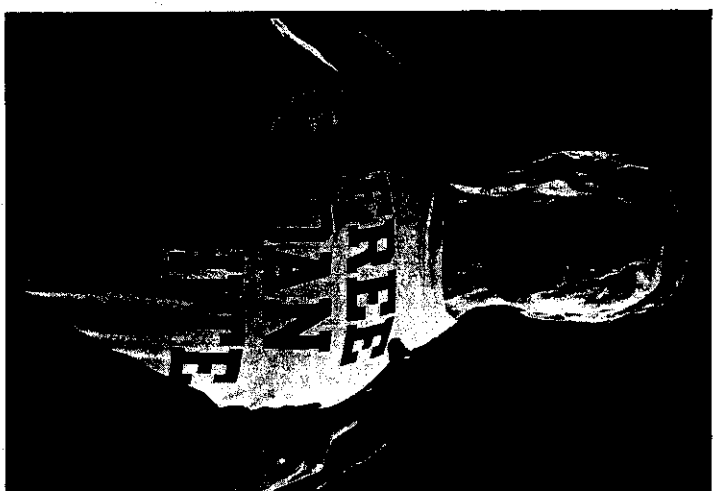


What can I say?
I am still alive—my friends aren't.
It's a still life.
I didn't know what I was doing.

(The women's eyes meet for the first time as lights go down.)

END OF PLAY

EXECUTION OF JUSTICE



From: Testimony: Four Plays
by William N... (NY: TPG, 1997)

*This play is dedicated to Oskar Eustis, dramaturg,
who understood the trials*

*Mary thanks to the Eureka Theatre and artistic director
Tony Taccone, who risked the verdict*

*Overleaf: Will Marchetti (the Cop) in the Berkeley Rep/San Jose
Rep/Eureka Theatre Company production. Photo by Ken Friedman.*

ACKNOWLEDGMENTS

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Thanks to the following people for their help and information: Scott Smith and the Harvey Milk Archives, Harry Britt, Rob Epstein and Richard Schmiechen, Supervisor Carol Ruth Silver, Russ Cone, Gene Marine, Corey Busch, Gwenn Craig, Randy Shils, Mike Weiss, Daniel Nicoletta, Jim Denman, Mel Wax, Marilyn Waller, Warren Hinckle, Bill Bathurst, Edward Mycane, Joseph Freitas, Jim Nicola and New Playwrights' Theatre, Stuart Ross, Bonnie Ayrault, Bill Block.

Special thanks to Jon Jory, Julie Crutcher and Actors Theatre of Louisville; Stan Wojewodski and Center Stage; Susan Gregg, David Feldshuh and Theatre Cornell; Tom Creamer, M. Burke Walker and The Empty Space; Doug Wager and Arena Stage; Sharon Ott and Berkeley Repertory Theatre; Liviu Culci, Mark Bly, Michael Lupu and The Guthrie Theatre; Gail Merrifield Papp; Lester and Marjorie Osterman, Mortimer Caplin, Richard C. Norton and Christopher Stark, Broadway producers.

PRODUCTION HISTORY

Execution of Justice was commissioned by San Francisco's Eureka Theatre in 1982, and developed over the next eighteen months in collaboration with dramaturg Oskar Eustis, artistic director Anthony Taccone and the company's actors. A co-winner of Actors Theatre of Louisville's 1984 Great American Play Contest, the play received its premiere there in March of that year, under the direction of Eustis and Taccone.

The play was presented on Broadway at the Virginia Theatre in March 1986. Sets were designed by Ming Cho Lee, costumes by Jennifer Von Mayrhauser, lights by Pat Collins and sound by Tom Morse. The author directed the following cast:

DAN WHITE	John Spencer
MARY ANN WHITE	Mary McDonnell
COP	Stanley Thcci
SISTER ROOM ROOM	Wesley Snipes

Chorus of Uncalled Witnesses

JIM DENMAN, White's Jailer	Christopher McHale
YOUNG MOTHER	Lisabeth Bartlett
MILK'S FRIEND	Adam Redfield

GWENN CRAIG, Vice President of
the Harvey Milk Democratic Club
HARRY BRITT, City Supervisor
and Milk's successor
JOSEPH FRETAS, D.A.
MOURNER

Isabell Monk
Donal Donnelly
Nicholas Hornmann
Nicholas Hornmann

Trial Characters

THE COURT
COURT CLERK
DOUGLAS SCHMIDT, defense attorney
THOMAS F. NORMAN, prosecuting attorney
JOANNA LU, TV reporter
PROSPECTIVE JURORS
JUROR #3/NOREMAN
BAILIFF

Nicholas Kepros
Lisabeth Bartlett
Peter Friedman
Gerry Bannan
Freda Foh Shen
Josh Clark, Suzy Hunt
Gary Reineke
Jeremy O. Caplin

Witnesses for the People

CORONER STEPHENS
RUDY NOTHENBERG, Deputy Mayor,
Moscone's friend
BARBARA TAYLOR, reporter
OFFICER BYRNE, Department of Records
WILLIAM MEILA, civil engineer
CYR COPERTINI, secretary to the Mayor
CARL HENRY CARLSON, aide to Harvey Milk
RICHARD PABRICH, assistant to Harvey Milk
FRANK FAIZON, Chief Inspector of Homicide
EDWARD ERDELAITZ, inspector

Donal Donnelly
Earle Hyman
Marcia Jean Kurtz
Isabell Monk
Richard Riehle
Suzy Hunt
Nicholas Hornmann
Wesley Snipes
Jon DeVries
Stanley Tucci

Witnesses for the Defense

DENISE APCAR, aide to White
FIRE CHIEF SHERRAIT
FIREMAN FREDIANI
POLICE OFFICER SULLIVAN
CITY SUPERVISOR LEE DOILSON

Lisabeth Bartlett
Gary Reineke
Jeremy O. Caplin
Stanley Tucci
Richard Riehle

PSYCHIATRISTS:

DR. JONES
DR. SOLOMON
DR. BLINDER
DR. LUNDE
DR. DELMAN

Earle Hyman
Marcia Jean Kurtz
Donal Donnelly
Gary Reineke
Jon DeVries

In Rebuttal for the People

CAROL RUTH SILVER, City Supervisor
DR. LEVY, psychiatrist
RIOT POLICE
ACTION CAMERAMAN

Marcia Jean Kurtz
Gary Reineke
Jeremy O. Caplin, Josh Clark,
Jon DeVries, Richard Riehle,
Stanley Tucci
Richard Howard

Among the new mayor's appointments is the Reverend Jim Jones, whom Moscone names chairman of the city's Housing Authority.

1976

An attempt is made, with a bomb, to kill Supervisor Dianne Feinstein.

November 2, 1976

Voters approve a new system for electing the Board of Supervisors, San Francisco's equivalent of a city council; the city is divided into eleven districts, each of which will select its own supervisor.

1977

An attempt is made, with a bomb, to kill District Attorney Joseph Freitas.

Spring 1977

Dan White decides to run for supervisor from District 8, a heavily Catholic working-class neighborhood in southeast San Francisco. White is a native San Franciscan, a high school sports star, a Vietnam vet, an ex-police officer and a fireman. A prime issue in White's campaign is his opposition to the Youth Campus, a home for juvenile offenders located in his district.

Harvey Milk, a small businessman and leader of the Castro Street gay community, will run for supervisor in District 5. Milk is a native New Yorker and part of the recent gay migration to San Francisco, having settled in the city in 1972.

November 8, 1977

Harvey Milk, "The Mayor of Castro Street," wins a seat on the Board of Supervisors. He is the first openly gay elected official in the United States. Dan White, who in his campaign had pledged to "eradicate the malignancies which blight our beautiful city," also wins election to the board.

A SAN FRANCISCO CHRONOLOGY

1975

San Francisco is in flux. The great port that had sprung up to handle the Gold Rush, that had built thousands of ships and processed millions of servicemen in two world wars, is in decline. Piers that once held freight now hold tourist attractions. Tourism becomes a billion-dollar-a-year industry. Downtown develops as a corporate headquarters, and white-collar jobs open up. Blue-collar jobs are lost, are outnumbered by service-industry jobs. Working-class neighborhoods, both black and Irish Catholic, deteriorate. Some are torn down as downtown and superhighways expand. Some fill up with Asian and Hispanic immigrants. Others undergo gentrification. San Francisco's homosexual community grows strong and becomes a mecca for thousands of gays from across the country, long attracted to the city by its "open" reputation. Many settle in one of the city's changing neighborhoods, along Castro Street.

Office seekers adapt to the realignment of political power.
Two young women try to kill President Ford.

November 4, 1975

A coalition of racial minorities, labor rank and file, and neighborhood activists breaks down the decades-long control of City Hall by the Irish political machine. George Moscone is elected mayor.

