

## JUSTICE UNDONE

### Cases crumble, killers go free

*Police blunders in homicides leave city's 'lifestyle of death' unchecked*

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ORIGINALLY PUBLISHED SEPTEMBER 29, 2002

*First of three parts*



**Barbara Jackson (right) is comforted by friend Adria Wilson**

(Sun photo by Karl Merton Ferron)

Sep 29, 2002

In one of the last pictures ever taken of him, Quortez Jackson looks sleepy. His eyes - his pretty, almost girlish, brown eyes - are half closed. His face is relaxed. The winsome ear-to-ear grin hangs slack at the corners.

On the right side of his forehead, just above his eye, there is a black hole, the charred signature of a point-blank, .38-caliber gunshot.

In the crime scene photo, the fingers on Jackson's left hand are little more than stumps, fused together from a birth defect. As the picture makes perfectly clear, he was all but defenseless when he was executed two summers ago on the doorstep of his mother's Cherry Hill townhouse.

"I need police and an ambulance!" one of the neighbors screamed moments later in a call to the city's 911 center. "There's a boy laying out here on the ground with his brains out. ... This is the woman's only son!"

In the background, a small child yelped: "He's shot!" The time was 5:55 p.m.

The daylight murder of the disabled 18-year-old on Aug. 5, 2000, galvanized a drug-racked neighborhood otherwise numb to the grim pornography of casual, curbside killings - the scattered bullet casings and blood-spattered sidewalks and crumpled teenage corpses.

Quortez Jackson was beloved by his neighbors. Sweet-natured, quick to laugh, he had come of age among them and was forging a path in life that set an example for other kids in a part of the city where hope is hard to hold. One by one, four witnesses put aside their

fears of retaliation and came forward to identify his killer in court.

But their testimony was not enough.

In a pattern played out in scores of trials over the past five years, defendant Kenneth "Exxon" Davis joined a long list of murder suspects acquitted after defense attorneys argued that police blunders raised doubts about their clients' guilt.

In closing remarks in the Davis trial, attorney Jerome Bivens noted that police had mangled evidence, filed incomplete reports, failed to question potential witnesses and had taken nearly an hour to get a homicide team to the scene of the murder, concluding: "We will never know what happened."

After the verdict, Judge William D. Quarles peered over the top of his wire-rim glasses and addressed the defendant in cadenced tones that conveyed both dismay and menace.

"I hope that you don't think this is something you have gotten away with," the judge told Davis. "Because there is a God, I firmly believe, and I believe there is a God whose business is justice. And when human beings fail at achieving justice, there is a God who has that franchise."

An 18-month investigation by The Sun shows that it was not the first such case to be left in God's hands. Rather, in a crisis that has quietly mounted for more than five years, so many homicide cases are now lost in court that the odds of getting away with murder in Baltimore are stacked decisively in favor of the killer.

Consider:

- Of the 1,449 killings committed in the city between 1997 and the end of last year, 32 percent resulted in the arrest and conviction of a suspect on murder charges, a computer-assisted analysis shows.

In the remaining 68 percent of those murders, no one was ever arrested, or the people who were arrested either went free or were sent to jail for short periods of time on lesser charges.

In 37 percent of the 1,449 murders, no one was ever charged; in 7 percent of the cases, a suspect was charged but the charges were dropped; in 12 percent, the suspects were acquitted in court; and in the remaining 12 percent, a suspect was convicted of a lighter charge. On average, those defendants were sentenced to slightly more than two years in jail.

Because they had spent several months in detention awaiting trial, this last group was typically eligible for parole or immediate release on the day they were convicted.

In one of the deadliest epochs in one of America's most murderous cities, the victims included a carpet installer gang-stomped, chain-whipped and left to die in a heap of

garbage; a police officer mowed down by a runaway truck driven by a teen-age drug dealer; a Korean grocer shot through the spine in front of his wife during a \$400 robbery; and a dental student stabbed in the heart while trying to stop a sidewalk purse-snatching.

In each case, the suspects walked out of court free men.

- During this period, about 56 percent of homicides in the city resulted in the prosecution of a suspect. The rest went completely cold. Police commanders acknowledge that they never kept track of those cases that went to court to see how well their evidence stood up. But computer analysis shows that the outcomes were little better than a coin-toss.

Among those freed were three men accused of pumping seven bullets into the head of 19-year-old Leon Elem in 1997 as he walked through their neighborhood on a day off from his job at McDonald's. One of the defendants gave a full confession, but it was later quashed because detectives interrogated him without his attorney present. Lacking any other evidence, prosecutors agreed to plea deals that set them free.

- Further analysis shows that at least 83 defendants charged with homicide and later released were subsequently rearrested for new crimes - including 24 indicted in fresh murders or attempted murders.

Over the past five years, records show, this group has been charged 683 times in such crimes as rape, carjacking, firebombing, kidnapping, armed robbery and a staggering 123 murders. A third of them were teen-agers when they were first accused of taking a life.

Among them is Juwarren A. Bowers.

Just 16 years old when he was acquitted in the 1997 robbery-murder of Korean grocer Chi Sup Kim, Bowers shot his aunt's fiance in the face three months later. Charged with attempted murder, he received a five-year plea deal and is scheduled to be released in time for his 21st birthday.

