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BEFORE THE TEXAS BOARD OF PARDONS AND PAROLES

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In re  
GARY GRAHAM,  
Petitioner.

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PETITION FOR A RECOMMENDATION OF  
A REPRIEVE OF EXECUTION AND PARDON, OR  
ALTERNATIVELY, A CONDITIONAL PARDON OR  
COMMUTATION OF DEATH SENTENCE

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**PETITION FOR RECOMMENDATION OF  
A REPRIEVE OF EXECUTION AND PARDON, OR ALTERNATIVELY,  
A CONDITIONAL PARDON OR COMMUTATION OF DEATH SENTENCE**

Gary Graham<sup>1</sup>, through counsel, petitions the Texas Board of Pardons and Paroles to recommend to the Honorable George W. Bush, Governor of the State of Texas,

- (a) that he grant a reprieve of Mr. Graham's execution, now scheduled for June 22, 2000, for 120 days to permit a full and fair inquiry into the facts of Mr. Graham's case, and thereafter,
- (b) that he grant a pardon, relieving Mr. Graham from his wrongful conviction and death sentence.

In the alternative, Mr. Graham asks the Board to recommend to the Governor, following the reprieve,

- (c) that he grant a conditional pardon relieving Mr. Graham of his conviction and death sentence upon the condition that he waive double jeopardy protections and submit to a retrial, or
- (d) that he grant a commutation of his death sentence.

In support of these requests, Mr. Graham presents the following information:

**MR. GRAHAM'S PRESENT STATUS**

Mr. Graham is an indigent, thirty-six year old African-American on death row,

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<sup>1</sup>Mr. Graham has changed his name to Shaka Sankofa to honor his African heritage. However, since he was known as Gary Graham throughout the legal process, he will be referred to by this name in this petition.

Terrell Unit, Livingston, Texas, TDCJ # 000696, who was wrongfully convicted of capital murder and sentenced to death in October, 1981.<sup>2</sup> Mr. Graham's conviction was wrongful because he did not commit the capital murder for which he was convicted and sentenced to death.

The state official responsible for confining and executing Mr. Graham is Gary Johnson, Director of the Texas Department of Criminal Justice, Institutional Division. By order of the 179th District Court of Harris County, **Mr. Graham's execution is set for June 22, 2000, after the hour of 6:00 p.m.** See Appendix 2.

**THE REASON FOR PARDON OR ALTERNATIVE RELIEF:  
A CASE OF MISTAKEN IDENTIFICATION OF AN INNOCENT PERSON  
AND THE FAILURE OF THE COURTS TO INTERVENE**

Unless the Board intervenes, on June 22 a man who was mistakenly identified by a single eye-witness will be executed in our state. A single eyewitness – who saw a stranger's face at night through an automobile windshield from a distance of 30-40 feet FOR TWO SECONDS – was the only evidence that linked 17 year-old Gary Graham to the killing of a man in a grocery store parking lot in Houston in 1981.

There was no evidence that Mr. Graham knew the victim, Bobby Lambert. He had none of Lambert's property. None of Mr. Graham's fingerprints, blood, DNA, or hair was found on Mr. Lambert or at the scene. No physical or circumstantial evidence whatsoever proved that Mr. Graham was at the crime scene.

Whether one supports or opposes the death penalty, no person of reason

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<sup>2</sup> The indictment, judgment, verdicts, and sentence are set forth in Appendix 1.

advocates executing an innocent person. We write to urge you, the members of the Board of Pardons and Paroles, to intervene to prevent the execution of an innocent person.

**A. The Relevant Facts Reveal that Gary Graham Is Innocent**

At approximately 9:30 p.m. on May 13, 1981, Bobby Grant Lambert purchased \$20 worth of items at the Safeway store at 8935 North Freeway in Houston, receiving change from a \$100 bill. As Mr. Lambert, a white man, walked across the parking lot to his car, a young black man approached him from behind. After a brief confrontation which appeared to some witnesses to involve an attempt to rob Mr. Lambert, the black man shot Mr. Lambert and fled. Lambert had sixty \$100 bills on his person. None was taken. The \$70-plus in change from Lambert's purchase was never found.

**1. The eyewitnesses**

The evidence that Gary Graham did not commit this crime is rooted in the investigation by the Houston Police Department. See Appendix 3 (Offense Report, Houston Police Department). Five adult witnesses were identified by the police as having seen the shooter – Bernadine Skillern, Daniel Grady, Wilma Amos, Ron Hubbard, and Sherian Etuk.<sup>3</sup> All the eyewitnesses agreed on the accuracy of the composite drawing made by a police artist with the help of Ms. Skillern. See Appendix 4 (composite of the suspect). All the eyewitnesses also agreed that the shooter was a young black male, age 18-25, with a thin face, dark complexion, short Afro haircut, and

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<sup>3</sup>Ms. Etuk's name is misspelled as "Eluk" in the police report.

no facial hair, who was wearing a white sport coat. Three of the eyewitnesses, Ms. Skillern, Ms. Amos, and Mr. Grady, were called to testify at Mr. Graham's trial. Ms. Skillern described the events she saw and identified Mr. Graham as the shooter. Ms. Amos testified about what she saw, said she could not remember what the shooter looked like, but was never asked by either side whether she believed Mr. Graham was the shooter.<sup>4</sup> Similarly, Mr. Grady, who had been in a car only a few feet from the shooting, also described only the events he saw, and also testified that he could not describe the shooter, but was not asked whether Mr. Graham was the shooter. Clearly, if Amos or Grady had identified Mr. Graham, the prosecutor would have asked them whether Mr. Graham was the shooter.

Of more significance is what the jury did NOT hear – and what no judge has heard in a courtroom under oath, and then evaluated after cross-examination.

Ronald Hubbard, an employee of the grocery store, told the police he had first seen the shooter near the front of the store as Hubbard went out to gather shopping carts prior to the shooting, and then again, as the shooter was fleeing from the parking lot after the shooting. He did not see the actual shooting. At the very same line-up where Ms. Skillern picked out Mr. Graham, Mr. Hubbard told the police the shooter was NOT in the line-up. The prosecutor let the trial defense lawyer see the offense report

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<sup>3</sup>As Harris County District Attorney, Johnny Holmes, noted in 1993 in a press release concerning Mr. Graham's case, "there is a difference between the ability to recognize and the ability to describe." See Holmes' letter to Members of the Media, April 28, 1993. Thus, even the District Attorney concedes that Ms. Amos might have recognized whether Mr. Graham was the shooter even though she may have been unable to describe the shooter.

(Appendix 3) , which included Mr. Hubbard's exclusion of Mr. Graham in the line-up (Appendix 3, at pages 34-35).<sup>5</sup> However, the lawyer never interviewed Mr. Hubbard, and he has never testified in court. Mr. Hubbard is a long-time employee of the United States Postal Service and is an ordained minister. He has no criminal record.

One of the most compelling eyewitnesses, Sherian Etuk, a female cashier at the store, saw the shooter just outside the store before he walked into the parking lot. She had observed him only a few feet away for some time. She was no longer looking out the front of the store at the moment of the shooting, but earlier she had clearly seen the man in the white coat, whom everyone agreed was the shooter. See Appendix 8, ¶ 4 (affidavit of Sherian Etuk). Like the other eyewitnesses, she also told the police that the composite drawing constructed by Ms. Skillern looked like the man she saw that night. *Id.*, ¶ 12. She told Mr. Graham's lawyers in 1993 that the shooter's build reminded her of her husband — who was 5'3" and weighed 130 pounds. *Id.*, ¶ 10. As we have

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<sup>5</sup>The offense report minimizes the significance of Hubbard's exclusion of Mr. Graham by noting that Hubbard "indicated to [Detective] Ellis prior to the showup that he did not get a look at the suspect's face at the time of the offense." Appendix 3, at page 35.

However, Hubbard had been quite specific in describing to the police the shooter's height and build — "5'5", 120-130 lbs," Appendix 3, at page 17 — and it was on the basis of the lineup suspects' build that Mr. Hubbard excluded Mr. Graham and all the others in the lineup. See Appendix 5, ¶ 6 (Affidavit of Ronald Hubbard) ("I was unable to pick anyone out of that group that reminded me physically of the guy that shot Mr. Lambert").

Mr. Graham was 5'9" and weighed 150 pounds at the time of his arrest and appearance in the lineup. See Appendix 6 (height and weight data for Mr. Graham). As a photograph of the lineup, see Appendix 7, shows, all the participants in the lineup were approximately the same height and weight. Having estimated the shooter's height as 5'5" and weight as 120-130 pounds, Mr. Hubbard was correct in excluding everyone in the lineup.

noted, Mr. Graham was 5'9" and weighed 150 pounds at the time of the shooting. Ms. Etuk has never testified.

When shown a photo of Mr. Graham at age 17, Ms. Etuk was certain that Mr. Graham was NOT the shooter. See Appendix 8, ¶ 11. As Ms. Etuk explained in her affidavit,

[The shooter's] face was extremely narrow. Just thin from top to bottom. It was not oval shaped. More like oblong....

I have been shown four photographs of Gary Graham that I have signed, and they accompany this affidavit. One arrest photo, two photos where Gary is in a lineup with other guys, and one photo where he is dressed nice. None of these photos depict the guy who shot the man out in the parking lot that night. The guy who did it had a thinner face and smaller build.

Appendix 8, ¶¶ 10, 11.

Ms. Etuk's exclusion of Mr. Graham on the basis of his facial features – and even her exclusion on the basis of the shooter's height and weight – have been questioned by the district attorney in papers previously filed in court. This is the result of a misleading omission in the offense report. In the only passage in the report that describes what Ms. Etuk saw, the report says that after the shooting, Ms. Etuk looked out the front window into the parking lot to see the shooter backing away from Mr. Lambert. On that occasion, Ms. Etuk told the police "she could not see his face due to the glass of the windows and dark parking lot...." Appendix 3, at page 11. The report does not mention that Ms. Etuk also saw the shooter on another occasion, prior to the shooting up near the front of the store. Her description of this is only in her 1993

affidavit taken by Mr. Graham's counsel. On the night of the shooting, Ms. Etuk had become frustrated with the slowness of payment by a customer and looked out the window at the front of the store, just a few feet away, and

saw a black man dressed really sharply standing by one of the concrete columns outside at the front of the store. He was right up against the window, and appeared to be leaning slightly. I looked at him for quite a while, more than a few seconds. He was looking back in my direction and so I saw him clearly.

Appendix 8, ¶ 4.

Confirmation of the truth of this statement in Ms. Etuk's affidavit – even though this description of seeing the shooter is not in the offense report – comes in two ways. First, the offense report notes that Ms. Etuk was shown a photo array of possible suspects. She excluded everyone in the array but told the police the following:

[T]he suspect's face facial features resembled #207610 but ... the suspect was much more neat looking than in the photo....

Appendix 3, at page 26. Had she only seen the shooter after the shooting – when she “could not see [the shooter's] face due to the glass of the windows and the dark parking lot,” Appendix 3, at page 11 – as that portion of the offense report misleadingly suggested, Ms. Etuk would not have told the police when she was shown a photo array that “the suspect's facial features resembled” one of the persons depicted in the photo array. She had to have seen the shooter's face as she reports in her affidavit, up close to the store before the shooting, in order to make this observation about the person depicted in the photo array. Second, the police report confirms that the shooter was



standing in the area where Ms. Etuk saw him just before the shooting. When Ronald Hubbard first saw the man who would later shoot Mr. Lambert, "This man was standing by a concrete column near the NE corner of the front of the store." Appendix 3, at page 17. This is exactly where Ms. Etuk declared in her 1993 affidavit, Appendix 8, that she first saw the shooter and observed not only his height and weight but also his facial features. Ms. Etuk is plainly telling the truth in her affidavit. Ms. Etuk is a long-time employee of Harris County Child Protective Services and has no criminal record.

Mr. Hubbard and Ms. Etuk did not know and have never known Mr. Graham. They are neutral witnesses who willingly gave statements to the police and participated in the investigation. None was heard by the jury that convicted Mr. Graham, and none has ever been heard by any judge reviewing Mr. Graham's case in state and federal habeas corpus proceedings.

As we have noted, only one eyewitness, Bernadine Skillern, positively identified Mr. Graham. Her identification was, quite simply, the mistaken result of suggestive identification procedures utilized by the police.

When shown an array of five photos, Ms. Skillern saw only one in which the person depicted had a short Afro haircut and no mustache or beard – a photo of Gary Graham. See Appendix 9 (photo array, with Mr. Graham depicted in the fourth photo). His was the only photo even close to the description of the shooter, with short hair and no facial hair, and his was the only photo that had anything marked out on it. See Appendix 9. Even then, Ms. Skillern declined to identify Mr. Graham as the shooter. She said his photo looked like the shooter, but the shooter's face was thinner and his

complexion was darker, and she was not sure Gary Graham's photo was that of the shooter. Appendix 3, at page 33. This was a critical observation because Ms. Skillern's exclusion of Mr. Graham when she first saw his photo – because the shooter had a thinner face – was consistent with the composite she helped draw of the shooter, whose face was strikingly thinner than Mr. Graham's face. Importantly, the composite was constructed long before Mr. Graham was ever arrested and became a suspect.

The jury never heard any evidence about Ms. Skillern's exclusion of Mr. Graham in the photo array. To the contrary, Ms. Skillern testified – mistakenly – that she did identify Mr. Graham from the photo array. The offense report shows that she did not.

On the day after she saw this photo array, Ms. Skillern, along with Ronald Hubbard, viewed a live lineup. The only man in the live lineup whose photograph was also in the photo array was Mr. Graham. Not surprisingly, she picked him out. Experts say that the likelihood of a false identification under these circumstances is greatly increased, because it is likely that she picked out the man familiar to her because of the photograph she saw the day before, not because she had seen the man commit the crime. See Appendix 10, ¶¶ 10(a), (b), (c) and (d) (Declaration of Elizabeth Loftus, Ph.D.). As Dr. Loftus observed, because of the suggestive identification process,

There is no way to determine whether the identification of Graham was based on the photograph or on Skillern's memory of the gunman. However, the risk is substantial that it was based solely on the photograph.

Appendix 10, ¶ 10(d). Ms. Skillern was never cross-examined about these suggestive line-up procedures in the presence of the jury.

The composite drawing that Ms. Skillern constructed eleven days before Mr. Graham became a suspect – which all the eyewitnesses said was accurate – confirms that Ms. Skillern's identification of Mr. Graham was mistaken. Compared to the booking photograph taken when Mr. Graham was arrested for an unrelated offense one week after the shooting, the person depicted in the composite is clearly not Mr. Graham. See Appendix 11 (side-by-side comparison of the composite and the booking photo of Gary Graham). Two different men are depicted. The man in the composite has a much thinner face than Mr. Graham, just like Ms. Etuk and Ms. Skillern said. The jury was not given the opportunity to compare the composite drawing and the booking photo.

## **2. The forensic evidence**

Bobby Lambert was killed by a .22 caliber bullet. Mr. Graham had a .22 caliber pistol when he was arrested. The jury heard the first of these facts in the guilt phase of trial and the second in the penalty phase. However, when deciding if Mr. Graham killed Mr. Lambert, the jury did not hear the undisputed conclusion of the Houston Police Department's firearms expert: The fatal bullet could NOT have been fired from Mr. Graham's pistol. As the offense report explained,

The pistol we submitted [taken from Mr. Graham upon his arrest] had 8 lands and grooves and the bullet that was submitted from the complainant's [Lambert's] body had only six lands and grooves. Therefor[e] he [the firearms examiner] said it couldn't be the weapon.

*Id.* See also Appendix 12 (report from firearms examiner).

Thus, there was no forensic evidence that linked Mr. Graham to the crime.

### 3. Motive evidence

There was no motive for Mr. Graham to kill Mr. Lambert. They did not know each other. The state claimed it was a robbery gone bad. But — Lambert had \$6,000.00 in cash still stuck in his back pocket when the police searched his pants. This was not a robbery.

There were people, as yet unknown, who had a motive to kill Mr. Lambert. Before his murder, Bobby Lambert faced federal drug trafficking charges in Oklahoma City for his arrest in August, 1980, while “piloting a plane carrying 40,000 qualudes and several ounces of cocaine” into a small town in Oklahoma. Appendix 3, at page 17. Continuing investigation has revealed that late in 1980, the drug trafficking charges were dropped against Mr. Lambert after the suppression of the drugs seized from his plane due to the seizure of the drugs without a search warrant. Thereafter, the federal prosecutor forced immunity onto a reluctant Bobby Lambert to force him to testify before a federal grand jury about the person or persons for whom he was transporting the drugs. Shortly thereafter, Mr. Lambert was killed. In the wake of his death, a Drug Enforcement Administration (DEA) agent from Oklahoma City called the Houston Police Department about Mr. Lambert, noting that “he had a grand jury summons for [Lambert] on a drug related case.” *Id.* at 16. The attorney representing Mr. Lambert in connection with the federal proceedings in Oklahoma City recently informed Mr. Graham’s counsel that he and others involved in this case believed that Lambert was killed by the drug organization for whom he worked to prevent him from testifying before the grand jury. Counsel for Mr. Graham are continuing to investigate this matter to

determine whether this was the motive for Mr. Lambert's murder and to try to identify who committed the murder. These circumstances plainly provided a motive for Mr. Lambert's murder that Gary Graham did not have.

**B. Why Mr. Graham's Trial Lawyers Mistakenly Thought He Was Guilty and thus Failed to Investigate and Present the Evidence that He Was Innocent**

Coincidentally, in the ten day period after Bobby Lambert was murdered, Mr. Graham committed nearly a dozen aggravated robberies. Ultimately, Mr. Graham entered pleas of guilty to all the charges that were pressed concerning these offenses and has never challenged the disposition of these cases. These crimes were not in any way related to the murder of Mr. Lambert and do not in any fair way undermine Mr. Graham's claim that he is innocent of the murder of Mr. Lambert. Nor do these crimes serve as some sort of proof that Mr. Graham committed the murder of Mr. Lambert. Nevertheless, some people have been influenced to think that Mr. Graham is guilty of the murder of Mr. Lambert because he committed these other crimes within the same general period of time. This happened to Ron Mock, Mr. Graham's lead trial counsel – the defense investigator at trial said that this is why no investigation was undertaken despite Mr. Graham's assertion of innocence – so it could happen to anyone.

Accordingly, it is essential to appreciate why these other offenses should not be taken as proving that Mr. Graham was guilty of killing Bobby Lambert. The best way to appreciate this is to understand why, had these offenses been offered against Mr. Graham in the guilt phase of his capital murder trial, they would not have been admitted into evidence.

When a person has committed offenses similar to the offense for which he is being tried, the other offenses can fairly be used to establish that he committed the charged offense only if some distinct characteristic of the other offenses is shared by the charged offense. In Mr. Graham's case, the other offenses committed by Mr. Graham lacked any "distinguishing characteristic common to ... the offense for which [he was] on trial," *Cobb v. State*, 503 S.W.2d 249, 251 (Tex.Crim.App. 1974). The charged offense and the other offenses had some non-distinguishing similarities: all were robberies or attempted robberies involving the use of a gun, all took place in a public place, and all occurred within the same ten day period. However, these characteristics were no more than "similarities in the commission of the same type of crime," *Ford v. State*, 484 S.W.2d 727, 730 (Tex.Crim.App. 1972), that are not enough to "set[ ] [the extraneous offenses and the charged offense] apart from [their] class or type of crime in general...." *Id.* Specifically,

(a) None of the other offenses involved intentionally shooting a victim at point blank range.

(b) The other offenses as a group shared a set of characteristics that sharply distinguished them from the incident at the Safeway in which Bobby Lambert was killed.

(i) All the other offenses began with a ruse designed to get the victim to relax and let his or her guard down. The murder of Mr. Lambert did not.

(ii) All the other offenses involved Mr. Graham's persuading the victim to let him into his or her vehicle, and it was in the vehicle that the actual robbery took place. The murder of Mr. Lambert did not involve any such ruse.

