

Hypnosis Yielded Clue

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In Death Of Lucier

By RONALD J. LAWRENCE
Of the Post-Dispatch Staff

SECOND OF A SERIES

Investigators seeking clues to the killer of Phillip J. Lucier on July 24, 1970, turned to hypnosis a few months later in an attempt to identify the man who placed a bomb in the Clayton telephone company executive's car.

They did not know about the swindle of a New Orleans gambling racketeer, Santo J. DiFatta, by three St. Louisans or their fear that the bomb was meant for them or their attorney.

For years, authorities groped for a credible motive. They did not know that DiFatta had been making threats for the return of \$200,000 at the time of the bombing. They did not have the information that now leads them to conclude that Lucier was a victim of mistaken identity.

But on the day of the bombing, investigators did have an eyewitness, an unusual factor in a killing of this kind. There was, however, no way of knowing

that DiFatta was the man the eyewitness has since positively identified.

DiFatta says that although he now is the prime suspect in the death of Lucier, he knows nothing of the events of July 24, 1970. He did say, however, in an interview with the Post-Dispatch in New Orleans, that he was angry at being swindled and wanted "to get a gun and go up there (to St. Louis) and kill those three guys."

A strange set of circumstances gave authorities the eyewitness in the parking lot of the Pierre Laclède Center, and an even stranger set placed Lucier there on July 24, 1970.

Shortly before noon that day, Lucier and two associates in Continental Telephone Co. in Clayton decided on the spur of the moment to have lunch at the St. Louis Club in the nearby Pierre Laclède Center at 7701 Forsyth Boulevard.

Lucier was unaware, of course, that two of the swindlers had offices in the Pierre Laclède, as did Theodore F. Schwartz, the swindlers' attorney and representative in several meetings with DiFatta.

Nor was Lucier aware that his black Cadillac was similar in many respects to Schwartz's black Lincoln Continental. Both were equipped with mobile telephone antennas and both had four digit license numbers.

Nor did Lucier know that Schwartz parked everyday in the same space on the lot and rarely left in his car for lunch. But this day was different.

At 12:13 p.m., Lucier drove into the Pierre Laclède lot. It was full. He noticed Schwartz about to back his car out of its slot and pulled back to wait.

"I waved because we had met before," Schwartz recalled later.

When Schwartz left, Lucier pulled into the space and Lucier and his two associates went in the building to lunch.

About 25 minutes later, an out-of-town businessman drove into the crowded lot and noticed that the driver of a black Cadillac appeared to be ready to leave. The businessman waited.

"I saw a man in the driver's seat," he recalled. "The door of the car was open slightly and the man's foot was outside. After a few minutes, I guessed the man was waiting for someone. Then he looked back (at me) for a glance, pulled his feet inside, shut the door and sat there."

The businessman parked in another space. He walked past the Cadillac on his way to have lunch in the Pierre Laclède building. The man still was inside the car.

"It never occurred to me to look

closer; there was nothing suspicious," the businessman said. (Later, he recalled that the man in the Cadillac could have been working with something under the dashboard.)

In the restaurant, the businessman heard that there had been an explosion, and went to the parking lot. As soon as he saw Lucier being removed from the shattered automobile, he realized that

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the boy was not that of a man he had seen inside the car a short time earlier.

A bomb had been connected to a fuse box under the dashboard, police said.

The witness went to police immediately. He furnished a general description of the man he had seen in the car, but said he doubted whether he could positively identify him because there had been no reason to scrutinize him closely.

Meanwhile, a Chesterfield financial consultant, one of the men who had swindled DiFatta, returned to his office in the Pierre Laclède Building. Five years later, he told authorities that on the afternoon Lucier had been killed he had received a telephone call from DiFatta. DiFatta told him that the bomb had been meant for someone involved in the swindle and demanded the return of his \$250,000 — \$150,000 in cash and \$100,000 in collateral notes, the financial consultant said.

The consultant, a University City accountant and St. Louis insurance man Benjamin D. Feinstein of Rock Hill were principal figures in the swindle. Feinstein refused to discuss his role. The financial consultant and the accountant both agreed to co-operate with the Post-Dispatch if they were granted anonymity. Both expressed concern for their safety.