"This will come as a shock to most people in Baltimore, because the conventional wisdom is that a lot more is being done to get these guys off the street than is really going on," says Judge John N. Prevas, who regularly presides over murder cases in the city's Circuit Court. "But the margins for error are so thin in this business, it doesn't take much to push things over the edge ... and the [Police Department] has been at a low ebb for quite some time now.

"As surprising as it sounds to the average citizen, to the professionals in the system it won't come as a surprise at all."

Geoffrey P. Alpert, a criminology professor at the University of South Carolina who has studied police trends for more than a decade, called the data "a red alert for major city police chiefs across the country."

"For many years now, we've suspected something like this was going on," he said. "This

is really scary stuff, and there's good reason to believe it's probably happening in a lot of major cities right now, or will be soon."

In Baltimore, plunging clearance rates - the number of murders in which police arrest a suspect - coupled with a 44 percent failure rate in court have repeatedly left killers on the street. In large measure, records suggest, it is these repeat offenders who have ensured Baltimore's place on the list of America's five deadliest cities for a decade.

How could it be that serial felons, whose names are well known in law enforcement circles, continue to escape punishment?

The reasons are complex and intertwined.

Among the biggest factors were a steep decline in the quality of basic police work in Baltimore; political infighting between the mayor and state's attorney's office; an increasing reluctance among witnesses to come forward; and deepening cynicism among some jurors about the credibility of police on the witness stand.

First and most important among these was an unprecedented surge in retirements in the Baltimore Police Department that sapped the force of experience and threw the Criminal Investigations Bureau into disarray.

The sudden increase in the number of officers with less than five years' experience in their jobs - currently a third of the 3,200-member department and more than half of the homicide unit - sparked a rise in everything from squad car accidents to evidence mishandling at crime scenes.

As the quality of investigations declined, court records show, prosecutors demonstrated an increasing willingness to drop charges against defendants for lack of sufficient evidence.

The reason: Detectives in Baltimore have sole authority to decide how much evidence is enough to charge someone with murder - and prosecutors do not have the power to order them to investigate further to strengthen the case for trial.

Dennis Cogan, a veteran Philadelphia homicide prosecutor now in private practice, is among those who say the one-sided arrangement is a relic that was phased out in other major cities long ago.

"Suffice it to say that this is not a modern charging system," he said. "And it is certainly not the way it is done in federal court, where the prosecutor is engaged at the outset of the investigation and has his or her name and reputation on the line if they bring a crap case to trial."

In those jurisdictions that follow the federal model, prosecutors assume control of the case early on and share supervision of the investigation with police commanders.

Not so in Baltimore.

The result: The state's attorney's office has dropped charges against a stunning 23 percent of first-degree murder suspects over the past five years.

"Number one," says Judge Prevas, "it is the department that is not giving the prosecution a good case."

State's Attorney Patricia C. Jessamy acknowledges that it is political dynamite to drop every weak case, because "you don't want to err on the side of a killer being out" and risk a backlash of criticism if he kills again.

Thus, court records show, her office time and time again has obtained indictments on dubious evidence and taken cases to trial on the thinnest of proof, only to see them rejected by juries.

Such has been the case with 22-year-old Courtney M. Noakes.

Police have charged the former West Baltimore forklift operator with three murders since 1998, but he has repeatedly been exonerated.

In one Noakes case, detectives lost an entire investigative file. In another, they failed to collect physical evidence at a crime scene. At trial, the only witnesses against Noakes have been a convicted killer, a prostitute and several bystanders whose descriptions of a slightly built gunman did not match the 300-pound defendant.

And yet, prosecutors proceeded against him anyway in often bruising trials before skeptical juries and judges.

An assistant state's attorney was demoted after being excoriated by a judge for failing to reveal gross police lapses that raised doubts about Noakes' guilt in one of the killings.

Cogan said such disastrous outcomes demand an "extraordinarily courageous prosecutor" to insist on an overhaul of the charging system - as then-District Attorney Edward G. Rendell did in Philadelphia in 1978. Shortly after being elected, Rendell marched before the Pennsylvania legislature and demanded that he be given the power to oversee the charging of suspected felons.

Cogan said it is one of the duties of a prosecutor to seek such reforms, adding: "Any state's attorney looking at numbers and results like the ones you're seeing in Baltimore should be outraged."

Recent Baltimore history suggests that such a move would almost certainly incite a political dogfight.

As the quality of homicide cases slumped over the past decade, tension grew between the state's attorney's office and the Baltimore Police Department - and the infighting only got worse with the arrival in office in 1999 of Mayor Martin O'Malley.

The self-styled reformer had campaigned on a bold promise to reduce the city's body count below 200 for the first time in more than two decades, and he turned homicide into a political cudgel.

He has lavished millions on police, while periodically bashing judges and prosecutors for failing to put criminals behind bars fast enough - asserting two years ago that they needed "a well and carefully placed 2-by-4 applied to the side of the head."

Judge Prevas and others say the mayor's brash rhetoric helped focus public attention on the city's clogged courts and spurred an overhaul of the criminal justice system.

But it has also alienated heads of other agencies and stifled any discussion about serious institutional problems in the Baltimore Police Department.

