a motion to suppress it. If the confession was tossed out because of some defect, the prosecution would be back to a largely circumstantial case that had to be protected. One critical circumstance was the call received from the elderly neighbor resident who needed to testify that she too received a call from a purported maintenance employee regarding her medical alert system. But could she be counted on to be available? She was of advanced age and was experiencing several medical problems. If she died before this case went to trial, there would be no way to admit her
evidence and advance the narrative of how this case came about. Fortunately, there is a legal process available to perpetuate such testimony and the Prosecutor immediately filed a motion to record her testimony for later use. The motion was granted over the objection of the Defendant and this essential testimony was secured.

As anticipated by the prosecution, the defense filed a motion to suppress the confession of the Defendant along with numerous others considered to be standard in all death penalty cases and having little merit. The motion to suppress, however, could not be underestimated because of its extreme importance to the case. The principal witness was Middletown Detective Bush who had since left that employment to become bailiff for judge. Although the only issue was the voluntariness of the Defendant's confession, the Prosecutor decided to play all four recorded statements to the Judge who would decide the issue. Except for the confession, listening to the first three statements was long and tedious, but served an important purpose. All of the statements taken together showed that the Defendant had a clear understanding of his constitutional right to not talk to the detectives and had given up that right. The Judge agreed. The prosecution and detectives could now breathe easier because unless there was a permissible last minute plea of insanity, a conviction was a certainty with only a just punishment left in question. The Prosecutor also was well aware of the old saying that “there is many a slip between the cup and the lip” and Murphy's Law so nothing could be taken for granted concerning the success of any aspect of this case. The trial was set to begin on October 19, 2015.

CHAPTER EIGHTEEN

The charges against Daniel French would be tried to a jury and there was no plea bargaining. The defense had indicated a willingness to plead guilty, but only if the death penalty was taken off the table and the Prosecutor was adamant that would not happen. He had taken into consideration the wishes of the family who deferred to his position, but more importantly the Prosecutor carefully weighed the aggravating factors of the case against what were known to be mitigating factors and determined that nothing outweighed the aggravating factors. In this balancing process the Prosecutor fought back the urge to consider two nagging and unanswerable questions. Was this the first time Daniel French had murdered a Mt. Pleasant resident and gotten away with it? Was this just the first time his stun gun was not effective and if it was his first venture into murder would it be his last, if his plan was successful?

There were two hundred fifty potential jurors summoned to appear for jury selection. This number was required because it was likely that the case would take three weeks and the ultimate jury would be sequestered for the penalty phase. This meant that they would not go home after finding guilt, but instead would spend evenings at a hotel with no outside contact during the penalty phase until a penalty verdict was reached.

The jury selection process in a capital case is like no other and is the most critical part of such a case in the minds of experienced trial lawyers. The prospective jurors know very little about the charges during that process and the professed goal is to find twelve fair minded jurors willing to sit for weeks on end to decide a case. That can be a challenge in these times because of widespread publicity about the death penalty involving detailed arguments about the issue on both sides. The selection process is also an opportunity for each side to inform the jury of what lies
ahead and what each side believes is important for the jury to keep in mind. The defense always explores the meaning of the presumption of innocence and proof beyond a reasonable doubt. The prosecution always counters by explaining when that presumption disappears and that reasonable doubt does not mean beyond any doubt. It is also a time to suggest themes of what the jury may expect. For example, the prosecutor may ask if a prospective juror has the ability to connect the dots of evidence suggesting that such will be a task in this case or how squeamish a juror may be when it comes to looking at photographs of a brutalized dead body thus suggesting things to come.

In a capital case, each side has the right to excuse six prospective jurors for almost any reason. While excusing a juror for purely racial reasons is not permitted; wide latitude is given to both sides to obtain the jury that will best represent their sides with the selection process ending up much like a poker game with each side drawing up to six new cards. The Prosecutor often tells the prospective jury that it is often like Forrest Gump’s box of chocolates because “you never know what you are going to get.”

There are also unlimited challenges for what is called “cause” which means that a prospective juror has to be excused for specific legal reasons. The easiest example in a capital case is the juror who professes opposition to the death penalty and would never under any circumstance return such a verdict. Similarly, jurors who are biased in favor of either side claim they cannot be fair or have a disability that would interfere with their ability to serve either physically, mentally, or both, are examples of common reasons a judge may excuse jurors without either side exercising one of their six challenges.

Questioning the jury by the prosecution would be handled by Assistant Prosecutor Brad Burress. He is a seasoned litigator- cautious and thorough. He was keenly aware that every word he spoke to the jury, every question he asked, could be challenged on appeal. He would apply the basic principle that jury selection is as much an art as it is a science. In many ways it requires a deep understanding of psychology, human weaknesses and human strengths to ferret out the best possible fair and impartial jury to consider a case. He and the prosecutor had examined at length the jury questionnaires that tell the basic history of each prospective juror and both recognized that the selection process would be much more complicated because the jury would consider the death penalty on conviction. The defense would do likewise and seek a jury that would fit is definition of fairness and impartiality. Ultimately, the jury selected would lie somewhere in-between the competing interests and champion the time honored American system of justice. But before a jury would be selected there would be one more wrinkle in the case that had to be considered.

CHAPTER 19

As the trial approached the judge kept in frequent contact with both sides with pretrial conferences to make sure that there would not be lengthy distracting issues that could be resolve before trial. Nothing is worse for a jury than to be excused to resolve such issues out of their hearing with a two hour or more delay. One such pretrial hearing took place two weeks
before trial to consider in advance any objections to photographs the prosecution intended to introduce. Surprisingly to the judge and the prosecution, the attorneys for Daniel French announced that he would plead guilty as charged to all charges except the aggravated murder charges which would not require the consent of the prosecutor. No doubt by doing so the defense hoped that by doing so, there would be a limitation on evidence that the state would be permitted to introduce. That is, if French pleaded guilty to abuser of a corpse, what relevance would that have on the murder that occurred first? To think this through, the prosecution asked for a delay in taking the plea and the judge agreed setting a date a week before trial. While the prosecution could not stop the plea of guilty to the non-capital charges, the prosecution sharpened its answer to the issue of relevance and was well prepared to meet the defense strategy.

On the Wednesday before the beginning of the trial, Daniel French stood before the judge and was advised by the judge of all the ramifications of guilty pleas and placed him under oath for his answers. After the long colloquy that always takes place with a guilty plea, assistant prosecutor Brad Burress gave a detailed statement of French’s conduct that included details of the aggravated murder, aggravated robbery, aggravated burglary, tampering with evidence and abuse of a corpse. It also included a statement that French acted alone and that Barbara Howe died from bleeding and not strangulation. The judge then asked French if there was anything in disagreement with the statement of facts and the reply was “no” whereupon the judge found him guilty on all the lesser charges and delayed sentencing to a later date after the trial on the capital offenses.

With that concluded, a rancorous hearing followed as expected on the application, if any, of the pleas of guilty in the upcoming trial. It began with consideration of the photographs intended to be introduced by the prosecution and involved what the prosecution believed was a simple concept of required proof involving the identity of French as the perpetrator. The confession of French would be introduced into evidence by the prosecution and the jury needed to be convinced that it was just some fiction created. The best way would be to show that things that he said were things that only the killer would know because those details were never published such as vacuum cleaner contents that he poured on the body of Mrs. Howe. The judge seemed, however, to miss the point by repeatedly referring to the fact he knew that French had pleaded guilty to abuse of a corpse and tampering with evidence. The prosecutor countered that what the judge now knows makes no difference and proof was still required to show to the jury the identity of French as the killer which the photos would corroborate. The defense called his argument grandstanding and the judge agreed adding to an already tense prologue to the upcoming trial. Although the judge never seemed to get the point, he did allow restricted use of some photographs and the prosecutor expected the issue to be revisited during trial with hopefully a better result for his position accurately reported by the Hamilton Journal News the following day.

CHAPTER 20

On October 19, 2015, jury selection began with ninety eight of the two hundred prospective jurors showing up for consideration. Attorneys on both sides were on their good behavior and the judge published an order requiring that. The number of prospective jurors was divided into
two groups. The first group was questioned by the judge on the first day and he handled the questions concerning the jurorsʼ willingness to sit on a capital—death penalty case. On the second day the second group was questioned and then those that were left were questioned by the attorneys on issues they felt relevant and important to their positions. Finally, after two and one half days of questioning, a jury of twelve was seated with four alternates. Of the twelve there were seven women and five men from all walks of life and backgrounds. When the jury was seated, the judge excused them for lunch and the trial, with opening statements, began in earnest on their return.