(iii) None of the other offenses involved an aggravated assault in a public place in view of other people. The murder of Mr. Lambert did.

(iv) All the other offenses involved the actual taking of money or vehicles or both. The murder of Mr. Lambert did not.

Because the crimes committed by Mr. Graham were themselves distinct from the offense in which Mr. Lambert was killed, these crimes could not have been used in court to show that Mr. Graham murdered Mr. Lambert. Their lack of similarity to the Lambert killing should prevent them from being used by anyone in or out of court to conclude that Mr. Graham killed Mr. Lambert.

One other fact is significant about the crimes actually committed by Mr. Graham. All the robberies that he committed were committed after the murder of Mr. Lambert on May 13, 1981. If Mr. Graham had killed Bobby Lambert, logic would say that having killed once, if Mr. Graham were really the killer, at least one of the subsequent robberies would have resulted in a murder. None did.

**C. Why the Courts Have Not Ordered a New Trial for Mr. Graham: No Court Has Been Willing or Able to Hear the Evidence of Innocence**

When evidence of innocence has not been presented at trial, the wrongfully convicted person can attempt to show in state or federal habeas corpus proceedings that his trial counsel provided ineffective assistance in failing to present such evidence. This did not occur in Mr. Graham's first state and federal habeas corpus proceedings, however, because the lawyer representing Mr. Graham in those proceedings, which took place between 1988 and 1993, also failed to undertake an adequate investigation

and thus failed, as trial counsel had, to discover and present the evidence of innocence contained in the offense report based upon crime scene witnesses' observations and the firearms report. Only when a second round of state and federal habeas corpus proceedings was brought on behalf of Mr. Graham in 1993 was the evidence of innocence discovered and presented in papers filed in the state and federal courts.

When this evidence was presented in the 1993 state habeas application, the state courts refused to re-examine their previous conclusions concerning Mr. Graham's guilt and denied the application without holding a hearing to evaluate the credibility of the numerous crime scene witnesses, or any of the other evidence which would have exonerated Mr. Graham. *Ex Parte Graham*, 853 S.W.2d 564 (Tex.Crim.App. 1993). Significantly as well, the state courts refused to stay Mr. Graham's scheduled execution and continue the state habeas proceeding even though Mr. Graham was first getting access to the district attorney's trial file on the day the state trial court denied his habeas application. After the state courts had already ruled against Mr. Graham, his access to the district attorney's file produced more evidence corroborative of his innocence – two more crime scene witnesses who would have exonerated him had they testified at trial, and extensive corroboration of the already-discovered crime scene witnesses' observations that exonerated Mr. Graham.

Thereafter, in July, 1993, Mr. Graham filed his second petition for writ of habeas corpus in the federal district court which included the evidence that Mr. Graham discovered after the state courts had already ruled against him. Because this was his second federal habeas petition, federal rules required that Mr. Graham show that his



claims for relief raised a "colorable" claim of innocence – that he was "probably" innocent – before his claims could be heard. See *Kuhlmann v. Wilson*, 477 U.S. 436, 444 n.6, 454 (1986); *McCleskey v. Zant*, 499 U.S. 467, 494 (1991).

Mr. Graham made such a showing – on paper – in his federal habeas petition. The federal district court agreed that he had but rejected his claim that his lawyer provided ineffective assistance because of the deference that it believed it had to give to the state habeas courts' decision. *Graham v. Collins*, 829 F.Supp. 204 (S.D.Tex. 1993). Again, like the state courts, the federal district court refused to hold an evidentiary hearing at which the evidence of Mr. Graham's innocence could have been fairly considered.

On appeal to the United States Court of Appeals for the Fifth Circuit, the district court's decision was overturned and its deference to the state courts' decision was set aside. In its decision in August, 1996, the Fifth Circuit explained that the facts showing that Mr. Graham was innocent and that his trial lawyers provided ineffective assistance were not sufficiently resolved for it to decide the merits of Mr. Graham's case – precisely because there had been no evidentiary hearing concerning these issues:

The issues in this case are almost exclusively factual, and the relevant factual scenario is complex, highly controverted, and in many respects unresolved. The district court denied the petition without an evidentiary hearing. There is a large body of relevant evidence that has not been presented to the state court. It is doubtful that the record before us allows review of the underlying issues on a fully informed basis.

*Graham v. Johnson*, 94 F.3d 958, 971 (5<sup>th</sup> Cir. 1996).

Because of its view that "a large body of relevant evidence ... has not been

presented to the state court," the Fifth Circuit decided that the federal habeas proceeding should be dismissed to permit the state courts a further opportunity to resolve the factual questions concerning Mr. Graham's innocence. This further opportunity was provided the state courts in 1998 when Mr. Graham filed his third state habeas corpus application. Rather than reconsidering Mr. Graham's claims, however, the Court of Criminal Appeals simply decided that the application failed to satisfy the statutory criteria for bringing a subsequent state habeas corpus application and dismissed the application without any hearing.<sup>6</sup> Despite the Fifth Circuit's dismissal of the federal case so that the state courts could hold the sorely-needed evidentiary hearing, again no evidentiary hearing was held in which Mr. Graham's witnesses' testimony could be heard and evaluated.

Immediately after this decision, Mr. Graham returned to federal court, only to be met with a new, insurmountable barrier to the consideration of his claim of ineffective assistance of counsel and innocence. During the three-year period while the appeal of the denial of the 1993 federal habeas petition was pending (1993-1996), Congress enacted the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA). One of the changes effected by this legislation was to require federal habeas petitioners who were returning to federal court on a second or subsequent federal habeas petition to show not only what they had to show in 1993 – a probability that they were innocent –

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<sup>6</sup>The Court declared only the following without explanation: "We have examined the application and find it fails to satisfy Art. 11.071, § 5, and accordingly dismiss the application as an abuse of the writ." *Ex parte Graham*, No. 17,568-05 (November 18, 1998).

but also to show that the evidence of innocence could not have been discovered in connection with a previous federal habeas proceeding. The latter requirement precluded any consideration of Mr. Graham's claims, for he could not show that the evidence of innocence could not have been discovered earlier. Indeed his claim was that **trial counsel** should have discovered this evidence in connection with trial, because the prosecutor made the offense report available to them. Because of these changes in federal habeas corpus law, the federal district court, *Graham v. Johnson*, 45 F.Supp.2d 555 (S.D.Tex. 1999), and the Fifth Circuit, *Graham v. Johnson*, 168 F.3d 762 (5<sup>th</sup> Cir. 1999), held that Mr. Graham's claims could not be considered at all. On May 1, 2000, the Supreme Court refused to review these decisions. *Graham v. Johnson*, \_\_\_ U.S. \_\_\_, 2000 WL 505438. Again, despite the courts' review of his case, the evidence of Mr. Graham's innocence has never been heard.

D. **Unless this Board Intervenes, Mr. Graham Will Be Executed for a Crime He Did Not Commit Without Any Forum Having Conducted a Fair Inquiry into the Evidence of His Innocence**

Despite the lengthy procedural history of his case, Mr. Graham's case is simple and elemental. The facts presented in the habeas petitions filed in 1993 and again in 1998 raise grave questions about his guilt, clearly enough to support his unwavering assertion that he is innocent because of mistaken identification. In a way that few other cases have, these facts raise the specter of executing an innocent person. Nothing is clearer or more elemental than that our system of justice cannot permit an innocent person to be convicted, condemned, and executed. As the Supreme Court recognized in *Schlup v. Delo*, 513 U.S. 298, 324-325 (1995), "[t]he quintessential miscarriage of

justice is the execution of a person who is entirely innocent.”

Although there is a long history of courts' reviewing technical procedures followed in Mr. Graham's case, the courts have still not done what elemental justice requires in the circumstances presented by his case. Elemental justice requires a full hearing of the evidence of Mr. Graham's innocence by an impartial court to determine whether Mr. Graham's lawyer's failure to discover and present this evidence requires that he have a new trial. No court has ever done that.

Mr. Graham's last reasonable chance to persuade the courts to intervene and prevent this travesty of justice ended with the United States Supreme Court on May 1, 2000. The only chance Mr. Graham now has of avoiding a wrongful execution is with the Governor and this Board.

#### **LEGAL ISSUES PRESENTED IN THE COURTS**

The legal issues which have been raised during the judicial progress of the case include the following:

(a) Mr. Graham was denied effective assistance of counsel at trial, in violation of the Sixth and Fourteenth Amendments, due to counsel's failure to investigate and present crime scene witnesses, alibi witnesses, and other evidence that would have shown that the sole evidence connecting Mr. Graham to the crime — a single crime scene witness who identified Mr. Graham as the perpetrator — was erroneous, and that Mr. Graham had nothing to do with the crime.

(b) Mr. Graham was denied due process under the Fourteenth Amendment because he was convicted and sentenced to death for a crime he did not commit.

**STATEMENT OF THE EFFECT OF THE CRIME FOR WHICH MR. GRAHAM  
HAS BEEN CONVICTED UPON THE FAMILY OF THE VICTIM**

What we know about the victim in this case, Bobby Grant Lambert, is that he was estranged from his wife at the time of his death. He had at least one child who was an adult. We know of no special circumstances that made Mr. Lambert's death any worse for his survivors than it is for any victim of homicide — which is immensely painful and which disrupts terribly the mission that each life has.

Of great significance to the decision by the Board and Governor, Mr. Lambert's widow and daughter wrote the Governor and Board in 1993 asking that Mr. Graham be granted a conditional pardon or some other form of clemency that would spare his life. See Appendix 13 (letters from Loretta Lambert and Cindy Rutter).

**CONCLUSION**

Who should pay the price for the blunder of Mr. Graham's trial lawyers? Should Mr. Graham pay with his life for a crime he did not commit?

Responsible citizens, including death penalty advocates, should shudder at the thought of an execution based solely on a two-second view of a stranger's face in the dark — especially when there exists compelling evidence that the identification resulting from that glimpse was wrong.

ACCORDINGLY, Mr. Graham respectfully requests that the Texas Board of Pardons and Paroles recommend to the Honorable George W. Bush, Governor of the State of Texas,

(a) that he grant a reprieve of Mr. Graham's execution, now

scheduled for June 22, 2000, for 120 days to permit a full and fair inquiry into the facts of Mr. Graham's case, and thereafter,

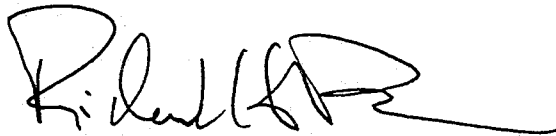
- (b) that he grant a pardon, relieving Mr. Graham from his wrongful conviction and death sentence.

In the alternative, Mr. Graham asks the Board to recommend to the Governor, after the period of reprieve and full inquiry,

- (c) that he grant a conditional pardon relieving Mr. Graham of his conviction and death sentence upon the condition that he waive double jeopardy protections and submit to a retrial, or
- (d) that he grant a commutation of his death sentence.

Mr. Graham further requests that in reviewing Mr. Graham's request for clemency, the Board conduct a full and fair hearing into the facts of his innocence.

Respectfully submitted,



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*May 31, 2000*

Counsel for Gary Graham

## APPENDICES

- 1 Indictment, verdicts, sentence, judgment in No. 335378, *State of Texas v. Gary Graham*, 182<sup>nd</sup> District Court of Harris County
- 2 Order setting execution date of June 22, 2000
- 3 Houston Police Department Offense Report
- 4 Composite drawing of suspect
- 5 Affidavit of Ronald Hubbard
- 6 Height and weight data for Gary Graham
- 7 Photographs of entire live lineup
- 8 Affidavit of Sherian Etuk
- 9 Photo array shown to Bernadine Skillern
- 10 Declaration of Elizabeth Loftus
- 11 Side-by-side comparison of composite of suspect and booking photo of Gary Graham
- 12 Report of firearms examination by Houston Police Department
- 13 Letters from Loretta Lambert and Cindy Rutter

**INDICTMENT**

CAUSE NO.: 335378

FILED: JUNE 9, 1981

STATE OF TEXAS

REV. 5/80

VS.

Kenneth Stokes  
aka Gary Graham  
unknown

SPN: \_\_\_\_\_  
DOB: NM 9-5-63

DATE PREPARED: 5-23-81 BY: AG 123  
AGENCY: HPD BY: 25207081  
O/R NO.: 5-27-81  
NCIC CODE: 0907 10 10 ARREST DATE: \_\_\_\_\_

OFFENSE CHARGE:

Capital Murder 1

RELATED CASES:

CAUSE NO.: 335378  
DISTRICT COURT NO.: 182nd D.C.

BAIL: NO BOND 74 30  
PRIOR CAUSE NO.: \_\_\_\_\_

THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS:

duly organized Grand Jury of Harris County, Texas, presents in the District Court of Harris County, Texas, that in Harris County, Texas,

KENNETH STOKES AKA GARY GRAHAM

after styled the Defendant, heretofore on or about May 13, 1981, did then and there unlawfully

while in the course of committing and attempting to commit the robbery of BOBBY GRANT LAMBERT, hereafter styled the Complainant, intentionally cause the death of the Complainant by shooting the Complainant with a gun.

It is further presented that in Harris County, Texas, KENNETH STOKES, aka GARY GRAHAM, hereafter styled the Defendant, heretofore on or about MAY 13, 1981, did then and there unlawfully intentionally and knowingly cause the death of BOBBY GRANT LAMBERT, hereafter styled the Complainant, by shooting the Complainant with a gun.

It is further presented that in Harris County, Texas, KENNETH STOKES, aka GARY GRAHAM, hereafter styled the Defendant, heretofore on or about MAY 13, 1981, did then and there unlawfully intend to cause serious bodily injury to BOBBY GRANT LAMBERT, hereafter styled the Complainant, and did cause the death of the Complainant by committing an act clearly dangerous to human life, namely, by shooting the Complainant with a gun.

It is further presented that in Harris County, Texas, KENNETH STOKES, aka GARY GRAHAM, hereafter styled the Defendant, heretofore on or about MAY 13, 1981, did then and there unlawfully, while in the course of committing theft of property owned by BOBBY GRANT LAMBERT, hereafter styled the Complainant, and with intent to obtain and maintain control of the property, intentionally and knowingly threaten and place the Complainant in fear of imminent bodily injury and death, by using and exhibiting a deadly weapon, namely, a firearm.

AGAINST THE PEACE AND DIGNITY OF THE STATE.

*Howard G. [Signature]*

FOREMAN OF THE GRAND JURY

*J. J. [Signature]*

8/1037520620

A10



0907/10 MINUTES OF THE 182nd DISTRICT COURT OF HARRIS COUNTY, TEXAS  
AT THE August TERM, A. D. 19 81

J U D G M E N T

NO. 335378

THE STATE OF TEXAS

v. Date October 26 19 81  
Kenneth Stokes a/k/a Gary Graham on motion of the Defendant the Court ordered same charged to Gary Graham

Attorney for State : Asst. Dist. Atty. Carl Hobbe

Attorney for Defendant : Ron Mac' and Chester Thornton

Offense CAPITAL MURDER Murder Murder and Aggravated Robbery as charged in four paragraphs of the indictment but upon motion of the State the 2nd 3rd and 4th paragraphs were abandoned and dismissed the Defendant on trial for CAPITAL MURDER

Date of Offense : May 13 A. D. 19 81

Plea : Not Guilty

Count and/or Paragraph : count one / paragraph one CAPITAL MURDER

Plea to Enhancement Findings on Enhancement : n/a

Punishment : Death

The Defendant having been indicted in the above entitled and numbered cause for the felony offense indicated above and this cause being this day called for trial, the State appeared by her District Attorney as named above and the Defendant named above appeared in person with Counsel as named above, and both parties announced ready for trial.

A Jury composed of Ben D. Bradley and eleven others was selected, impanelled, and sworn. The indictment was read to the Jury and the Defendant, entered a plea of not guilty thereto, after having heard the evidence submitted; and having been charged by the Court as to their duty to determine the guilt or innocence of the Defendant and the argument of counsel, the Jury retired in charge of the proper officer and returned into open court on the 28th day of October, 19 81, the following verdict, which was received by the Court and is here entered on record upon the minutes:

"We the Jury find the defendant, GARY GRAHAM, "Guilty" of the offence of capital murder, as charged in the indictment.

/s/ Ben D. Bradley  
FOREMAN OR FORELADY OF THE JURY"

Thereupon, the jury, in accordance with law, heard further evidence, and having been again charged by the Court, the jury retired in charge of the proper officer and returned into open Court on the 30th day of October, 19 81, the following verdict, which was received by the Court and is here entered on record upon the minutes:

CAUSE NO. 335378

THE STATE OF TEXAS  
VS.  
GARY GRAHAM

IN THE DISTRICT COURT OF  
HARRIS COUNTY, T E X A S  
182nd JUDICIAL DISTRICT

SPECIAL ISSUE NO. 1

Do you find from the evidence beyond a reasonable doubt that the conduct of the Defendant that caused the death of the deceased was committed deliberately and with the reasonable expectation that the death of the deceased or another would result?

In your verdict you will answer "Yes" or "No" as you find the fact to

ANSWER : Yes  
/s/ Ben D. Bradley  
FOREMAN OF THE JURY

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CAUSE NO . 335378

THE STATE OF TEXAS  
VS.  
GARY GRAHAM

IN THE DISTRICT COURT OF  
HARRIS COUNTY, T E X A S  
182nd JUDICIAL DISTRICT

SPECIAL ISSUE NO. 2

Do you find from the evidence beyond a reasonable doubt that there is a probability the Defendant would commit criminal acts of violence that would constitute a continuing threat to society?

In your verdict you will answer "Yes" or "No" as you find the fact to be...

ANSWER: Yes  
/s/ Ben D. Bradley  
FOREMAN OF THE JURY

CAUSE NO 335378

THE STATE OF TEXAS  
VS.  
GARY GRAHAM

IN THE DISTRICT COURT OF  
HARRIS COUNTY, T E X A S  
182nd JUDICIAL DISTRICT

SPECIAL ISSUE NO. 3

Do you find from the evidence beyond a reasonable doubt whether the conduct of the Defendant in killing the deceased was unreasonable in response to the provocation, if any, by the deceased.

In your verdict you will answer "Yes" or "No" as you find the fact to be

ANSWER: Yes  
/s/ Ben D. Bradley  
FOREMAN OF THE JURY "

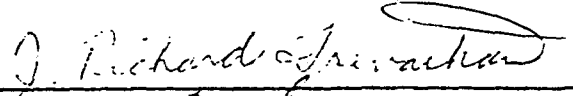
It is therefore considered, ordered, and adjudged by the Court that the Defendant is guilty of the offense indicated above, a felony, as found by the verdict of the jury, and that the said Defendant committed the said offense on the date indicated above, and that he be punished, as has been determined by the Jury, by death, and that Defendant be remanded to Jail to await further orders of this court.

And thereupon, the said Defendant was asked by the Court whether he had anything to say why sentence should not be pronounced against him, and he answered nothing in bar thereof.

Whereupon the Court proceeded, in presence of said Defendant to pronounce sentence against him as follows, to wit, "It is the order of the Court that the Defendant named above, who has been adjudged to be guilty of the offense indicated above and whose punishment has been assessed by the verdict of the jury and the judgment of the Court at Death, shall be delivered by the Sheriff of Harris County, Texas immediately to the Director of Corrections of the State of Texas, or any other person legally authorized to receive such convicts, and said Defendant shall be confined in said Department of Corrections in accordance with the provisions of the law governing the Texas Department of Corrections until a date of execution of the said Defendant is imposed by this Court after receipt in this Court of mandate of affirmance by the Court of Criminal Appeals of the State of Texas.

The said Defendant is remanded to jail until said Sheriff can obey the directions of this sentence. From which sentence an appeal is taken as a matter of law to the Court of Criminal Appeals of the State of Texas, Austin, Texas.

