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Huey P. Newton entering court in Oakland, Calif., yesterday

## Huey Newton Defense to Assert A Key Witness Was Real Killer

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OAKLAND, Calif., March 12 — An alibi buttressed by identification of the "real killer" unfolded in court today as Huey P. Newton's defense to the charge that he shot and killed a 17-year-old prostitute who was working her street corner.

In his opening statement, Michael Kennedy, the New York lawyer defending Mr. Newton, disclosed the defense of the founder of the Black Panther Party to a murder charge in Alameda County Superior Court.

A bodyguard for Mr. Newton testified later that he saw Charles Buie shoot the prostitute. Mr. Buie, 25 years old, testified last week as a prosecution witness, under Federal protection. Mr. Newton is also scheduled to testify.

Mr. Buie said that about 1 A.M. on Aug. 6, 1974, at an Oakland corner where he was selling marijuana to prostitutes, he saw a Lincoln Continental with two men in it, both black. One of them summoned one of the prostitutes, but they would not go to the car, he said.

Mr. Garry said he would have no comment on the testimony because it involved attorney-client privilege. Mr. Garry represented Mr. Newton from 1968 until Mr. Newton jumped bail and fled to Cuba in 1974 after the murder of the prostitute.

Mr. Newton returned home in July 1977. He was tried and acquitted last fall of assault charges involving the pistol-whipping of a tailor. Mr. Newton was convicted of a companion charge of being a former convict in possession of a gun and was sentenced to two years. He has appealed.

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Then, Mr. Buie testified, he recognized Mr. Newton, whom he knew slightly, leaving the car to walk over to Kathleen Smith, 17, one of the women on the corner. They quarreled, he said, and then Mr. Newton drew a silver-colored gun and shot Miss Smith in the face.

Another prosecution witness was Michelle Jenkins, 20, who had been at the same corner. She said she had seen Mr. Newton get out of the car and confront Miss Smith after the women refused to go to the car. She said that her pimp had warned her to stay away from big cars with black men in them because the men probably were competing pimps.

Miss Jenkins said she, too, knew Mr. Newton and that she heard him say to Miss Smith, "Don't you know who you're talking to and who I am?" Miss Jenkins also said she had seen Mr. Newton shoot Miss Smith.

Larry Henson, a member of the Panther security squad since 1973, took the stand today to swear that he saw Mr. Buie shoot Miss Smith. Mr. Henson said that he was introduced to Mr. Buie earlier that night by Robert Heard, another security squad member. They offered Mr. Buie a ride, Mr. Henson said, and took him to the intersection he specified.

Mr. Henson said he saw Mr. Buie walk away from the car toward a woman on the corner, pull a gun and shoot her, then wheel and return to the car. But, said Mr. Henson, he and Mr. Heard drove away.

Mr. Heard presumably is not available as a witness because he disappeared after he and Mr. Newton were involved in tavern fight near Santa Cruz last year. Mr. Newton's charges were dropped, but those against Mr. Heard are pending.

The alibi witness who testified today is Donald Freed, a Los Angeles writer who is associated with Mark Lane in the Committee of Inquiry, a organization of persons interested in conspiracy theories involving assassinations. Mr. Freed is the author of "Executive Action," a novel patterned on the assassination of President Kennedy that became a movie.

Mr. Freed testified that on the night when Miss Smith was killed, he was with Mr. Newton all night in Mr. Newton's apartment where they worked on the manuscript of "Jesus, the Son of God," for Radical Religion, a Berkeley quarterly. Other sources said the article also was Mr. Newton's master's thesis at the University of California at Santa Cruz, where he is a graduate student in the history of consciousness program.

Pressed to say why he had not spoken out earlier, Mr. Freed said that he told Charles R. Garry, a San Francisco lawyer who formerly represented Mr. Newton, and that Mr. Garry had told him to keep quiet.