In every criminal case the State of Ohio goes first because it has the burden of proof and the defense goes second. Prosecutor Gmoser presented the opening statement for the State of it is included here entirely and as given to the jury along with that of the defense presented by defense attorney Lawrence Hawkins III.

IN THE COURT OF COMMON PLEAS
BUTLER COUNTY, OHIO

STATE OF OHIO, :
Plaintiff, :
- vs - : Case No. 2014-12-1843
DANIEL FRENCH, : Judge Pater
Defendant. :

Excerpt of Court proceedings (OPENING STATEMENTS only) in the aforementioned case set forth, at the Butler County Court of Common Pleas, Judge Pater's Courtroom, 315 High Street, Hamilton, Ohio on October 21, 2015, before Jane Anne Fitch, a Registered Professional Reporter and Notary Public within and for the State of Ohio.

OPENING STATEMENTS

IN D E X
State of Ohio
Defendant
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MR. GMOSER: With respect to the Court, participants, ladies and gentlemen of the jury: First of all, I want to begin by thanking you all for your service and what you have already gone through and what you're about to.

Every -- every case such as this tells a story. Some of those stories are short and others are lengthy. The short stories require a relatively short table of contents, relatively short outline of things. Those cases that are longer require a longer outline. And that's what this will be for you. I'm going to take this opportunity to outline for you in a very concise way what I expect the evidence to show in this case.

Now, the judge is going to tell you that opening statements are not evidence, and anything that I say to you should not be taken as such, but it is my way of giving you an opportunity to follow many, many dots in this case that I expect you to connect down the road. And that's the purpose of what I'm going to be telling you today in this opening statement.
The judge has already told you what the two principal charges of aggravated murder are. And I think it would be unfair and repetitious to repeat those for you. You heard them once, you don't need to hear that again. But you did hear a couple of terms that may be unfamiliar to you, and you may not know what the law would be and what the recipe is for the proof of certain things. So I'm going to tell you about the other essentials that are incorporated into the principal charge, which is an aggravated robbery and an aggravated burglary. Aggravated robbery requires that there be proof of some theft offense. It also requires that there be some proof, an aggravated robbery is some infliction of some serious physical harm.

With respect to aggravated burglary, it requires that there be an occupied structure, that is there was somebody present as opposed to away on vacation. It also requires some element in this case of a trespass, somebody didn't have permission to come into that occupied house. It also requires an element of perhaps deception, tricking your way in, scamming your way into a residence for the purpose of committing any crime therein and inflicting injury, any injury.

Now, that's what you will be hearing later on as the judge explains what the law is on that. It's not my place to tell you that, but just to give you that general understanding of how those two charges, aggravated burglary and aggravated robbery, play into the principal charge in this case, charges, of aggravated murder.

In October of 2012, Barbara Howe was an 87-year-old widow. She was a vibrant individual. The evidence will show that she lived in Middletown for most of her life. She and her husband, they were a partnership together in life. They operated Howe Motors. It was a car dealership in Middletown. He passed away. But one of the things that he gave her was a very expensive diamond ring. And she, as far as material things are concerned, as far as material things are concerned, the evidence will show that it was one of her most prized possessions. She very seldom took it off, perhaps only at night. The evidence will show that like many folks that get on in their age, downsizing seems to be a good idea. And the evidence will show that she decided to downsize to a pleasant facility in Monroe, Ohio, about 12 miles from here, a nice little bedroom community, perhaps
you're familiar with it, to what is called the Mount Pleasant Retirement facility. And it's a campus-like atmosphere, the evidence will show. And I might repeat those words, "what the evidence will show," I might repeat it over and over again, because I don't want you to feel that I'm arguing anything, but everything that I say in this opening statement is what I expect the evidence to show. So there you have this campus-like facility that has some apartments, some condominiums, a nursing in-house facility for folks with perhaps Alzheimer's and things like that, they can't live in an apartment, they can't live in a condo. And then you also have what might be called patio homes. These are small one-level homes, no stairs, no basement. No basement that the occupants can get into, without difficulty and without -- without need.

The evidence is going to show that in October of 2012, Barbara Howe lived at 413 Paxton Circle at Mount Pleasant, and her home had a subbasement. That's a -- not a basement like you might have with eight-foot ceilings. This is a basement that's only perhaps as tall as this railing in front of the jury box, and it gives maintenance people access to electrical things, floor vents that go to different rooms, plumbing and pipes and things of that nature.

So maintenance was something that Mount Pleasant did provide. For the most part, it was pretty self-contained. Very seldom did they ever use outside vendors to come in and fix an air-conditioning unit or a furnace or a water softener or things of that nature, because Mount Pleasant had their own staff and they were called their maintenance staff, Mount Pleasant maintenance.

The evidence is going to show that Barbara Howe was a fastidious person. I used that word a day or so ago with my Assistant Prosecutor Brad Burress, he says, what does that mean? It is a word that I grew up with. A fastidious person is one of those people that is really neat and really tidy, but not to a fault. She had a house where everything had its place. She would never leave a half glass of water out. It went from the table to the sink. Dishes went from the counter to the dishwasher to the cupboard. Things were straight, things were neat, things were tidy in her house. That was the way Barbara Howe lived.
The evidence is also going to show that she had a telephone answering machine. So when calls come in, if she wasn't home, there would be a recording. And also it had caller I.D., so that if somebody called in, she could see, well, is this coming from Cincinnati, coming from Atlanta, where she had a daughter, Nancy, Nancy Fruethenicht, you will hear from her, you will hear testimony from her. Her testimony will last about five minutes or less, but she will testify.

The evidence, the answering machine and the telephone system that Mrs. Howe had gave her the ability to connect with the outside world. She had AT&T or Cincinnati Bell or one of those services, but also the evidence will show that inside Mount Pleasant's facility, they had what is called a trunk line system.

Now, in the trunk line system, you could call from anywhere inside the facility and it would show that the call was coming from somewhere inside Mount Pleasant Retirement facility, as opposed to the call showing that it was coming from Cincinnati or Dayton or Timbuktu. If it was calling from inside, it would show as coming from the number of Mount Pleasant inside the facility.

The evidence is also going to show, members of the jury, that as fastidious as Barbara Howe was, she also had a habit of always using her medical alert system. The evidence is going to show you, members of the jury, that older folks, they want to feel that they're protected if they go to bed at night and something happens, that somebody is going to know about it and not just find out about it days later.

So they have a system that when you go to bed at night -- this is not just for Mrs. Howe, but this is other tenants, these patio homes -- that when you go to bed at night, you tap a little buzz button on this device, it makes a beeping sound, and it alerts the home office, so to speak, that you're alive, that you're well, and you have manually indicated that you're okay and you're going to bed. The evidence is going to show that Barbara Howe did that religiously, it was a habit she never broke.

The evidence is also going to show that if you were away, if you were away, you could put that to the away mode, so that they would know at the facility that you obviously
weren't home, so if they didn't get a buzz, obviously everything is okay.

At 87 years old, Barbara Howe still was a driver of automobiles, she had her own Cadillac automobile. She kept it in her garage, which was attached to her dwelling, and she would use it to go during the day to many places, to go shopping and to visit friends.

The evidence is going to show that she would go to shopping centers, she would go visiting people, and the evidence is going to show that she would always tell her kids, one of them, she had three, where she was going if she was going to be away for any length of time.

Now, the evidence is going to show that on October the 28th of 2012, and that was a Sunday, that was a Sunday, the evidence is going to show that she had invited a friend of hers, an older gentleman by the name of Crawford Williams, he is going to be here to testify. He came to her house and they had dinner. She cooked pork chops and there was a mushroom gravy. And Crawford Williams is going to tell you about seeing her ring, her dress, how she was attired, what she was wearing, that they had a lovely, lovely evening, and around 5:00 o'clock, he left. The evidence is going to show that that is the second to the last person that ever saw Barbara Howe alive. The evidence is going to show that later that night, Patricia Marshall, Barbara Howe's sister called, and she didn't get an answer, which was kind of unusual, caused her some concern. The evidence is going to show that she wondered where her sister might be, where is Barb, well, maybe she went out, maybe she went with her friends, maybe she went to a concert, all these things, she didn't call. The evidence is going to show that the next day, the 29th, the 29th, Monday, she started calling again, and she got no answer, what is going on? Well, maybe Barbara went out that morning, maybe she just missed her in transit, you know, people don't always have the same schedules.