"We all try to learn from our errors, but that's not what we're seeing with the Baltimore police," said Kenneth W. Ravenell, a prominent criminal defense lawyer and former city prosecutor who has successfully defended seven of his nine murder clients in the past five years.

"They keep doing the same things over and over again ... then calling press conferences to blame the witnesses, or the juries or the defense bar or the state's attorney's office."

O'Malley bristles at such criticism.

"All of us have responsibilities, and none of us who are part of the criminal justice system run perfect agencies," the mayor said. "What has resulted in the agony is the influx of heroin and cocaine, which the Police Department did not ship to this city, and did not administer up the nostrils of our citizens, OK? The Police Department did not shoot 300-plus young men every year, OK?"

"Please don't tell me the police are responsible for all the agony in this town."

Rather, O'Malley says, the root cause of the homicide crisis is the city's "culture of violence."

Revenge killings and drug murders - what one civic activist has called "the lifestyle of death" - have become an ingrained feature of the city's 8-square-mile slums over the past 30 years. And they have frustrated the efforts of three prior mayors to blunt Baltimore's appalling homicide rate, even as other major cities experienced sharp declines.

In some enclaves of the city, Police Commissioner Edward T. Norris says, conditions are "worse than anything you'd see in New York City today."

"Some of these guys just have total impunity for the law," he said, "like something from the days of Al Capone."

In one case, eight murders and 24 shootings attributed to East Baltimore's notorious Murray Brothers gang went unprosecuted in the 1990s because witnesses were kidnapped, assassinated or terrorized into changing their testimony by gang enforcers wielding baseball bats.

Only through the intervention of federal agents were the ringleaders finally brought down.

"People simply lose faith in the police and the courts to do anything about these guys," says Harvard University criminologist David M. Kennedy, who conducted a study of Baltimore crime patterns in 1999.

"Residents see people walking around free in the neighborhood that they know have killed other people. ... They don't come forward to testify against [them] for the simple reason that they have to live next door to the guy when he beats the rap."

In a city where one in seven adults is addicted to drugs or alcohol, witnesses who do find the nerve to come forward often see their credibility shredded in court because Maryland law allows defense lawyers to question them about their substance abuse histories.

Thus, jurors are often asked to make a leap of faith in convicting youthful murder defendants on little more than the testimony of addicts - greatly increasing the importance of supporting evidence and the competence of detectives on the witness stand.

Jury verdicts during the past five years still have favored the prosecution by a ratio of 2-to-1. And the state's attorney's office says that has improved to 4-1 this year.

But jurors say "compromise verdicts" - murder acquittals that carry a conviction on a lesser charge related to a killing - are a byproduct of resentment in the community over police conduct.

Jurors tell of raucous debates during deliberations with peers who are suspicious of police tactics, motives and lapses that appear to infringe on the defendant's rights - even when evidence points convincingly to the defendant's guilt.

"People are bringing all kinds of stuff into the jury room that have nothing to do with the case," says Jesse J. Murphy, a downtown architect who served on the "Exxon" Davis jury and argued unsuccessfully for his conviction.

"We're putting criminals, the worst criminals, back on the street. It shouldn't surprise anybody, once these guys get away with it the first time, that they're going to kill again."

Norris reached the same conclusion upon taking over the Baltimore Police Department two years ago.

In a matter of months, he found some 240 arrest warrants for murder and attempted murder languishing in file cabinets, with little or no attempt by the department to track down the fugitives.

A highly decorated veteran of the New York City Police Department and proponent of back-to-basics policing that produced the sharpest declines in that city's violent crime rate in decades, Norris was hired by O'Malley as one of his first official acts.

Since then, the new chief has won high praise from longtime courthouse observers - Prevas calls him "the real thing, a real cop" - for modernizing the department.

"That's what we've been working on for the last 28 months," Norris said, "to try to bring this place back to what it was."

He has computerized the department's records, increased the use of wiretaps and hidden cameras to reduce dependence on reluctant witnesses and established specialized crime-fighting squads that have significantly reduced street violence.

But the department's ability to make solid homicide cases that stand up in court continues to be hamstrung by serious deficiencies not generally understood by the public.

The police forensics laboratory and evidence storage division, for example, are so grossly understaffed and poorly equipped that crucial bits of proof in criminal cases are routinely uncollected, unprocessed or simply lost before trial, court records show.

Judges, prosecutors and jurors point out that the department's failure to routinely test all crime scenes for fingerprint evidence often leaves young detectives open to attacks by defense attorneys that their cases are based on guesswork.

"We would like to see fingerprint evidence in every case," said Page Croyder, a supervising deputy state's attorney. "But the city simply has not given the department the resources to do that in most cases. As a prosecutor, your job becomes explaining to jurors that the evidence in hand is enough - that the fingerprints aren't necessary to convict the defendant."

On the long list of critical needs over the past two years, Norris said, bolstering the department's three-person fingerprint lab has finally risen to the top of the priority schedule.

"That's been a tough one," he said. "We've advertised the jobs in national police publications, but we're not getting a lot of takers for the salaries we're offering. In fact, we've gotten no takers."

Senior police commanders have been similarly frank in assessing other problems confronting the department.