Signed and entered on this the 30 day of October 1981.

  
\_\_\_\_\_  
Judge 182nd District Court  
Harris County, Texas

COPY TO TDC 11-2-81

OFFENSE- CAPITAL MURDER

PREMISES- GROCERY STORE PARKING LOT WEATHER- OVERCAST

LOCATION: STREET NO- 008935 NAME- NORTH  
TYPE- FWY SUFFIX- APT NO-  
DIST- 6 BEAT- 6B70

BEGIN DATE- WE 05/13/84 TIME- 2135 END DATE- / / TIME-  
RECEIVED/EMPLOYEE: NAME-J.W.ELLIS NO.-031800 DATE-05/14/84 TIME-0345

-----  
COMPLAINANT(S)

NO-01 NAME: LAST-LAMBERT FIRST-BOBBY MIDDLE-GRANT  
RACE-W SEX-M AGE-53 HISPANIC-  
ADDRESS-UNKNOWN  
INJURED: TAKEN TO-BEN TAUB MORGUE BY-CHAUVIN IRVINGTON FUNERAL  
CONDITION-DOA

-----  
WITNESS(S)

NO-01 NAME: LAST-SKILLERN FIRST-BERNADINE MIDDLE-<  
RACE-B SEX-F AGE-33 HISPANIC-  
ADDRESS-2202 DRAYTON  
PHONE: HOME-(000) 445-1569 BUSINESS-(000) 694-2913 EXT-

NO-02 NAME: LAST-GRADY FIRST-DANIEL MIDDLE-J:  
RACE-W SEX-M AGE-35 HISPANIC-  
ADDRESS-8407 BERWYN  
PHONE: HOME-(000) 448-2112 BUSINESS-(000) 000-0000 EXT-

NO-03 NAME: LAST-AMOS FIRST-WILMA MIDDLE--  
RACE-B SEX-F AGE- HISPANIC-  
ADDRESS-8610 WHITE CASTLE LN  
PHONE: HOME-(000) 999-0354 BUSINESS-(000) 000-0000 EXT-

-----  
REPORTEE(S)

NO-04 NAME: LAST-GONZALEZ FIRST-NANCY MIDDLE--  
RACE-W SEX-F AGE-43 HISPANIC-  
ADDRESS-5623 GALE  
PHONE: HOME-(000) 694-0294 BUSINESS-(000) 448-4885 EXT-

VEHICLE(S)

NO-01 TYPE-GENERAL COMPLAINANT NO-01 DISPOSITION-TOWED  
YR-74 MAKE-DODGE MODEL- 8300 STYLE-BUS  
LICENSE: NO-ANB394 STATE-AR YEAR-82 MONTH-00 TYPE-  
VIN-B35BE4X035183 COLORS: 1ST-WHITE 2ND-  
RECOVERY: LOCATION- 8935 NORTH FWY DIST-0 BEAT-0  
DATE-05/13/84 TIME-2135 VALUE-\$ 0.00  
WRECKER-HUBBARD UNIT-NO-36  
LOCATION STORED-2222 STUDEWOOD PHONE-(000) 864-3475

DETAILS OF OFFENSE

THE COMPLAINANT WAS SHOT AND KILLED DURING A ROBBERY ATTEMPT AS HE WALKED TO HIS VEHICLE IN SAFEWAY STORE PARKING LOT AT 8935 NORTH FREEWAY.

OFFICER 1: NAME-J.W.ELLIS EMPLOYEE NO-031800 SHIFT-2  
OFFICER 2: NAME-W.W.OWEN EMPLOYEE NO-042332 SHIFT-2

DIVISION/STATION #-HOMICIDE UNIT #-2287

CALL RECEIVED: DATE-05/13/84 TIME-2150 REPORT MADE: DATE-05/14/84 TIME-0345

SUSPECT(S)

NO-01 DISPOSITION-UNKNOWN= / HPD-NO-000000  
RACE-B SEX-M AGE-18-25 HISPANIC-N DATE OF BIRTH- / /  
HEIGHT-510 TO-600 WEIGHT-145 TO-150  
HAIR: COLOR-BLACK TYPE-AFRO LENGTH-SHORT  
COMPLEXION-DARK FACIAL HAIR- NONE  
DRESS-WHITE BLAZER JACKET AND BLACK SLACKS  
WEAPON USED-UNK REVOLVER

M.O. SUMMARY

SUSPECT FOLLOWED THE COMPLAINANT FROM GROCERY STORE AND ROBBED AND SHOT COMP  
IN THE PARKING LOT.

RELATED CASES-

REPORT ENTERED BY-J.W.ELLIS EMPLOYEE NUMBER-031000 000000000

STATUS: OPEN-X CLEARED- INACTIVE- UNFOUNDED-  
REPORT REVIEWED BY-

NARRATIVE

NOTE TO STAFF REVIEW. THIS CASE IS CONFIDENTIAL. PLEASE CODE ACCORDINGLY.

\*\*\*\*\*INTRODUCTION\*\*\*\*\*

WE, DETECTIVES J.W.ELLIS AND W.W.OWEN, WHILE IN THE HOMICIDE OFFICE RECEIVED  
INSTRUCTIONS FROM LT MASON, TO MAKE THE SHOOTING DOA AT THE SAFEWAY PARKING LOT  
AT 8900 NORTH FREEWAY. WE RECEIVED THE ASSIGNMENT AT 9:50PM AND ARRIVED AT THE  
SCENE AT 10:20PM.

WE FOUND THE CORRECT LOCATION FOR THE SCENE TO BE THE SAFEWAY STORE PARKING  
LOT AT 8935 NORTH FREEWAY. WE NOTED THAT THE COMPLAINANT WAS LAYING JUST INSIDE  
THE DOOR WAY OF THE STORE BETWEEN THE AUTOMATIC DOOR AND CASH REGISTERS. THERE  
WAS A TRAIL OF BLOOD FROM THE PARKING LOT TO THE COMPLAINANT.

THE COMPLAINANT APPEARED TO HAVE BEEN SHOT ONE TIME IN THE CHEST BY UNK CALIBER  
WEAPON. FROM THE WOUND IT APPEARED TO BE A SMALL CALIBER WEAPON USED IN THE  
OFFENSE.

ON ARRIVAL AT THE SCENE WE WERE MET BY THE FIRST UNIFORMED UNIT ON THE SCENE,  
UNIT 6884, OFFICER D.G.KALICH (BADGE #1631, PR # 37458). HE TOLD US THAT HE RECEIVED  
D A SHOOTING CALL AT THE LOCATION AT 9:40PM AND ARRIVED AT THE SCENE AT 9:45PM.

HE SAID HE ARRIVED AT THE SAME TIME AS HFD AMBULANCE UNIT #1167 WITH P.A. LOZANO AND C.A. MICHAELS WHO ATTENDED THE VICTIM AND PRONOUNCED HIM DCA.

WHEN OFFICER KALICH ARRIVED HE WAS ADVISED BY WITNESSES THAT THE SUSPECT HAD FILED THE SCENE TAKING THE WEAPON USED IN THE OFFENSE.

\*\*\*\*\*SCENE SUMMARY\*\*\*\*\*

THE SCENE OF THIS OFFENSE IS THE SAFEWAY GROCERY STORE AND PARKING LOT AT 8935 NORTH FREEWAY. THE STORE IS ON THE WEST SIDE OF THE NORTH FREEWAY ON THE SW CORNER OF THE INTERSECTION OF THE SERVICE ROAD AND GULF BANK. ON THE NW CORNER OF THE INTERSECTION IS A TRAVEL LODGE MOTEL WITH A SMALL STRIP SHOPPING CENTER WITH A U-TOT-EM STORE WEST OF THE TRAVEL LODGE. A SHELL SELF SERVICE GASOLINE STATION IS NORTH OF THE TRAVEL LODGE. WEST OF THE SAFEWAY STORE (BEHIND STORE) ARE RESIDENCES WHICH ARE SEPARATED FROM THE STORE BY A 6' WOODEN FENCE. SOUTH OF AND NEXT TO THE SAFEWAY STORE IS AN UNCOMPLETED STRIP SHOPPING CENTER. IN THE PARKING LOT OF THE SAFEWAY STORE IS A FOTO MAT STORE WHICH WAS CLOSED ON OUR ARRIVAL.

THE ONLY REAL EVIDENCE RECOVERED FROM THE SCENE IS A BROWN SAFEWAY BRAND GROCERY SACK IN WHICH THE COMPLAINANT CARRIED HIS PURCHASES FROM THE STORE. THIS SACK, ALONG WITH CONTENTS WERE BROUGHT INTO THE STORE PRIOR TO OUR ARRIVAL BY UNKNOWN CITIZEN. THE CONTENTS OF THE SACK APPEARED TO BE IN THE SAME ORDER AS SACKED WHEN THE COMPLAINANT MADE HIS PURCHASES AND WAS AS FOLLOWS: GLOVES-\$6.89, CARTON OF RALEIGH CIGARRETS-\$6.29, BREAD-\$1.05, LUNCH MEAT-\$1.25, CHEESE-\$1.98, 2-ONIONS AT AN UNKNOWN PRICE, GARBAGE BAGS-\$1.15, MILK-\$1.79, COOKIES-\$1.29, LUNCH MEAT-\$1.69, RITZ CRACKERS-\$1.35, LUNCH MEAT-\$1.81, AND A SIX PACK OF V8 JUICE-\$1.31. THIS SACK WAS RECOVERED BY WILSON AND SUBMITTED TO THE PRINT LAB SINCE THE SUSPECT MAY HAVE GRABBED THE BAG DURING HIS STRUGGLE WITH THE COMPLAINANT.

OFFICER S.P. WILSON, CSU OFFICER ALSO PHOTOGRAPHED THE SCENE AND SUPPLEMENTED THE CASE.

THE COMPLAINANT WAS IDENTIFIED FROM HIS OREGON DRIVERS LICENSE (#2682464) WHICH WAS FOUND IN THE GLOVE COMPARTMENT OF HIS VEHICLE IN THE STORE PARKING LOT.

THERE WAS A TRAIL OF BLOOD LEADING FROM THE FIRST MARKED PARKING SPACE TO THE BODY WHICH WAS JUST INSIDE THE FRONT DOOR OF THE STORE FOR A TOTAL LENGTH OF APPROXIMATELY 25'. THE COMPLAINANT WAS LAYING ON HIS BACK WITH FEET TO THE EAST AND HEAD TO THE WEST. THE LEFT LEG WAS CROSSED OVER THE RIGHT LEG WITH FEET TOGETHER. FEET WERE TOUCHING THE INSIDE DOOR FRAME ON THE NORTH SIDE. THE COMPS ARMS WERE EXTENDED OUTWARD FROM EACH SIDE OF THE BODY. THE LOWER PORTION OF THE COMPE TORSO WAS LAYING ON A RUBERIZED PRESURE PAD FOR THE AUTOMATIC DOOR.

THE COMP WAS WEARING A WHITE TERRY CLOTH PULL OVER SHIRT WITH HORIZONTAL RED AND BLUE STRIPES, KHAKI PANTS BLACK SOCKS, WHITE JOGGING SHOES WITH BLUE STRIPE DESIGNS AND WHITE PRINT BOXER SHORTS.

THE ONLY APPARENT WOUND TO THE BODY WAS A SMALL CALIBER BULLET WOUND TO THE CHEST WHICH WAS 4 1/2" DOWN FROM THE STERNAL NOTCH AND 2 1/2" TO THE RIGHT OF THE MIDLINE.

THERE WERE NO SIGNS OF STRUGGLE OR DISORDER AT THE SCENE.

WEATHER WAS OVERCAST .VISIBILITY WAS FAIR IN THE PARKING LOT WITH TWO MERCURY VAPOR TYPE LIGHTING FIXTURES IN THE LOT.

\*\*\*\*\*CORONER\*\*\*\*\*

MEI J.C.THOMASON MADE THE SCENE FROM THE MORGUE AND MADE AN INVENTORY OF THE COMPS PERSONAL EFFECTS.

IN THE COMPS RIGHT FRONT PANTS POCKET WAS ONE BLUE CRICKET DISPOSABLE LIGHTER, A BOOK OF MATCHES FROM BEST WESTERN MOTEL, A KEY WITH #208 STAMPED ON IT AND \$2.07 IN COIN. IT SHOULD BE NOTED THAT SOME OF THE COINS WERE ON THE FLOOR UNDER THE COMPS POCKET.

IN THE COMPS LEFT FRONT PANTS POCKET WERE TWO SHORT PENCILS WITHOUT ERASERS, AND ONE NICKEL.

IN THE COMPS LEFT REAR PANTS POCKET WERE SIXTY (60) \$100.00 BILLS WHICH WERE FOLDED IN HALF, AND ONE BLACK PLASTIC COMB.

THERE WAS NO RIGHT REAR PANTS POCKET AND NO SHIRT POCKETS.

THE COMP WAS WEARING A DUFONTE BRAND GOLD WATCH WRIST WATCH WITH BROWN BAND ON HIS LEFT WRIST.

THE BODY WAS PICKED UP FROM THE SCENE BY UNIT #198 FOR CHAUVIN IRVINGTON FUNERAL HOME INC. 7202 IRVINGTON BLVD PH # 697-2848. ATTENDANTS WERE JOE DOHERTY AND NORMAN GUILLOT.

THE COMPS MORGUE NUMBER WILL BE 84-2833. AN AUTOPSY REQUEST FORM FOR HEAD HAIR, FINGER AND PALM PRINTS, FOREIGN MATERIAL ON BODY, CLOTHING, FINGERNAIL SCRAPINGS, BLOOD SAMPLE AND CLOSE UP PHOTOS OF THE WOUNDS, WAS GIVEN TO THOMASON BY ELLIS. A COPY OF THE REQUEST FORM WAS RETAINED AND WILL SUPPLEMENT THIS REPORT.



SUPPLEMENT(S)

NO-0001

OFFENSE- CAPITAL MURDER

STREET LOCATION INFORMATION

NUMBER- 9000 NAME-NORTH TYPE-FWY SUFFIX-  
DATE OF OFFENSE-05/13/81 DATE OF SUPPLEMENT-05/14/81

RECOVERED STOLEN VEHICLES INFORMATION

NONE  
OFFICER 1-S.P. WILSON

EMP#-052687 SHIFT-3 DIV/STATION-5

SUPPLEMENT NARRATIVE

I, OFFICER S.P. WILSON, RIDING UNIT CSU-F, WHILE AT STATION 5, RECEIVED AN ASSIGNMENT FROM LT. ZOCH TO MAKE THE SHOOTING DOA AT THE ABOVE LOCATION. THE ASSIGNMENT WAS RECEIVED AT 9:57PM AND THE ARRIVAL TIME ON THE SCENE WAS 10:29PM. ONCE ON THE SCENE I TALKED WITH DETECTIVE ELLIS AND FOUND OUT THE DETAILS OF THE OFFENSE. THE SCENE WHERE THE ACTUAL SHOOTING TOOK PLACE WAS OUTSIDE THE SAFEWAY STORE IN THE PARKING LOT. THE SHOOTING TOOK PLACE AT THE FRONT OF A VEHICLE THAT WAS PARKED IN THE PARKING LOT. I TALKED WITH A WITNESS TO THE SHOOTING BY THE NAME OF DANIEL J. GRADY AND TRIED TO FIND OUT IF THE SUSPECT TOUCHED THE VEHICLE ANY TIME DURING OR AFTER THE ROBBERY. GRADY STATED THAT THE SUSPECT NEVER TOUCHED THE VEHICLE AND DESCRIBED THE SUSPECT AND THE COMPL. AS BEING 3-4 FEET FROM THE VEHICLE AT ALL TIMES. THE AREA AROUND THE VEHICLE WAS SEARCHED FOR ANY SPENT HULLS AND NONE WERE FOUND. THE VEHICLE, LIC.#LDH694, WAS COVERED WITH DUST AND DIRT AND NEITHER HAD BEEN DISTURBED EXCEPT IN A SMALL AREA THAT WAS COVERED IN BLOOD WHERE THE COMPL. FELL AGAINST THE HOOD OF THE VEHICLE APPARENTLY AFTER BEING SHOT.

I LOADED THE RAPID OMEGA CAMERA WITH CG120 COLOR FILM AND TOOK THE BELOW LISTED SCENE PHOTOS: THE NIKON CAMERA FROM THE HOMICIDE OFFICE WAS ALSO USED TO TAKE AN ADDITIONAL 13 PHOTOS. THE FILM REMAINED IN MY POSSESSION UNTIL IT WAS TAGGED IN THE PHOTO LOCK BOX IN THE ID DIVISION.

A BAG OF GROCERIES THAT THE COMPL. PURCHASED IN THE STORE HAD BEEN TAKEN INTO THE STORE BY A WITNESS OR CONCERNED CITIZEN. THE MERCHANDISE WAS TAKEN FROM THE GROCERY SACK INSIDE THE STORE. AN INVENTORY WAS MADE BY DETECTIVES AND I TOOK SEVERAL PHOTOGRAPHS OF THE MERCHANDISE. I RECOVERED THE GROCERY BAG AT 11:35PM AND PLACED IT IN A PLASTIC BAG. THE GROCERY BAG WILL BE TAGGED IN THE LATENT PRINT LAB FOR PRINTING. THERE WAS NO RECEIPT INSIDE THE BAG.

SCENE PHOTOS: TAGGED IN THE PHOTO LOCK BOX IN THE ID DIVISION  
ROLL #1

- 1. WEST INF. VIEW OF THE FRONT OF THE STORE SHOWING SAFEWAY SIGN
- 2. WEST 30FT. VIEW OF THE BODY INSIDE THE STORE BY THE FRONT DOOR
- 3. NORTH 30FT. VIEW OF THE BODY-COVERED
- 4. NORTH 30FT. VIEW OF THE BODY-COVERED
- 5. SOUTH 12FT. VIEW OF THE BODY SHOWING THE POSITION IN RELATION TO THE FRONT DOOR
- 6. DOWN 3FT. VIEW OF THE FACE OF THE COMPL.
- 7. S.E. 28FT. VIEW OF THE BODY
- 8. S.E. 20FT. VIEW OF THE BODY
- 9. N.E. 30FT. VIEW OF THE BODY
- 10. SOUTH 7FT. VIEW OF THE BODY

ROLL #2

- 1.WEST 50FT. VIEW OF THE SHOOTING SCENE AND THE VEHICLE
- 2.WEST 20FT. VIEW OF THE FRONT OF THE VEHICLE WHERE THE SHOOTING TOOK PLACE
- 3.N.W. 8FT. VIEW OF THE GROCERY BAG BELONGING TO THE COMPL.
- 4.N.W. 15FT. VIEW OF THE FRONT OF THE VEHICLE WHERE THE SHOOTING TOOK PLACE SHOWING LIC.#LDH694
- 5.WEST 7FT. VIEW OF THE BLOOD ON THE HOOD
- 6.N.W. 7FT. VIEW OF THE BLOOD ON THE PAVEMENT IN FRONT OF THE VEHICLE
- 7.WEST 20FT. VIEW OF THE BLOOD ON THE PAVEMENT LEADING INTO THE STORE
- 8.WEST 50FT. VIEW OF THE FRONT OF THE STORE
- 9.WEST 5FT. VIEW OF THE BLOOD ON THE HOOD OF THE VEHICLE
- 10.WEST 13FT. VIEW OF THE BLOOD TRAIL LEADING INTO THE STORE

ROLL #3-13 PHOTOS ON CG435 COLOR FILM-NOT DOCUMENTED

EVIDENCE: TAGGED IN THE LATENT PRINT LAB

- 1.PLASTIC BAG CONTAINING ONE BROWN GROCERY SACK-SAFEWAY BRAND

SUPPLEMENT ENTERED BY = 52687

NO-0032

OFFENSE- CAPITAL MURDER

STREET LOCATION INFORMATION

NUMBER- 9000 NAME-NORTH TYPE-FWY SUFFIX-  
 DATE OF OFFENSE-05/13/84 DATE OF SUPPLEMENT-05/14/84  
 COMPL(S) LAST-LAMBERT FIRST-BOBBY MIDDLE-GRANT

RECOVERED STOLEN VEHICLES INFORMATION

NONE

OFFICER1-W.W.OWEN  
 OFFICER2-J.W.ELLIS

EMP#-042332 SHIFT-2 DIV/STATION-HOMICIDE  
 EMP#-034800 SHIFT-2

SUPPLEMENT NARRATIVE

HOSPITAL INVESTIGATION:

HOUSTON FIRE DEPARTMENT AMBULANCE UNIT 1167 MANNED BY PARAMEDIC P.A.LOZANO AND CHAUFFEUR C.A.MICHAELS WAS DISPATCHED TO THE SCENE OF A SHOOTING AT THE SAFEWAY STORE AT 8900 NORTH FREEWAY AT 9:40PM. HFD AMBULANCE UNIT 1167 ARRIVED ON THE SCENE AT 9:44PM FINDING THE COMPLAINANT INSIDE THE STORE WITH A GUNSHOT WOUND TO THE CHEST. THE COMPLAINANT WAS PRONOUNCED AT 9:45PM BY PARAMEDIC LOZANO.