After the bombing the latter two men and Schwartz, their attorney, armed themselves and had burglar alarms installed in their cars. Schwartz recalled that someone had tried to break into his car a short time before the bombing as it stood in the driveway of his University City home. He had his car "hot-wired," so that if an explosive device was attached to the wiring it would explode immediately.

Forty-eight hours after the bombing, the accountant and the financial consultant sought out Howard Kennedy, an agent for the Federal Bureau of Investigation. At a secret meeting in Forest Park, they told him they were certain the bomb had been meant for them or for Schwartz. They told Kennedy that they had swindled DiFatta out of \$250,000 and that he was making threats for the return of his money.

The FBI denied Saturday that there had been such a meeting. An FBI spokesman said that the swindlers did convey some vague information many months later.

They said they had promised DiFatta

Orleans that DiFatta had planned. As a finder's fee, DiFatta in May 1970 had given them \$150,000 in cash and \$110,000 in notes. The swindlers never meant to furnish any financial backing. The loan commitments were from Tangible Risk Insurance Co., Ltd., of Montreal, a fictitious firm with a one-room office and no supervising staff.

The swindlers were not the only person who had planned. An investigation has shown that Anthony Giordano, head of the Mafia in St. Louis, became concerned about the direction taken initially in the Lucier investigation. (After the bombing, some investigators speculated that organized crime might have been attempting to use Lucier's company for an illegal racing wire service and that Lucier had been killed when he resisted. This idea has since been discounted.)

Giordano, the Post-Dispatch has been told, got in touch with Carlos Marcello, New Orleans Mafia chieftain, shortly after the bombing and told him to use his influence to prevent further violence here. Giordano reportedly said that there was "too much heat already."

For the first few weeks after the bombing, DiFatta pressed just as strongly for the return of his money. On July 7, three days after Lucier's death, the accountant and the financial consultant returned the \$110,000 in collateral notes to DiFatta at a meeting here in an attempt to appease him.

DiFatta told the Post-Dispatch that he was in St. Louis on that day, but that his attorney, George W. Gill Jr., would not permit him to attend the meeting at which the notes were returned. The accountant told the Post-Dispatch that at this meeting, "DiFatta indicated that the same thing could happen to you."

DiFatta told the Post-Dispatch that sometime in August he retained Pinkerton's, Inc., here. "Something in my mind told me to take a detective along. To play it safe. With those guys (the swindlers) you do not know whom you're dealing with. I had heard they would say 'I threatened them.'"

On Aug. 20, 1970, DiFatta, a Pinkerton agent and DiFatta's new attorney, David Levy, met with the two swindlers, attorney Schwartz and a Tampa, Fla., lawyer, Henry Gonzales.

Levy read a statement in which he demanded DiFatta's \$150,000 in cash within six hours. The statement read in part:

"Mr. DiFatta has a wife and children. Your retaining of Mr. DiFatta's money without just cause is hurting not only Mr. DiFatta, but his wife and children. Mr. DiFatta does not like to see his family hurt, so I am sure you would not like to see your family hurt, if you have any.

"Therefore, in order that you rectify this unpleasant situation, demand is hereby made upon you for full payment of \$150,000 within six hours ... Are you at this time prepared to pay \$150,000?"

The swindlers were not prepared to

repay the \$150,000. They could not, because they did not have it. Most of it had been given to the mastermind of the swindle, Phillip M. Wilson, who had told them that he would not return the money.

Wilson, a former St. Louisian who has been described by his associates as "brilliant," created a number of phony businesses, including the fictitious Bank of Sark on the Island of Sark in the English Channel. Many of his schemes involved receiving large fees for obtaining loans that he never produced. He now is serving a 12-year prison sentence.

The financial consultant told the Post-Dispatch that after that meeting with DiFatta he had expressed concern about DiFatta's threats in a conversation with a contact who was in St. Louis to represent a member of the Mafia. The consultant said he had told Gonzales he was concerned about possible underworld implications.