"You reap what you sow, and we've been reaping what was sown years ago for a while now - bad management decisions, poor morale, a lack of basic investigative tools," said Maj. Laurie Zuromski, head of the homicide division. "All we can do now is meet these questions with grace and courage, and assure the public that we are breaking our backs every day to improve."

Four blocks away at the city's Circuit Court, however, those improvements have yet to yield results.

### **'Lack of experience'**

In case after case, records show, defendants have continued to get away with murder.

At a hearing in January, Judge Carol E. Smith grew so exasperated by irregularities in one murder case that she blurted "pitiful" from the bench upon learning that the detective involved had failed to reveal that a key witness in the case had given multiple conflicting accounts of the crime.

The witness had denied, then admitted, then denied again that he could identify suspect James Wilder, 26, as the gunman in a gruesome nightclub shooting in March 2000.

The detective had also neglected to tell prosecutors that a second witness was given a reduced sentence in an unrelated case in exchange for his testimony against Wilder. That witness, too, had previously denied that he could identify the shooter.

"This is symptomatic of a lot of the problems with the prosecution of cases in Baltimore City," Smith fumed.

Lacking any record of the conflicting interviews or the plea deal, prosecutors promptly dismissed the witnesses as unreliable and dropped charges against Wilder in a Northeast Baltimore shooting that left the mother of two young children dead and a man seriously wounded.

It wasn't the first time police conduct became the pivotal issue in deciding whether an accused killer went free.

Testifying in a West Baltimore butcher knife slaying in 1999, police officers stunned the courtroom during the trial of Michael A. Servance, then 37, by admitting that they had lost their notes and failed to arrest a potential suspect they had found at the crime scene with blood on his pants and shirt.

Later that night, they took the man into custody for questioning. By then, however, he had changed into clean clothes, disposed of his bloody gear and washed his hands.

"I'm not gonna stand here and defend the Baltimore Police Department," Assistant State's Attorney Lynn K. Stewart told the jury in that case. "Matter of fact, I'd like to smack them around a little bit. Because they could have done a better job, they could have written more notes, they could have cared a little more."

But, she added, "just because you don't have a sirloin steak doesn't mean it's not dinner."

The jury found that impossible to swallow.

Hopelessly deadlocked, they failed to reach a verdict, and Stewart was compelled to drop charges against Servance. Meanwhile, the suspect whom police failed to detain on the night of the killing went on to be convicted of a subsequent attempted murder and is serving a six-year sentence.

"There's a lack of experience, there's a lack of professionalism, there's a lack of training, obviously," said Bivens, a senior trial lawyer with the city public defender's office who has won 11 of his 16 murder cases in the past five years.

"Invading and violating crime scenes, failure to fingerprint, failure to secure warrants, failure to secure reports, failure to prepare for trial, dodging questions on the witness stand - the most basic kinds of mistakes are being made.

"You'd think somebody in the Police Department would have asked by now: 'Why are we losing so many cases in Baltimore Circuit Court?'"

Baltimore is among a handful of jurisdictions where nearly every trial is videotaped and available for public inspection. But police supervisors acknowledge that they rarely review the tapes to identify persistent problems.

"Obviously, it is an underutilized tool," concedes Col. Robert Stanton, the department's chief of detectives. "In the past, we have sent someone down to review the footage if we became aware of a problem in a specific case. Obviously, we should be looking at the tape on a more routine basis."

Among nagging problems revealed in hundreds of hours of taped trials have been such fundamental breaches of procedure as rookie officers obliterating fingerprints by handling evidence with their bare hands; failing to detain suspects and witnesses at crime scenes; losing or destroying investigative notes and files; and persistently failing to seek warrants for the search of suspects' homes.

Troubling as such lapses may be, they are becoming increasingly common nationwide as thousands of seasoned police officers and detectives - many of them Vietnam-era military veterans hired during the law enforcement boom of the high-crime 1970s - reach retirement age, said Arthur E. Westveer, a former Baltimore homicide supervisor who teaches at the FBI National Academy in Quantico, Va.

In some departments, the "brain drain" has been so severe that staff turnovers have topped 50 percent in the past decade. In Baltimore, 61 percent of the police force has been hired since 1994.

"Departments are getting younger people," Westveer said. "They're dedicated, and they want to do a good job, but they're not."

Alpert, the University of South Carolina criminologist who has studied the rising law enforcement "youth bubble" for more than a decade, says: "It's only going to get worse.

"A lot of major city [police] chiefs are having fits with their retirement programs right now," he says. "What we're seeing in our research in these cities is ... just stupid stuff. Young officers backing up over things. Young officers screwing up their paperwork. Young officers mishandling evidence, then lying about it in court or dodging on the witness stand. Not because they're bad people, but because they're embarrassed."

Innocent or not, these lapses give defense attorneys the ammunition to argue that their clients' rights have been violated.

They also exemplify the sort of deep-seated ineptitude found during a confidential audit of the homicide unit ordered by the O'Malley administration.

"Current practices," the study concluded in January 2000, "verge on the chaotic."

Defense attorneys have used very nearly the same words in trial after trial over the past five years, portraying the Baltimore Police Department as an agency on the brink - one that attorney Bivens described as too poorly equipped, trained and staffed to deal with the bedlam that unfolded on the evening Quortez Jackson was murdered.