Well, later that evening, sometime after dark, Patti Marshall decided that she would call Mount Pleasant and find out what is going on, where is her sister. And she called Mount Pleasant, and a fellow by the name of Kip Lawson, he went -- he went to the house. It was dark. The evidence will show the house was dark, but he had a passkey, he was able to get in. The evidence is going to
show that he went in and lo and behold, the car was gone. He made his report back to Patricia. She said, oh, the evidence will show, that's just not like my sister, where could she be? It was after dark. She doesn't drive in the dark.

After that, the evidence is going to show that Patti Marshall -- I call her Patti, because I've gotten to know her in the past couple of years, Patti Marshall called her niece, Donna Wesselman, Barb's daughter, and said, look, as you can imagine, what is going on. I won't go into all the testimony, you're going to hear that from the witness stand.

But Donna, she decided to get to the bottom of this and she came out to the house and they came to the house and they found that the car was gone. She was able to get in through maintenance, she got in from -- by Mount Pleasant, saw that the car was gone. Her mother's car was gone. And the device was in the away mode, that really struck her as being very unusual.

The evidence is going to show that there was a carpet that was out of place on the floor. It wasn't a carpet, it was a towel, but there was a throw rug like a carpet and that was also out of place, but that was about the only thing that was out of place, except for one more thing.

On the stand near a chair where Mrs. Howe would ordinarily sit with a nice little lamp reading the newspaper, there was a half glass of tea, and that was so unlike her mother that she thought something was really wrong, but she didn't know what.

So what she did, what Donna did is she called the police, and she enlisted the police to come out and see what is going on here and eventually file a missing persons report. And as a result of that, there was an alert that went out, a be on the lookout, they call it, it's a BOLO, be on the lookout for a red Cadillac, because at that point the evidence will show this lady is essentially gone under unusual circumstances and maybe she is in a ditch somewhere.

Detective Gregg Myers, this gentleman seated to my right, he came out to the house, and he looked things over and there was nothing that struck him as being unusual, other
than perhaps that one carpet, but nobody really knew that much about it, other than the children and the sister, about how fastidious she was, but to have a towel on the floor, well, geez. But he did notice one little speck of red or brown, actually, he thought, well, maybe that is blood, possibly, but there was nothing really unusual. So he got busy with the State Patrol, and then he takes a plane ride, an aircraft ride, maybe two, I'm not sure, but I believe there was also a helicopter involved, so he is up there and the only thing he was able to find was an airsick bag, because he did get sick while he was looking, going all over the countryside looking for this Cadillac, and they couldn't find any. So where had she gone? And that was the mystery at that time.

The evidence is going to show, members of the jury, that Gregg Myers decided, because of that one little dot that he saw, that he needed to bring BCI, Bureau of Criminal Identification and Investigation into this case. He needed to bring them down from upstate. They've got laboratories, they got technicians, they've got scientists. They've got all the stuff you hear about on CSI that we're telling you is not evidence, but they're the ones that really do have that stuff and they really do use that stuff and he wanted to bring them down to at least look at the house to try to figure out what was going on. So they were arriving in Monroe at about the same time, at about the same time on November the 1st, on November the 1st, that an Officer Reeves from Middletown Police Department put out an alert that he found the red Cadillac. And it was in a parking lot in Middletown at the Woodridge Apartments.

Now, as a result of that, Myers asked BCI to divert, and instead of going -- instead of going to the house, he wanted them to go to the car as quickly as possible, everybody wanted to get there as quickly as possible, and they did. And they arrived on the scene of this car, it was backed into a parking stall at Woodridge Apartments. And it was immediately decided that the trunk needed to be opened. You could look inside and you could see nobody was in it, but some fluffy stuff that was on the seats in the front, just covering the seats, it looked like it hadn't been disturbed, like nobody had sat on it. But the evidence will show that they decided to open that trunk very quickly, because after all, Mrs. Howe could be inside and she could be alive, or certainly in need of assistance.
The evidence will show that they opened the trunk, and when they did so, they found Barbara Howe facedown, naked, except for her underwear and her pants slip pulled down to her knees. She was essentially on her belly, and her body had more of that fluffy stuff covering her. They also moved her back, pulled her back and found at that time that she had severe gashes ear to ear across her throat. Now, needless to say, I don't make light of this, she was dead. Now, at that point, this became a homicide investigation immediately. And great care had to be taken, the evidence will show, in many respects. The evidence is going to show that there was immediately, because the Prosecutor's Office was brought into this, the Coroner's Office was brought into this, the decision was made that there would be a lockdown on any details in this now homicide investigation, for reasons that will be discussed later on in this case. But there was a media blackout, if you will, on specific details for specific reasons. That will become apparent later. The car was put on a flatbed truck, and the car was taken to a secure location, to a Monroe Fire Department facility where BCI got to work. And they did all manner of investigation with respect to this car. They did everything that you can imagine with little swabs, which they take like a Q-tip and they touch things, and they put those Q-tips in jars. They touch many things, the steering wheel, the shifting lever, the seats, everything in the car, plastic, around the trunk, anything that appeared to have blood or some fluid or anything like that. They have very detailed camera equipment to take really high pixel resolution stuff that the computer people know more about than I do. But it's really fine stuff as far as the accuracy of photographs.

From stem to stern, the evidence will show that they found snippets of hair in the car and they found that Barbara Howe's hair had been clipped in various places, clipped in various places. The evidence will show that they took photographs of the body which showed an imprint of the cargo netting, which was significant to them. We will get to that later, I can't tell you what that is, what the significance is, only to tell you that there was that and it was photographed, and you will have evidence with respect to that. They also saw injuries in addition to those injuries described to her neck. They also saw injuries to her forearms, areas on her forearms, where the skin appeared to have been pulled away.
The evidence will show that there was no ring, that expensive ring. The evidence will show that $26,000, 3.3 karat diamond ring was not on her left hand, it was not on her body. They didn't know that at the time, the evidence will show, the hand, that hand was barren of any jewelry. The evidence will show that there was jewelry on the right hand. There were two rings on the right hand. Left hand was photographed, not because of the absence of a ring, but because of features to the arm with respect to that hand, and you will see pictures of those features, I expect, in this case.

So as I've said, the automobile was gone over with a fine-tooth comb, because that's what they do. They also bagged the hands of -- they put paper bags over the hands, to avoid any possible contamination, because after all, there might be some genetic material, when you talk about DNA, that is underneath fingernails. They're looking for clues and they want to make sure if there are clues available, that the clues don't get contaminated or lost or overlooked. So all of those clues were considered and done. All of these examinations took place. And you will hear from the technicians that did that. And they went through every opening on the body of Barbara Howe looking for clues. We will just leave it at that.

Now, after that, BCI decided that they needed to go to the house, because at this point, they don't know where this all happened. They have a car, in another city, with a body. Where did this killing occur? They didn't know. Was it a hate crime? They didn't know. The injuries to the body were very, very severe, as the evidence will show. There was bruising about the face of this individual, as well as injuries to the back of the head of this individual, and injuries to the arm of this individual, of Barbara Howe.

So what -- what happened to this lady? Was she shopping somewhere and somebody attacked her and killed her and put her in the trunk, or did some hate crime person just take it out on this elderly lady? What was it? They didn't know. And did it happen there as opposed to somewhere else? But because police officers do detective work, they had to check the house. The evidence is going to show that BCI went to the Howe residence. And they started the same thing that they did with the car. They went through it with a fine-tooth comb.
And everything seemed to be, the evidence will show, pretty much ordinary. There were a couple of areas that they thought might be blood, a little smear on a doorway, or a door, down near the floor. There was — there were some specks of brownish material on a garage door that could be blood, but in her bedroom, there was no blood. There was — the device was in the away mode, the evidence will show, you know, the medical alert device was in the away mode. There was that towel on the floor, but there was really no evidence with respect to blood being associated with it.

