

(Second of Two Parts)

# Who Killed Malcolm X?

Two Men Have Spent 13 Years in Prison for a Crime They May Have Not Committed

BY ALAN BERGER

Wide World

Malcolm was assassinated eight days after he returned from a disquieting trip to Europe where he had been invited to speak in Paris before the Congress of American students but was barred by the French government at Orly Airport as an "undesirable person." He landed at Kennedy International on Sunday afternoon, February 13. At 2:45 the following morning, while he, his wife and four children were sleeping in their home in East Elmhurst, Queens, four fire bombs were thrown through the windows of the house. The house was destroyed, but Malcolm and his wife managed to get the four children out into the back yard.

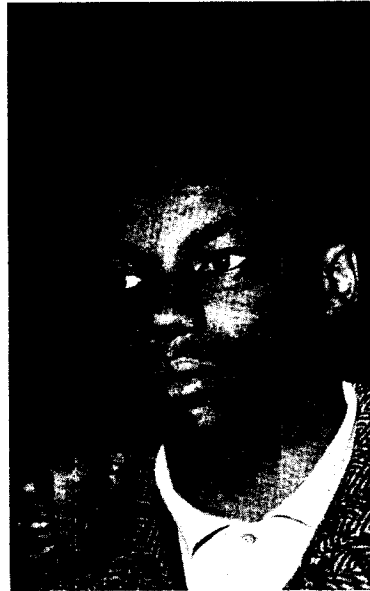
Afterward police officers suggested to reporters, off the record, that Malcolm had set fire to the house to procure publicity for himself. The police even produced a liquor bottle filled with gasoline, which they said they had found on a dresser in the room belonging to Malcolm's youngest child. A Muslim spokesperson echoed the police claim that Malcolm caused the fire himself, for publicity.

Commenting on this episode, Ella Collins, his half-sister, said, "When they planted the gasoline I knew it was no longer the Muslims. Only the police could have planted it, because as the fire died down, neighbors went into the house to get some clothes for the children from their rooms, what hadn't been burned. And none of them saw this bottle of gasoline when they took things from the baby's dresser. And then the police bomb squad arrived and took over the house, and then they produced the gasoline."

At a press conference on Wednesday of that week, Malcolm declared that an official of the Fire Department admitted to him that the gasoline container had been planted on his child's dresser. "Fire Marshal [Malcolm names the man] met me at the airport later and said that yes, it had been planted there."

In the days immediately following the assassination, a Boston member of the

*Alan Berger writes frequently for Seven Days. Portions of this article originally appeared in Boston's The Real Paper. Copyright, 1978, The Real Paper, Inc.*



Norman 3X Butler has spent 12 years in jail for shooting Malcolm X, a crime he may not have committed.

OAAU, Leon Ameer, traveled to New York to meet with other friends and followers of Malcolm. Ameer had been approached by Muslim brothers to participate in an attempt on Malcolm's life and had told Malcolm about the plot. "If my life is worth three cents," Malcolm said, "Leon's is worth two cents."

On Christmas day, 1964, Ameer had been stomped and beaten so badly in his hotel room in the Sherry Biltmore in Boston, that he lay in a coma for three days. A rib was broken, his face was battered, and both his eardrums were ruptured. Though he never identified the men who beat him, he was sure they were Muslims.

When Leon Ameer returned to Boston after Malcolm's funeral, he told a Socialist Workers Party forum that he had information about who really killed Malcolm, and he implied that the killers were not Muslims, but "the power structure."

In an interview with F.B.I. agents, however, he said something quite different. Ameer told the agents that some of the brothers who'd been at the Audubon, but

who were not cooperating with the police, had recognized the man firing the shotgun as a lieutenant in the Muslim mosque in Newark.

The agents filed a report which concluded that Ameer could not make a reliable witness and was "a liar." They said he spoke with "equanimity" about the certainty of his own death.

The day after he addressed the Socialist Workers Forum, Leon Ameer was found dead in his hotel room. The coroner's report said he had died of an epileptic seizure. His wife of eleven years said Ameer had never been epileptic.