March 1978

A Board of Supervisors committee, chaired by White, meets to consider Milk's first legislative proposal: a ban on all forms of discrimination against gays in the city. The committee votes 3-0 to recommend approval to the full board. The following Monday, the board considers whether to approve the Youth Campus. White believes he has Milk's support to give him the 6-5 majority he needs to close the Youth Campus. When the vote is taken, however, Milk votes for the Youth Campus, and the issue White had campaigned on is defeated by one vote. When the gay rights legislation is brought up before the entire board a week later, White is the one supervisor to vote against it.

Fall 1978

Harvey Milk campaigns statewide against the Briggs Initiative, a ballot proposition championed by archconservative State Senator John Briggs. It would ban homosexuals from teaching in California schools. Dan White contributes \$100 to Milk's anti-Briggs campaign, saying "Everyone has the right to earn a living."

Harassed by press investigations into irregularities at the People's Temple, Jim Jones moves his congregation to Jonestown, the jungle refuge he is building in Guyana.

Tuesday, November 7

The Briggs Initiative is defeated. Another initiative sponsored by Briggs, Proposition 7, passes. Proposition 7 enacts a tougher death penalty and includes a clause invoking an automatic death penalty for anyone convicted of murdering a public official in an effort to prevent that official from carrying out his public duties. Milk and Moscone strongly oppose Proposition 7. White supports its passage.

Friday, November 10

Dan White resigns from the Board of Supervisors. He cites financial difficulties as the reason. Upon his election he had been

forced to resign from the Fire Department; the supervisor's salary is only \$9,600. The previous spring he had sought extra income by signing a lease to operate a fast-food stand, the Hot Potato.

Harvey Milk extracts a promise from Mayor Moscone that White's replacement will be sympathetic to the needs of the gay community.

Tuesday, November 14

Challenged by his disappointed aides and supporters, White reconsiders his decision. He calls Moscone and asks for his resignation back.

Wednesday, November 15

Moscone meets with White and tells him that as long as there are no legal impediments he will consider the resignation rescinded. He adds that if there is a legal question, he will simply reappoint White to the board. White goes to the city attorney's office to ask about the legal question and overhears a phone call from Harvey Milk asking the same information.

Congressman Leo Ryan arrives in Guyana to investigate a constituent's charges that his grandson is being held in Jonestown against his will.

Thursday, November 16

Dan White appears at a public rally organized to oppose his reappointment to the board. He fails to win the crowd to his side and is booed off the stage. Hearing of this, Moscone begins to have second thoughts about reappointing White.

Saturday, November 18

The city attorney tells Moscone that White cannot rescind his resignation, it's up to the mayor to reappoint him. Moscone tells White he needs concrete proof of support for White from the citizens of District 8.

Sunday, November 19
Congressman Ryan is killed in Guyana and the first news of the massacre reaches San Francisco.

Tuesday, November 21
Moscone meets with Don Horanzy, a candidate backed as a replacement for White. White's aides seek a temporary restraining order to prevent the mayor from appointing someone else.

The body count in Guyana tops five hundred. Rumors of a People's Temple hit squad are given credence by the police. Security measures are implemented at City Hall.

Thursday, November 23
Thanksgiving. Moscone receives two death threats connected with the People's Temple.

Friday, November 24
Dianne Feinstein, president of the Board of Supervisors, meets with the city attorney, who tells her that White intends to take his seat when the board convenes on Monday the 27th. Feinstein says that although she favors White regaining his seat, she will not recognize him unless he has been reappointed by the mayor. That evening, Moscone learns that the restraining order has been turned down in court. He is free to appoint whom he wants.
The body count in Guyana is up to 780.

Saturday, November 25
Moscone offers Horanzy the District 8 seat on the Board of Supervisors. Horanzy asks for time to consider. White hears the rumor that someone will be appointed to his seat on Monday.

Sunday, November 26
The morning paper puts the body count in Guyana at 910.
Horanzy calls Moscone to accept the seat. Moscone tells him to be at City Hall for a press conference at 10:30. When the board

convenes at 2:00 Horanzy will be sworn in. The mayor tells his press secretary to send telegrams to the other candidates informing them they have not been selected. White's name is not on the list, and the press secretary assumes the mayor will call White personally. Moscone neglects to do this.

That evening, White receives a phone call from KCBS News asking for his reaction to Moscone's decision to appoint someone else to his seat.

Monday, November 27
Dan White enters the mayor's office in City Hall and shoots George Moscone four times. He reloads his gun, enters the supervisors' office, and shoots Harvey Milk five times. He meets his wife Mary Ann at St. Mary's Cathedral, then surrenders to the police. That evening a tremendous crowd moves down Market Street from the Castro District in a candlelight procession and gathers outside City Hall.

Dianne Feinstein, as president of the Board of Supervisors, becomes acting mayor.

May 1, 1979
The trial of Dan White, on two counts of first-degree murder, begins.

May 21, 1979
Dan White is convicted on two counts of the reduced charge of voluntary manslaughter. Maximum sentence: seven years and eight months. A mob of thousands, led by the city's gay community, attacks City Hall, shattering windows and burning police cars; 150 are injured. Later that night, the police riot on Castro Street, clubbing down homosexuals on the sidewalks and in the gay bars.

November 1979
Dianne Feinstein is elected mayor of San Francisco.

1980

Voters repeal district elections for the Board of Supervisors and reinstate citywide, at-large elections.

The California penal code is amended to prevent arguing the "diminished capacity" defense, which attorney Douglas Schmidt used in the trial of Dan White.

January 6, 1984

Dan White is paroled from Soledad Prison. He begins life outside in Los Angeles.

October 21, 1985

Dan White is found dead of carbon monoxide poisoning at his wife's home in San Francisco.

Adapted from Tom Creamer's notes for The Empty Space program, incorporating additional facts from Warren MacIsaac's notes for the Center Stage program.

CHARACTERS

DAN WHITE

MARY ANN WHITE, his wife

COO²

SISTER BOOM BOOM

Chorus of Uncalled Witnesses

JIM DENMAN, ex-undersheriff, White's jailer immediately following the shooting

YOUNG MOTHER, late 30s, mother of three

MOSCONE'S FRIEND, old political crony, 50s

MILK'S FRIEND, 30s

CWERN CRAIG, black lesbian leader, 40s

HARRY BRITT, City Supervisor, 40s, Milk's successor

JOSEPH FRETAS, JR., ex-D.A., speaking in 1983

Trial Characters

COURT, the judge

CLERK

DOUGLAS SCHMIDT, defense lawyer

THOMAS F. NORMAN, prosecuting attorney

JOANNA LU, TV reporter

3 PROSPECTIVE JURORS

FOREMAN

Witnesses for the People

STEPHENS, the coroner
RUDY NOTHENBERG, Deputy Mayor
BARBARA TAYLOR, KCBS reporter
OFFICER BYRNE, policewoman in charge of records
WILLIAM MELLA, JR., civil engineer
CYR COPERTINI, appointment secretary to the mayor
CARL HENRY CARLSON, aide to Milk
RICHARD PABICH, assistant to Milk
FRANK WALZON, Chief Inspector of Homicide
EDWARD ERDELAITZ, inspector

Witnesses for the Defense

FIRE CHIEF SHERKATT
POLICE OFFICER SULLIVAN
CITY SUPERVISOR LEE DOILSON
FIREMAN FREDIANI
PSYCHIATRISTS JONES, BLINDER, SOLOMON, LUNDE, DELMAN
DENISE APCAR, aide to White

In Rebuttal for the People

CAROL RUTH SILVER, City Supervisor
DR. LEVY, psychiatrist

Characters on Tape

DIANNE FEINSTEIN, City Supervisor, later Mayor
GEORGE MOSCONE, Mayor
HARVEY MILK, City Supervisor

*People of San Francisco, Jurors, Cameramen, Mourners, Rioters,
Riot Police*

(The play can be performed by as few as 18 actors.)

TIME

1978 to the present.

PLACE

San Francisco.

AUTHOR'S NOTE

The words come from trial transcript, interview, reportage, the street.

ACT ONE

MURDER

A bare stage. White screens overhead.

Screen: Images of San Francisco, punctuated with images of Milk and Moscone. Hot, fast music. People enter. A maelstrom of urban activity.

Screen: Without warning, documentary footage of Dianne Feinstein (almost unable to stand):

FEINSTEIN (*taped voice*): As president of the Board of Supervisors, it is my duty to make this announcement: Mayor George Moscone . . . and Supervisor Harvey Milk . . . have been shot . . . and killed.

(Gasps and cries. A long moment.)

The suspect is Supervisor Dan White.

(The crowd in shock. They cannot move. Then they run. In the chaos, Mary Ann White enters, trying to hail a cab; exits. Screen: A crucifix fades up. Shaft of light. A church window. Dan White prays. Audio: Hyperrealistic sounds of mumbled Hail Marys; of high heels echoing, moving fast; of breathing hard, running. Mary Ann White enters, breathless. Dan White looks up. She approaches him.)