There was a throw rug that was sort of crumbled off to the side, nothing too unusual about it, nothing that appeared to have blood associated with it or anything that would be associated with such a violent crime. Now, the evidence is going to show that a seasoned investigator with BCI by the name of Agent White is on staff and he is at the house, and he is asking all the questions that have to be asked. And he says, well -- well, what -- we don't have anything up here. Where did this happen, is there -- is there a basement to this house, the evidence will show. Well, no, it just has a subbasement. Has anybody looked there? Well, no, it's just a subbasement. Well, we need to look at that. Now, the evidence is going to show that they went to where the access is to the subbasement. And that access is located in a little furnace room, which has the furnace and it has a water softener, and it has a water heater. And on the floor, there is a framework, it's about 30 inches by 23 inches, looks like a picture frame. It was framed out with picture frame material. It's got linoleum in the middle of it. It's like a picture frame of linoleum that matches the other linoleum around it, but that is the access door. You can pry that up and that's how you get down into the subbasement. But in order to find it, when they opened up the furnace door and looked in, there are all manner of things that were stacked up on top of it, you could barely see a corner of that framework. There was a sweeper that was on it. There was a box of kitchen stuff on it, there was something like a tin something or other, a kitchen utensil was on it. So they moved that away, carefully, and pried up that lid, and they looked down, and looking straight down, there was nothing, except a carpet, a throw carpet, similar to the one upstairs, that looked like it had been in the kitchen at one time, based upon some discoloration in the kitchen floor with the discoloration on the bottom of that carpet, but that's all. Looking straight down, hardly anything worth looking at. But they
didn't stop there. They went down, "they" meaning BCI, and the evidence will show, they went about five feet, because once they got down, they could see, there was an area of what appeared to be blood about five feet away, farther than any body could -- any body could have bounced. Five feet away, there was an area of what appeared to be blood. And the evidence will show -- not to get too far ahead of myself -- the evidence will show from later testing that that was Barbara Howe's blood. And it showed a trail of blood, the evidence will show, leading from that area of blood streaming to the seam between the wall and the floor.

And in that area of blood, was a large, as opposed to small, bigger a than a cigarette pack, but about, oh, I would say, 12-inches-by-14-inch piece of plastic, something like you would hang shirts on or when you get the laundry shirts, that type of plastic, mixed in to that blood pool. They took pictures of that. At that point they didn't need to know that that was Barbara Howe's blood, the evidence will show they assumed it was. Now, Barbara Howe had been in that basement, but why, nobody knew, nobody knew why, why. But they knew that she had been. As a result of that finding, they looked carefully, very carefully at the framework, and they could see in that framework, there were some smears of blood. They could also see a watch clasp that had broken off of a wristwatch and was imbedded into the framework of that portal that goes down into that subbasement. The evidence is going to show that they also recognized there were corner edges to that framework, and there were bumpy bruises along the back of Barbara Howe as she lay naked inside of that car, nearly naked inside of her car, which would be consistent with bumping out over that, coming out of that subbasement. The evidence is going to show that they completed their work and they took all of their swabs and they took all of their photographs, and you're going to go through those and you're going to see those, you will have those, and you will hear the testimony about those, but still there is some dumbfounding thing about what the heck is going on here, still a mystery.

The evidence is going to show, members of the jury, that the next day, the next day, on November the 2nd, Mount Pleasant had a murder case on their hands, one of their residents had been murdered, in their opinion.
The evidence will show that they contacted various residents to give them a sense that Mount Pleasant was involved and concerned about their security and safety, after all.

The evidence is going to show that at one of these small meetings that was scheduled, a lady by the name of Mrs. McDaniel, who also lived in a small patio home, she had a subbasement, too, but its access was only from the outside by the way, but she lived in a sub -- she lived in a patio home that has a subbasement. And she was also a lady that wore a lot of expensive jewelry on her hands.

The evidence is going to show that at this meeting -- she is in her seventies by the way -- at this meeting with management, she piped up and she said, listen, I got a -- I got a call, I got a call Sunday night from somebody who said that they wanted to know if I lived at 119 Northwestern, that's her street address, and this person said that they were from Mount Pleasant maintenance, they were a member of the Mount Pleasant maintenance team and that there was a problem with Mrs. McDaniel's medical alert system. And this call came in about 7:24 in the evening and he wanted to know if he could come over and fix it. And she said, I'm just about going to bed, don't bother me. And she was a nice lady, don't get me wrong. She was abrupt, though, she didn't want to be bothered. She didn't want to be bothered with it. She just wanted to go to bed. The evidence will show that she turned away that request. And didn't think much of it, until the next day when nobody ever showed up to come fix her machine, because she still thought there was a problem with it, but then she later learned there was no problem. That phone call came to her residence about 7:24 in the evening. The evidence is going to show that Mount Pleasant took that tip and got that to the Monroe Police Department. And they began then checking to see if there was any relationship between that unusual call from somebody from maintenance, when maintenance says, also by the way, the evidence will show, said there was no problem in maintenance with respect to Mrs. McDaniel's home. There was no work orders for that, nobody was supposed to be doing anything like that, and there was no reason for maintenance to be there. So then the evidence is going to show that Monroe got the phone records from the Howe residence, and other records, the phone answering machine, and they were able to put together that the Howe residence also received a call about a half hour later.
Don't know from who, but about a length of time that would be consistent with come over, fix your machine.

Now, the evidence in this case is going to show, members of the jury, that at that point, at that point while speculation was rampant as to how this could have happened, the focus started to focus on people that would have some knowledge about the medical alert system, how it worked, about maintenance, about subfloors, because the evidence is going to show that family members of Mrs. Howe didn't even know there was a portal that went into the subbasement.

They started to look at this as what, as an inside job somehow or another, but there were many people that worked in maintenance, so it was going to be a process of elimination. It had to be done painstakingly, accurately, diligently, all of the things that police do. All of the things that police do.

But the evidence is going to show, members of the jury, that one of those people that was a maintenance worker, but not at the time that Mrs. Howe died, was the Defendant Daniel French. He had been a maintenance worker. He worked at Mount Pleasant up until December of 2011.

The evidence is going to show that he even worked at the residence of Mrs. McDaniel, and he worked -- there was a work order specifically for the residence of Barbara Howe, and specifically for the things that might have brought him in contact with that subportal floor.

At this time, there weren't any results back from BCI. They had taken all kinds of swabs looking for DNA, but nobody knew whose DNA was whose at that time, but they were looking for suspects. They wanted to talk to Daniel French, among all of them, he was one of all of them. But then something really unusual happened. Call it a break, call it whatever you want, but the evidence will show that Daniel French's brother, Kenneth French, called up Detective Myers in December of 2012.

The evidence is going to show that he says, look, I hate to call you, I hate to bother you, my daughter is telling me that I've got to make this call, I'm really concerned. The evidence is going to show that he said that during the time of this homicide investigation, that his brother had came through his town down in Walton, Kentucky, on his way back
from Monroe, where their sister lived in Monroe. And he was really concerned about his brother, because his brother was wearing a Mount Pleasant maintenance shirt, and he remembered that this homicide occurred relative to Mount Pleasant Retirement Community and that's where his brother Daniel worked. And he hoped he was wrong, but he just felt that he had to tell that.

The evidence is going to show that Detective Myers listened carefully. He said I appreciate the information, they get a lot of tips, the phone is ringing off the hook and they will be certain to look into it. But the evidence is going to show that he was on it, right on it. The evidence is going to show that Detective Myers got in touch with Daniel French's son, Jeremiah, because he couldn't find Daniel French, had a hard time finding out where he was. And Jeremiah gave cell phone numbers that Daniel French had. And with those cell phone numbers, Detective Myers started to trace, if you will, the footprint of where Daniel French had been on October the 28th. The evidence is going to show - the evidence is going to show that one of those cell phones pinged off a cell tower less than a mile, approximately a mile, I guess, from where the car was found. Out of however expansive Butler County is, how many miles it is and all the radius miles, this cell tower was only one mile from where the body was found.