Whatever — or whoever — caused the death of Leon Ameer in Boston, the effect of his death on other aides to Malcolm was flight and silence. Earl Grant, the person who possessed most of Malcolm's tapes and files, fled to Ghana. Presumably, he took the tapes and files with him. Malcolm's second-in-command in the OAAU, James Shabazz, disappeared. And Malcolm's secretary, Reuben Francis, who was indicted for firing the bullet found in the leg of convicted assassin Thomas Hagan, jumped bail. Francis was taken into custody by the F.B.I. eight months later, but he never appeared to testify in the trial, even though his testimony might very well have been crucial.

Attorney William Kunstler was brought into the case this winter and convinced to move for a retrial by Thomas Hagan, the fleeing gunman whom Reuben Francis allegedly shot in the leg. At his trial Hagan eventually confessed to his role in the killing. But for several days after the killing the New York police found themselves in an uncomfortable position. Newspaper reports spoke of four accomplices who were still at large. Eyewitness accounts had reported three or four gunmen firing at Malcolm. But the police were holding only one suspect for a crime committed by four or five men. The position of the police became less uncomfortable ten days later when, after what was termed an "intensive investigation," they arrested two Black Muslim enforcers associated with Muslim Mosque #7 in Harlem, Thomas (15X) Johnson and Norman (3X) Butler. Johnson and Butler had been arrested two months before for shooting one Benjamin Brown, a Muslim defector. They had both

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Matt Herron/Black Star

been free on bail and had assault charges pending against them for the nonfatal shooting.

The police made up a list of about 30 suspects, all Muslim enforcers. A Detective Kilroy remembered the Brown shooting and concluded that since Brown and Malcolm were both Muslim renegades, the cases were similar. Butler and Johnson were moved to the head of the suspect list, even though there was no eyewitness identification connecting them to Hagan and no physical evidence placing them at the Audubon Ballroom. Hagan, Butler and Johnson were all indicted for criminal conspiracy to murder Malcolm X. It must be noted that Detective Kilroy had vivid recollection of Butler, who had dented his metal facemask with a karate chop when Kilroy arrested Butler for the Brown shooting.

Since there was no direct evidence linking Butler and Johnson with the crime, the police were sorely in need of witnesses who could make a positive identification. The first one who did so was Ronald Timberlake, whom Kunstler suspects was an F.B.I. informer. Timberlake testified that at the time of the shooting, he threw a body block at a fleeing gunman (Butler) and then recovered the gun he had dropped. Timberlake did recover a gun, but it was Hagan's .45, and he illegally took the weapon home, broke it down and then contacted, or was contacted by, the F.B.I., which had no jurisdiction over the case.

The night after Malcolm was assassinated, Muslim Mosque #7 was set on fire, presumably in retaliation. No one was ever prosecuted, but the police had a good idea who did it, and have implied that they used the information to pressure witnesses in Malcolm's camp into cooperating with the D.A. The most important witnesses to cooperate was Cary Thomas, one of Malcolm's bodyguards. Thomas told one story to the grand jury and, a year later, told another that contradicted the first at several key points.

The D.A. produced other witnesses who identified Butler, Johnson, or both, but all told confusing, contradictory stories, despite the appearance of having been carefully coached.

Far more damaging to the prosecution's version of the murder than the doubtful credibility of its witnesses, however, was the unexpected decision of Thomas Hagan, midway through the trial, to confess. Not only did Hagan admit that he had been one of the killers, but he also stated that Johnson and Butler were innocent. "I just want the truth to be known,"



Malcolm X, lying in state after his assassination.

Hagan told the court, "that Butler and Johnson didn't have anything to do with this crime. Because I was there. I know what happened and I know the people who were there."

The *New York Times* of March 1, 1966, reported that Hagan "said he had three accomplices, but he declined to name them. He said he had been approached early in the month of the murder and offered money for the job, but he declined to say by whom. . . . One thing he did know, he said, was that no one involved in the murder was a Black Muslim."

But now, a dozen years later, Thomas Hagan has offered to give those names in court and to tell everything he knows about the assassination.