## **Birthday planning**

Barbara Jackson greeted the morning of Aug. 5, 2000, with high expectations.

It was her 38th birthday, and she had been planning the celebration with her son for weeks. More than a dozen of her friends and co-workers would be coming, and there was much work to be done to get their modest Cherry Hill townhouse ready for company.

About 5:30 that evening, she stepped out to pick up a cake at a supermarket in Glen Burnie, stopping briefly at her son's bedroom door to check in on him.

It was one of their little rituals. Mother and son were all but inseparable on the weekends - a bond formed long ago through the years of surgery and therapy to correct his many birth defects.

His father had disappeared shortly after Quortez was born with club feet and webbed fingers, and the boy had traveled with his mother to operating rooms and clinics in three states as he underwent painful grafting procedures to correct his feet.

His hands were another matter, doctors said. With therapy, his right hand would eventually work well enough for him to manage an awkward grasp. The left hand, however, was little more than a fleshy stump.

Still, the 18-year-old had recently made major strides in his life.

Despite a history of profound learning disorders that left him all but illiterate, he had graduated with honors from a job-training program and worked his way into a full-time position at a Fairfield container company.

Jonathan Neuman, his boss at the Abbey Drum Co., admired the young man. He was a tireless worker who never let his disabilities slow him down, but more than that, his relentless good humor was infectious.

"Here's this kid with one good hand, loading and unloading trucks, working his butt off all day long, and always smiling," Neuman recalls. "It's hard work. In the winter, you freeze. And in the summer, you sweat to death. A lot of guys will begrudge the job, but Quortez never did.

"He had this spirit about him that was just so pleasant to see, it affected everybody around him."

Derrick Raikes, his mentor and teacher at the South Baltimore Career Center, still marvels at the memory of his young friend.

"I've been here since 1978, dealing with 240 kids a year, and there has only ever been one Quortez Jackson," Raikes says, recounting how the school bestows an annual award named after Jackson on its most promising student.

"I tell my kids: 'If Quortez could make it, with all his disabilities, you don't have any excuses. It's all about your attitude. It's all about how hard you work. It's all about how bad you want it.' That's a lesson I never learned until I met him."

As Barbara Jackson walked out the door that evening, her son was pulling on his black Nike high-tops to take out the trash. They exchanged a smile.

It was to be the last time she saw him alive.

## **Drive-up drug stop**

Moments after his mother left, Quortez Jackson set off for the short walk down the sidewalk and across the parking lot to the Dumpster less than 60 feet away.

Standing by the garbage bin that evening was Kenneth Davis - a notorious neighborhood drug dealer who took his nickname, "Exxon," from a nearby gas station sign.

With his crew of drug runners and a pair of pit bulls, he had turned the Dumpster in the parking lot into a drive-up pit stop for his cocaine and heroin customers, according to court papers.

Many in the townhouse complex had their windows open that evening because of the stifling heat. One neighbor was washing dishes in her kitchen. Another was cleaning her bedroom. Everyone heard Davis ranting - cursing at someone for staring at him.

Then, gunshots.

Two witnesses looked outside to see a pistol in Davis' hand.

One said he saw Davis pull the trigger at point-blank range.

All of them later picked out his photo from a display of possible suspects shown to them by homicide detectives.

Neighbors would later testify that they saw Davis running away down the 3200 block of Gulfport Drive with his cousin - and Quortez Jackson crumpled on the sidewalk outside his mother's front door.

"I witnessed Exxon ... talking with the victim when I looked out of my window," one of the neighbors later wrote in a formal statement to police. "I proceeded to go down my steps and heard three or four gunshots. When I ran to the door, I saw Exxon ... running from the scene. Exxon had a gun in his right hand."

Less than a minute later, at 5:55 p.m., the Baltimore police 911 switchboard lighted up.

"There's a man shot in the head out here!" the first of many callers said. "He's ... he's still alive, but he's shot!"

Two minutes later, Officer Freda Sheppard steered her police sport utility vehicle onto Gulfport Drive. Nothing in her three years on the force had prepared her for this, she would later testify.

Off to her right, a man was running around with a shotgun, yelling for help. Frightened children were standing at gawking attention in their yards. A circle of weeping mothers was hunched over a body on the sidewalk in front of a bullet-pocked townhouse.

And Barbara Jackson's birthday guests were beginning to arrive.

Christine Bethea, Jackson's godmother, stepped from her car into a riot of grief.

"I could see a shoe sticking out from under a sheet, and a lot of blood," she remembers. "Everywhere, there was blood. Then, I saw the hand sticking out, and that's when it hit me: 'Oh, my God, it's Quortez! Oh, my God! No!'"

Moments earlier, the dead boy's mother had come home, a birthday cake in her hands.

"What's going on?!" Barbara Jackson asked.

"Everybody in the whole court was out there," Jackson recalls now, "crying, screaming, saying: 'Why? Why? He never hurt nobody! He couldn't hurt nobody!'"

"Who?" she asked, as a circle of women closed around her and led her inside a neighbor's house.

"Oh, Miss Barbara," one of them sobbed. "It's Quortez. ... He's dead."

### **'Disrespecting him'**

Seven days later, a tip led police to a hotel in Daytona Beach, Fla., where Davis and his cousin Gregory Jackson were arrested.