Henry left the room and made a telephone call. The consultant told a reporter, "He came back and said, 'You don't have a problem with the family (Mafia)?' He either used a credit card or made a local call because there were no long distance calls on my telephone bill."

After the meeting at which the letter was read, DiFatta went to see then United States Attorney Donald Bartlett Jr. Bartlett said that DiFatta wanted his office to help.

"He was mad as hell," Bartlett told the Post-Dispatch. "We told him we're not a collection agency. When I heard what he did in New Orleans, a red flag went up. He wanted us to throw our weight around to try to get his money back, but he would not have made a very credible witness in view of his background in New Orleans."

Kenneth R. Heiseman, then an assistant U.S. attorney and now in private law practice, was at the meeting with Bartlett and DiFatta. He told a reporter that

tors in 1975 that someone had made a remark at the meeting that if action were not taken in the DiFatta swindle "we will take care of it ourselves."

Bartlett and Heiseman, knowing nothing about the information given to the FBI by the two swindlers, made no connection between DiFatta and the Lucier killing.

Two months later, in October, as investigators were searching for a lead, it was decided to place the only witness under hypnosis by a medical doctor. The doctor, a specialist in memory recall, said that whatever is seen is recorded in the subconscious mind permanently and that hypnosis can dredge up any memory.

Under hypnosis, the witness was able

to recall in detail the physical description of the man he saw in Lucier's car. A few days later, he participated when a composite drawing was made by a Chicago police specialist, based on the information the witness had given under hypnosis. But the drawing did not lead to identification of a possible suspect.

The investigation of Lucier's death ground to a standstill and DiFatta's efforts to collect his money virtually ceased until May 23, 1971, when he made what he described to the Post-Dispatch as a "terrible mistake."

He communicated with Pershing Gervais, an investigator for New Orleans District Attorney Jim Garrison, asking that Garrison extradite the swindlers to New Orleans. "I thought with this kind of pressure I could get my money back," DiFatta told a reporter.

Unknown to DiFatta, Gervais was an undercover informant for the Government, which was about to prosecute Garrison and several police officials on charges of accepting bribes to protect gambling. The conversation between DiFatta and Gervais was recorded and a transcript later was introduced into court.

A short time later, DiFatta was indicted



SANTO J. DIFATTA (right), a suspect in the Phillip J. Lucier killing, leaving his home in New Orleans last week. Above is a composite drawing made on the basis of a description by an eyewitness.

Under hypnosis, the witness was able

ed by a federal grand jury in New Orleans on charges of interstate racketeering in connection with his New Orleans pinball machine operation. He pleaded guilty and was placed on two years' probation.

In 1973, at Garrison's trial, DiFatta testified as a government witness that he had paid protection money of \$100 a week for two years until 1969 to be tipped off about pinball machine raids.

But still no connection with the Lucier killing surfaced in St. Louis.

Five years later, in 1978, the Bureau of Alcohol, Tax and Firearms, which investigates bombings, and the federal Organized Crime Strike Force, decided to review all unsolved bombings in St. Louis. During this review, a source told the Post-Dispatch, information was revealed that DiFatta had been swindled and that two of the swindlers and Schwartz, their lawyer, had offices in the Pierre Laclède Building.

At that point, interviewing the swindlers was a routine inquiry. But when investigators talked to the accountant and the financial consultant they found that the two had related the information on DiFatta and their fears to the FBI five years earlier at the secret meeting in Forest Park.

The case was reopened although it was almost too late for federal prosecution on a bombing charge; the federal statute of limitations for that offense is five years.

In September 1978, the original witness was shown eight photographs, including DiFatta's. He immediately picked out DiFatta as "very strongly resembling" the person he had seen in Lucier's car.

On Oct. 2, 1978, the witness was brought to a federal grand jury witness room. There were numerous men there, including DiFatta, who by then was the only suspect in the killing. The witness had not been told DiFatta's name.

After a few minutes, the witness left the room and told authorities that DiFatta had been the man in the car. "There was no doubt in his mind as to this identification," a source said.

The identification was made despite a change in DiFatta's appearance.

REG. DAY: Why the FBI kept the witness's information to itself.

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