

A media blackout for Chesimard jurors

By LAWRENCE NAGY

Special precautions to insure the 15 sequestered jurors in the Joanne Chesimard murder trial do not hear of the seizure of three buildings in Washington, D.C., by members of the Hanafi Muslim sect have been taken to avoid possible prejudice against the defendant, a professed Muslim.

Chesimard's chief defense counsel, William Kunstler, told Superior Court Judge Theodore Appleby yesterday the 29-year-old defendant's lawyers were "concerned with all the headlines coming from Washington, D.C., which have been emphasizing 'Muslim.'"

As soon as Middlesex County authorities received word of the terrorist siege in Washington on Wednesday, they anticipated it would receive prominent exposure in the news media, Appleby said. He said television sets and radios were immediately removed from the motel where the sequestered jurors have been housed since Feb. 15.

Chesimard, who prefers to be known as Assata Shakur, is on trial in New Brunswick for the murder of Trooper Werner Foerster and the wounding of Trooper James Harper in a May 2, 1973, gunbattle on the Turnpike.

Kunstler questioned whether the jurors might have learned of the terrorist siege either by passing newsstands in the motel or by watching television programs that were interrupted by news bulletins.

Claiming that knowledge of the Washington hostage situation by the jurors could have a "catastrophic effect" on the trial, Kunstler urged Appleby to question the jurors on whether they had received any exposure to news reports.

"The defendant here is a Sunni Muslim, not a Hanafi Muslim, but I don't think those differences would have much weight," Kunstler said. "The word, 'Muslim,' is the paramount word everyone sees automatically."

"They've had no contact with it," Appleby asserted.

The judge said he consulted with Middlesex County Undersheriff Stanley Marcinczyk, who assured him the all-white jury was not tainted with any knowledge of the hostage situation.

"He was keen enough to anticipate

this and take all possible steps," Appleby said.

Prosecutors offered testimony yesterday from a ballistics expert — who was originally retained by the defense — that strengthened Trooper Harper's claim that Chesimard fired the shot that struck him and touched off the gunbattle in which Foerster and James Costan, one of Chesimard's companions, were killed.

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Herbert McDonell, an independent ballistics expert and a professor of forensic science at Elmira College in New York, testified a bullet hole in the driver's side roof of the Pontiac in which Chesimard was riding indicated a trajectory line leading to the floor just forward of the front passenger seat. He placed a knitting needle in a small plastic model of a car to display the trajectory line.

Assistant Prosecutor Kenneth Hense set up the scenario of the shootout as it was related previously by Harper. The trooper was leaning into the Pontiac by the open driver's door with Chesimard in the front passenger seat and Costan in the right rear passenger seat, he said.

"In a split second, things evolve. The trooper begins to withdraw. He hears a shot and he feels his shoulder hit. In your expert opinion, who of those two passengers in the car fires that shot?" Hense asked McDonell.

"If it happens very quickly as you describe, it would have to be the person in the front seat on the passenger side, the ballistics expert answered.

Appleby upheld defense attorneys who contended before McDonell took the stand that prosecutors should not be permitted to indicate to the jury that the ballistics expert was originally retained by the defense.

Earlier, Lt. John Lincott, supervisor of the State Police ballistics laboratory, testified extensively on tests he made to match spent and live ammunition to three automatic pistols recovered after the shootout and the service revolvers of Harper and Foerster.

Among the items Lincott identified were two lead bullets removed from the head of Foerster. Lincott testified his tests revealed the bullets were fired from Foerster's own revolver. Prosecutors have indicated they will prove the trooper was "executed" with his own gun.