Charged as an accomplice, Jackson identified Davis as the killer, according to a transcript of his interview with Baltimore homicide detectives Aug. 22, 2000.

"He said he had to do what he had to do," Jackson, 19, told detectives, because "the boy kept disrespecting him. Everything he was saying out of his mouth was disrespectful. I told him he could have whipped the boy's ass or something ... but shooting him?"

Lacking any proof that Jackson actively participated in the murder, prosecutors dropped charges and withdrew his statement when he refused to testify against his cousin in court.

Still, anyone reviewing the court file on the eve of Kenneth Davis' trial eight months later would have been hard pressed to predict anything other than a swift conviction and a lengthy prison sentence for the murder on Gulfport Drive.

For there, in grim detail, were signed statements from four independent eyewitnesses - all identifying him as the killer.

But when officers of the Baltimore Police Department took the witness stand in April 2001, the neat threads tying the man known as "Exxon" to the crime started to come unraveled.

The first officer to arrive that evening, Freda Sheppard, testified that she found a neighborhood in bedlam.

It was 5:57 p.m., according to police radio logs.

"I seen numerous people," she testified, her voice quavering. "Most people were standing near the body. There was people trying to render aid to the victim. ... There was so much going on."

Just 25 years old and little more than a rookie on the police force, Sheppard said she ran through a mental checklist, trying to recall the proper procedure for securing a major crime scene. She put out radio calls for paramedics, evidence technicians and homicide detectives. She beseeched neighbors to get away from the body.

Paramedics arrived within minutes and draped a sheet over the young man with the malformed hands.

It was 6:05 p.m.

Soon, another junior officer arrived to assist Sheppard as she struggled to keep control of the outraged crowd. He, too, had less than four years' experience - and he quickly became preoccupied disarming the neighbor with the shotgun and satisfying himself that the man was not involved in the crime.

It was 6:15 p.m.

Both officers testified that they had little time to talk to anyone. Neither of them canvassed the neighborhood for suspects or wrote down the names of any of the dozens of people swirling around them, much less detained anyone - all standard procedure for first-responding officers at a major crime scene.

It was 6:25 p.m.

A half-hour had gone by and homicide investigators had yet to arrive as bystanders came and went from the crime scene.

In court, defense attorney Bivens capitalized on the breakdown in command.

"Did you talk to any of [the witnesses]?" he asked Officer Sheppard. "Get their names or addresses, perhaps?"

"I didn't exactly take any of those names, no," Sheppard testified.

Thirty-five minutes went by.

Forty minutes.

Baltimore Police Department policy requires that detectives arrive within 15 minutes of a homicide call.

Finally, at 6:38 p.m., Detective John Gipe III arrived on Gulfport Drive.

And what he found did not bode well for the case against Kenneth Davis.

## **Young eyewitness**

In her haste to respond that night, Sheppard had parked much too close to the crime scene - running her patrol wagon over a bullet that had ricocheted from the shooting.

Left short-handed for far too long, she had not detained a single witness.

There was also little in the way of notes by any of the officers at the scene.

In a killing in broad daylight, in front of dozens of potential witnesses, homicide detectives were only able to identify one that night who saw what happened - a 10-year-old boy.

Whisked to police headquarters for a tape-recorded interview, the Francis Scott Key Elementary School fifth-grader told Gipe that he was helping his mother pack her car for a picnic when he heard angry voices nearby and turned to see "Exxon" aim a pistol at Quortez Jackson and squeeze the trigger.

Gipe then showed the boy an official Form 296A containing two rows of pictures of six possible suspects and asked him to sign his name in a small box located above each photo when he was ready to pick out the killer.

Gipe, a five-year veteran of the homicide division, then stepped away from the child-witness to let him make up his mind.

"That [is] Exxon," the youth wrote. "I saw him shot the boy."

Left unsupervised, however, the child became confused by the form and signed the wrong picture - effectively identifying the wrong suspect. And once the boy got to the witness stand, he would contradict his earlier statement to police by admitting he had bent over to tie his shoe that evening and had not seen Davis pull the trigger.

Asked at the trial eight months later what the boy had told him about the shooting, Gipe testified: "I don't recall."

Asked to recount what other witnesses may have told police as they came forth over the

ensuing days, Gipe replied once more: "I don't recall, word for word."

Asked if police had collected any evidence from the victim's body, Gipe again replied: "Not that I recall."

Records in the case show that medical examiners gave detectives a bullet they had dug from the victim's brain. They also turned over Quortez Jackson's bloody clothing. And Sheppard had secured the victim's personal effects, including \$210 he was carrying at the time he was killed.

On the witness stand, however, the lead detective could recall none of the details.

"Detective Gipe is the primary detective," Bivens would later argue to the jury. "In all of Baltimore City's Police Department, he is the No. 1 person in charge of investigating this particular homicide. I was confused, because he didn't know anything.

"I'm not the brightest bulb on the tree," Bivens quipped, "but I think it was evidence."

The two patrol officers at the scene that night had similar difficulties.

Armed with nothing but their skimpy notes, officers answered "I don't recall" or "I don't remember" at least six more times when asked about details of the case.