WHITE: I shot the Mayor and Harvey.

(Mary Ann White stumbles. Lights change.)

CLERK: This is the matter of the People versus Daniel James White.

(Amplified gavel. Lights change.)

COP *(Quiet)*:

Yeah, I'm wearing a "Free Dan White" T-shirt.

You haven't seen what I've seen—

my nose shoved into what I think stinks.

Against everything I believe in.

There was a time in San Francisco when you knew a

guy

by his parish.

(Sister Boom Boom enters. Nun drag; white face, heavily made up; spike heels.)

Sometimes I sit in church and I think of those

disgusting drag queens dressed up as nuns and

I'm a cop,

and I'm thinkin'.

there's gotta be a law, you know,

because they're makin' me think things I don't want to think and I gotta keep my mouth shut.

(Boom Boom puts out cigarette.)

Take a guy out of his sling—fast-fucked to death—they say it's mutual consent, it ain't murder, and I pull this disgusting mess down, take him to the

morgue,

I mean, my wife asks me, "Hey, how was your day?"

I can't even tell her.

I wash my hands before I can even look at my kids.

(The cop and Boom Boom are very aware of each other but never make eye contact.)

BOOM BOOM: God bless you one. God bless you all.

COP: See, Danny knew—he believes in the rights of minorities. Ya know, he just felt—we are a minority, too.

BOOM BOOM: I would like to open with a reading from the Book of Dan. *(Opens book)*

COP:

We been workin' this job three generations—my father was a cop—

and then they put—Moscone, Jesus, Moscone put this N-Negro-lovin', faggot-lovin' chief telling us what to do—

he doesn't even come from the neighborhood,

he doesn't even come from this city!

He's tellin' us what to do in a force that knows what

to do.

He makes us paint our cop cars faggot blue—he called it "lavender gloves" for the queers, handle 'em, treat 'em with "lavender gloves," he called it.

He's cuttin' off our balls.

The city is stinkin' with degenerates--

I mean, I'm worried about my kids, I worry about my wife,

I worry about me and how I'm feelin' mad all the time.

You gotta understand that I'm not alone--

It's real confusion.

BOOM BOOM: "As he came to his day of reckoning, he feared not for he went unto the lawyers and the doctors and the jurors, and they said, 'Take heart, for in this you will receive not life but three to seven with time off for good behavior.'" (*Closes book reverently*)

COP:

Ya gotta understand--

Take a walk with me sometime.

See what I see every day . . .

BOOM BOOM: Now we are all faced with this cycle.

COP:

Like I'm supposed to smile when I see two bald-headed,

shaved-head men with those tight pants and muscles,

chains everywhere, French kissin' on the street,

putting their hands all over each other's asses,

I'm supposed to smile,

walk by, act as if this is *right*??!!

BOOM BOOM: As gay people and as people of color and as women we all know the cycle of brutality which pervades our culture.

COP: I got nothin' against people doin' what they want, if I don't see it.

BOOM BOOM: And we all know that brutality only begets more brutality.

COP: I mean, I'm not makin' some woman on the streets for everyone to see.

BOOM BOOM: Violence only sows the seed for more violence.

COP: I'm not . . .

BOOM BOOM: And I hope Dan White knows that.

COP: I can't explain it any better.

(Pause.)

BOOM BOOM: Because the greatest, most efficient information gathering and dispersal network is the Great Gay Grapevine.

COP: Just take my word for it--

BOOM BOOM: And when he gets out of jail, no matter where Dan White goes, someone will recognize him.

COP:

Walk into a leather bar with me some night--

they--they're--

there are queers who'd agree with me--it's disgusting.

BOOM BOOM: All over the world, the word will go out. And we will know where Dan White is.

COP: The point is: Dan White showed you could fight City Hall.

(Pause.)

BOOM BOOM:

Now we are all aware, as I said,

of this cycle of brutality and murder.

And the only way we can break that horrible cycle is

with

love, understanding and forgiveness.

And there are those who were before me here today--

gay brothers and sisters--

who said that we must somehow learn

to love, understand and forgive

the sins that have been committed against us

and the sins of violence.

And it sort of grieves me that some of us are not

understanding and loving and forgiving of Dan White.

And after he gets out,

after we find out where he is . . .

(Long, wry look)

I mean, not, y'know,
with any malice or planning . . .

(Long look)

You know, you get so depressed and your blood sugar goes up

and you'd be capable of just about anything!

(Long pause. Smiles)

And some angry faggot or dyke who is not

understanding, loving and forgiving—

is going to perform a horrible act of violence and

brutality

against Dan White.

And if we can't break the cycle before somebody gets

Dan White,

somebody will get Dan White

and when they do,

I beg you all to

with open arms love, understand and forgive. *(Laughs)*

(Lights fade to black.)

CLERK: This is the matter of the People versus Daniel James White and the record will show that the Defendant is present with his counsel and the District Attorney is present and this is out of presence of the jury.

(Courtroom being set up. TV lights.)

JOANNA LU *(On camera)*: The list of prospective witnesses that the defense has presented for the trial of the man who killed the liberal mayor of San Francisco, George Moscone, and the first avowedly gay elected official, City Supervisor Harvey Milk, reads like a Who's Who of city government *(Looks at list)* . . . Judge, congressmen, current and former supervisors, and even a state senator. The D.A. has charged White

with two counts of first-degree murder, invoking for the first time the clause in the new California capital punishment law that calls for the gas chamber for any person who has assassinated a public official in an attempt to prevent him from fulfilling his official duties. Ironically, Harvey Milk and George Moscone vigorously lobbied against the death penalty while Dan White vigorously supported it. This is Joanna Lu at the Hall of Justice.

(Curtain. Spotlight on clerk.)

CLERK: Ladies and gentlemen, this is the information in the case now pending before you: the People of the State of California, Plaintiff, versus Daniel James White, Defendant. Action Number: 98663, Count One.

(Gavel. Lights up. Trial in progress. Screen: "Jury Selection.")

COURT: Mr. Schmidt, you may continue with your jury selection.

SCHMIDT: Thank you, Your Honor.

CLERK: It is alleged that Dan White did willfully, unlawfully and with malice aforethought murder George R. Moscone, the duly elected Mayor of the City and County of San Francisco, California.

SCHMIDT: Have you ever supported controversial causes, like homosexual rights, for instance?

JUROR 1 *(Woman)*: I have gay friends . . . I, uh . . . once walked with them in a Gay Freedom Day Parade.

SCHMIDT: Your Honor, I would like to strike the juror.

JUROR 1: I am str . . . I am heterosexual.

COURT: Agreed.

(Gavel.)

CLERK: The Defendant Daniel James White is further accused of a crime of felony to wit: that said Defendant Daniel James

White did willfully, unlawfully and with malice aforethought, murder Harvey Milk, a duly elected Supervisor of the City and County of San Francisco, California.

SCHMIDT: With whom do you live, sir?

JUROR 2: My roommate.

SCHMIDT: What does he or she do?

JUROR 2: He works at the Holiday Inn.

SCHMIDT: Your Honor, I ask the court to strike the juror for cause.

COURT: Agreed.

(Gavel.)

CLERK: Special circumstances: it is alleged that Daniel James White in this proceeding has been accused of more than one offense of murder.

JUROR 3: I worked briefly as a San Francisco policeman, but I've spent most of my life since then as a private security guard.

SCHMIDT: As you know, serving as a juror is a high honor and responsibility.

JUROR 3: Yes, sir.

SCHMIDT: The jury serves as the conscience of the community.

JUROR 3: Yes, sir. I know that, sir.

SCHMIDT: Now, sir, as a juror you take an oath that you will apply the laws of the state of California as the judge will instruct you. You'll uphold that oath, won't you?

JUROR 3: Yes, sir.

SCHMIDT: Do you hold any views against the death penalty no matter how heinous the crime?

JUROR 3: No, sir. I support the death penalty.

SCHMIDT: Why do you think Danny White killed Milk and Moscone?

JUROR 3: I have certain opinions. I'd say it was social and political pressures . . .

SCHMIDT: I have my jury.

COURT: Mr. Norman?

(No response. Fine with him. Gavel.)

LU (On camera): The jury has been selected quickly for the Dan White trial. It appears the prosecution and the defense want the same jury. Assistant D.A. Tom Norman exercised only three out of twenty-seven possible peremptory challenges. By all accounts, there are no blacks, no gays and no Asians. One juror is an ex-policeman, another the wife of the county jailer, four of the seven women are old enough to be Dan White's mother. Most of the jurors are working- and middle-class Catholics. Speculation in the press box is that the prosecution feels it has a law-and-order jury. In any case, Dan White will certainly be judged by a jury of his peers. (Turns to second camera) I have with me this morning District Attorney Joseph Freitas, Jr.

(TV lights on Freitas.)

May we ask sir, the prosecution's strategy in the trial of Dan White?

FREITAS: I think it's a clear case. . . . We'll let the facts speak for themselves. . . .