IN EXAMINING THE COMPLAINANTS WOUND AT THE MORGUE WE FOUND THAT IT APPEARED TO BE A SINGLE GUNSHOT WOUND TO THE UPPER CHEST WITH NO EXIT. THE WOUND WAS 4 AND 1/2 INCHES DOWN FROM THE STERNAL NOTCH AND 2 AND 1/2 INCHES TO THE RIGHT OF THE MIDLINE.

THE COMPLAINANT WAS CLOTHED IN A BLUE AND WHITE MULTI COLORED KNIT SHIRT SLEEVE

SPORT SHIRT, KHAKI SLACKS, BLACK SOCKS, WHITE TENNIS SHOES, AND WHITE BRIEFS WITH A RED AND BLUE PATTERN ON THEM. THESE CLOTHING ITEMS REMAINED WITH THE BODY OF THE COMPLAINANT, ALTHOUGH IT WILL BE NECESSARY TO RECOVER THE SHIRT AND SUBMIT IT TO THE CRIME LAB FOR DISTANCE DETERMINATION.

DETAILS OF OFFENSE:

THE DETAILS OF THIS OFFENSE ARE AS FOLLOWS: THE COMPLAINANT, BOBBY GRANT LAMBERT, RECENTLY ARRIVED IN THE CITY FROM TUCSON ARIZONA. THE PURPOSE OF THE COMPLAINANTS TRIP TO HOUSTON IS UNKNOWN. THE COMPLAINANT HAD BEEN STAYING AT THE BEST WESTERN MOTEL, GREENSPPOINT ON THE NORTH FREEWAY BUT ACCORDING TO THE DESK CLERK, AL SHARIFF, PHONE 447-6344, HE HAD CHECKED OUT ON MAY 13 AT 9:05PM.

SHORTLY BEFORE 9:30PM TONIGHT THE COMPLAINANT ENTERED THE SAFEWAY STORE LOCATED 8935 NORTH FREEWAY. AFTER COMPLETING A BRIEF SHOPPING SPREE IN WHICH HE PURCHASED ASSORTED FOOD ITEMS THE COMPLAINANT CHECKED OUT WITH CASHIER MESCHELL GILLIAM AT REGISTER 2 PAYING FOR HIS FOOD ITEMS WITH A \$100.00 BILL. CASHIER GILLIAM WAS UNCERTAIN EXACTLY HOW MUCH THE COMPLAINANTS FOOD ITEMS TOTALED UP BUT SHE WAS CERTAIN THAT HE WAS GIVEN CHANGE FROM THE \$100.00 BILL.

THE COMPLAINANT THEN EXITED THE STORE BY WAY OF THE FRONT DOORS AND BEGAN WALKING EAST ACROSS THE PARKING LOT WITH A SINGLE BAG OF GROCERIES IN HIS HAND. APPROXIMATELY 20' EAST OF THE FRONT DOORS OF THE STORE AN UNKNOWN BLACK MALE WAS SEEN APPROACHING THE COMPLAINANT FROM THE REAR AND IT APPEARED THAT HE WAS REACHING OUT TRYING TO GET HIS HAND INTO THE COMPLAINANTS BACK POCKET. THE COMPLAINANT ATTEMPTED TO GET OUT OF THE REACH OF THE BLACK MALE BY TURNING HIS BODY SO AS TO PREVENT THE BLACK MALE FROM GETTING INTO HIS POCKETS. WHEN HE DID THIS THE BLACK MALE REACHED OUT AND GRABBED THE COMPLAINANT BY THE THROAT AND PUT A PISTOL TO HIS HEAD.

FEARING THAT THE COMPLAINANT WAS GOING TO BE SHOT THE #1 WITNESS, BERNADINE SKILLERN, WHO WAS SITTING IN HER VEHICLE AWAITING HER DAUGHTER TO RETURN FROM INSIDE THE STORE, BEGAN HONKING HER HORN. WHEN SHE DID THIS THE BLACK MALE LOOKED UP TOWARDS HER AND WHEN HE DID THIS THE COMPLAINANT PULLED AWAY FROM HIS GRASP. AS THE COMPLAINANT BEGAN BACKING AWAY THE SUSPECT FIRED ONE SHOT FROM HIS GUN AND THE COMPLAINANT DROPPED THE GROCERIES WHICH HE HAD BEEN HOLDING AND FELL AGAINST THE VEHICLE BELONGING TO THE #2 WITNESS, DANIEL J. GRADY.

THE SUSPECT THEN TURNED AROUND AND BEGAN WALKING BRISKLY AWAY FROM WHERE HE HAD BEEN STRUGGLING WITH THE COMPLAINANT. SEEING THAT THE COMPLAINANT WAS SHOT THE #1 WITNESS DROVE HER CAR TO THE NORTHEAST CORNER OF THE STORE FOLLOWING THE SUSPECT. WHEN THE SUSPECT REALIZED THAT HE WAS BEING PURSUED HE BEGAN RUNNING AND HE WAS LAST SEEN RUNNING EAST DOWN THE NORTHSIDE OF THE SAFEWAY STORE. FEARING THAT HER CHILDREN MIGHT BE PLACED IN SOME DANGER THE #1 WITNESS GAVE UP THE IDEA OF FOLLOWING THE SUSPECT AND RETURNED TO THE FRONT OF THE STORE TO SEE IF SHE COULD BE OF SOME ASSISTANCE.

FOLLOWING THE SHOOTING THE COMPLAINANT FELL AGAINST THE #2 WITNESSES VEHICLE AND THE #2 WITNESS THEN GOT OUT OF HIS VEHICLE AND CARRIED THE COMPLAINANT INSIDE THE STORE WHERE HE ATTEMPTED TO TREAT HIS GUNSHOT WOUND.

IT WAS LATER LEARNED THAT THE SUSPECT HAD BEEN SEEN INSIDE THE STORE AT THE SAME TIME AS THE COMPLAINANT AND HAD EVEN BEEN SEEN WALKING AROUND THE STORE FOLLOWING THE COMPLAINANT.

IT IS BELIEVED THAT THE MOTIVE FOR THE SHOOTING WAS ROBBERY AS WE FOUND THAT THE

COMPLAINANT WAS CARRYING A LARGE AMOUNT OF CASH (\$6,000.00) ON HIS PERSON. WE ALSO BELIEVE THAT THE SUSPECT MIGHT HAVE SEEN THE COMPLAINANT WITH THIS MONEY AS HE CARRIED IT IN HIS BACK LEFT PANTS POCKET FOLDED UP AND FOLLOWED HIM OUTSIDE OF THE STORE WHERE HE ATTEMPTED TO ROB HIM. IT IS FURTHER BELIEVED THAT THE SUSPECT DID GET THE COMPLAINANTS CAR KEYS AND THE CHANGE HE RECEIVED WHEN HE PAID FOR HIS GROCERIES. THE EXACT AMOUNT IS NOT KNOWN BUT IT IS LESS THAN \$100.00.

INTERVIEW OF WITNESSES:

1. BERNADINE SKILLERN N/F 33, DOB 5-26-48, 2202 DRAYTON, HOME PHONE 445-4567, EMPLOYED AS A CLERK FOR THE HOUSTON INDEPENDENT SCHOOL DISTRICT, PHONE 694-2843. MRS. SKILLERN AND HER DAUGHTER, RHONDA, ARRIVED AT THE SAFEWAY STORE TONIGHT AT APPROXIMATELY 9:30PM. MRS. SKILLERN PARKED HER CAR IN THE CENTER DRIVEWAY LEADING TO THE FRONT ENTRANCE OF THE STORE AND WAITED IN THE CAR WHILE HER DAUGHTER ENTERED THE STORE. WHILE SITTING IN HER CAR SHE OBSERVED A W/M WITH A BAG OF GROCERIES WALKING EAST THRU THE PARKING LOT. AS THE W/M PASSED IN FRONT OF HER VEHICLE A YOUNG BLACK MALE APPROACHED THE W/M FROM HIS LEFT SIDE AND WAS ATTEMPTING TO GET INTO THE W/M'S REAR PANTS POCKET. THE W/M BEGAN TURNING FROM SIDE TO SIDE TO GET OUT OF THE N/M'S GRASP AND WHEN HE DID THIS THE N/M GRABBED HIM BY THE SHIRT COLLAR AND PUT A GUN TO HIS HEAD.

MRS. SKILLERN FEARED THAT THE N/M WAS GOING TO SHOOT THE W/M SO SHE STARTED BLOWING HER HORN AND WHEN SHE DID THIS THE N/M TURNED TOWARDS HER AND AT THIS TIME THE W/M PULLED AWAY FROM THE N/M. MRS. SKILLERN THEN HEARD A POP NOISE AND SAW THE W/M DROP HIS GROCERIES AND FALL UP AGAINST A CAR. THE SUSPECT THEN TURNED AROUND AND BEGAN WALKING AWAY AND MRS. SKILLERN STARTED HER VEHICLE AND BEGAN FOLLOWING THE N/M AS HE WALKED THRU THE PARKING LOT. WHEN THE N/M REALIZED HE WAS BEING FOLLOWED HE BROKE INTO A RUN HEADING WEST BEHIND THE STORE. THIS WAS THE LAST TIME MRS. SKILLERN SAW THE N/M AND SHE DESCRIBED HIM AS BEING A N/M, 18-20 YEARS OLD, 5'10" TO 6', SLIM BUILD, SLIM FACE, CLEAN SHAVEN, CLOSE CUT AFRO, WEARING A WHITE JACKET AND BLACK SLACKS AND CARRYING A BLACK GUN WITH A LONG BARRELL.

FOR FURTHER DETAILS SEE THE ATTACHED WRITTEN STATEMENT OF THIS WITNESS.

2. DANIEL JOSEPH GRADY W/M 35, DOB 8-4-45, 8409 BERWYN, HOME PHONE 448-2442, SELF EMPLOYED WITH HIS BUSINESS PHONE BEING THE SAME. DANIEL GRADY AND HIS WIFE, PEGGY W/F 33, ARRIVED AT THE SAFEWAY STORE TONIGHT SHORTLY AFTER 9PM. DANIEL REMAINED IN HIS CAR WHICH HE HAD PARKED IN THE MIDDLE ISLE LEADING UP TO THE MAIN ENTRANCE TO THE STORE WHILE HIS WIFE WENT INSIDE TO GROCERY SHOP.

MOMENTS AFTER HIS WIFE WENT INSIDE THE STORE DANIEL GRADY SAW A W/M WALKING OUT OF THE STORE. A TALL SLIM BLACK MAN WITH SHORT HAIR WALKED UP TO THE W/M AND BEGAN SHOVING THE W/M AND THEY GOT INTO WHAT LOOKED LIKE A SHOVING MATCH. THE W/M AND THE N/M BROKE APART AND THE W/M DROPPED THE GROCERIES HE HAD BEEN CARRYING AND THEN THEY GOT INTO IT AGAIN AND IT APPEARED THAT THE N/M WAS TRYING TO GET THE W/M'S BILLFOLD OUT OF HIS POCKET WHEN THE N/M CAME UP WITH A PISTOL AND SHOT THE W/M. THE W/M FELL UP AGAINST DANIEL GRADY'S VEHICLE AND THE SUSPECT RAN TOWARD GULFBANK ROAD. DANIEL GRADY THEN GOT OUT OF HIS CAR AND ATTEMPTED TO AID THE W/M.

DANIEL GRADY DESCRIBED THE N/M AS TALL, SLIM, YOUNG, WEARING A WHITE SPORTS COAT AND CARRYING A SMALL CALIBER PISTOL. GRADY WAS RELUCTANT TO SAY WHETHER OR NOT HE COULD IDENTIFY THE SUSPECT BUT SAID HE WOULD CERTAINLY TRY. FOR FURTHER DETAILS SEE THE ATTACHED WRITTEN STATEMENT OF DANIEL GRADY.

3. WILMA AMOS N/F 32, DOB 3-4-49, 8610 WHITE CASTLE, HOME PHONE 999-0354,  
EMPLOYED AS A TRUCK DRIVER WITH A DELIVERY SERVICE, PHONE 974-0557. ALTHOUGH  
NOT PRESENT AT THE SCENE WHEN WE ARRIVED MRS. AMOS CONTACTED THE HOMICIDE DI-  
VISION AND ADVISED THAT SHE HAD WITNESSED THE SHOOTING AND GAVE THE FOLLOWING  
INFORMATION.

TONIGHT AT APPROXIMATELY 9:45PM SHE WENT TO THE SAFEWAY STORE AT 8900 NORTH  
FREEWAY TO GET A HALF GALLON OF MILK. WHILE INSIDE THE STORE SHE WALKED BACK TO  
THE DAIRY SECTION AND ON HER WAY BACK UP TO THE FRONT OF THE STORE SHE OBSERVED  
A W/M SHOPPING AND HE WAS LOOKING AT SOME GLOVES. SHE ALSO NOTICED THAT A N/M  
DRESSED IN A WHITE SPORT COAT AND BLACK PANTS APPEARED TO BE WATCHING THE W/M.  
SHE DID NOT THINK MUCH ABOUT IT AND WENT TO THE FRONT TO THE STORE AND CHECKED  
OUT AND WALKED TO HER VAN WHICH WAS PARKED ON THE NORTHSIDE OF THE MAIN ENTRANCE  
. AS SHE OPENED THE DOOR TO HER VAN SHE HEARD SOME COMMOTION AND WHEN SHE TURNED  
AROUND SHE HEARD A GUNSHOT FOLLOWED BY SEEING THE SAME N/M WHO SHE HAD SEEN  
INSIDE THE STORE RUNNING WITH BOTH HANDS IN HIS POCKETS. THIS N/M RAN PAST  
HER AND DOWN THE NORTHSIDE OF THE STORE AND AROUND THE BACK OF THE BUILDING.  
WHEN SHE WENT OVER TO SEE WHO HAD BEEN SHOT SHE DISCOVERED THAT IS WAS THE  
SAME W/M WHO SHE HAD SEEN INSIDE THE STORE SHOPPING FOR SOME GLOVES. THE N/M  
WHO SHOT THE W/M WAS ALSO THE SAME MAN WHO WAS FOLLOWING THE W/M AROUND INSIDE  
THE STORE.

MRS. AMOS DESCRIBED THE SUSPECT AS A N/M IN HIS 20'S, SHORT DARK HAIR, CLEAN  
SHAVEN, WEARING BLACK SLACKS AND A WHITE COAT. MRS. AMOS IS CERTAIN SHE CAN IDEN-  
TIFY THE SUSPECT. DUE TO THE LATE HOUR WE REQUESTED THAT SHE COME TO THE HOMIC-  
CIDE DIVISION ON THURSDAY AFTERNOON AT 4PM FOR A WRITTEN STATEMENT.

THE FOLLOWING EMPLOYEE'S WERE WORKING INSIDE TH SAFEWAY STORE ON THE NIGHT OF  
THE OFFENSE:

4. MRS MARSHALL (PAT) JOHNSON W/F 43  
2102 MERIANNE  
HOME PHONE 442-0648

THIS EMPLOYEE WAS THE CLERK IN CHARGE OF THE STORE AS THE MANAGER WAS NOT ON DUTY.  
SHE WAS IN ONE OF THE AISLES OF THE STORE WHEN THE OFFENSE OCCURRED MAKING  
PRICE CHANGES AND DID NOT WITNESS THE OFFENSE. SHE DID NOT RECALL SEEING EITHER  
THE SUSPECT OR COMPLAINANT IN THE STORE.

2. NANCY GONZALEZ LA/F 43  
5623 GALE #2  
HOME PHONE 694-0294

THIS EMPLOYEE WAS WORKING INSIDE THE COURTESY BOOTH OF THE STORE WHICH IS NORTH  
OF THE CASH REGISTERS. SHE DID NOT SEE THE OFFENSE AND WAS MADE AWARE OF THE  
OFFENSE WHEN ANOTHER EMPLOYEE CALLED OUT "HE'S BEEN SHOT, HE'S BEEN SHOT". FOR  
APPROXIMATELY 15 MINUTES PRIOR TO THE OFFENSE THIS EMPLOYEE HAD BEEN WATCHING THE  
AREA OF THE CASH REGISTERS AND FRONT DOOR BUT DOES NOT REMEMBER SEEING EITHER  
SUSPECT OR COMPLAINANT IN THE STORE.

3. SHERIAN ELUK B/F 29  
1427 ALLEN PARKWAY  
HOME PHONE 651-0430

THIS EMPLOYEE WAS CHECKING AT REGISTER #1 WHICH IS THE FIRST REGISTER SOUTH OF  
THE COURTESY BOOTH. SHE SAID SHE WAS WAITING ON A CUSTOMER AND HEARD A "POP"  
FROM THE PARKING LOT. SHE LOOKED OUT THE WINDOWS AND SAW A B/M WEARING A WHITE

BLAZER JACKET AND BLACK SLACKS IN THE PARKING LOT. SHE SAYS SHE COULD NOT SEE HIS FACE DUE TO THE GLASS OF THE WINDOWS AND DARK PARKING LOT BUT COULD TELL HE WAS BACKING AWAY FROM THE COMPLAINANT WITH HIS LEFT HAND DOWN TO HIS SIDE AND RIGHT HAND AT HIS WAIST. SHE COULD NOT TELL IF HE HAD ANYTHING IN HIS HANDS AND SAID HE WAS WALKING BACKWARDS LOOKING FROM SIDE TO SIDE. HE BACKED UNTIL GOING OUT OF HER VISION DUE TO A CONCRETE COLUMN OF THE FRONT OF THE STORE AND COLD DRINK MACHINES INSIDE THE STORE. SHE THEN NOTICED THE COMPLAINANT WALKING INTO THE STORE FROM THE PARKING LOT AND NOTICED HE HAD BEEN SHOT. AS THE COMPLAINANT ENTERED THE STORE HE FELL IN THE DOORWAY AND SEVERAL CITIZENS CAME TO HIS AID WITH ICE, PAPER TOWELS AND NAPKINS FROM THE STORE.

4. MESCHELL GILLIAM B/F 19  
108 W. WHITNEY  
HOME PHONE 694-8595

THIS EMPLOYEE WAS WORKING REGISTER # 2 WHICH IS SOUTH OF #1 REGISTER. SHE STATED SHE HEARD #3 SAY "HE'S BEEN SHOT" AND SAW THE COMPLAINANT COME BACK IN THE STORE AND FALL. SHE SAYS SHE HAD CHECKED OUT THE COMPLAINANT AS HE MADE HIS PURCHASES AND HE PAID HER WITH A \$ 100.00 BILL AND COIN CHANGE. SHE SAYS SHE HAS BEEN WORKING A SHORT TIME AT THE STORE AND SAW THE COMPLAINANT ONE TIME BEFORE ON SUNDAY 5-10-81 IN THE STORE. SHE SAID THE COMPLAINANT SEEMED REAL NICE TO HER, EXCHANGING PLEASANTRIES WHILE SHE CHECKED HIM OUT. SHE DID NOT SEE THE SUSPECT AND DOES NOT REMEMBER ANYONE FITTING HIS DESCRIPTION INSIDE THE STORE AT ANY TIME.