Visibly frustrated, Assistant State's Attorney Cynthia H. Jones struggled to rehabilitate her witnesses, running police through their official reports of the crime again and again. But Bivens - a ruthless inquisitor with a shaved head and a weightlifter's build - methodically demolished them on the witness stand, likening them to "blind men."

None of the officers involved responded to requests for interviews.

"I really don't want to talk to you," Gipe said. "Not a chance."

Citing her high professional regard for Gipe, Jones also declined to comment.

## **Pattern of lapses**

What few spectators in the courtroom knew that day is that the investigation into the death of Quortez Jackson had followed a troubling course seen in many Baltimore murder cases - a pattern of police lapses so striking that acquittal becomes almost predictable.

Among examples uncovered in a detailed review of videotaped proceedings in more than 75 murder cases:

- Lyman D. Phillips, the alleged ringleader in the 1997 gang beating of a carpet installer, was acquitted of murder after detectives acknowledged that a rookie patrol officer ruined

potential fingerprint evidence by handling a knife with her bare hands. Likewise, a jury acquitted Eric D. Stennett last year in the killing of a police officer after learning, among other lapses, that a patrolman handled the suspect's gun with his bare hand.

Stennett has since pleaded guilty to federal gun and drug charges and agreed to a 10-year sentence.

- In at least three recent trials, defense attorneys have exploited glaring errors in crime scene diagrams drawn by police evidence technicians. In one case, defense attorneys accused police of deliberately omitting a row of parked cars from their diagram to cover up the fact that it would have blocked witnesses from seeing a 1999 execution-style shooting in East Baltimore. The flawed drawing helped win an acquittal for Dante Williams, 28, a convicted drug dealer previously acquitted in an attempted murder.
- In the Stennett case, a wrecked police car held as evidence was inadvertently sold for scrap. Similarly, three men were acquitted in March 2000 in the murder of Shawn L. Suggs when a detective admitted to accidentally destroying bullet casings and bloody clothes in the case. Likewise, murder defendant William T. Flowers pleaded guilty in 1999 to reduced charges in a pool hall shooting after detectives admitted losing mug shots used to identify him as a suspect.
- Despite repeated pleas from prosecutors, detectives have sometimes closed murder investigations on nothing more than the testimony of children - who are famously unreliable witnesses. As with the 10-year-old boy in the Quortez Jackson murder, two young sisters whom police relied upon to identify the killer of a Korean grocer in 1997 waffled on the witness stand and couldn't pick out the suspect in the courtroom.

Three months later, defendant Juwarren Bowers shot his aunt's fiance in the face.

Said Westveer of the FBI Academy: "It's a reflection on your whole agency if you don't have the [evidence]. I would be embarrassed to get into court on a case - and I'm speaking for myself - and testify that I don't recall.

"Once you say that, you're dead in the water. You have no credibility at all. If you forgot about that, you probably forgot about everything else. That's the perception the jury gets, even though it may not be true."

Homicide detectives are supposed to be in total command of the crime scene, Westveer said, acting as supervisors of all officers and technicians. It is also their duty to collect all evidence, reports, witness names and possible suspects to ensure that nothing is lost, overlooked or mishandled.

The persistent failure of detectives to do so results in disaster at the courthouse, said Ivonne Puyans, 56, a hotel housekeeper who served on the jury in the "Exxon" Davis trial.

"We were asking ourselves: 'How could the detective be the one responsible for the case

when he didn't seem to know the most basic things?" she said. "When you're on a murder jury, you're being asked to take a young man and send him away to prison for the rest of his life. You're looking at him every day in the courtroom. ... You're having nightmares about the case, like, what if they got the wrong man?"

"And the police are up there saying they parked a patrol car right on top of the evidence, they can't remember anything, they didn't take notes at the crime scene. They made it so hard to know what was the right thing to do."

And it was about to get harder.

### **Incomplete report**

Whatever was left of the prosecution's case against "Exxon" Davis all but disintegrated with the testimony of evidence technician Elizabeth Patti - yet another rookie officer, with two years' experience on the Baltimore force.

Glowing, defense attorney Bivens came straight to the point, grilling the technician about a major omission in her official report and crime scene diagram. Nowhere had she mentioned that Officer Sheppard drove over evidence from the shooting with her police SUV.

Holding up a photograph of the bullet for the jury's inspection, Bivens turned his back on Patti and asked: "That is underneath some type of motor vehicle, is that correct?"

"Yes, it is," Patti replied.

"Is that a police vehicle?"

"I believe so."

"You didn't have any occasion to look and see if the vehicle actually rolled over or destroyed any other evidence at the crime scene, did you?"

"On my arrival, that's exactly how the vehicle was," Patti said.

Bivens spun around and faced the witness: "Would you agree that the integrity of the crime scene had been compromised?"

Patti replied: "Because I wasn't there at the time, I can't really say what the circumstances were when the officers arrived."

"Right," Bivens retorted. "Well, it sure looks bad. ... "

And in his closing argument, he made it look even worse.

Evoking the catalog of errors, omissions and general forgetfulness on the part of police, Bivens singled out the bullet fragment as symbolic of a general breakdown in control by homicide detectives that began with their failure to respond to the crime scene for more than 40 minutes.

Police, he said, had turned the scene of Quortez Jackson's murder into "a circus."