(Falcon enters, sits at prosecutor's table.)

CLERK: And the Defendant, Daniel James White, has entered a plea of not guilty to each of the charges and allegations contained in this information.

(White enters. Mary Ann White enters with infant in arms, sees him. They sit.)

COURT: Mr. Norman, do you desire to make an opening statement at this time?

NORMAN: I do, Judge.

COURT: All right. You may proceed.

(Lights change. Screen: "Act One: Murder." Cavel. Screens go to white.)

NORMAN (*Opening statement, prosecution*): Your Honor, members of the jury—and you (*Takes in audience*) must be the judges now, counsel for the defense:

(To audience) Ladies and Gentlemen: I am Thomas F. Norman and I am the Assistant District Attorney, and I appear here as trial representative to Joseph Freitas, Jr., District Attorney. Seated with me is Frank Falzon, Chief Inspector of Homicide for San Francisco.

George R. Moscone was the duly elected Mayor of San Francisco.

(Screen: Portrait of Moscone.)

Harvey Milk was the duly elected Supervisor or City Councilman of District 5 of San Francisco.

(Screen: Portrait of Milk.)

The defendant in this case, Mr. Daniel James White, had been the duly elected Supervisor of District 8 of San Francisco, until for personal reasons of his own he tendered his resignation in writing to the mayor on or about November the 10th, 1978, which was approximately seventeen days before this tragedy occurred.

Subsequent to tendering his resignation he had the feeling that he wanted to withdraw that resignation, and that he wanted his job back.

George Moscone, it appears, had told the accused that he would give him his job back or, in other words, appoint him back to the board if it appeared that there was substantial support in District Number 8 for that appointment.

Material was received by the mayor in that regard, and in the meantime, Mr. Daniel James White had resorted to the courts in an effort to withdraw his written resignation.

It appears that those efforts were not met with much success.

(Screen: "The Defense, Douglas Schmidt.")

SCHMIDT: Ladies and Gentlemen, the prosecutor has quite skillfully outlined certain of the facts that he believes will be supportive of his theory of first-degree murder.

I intend to present all the facts, including some of the background material that will show, not so much *what* happened on November 27th, but *why* those tragedies occurred on November 27th.

The evidence will show, and it's not disputed, that Dan White did, indeed, shoot and kill George Moscone and I think the evidence is equally clear that Dan White did shoot and kill Harvey Milk.

Why then should there be a trial?

The issue in this trial is properly to understand *why* that happened.

(Lights. Screen: "Chief Medical Examiner and Coroner for the City and County of San Francisco.")

STERNES (*Holding photo*): In my opinion and experience, Counsel, the larger tattoo pattern at the side of the Mayor's head is compatible with a firing distance of about one foot, and the smaller tattoo pattern within the larger tattoo pattern is consistent with a firing distance of a little less than one foot.

That is: The wounds to the head were received within a distance of one foot when the mayor was already on the floor incapacitated.

(Norman looks to jury. Screen: Image of figure shooting man in head from a distance of one foot, leaning down. Lights.)

SCHMIDT: Why? . . . Good people, fine people, with fine backgrounds, simply don't kill people in cold blood, it just doesn't happen, and obviously some part of them has not been presented thus far. Dan White was a native of San Francisco. He went to school here, went through high school here. He was a noted athlete in high school. He was an army veteran who served in Vietnam, and was honorably discharged from the army. He became a policeman thereafter, and after a brief hiatus developed, again returned to the police force in San Francisco, and later transferred to the fire department. He was married in December of 1976, and he fathered his son in July 1978.

Dan White was a good policeman and Dan White was a good fireman. In fact, he was decorated for having saved a woman and her child in a very dangerous fire, but the complete picture of Dan White perhaps was not known until sometime after these tragedies on November 27th. The part that went unrecognized was—for the past ten years Daniel White was suffering from a mental disease. The disease that Daniel White was suffering from is called "depression," sometimes called "manic depression."

(Lights)

NORMAN: Doctor, what kind of wound was that in your opinion?
STEPHENS: These are gunshot wounds of entrance, Counsel.

The cause of death was multiple gunshot wounds . . . particularly the bullet that passed through the base of the supervisor's brain. This wound would cause instant or almost instant death. I am now holding People's 30 for identification. In order for this wound to be received, Counsel . . . the supervisor's left arm has to be in close to the body with the palm up. The right arm has to be relatively close to the body with the palm turned away from the body and the thumb in towards the body.

NORMAN: Can you illustrate that for us?

STEPHENS: Yes, Counsel. The left arm has to be in close to the body and slightly forward with the palm up. The right hand has to be palm away with the thumb pointed towards the body and the elbow in slightly to the body with the arm raised. In this position, all of these wounds that I have just described in People's 30 and 29 line up.

(Freeze Lights.)

SCHMIDT (Talking to jury): Dan White came from a vastly different lifestyle than Harvey Milk, who was a homosexual leader and politician. Dan White was an idealistic young man, a working-class young man. He was deeply endowed with and believed very strongly in the traditional American values, family and home, like the district he represented. (Indicates jury) Dan White believed people when they said something. He believed that a man's word, essentially, was his bond. He was an honest man, and he was fair, perhaps too fair for politics in San Francisco.

(Screen: White campaigning, American flag behind him. Audio: Rocky theme song, crowd response throughout his speech.)

WHITE (To crowd): Do you like my new campaign song?

CROWD (Audio, cheering): Yeah!

WHITE (To camera, TV lights): For years, we have witnessed an exodus from San Francisco by many of our family members, friends and neighbors. Alarmed by the enormous increase in crime, poor educational facilities and a deteriorating social structure, they have fled to temporary havens . . . In a few short years these malignancies of society will erupt from our city and engulf our tree-lined, sun-bathed communities that chide us for daring to live in San Francisco. That is, unless we who have remained can transcend the spatty which has caused us to lock our doors while the tumult rages un-

checked through our streets. Individually we are helpless. Yet you must realize there are thousands and thousands of angry frustrated people such as yourselves waiting to unleash a fury that can and will eradicate the malignancies which blight our beautiful city. I am not going to be forced out of San Francisco by splinter groups of radicals, social deviates and incorrigibles. **UNITE AND FIGHT WITH DAN WHITE.**

(Crowd cheers. Lights change. Screens go to white.)

SCHMIDT: I think Dan White saw the city deteriorating as a place for the average and decent people to live.

COURT: Mr. Nothenberg, please be seated.

SCHMIDT: This irony is . . . that the young man with so much promise in seeking the job on the Board of Supervisors actually was destined to construct his downfall. After Dan White was elected he discovered there was a conflict of interest if he was a fireman and an elected official. His wife, Mary Ann, was a schoolteacher and made a good salary. But after their marriage, it was discovered that the wife of Dan White had become . . . pregnant and had to give up her teaching job. So the family income plummeted from an excess of \$30,000 to \$9,600, which is what a San Francisco supervisor is paid. I believe all the stress and the underlying mental illness culminated in his resignation that he turned in to the mayor on November 10th, 1978.

(Screen: "Mr. Nothenberg, Deputy Mayor." Lights.)

NORMAN: Would you read that for us?

NOTHBERG: "Dear Mayor Moscone: I have been proud to represent the people of San Francisco from District 8 for the past ten months, but due to personal responsibilities which I feel must take precedent over my legislative duties, I am resigning my position effective today. I am sure that the next representative to the Board of Supervisors will receive as much

support from the People of San Francisco as I have. Sincerely, Dan White." It is so signed.

SCHMIDT *(To jury)*: Some days after November the 10th pressure was brought to bear on Dan White to go back to the job that he had worked so hard for, and there was a one-way course that those persons could appeal to Dan White, and that was to appeal to his sense of honor: Basically—Dan you are letting the fire department down, letting the police department down. It worked. That type of pressure worked, because of the kind of man Dan White is.

He asked the mayor for his job back.

NORMAN: Mr. Nothenberg, on or about Monday the 27th of November last year, do you know whether Mayor Moscone was going to make an appointment to the Board of Supervisors, particularly for District Number 8?

NOTHBERG: Yes, he was.

SCHMIDT: The mayor said: We have political differences, but you are basically a good man, and you worked for the job and I'm not going to take you to fault. The letter was returned to Dan White.

NORMAN: Do you know whom his appointee to District 8 was going to be?

NOTHBERG: Yes, I do.

NORMAN: Who was that please?

NOTHBERG: It was going to be a gentleman named Don Horanzy.

SCHMIDT: As I said, Dan White believed a man's word was his bond. *(He moves down to the jury.)*

Mayor Moscone had said: If there was any legal problem he would simply reappoint Dan White. Thereafter it became: Dan White there is no support in District 8 and unless you can show some broad-base support, the job will not be given to you, and finally, the public statement coming from the mayor's office: It's undecided. But you will be notified, prior to the time that any decision is made. They didn't tell Dan White. But they told Barbara Taylor.