The evidence is going to show that they also engaged in some gumshoe detective work. They canvassed that neighborhood where the car was found, because after all, somebody may have seen something unusual. And the evidence is going to show that there was a lady on the morning of October the 30th, October 11 the 30th. The car is found on the 1st, but on October the 30th, the evidence is going to show that this lady saw a person, a man, standing in back of the -- of a red Cadillac with the trunk lid open, and she turns, it's 5:30 in the morning, she is on her way to work, she doesn't have too much time to be thinking about too much stuff. But she lives in a complex, an apartment complex, they are a little bit curious about people they don't know and strange situations, so the evidence is going to show she paid attention to it long enough to see that this person was acting, in her opinion, unusually. She heard the trunk lid close and then saw this person, as you will, my father used to call it, putzing around in the car, leaning into it. And that was it, and then the door closed
and that was all that she paid attention to that. And that was on Saturday -- that was on October the 30th.
Now, the evidence is going to show, members of the jury, that Detective Myers took that cell phone ping and got the records from the cell phone, and also was able to find that on that morning, October the 30th, Daniel French called a cab company in Middletown, Ohio, and he wanted a ride from Walmart to Monroe.

The evidence is going to show that they secured the phone records as stated. They talked to the cabbie, and the cabbie reported that Daniel, this individual, this individual said that his car had broken down and it was a rainy night, his car broke down up on Roosevelt, some distance away, which struck the cabbie unusual, why not call from where your car broke down?

But the evidence is going to show he is calling from Walmart to come and get him, and she drives him, after hearing his story, which you will hear from the testimony, hears his story about why his car broke down, what he needed to do, gives him a ride to Monroe, but just before they get to Monroe, just as they cross 63, which is the street that goes by Monroe, he diverts the cabbie to a little street that parallels. It's called Ohio Avenue. And he took a right -- she took a right for him up that street and dropped him off up Ohio Avenue, which happens to be right across the street from Mount Pleasant Retirement Home. Now, not exactly, but it's on the other side of the street, but it's certainly in that vicinity and in easy walking distance, the evidence will show.

So, with that piece of evidence, the police went back to Walmart and they checked surveillance video there. The evidence is going to show that lo and behold, Walmart still had the surveillance video from October the 30th, which showed Daniel French walking briskly across the parking lot of Walmart in the dark, early in the morning, 6:30 in the morning, approximately, getting to Walmart, calling on his cell phone for the cab company, the evidence will show, going and making a -- making a purchase at a register, going over to a movie kiosk and sort of scrolling through those, and then going out and getting in the cab. And he will be identified as being Daniel French, the same person that got in the cab, the same person that went to Monroe. Now, this is what the police had, so they found that Daniel French, they needed to talk to him, as you can imagine.
They went to Berea, Kentucky, where he was staying with his -- staying with his sister. He wasn't there at the time. But when they went there, she gave them permission to look over his things, and they found a torn out sheet of a directory with -- with a number of names on it, including -- and the directory is from none other than Mount Pleasant Retirement facility -- with the name and address and phone number of Barbara Howe. So needless to say, they wanted to talk to Daniel French.

The evidence will show, members of the jury, that they went on three occasions to interview Daniel French. The evidence will show that they didn't accuse him of anything. They didn't say we know you did it, we want you to tell us. They just went to talk to him and ask him a lot of questions.

And the evidence will show that in the course of that, he says, well, if you think I did this, just arrest me and get me a lawyer, he said that in every interview, one, two, three, just arrest me and get me a lawyer. But he also said a couple of things. He said that he had never been anywhere in a cab. They didn't tell him they knew about the conversation with the cabbie, they didn't tell him that. But he said he never went to anywhere in a cab while at his sister's. He said he only went to the Kmart in the afternoon to get a bicycle part with his son, but his car never broke down. So to them, these were vital circumstances, the evidence will show. Why is he telling them these stories? And why did -- why did he tell the story to the cabbie? Questions.

Now, members of the jury, I want you to know that by this time, BCI has done a real good job of examining forensic evidence. And one of the swabs that they checked on that portal that goes down into the cellar basement, came back with the DNA of Daniel French. Proving nothing.

The evidence will show, members of the jury, that it proved that Daniel French at some time, some time, had touched that framework. But it proved nothing, because DNA does not come time-stamped and it doesn't come date-stamped.

The evidence will show that when Daniel French was asked about his DNA being there, he said, well, of course it's going to be there, I worked there, there was work orders for me to be there. I worked there, of course you're going to find my DNA. So it proved nothing.
And it proved nothing because the evidence at that time was, the evidence at that time was, that the house lady that helped Mrs. Howe had always said that she never cleaned that room. So it was just like in Jurassic Park, you know, the DNA could have been there for centuries. Not really, but hypothetically, you know what I mean. So what did it prove? It proved nothing, because she said she never cleaned that room.

Now, the evidence is going to show that after about two years, everything was pretty much at a standstill. The evidence is going to show that the focus of this case was on Daniel French, no question about it, but saying it and proving it are two different things. Because he was denying it. We don't have any evidence, other than some unusual activity about him being near a Cadillac, maybe, if that was him, in that parking lot, because that lady that saw this man in the parking lot, she couldn't identify him. We just know that in a short time after that, Daniel French was walking into a Walmart getting a cab back to Monroe.

So, as you can imagine, reasonable doubts and doubts, who wouldn't, who wouldn't, who wouldn't, of course. The prosecution decided -- that's me -- take this case to the Butler County Grand Jury for investigative Grand Jury to lay it all out, see where it went.

MS. COOK: Your Honor, can we approach, please?
THE COURT: You may.
Those in the back, you haven't been here for the rest of this, but the jurors know this, any time that we have a discussion, that is the attorneys and I, and the court reporter over to my right here, we call that sidebar. Any time that's happening, we are going to be discussing something on the record. And that's why the reporter will be with us. But we're going to be doing it quietly, while we're doing that, the rest of you feel free to stand and stretch, talk to your neighbor and chitchat a little bit.

Please do that, and don't try to hear what we're saying up here, because the purpose of our being here is for you not to hear.

(Sidebar conference)

MS. COOK: Your Honor, I object to the Prosecutor's opening arguments in this respect. I am assuming that he is not going to call him as his own witness and what his office did or did not do in terms of the Grand Jury --

MR. Gmoser: I will avoid that then, I will be happy to. I've got another way to do it.

THE COURT: That's easy.

MS. COOK: I apologize, in terms of Mr. Gmoser bringing in reasonable doubt, that's objectionable also.

THE COURT: You started to go down that road.

MR. Gmoser: I will stay away from that, too. Well, actually I thought it was kind of beneficial for the defense to know that I'm even thinking there was enough for reasonable doubt, when you think about it.

THE COURT: Let's stay away from that kind of conclusion.

MR. Gmoser: Consider it done. Thank you, Your Honor.

MR. BURRESS: Thank you, Your Honor.

MR. HAWKINS: Thank you, Your Honor.

(End of sidebar conference)

MR. Gmoser: As you will recall, the cleaning lady had never cleaned that room. She had given a statement that she had never cleaned that room. You know, you want her to not make mistakes. Then the evidence is going to show that when asked additional questions about that, the evidence is going to show that she had what you might call a eureka moment. When asked what was in that room, she said, well, there is a furnace, there is a water heater, there was a this and that, and there is a water softener. When she said the water softener, the evidence is going to show that it triggered her recollection that, wait a minute, that water softener had overflowed. It overflowed and spread a briny saltwater solution all over that floor where that
portal is located. It needed to be cleaned up, and Mrs. Howe hired her to do just that. The evidence is going to show that she got out her bucket, she got out her mop, and she cleaned it down entirely. The evidence is going to show you exactly how that was done. The evidence is going to show you a video of how she did it. The evidence is going to show that Detective Myers actually made a mockup of the frame, so the original one is still preserved as it was found, but a perfect mockup without the linoleum.

But anyway, it's on the floor, and she proceeds, as you will see in the video, scrubbing down that framework, nobody directing her what to do, she just did it the way that she did it, the evidence will show that.

The evidence will show that BCI determined that that is exactly how they clean their tables for sanitary conditions and non-contamination conditions in their own laboratories. And the evidence is going to show, members of the jury, that as a result of that washing it down, that was done, that was done after, after Daniel French had resigned his position at Mount Pleasant.

So therefore, the evidence will show that his DNA got there after he left, at a time when he had no business whatsoever with his DNA being in that subbasement floor.