Kunstler says that Hagan has been in contact with a Muslim minister in prison for some time, that he is "a very religious man" and that he is trying now, possibly at the risk of his life, to exonerate Johnson and Butler "because he feels bad about it. Two guys—he says innocent men—are serving life terms, and he's had eleven years to think it over. He's still a very

cautious man, but he's a strong reed at this moment and we hope to use him."

Hagan is now in protective custody.

Besides Hagan's affidavit, the second example of crucial new evidence in the case is a transcript from another trial, which Kunstler has submitted to the court. In 1970, thirteen members of the New York chapter of the Black Panthers were tried in New York for conspiring to blow up Macy's department store and other prominent targets. A key witness against the accused Panthers in that trial was a police undercover agent named Gene Roberts, who had infiltrated the Panthers in New York. The attorneys for the Panthers had been tipped off by somebody that Gene Roberts had been a member of Malcolm's Organization of Afro-American Unity. Defense attorney Gerald Lefcourt asked Roberts about his connection to Malcolm and, as Kunstler says, "The judge let him go a little ways with it."

Kunstler relates that under cross-examination Gene Roberts "admitted that he had been the mysterious 'Brother Gene' on the stage of the Audubon Ballroom who was one of Malcolm's security guards, and who attempted to give Malcolm mouth-to-mouth resuscitation after he was shot, and that he had never been called at the murder trial, even though he had a very powerful story to tell. It was he who knocked down Hagan with a chair as Hagan was running out of the Audubon Ballroom, thus making it possible for the people outside to catch up with him. This was his role: he chased him down the center aisle, he saw everything that happened, he could be, very possibly, an exonerating witness for our defendants. His name was suppressed, he was never brought to the stand by the prosecution, his identity was never told to the defense—even though they requested it on numerous occasions."

According to Kunstler, the Roberts transcript is a crucial ground for retrial because "Roberts' testimony at the Panther trial would have very much buttressed the defense contention that the police set the thing up—first of all by withdrawing all security from the ballroom. You know, there were only two cops and they were next door, in the Rose Room. And they were told not to come out."

The absence of uniformed police on February 21 was remarked on by many people who attended Malcolm's talks. At previous meetings at the Audubon Ballroom there was a large contingent of uniformed police, assigned to protect Malcolm and also to prevent fights between his people and the followers of Elijah Mu-

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hammad. After the murder, Deputy Police Commissioner Walter Arm explained the unusual absence of uniformed police by claiming that protection had been offered Malcolm, but that he had refused it. Alex Haley, in his epilogue to Malcolm's autobiography, writes that "Deputy Police Commissioner Walter Arm's statement that Malcolm refused police protection conflicts directly with the statements of many of his associates that during the week preceding his assassination Malcolm X complained repeatedly that the police would not take his requests for protection seriously. Finally, although police sources said that a special detail of 20 men had been assigned to the meeting and that it had even been attended by agents of the Bureau of Special Services, these men were nowhere in evidence during or after the assassination. . . ."

Years later, author Peter Goldman (*The Life and Death of Malcolm X*) was told by police sources that B.O.S.S., on the basis of intelligence coming from its informers, had determined that a new attempt on Malcolm's life was imminent. If this is so, and if B.O.S.S. agents in plain clothes were present at the time of the killing, it is a disturbing fact that they did nothing to intervene. The suspicion is unavoidable that they were there to witness an event they had good reason to foresee.

I was present in the courtroom myself, in 1966, when Patrolman Gilbert Henry, one of the two uniformed policemen stationed in the nearby Rose Room, testified. It was the same day that Betty Shabazz, Malcolm's widow, testified. Henry told the court that he had been ordered to stay hidden and to communicate by walkie-talkie with another officer stationed in the emergency room of the Columbia Presbyterian Hospital across the street "if anything happened." (It must be noted that one of Malcolm's aides telephoned the hospital immediately after the shooting, and after 15 minutes no ambulance had yet arrived. Followers ran across the street, secured a stretcher, came back, put Malcolm on the stretcher and carried him across Broadway to the emergency room.)

Kunstler stressed how ominous the absence of security was by pointing out that even "our friend, Gene Roberts, testified at the Panther trial that he was very much shocked that they had withdrawn all security—particularly since Malcolm's house had been bombed the week before."