(Lights change.)

TAYLOR *(Audio; on phone)*: I'm Barbara Taylor from KCBS. I'd like to speak to Dan White.

WHITE *(Audio)*: Yuh.

TAYLOR *(Audio)*: I have received information from a source within the mayor's office that you are not getting that job. I am interested in doing an interview to find out your reaction to that . . . Mr. White?

(Long pause. Spotlight on White.)

WHITE *(Audio)*: I don't know anything about it.

(Audio: Click, busy signal Lights change.)

TAYLOR *(Line)*: The Mayor told me: "The only one I've talked to who is in favor of the appointment of Dan White is Dan White."

NORMAN: Thank you, Miss Taylor.

SCHMIDT: After that phone call, Denise Apcar, Dan's aide, told Dan White that there were going to be supporters down at City Hall the next morning to show support to the mayor's office. In one day they had collected eleven hundred signatures in District 8 in support of Dan White.

But the next morning, Denise called Dan and told him the mayor was unwilling to accept the petitioners.

(Screen: "Denise Apcar, Aide to Dan White.")

APCAR: Yes. I told Danny—I don't remember my exact words—that the mayor had "circumvented the people."

NORMAN: Did you believe at that time that the mayor was going to appoint someone other than Dan White?

APCAR: Oh, yes.

NORMAN: At that time, were your feelings such that you were angry?

APCAR: Definitely. Well the mayor had told him . . . and Dan always felt that a person was going to be honest when they said something. He believed that up until the end.

NORMAN: You felt and believed that Mr. Milk had been acting to prevent the appointment of Mr. Dan White to his vacated seat on the Board of Supervisors?

APCAR: Yes. I was very much aware of that.

NORMAN: Had you expressed that opinion to Mr. White?

APCAR: Yes.

NORMAN: Did Mr. White ever express that opinion also to you?

APCAR: He wasn't down at City Hall very much that week so I was basically the person that told him these things.

(Pause.)

NORMAN: Did you call Mr. White and tell him that you had seen Harvey Milk come out of the mayor's office after you had been informed the mayor was not in?

APCAR: Yes. I did. Then he called me back and said, "Denise, come pick me up. I want to see the mayor."

NORMAN: When you picked him up, did he do anything unusual?

APCAR: Well . . . he didn't look at me and normally he would turn his body a little bit towards the driver and we would talk, you know, in a freiform way, but this time he didn't look at me at all. He was squinting hard. He was very nervous, he was agitated. He was blowing a lot. He was rubbing his hands, blowing into his hands and rubbing them like he was cold, like his hands were cold. He acted very hurt. Yes. He was, he looked like he was going to cry. He was doing everything he could to restrain his emotion.

NORMAN: Did you ever describe him as acting "all fired up"?

APCAR: Yes, yes I—I believe I said that.

NORMAN: Did he mention at that time that he also was going to talk to Harvey Milk?

APCAR: Yes, he did.

NORMAN: Did he ever say he was going to "really lay it on the mayor"?

APCAR: It's been brought to my attention I said that, yes.

NORMAN: When you were driving Mr. White downtown, was there some discussion relative to a statement you made. "Anger had run pretty high all week towards the mayor playing pool on us, dirty, you know?"

APCAR: I believe I was describing my anger. At the time I made those statements I was in shock and I spoke freely and I'm sure I've never used those terms before.

NORMAN: When you made those statements it was forty minutes after noon on November 27th, was it not?

APCAR: Yes.

NORMAN: Miss Aparcar—When you were driving Mr. White to City Hall did you know he was carrying a loaded gun?

APCAR: No, I did not.

NORMAN: Thank you.

(Lights.)

SCHMIDT: Dan White went to City Hall and he took a .38 caliber revolver with him, and that was not particularly unusual for Dan White.

Dan White was an ex-policeman, and as a policeman one is required to carry, off-duty, a gun, and as an ex-policeman—well, I think it's common practice.

And additionally, remember, there was the atmosphere created by the Jonestown People's Temple tragedy,

(Screens flood with Jonestown imagery. Music.)

which had occurred a few days before November 27th, and at that time there were rumors that there were hit lists that had been placed on public officials in San Francisco. Assassination squads. And in hindsight of course we can all realize the fact did not happen, but at the time there were nine hundred bodies laying in Guyana to indicate, that indeed, people were bent on murder.

(Screen: "Officer Byrne, Department of Records." Lights.)

NORMAN: Officer Byrne, do persons who were once on the police force who have resigned their positions, do they have a right to carry a concealed firearm on their person?

SCHMIDT: And I think it will be shown that Jim Jones himself was directly allied to the liberal elements of San Francisco politics and not to the conservative elements.

BYRNE: No, a resigned person would not have that right.

SCHMIDT: And so, it would be important to understand that there were threats directed towards conservative persons like Dan White.

NORMAN: Officer, have you at any instance and request examined those particular records to determine whether there is an official permit issued by the Chief of Police to a Mr. Daniel James White to carry a concealed firearm?

BYRNE: Yes, I have.

NORMAN: What have you found?

BYRNE: I find no permit.

NORMAN: Thank you.

(Lights.)

SCHMIDT: Yes, it's a violation of the law to carry a firearm without a permit, but that firearm was registered to Dan White.

NORMAN: Mr. Melba, please be seated.

SCHMIDT: Upon approaching the doors on Polk Street, White observed a metal-detection machine.

Knowing that he did not know the man that was on the metal-detection machine, he simply went around to the McAllister Street well, where he expected to meet his aide.

He did not find Denise Aparcar there. She'd gone to put gas in her car. He waited for several moments, but knowing that it was imminent, the talk to the mayor, he crept through a window at the Department of Public Works.

(Screen: Slide of windows with man in front demonstrating procedure.)

Which doesn't require any physical prowess, and you can step through those windows, and the evidence will show that though now they are barred, previously it was not uncommon for people to enter and exit there. They are very large windows, and are large, wide sills,

(Screen shows windows he stepped through—small, high off the ground, now barred.)

and it's quite easy to step into the building through these windows.

(Screen: Slide of man in three-piece suit trying to get leg up. Screen: "William Meila, Jr., Civil Engineer.")

MELIA: At approximately 10:35 I heard the window open. I heard someone jump to the floor and then running through the adjoining room. I looked up and caught a glance of a man in a suit running past the doorway of my office into the City Hall hallway.

NORMAN: What did you do?

MELIA: I got up from my desk and called after him: "Hey, wait a second."

NORMAN: Did that person wait or stop?

MELIA: Yes, they did.

NORMAN: Do you see that person here in this courtroom today?

MELIA: Yes, I do.

NORMAN: Where is that person?

MELIA: It's Dan White. (Pause) He said to me: "I had to get in. My side was supposed to come down and let me in the side door, but never showed up." I had taken exception to the way he had entered our office, and I replied: "And you are?" And he replied: "I'm Dan White, the city supervisor." He

said, "Say, I've got to go," and with that, he turned and ran out of the office.

NORMAN: Did you say that he ran?

MELIA: Right.

(Pause.)

NORMAN: Mr. Meila—had you ever seen anyone else enter or exit through that window or those windows along that side?

MELIA: Yes, I had. It was common for individuals that worked in our offices to do that.

NORMAN: Were you alarmed when you learned that a supervisor crawled or walked through that window, or stepped through that window?

MELIA: Was I alarmed?

NORMAN: Yes.

MELIA: Yes. I was . . . alarmed.

(Norman looks to jury.)

SCHWITZ (Annoyed): I think it's significant at this point—also because the fact that he crawled through the window appears to be important—it's significant to explain that people often climb through that window, and indeed, on the morning of the 27th, Denise had the key to the McAllister Street well door.

So, Dan White stepped through the window, identified himself, traveled up to the second floor.

(Screen: "Mrs. Cyr Copertini, Appointment Secretary to the Mayor.")

And then approached the desk of Cyr Copertini and properly identified himself, and asked to see the mayor.

(Lights.)

CYR: I am the appointment secretary to Mayor Feinstein.

NORMAN: In November of last year and particularly on November 27th what was your then occupation?

CYR: I was appointment secretary to the elected Mayor of San Francisco, George Moscone. *(She is deeply moved)*

NORMAN: Mrs. Copertini—were you aware that there was anything that was going to happen that day of November 27th of interest to the citizens of San Francisco, uh . . . I mean, such as some public announcement?

(Pause.)

CYR: . . . There was to be a news conference to announce the new supervisor for the eighth district, at 11:30.

NORMAN: Mrs. Copertini, at approximately 10:30 A.M. when you saw Mr. Daniel White, he appeared in front of your desk . . . do you recall what he said?

CYR: He said, "Hello, Cyr. May I see the mayor?" I said, "He has someone with him, but let me go check with him." I went in to the mayor and told him that Supervisor White was there to see him. He was a little dismayed. He was a little uncomfortable by it and said: "Oh, all right. Tell him I'll see him, but he will have to wait a couple minutes."