With that, the evidence is going to show that Daniel French was indicted with the first indictment. There is a superseding indictment that added certain things, you will hear about that. It added certain things because of what happened next.

The evidence is going to show, members of the jury, that armed with that Indictment, two homicide detectives from the City of Middletown, seasoned homicide detectives went to arrest Daniel French in Kentucky, with the Indictment, and they wanted to talk to him if he would this time.

You are going to hear what may be described as a confession. But you are going to hear that he gave statements. The evidence will show that these statements proved the identity of Daniel French.

Now, here is something that you need to know. In this case, there was a Coroner's examination. We talked about what BCI did, but you need to know now what the coroner did. The
Coroner determined that the cause of death was bleeding to death.

The evidence is going to show that Barbara Howe died from what is called, big long word, it's hard to spell, exsanguination, meaning bleeding to death, and that she died and her heart had pumped all of the blood out of her heart, her heart was empty.

The evidence is going to show from the pathologist, a doctor, a medical doctor, you will hear his qualifications, he will tell you that she did not die from being choked to death. She did not die, the evidence will show, from being strangled. She died from bleeding to death.

Now, the evidence is going to show, she also had multiple facial injuries in which there will be testimony and a conclusion from the pathologist, that she was beaten about the face. She also had injuries to the back of her head. She had injuries to her forearm. The evidence will show it was from being dragged, pulled her elderly skin, very delicate, tore it. The evidence will show that, you will see pictures of it. The doctor will describe all of that. It's not my place to do it here.

But the evidence will show, members of the jury, that the police officers, when they went to take the statement and to arrest Daniel French, the evidence will show that they said to him, look, they got you, you're caught, but why did you do this? Are you some sort of monster or what? Those are the words they used. I'm not putting those words out there, that's what they used.

And the evidence will show the process of minimization. The evidence will show that he did confess, Daniel French did confess to picking on a residence with somebody home, not a residence without anybody home, but wanted a residence with somebody home.

The evidence will show that at that time Daniel French had a lot of knowledge about CSI. You will hear friends of his from work testify to his fascination with criminal law, criminal cases, criminal adventures and misadventures, CSI books, and those were found in his home, things of that nature. So he knew crime.
The evidence is going to show, the evidence is going to show that on the night of Sunday, October 28th, Daniel French went to a home where he was expected to secure the entry by the ruse of being from maintenance.

The evidence will show that he wanted to be believed, so he could get entry, and it was also evident, because he had been in that home before; the evidence will show, he expected anybody coming, that he went in, would know who he was, and would certainly say that they were from maintenance.

The evidence will show that he told the police officers that he gained entry and went back to the area in the bedroom where this medical alert system was, and he was there armed with two things, a stun gun and a two-bladed knife, pocketknife.

But the evidence is going to show that his first thing that he said in his statement was, that he stunned her, and that he didn't want to hurt her, he didn't want to hurt her. He also volunteered that he didn't want to hit her, oh, no, didn't want to hit her. Nobody suggested or asked him, he just volunteered that. The evidence will show that.

The evidence is also going to show, members of the jury, that he said his stun gun didn't work. And as a result of that, she wouldn't go down, and so he strangled her, and strangled her to the point where he said she was dead. The evidence will show, the police officer says, well, how did you know? His answer was, you know. Now, he also said that he felt his soul leave. Let me be fair about this, you will hear the whole statement, but the evidence will show, members of the jury, the evidence will be that there was no strangulation, but he said there was, he said there was a strangulation.

The evidence, members of the jury, is this: The evidence is going to show that his first plan was, just as he said, to knock her down. But in this case, there was no forced entry found in this case. The door hadn't been broken into, he got in voluntarily.

The evidence is going to show that his intention was to get in and rob, because that's what he also said in his statement, he was going in to get money, and he did, the evidence is going to show, he admitted that he went
in to get money and he took her valuable ring, which he claims he later threw it out a car window, it's never been recovered.

But the evidence is going to show, members of the jury, that when he knocked her down, there was no way, the evidence will show, that she was ever going to get up alive to identify him as the assailant. He claimed in his statement he just wanted to choke her to knock her out, but the evidence will be, you will see, members, from his experience and knowledge, that the evidence that she was going to be dead when he left. He would slip away into the night, lock the door behind him, poor lady would be found on the floor dead, what you would expect from an 87-year-old, and nobody would suspect that this lady had died from some violent means, because, after all, where was the injury? Stun gun, put his hand over her mouth, whatever, no physical sign. But she fought back, wouldn't die, wouldn't go easily into the night. The evidence will show that he went to plan B. He did not want there to be a finding that there was a murder.

When she died, as he said, from strangling her, he just didn't say, well, I've got to leave now and just walk out the door. No. He did not want there to be evidence that there was a murder.

MS. COOK: Your Honor, can we approach, please?

THE COURT: Well, maybe I can just cut this short. We're getting into a little bit of a conclusory language.

MR. GMOSE: Okay.

THE COURT: So avoid the conclusory language --

MR. GMOSE: I'll try. I'll try.

THE COURT: -- and just state what the evidence will show.

MR. GMOSE: I thank you for that, Your Honor.

THE COURT: Does that address your concern, Ms. Cook?

MS. COOK: Yes, Your Honor, thank you.
MR. GMOSER: The evidence will show, members of the jury, that what he did next was to drag her body to that subbasement floor portal, and in his own statement, he says that he dropped her down there, she slipped through his hands, and she went down into that subbasement, straight down.

And when asked where the blood came from in the basement, without saying to him where it was found, he said, well, it came from her head. The evidence will show that the blood was five feet away, that's what the evidence will show.

Now, the evidence is going to show, members of the jury, that he said he stripped her and took her clothes then over to a dumpster some distance away, in one of the apartments on the premises, and dumped her clothes, but he left the pant slips and the underwear on.

The evidence is going to show that she went down through that subportal hole and she was now five feet away. The evidence is going to show that when he came back, she was gone, he could not see her straight down.

The evidence is going to show that he went down, went over to her, some five feet away, using that plastic wrap perhaps to keep some blood from flying, cut her throat once or twice, how many, who knows, but she died there. The evidence will show that she bled to death.

MS. COOK: Object, Your Honor.

MR. GMOSER: Now, that's not argument, Judge, that's just what the evidence will show.

THE COURT: I will give a little leeway.

MR. GMOSER: Thank you, Judge. Thank you.

The evidence is going to show that after that, he took her body out of the subbasement. The evidence is going to show that the body is found in the subbasement. The evidence will show that it would be somebody acquainted with that facility.

He took her body out and put her body in the trunk of her own car, and then proceeded to hide by piling stuff back up on that subportal, so nobody would ever know that anybody
had been down into that basement, because there is no reason other than that to put the stuff back on there.

And then he left with that car, and he took it over to Woodridge Apartments, but before he did that, he got containers of some form of fluid, he says in his statement it was peroxide, it smelled like cleaning fluid in the opinions of others, but whatever it is, he will tell you how he poured that all over her body to destroy things. And he also put fluffy stuff throughout the car and on her, and then took that car over to Woodridge Apartments and then he got that cab, and he left.

Now, members of the jury, when all is said and done with respect to this case, I expect the evidence to show you that there was an aggravated burglary by a ruse, tricked his way in, an aggravated robbery, by what he did in injuring this woman. And those constitute with the death, the offenses of aggravated murder, because, in one case, the planning that went into this, the prior calculation and design, and the other, that it happened in the course of aggravated burglaries and aggravated robberies.

Members of the jury, that's the outline of what I expect you will hear now for the next several days. And I thank you for your attention.

THE COURT: Okay. Thank you, Mr. Gmoser. We've been here about an hour and 20 minutes. I expect, if you have a really short opening statement, let's do that now, if not, let's take the break now and then have the opening statement.

MR. HAWKINS: Your Honor, we will proceed.

THE COURT: Go ahead, Mr. Hawkins, on behalf of the Defendant. Again, feel free to move the podium wherever you would like or don't use it, whatever's convenient.

MR. HAWKINS: Thank you.

May it please the Court, ladies and gentlemen of the jury, Detective Myers, Mr. Burress, Mr. Gmoser, Ms. Cook, my client, Daniel French.
I want to thank you already for the time that you've spent on this matter and the time that you're going to spend. I would like to thank you for it in advance.