5. MARY STEVENSON B/F 34  
543 W. DONAVAN  
HOME PHONE 697-9326

THIS EMPLOYEE SAYS SHE WAS DOING COMPUTER TAGS ELSEWHERE IN THE STORE AND BECAME AWARE OF THE OFFENSE AFTER HEARING A CUSTOMER ASK WHAT THE COMMOTION WAS IN THE FRONT OF THE STORE. SHE DOES NOT REMEMBER ANY ONE FITTING THE DESCRIPTION OF THE SUSPECT IN THE STORE.

6. RONALD HUBBARD  
1451 DIPLOMAT WAY  
HOME PHONE 447-6070

THIS EMPLOYEE HAD LEFT THE SCENE WHEN DETECTIVES ARRIVED. INFORMATION ON ADDRESS OBTAINED FROM THE STORE. ACCORDING TO SHERIAN ELUK HE WAS SACKING GROCERIES AT HER REGISTER (#1) WHEN THE OFFENSE OCCURRED.

7. DEBRA NIXON  
6883 BLEKER ST  
635-5848

THIS EMPLOYEE HAD ALSO LEFT THE SCENE PRIOR TO DETECTIVES ARRIVAL. SHE SHOULD HAVE BEEN CHECKING AT REGISTER # 3.

8. DEXTER HOSKINS

MANAGER OF THE STORE, HE WAS OFF DUTY WHEN THE OFFENSE OCCURRED AND ARRIVED AT THE SCENE AFTER BEING NOTIFIED OF THE OFFENSE BY OTHER EMPLOYEES. ACCORDING TO HIM A MALE FITTING THE DESCRIPTION OF THE SUSPECT HAS BEEN ROBBING OTHER SAFEWAY STORES BY JUMPING OVER THE COURTESY BOOTH.

INCIDENT NO. 025207081  
HILE STILL AT THE SCENE WE WERE INFORMED THAT A WRECKED DRIVER, DAVID SMITH  
AD HEARD THE BROADCAST OF THE ROBBERY SHOOTING ON HIS MONITOR AND DRIVEN TO  
HE STORE WHERE HE LEARNED THAT THE SUSPECT HAD FLED THE SCENE. DAVID SMITH  
ROVE BACK INTO THE AREA BEHIND THE STORE AND WHILE APPROACHING STUEBNER AIR-  
INE HE CAME UPON A SUSPICIOUS 77 PLYMOUTH, WHITE OVER BLUE OCCUPIED BY 2-N/M'S.  
HE LICENSE NUMBER ON THIS VEHICLE WAS KWT538. SMITH COULD NOT GIVE ANY FURTHER  
DESCRIPTION ON THE OCCUPANTS BUT IT WAS HIS OPINION THEY WERE ACTING SUSPICIOUS.  
O HE NOTED THE LICENSE NUMBER OF THE VEHICLE.

DAVID SMITH LIVES AT 3423 ACORNWAY, PHONE 353-4328.

PERSON WANTED: UNKNOWN N/M, 5'10" TO 6', 18 TO 25 YEARS OF AGE, SLIM BUILD,  
SHORT AFRO, DARK COMPLEXION, CLEAN SHAVEN, SLIM FACE, WEARING  
BLACK PANTS AND A WHITE SPORT COAT.  
WEAPON: UNKNOWN CALIBER REVOLVER, BLUE STEEL.

INVESTIGATION TO CONTINUE...

SUPPLEMENT ENTERED BY = 42332

NO-0003

OFFENSE- CAPITAL MURDER  
STREET LOCATION INFORMATION  
NUMBER- 8935 NAME-NORTH TYPE-FWY SUFFIX-  
DATE OF OFFENSE-05/13/81 DATE OF SUPPLEMENT-05/14/81  
COMPL(S) LAST-LAMBERT FIRST-BOBBY MIDDLE-GRANT  
RECOVERED STOLEN VEHICLES INFORMATION  
NONE  
OFFICER1-W.W.OWEN EMP#-042332 SHIFT-2 DIV/STATION-HOMICIDE  
OFFICER2-J.W.ELLIS EMP#-031000 SHIFT-2

SUPPLEMENT NARRATIVE

PROGRESS REPORT:

WE, DETECTIVES ELLIS AND OWEN, LEFT THE SCENE AND DROVE NORTH OUT THE NORTH FREE  
WAY TO THE BEST WESTERN HOTEL, GREENSPPOINT. ONCE THERE WE SPOKE WITH THE DESK  
CLERK, AL SHARRIFF PHONE 447-6344. WE SHOWED HIM THE KEY WHICH WE HAD RECOVERED  
FROM THE BODY OF THE COMPLAINANT AND HE VERIFIED THAT IT WAS A KEY TO A BEST  
WESTERN HOTEL. WE SHOWED HIM THE COMPLAINANTS OREGON DRIVER'S LICENSE PHOTO AND  
HE INDICATED THAT HE DID NOT ROGNIZE THE COMPLAINANT.

IN CHECKING MOTEL RECORDS CLERK SHARRIFF FOUND THAT ROOM 208 HAD BEEN REGISTERED  
IN THE NAME OF RONALD M. ALLEN, ADDRESS 704 UCLAN, BURBANK CALIFORNIA, EMPLOYED  
AT FOXCO INDUSTRIES IN ENCINO CALIFORNIA. ALLEN HAD CHECKED OUT TONIGHT AT 9:05  
M WITH THE EVENING SHIFT DESK CLERK DIANA ROLAND, HOME PHONE 288-4628. THE BILL  
HAD BEEN PAID IN CASH. THERE WERE A NUMBER OF LONG DISTANCE TELEPHONE CALLS MADE

\*\*\*\*\* FROM THE ROOM AND THEY WERE AS FOLLOWS: \*\*\*\*\*

- 5/11 21:26 213-849-5346
- 5/12 18:09 213-844-3886
- 5/11 20:48 213-845-4463
- 5/11 17:24 206-365-6699
- 5/11 16:08 206-362-8080
- 5/11 12:07 213-845-4463
- 5/11 11:34 "
- 5/11 13:55 206-362-8080
- 5/10 12:10 213-849-5346
- 5/10 12:07 213-999-4323
- 5/13 19:55 602-886-3438
- 5/13 17:07 702-362-3456
- 5/13 17:21 206-365-6699
- 5/13 17:00 702-362-3456
- 5/13 09:39 213-628-4900
- 5/13 20:50 405-751-7623

ACCOMPANIED BY THE MOTEL SECURITY GUARD GLEN MATHER WE WENT TO ROOM 208 AND ONCE INSIDE THE ROOM WE FOUND SEVERAL CLEANING RECEIPTS WITH THE COMPLAINANTS NAME ON THEM. WE ALSO FOUND TWO DIFFERENT BRANDS OF CIGARRETTES IN THE ASHTRAY, ONE BEING CONSISTENT WITH THE BRAND THE COMPLAINANT SMOKES AND THE OTHER DIFFERENT. WE RETRIEVED THE CIGARETTE BUTT FROM THE ASHTRAY AS WELL AS SEVERAL PIECES OF PAPER WITH NAMES AND PHONE NUMBERS ON THEM. WE QUESTIONED GUARD MATHER ABOUT THE DESCRIPTION OF THE SUSPECT AND HE SAID HE WAS NOT AWARE THAT THERE WERE ANY N/M'S EMPLOYED AT THE MOTEL.

WE WENT TO THE BAR WHERE WE TALKED WITH CHARMAINE TERRI PENA W/F 25, DOB 5-11-56 ADDRESS 1655 BLUE BELL #238, PHONE 820-0503, WORK PHONE 447-6314. MISS PENA IS EMPLOYED AS A BARTENDER AND HAS ONLY WORKED AT THE CLUB SINCE MONDAY MAY 11. WE SHOWED HER A PHOTO OF THE COMPLAINANT AND SHE INDICATED THAT SHE HAD NOT SEEN HIM IN THE CLUB SINCE SHE BEGAN WORKING THERE ON MONDAY. MISS PENA ADVISED US THAT ANOTHER FEMALE NAMED JUDY WORKED IN THE BAR BUT SHE HAD GONE FOR THE NIGHT BUT WOULD BE BACK TOMORROW NIGHT AT 8PM.

WE LEFT THE SCENE AND WENT TO THE MORGUE AND PROVIDED ME INVESTIGATOR J.C. THOMASON WITH THE LIST OF LONG DISTANCE CALLS MADE BY WHOEVER WAS STAYING IN ROOM 208. IN CALLING 213-844-3886 HE SPOKE WITH MRS. RON ALLEN WHO ADVISED THAT HER HUSBAND HAD BEEN IN HOUSTON ON BUSINESS BUT HAD LEFT TODAY AND WAS NOW IN LAS VEGAS. SHE WENT ON TO SAY THAT AN ASSOCIATE OF HER HUSBANDS, BOBBY LAMBERT HAD BEEN STAYING WITH HER HUSBAND AT THE BEST WESTERN, GREENSPPOINT. MRS. ALLEN WAS INFORMED OF THE DEATH OF THE COMPLAINANT AND SHE PROVIDED MEI THOMASON WITH THE NAME OF THE COMPLAINANTS WIFE. LORETTA ANN LAMBERT, ADDRESS 2402 NORTH INDIAN RUINS, TUCSON ARIZONA, PHONE 602-886-3438. MRS. ALLEN WAS VERY VAGUE ON WHAT BUSINESS THE COMPLAINANT HAD IN HOUSTON. SHE DID SAY THAT THE COMPLAINANT AND HIS WIFE HAD RECENTLY SEPERATED. WE REQUESTED THAT WHEN HER HUSBAND RETURNS HOME THAT SHE HAVE HIM GET IN TOUCH WITH US.

WHILE AT THE MORGUE THOMASON RECEIVED A CALL FROM THE COMPS WIFE, LORETTA LAMBERT AND SGT CALLAN WITH THE PIMA COUNTY ARIZONA SHERRIFS DEPT WHO HAD NOTIFIED MRS LAMBERT OF HER HUSBANDS DEATH. PIMA COUNTY HAD PREVIOUSLY BEEN CONTACTED BY THOMASON. SGT CALLAN TOOK INFORMATION FROM THOMASON AS TO ARRANGEMENTS NEEDED TO BE MADE BY THE WIFE. WHEN THOMASON TOLD HIM ABOUT THE \$6000.00 ON THE COMP, SGT CALLAN SAID IN REGARDS TO THE LAST THING YOU TOLD ME I WILL GET BACK TO YOU ON IT. THE WAY HE SAID THIS TO THOMASON MADE HIM THINK THAT THE SGT DID NOT WANT THE COMPS WIFE MADE AWARE OF THE MONEY AT THE TIME SO THOMASON ASKED IF THERE



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WAS SOMETHING HE NEEDED TO TELL THE HOMICIDE DETECTIVE IN REGARDS TO THE COMP. SGT CALLAN SAID HE WOULD CONTACT DETECTIVE ELLIS AFTER HE LEFT THE COMPS WIFE.

AFTER ARRIVING IN THE HOMICIDE OFFICE ELLIS RECEIVED A CALL FROM SGT CALLAN. HE SAID THAT HE HAD CHECKED ON THE COMP AND RECEIVED A HIT ON THE NATIONAL NARCOTIC INFORMATION CENTER ON THE COMP AS HAVING NARCOTICS ARRESTS. HE SAID HE WOULD GET THE INFORMATION ON THE ARRESTS AND FORWARD THEM TO ELLIS BY TWIX. HE ASKED WHEN THE COMP CAME TO HOUSTON AND WHEN TOLD THE ROOM HAD BEEN RENTED TO RAYMOND ELLEN SINCE 5-4-81, CALLAN SAID THERE HAD BEEN A 2 MILLION BANK ROBBERY IN TUSCON JUST PRIOR TO THAT AND REQUESTED THE SERIAL NUMBERS ON THE BILLS IN THE COMPS POSSESSION BE CHECKED FOR STOLEN. CALLAN CAN BE REACHED AT 602-622-3366 (24 HOUR PIMA COUNTY NUMBER) HIS BADGE NUMBER IS #321.

ELLIS LATER RECEIVED A CALL FROM OFFICER MAJALCA WITH PIMA COUNTY. HE SAID THAT ON CHECKING ON THE COMP HE FOUND THAT THE COMP HAD SEVERAL KNOWN ASSOCIATES IN NARCOTICS TRAFFIC. HE IS GOING TO CHECK ON THEM TO FIND OUT IF ANY WERE BLACK. HE HAD ALSO FOUND THAT THE COMP WAS ARRESTED AT THE OKLAHOMA CITY AIRPORT ON 3-14-80 WITH 40,000 QUALUDE PILLS AND SEVERAL OUNCES OF COCAIN. THIS IS DEACASE # 80592L. AT THAT TIME THE COMP GAVE THE ADDRESS OF 2825 RANDOLPH IN BARMICHAEL CALIFORNIA. MAJALCA SAID HE WOULD RELAY INFORMATION BY TWIX.

AT APPROXIMATELY 7:00AM ELLIS RECEIVED A CALL FROM JOANN FERGUSON W/F 3514 MCDADE, HOME PHONE 464-1675, WORK 654-8877. SHE SAID SHE HAD HEARD OF THE OFFENSE ON THE RADIO AND SAID LAST WEEK WHILE AT THE WEINGARTENS STORE ON W. LITTLE YORK AND N. HOUSTON ROSSLYN A B/M TRIED TO GRAB HER PURSE FROM BEHIND. SHE SAYS THAT A FRANK LEGGIO WHO USED TO BE AN ARSON INVESTIGATOR GAVE CHASE ON THE B/M WHO TRIED TO GRAB THE PURSE AFTER HE GOT INTO A CAR WITH TWO OTHER B/M. LEGGIO TOLD HER THEY ESCAPED IN A BUICK OR PONTIAC WITH TEX LIC KEC328 (HE WAS SURE OF THE LICENSE NUMBER). MRS FERGUSON SAID SHE HAS NOT MADE A REPORT ON THE INCIDENT SINCE SHE COULD NOT ID THE SUSPECT AND THEY DID NOT GET HER PURSE. SHE THOUGHT THERE WAS AN OUTSIDE CHANCE THAT THE SUSPECTS MAY BE THE SAME AND WANTED TO GIVE US THE LICENSE INFORMATION SHE HAD. THE B/M THAT TRIED TO GRAB HER PURSE WAS ABOUT 5'10", CHUNKY WEARING A T-SHIRT AND JEANS.

SUPPLEMENT ENTERED BY = 42332

NO-0004

OFFENSE- CAPITAL MURDER

STREET LOCATION INFORMATION

NUMBER- 8935 NAME-NORTH TYPE-FWY SUFFIX-  
DATE OF OFFENSE-05/13/81 DATE OF SUPPLEMENT-05/14/81  
COMPL(S) LAST-LAMBERT FIRST-BOBBY MIDDLE-GRANT

RECOVERED STOLEN VEHICLES INFORMATION

NONE  
OFFICER 1-D.G. KALICH EMP#-037450 SHIFT-2 DIV/STATION-

SUPPLEMENT NARRATIVE

SUPPLEMENT DATED 5/13/81

OFFICER REC'D CALL TO ABOVE LOCATION IN REGARDS TO SHOOTING AMBULANCE CALL AT 2040. UPON ARRIVLA OFFICER WAS MET BY #1 WIT (DAN GRAVY WM35, 8409 BREWIN, PS #448-2142), AND BY #2 WIT (BERADINE SKILLERN BF34, 2220 DRAYTON PS #445-1569 OR 694-2813).

THE #1 & #2 WIT STATED THAT THEY HAD BEEN IN THEIR CARS AND HAD SEEN THE COMPL COME OUT OF THE STORE WITH A SACK OF GROCERIES. AS THE COMPL ARRIVED IN FRONT OF THE WITS CARS, THE WITS SAW A BLACK MALE (SUSP) APPROACHED THE COMPL. THE WITS STATED THAT THE SUSP TRIED TO GRAB THE COMPL GROCERIES AND HIS WALLET. THE SUSP GRABBED COMPL BY THE FRONT OF HIS SHIRT. THE COMPL HANDED (WHAT WITS BELIEVED) WAS A WALLET TO THE SUSP. THE SUSP THEN PUSHED THE COMPL BACK AND RAISED A PISTOL AND FIRED 1 ROUND IN THE CHEST OF THE COMPL. THE SUSP THEN RAN NORTHWEST AROUND THE CORNER OF THE BLDG AND THEN WEST ON W. GULF BANK. THE COMPL THEN DROPPED HIS GROCERIES AND WALKED BACK INTO THE STORE WHERE HE FELL.

OFFICER FOUND THE COMPL LYING ON HIS STOMACH IN THE DOORWAY OF THE STORE. HFD UNIT 1467 (PA LOZANO, CA MICHAELS) EXAMINED THE COMPL AND TOLD OFFICER HE WAS DOA. OFFICER THEN SECURED THE SCENE AND CALLED FOR HOMICIDE, ME, AND BODY CAR.

SCENE WAS SECURED UNTIL HOMICIDE ARRIVED. SCENE TURNED OVER TO ELLIS AND OWENS.

SUPPLEMENT ENTERED BY = 55468

NO-0005

OFFENSE- CAPITAL MURDER

STREET LOCATION INFORMATION

NUMBER- 8935 NAME-NORTH TYPE-FWY SUFFIX-  
DATE OF OFFENSE-05/13/81 DATE OF SUPPLEMENT-05/14/81  
COMPL(S) LAST-LAMBERT FIRST-BOBBY MIDDLE-GRANT

RECOVERED STOLEN VEHICLES INFORMATION

NONE  
OFFICER-1-D.W.AUTREY EMP#-030476 SHIFT-1 DIV/STATION-HOMICIDE

SUPPLEMENT NARRATIVE

PROGRESS REPORT:

I DET. AUTREY ASSIGNED TO CONTINUE THE INVESTIGATION INTO THE ABOVE CASE DROVE TO 2222 STUDEWOOD TO THE HUBBARD STORAGE LOT WHERE THE COMPLS. VAN WAS TOWED. I TALKED WITH MR. HUBBARD AND EXPLAINED TO HIM WHO I WAS AND THAT I WOULD LIKE TO GO THROUGH THE COMPLS. VAN ONCE MORE AND TAKE A BETTER LOOK AT ITS CONTENTS. MR. HUBBARD PRODUCED A KEY TO THE VAN AND SAID HE WOULD

\*\*\*\*\*  
TAKE ME TO IT. I ASKED F. WHERE HE GOT THE KEY AND HE STATED THE WRECKER DRIVER MUST HAVE BROUGHT IT IN WHEN HE BROUGHT THE VAN IN. (THE WRECKER DRIVER WAS NOT AVAILABLE FOR QUESTIONING) THE KEY DID NOT FIT THE DOOR OF THE VAN BUT IT DID FIT THE IGNITION.

I SEARCHED THE CONTENTS OF THE VAN FOR EVIDENCE IN THIS CASE AND NOTED SOME ITEMS THAT WERE NOT LISTED IN THE EARLIER REPORT THAT NEED MENTIONING. I FOUND A SMALL AMOUNT OF WHAT APPEARED TO MARIJUANA IN A SOCK STUCK UP IN A STORAGE COMPARTMENT AT THE REAR OF THE VAN. I ALSO FOUND ANOTHER SMALL AMOUNT OF WHAT APPEARED TO MARIJUANA WRAPPED UP IN A PEICE OF TIN FOIL STUCK IN SIDE POCKET OF A GOLF BAG. BOTH WERE TAGGED AND DROPPED IN THE LAB LOCK BOX IN HOMICIDE FOR ANALYSIS.