I asked the mayor, "Shouldn't I have someone in there with him," and he said: "No, no, I'll see him alone."

I said, "Why don't you let me bring Mel Wax in?" And he said: "No, no, I'll see him alone." And then I went back.

NORMAN: Who was Mel Wax?

CYR: The press secretary.

NORMAN: When you went out to your office, did you then see Mr. Daniel White?

CYR: Yes. I said it will be a few minutes. He asked me how I was and how things were going. Was I having a nice day.

NORMAN: Was there anything unusual about his tone of voice?

CYR: No. I don't think so. He seemed nervous . . .

I asked him would he like to see the newspaper while he was waiting? He said, no, he wouldn't, and I said: "Well, that's all right. There's nothing in it anyway unless you want to read about Caroline Kennedy having turned twenty-one." And he said: "Twenty-one? Is that right?" He said: "Yeah, that's all so long ago. It's even more amazing when you think that John John is now eighteen."

(Lights change. Funeral mass: Gregorian chant; boys' choir.

Pause.)

DENMAN: The only comparable situation I ever remember

CYR: It was about that time he was admitted to the mayor's office.

(Pause.)

DENMAN: was when JFK was killed.

NORMAN: Did you tell Mr. Daniel White that he could go in?

CYR: Yes.

DENMAN: I remember that in my bones, in my body.

NORMAN: Did he respond in any way to that?

DENMAN: Just like this one

CYR: He said: "Good girl, Cyr."

NORMAN: Good girl, Cyr?

CYR: Right.

DENMAN: when Camelot all of a sudden turned to hell.

NORMAN: Then what did he do?

CYR: Went in.

(Pause.)

NORMAN: After he went in there did you hear anything of an unusual nature that was coming from the mayor's office?

CYR: After a time I heard a . . . commotion.

(Lights change.)

YOUNG MOTHER: I heard it on the car radio, I literally gasped.
 NORMAN: Explain that to us, please.

YOUNG MOTHER: I wanted to pull over to the side of the road and scream.

STU: Well, I heard—a series of noises—a group and then one—

YOUNG MOTHER: Just scream.

STU: I went to the window to see if anything was happening out in the street,

YOUNG MOTHER: Then I thought of my kids.

STU: and the street was rather extraordinary calm.

DENMAN: I noticed when I walked outside that there was an unusual quiet.

STU: For that hour of the day there is usually more—there wasn't really anything out there.

DENMAN: I went to the second floor and started walking toward the mayor's office.

YOUNG MOTHER: I wanted to get them out of school and take them home,

NORMAN: Could you describe these noises for us?

YOUNG MOTHER: I wanted to take them home and *(Makes a hugging gesture)* lock the door.

STU: Well, they were dull thuds rather like—

DENMAN: And there was this strange combination of panic and silence that you rarely see,

STU: I thought maybe it was an automobile door that somebody had tried to shut, by, you know, pushing, and then finally succeeding.

DENMAN: it was like a silent slow-motion movie of a disaster.

NORMAN: Do you have any recollection that you can report with any certainty to us as to how many sounds there were?

STU: No. As I stood there I—I thought I ought to remember—

(She breaks down.)

DENMAN: There was this hush and aura, people were moving with strange faces,

(Gyr sobs.)

as if the world had just come to an end.

MOSKOWITZ'S FRIEND: George loved this city, and felt what was wrong could be fixed.

NORMAN: Do you want a glass of water?

(Gyr sobs.)

DENMAN: And I asked someone what had happened and he said:

"The mayor has been shot."

STU: I ought to remember that pattern in case it is something, but I—

MOSKOWITZ'S FRIEND: He knew—it was a white racist town. A Catholic town. But he believed in people's basic good will.

(Gyr sobs.)

COURT: Just a minute. Do you want a recess?

MOSKOWITZ'S FRIEND: He never suspected, I bet, Dan White's psychotic behavior.

NORMAN: Do you want a recess?

MOSKOWITZ'S FRIEND: That son of a bitch killed someone I loved. I mean, I loved the guy.

STU: No, I'm all right.

COURT: Are you sure you are all right?

STU: Yes.

YOUNG MOTHER: I just thought of my kids.

(Long pause.)

MOSKOWITZ'S FRIEND: I loved his idealism. I loved his hope.

STU: Then what happened was Rudy Nottenberg left to tell the press that the conference would start a few minutes late.

MOSKOWITZ'S FRIEND: I loved the guy.

STU: And then he came back to me right away and said: "Oh, I guess we can go ahead. I just saw Dan White leave."

MOSCOFF'S FRIEND: I loved his almost naive faith in people.

CYR: So then he went into the mayor's office and said: "He isn't here." And I said: "Well, maybe he went into the back room."

MOSCOFF'S FRIEND: I loved his ability to go on.

CYR: Then he just gave a shout saying: "Gary, get in here. Call an ambulance. Get the police."

MOSCOFF'S FRIEND: See, I got too tired to stay in politics and do it. George and I were together from the beginning. Me, Phil Burton, Willy Brown. Beasin' all the old Irishmen.

DEWANE: I heard right away that Dan White had done it.

MOSCOFF'S FRIEND: But George believed, as corny as this sounds, that you do good for the people. I haven't met many of those and George was one of those. Maybe those are the guys that get killed. I don't know.

(Pause. *Cyr crying.*)

NORMAN: All right. All this you told us about occurred in San Francisco, didn't it?

(Pause.)

CYR (*Deeply moved*): Yes.

SCHMIDT: Dan White, as it was quite apparent at that point, had cracked because of his underlying mental illness . . .

(Screen: "Carl Henry Carlson, Aide to Harvey Milk.")

CARLSON: I heard Peter Nardona, Dianne Feinstein's aide, say "Dianne wants to see you," and Dan White said: "That'll have to wait a couple of minutes, I have something to do first."

NORMAN: I have something to do first?

CARLSON: Yes.

(Pause.)

NORMAN: Do you recall in what manner Mr. White announced himself?

SCHMIDT: There were stress factors due to the fact that he hadn't been notified.

CARLSON: He appeared at the door, which was normally left open. Stuck his head in and asked: "Say, Harv, can I see you for a minute?"

SCHMIDT: and the sudden emotional surge that he had in the mayor's office was simply too much for him.

NORMAN: What did Harvey Milk do at that time if anything?

CARLSON: He turned around.

SCHMIDT: and he cracked.

GARLSON: He turned around.

SCHMIDT: The man cracked.

CARLSON: and said "Sure," and got up and went across the hall . . .

SCHMIDT: He shot the mayor.

CARLSON: to the office designated as Dan White's office on the chart.

SCHMIDT: reloaded his gun, basically on instinct, because of his police training.

NORMAN: After they went across the hall to Mr. White's office . . .

SCHMIDT: and was about to leave the building at that point and he looked down the hall.

NORMAN: Would you tell us what next you heard or saw?

SCHMIDT: he saw somebody that he believed to be an aide to Harvey Milk.

CARLSON: A few seconds later, probably ten, fifteen seconds later, I heard a shot, or the sound of gunfire.

SCHMIDT: He went down to the supervisor's area to talk to Harvey Milk.

COURT: Excuse me. Would you speak out. Your voice is fading a bit.

SCHMIDT: At that point, in the same state of rage, emotional upheaval with the stress and mental illness having cracked this man

STEPHENS (*Demonstrates as he speaks*): The left arm has to be close to the body and slightly forward with the palm up.

SCHMIDT: *ninety seconds* from the time he shot the mayor, Dan White shot and killed Harvey Milk.

CARLSON: After the shot, I heard Harvey Milk scream. "Oh, no." And then the first—the first part of the second "no" which was then cut short by the second shot.

STEPHENS: The right hand has to be palm away with the thumb pointed towards the body and the elbow in slightly to the body with the arm raised.

NORMAN: How many sounds of shots did you hear altogether, Mr. Carlson?

CARLSON: Five or six. I really didn't consciously count them.

STEPHENS: In this position all of these wounds that I have just described in *People's 29* and *30* line up.

(Pause.)

CARLSON: A few moments later the door opened, the door opened and Daniel White walked out, rushed out, and proceeded down the hall.

NORMAN: Now, Mr. Carlson, when Daniel White first appeared at the office of Harvey Milk and he inquired of Harvey Milk, "Say, Harv, can I see you for a minute?" could you describe his tone of voice in any way?

CARLSON: He appeared to be very normal, usual friendly self. I didn't, I didn't feel anything out of the ordinary. It was just very typical Dan White.

(Lights change.)

SWENN: I'd like to talk about when people are pushed to the wall.

SCHMIDT: Harvey Milk was against the reappointment of Dan White.

SWENN: In order to understand the issue, I think you have to understand that the Dan White verdict did not occur in a vacuum.

SCHMIDT: Basically, it was a political decision. It was evident there was a liberal wing of the Board of Supervisors, and there

was a smaller conservative wing, and Dan White was a conservative politician for San Francisco.