Let's get one thing out of the way right now. The evidence is going to show that Daniel French caused the death of Barbara Howe. That's not really what this case is about, though.

There are two things that you need to focus on. The first one is the question of, did Daniel purposefully cause the death of Ms. Howe. And the second is did Daniel with prior calculation and design cause the death of Ms. Howe. And I believe the evidence will indicate the answer to both of those questions is no.

Now, you all as a jury are going to be the trier of fact. You're going to be the ones that determine what actually happened. You're going to listen to the testimony, you're going to review the evidence, and you're going to decide the events of October 28th and the days after.

Being a trier of fact is somewhat like putting together a puzzle. Each piece of evidence is like a puzzle piece. And when you start out that process, you may spread all of those pieces out on the table and you may have an idea of what that picture may look like, but you don't know all the detail until it's actually put together.

You may, for instance, have a puzzle where you see a lot of red pieces, you may see a hayloft opening, you may say, this is probably going to be a barn, but you don't know the detail of it, you don't know if there is going to be a farmer in it, you don't know if there are animals in it, so you have to put together all of those pieces in order to see the full picture of what you have there. And that's what you're going to do in this case.

The evidence is going to show when those puzzle pieces come together, that Daniel did not purposefully with prior calculation and design cause the death of Ms. Howe.

The evidence is going to show on October 28th, Daniel went to Mount Pleasant. And Daniel called three residents, trying to gain access to their home, indicating that there was a problem with their medical alert system. Evidence is going to show that Ms. Howe allowed Daniel into
her house.

The evidence will show that Daniel and Ms. Howe went to her bedroom, where the medical alert system was, and that the switch was flipped to away, and at that place, at that location, that Daniel attempted to use a stun gun to render Ms. Howe unconscious. With his plan of being to steal from that residence, not to kill her, that's what the evidence will show.

Now, when the stun gun did not work, the evidence is going to show that Daniel choked Ms. Howe and did render her, in fact, unconscious. At that time the evidence is going to show that Daniel believed Ms. Howe was dead.

The evidence will show that Daniel then drug Ms. Howe from the bedroom through a hallway into the kitchen area, and ultimately into this closet that has the opening to the crawl space, or as Mr. Gmoser indicated, the subbasement, also where there is a furnace and a hot water heater. The evidence is going to show that Daniel at that point, while trying to lower Ms. Howe into that crawl space, dropped her on her head. Evidence is going to show that Daniel got her into the crawl space, closed it, and left.

Evidence will show on October 29th, the next day, Daniel returned to Mrs. Howe's house. Evidence is going to show that Daniel believed that Mrs. Howe was already deceased. Daniel went into the house, he went into the crawl space, he retrieved Mrs. Howe's body, drug it up out of the crawl space opening, out of that little room, through a short hallway into the garage. Evidence is going to show that Daniel then took Mrs. Howe's body and lifted it up into the trunk of her car, a red Cadillac.

Evidence is going to show that through the process of that struggle to remove Mrs. Howe's body from the crawl space opening, that there was some trace evidence of blood in that hallway. Evidence will show that once Ms. Howe's body was in the trunk of her car, at that point Daniel cut her throat.

Evidence will show that Daniel thought Mrs. Howe was already dead. Evidence will also show that Daniel cut her throat in an attempt to make the situation look worse.
Evidence will also show that Daniel sprinkled vacuum cleaner debris on Mrs. Howe's body while it lay in the trunk. Evidence will also show that while the body lay in the trunk, he cut off some hair, he poured peroxide on it, and evidence will show that he did so, because that while he struggled to move the body out of the portal, he had drooled some on it, to get away some of the saliva and potential DNA evidence.

Evidence will show that Daniel then drove Mrs. Howe's car to an apartment complex and left it. Now, the next day, October 30th, evidence will show that Daniel went back to the body, poured more vacuum cleaner debris on the body, walked to Walmart, ended up getting a cab ride and ended up going back to his sister's home, Leanne, where he was staying.

Now, evidence will show at this point Daniel began to act a little unusual. Evidence is going to show that the next day Daniel left to go see his brother Kenneth French in Kentucky. And he wanted to see his brother so bad that -- his brother had indicated to Daniel that he was working, would not be available, that Daniel stayed overnight in a rest stop in his car to wait just to see his brother the next day.

Evidence will show that when Daniel met with Kenneth, Daniel was acting unusual. He was more affectionate, he was hugging him, telling him he loved him.

Evidence will show that Daniel's behavior was so out of the ordinary to Kenneth, his brother, and the fact that he was wearing a Mount Pleasant shirt, that Kenneth then called law enforcement and let them know the information that he had regarding the possible missing of Mrs. Howe. During this process, evidence is going to show, also along the lines of Daniel's unusual behavior, that he started giving away his belongings, that he indicated to his siblings that he was going to move to Florida. The reality was, Daniel stayed right in the area of Kentucky, living on the street, living in the woods. Daniel became more depressed. The evidence is going to show he was depressed even before October 28th, but afterwards, he became even more depressed and distraught. And essentially, was living out on the streets and the woods waiting to die.
Ultimately, evidence is going to show that in Kentucky, Daniel was arrested, served with an Indictment, and that Daniel met with law enforcement officers down there, and when questioned, gave a statement, indicating what he had done, indicating that he was remorseful, and sorry for what had taken place.

Evidence will show with regard to Daniel French, that he has lived a law-abiding life. Evidence is going to show that he worked hard, that up until medical issues kept him from being able to go on, he had problems with heart attack, problems with his neck and his back, that he was a worker.

Evidence is going to show that once that happened, he had no money. He struggled financially. Evidence will show that when Daniel went to Mrs. Howe's home, he went there for the purpose of committing a theft offense, not to kill. Evidence will show that Daniel did not cause Ms. Howe's death on purpose, and that there was no prior calculation and design or plan to do so.

When all the evidence is in and you had the opportunity to put all of those puzzle pieces together and you see that picture, I submit to you, there are only two pictures that you can see.

One, that Daniel did not purposefully cause the death of Ms. Howe, it was an accident, in the course of a theft, and that there was no prior calculation and design, no plan to cause her death when he went into her home. Or you're going to see a picture, I submit to you, it will be the worst plan ever.

When you look at all of the evidence and you hear all of the testimony, you're going to come to one conclusion, and that conclusion will be that Daniel French did not purposefully cause the death of Ms. Howe, he did not with prior calculation and design plan to kill Ms. Howe.

Thank you.

THE COURT: All right. Thank you, Mr. Hawkins. It's not too late in the afternoon right now, just barely after 3:00 o'clock. Let's take about a ten-minute break, and then we will get into some of the testimony from the State before we leave this afternoon.
So with that, jurors, please go back to the jury room, make sure your stuff is all back there and we will reconvene in about ten minutes.

THE BAILIFF: All rise.

END OF EXCERPT OF OPENING STATEMENTS)

CHAPTER 21

Immediately following the opening statements, there was just enough time to call two witnesses. These were personnel from Mt. Pleasant who gave background on the complex and all the systems available in the retirement community. It became immediately apparent that the defense was all in for a defense and planned to fight hard for an acquittal of the capital murder charges by conceding provable points and fighting more subjective points such as the purpose of Daniel French in slapping the throat of Barbara Howe and prior calculation needed to convict. The defense team was led by Melinda Cook of Middletown as first chair and second chair was Lawrence Hawkins III. While both are seasoned trial lawyers, Melinda Cook is a veteran of homicide and death penalty cases with the most experience. They were both appointed by the court to defend Daniel French and nothing negative in that status should be applied to their abilities to zealously represent Daniel French. Both performed to the best of their abilities and are a credit to the defense bar. To participate and defense attorneys in a death penalty case, both were required to be certified as capable of handling such case which included numerous hours of advance training.

In trial, the defense was unrelenting on the details of the murder and attacked the prosecution forensic pathologist on virtually every detail of his testimony. While he was firm on his conclusions, he agreed on many could-have-been defense questions and the possibility of the causes of lesser injuries to the body of Barbara Howe, all for the purpose of creating reasonable doubt in the prosecution’s case. The defense was simply that Daniel French only cut her throat after accidentally choking her to death claiming he only intended to knock her out. While this may seem absurd at first blush, the defense made repeated and skillful attempts to convince the jury that Daniel French was only trying to disable Barbara Howe and with a mistaken belief that he had accidentally killed her, cut her throat after he thought she was dead only to somehow disguise the crime with the abuse of her corpse. All successful defenses of the indefensible rely on an ability to suspend reality in the minds of a jury long enough to get an acquittal before they come to their senses in the Prosecutor’s opinion of such defenses. Of course, the defense holds a contrary view which makes it a contest.