"The police really just totally decimated this crime scene," he thundered before the jury, as his client sat impassively in the courtroom. "Who knows what kind of damage they did to any physical evidence? ... Who knows if there's not actually a projectile or two or three lodged in the tread of those tires?"

"Members of the jury, remember this: Once you start saying to yourself, 'Suppose this happened, suppose that happened,' that means you are not convinced beyond a reasonable doubt that my client is guilty."

### **'Things went downhill'**

In the deliberation room, the jurors quickly agreed to take an informal poll, according to two members of the panel who agreed to be interviewed.

Of the 12, four voted to convict Davis of murder - and "things went downhill fast from there once people started talking about how the police mishandled the case," said architect Jesse Murphy.

In a matter of minutes, the vote tally fell to 10-2.

A Vietnam veteran and father of two grown stepsons, Murphy grew up in Mississippi and was educated at Tennessee State University and Howard University before moving to Baltimore in 1978.

Murphy recounted how he "held out until the bitter end" for a murder conviction, supported by one other juror.

"The ones who had the biggest problems with the police were not the calm, quiet types," he recalls. "They were the ones who came out the loudest and strongest at the start.

"It's safe to say they were angry. ... [They] were really hung up on what the officers did and said - the fact that they drove over the bullet [fragment], the fact that they couldn't seem to remember certain details, especially the lead detective."

For his part, Murphy said he continuously argued that despite police blunders, the case against Davis was convincing.

"We had a half-dozen [witnesses] up there who knew the defendant and the victim, and there wasn't a one of them who were standing more than a hundred feet away ... and they

all took the witness stand and said the guy did it."

Murphy said that nearly all of the witnesses had credibility problems - two were admitted drug users and the 10-year-old boy was less than steadfast in his testimony. But none of them stood to gain anything by appearing in court and they all testified that they feared retaliation for doing so.

In the jury room with Murphy that day, Ivonne Puyans wasn't so much angry as troubled.

A high school graduate from Miami whose aspirations of going to college were overtaken by the birth of her five children, she steadfastly refused to convict Davis of murder because "the evidence we did have was all jumbled up and confused ... and the defense attorney really did show how stupid the mistakes were by police."

"It took them so long to get there," she recalls. "The young officer did her job as best she could, but it took the detectives and everybody else almost an hour - way too long - and it just created so many problems for the case. As a juror, you had to overlook too many things, too many mistakes, to vote for a murder conviction.

"When you're asking a jury to send somebody away to prison forever, you better be sure what you put in front of them. We couldn't be sure of anything, at least I couldn't."

Except for this much: "We knew he [Davis] had a gun, and we knew he ran away."

Thus, they acquitted Davis of murder - but concluded from all the eyewitness testimony that he was present at the killing and, at least, guilty of carrying a gun illegally.

Judge Quarles then addressed the defendant.

"I hope you realize each time you take a breath, each time you feel the sun on your skin, ... that is something [Quortez Jackson] won't have, that he has lost forever," Quarles said.

With that, Quarles sentenced the defendant to the maximum penalty allowed under the jury verdict: three years in prison. Having served eight months awaiting trial, Davis had just months to serve before he would be eligible for parole.

### **'He was my family'**

Barbara Jackson has been haunted by the memory of that day ever since the man accused in her son's murder was acquitted on April 30, 2001.

"I only ever wanted to know why," she says today. "Quortez was more than my son, he was my family, the only person I had in this world.

"My baby is dead, and the one who killed him is gonna be walking free. And I still don't know why. You have no idea what that feels like. You have no idea what my nights are

like. ... "

For weeks after the trial, she pounded on her computer keyboard at home, long into those sleepless nights.

She wrote letters to members of the City Council, to State's Attorney Patricia C. Jessamy, to Rep. Benjamin L. Cardin, to U.S. Sen. Barbara A. Mikulski, to Kweisi Mfume of the National Association for the Advancement of Colored People, even to Johnnie Cochran, the famed criminal defense attorney.

She got back enough cards and letters of official condolence to fill a 3-gallon storage container in her hall closet - including a formal resolution from the City Council expressing its "sincere sympathy" for the loss of her son.

But no one was in a position to help her. The case was closed. The jury had spoken.

"Unfortunately, I cannot provide an answer," the prosecutor in the case wrote the following summer. "Trying to provide an answer as to what the jurors considered during deliberations would be mere speculation."

Last fall, Barbara Jackson left her job as a restaurant manager at an airport hotel and went to work at Woodlawn Cemetery as a grief counselor, moving into a nearby apartment to be closer to her son.

Now, when she can't sleep at night, she goes to his grave.

"Hi, baby," she whispered one recent evening. "It's me, Mommy. How are you tonight? I'm all right. ... "

As she talks, she absentmindedly shucks the seed pods that fall from the catalpa tree over her son's low granite headstone. Long and slender, the coarse brown pods crack under her fingernails and rain tear-shaped seeds onto Quortez Jackson's grave.

Her own tears come without a sound.

She recounts how she regularly props up mothers like herself when they stop by to visit their boys. How it helps her to deal with her own hurt. She, of all people, knows how they feel.

"They all want to know the same thing," Barbara Jackson says. "They all want to know why."

***Sun electronic news editor Michael Himowitz and staff researcher Sarah Gehring contributed to this article.***

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