(Screen: "Richard Pabich, Legislative Assistant to Harvey Milk." Lights.)

PABICH: My address is 542-A Castro Street.

SWENN: I don't think I have to say what their presence meant to us, and what their loss meant to us—

NORMAN: What did you do after you saw Dan White put the key in the door of his old office, Room 237?

SWENN: The assassinations of our friends Harvey and George were a crime against us all.

PABICH: Well, I was struck in my head, sort of curious as to why he'd been running.

SWENN: And right here, when I say "us," I don't mean only gay people.

PABICH: And he was—it looked like he was in a hurry. I was aware of the political situation.

SWENN: I mean all people who are getting less than they deserve.

PABICH: I was aware that Harvey was taking the position to the mayor that Mr. White shouldn't be reappointed. Harvey and I had talked earlier that it would be a significant day.

(Lights. Subliminal music.)

MILK'S FRIEND: After Harvey died, I went into a depression that lasted about a year, I guess. They called it depression, anyway. I thought about suicide, well, I more than thought about it.

SCHMIDT: Mr. Pabich, Mr. Milk had suggested a replacement for Dan White, hadn't he?

PABICH: He had, to my understanding, recommended several people, and basically took the position that Dan White should not be reappointed.

MILK'S FRIEND: I lost my job. I stayed in the hospital for, I would

guess, two months or so. They put me on some kind of drug that . . . well, it helped, I guess. I mean, I loved him and it was . . .

SCHMIDT: Was he requesting that a homosexual be appointed?

PABICH: No, he was not. *(He stares at Schmidt, stunned.)*

(Lights change.)

MILK'S FRIEND: Well, he was gone and that couldn't change.

SCHMIDT: I have nothing further. Thank you.

MILK'S FRIEND: He'd never be here again, I knew that.

COURT: All right. Any redirect, Mr. Norman?

NORMAN: No. Thank you for coming, Mr. Pabich.

GWENN: It was as if Dan White had given the go-ahead. It was a free-for-all, a license to kill.

MILK'S FRIEND: I had this recurring dream. We were at the opera, Harvey and I.

(Pabich with Joanna Lu, TV lights.)

PABICH *(On camera)*: It's over. Already I can tell it's over. He asked me a question, a clear queer-baiting question, and the jury didn't bat an eye.

MILK'S FRIEND: I was laughing. Harvey was laughing.

PABICH *(On camera)*: Dan White's going to get away with murder.

LU *(On camera)*: Mr. Pabich . . .

MILK'S FRIEND: Then Harvey leant over and whispered: When you're watching *Jason*, you know you're alive. That's when I'd wake up.

(Pabich rushes out, upset.)

GWENN: I remember the moment I heard Harvey had been shot—
(She breaks down)

MILK'S FRIEND: And I'd realize—like for the first time all over again—he was dead.

(Blackout. Hyperrealistic sounds of high heels on marble, echoing, moving fast. Mumbled Hail Marys. Lights up slowly on Schmidt, Norman.)

SCHMIDT: From here I think the evidence will demonstrate that Dan White ran down to Denise's office, screamed at his aide to give him the key to her car.

And he left, went to a church, called his wife, went into St. Mary's Cathedral, prayed, and his wife got there, and he told her, the best he could, what he remembered he had done, and then they walked together to the Northern Police Station where he turned himself in; asked the officer to look after his wife, asked the officer to take possession of an Irish poster he was carrying . . .

(Screen: Cover of Iris book Ireland: A Terrible Beauty. Desolate, haunting.)

and then made a statement, what best he could recall had occurred.

(Lights. Falzon rises from his seat at prosecutor's table.)

FALZON: Why . . . I feel like hitting you in the fuckin' mouth. . . . How could you be so stupid? How?

WHITE: I . . . I want to tell you about it . . . I want to, to explain.

FALZON: Okay, if you want to talk to me, I'm gonna get my tape recorder and read you your rights and do it right.

NORMAN: The People at this time move the tape-recorded statement into evidence.

(Screen: "The Confession.")

FALZON: Today's date is Monday, November 27th, 1978. The time is presently 12:05. We're inside the Homicide Detail, Room 454, at the Hall of Justice. Present is Inspector Edward

Erdelatz, Inspector Frank Falzon and for the record, sir, your full name?

WHITE: Daniel James White.

(Lights.)

FALZON: Would you, normally in a situation like this, ah . . . we ask questions, I'm aware of your past history as a police officer and also as a San Francisco fireman. I would prefer. I'll let you do it in a narrative form as to what happened this morning if you can lead up to the events of the shooting and then backtrack as to why these events took place. (Looks at Erdelatz.)

WHITE: Well, it's just that I've been under an awful lot of pressure lately, financial pressure, because of my job situation, family pressure because of ah . . . not being able to have the time with my family. (Sobs.)

FALZON: Can you relate these pressures you've been under, Dan, at this time? Can you explain it to Inspector Erdelatz and myself?

WHITE: It's just that I wanted to serve

(Falzon nods.)

the people of San Francisco well and I did that. Then when the pressures got too great, I decided to leave. After I left, my family and friends offered their support and said, whatever it would take to allow me to go back into office—well, they would be willing to make that effort. And then it came out that Superintendent Milk and some others were working against me to get my seat back on the board. He didn't speak to me, he spoke to the city attorney but I was in the office and I heard the conversation.

I could see the game that was being played, they were going to use me as a scapegoat, whether I was a good supervisor or not, was not the point. This was a political opportunity and

they were going to degrade me and my family and the job that I had tried to do and, and more or less hang me out to dry. And I saw more and more evidence of this during the week when the papers reported that ah . . . someone else was going to be reappointed. The mayor told me he was going to call me before he made any decision, he never did that. I was troubled, the pressure, my family again, my, my son's out to a baby-sitter.

FALZON: Dan, can you tell Inspector Erdelatz and myself, what was your plan this morning? What did you have in mind?

WHITE: I didn't have any devised plan or anything, it's, I was leaving the house to talk, to see the mayor and I went downstairs, to, to make a phone call and I had my gun down there.

FALZON: Is this your police service revolver, Dan?

WHITE: This is the gun I had when I was a policeman. It's in my room and ah . . . I don't know, I just put it on. I, I don't know why I put it on, it's just . . .

FALZON: You went directly from your residence to the mayor's office this morning?

WHITE: Yes, my, my aide picked me up but she didn't have any idea ah . . . you know that I had a gun on me or, you know, and I went in to see him and, and he told me he wasn't going to, intending to tell me about it. Then ah . . . I got kind of fuzzy and then just my head didn't feel right and I, then he said: "Let's go into the, the back room and, and have a drink and talk about it."

FALZON: Was this before any threats on your part, Dan?

WHITE: I, I never made any threats.

FALZON: There were no threats at all?

WHITE: I, I . . . oh no.

FALZON: When were you, how, what was the conversation, can you explain to Inspector Erdelatz and myself the conversation that existed between the two of you at this time?

WHITE: It was pretty much just, you know, I asked, was I going to be reappointed. He said, no I am not, no you're not. And I

said, why, and he told me, it's a political decision and that's the end of it, and that's it.

RAIZON: Is this when you were having a drink in the back room?

WHITTE: No, no, it's before I went into the back room and then he could obviously see, see I was obviously distraught an' then he said, let's have a drink an' I, I'm not even a drinker, you know I don't, once in a while, but I'm not even a drinker. But I just kinda stumbled in the back and he was all, he was talking an' nothing was getting through to me. It was just like a roaring in my ears an' then em . . . if just came to me, you know, he . . .

RAIZON: You couldn't hear what he was saying, Dan?

WHITTE: Just small talk that, you know, it just wasn't registering. What I was going to do now, you know, and how this would affect my family, you know, an', an' just, just all the time knowing he's going to go out an', an' he to the press an', an' tell 'em, you know, that I, I wasn't a good superior and that people didn't want me an' then that was it. Then I, I just shot him, that was it, it was over.

RAIZON: What happened after you left there, Dan?

WHITTE: Well, I, I left his office by one of the back doors an', I was going down the stairs and then I saw Harvey Milk's side an' then it struck me about what Harvey had tried to do an' I said, well I'll go talk to him. He didn't know I had, I had heard his conversation and he was all smiles and stuff and I went in and, you know, I, I didn't agree with him on a lot of things, but I was always honest, you know, and here they were devious, I started to say you know how hard I worked for it and what it meant to me and my family an' then my reputation as a hard worker, good honest person and he just kind of smirked at me as if to say, too bad an' them, an' then, I just got all flushed an', an' hot, and I shot him.

RAIZON: This occurred inside your room, Dan?

WHITTE: Yeah, in my office, yeah.

RAIZON: And when you left there did you go back home?

WHITTE: No, no, no I drove to the, the Doggie Dinner on, on Van

Ness and I called my wife and she, she didn't know, she . . .