- I ALSO FOUND THE BELOW PROPERTY IN THE VAN UP UNDER A STORAGE LOCKER ON THE LEFT SIDE OF THE VAN.
- 1 12 GA. OVER AND UNDER SHOTGUN, MAKE LUIGI FRANCHI , SER. # 2882.
- 2 12 GA. SIMI AUTOMATIC REMINGTON SHOTGUN , SER.# N001031V, MODLE 1100
- 3 16 GA. OVER AND UNDER BROWNING SER.# 52895

INSIDE OF A BLACK OVERNIGHT BAG SETING ON THE ABOVE STORAGE LOCKER I FOUND THE BELOW

- 1 HALINLIGH GOLD LIGHTER WITH A BUILT IN WATCH
- 2 TRS 88 POCKET COMPUTER SER. # 09004529
- 3 NEW MEXICO DRIVERS LICENSE , CANADIAN DRIVERS LICENSE, DRAFT CARD, RADIO OPERATORS LICENSE, AND INSURANCE CARD ALL UNDER THE NAME OF BILLY FRANCIS SMITH DOB 3-1-38 ALONG WITH OTHER ASSORTED PAPERS.(THESE WILL BE KEPT WITH THE REPORT)

I WENT TO THE COUNTY MORGUE WHERE I RECOVERED A BLUE AND WHITE PULL OVER SHIRT WITH BLOOD ON IT AND RETURNED IT TO THE HOMICIDE DRYING ROOM TO BE LEFT UNTIL SUCH TIME IT IS DRY ENOUGH TO BE SUBMITTED TO THE LAB FOR DISTANCE DETERMINATION ALSO WHILE AT THE MORGUE I RECOVERED ONE 22 CAL. LEAD BULLET WHICH I SUBMITTED TO FIREARMS TO BE HELD FOR COMPARISON AT A LATER DATE IF THE WEAPON IS RECOVERED

I RECEIVED A PHONE CALL FROM MR. ASHTON D.E.A IN OKL.CITY THIS DATE INQUIRING ABOUT THE COMPL. HE STATED HE HAD A GRAND JURY SUMMONS FOR THE COMPL. ON A DRUG RELATED CASE. HE STATED HE WOULD CALL BACK AT A LATER DATE WITH MORE INFORMATION. NOTE WHILE IN THE VAN I FOUND A COURT DOCKET PAPER FROM A DISTRICT COURT IN OKL. ALONG WITH A BAIL RECEIPT FOR MR. LAMBERT. THEY WERE RETAINED AND PLACED WITH THIS CASE.

SUPPLEMENT ENTERED BY = 30476

10-0006

OFFENSE- CAPITAL MURDER

STREET LOCATION INFORMATION

NUMBER- 8935 NAME-NORTH TYPE-FWY SUFFIX-  
DATE OF OFFENSE-05/13/81 DATE OF SUPPLEMENT-05/14/81  
COMPL(S) LAST-LAMBERT FIRST-BOBBY MIDDLE-GRANT

RECOVERED STOLEN VEHICLES INFORMATION

NONE  
OFFICER1-W.W.OWEN EMP#-042332 SHIFT-2 DIV/STATION-HOMICIDE  
OFFICER2-J.W.ELLIS EMP#-031800 SHIFT-2

SUPPLEMENT NARRATIVE

PROGRESS REPORT:

DETECTIVES ELLIS AND OWEN, RECEIVED INSTRUCTIONS FROM LT.MASON TO CONTINUE THE INVESTIGATION OF THIS CASE.

WHILE IN THE HOMICIDE DIVISION WE RECEIVED A CALL FROM MEL ASHTON OF THE DRUG ENFORCEMENT ADMINISTRATION IN OKLAHOMA CITY. AGENT ASHTON WAS INQUIRING ABOUT THE DEATH OF THE COMPLAINANT, BOBBY LAMBERT. ACCORDING TO ASHTON THE DEA HAD ARRESTED THE COMPLAINANT IN OKLAHOMA CITY IN OCTOBER OF 1980. THE COMPLAINANT WAS PILOTING A PLANE CARRYING 40,000 QUALUDES AND SEVERAL OUNCES OF COCAINE. ASHTON WENT ON TO SAY THAT THE COMPLAINANT WAS FORMERLY AN EMPLOYEE OF SEVERAL CARNIVALS AND HE FASHIONED HIMSELF AS A CON MAN WHO COULD CON ANYONE. THE COMPLAINANT ALSO GAMBLED AND HE HAD BEEN IN LAS VEGA'S RECENTLY. ONE OF THE COMPLAINANT'S ASSOCIATES IS NAMED RON ALLEN, RON ALLEN IS A GAMBLER AND POOL SHARK. WHENEVER HE OR THE COMPLAINANT GOT TOGETHER THEY MIGHT BE UP TO ANYTHING FROM DOPE TO GAMBLING. AS FAR AS ASHTON KNEW EITHER THE COMPLAINANT OR ROY ALLEN HUNG OUT WITH ANY N/M'S.

AGENT ASHTON REQUESTED THAT WE FORWARD A COPY OF OUR INVESTIGATION TO HIM IN OKLAHOMA CITY SO HE COULD CLOSE OUT HIS FILE ON THE COMPLAINANT.

WE NEXT CONTACTED THE #1 WITNESS, BERNADINE SKILLERN AND ASKED IF SHE WOULD BE AVAILABLE TO ASSIST IN GIVING A COMPOSITE DRAWING OF THE SUSPECT. MRS. SKILLERN WAS EXTREMELY COOPERATIVE BUT INDICATED THAT SHE WOULD BE UNABLE TO COME TO THE HOMICIDE DIVISION. WE MADE ARRANGEMENTS WITH HER TO COME TO THE HOMICIDE DIVISION IN THE MORNING BETWEEN 8:30 AND 9AM.

WE THEN CALLED DEBRA NIXON, AN EMPLOYEE OF THE SAFEWAY STORE AND LEARNED THAT DEBRA WAS OUT FOR THE EVENING. WE LEFT A MESSAGE WITH HER MOTHER FOR HER TO CALL US WHEN SHE RETURNED HOME.

WE THEN CONTACTED WILMA AMOS TO ASCERTAIN WHY SHE HAD NOT SHOWED UP AS PREVIOUSLY SCHEDULED FOR A WRITTEN STATEMENT. MISS AMOS INDICATED THAT SHE HAD BEEN DETAINED AT WORK BUT SHE WOULD COME IN TOMORROW AFTERNOON FOR A STATEMENT. SHE SAID SHE MIGHT SHOW UP AS EARLY AS 12 NOON.

WE CONTACTED RONALD HUBBARD WHO IS AN EMPLOYEE FOR SAFEWAY WHO WAS NOT INTERVIEWED AT THE SCENE. HE LIVES AT 1451 DIPLOMAT WAY, PH# 447-6070. HE STATED THAT HE HAD GONE INTO THE PARKING LOT OF THE STORE TO COLLECT SHOPPING CARTS. HE NOTICED A 3/M, IN HIS EARLY 20'S, 5'5", 120-130 LBS, SHORT AFRO HAIR, CLEAN SHAVEN, WEARING A WHITE BLAZER JACKET AND BLACK SLACKS. THIS MAN WAS STANDING BY A CONCRETE COLUMN NEAR THE NE CORNER OF THE FRONT OF THE STORE. THE MAN DID NOT WANT HIM TO SEE HIS

FACE AS HE KEPT DUCKING BEHIND THE POST WHEN HUBBARD LOOKED HIS WAY. AS HUBBARD WAS GOING INSIDE THE FRONT DOOR HE HEARD A SHOT AND TURNED TO SEE THE SUSPECT WITH A LONG BARRLED REVOLVER IN HIS HAND. HE NOTICED THE COMP WAS SHOT AND ASKING FOR HELP AS HE (COMP) RAN TO THE DOOR. THE SUSPECT STARTED TOWARD THE SIDE OF THE STORE AND HUBBARD WENT INSIDE THE STORE TO HAVE AN AMBULANCE CALLED. HUBBARD SAID HE MAY BE ABLE TO RECOGNIZE THE SUSPECT AND IS WILLING TO DO A COMPOSIT DRAWING OF THE SUSPECT HE SAW. HE WILL CALL TOMORROW TO SET UP AN APPOINTMENT FOR THE COMPOSIT, AND A WRITEN STATEMENT.

WE RECEIVED A CALL FROM RONALD MONROE ALLEN, 704 UCLAN, BURBANK CALIF, 213-841-3886. HE SAID THAT HE WAS IN HOUSTON SINCE 5-4-84 FOR A POCKET BILLIARDS TOURNAMENT AT THE WOODLANDS. HE RECEIVED A CALL FROM THE COMP WHO IS A GOOD FRIEND AFTER ARRIVING IN HOUSTON. THE COMP TOLD HIM HE WAS LEAVING HIS WIFE AND HE WANTED TO VISIT WITH HIM IN HOUSTON FOR A FEW DAYS. THE COMP DROVE TO HOUSTON AND STAYED IN THE ROOM AT THE BEST WESTERN WITH ALLEN. LAST NIGHT 5-13-84 THE COMP DROVE ALLEN TO THE AIRPORT AT 6:00PM FOR A 7:30PM FLIGHT TO LAS VEGAS. THIS WAS THE LAST TIME ALLEN SAW THE COMP ALIVE. IT WAS HIS UNDERSTANDING THAT THE COMP WAS GOING TO CHECK OUT OF THE MOTEL ROOM IN THE MORNING OF 5-14-84, AND DRIVE TO EITHER OKLA OR KENTUCKY TO VISIT A SON. ALLEN HAS TALKED TO LORETTA LAMBERT WHO SAID THE COMP WAS DRIVING TO SEE HER AFTER THEY HAD A FIGHT ON THE TELEPHONE LAST NIGHT. FROM LONG DISTANCE RECORDS THE COMP CALLED LORETTA LAMBERT JUST BEFORE CHECKING OUT OF THE MOTEL. ALLEN SAYS THE COMP HAD LEFT HIS WIFE AND HAD ALL HIS POSSESSIONS WITH HIM IN HIS VAN. HE SAID THE COMP HAD SEVERAL THOUSAND DOLLARS IN CASH (HE THOUGHT ABOUT 5,000 DOLLARS). WHILE ALLEN AND THE COMP WERE TOGETHER HERE THEY PLAYED SEVERAL GAMES OF GOLF AND WENT FISHING. AT NO TIME DID EITHER HAVE ANY DEALINGS WITH A BLACK MALE AND ALLEN SAYS IT IS HIGHLY UNLIKELY THAT THE COMP WOULD HAVE ANYTHING TO DO WITH BLACKS. HE SAYS THE COMP DID NOT HAVE A KEY RING AND KEPT A SINGLE VAN KEY AND MOTEL KEY LOOSE IN HIS POCKET.

WE RECEIVED A CALL FROM SALLY HEMLEPP WHO CLAIMS TO BE THE ONLY SISTER OF THE COMP. SHE LIVES AT 1226 29TH ST IN ASHLAND KY. SHE CLAIMS THAT SHE DOES NOT KNOW IF THE COMP WAS MARRIED TO LORETTA LAMBERT AND SHE HAS NEVER MET LORETTA. SHE IS CONCERNED THAT THE COMPS SONS AND DAUGHTERS MAY NOT GET THE COMPS POSSESSIONS WHICH SHE FEELS THEY DESERVE. THE COMP HAS CHILDREN IN FLORIDA AND KENTUCKY AND A N X-WIFE, DOROTHY, IN ASHLAND. SHE WAS ADVISED THAT LORETTA WOULD BE ABLE TO CLAIM THE COMPS POSSESSIONS HERE WITH DOCUMENTS SHOWING SHE WAS MARRIED TO THE COMP. IF THERE IS A DISPUTE WITH LORETTA ABOUT THE POSSESSIONS IT SHOULD BE HANDLED THROUGH AN ATTORNEY.

DETECTIVE ELLIS CONTACTED LORETTA LAMBERT AT 602-886-3438, TUSCON ARIZONA. LORETTA LIVES AT THE SAME ADDRESS AS SHOWN ON SOME OF THE COMPS PERSONAL PAPERS FROM HIS VAN. SHE WAS ADVISED THAT THE POLICE COULD RELEASE THE VAN AND PERSONAL POSSESSION OF THE COMP TO HER WITH PROPER DOCUMENTATION ON HER MARRIAGE TO THE COMP. SHE WAS TOLD THE VAN WOULD NOT BE HELD AS EVIDENCE IN THE CASE AND WHEN SHE CAME TO PICK IT UP THERE WOULD BE A TOWING AND STORAGE CHARGE. THE MORGUE WAS CONTACTED AND ADVISED NOT TO RELEASE THE COMPLAINANTS MONEY WITH OUT PROFF OF NEXT OF KIN.

ELLIS TRIED TO CONTACT SGT GALLAN OF THE PIMA CO S.O., ARIZONA, TO LET HIM KNOW WE HAD BEEN IN TOUCH WITH THE D.E.A. AND THAT THERE WAS NO EVIDENCE THAT THE COMP WAS KILLED BECAUSE OF DRUG RELATED DEALINGS. HE WAS ALSO ADVISED THAT THE COMPS SERIAL NUMBERS ON THE MONEY CARRIED BY THE COMP HAD BEEN CHECKED ON NCIC WITH OUT A HIT ON STOLEN. GALLAN WAS NOT IN HIS OFFICE AND A MESSAGE WAS LEFT WITH THE INFORMATION. GALLAN WAS REQUESTED TO CALL IF HE NEEDED FURTHER INFORMATION ON THE COMP.

SUPPLEMENT ENTERED BY = 42332

10-0007

OFFENSE- CAPITAL MURDER

STREET LOCATION INFORMATION

NUMBER- 8935 NAME-NORTH TYPE-FWY SUFFIX-  
DATE OF OFFENSE-05/13/81 DATE OF SUPPLEMENT-05/15/81  
COMPL(S) LAST-LAMBERT FIRST-BOBBY MIDDLE-GRANT  
RECOVERED STOLEN VEHICLES INFORMATION

NONE  
OFFICER1-D.W.AUTREY EMP#-030476 SHIFT-1 DIV/STATION-HOMICIDE

SUPPLEMENT NARRATIVE

PROGRESS REPORT:

I DET. AUTREY ASSIGNED TO CONTINUE THE INVESTIGATION INTO THE ABOVE CASE MEET WITH BERNADINE SKILLERN THIS MORNING IN THE HOMICIDE OFFICE WHERE SHE AGREED TO DO A COMPOSIT OF WHAT SHE REMEMBERED THE SUSPECT LOOKING LOOK. DET. RASCOE DID THE COMPOSIT FOR THE WITNESS USING THE FOLLOWING COMPOSIT CARDS.

FACIAL TONE: F 1 -1  
NOSE: N 9 -2  
LIPS: L 3 -1  
EYES: E 58 -2  
CHIN: C 26 -2  
HAIR: H 134 +2

COMPOSIT WILL BE PLACED WITH THE FOLDER AND THIS CASE. THE WITNESS MRS. SKILLERN GAVE A PHYSICAL DESCRIPTION OF THE SUSPECT AS BEING A B/M 18 TO 20 , 5' 10" , 149 LBS. TALL AND SKINNEY, CLEAN SHAVEN, AND A LONG NOSE.

ON THIS DATE MRS. WILHA AMOS CAME INTO THE HOMICIDE OFFICE AND GAVE A WRITTEN STATEMENT AS TO WHAT SHE SAW ON THE NIGHT OF THE SHOOTING. DUE TO HER JOB SHE WAS NOT ABLE TO STAY AND DO A COMPOSIT. HOWEVER SHE SAID MONDAY WAS A SLOW DAY AT WORK AND SHE WOULD TRY TO COME IN SOMETIME MONDAY AND DO A COMPOSIT.

DET. RECEIVED INFORMATION THAT THE DAUGHTER OF MRS. MOISES MOLINA WHO LIVES AT 2150 WINTER BAY LANE , 448-6729 WHICH IS ABOUT A MILE TO A MILE AND A HALF FROM THE SAFEWAY STORE, HAS INFFORMATION ABOUT A POSSABLE SUSPECT. MRS. MOISES'S DAUGHTER WHO IS TWELVE YEARS OLD TOLD HER THERE WAS A B/M FITTING THE SAME DESCRIPTION OF THE WANTED SUSPECT WHO LIVES ON THE SAME SIDE OF THE STREET AS THEM AND SHE THINKS IN THE SAME BLOCK. SHE DOESN'T KNOW THE ADDRESS BUT SAID HER DAUGHTER COULD POINT THE HOUSE OUT. I ATTEMPTED TO CONTACT THE MRS. MOISES OR ANY ONE AT THEIR HOME BUT FOUND NO ONE THERE.



NG-0009

OFFENSE- CAPITAL MURDER

STREET LOCATION INFORMATION

NUMBER- 8935 NAME-NORTH TYPE-FWY SUFFIX-  
DATE OF OFFENSE-05/13/81 DATE OF SUPPLEMENT-05/19/81  
COMPL(S) LAST-LAMBERT FIRST-BOBBY MIDDLE-GRANT  
RECOVERED STOLEN VEHICLES INFORMATION

NONE  
OFFICER 1-D.W. AUTREY EMP#-030476-SHIFT-1 DIV/STATION-HOMICIDE

SUPPLEMENT NARRATIVE

PROGRESS REPORT:

DETECTIVES AUTREY AND COOK ASSIGNED TO CONTINUE THE INVESTIGATION INTO THE ABOVE CASE. RECEIVED INFORMATION THAT A WILMA MUKES WHO WORKS FOR THE TEA CAT NURSERY AT 7645 CROFTON, 635-2906, HAD INFORMATION ABOUT THE SUSPECT IN THIS CASE. WE CALLED MRS. MUKES AND ASKED HER WHAT INFORMATION SHE HAD ABOUT THE SUSPECT. SHE TOLD US HER SISTER, FLORENCE MC DONALD, 826 GRENSHAW, 445-7150, WAS IN THE SAFEWAY STORE THE NIGHT THE SHOOTING OCCURED. SHE WENT ON TO SAY THAT HER SON JAMES MUKES N/M 7 WAS IN HER SISTERS CAR ALONG WITH HER SISTERS TWO SONS, ALFONSO MC DONALD N/M 10 AND LE OTIS WILKERSON N/M 12 WHEN THE SHOOTING OCCURED AND THEY WITNESSED IT. SHE SAID HER SON AND HER SISTERS TWO BOYS WERE IN HER SISTERS STATION WAGON WHEN THE SHOOTING HAPPENED AND THE BOYS SAW THE MAN THAT DID THE SHOOTING AND RECONIZED HIM AS BEING A MAN THEY HAVE SEEN ON SEVERAL OCCASIONS AT THE HOUSE ACROSS THE STREET FROM THE MC DONALD RESIDENCE.

I TALKED WITH MRS. MC DONALD WHO ALSO WORKS AT THE TEA CAT NURSERY AND ASKED HER WHAT SHE KNEW ABOUT THE CASE. SHE TOLD ME SHE WAS IN THE STORE THE NIGHT THE SHOOTING OCCURED AND THAT THE THREE BOYS WERE IN THE CAR AND DID RECONIZE THE MAN DOING THE SHOOTING AS BEING A MAN THEY HAVE SEEN AT THE BROWN RESIDENCE DIRECTLY ACROSS THE STREET FROM HER HOUSE. ( THE CRISS CROSS SHOWED A JUDY BROWN LIVING AT 827 GRENSHAW, 448-9198 ]

MRS. MC DONALD SAID IT WAS A DAY OR SO AFTER THE SHOOTING THAT THE BOYS WERE OUTSIDE AND JAMES SAW THE MAN AGAIN. WHEN HE DID HE STARTED YELLING AT THE OTHER BOYS " THERES THE MAN THAT DID THE SHOOTING ". MRS. MC DONALD SAID AT THAT TIME ACCORDING TO THE BOYS THE MAN TOOK OFF RUNNING. SHE WENT ON TO SAY THAT SHE BELIEVED IT WAS MONDAY MORNING THE BOYS WENT DOWN TO THE CORNER TO CATCH THE BUS TO GO TO SCHOOL AND THEY SAW THE SAME MAN WAITING ON THE CORNER. MRS. MC DONALD SAID THE BOYS CAME RUNNING BACK TO THE HOUSE AFTER SEEING THEN MAN.