The spirited and talented defense did give the Prosecutor concern. This was not because of any belief that his case was weak, but because with a jury anything is possible and he had adamantly turned down any plea bargain that would admit all guilt and spare the life of Daniel French by taking the death penalty off the table. The Prosecutor always remained confident in a conviction as charged and always expressed publicly that the penalty should be decided by citizens of Butler County and not by prosecutorial fiat of the Prosecutor as so often happens. This horrific
case, he believed, should have public involvement concerning the penalty. There was risk in that because a jury could hand up a loss on the capital charges and leave sentencing to the judge with a number of lesser prison options. Although justice would still be served if that happened, it would have been after a great amount of time and expense that would be seen as wasted resulting from acquittals on the primary charges. The family of Barbara Howe was on the side of a trial instead of a plea and expressed that he should face public scrutiny and wanted Barbara Howe’s life and death told in public. The Prosecutor was hopeful that position would stand regardless of the outcome.

After the Prosecutor rested his case, it was the turn of the defense to introduce evidence and perhaps the testimony of the defendant. This would be a major decision because it is only natural and human nature for a jury to want to hear from an accused about what he is charged with doing unless there is another way of doing it. There was in this case. Daniel French had given a detailed statement to the police of what he claimed he had done. The defense saw this as a truthful confession on all particulars including the claim of Daniel French that the killing was an accident. Little would be gained by putting him up for gut wrenching cross examination by the prosecution with much to loose if he was perceived to be lying. Also, jurors are told in advance that a defendant has the right not to testify and that a failure to do so cannot be considered for any purpose. Even against human nature, jurors do tend to follow that instruction. The defense ultimately decided to call no witnesses including Daniel French and did introduce a few autopsy photographs in support of their cross examination of the Coroner’s forensic pathologist.

From jury selection to verdict, the trial phase to determine guilt or innocence- or somewhere in between- lasted nine days. There were a few contentious moments regarding the admissibility of opinions and evidence and these were heard by the judge outside the hearing of the jury in what is called a side bar.

On the morning of the ninth day, both sides had rested and arguments of counsel to the jury began. As with opening statements, the prosecution goes first because it has the burden of proof. Prosecutor Gmoser presented a detailed argument that followed his opening statement and connected each dot of evidence leading the ultimate conclusion of guilt. He asked the jury to consider him as the thirteenth juror and argued as they might when deliberating in support of a conviction as charged. He wanted them to have a few considerations that they may not consider and chief among those was the question- “ask yourself back in the jury room, just how did Daniel French know his stun gun would work- how would it have the desired effect” and left it to the jury to consider the answer to that question without suggesting more that may have been improper. It was in evidence, however, that Daniel French did have an interest in serial killers and what one such killer, Ted Bundy, did and what led him to become a serial killer. Probably most significant in his opening argument was the fact that he chose a person and place that would identify him if his victim was left to survive. The Prosecutor made a special note with the jury the old saying that “dead men-and women- tell no tails”.

The defense argument was given by attorney Melinda Cook and was a detailed presentation of the law the jury was required to follow and why the prosecution failed to prove prior calculation and purpose regarding the killing of Barbara Howe. It was an excellent presentation, but one that may have gone over the heads of non-lawyers. And if it did not, it was simply too technical to be believed. Mixed with the legal argument was a skillful attack on all the evidence presented
by the prosecution almost piece by piece. There did not seem to be an exhibit among the two hundred five exhibits presented by the prosecution that the defense did not find some fault and argued hard that the conduct of Daniel French, as horrific as it was not preplanned and done purposefully.

The final argument of the prosecution was presented by assistant prosecutor Brand Burress. His approach was to bring the jury back to the reality of the prosecutions case and did a skillful analysis of key points argued by the defense. One observation he made put an end to any question about prior calculation when he exclaimed—"just how many stun gun stores are open on Sunday nights!" and leaving no doubt that Daniel French had a calculated plan well in advance of the attack on Barbara Howe.

Chapter 22

After the conclusion of final arguments, the judge read nineteen pages of jury instructions to the jury which provided the jury with all the legal tools necessary to understand the charges, the law that applied and what evidence is and what is not. The jury would first consider the aggravated murder charges and the three specifications that applied to each. Count One required a finding of prior calculation and design as well as purpose to kill Barbara Howe. Additionally, this charge required consideration of three specifications decided separately. One was that Count One was done in the commission of an aggravated robbery, the second that it occurred in the commission of an aggravated burglary and the third that it occurred to conceal a crime and avoid detection. What ever the finding, a verdict one way or the other would have to be signed by all twelve jurors and would be the process with all remaining charges. On Count One, the jury was also given the option to find guilt on the lesser offense of murder which would apply if the jury did not find prior calculation and design. Also as to Count One, the jury was given a third option to find Daniel French guilty of reckless homicide, a lesser felony from murder, and would only apply if the jury found that there was no purpose to kill and Daniel French acted recklessly by killing Barbara under a mistaken belief that she was already dead by being accidentally choked to death. On Count Two, Aggravated Murder, there was only a requirement that purpose be found and that the offense was committed during an aggravated robbery and/or an aggravated burglary. On this offense, there was only one lesser option and that was murder. If purpose was taken out of the equation by a jury finding, but the jury still found that the death was caused during the robbery and burglary, then a conviction for murder would follow. On the charge there would be no further lesser charge available.

At about two in the afternoon the jury was told that lunch was waiting for them in the jury room and that they could immediately begin their deliberations. With two hundred five State exhibits that included five lengthy transcripts of the statements of Daniel French, numerous photographs, diagrams, and hard evidence such as the hatch to the sub-basement, the Prosecutor only guessed that the jury would not be back until the next day and probably after asking for the play- back of various witness testimony. As confident as he was in the outcome he has learned through the years never to second-guess a jury. About an hour and a half into deliberations, the court bailiff informed the judge that the jury had a question. As required, the
attorneys and the Defendant were called into court to be informed of what the question was. The judge read the question which was simply seen as a bit of house keeping. The wanted to know if the verdict they reached on Count one had to be signed by their names or by the jury number they were assigned at the beginning of the trial and used through out. With the agreement of all attorneys, the judge informed the jury that they were to use their names and not their numbers. Presumably, deliberations would continue.

The Prosecutor then met with the family of Barbara Howe who wanted to know if the question represented a sign on where the jury was in its deliberations. As the prosecutor launched into an analysis that could be good news or bad, Assistant Prosecutor Brad Burress walked into the conference room and interrupted with the pronouncement that the analysis was irrelevant. For a brief moment the Prosecutor was puzzled by the interruption until Mr. Burress then stated matter-of-factly "they have a verdict." The Prosecutor’s quizzical expression turned to one of instant elation. Three years of work and worry were instantly lifted off his shoulders because after only an hour and forty five minutes which included lunch and numerous verdict forms to sign, there was no way the verdict would be anything other than guilty as charge.

With all parties assembled, the judge read the verdict of guilty as charged and Daniel French sat motionless and without any reaction or emotion as he appeared throughout the trial. The judge polled the jury individually and each agreed that it was their verdict. One juror was very emotional and no doubt the trial and its potential consequences for Daniel French had taken its toll as it had on every one connected with this case including the public at large.

There would now be a brief intermission before the penalty phase to begin the following Wednesday, but for now accountability in full had been achieved. One may consider that this story is not complete without the determination of the penalty, but in the most significant ways it is. The verdict is a testament to the hard work of all those who participated in the investigation including the Butler County Grand Jury which sat for three months of intense examination and to their credit not one juror ever missed a day and often worked late into the night examining evidence and witnesses. The family of Barbara Howe endured the necessity of being ignored and exhibited patience beyond all expectations no doubt with a belief that justice would eventually be served. Yes, the jury will tell us all what the balance is between the aggravating and mitigating factors bearing on the penalty options, but the jury determined with absolute certainty the guilt of Daniel French that will never be diminished by whatever penalty he receives. This is as it should be.