There is also evidence that the police in New York knew, despite their claims to the contrary, that Malcolm would be the target of a murder conspiracy. The day

after the assassination, Sergeant Edward McClellan of Chicago's police subversion unit stated at a press conference "that Malcolm said December 31 that he feared he was being stalked for death here [in Chicago] and the New York Police were alerted."

Another report in the *New York Journal-American* of Feb. 22, the day after the assassination, said that "according to police spokesmen, the department knew in mid-January that an attempt was to be made on Malcolm's life."

Kunstler was explicit about the significance of any F.B.I. involvement. "I checked back in the Church Committee report," he said, "and, you know, that Malcolm—or at least the Nation of Islam and Elijah—were designated primary COINTELPRO [the F.B.I.'s Counter-Intelligence Program] targets. And one of the main bulwarks of COINTELPRO was to set one group against the other. And this kind of thing involved, as Senator Church testified, a great risk of bodily harm in many cases—vis-a-vis the Panthers and US [Ron Karenga's group], and Malcolm's followers and those of the Nation of Islam."

There are a great many important questions yet to be answered concerning the assassination of Malcolm X. Only in the framework of a new trial can it be determined who acted with Hagan and whom they were acting for. If there is a new trial, then we can expect to hear a case for the defense that will attempt to show that American law enforcement or intelligence agencies had foreknowledge of and, at least by omission, abetted the act.

We already know that Malcolm was not poisoned in Cairo by Muslims, nor turned away from Orly by Elijah Muhammad. We already know that Malcolm's phone was tapped and he was followed by government agents. We already know that several agents had infiltrated his organization and were even among his bodyguards. We already know that the New York Police planted a bottle of gasoline on his child's dresser, withdrew normal security from the Audubon Ballroom the day they may have known he was to be murdered, watched the shooting and the murderers' escape in plainclothes without acting to intervene and stationed Patrolman Gilbert Henry in the Rose Room with his walkie-talkie. We already know that law enforcement agencies "suppressed" Gene Roberts and Reuben Francis, used Ronald Timberlake and manipulated witnesses.

If there is a new trial for Johnson and Butler, defense attorney Kunstler will

then be able to have subpoenas served to potentially important witnesses, compelling them to testify—witnesses such as undercover agent Gene Roberts, Reuben Francis and Ronald Timberlake. He will also be able to subpoena pertinent material evidence. Both Alex Haley, in his epilogue to *The Autobiography of Malcolm X*, and reporter Peter Kihss, in the *New York Times* of February 25, 1965, have alluded to the existence of motion pictures taken inside the ballroom at the time of the killing. According to the *Times* article, "The police were in possession of motion pictures that had been taken at the Audubon Ballroom . . . where the killing took place." No such film was ever produced at the original trial. If there was such a film, and if it still exists today, the showing of it to a jury might resolve some of the disturbing questions of guilt and innocence still surrounding the murder of Malcolm X and might revise the official, legal verdict on the case that has prevailed for a dozen years now.

One provocative implication of Kunstler's statements about apparent F.B.I. involvement in the case is the possibility that undercover agents, having infiltrated Malcolm's OAAU as well as the Nation of Islam, provoked the feud between the two groups. Recent Senate investigations and documents released under the Freedom of Information Act have confirmed that such procedures were a common practice of COINTELPRO. Thus, even if the Black Muslims did seek to assassinate Malcolm, they might have done so at the instigation of police, or federal agents fulfilling their role as agent provocateurs in a program aimed at "neutralizing" individuals and organizations judged by certain high government authorities to be threats to national security.

In the last days before his murder Malcolm sensed that powerful forces were closing in on him, and the feeling made him uncharacteristically fatalistic. Two days before he died he told the famous photographer Gordon Parks: "It's a time for martyrs now, and if I'm to be one, it will be in the cause of brotherhood. That's the only thing that can save this country. I've learned it the hard way—but I've learned it. . . ."

Despite his mounting fatalism, he considered leaving America for a while, for his own protection. There was talk of a flight to Africa on Tuesday, February 23, two days after the last meeting at the Audubon Ballroom. The instinct for survival that Malcolm had had to cultivate and refine living on the streets of Boston and New York almost saved him. □