MRS. MC DONAL SAID SHE BELEIVED THE MAN THE BOYS WERE TALKING ABOUT WAS SEEING ONE OF MRS. BROWNS DAUGHTERS.

WE DROVE TO 827 GRENSHAW WHERE WE TALKED WITH MRS. BROWN IN REGUARDS TO A N/M FITTING THE DISCRPTION OF THE WANTED SUSPECT IN THIS CASE. SHE SAID THAT SOUNDED LIKE CURLY SCOTT. SHE WENT ON TO SAY CURLY HAD GOT HER DAUGHTER JUDY PREGNANT AND QUIT COMING AROUND MUCH AFTER THE BABY WAS BORN EXCEPT ON JUDYS PAYDAY AND THAT WAS TO GET MONEY FROM HER. MRS. BROWN SAID CURLY LIVED AT 7339 PHILIPS OFF LITTLE YORK JUST A LITTLE PAST WEST MONTGOMERY. MRS. BROWN DESCRIBED CURLY AS BEING TALL AND SKINNEY WITH NO FACIAL HAIR. SHE ALSO SAID HE TOLD HER HE USED TO WORK AS A SECURITY GUARD.



MRS. BROWN DESCRIBED THE CAR OF CURLYS AS BEING A 70 TO 74 CHEVY FOUR DOOR  
SOLID BAIGE POSSABLE A IMPLA.

NOTE: MRS. MC DONALD DESCRIBED THE SUSPECTS CAR AS BEING A 66 TO 70 CHEVY  
LIGHT BAIGE OR BROWN.

NOTE CORRECTION: THE NAME OF MRS. JUDY BROWNS DAUGHTER IS NOT JUDY BUT DIANE  
PERRY AND SHE WORKS AT THE WILLOW RUN DAY CARE NURSERY. SHE IS THE ONE THAT HAD  
THE BABY BY CURLY SCOTT.

SUPPLEMENT ENTERED BY = 30476

NO-0010

OFFENSE- CAPITAL MURDER

STREET LOCATION INFORMATION  
NUMBER- 8935 NAME-NORTH TYPE-FWY SUFFIX-  
DATE OF OFFENSE-05/13/84 DATE OF SUPPLEMENT-05/19/84  
COMPL(S) LAST-LAMBERT FIRST-BOBBY MIDDLE-GRANT  
RECOVERED STOLEN VEHICLES INFORMATION

NONE  
OFFICER 1-DC COOK EMP#-051627 SHIFT-1 DIV/STATION-HOM

SUPPLEMENT NARRATIVE

DETS COOK AND AUTREY CONTINUED INVESTIGATION ON THIS CASE. DETS FOUND  
CURLEY SCOTT TO HAVE A RAP UNDER HPD ID #207640 WITH DOB 410848. SCOTT  
SHOWS SEVERAL ARRESTS FOR CARRYING A PISTOL AND DWI. SCOTT HAS A TDL UNDER  
#02714988 WITH ADDRESS LISTING 2790 W T C JESTER #72. TDL HISTORY SHOWED A  
MANDATORY SUSPENSION ON SCOTT'S TDL WITH DWI ARREST ON 411479. DET COOK  
CONTACTED THE D.A. CENTRAL INTAKE TO CHECK FOR PROBATION STATUS ON SCOTT.  
CENTRAL INTAKE ADVISED (AND WAS CONFIRMED BY POWERES WITH HCSO FUGITIVE WARRANT)  
THAT CURLEY SCOTT WAS WANTED ON AN OUTSTANDING CAPIAS #605015 (BOND FORFEITURE  
FOR DWLS) OUT OF CCCL #5 ISSUED ON 032784, BOND \$2500.00. HCSO ADVISED  
THEY SHOWED SEVERAL JP WARRANTS OUT OF CONSTABLE RANKIN'S OFFICE WHICH ARE NOT  
CURRENT. DET COOK CONTACTED CONSTABLE RANKIN'S OFFICE AND SPOKE TO DEP. WINGO  
WHO ADVISED THAT HE HAD SEVERAL WARRANTS OF SCOTT THAT WERE DISMISSED. DEP.  
WINGO ADVISED DET THAT HE DID HAVE SEVERAL ADDRESSES ON SCOTT.

THE ADDRESSES DEP WINGO HAD BEGINNING WITH THE MOST RECENT WERE:  
7339 PHILLIPS (AS OF DECEMBER, 1980)  
6818 GLENBOURNEY  
2410 WALL (ON HPD RAP SHEET)  
2790 W T C JESTER (ON TDL HISTORY)  
DEP WINGO ALSO ADVISED HE HAD A PUBLIC SERVICE LISTING FOR SCOTT AT 445-3453.  
THIS INFORMATION OBTAINED BY NAME, DOB, AND HCSO SPIN #02200694.

ETS CRISCROSSED THIS PS # AND FOUND IT LISTED TO A DEBBIE S GREEN, 2440 WALL.  
ET COOK CONTACTED SOUTHWESTERN BELL INFORMATION AND FOUND THIS NUMBER LISTED  
O DEBBIE S. GREEN, NOW OF 7339 PHILLIPS.

ET COOK CHECKED 5524 AND SPOKE WITH BOULET WHO ADVISED THIS SUBJECT WAS CLEAR.  
HOTO LAB IS PREPARING COLOR PRINTS ON SCOTT FOR A PHOTO SPREAD.

SUPPLEMENT ENTERED BY = 51627

10-0011

OFFENSE- CAPITAL MURDER

STREET LOCATION INFORMATION

NUMBER- 8935 NAME-NORTH TYPE-FWY SUFFIX-  
DATE OF OFFENSE-05/13/81 DATE OF SUPPLEMENT-05/19/81  
COMPL(S) LAST-LAMBERT FIRST-BOBBY MIDDLE-GRANT

RECOVERED STOLEN VEHICLES INFORMATION

NONE  
OFFICER 4-DC COOK EMP#-054627 SHIFT-1 DIV/STATION-HOM

SUPPLEMENT NARRATIVE

DETS COOK AND AUTREY WERE IN THE HOMICIDE OFFICE WHEN LORETTA LAMBERT, WIFE  
OF THE COMPL CAME IN TO OBTAIN A RELEASE FOR THE COMPLAINANTS VEHICLE.  
VEH WAS RELEASED TO HER AND A FRED THOMAS WHO WILL BE DRIVING THE VEHICLE.

SUPPLEMENT ENTERED BY = 51627

NO-0012

OFFENSE- CAPITAL MURDER

STREET LOCATION INFORMATION

NUMBER- 8935 NAME-NORTH TYPE-FWY SUFFIX-  
DATE OF OFFENSE-05/13/81 DATE OF SUPPLEMENT-05/19/81  
COMPL(S) LAST-LAMBERT FIRST-BOBBY MIDDLE-GRANT

RECOVERED STOLEN VEHICLES INFORMATION

NONE  
OFFICER 4-D.D. SMITH EMP#-064569 SHIFT- DIV/STATION-

SUPPLEMENT NARRATIVE

SUSPECT: UNKNOWN  
REF: L81-3645

SIR:

ON MAY 14, 1984, DETECTIVE D.W. AUTREY, BADGE #D-700, SUBMITTED TO THIS LABOR-  
ATORY A FOIL AND A BAGGIE CONTAINING PLANT SUBSTANCE AND A PACKAGE OF CIGARETTE

APPROXIMATELY 3.0 GRAMS OF MARIHUANA WERE DETECTED IN THE-FOIL AND BAGGIE SUBMITTED.

DDR

SUPPLEMENT ENTERED BY = 71454

NO-0013

OFFENSE- CAPITAL MURDER

STREET LOCATION INFORMATION

NUMBER- 8935 NAME-NORTH TYPE-FWY, SUFFIX-  
DATE OF OFFENSE-05/13/81 DATE OF SUPPLEMENT-05/19/81  
COMPL(S) LAST-LAMBERT FIRST-BOBBY MIDDLE-GRANT  
RECOVERED STOLEN VEHICLES INFORMATION

NONE

OFFICER1-J.W.ELLIS  
OFFICER2-W.W.OWEN

EMP#-031800 SHIFT-2 DIV/STATION-HOMICIDE  
EMP#-042332 SHIFT-2

SUPPLEMENT NARRATIVE

PROGRESS REPORT 5-19-81\*\*\*\*\*

WE, ELLIS AND OWEN CONTINUED THE INVESTIGATION OF THIS CASE.

HAVING OBTAINED INFORMATION FROM DETS AUTRY AND COOK ON THE POSSIBLE SUSPECT, CURLEY SCOTT, WE OBTAINED COLOR PHOTOS OF SCOTT AND FOUR (4) FILL IN PHOTOS TO PROVIDE A PHOTO LINE UP FOR WITNESS VIEWING.

WE FIRST WENT TO THE SAFEWAY STORE WHERE THIS OFFENSE OCCURRED AND TALKED TO RONALD HUBBARD. HUBBARD SAID THAT HE WAS UNABLE TO RECOGNIZE THE SUSPECT HE SAW SHOOT THE COMPLAINANT FROM THE PHOTO SPREAD. HE STATED THE SUSPECT WAS VERY DARK COMPLETED AND NONE OF THE PEOPLE HE SAW IN THE PHOTOS WERE DARK ENOUGH. HE LOOK AT THE COMPOSIT PHOTO MADE BY MRS SKILLERN AND STATED THAT THIS WAS A FAIR LIKENESS OF THE SUSPECT HE SAW AT THE SCENE.

WHILE AT THE SAFEWAY STORE WE TALKED TO DEBRA NIXON WHO IS AN EMPLOYEE OF THE STORE ON DUTY THE NIGHT OF THE OFFENSE AND NOT PREVIOUSLY INTERVIEWED. SHE SAID IT WAS THE SECOND NIGHT SHE WORKED AT THE STORE AND SHE WAS IN THE COURTESY BOOTH WHEN SHE HEARD SHERIAN ELUK SAY THE MAN HAD BEEN SHOT. DEBRA SAID SHE STOOD ON A CHAIR IN THE BOOTH IN ORDER TO SEE OVER THE BOOTH TWO WAY GLASS AND GET A BETTER VIEW OF THE PARKING LOT. SHE SAID SHE WAS ABLE TO SEE THE SUSPECT WALKING FROM THE SCENE OF THE SHOOTING BUT COULD NOT SEE HIS FACE. SHE WAS ONLY ABLE TO SEE THAT HE WAS WEARING A WHITE JACKET, AND WOULD NOT BE ABLE TO RECOGNIZE THE SUSPECT. SHE LOOKED AT THE PHOTO LINE UP AND SAID THAT SINCE SHE HAD JUST STARTED WORKING AT THE STORE SHE COULD NOT REMEMBER SEEING ANY OF THE PEOPLE IN THE PHOTOS IN THE STORE EITHER ON THE NIGHT OF THE OFFENSE OR PREVIOUS TO THE OFFENSE.

WE TALKED TO SHERIAN ELUK ON THE PHONE WHILE AT THE STORE AND FOUND THAT SHE WAS OFF DUTY THIS NIGHT AND HAD MADE PREVIOUS APPOINTMENTS. SHE STATED SHE LIVED CLOSE TO THE CENTRAL POLICE STATION AND WOULD LIKE TO COME IN THE MORNING TO THE HOMICIDE OFFICE TO VIEW THE PHOTO LINE UP. SHE WAS GIVEN DETECTIVES AUTRY AND COOKS NAMES AND WILL CALL THEM TOMORROW TO MAKE AN APPOINTMENT TO VIEW THE PHOTOS.

WE TALKED TO MARY GONZALEZ WHO DID NOT SEE THE SUSPECT. SHE DID LOOK THROUGH THE PHOTO LINE UP AND COULD NOT RECOGNIZE ANY OF THE PHOTOS AS BEING CUSTOMERS OF THE STORE. SHE LOOKED THROUGH CUSTOMER FILES AND COULD NOT FIND A FILE ON CURLEY SCOTT.

LEAVING THE SAFEWAY STORE WE WENT TO THE BIG TEX BOWLING ALLEY AT LITTLE YORK AND THE NORTH FREEWAY WHERE WE FOUND THE WITNESS BERNADINE SKILLERN. SHE LOOKED AT THE PHOTOS WE HAD AND COULD NOT RECOGNIZE ANY OF THE PERSONS PICTURED AS BEING THE SUSPECT IN THIS CASE.

WE WENT TO THE RESIDENCE OF WILMA AMOS AND AFTER LOOKING AT THE PHOTO LINE UP SHE COULD NOT RECOGNIZE ANY OF SUSPECT IN THE LINE UP. IT SHOULD BE NOTED THAT MRS AMOS AT THIS TIME SEEMS TO BE VERY UNCO-OPERATIVE CONCERNING THE INVESTIGATION.

WE WERE UNABLE TO CONTACT WITNESS DANIEL GRADY TO HAVE HIM VIEW THE PHOTOS.

WE CALLED FLORENCE McDONALD AT HER RESIDENCE AND ASKED IF WE COULD COME TO HER HOME TO HAVE HER SONS LOOK AT THE PHOTO LINE UP. SHE STATED THAT SINCE THE SUSPECT WAS A VISITOR TO THE BROWN HOME ACROSS THE STREET FROM HER HOUSE SHE WOULD RATHER BRING HER SONS TO THE HOMICIDE OFFICE TOMORROW AFTER SCHOOL TO LOOK AT PHOTOS.

WE WENT TO THE 827 GRENSHAW WHERE WE TALKED TO MRS JUDY BROWN AND HER DAUGHTER, DIANE PERRY. THEY BOTH STATED THAT THE PHOTO WE HAD WAS A PHOTO OF CURLEY SCOTT WHO IS THE FATHER OF DIANE PERRY'S CHILD. THEY IDENTIFIED THE PHOTO OF HPD# 207640 AS BEING THE CURLEY SCOTT THEY KNEW. DIANE STATED THAT THE LAST TIME SHE SAW CURLEY WAS LAST FRIDAY, 5-15-84. THAT EVENING SCOTT CAME TO HER HOUSE AND PICKED UP DIANE AND THE BABY AND TOOK HER TO HIS MOTHERS HOUSE AT 7339 PHILLIPS WHERE THEY SPENT THE NIGHT. SHE SAYS THAT SCOTT IS THE FATHER OF HER CHILD AND DOES NOT COME AROUND VERY MUCH. SHE SHOWED US A PHOTO (8X10) OF SCOTT IN WHICH HIS SKIN DOES APPEAR DARKER THAN IN THE ID PHOTO WE HAVE. SCOTT DOES NOT OWN A CAR AND WAS DRIVING A BROWN CHEVROLET BELONGING TO A RELATIVE. HE IS SUPPOSED TO BE WORKING AT AN UNKNOWN CONSTRUCTION JOB.

LEAVING THE BROWN RESIDENCE WE WERE FOLLOWED INTO THE YARD BY MRS JUDY BROWN. SHE TOLD US THAT HER DAUGHTER DIANE WAS SEMI-RETARDED, (DIANE DID NOT APPEAR TO DETECTIVES TO BE SLOW OR RETARDED) AND THAT DIANE WAS NOT VISITED BY SCOTT UNLESS SHE HAD BEEN PAID AND HE COULD GET MONEY FROM HER. MRS BROWN SAID THAT HE HAD NOT TAKEN CARE OF ANY OF DIANE'S EXPENSES WITH THE PREGNANCY OR THE BABY SINCE HE WAS BORN. MRS BROWN FURTHER STATED THAT A WOMAN WHO SCOTT WAS LIVING WITH WAS NAMED MILDRED GALLOWAY AND MILDRED KILLED HER BROTHER ABOUT TWO YEARS AGO ON LUCKY ST. MRS BROWN SAID SHE WOULD CALL DETECTIVES IF SCOTT SHOWED UP AT HER HOUSE AGAIN. SHE STATED THAT SHE DID NOT KNOW IF DIANE WOULD TELL SCOTT DETECTIVES HAD BEEN TO SEE HER CONCERNING THIS CASE. IT SHOULD BE NOTED THAT MRS BROWN HAS SEVERAL CHILDREN LIVING AT HER HOUSE AND WE NEED TO MAKE SURE THAT CURLEY SCOTT IS THE PERSON SEEN BY THE McDONALD CHILDREN AT THE SCENE AND AT THE BROWN RESIDENCE. THE McDONALDS ARE COMING IN TOMORROW TO VIEW PHOTOS OF THE SUSPECT.

SUPPLEMENT ENTERED BY = 34800

NO-0014

OFFENSE- CAPITAL MURDER

STREET LOCATION INFORMATION

NUMBER- 8935 NAME-NORTH TYPE-FWY SUFFIX-  
DATE OF OFFENSE-05/13/84 DATE OF SUPPLEMENT-05/20/84  
COMPL(S) LAST-LAMBERT FIRST-BOBBY MIDDLE-GRANT  
RECOVERED STOLEN VEHICLES INFORMATION

NONE  
OFFICER1-DC COOK EMP#-054627 SHIFT-4 DIV/STATION-HOM

SUPPLEMENT NARRATIVE

SHERIAN ELUK, A WITNESS IN THIS CASE CAME TO THE HOMICIDE OFFICE ABOUT 9:30AM TO VIEW A PHOTO SPREAD OF THE SUSPECT IN THIS CASE. DETS AUTREY AND COOK SHOWED MS. ELUK A PHOTO ARRAY COMPOSED OF HPD ID #'S: 207640 (SUSPECT SCOTT), 342938, 227860, 284992, 354539. MS. ELUK COULD NOT MAKE A POSITIVE ID FROM THE PHOTOS. SHE DID SAY THE SUSPECT'S FACIAL FEATURES RESEMBLED #207640 BUT SAID THE SUSPECT WAS MUCH MORE NEAT LOOKING THAN IN THE PHOTO AND DID NOT BELIEVE THIS WAS THE SUSPECT. MS. ELUK, LIKE OTHER WITNESSES HAVE SAID THE SUSPECT IN THIS CASE APPEARED NEAT AND CLEAN SHAVEN. THE PHOTO SPREAD REPRESENTS PICTURES OF SUSPECT S WITH MOUSTACHE AND GOATEE AS THE CURRENT HPD ID PHOTO OF SCOTT SHOWS HIM WITH FACIAL HAIR.

SUPPLEMENT ENTERED BY = 54627

0-0015

OFFENSE- CAPITAL MURDER

STREET LOCATION INFORMATION

NUMBER- 8935 NAME-NORTH TYPE-FWY SUFFIX-  
DATE OF OFFENSE-05/13/84 DATE OF SUPPLEMENT-05/20/84  
COMPL(S) LAST-LAMBERT FIRST-BOBBY MIDDLE-GRANT

RECOVERED STOLEN VEHICLES INFORMATION

NONE  
OFFICER1-DC COOK EMP#-054627 SHIFT-1 DIV/STATION-HOM

SUPPLEMENT NARRATIVE

FLORENCE MACDONALD BROUGHT HER TWO CHILDREN, LEODIS (AGE 12) AND ALFONSO (AGE 8) TO THE HOMICIDE OFFICE TO VIEW A PHOTO SPREAD OF THE SUSPECT IN THIS CASE. DET COOK LET THE CHILDREN VIEW THE PICTURES AND BOTH STATED THAT NONE OF THE PICTURES LOOKED LIKE THE MAN THEY SAW AT THE STORE OR ACROSS THE STREET. THEY SAID THE MAN WAS CLEAN SHAVEN. THEY WERE ALSO SHOWN THE COMPOSITE PICTURE WHICH THEY SAID RESEMBLED THE SUSPECT.