RAIZON: Did you tell her Dan?

(Sobbing)

WHITTE: I called up, I didn't tell her on the phone. I just said she was work . . . sec, she was working, son's at a baby-sitter, shit. I just told her to meet me at the cathedral.

RAIZON: St. Mary's?

(Sobbing)

WHITTE: She took a cab, yeah. She didn't know. She knew I'd been upset and I wasn't even talking to her at home because I just couldn't explain how I felt and she had no, nothing to blame about it, she was, she always has been great to me but it was, just the pressure hitting me an' just my head's all flushed and expected that my skull's going to crack. Then when she came to the church, I, I told her and she kind of slumped and she, she couldn't say anything.

RAIZON: How is she now do you, do you know is she, do you know where she is?

WHITTE: I don't know now. She, she came to Northern Station with me. She asked me not to do anything about myself, you know that she, she loved me and she'd stick by me and not to hurt myself.

RAIZON: Is there anything else you'd like to add at this time?

WHITTE: Just that I've been honest and worked hard, never cheated anybody or, you know, I'm not a crook or anything an' I wanted to do a good job, I'm trying to do a good job an' I saw this city as it's going, kind of downhill an' I was always just a lonely vote on the board and try to be honest an', an' I just couldn't take it anymore an' that's it.

RAIZON: Inspector Edelatz?

EDELATZ: Dan, right now are you under a doctor's care?

WHITTE: No.

EDELATZ: Are you under any medication at all?

WHITE: No.

ERDELATZ: When is the last time you had your gun with you prior to today?

WHITE: I guess it was a few months ago. I, I was afraid of some of the threats that were made an', I, I, just wanted to make sure to protect myself you know this, this city isn't safe you know and there's a lot of people running around an' well I don't have to tell you fellows, you guys know that.

ERDELATZ: When you left your home this morning Dan, was it your intention to confront the mayor, Supervisor Milk or anyone else with that gun?

WHITE: No, I, I, what I wanted to do was just, talk to him, you know, I, I ah, I didn't even know if I was going to be reappointed or not be reappointed. *Why do we do things, you know, why did I, I don't know. No, I, I just wanted to talk to him that's all an' at least have him be honest with me an' tell me why he was doing it, not because I was a bad supervisor or anything but, you know, I never killed anybody before. I never shot anybody . . .*

ERDELATZ: Why did . . .

WHITE: . . . I didn't even, I didn't even know if I wanted to kill him. I just shot him, I don't know.

ERDELATZ: What type of gun is that you were carrying Dan?

WHITE: It's a .38, a two-inch .38.

ERDELATZ: And do you know how many shots you fired?

WHITE: Uh . . . no I don't, I don't, I, I out of instinct when I, I reloaded the gun ah . . . you know, it's just the training I guess I had, you know.

ERDELATZ: Where did you reload?

WHITE: I reloaded in my office when, when I was I couldn't out in the hall.

(Pause.)

ERDELATZ: And how many bullets did you have with you?

WHITE: I, I, I don't know, I ah . . . the gun was loaded an', an', I

had some ah . . . extra shots you know, I just, I, 'cause, I kept the gun with, with a box of shells and just grabbed some.

ERDELATZ: Inspector Falzon?

FALZON: No questions. Is there anything you'd like to add, Dan, before we close this statement?

WHITE: Well it's just that, I never really intended to hurt anybody. It's just this past several months, it got to the point I couldn't take it and I never wanted the job for ego or, you know, perpetuate myself or anything like that. I was just trying to do a good job for the city.

FALZON: Inspector Edelatz and I ah . . . appreciate your cooperation and the truthfulness of your statement.

(Lights change. White sobbing. Mary Ann White sobbing, jurors sobbing. Falzon moved.)

NOVAK: I think that is all. You may examine.

COURT: Do you want to take a recess at this time?

SCHWARTZ: Why don't we take a brief recess?

COURT: Let me admonish you ladies and gentlemen of the jury, not to discuss this case among yourselves nor with anyone else, nor allow anyone to speak to you about the case, nor are you to form or express an opinion until the matter has been submitted to you.

(House lights up. Screen: "Recess.")

we heard of policemen and firemen sporting
 "Free Dan White" T-shirts
 as they raised a hundred thousand dollars for Dan
 White's defense fund,
 and the same message began appearing
 in spray paint on walls around the city.
 FREE DAN WHITE.

DOLESON:

I put my arm around him, told him that everything
 was going to be all right,
 but how everything was going to be all right,
 I don't know. (He is deeply moved)

(Mary Ann White sobs.)

CWENN: And the trial was still happening.

SCHMIDT (Deeply moved): Thank you. I have nothing further.

(Dolson sobs.)

CWENN: but the tears at the Hall of Justice are all for Dan White.

(All exit. Lights change. Freitas alone in empty courtroom,
 nervous, fidgeting.)

FREITAS:

I was voted out of office.

(Screen: "Joseph Freitas, Jr., Former D.A.")

Well, I'm out of politics and I don't know whether
 I'll get back into politics
 because it certainly did set back my personal as-
 pirations as a public figure dramatically,
 I don't know . . .

You know, there was an attempt to not allow our
 office to prosecute the case
 because I was close to Moscone myself.
 And we fought against that.
 I was confident— (Laughs)
 I chose Tom Norman because he was the senior
 homicide prosecutor
 for twenty years and he was quite successful at it.
 I don't know . . .

There was a great division in the city then, you know.
 The city was divided all during that period.

George was a liberal Democrat and Dick Hongisto.

I was considered a liberal Democrat

and George as you'll remember was elected

mayor over John Barbagelata who was the leader

of what was considered the right in town.

And it was a narrow victory.

So, after his election, Barbagelata persisted in
 attacking them

and keeping

I thought—

keeping the city divided.

It divided on emerging constituencies like

the gay constituency.

That's the one that was used to cause the most divisive
 emotions more than any other.

So the divisiveness in the city was there.

I mean that was the whole point of this political fight
 between Dan White

and Moscone and Milk:

The fight was over who controlled the city.

The right couldn't afford to lose Dan.

He was their swing vote on the Board of Supervisors.

He could block the Milk/Moscone agenda.
That was why Milk didn't want Dan White on the board.
So, it was political, the murders.

Maybe I should have,
again in hindsight, possibly Tom,
even though his attempts to do that may have been
ruled inadmissible,
possibly Tom should have been a little stronger in
that area.

But again, at the time . . . I mean,
even the press was shocked at the outcome . . .

But—
Well, I think that what the jury had already bought
was White's background—

Now that's what was really on trial.
Dan White sat there and waved his little American flag
and they acquitted him.

They convicted George and Harvey.
Now if this had been a poor black or a poor Chicano
or a poor white janitor who'd been fired,
or the husband of an alleged girlfriend of Moscone's
I don't think they would have bought the diminished
capacity defense.

But whereas they have a guy who was a member of a
county Board of Supervisors who left the police
department,
who had served in the Army, who was a fireman,
who played baseball—

I think that's what they were caught up in—
that kind of person must have been crazy to do this.
I would have interpreted it differently.
Not to be held to a higher standard, but with . . .
that he had all the tools to be responsible.

One of the things people said was:
"Why didn't you talk more about George's
background, his family life, etc.?"

Well . . .
One of the reasons is that Tom Norman did know that,
had he opened up that area,
they were prepared,

yeah—
they were prepared to smear George—
bring up the incident in Sacramento.

With the woman—
(And other things.)

It would be at best a wash.

so why get into it?
If you know they're going to bring out things
that aren't positive.

We wanted to let the city heal. We—

And after Jonestown . . .

Well—it would have been the
city on trial.

If the jury had stuck to the facts alone,
I mean, the confusion alone was enough to convict
him . . .

I mean, look at this kid that shot Reagan,
it was the same thing. All the way through that,
they said, my friends—

"Well, Christ, look at what the prosecutors went
through on this one, Joe—"

It's tragic that this has to be the kind of experience
that will make you feel better.

And then about White being angry
well . . .

White inside himself may have been angry, but
that Milk was his target . . .

As I say—*Malice was there.*
Milk led the fight to keep White off the board,
which makes the murder all the more rational.
I know the gay community thinks the murder was
antigay:
political in that sense. But
I think, they're wrong.

Ya know, some people—in the gay community—
ah—even said I threw the trial.
Before this, I was considered a great friend
to the gay community.
Why would I want to throw the trial,
this trial—
in an election year?

Oh, there were accusations you wouldn't believe . . .

At the trial, a woman . . . it may have been one of the
jurors—

I can't remember . . .

Actually said—

"But what would Mary Ann White do without her
husband?"

And I remember my outrage.

She never thought,

"What will Gina Moscome do without George?"

I must tell you that it's hard for me to talk about a lot
of these things,
all of this is just the—just
the tip of the iceberg . . .

We thought—Tommy and I—Tom Norman and I—
We thought it was an open and shut case
of first-degree murder.