DC COOK  
052084 4:00PM

SUPPLEMENT ENTERED BY = 54627

NO-0016

OFFENSE- CAPITAL MURDER

STREET LOCATION INFORMATION

NUMBER- 8935 NAME-NORTH TYPE-FWY SUFFIX-  
DATE OF OFFENSE-05/13/84 DATE OF SUPPLEMENT-05/20/84  
COMPL(S) LAST-LAMBERT FIRST-BOBBY MIDDLE-GRANT

RECOVERED STOLEN VEHICLES INFORMATION

NONE  
OFFICER1-J.W.ELLIS EMP#-034800 SHIFT-2 DIV/STATION-HOMICIDE  
OFFICER2-W.W.OWEN EMP#-042332 SHIFT-2

SUPPLEMENT NARRATIVE

WE ELLIS AND OWEN CONTINUED THE INVESTIGATION OF THIS CASE.

DETECTIVES HAD PREVIOUSLY RECEIVED INFORMATION FROM A WRECKER DRIVER AT THE SCENE THAT HE HAD OBSERVED TWO B/M'S IN A WHITE /BLUE PLYMOUTH ON STUBNER AIRLINE AND GULF BANK A SHORT TIME AFTER THE OFFENSE OCCURRED. THE DRIVER SAID HE WAS FOLLOWING THE CAR AND THE MALES INSIDE THE CAR WERE ACTING IN A SUSPICIOUS

MANNER. WHEN THE DRIVER OF THE CAR NOTICED THE WRECKER, FOLLOWING HIM, HE SPED UP. RAN A STOP SIGN AND LOST THE WRECKER. THE WRECKER DID GET A LICENSE NUMBER OF 81 TEX KWT538 FROM THE VEHICLE. REGISTRATION ON THIS LICENSE COMES BACK TO A 72 PLYMOUTH 4DR TO A MARZELLA SMITH, 881 MANSFIELD IN THE ACRES HOMES AREA OF TOWN. WE WENT BY THAT ADDRESS AND FOUND THE HOUSE VACANT AND UP FOR SALE BY CENTURY 21 REALTY. THERE WAS NO LISTING IN THE CRISS-CROSS FOR THE ADDRESS. WE COULD FIND NO DRIVERS LICENSE UNDER THE NAME OF MARZELLA SMITH.

SUPPLEMENT ENTERED BY = 31800

NO-0017

OFFENSE- CAPITAL MURDER

STREET LOCATION INFORMATION

NUMBER- 8935 NAME-NORTH TYPE-FWY SUFFIX-  
DATE OF OFFENSE-05/13/81 DATE OF SUPPLEMENT-05/21/81  
COMPL(S) LAST-LAMBERT FIRST-BOBBY MIDDLE-GRANT  
RECOVERED STOLEN VEHICLES INFORMATION

NONE  
OFFICER1-DC COOK EMP#-051627 SHIFT-1 DIV/STATION-HOM

SUPPLEMENT NARRATIVE

DET COOK CHECKED WITH LATENT PRINT LAB TO SEE IF ANY PRINTS WERE RECOVERED OFF THE PAPER GROCERY BAG COMPL WAS CARRYING WHICH SUSPECT MAY HAVE TOUCHED. LEBLANC WITH LATENT PRINTS ADVISED THE BAG TAGGED UNDER LL #487-81 WAS EXAMINED AND HAD NO IDENTIFIABLE PRINTS.

SUPPLEMENT ENTERED BY = 51627

NO-0018

OFFENSE- CAPITAL MURDER

STREET LOCATION INFORMATION

NUMBER- 8935 NAME-NORTH TYPE-FWY SUFFIX-  
DATE OF OFFENSE-05/13/81 DATE OF SUPPLEMENT-05/21/81  
COMPL(S) LAST-LAMBERT FIRST-BOBBY MIDDLE-GRANT  
RECOVERED STOLEN VEHICLES INFORMATION

NONE  
OFFICER1-D.W.AUTREY EMP#-030476 SHIFT-1 DIV/STATION-HOMICIDE  
OFFICER2-D.C.COOK EMP#-051627 SHIFT-1

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SUPPLEMENT NARRATIVE

PROGRESS REPORT:

THE DETECTIVES COOK AND AUTREY ASSIGNED TO CONTINUE THE INVESTIGATION INTO THE ABOVE CASE DROVE TO 8935 NORTH FREEWAY WHERE WE TALKED WITH THE MANAGER MR. HOSKIN AND SHOWED HIM A PICTURE OF THE COMPOSIT DRAWING WE HAD OF THE SUSPECT. HE STATED THE COMPOSIT LOOKED LIKE A YOUNG MAN HE HAD PUT IN JAIL FOR SHOP LIFTING BACK IN JANUARY OR FEBUARY , HE DIDN'T REMEMBER THE EXACT DAY. HE WENT ON TO SAY THAT THE YOUNG MAN HE HAD ARRESTED WAS AROUND 19 YEARS OLD 5'10 TO 6' VERY THIN AND WAS WARING A JACKET AT THE TIME HE WAS ARRESTED. HE SAID HE WASN'T SURE BUT HE THINKS THE MAN MAY OF HAD A GOTE AND MUSTACH AT THAT TIME.

HOSKIN SAID THE SAME MAN CAME BACK TO THE STORE ABOUT A MONTH AGO AND WAS STANDING OUT FRONT ASKING PEOPLE FOR MONEY AS THEY CAME INTO THE STORE. HOSKIN TALKED TO THE MAN AND ASKED HIM TO LEAVE. THE MAN TOLD HIM HE NEEDED MONEY FOR A PHONE CALL SO HOSKIN GAVE HIM A QUARTER TOLD HIM TO MAKE HIS CALL THEN LEAVE. HOSKIN SAID HE HADN'T SEEN THE MAN ON SEVERAL OCCASION AROUND THE STORE AREA AND EVERY TIME HE HAD A SPORTS COAT OR JACKET ON. HE SAID HE WAS WARING A COAT THE DAY HE WAS ARRESTED AND ALSO THE DAY HE TALKED TO HIM IN FRONT OF THE STORE AND ASKED HIM TO LEAVE.

HOSKIN SAID THE LAST TIME HE SAW THE MAN WAS ON MONDAY THE DAY AFTER MOTHERS DAY HE , HOSKIN WAS GOING INTO THE KROGER STORE ON WEST MOUNT HOUSTON RD. AND NORTH FREEWAY WHEN HE PASSED THE MAN COMMING OUT OF THE STORE. HE SAID THEY BOTH RECONIZED EACH OTHER AND THE MAN TURNED SO AS TO AVOID HOSKIN. HOSKIN WATCHED THE MAN GO OUT INTO THE PARKING LOT AND TAKE FOOD STUFFS OUT OF HIS CLOTHES. (NOTE: ON THE DAY HE WAS ARRESTED IN SAFEWAY HE STOLD A PACKAGE OF LUNCH MEATS) HOSKIN SAID HE WENT INTO THE STORE AND TOLD THE MANAGER WHAT HE HAD SEEN AND THE DEALING HE HAD HAD WITH THE MAN BEFORE. HOSKIN SAID THE MAN HAD A JACKET ON THIS TIME ALSO HOWEVER HE SAID HE COULDN'T TELL IF HE STILL HAD A GOTE OR MUSTACH BECAUSE WHEN THEY MEET THE MAN TURNED AWAY FROM HIM.

MR. HOSKINS SAID HE WOULD RESEARCH HIS RECORDS OR CHECK THE MAIN OFFICE RECORDS FOR THE INFORMATION ABOUT THE ARREST OF THE MAN AND CALL US BACK. AS OF 3:40 PM THIS DATE HE HASN'T CALLED BACK SO I CALLED THE STORE TO CHECK WITH HIM. THE GIRL THAT ANSWERED SAID HE WAS OUT OF THE STORE BUT WOULD BE BACK LATER. THE ONLY OTHER INFORMATION WE HAD ABOUT THE ARREST WAS THAT IT OCCURED AROUND 2:00 TO 3:00PM IN THE AFTERNOON.

WE RAN THE ADDRESS OF THE STORE ON THE COMPUTER AND CAME UP WITH A LIST OF INCIDENT NUMBERS FROM 9-20-80 TO 5-17-81 THAT RELATE TO THE ADDRESS OF THE SAFEWAY AT 8935 NORTH FREEWAY. ( THE LIST WILL BE WITH THIS REPORT )

WE TYPED UP A YELLOW SHEET WITH A PICTURE OF THE COMPOSIT ON IT AND MADE COPIIES OF IT WHICH WE TOOK TO THE NORTH SHEPHERD SUBSTATION AND LEFT WITH THE SGT. TO BE PASSED OUT AT ROLE CALL.



SUPPLEMENT ENTERED BY = 30476

NO-0019

OFFENSE- CAPITAL MURDER

STREET LOCATION INFORMATION

NUMBER- 8935 NAME-NORTH TYPE-FWY SUFFIX--  
DATE OF OFFENSE-05/13/81 DATE OF SUPPLEMENT-05/21/81  
COMPL(S) LAST-LAMBERT FIRST-BOBBY MIDDLE-GRANT

RECOVERED STOLEN VEHICLES INFORMATION

NONE  
OFFICER1-W.W.OWEN EMP#-042332 SHIFT-2 DIV/STATION-HOMICIDE  
OFFICER2-J.W.ELLIS EMP#-031800 SHIFT-2

SUPPLEMENT NARRATIVE

PROGRESS REPORT:

WE, DETECTIVES ELLIS AND OWEN, RECEIVED INSTRUCTIONS FROM LT. MASON TO CONTINUE THE INVESTIGATION OF THIS CASE.

AFTER REVIEWING THE CASE WE CONTACTED DEXTER HOSKINS, MANAGER OF THE SAFEWAY STORE, INQUIRING AS TO WHETHER OR NOT HE HAD BEEN ABLE TO LOCATE ANY INFORMATION ON THE SUBJECT HE HAD SPOKEN TO DETECTIVES COOK AND AUTREY ABOUT. MR. HOSKINS ADVISED US THAT IN CHECKING STORE RECORDS HE FOUND NOTHING ON THE INDIVIDUAL HE HAD MENTIONED. HE DID RECALL THE THEFT CONSISTED OF ONLY ONE MEAT ITEM AND THEREFORE THEY PROBABLY DID NOT COMPLETE A REPORT OF THE THEFT INCIDENT. WE REQUESTED THAT HE CONTINUE TO TRY AND LOCATE INFORMATION ON THE SUBJECT IF HE DID TO CONTACT US.

WE CONTACTED HOUSTON LIGHT AND POWER COMPANY REQUESTING INFORMATION ON WHO EVER HAD RECENTLY BEEN LIVING AT 884 MANSFIELD. WE LEARNED THAT LINDA ANN THOMAS HAD BEEN LIVING THERE BUT SERVICE WAS DISCONTINUED TO HER ON 3-2-81 DUE TO NON PAYMENT. IN CHECKING FURTHER HL&P FOUND MISS THOMAS HAD ALSO GIVEN THE ADDRESS OF 9604 WEST MONTGOMERY, PHONE 999-0704.

IN CALLING 999-0704 WE TALKED WITH MRS. THOMAS WHO ADVISED US THAT HER SON REGINALD WAS THE OWNER OF THE 72 PLYMOUTH, LICENSE KWT538. MRS. THOMAS TOLD US WHEN MARZELLA SMITH DIED HER SON HAD INHERITED THE CAR. SHE TOLD US HER SON WAS AT WORK AT TRIPLE AIR PLASTICS BUT SHE WOULD HAVE HIM CALL US. CHECKING REGINALD THOMAS N/R 4-6-63, WE FOUND NOTHING.

WHILE STILL IN THE HOMICIDE DIVISION WE RECEIVED A TELEPHONE CALL FROM REGINALD THOMAS. HE SAID HE WAS THE ONLY PERSON WHO DRIVES THE PLYMOUTH AND WHEN WE QUESTIONED HIM ABOUT WHETHER OR NOT HE WAS OUT IN THE CAR ON THE NIGHT OF MAY 13 HE SAID HE DID NOT THINK HE WAS. HE SAID HE OFTEN WENT TO THE SAFEWAY STORE ON GULFBANK AS HIS GIRLFRIEND, SHRONA MEANS, LIVED NEAR THERE AND HE WOULD GO TO THE STORE TO BUY DIAPERS FOR THEIR BABY. WE MADE ARRANGEMENTS TO COME OUT AND TALK WITH REGINALD THOMAS.

LEAVING THE HOMICIDE DIVISION WE DRIVE OUT TO 9604 WEST MONTGOMERY #234. ONCE

THERE WE TALKED WITH REGINALD AND HIS MOTHER. REGINALD TOLD US THAT ON WEDNESDAY NIGHT MAY 13 HE HAD GONE OVER TO VISIT HIS GIRLFRIEND, SHRONA MEANS, WHO LIVES AT THE KINGLEY APARTMENTS 1415 W. GULFBANK #1107, PHONE 445-4852. HE ARRIVED THERE ABOUT 7:30 OR 8PM AND FROM THERE THEY WENT OUT DRIVING. WHILE OUT DRIVING THEY STOPPED TO TALK ON A SIDE STREET RIGHT OFF OF STUEBNER AIRLINE. WHILE THEY WERE VISITING A TRUCK WITH LIGHTS OVER THE CAB PULLED UP BEHIND THEM AND STOPPED WITH IT'S LIGHTS OFF. REGINALD SAID HE SPED OFF THINKING IT WAS SOMEONE TRYING TO GIVE HIM SOME TROUBLE. THEY RETURNED TO HIS GIRLFRIENDS AND HE ARRIVED BACK HOME SHORTLY BEFORE 10PM. REGINALD SAYS HE DID NOT GO TO THE SAFEWAY STORE ON GULFBANK ON THE NIGHT OF MAY 13. WE SHOWED HIM THE COMPOSITE SKETCH OF THE SUSPECT AND HE SAYS HE DOESN'T KNOW ANYONE WHO RESEMBLES THE SKETCH.

IN TALKING FURTHER WITH MRS. THOMAS WE LEARNED THAT TWO OF HER OTHER SONS, EARNEST AND MELVIN WERE ARRESTED ABOUT SEVERAL WEEKS BACK FOR MURDER AND HAVE BEEN BEING HELD BY JUVENILE AUTHORITIES. SHE SAID THAT OFF ALL HER SONS REGINALD IS BY FAR THE LAST ONE SHE WOULD THINK COULD BE MIXED UP IN ANYTHING. SHE SAYS HE IS GRADUATING FROM HIGH SCHOOL AND WILL BE ATTENDING WHORTEN JUNIOR COLLEGE ON A FOOTBALL SCHOLARSHIP NEXT FALL.

RETURNING TO THE HOMICIDE DIVISION WE CONTACTED THE JUVENILE PROBATION AND TALKED WITH JUAN IBANEZ. MR. IBANEZ VERIFIED THAT MELVIN THOMAS JR. WAS IN CUSTODY AND HAD BEEN IN THEIR CUSTODY SINCE MAY 12, 1984.

INVESTIGATION TO CONTINUE...

SUPPLEMENT ENTERED BY = 42332

NO-0220

OFFENSE- CAPITAL MURDER

NUMBER-	8935	NAME-NORTH	STREET LOCATION INFORMATION	TYPE-FWY	SUFFIX-
DATE OF OFFENSE-	05/13/84	DATE OF SUPPLEMENT-	05/22/84		
COMPL(S) LAST-	LAMBERT	FIRST-	BOBBY	MIDDLE-	GRANT

NONE	RECOVERED STOLEN VEHICLES INFORMATION
OFFICER-DC COOK	EMP#-054627 SHIFT-4 DIV/STATION-HOM

SUPPLEMENT NARRATIVE

DETS COOK AND AUTREY CONTINUED THE INVESTIGATION IN THIS CASE. DEETS ELLIS AND OWENS FOLLOWED UP A WRECKER DRIVERS' REPORT OF A VEHICLE AT THE SCENE OF THIS OFFENSE. THEY DISCOVERED THE DRIVER OF THIS VEH WAS A REGINALD THOMAS WHO LIVED AT 9604 W MONTGOMERY #234. HIS BROTHER, MELVIN, WAS ARRESTED BY DETS BURMESTER AND COOK 054284 FOR MURDER. MELVIN GAVE THE SAME RESIDENTIAL ADDRESS AS REGINALD. MELVIN WAS ARRESTED IN CASE #24254864 WHERE HE GAVE A 22 CAL PISTOL TO ANOTHER SUSPECT USED IN THE MURDER. MELVIN

CLAIMED HE THREW THE PISTOL INTO A DRAINAGE DITCH. THIS PISTOL HAS NOT BEEN RECOVERED.

THE COMPL IN THIS CASE WAS ALSO SHOT WITH A 22 CAL BULLET. JET CONTACTED MARTINEZ IN THE FIREARMS EXAMINER LAB AND REQUESTED A COMPARISON BE MADE BETWEEN THE BULLETS IN THESE TWO CASES. MARTINEZ ADVISED THAT THERE IS NO WAY A POSITIVE COMPARISON COULD BE MADE AS THE BULLET FROM #24254034 WAS BADLY SCARRED. MARTINEZ STATED, JUDGING FROM THE SIZE OF THE LANDS AND GROOVES, HE COULD ONLY SAY IT IS POSSIBLE THE BULLETS CAME FROM THE SAME TYPE OF WEAPON.

INVESTIGATION TO CONTINUE

SUPPLEMENT ENTERED BY = 51627

NO-0021

OFFENSE- CAPITAL MURDER

STREET LOCATION INFORMATION

NUMBER- 8935 NAME-NORTH TYPE-FWY SUFFIX-  
DATE OF OFFENSE-05/13/81 DATE OF SUPPLEMENT-05/26/81  
COMPL(S) LAST-LAMBERT FIRST-BOBBY MIDDLE-GRANT  
RECOVERED STOLEN VEHICLES INFORMATION

NONE  
OFFICER-1-D.W.AUTREY EMP#-030476 SHIFT-1 DIV/STATION-HOMICIDE

SUPPLEMENT NARRATIVE

PROGRESS REPORT:

I DET. AUTREY ASSIGNED TO CONTINUE THE INVESTIGATION INTO THE ABOVE CASE. LEARNED FROM ROBBERY DETECTIVE WHEATLEY THAT THEY HAD ARRESTED A SUSPECT IN A ROBBERY CASE THAT FIT THE DISCRPTION OF THE SUSPECT WANTED IN THIS CASE. ALSO THE SUSPECT WAS ARRESTED WITH A 22 CAL. PISTOL.

I DET. AUTREY CHECKED THE 22 CAL. PISTOL OUT OF THE PROPERTY ROOM AND SUBMITTED IT TO FIREARMS FOR BALSITICS COMPARISON WITH THE SLUG REMOVED FROM THE COMPL. BODY. ALSO SUBMITTED WERE THE SIX LIVE ROUND IN THE PISTOL AT THE TIME OF THE ARERST.

ALSO PLACED ALONG WITH THIS CASE IS A COPY OF THE ARREST REPORT OF THE SUSPECT GARY GRAMM N/M 20 @ KENNTH STOKES AND TWO MUG SHOTS.

SUPPLEMENT ENTERED BY = 30476

NO-0022

OFFENSE- CAPITAL MURDER

STREET LOCATION INFORMATION

NUMBER- 8935 NAME-NORTH TYPE-FWY SUFFIX-
DATE OF OFFENSE-05/13/81 DATE OF SUPPLEMENT-05/26/81
COMPL(S) LAST-LAMBERT FIRST-BOBBY MIDDLE-GRANT

RECOVERED STOLEN VEHICLES INFORMATION

NONE
OFFICER1-J.W.ELLIS EMP#-031800 SHIFT-2 DIV/STATION-HOMICIDE
OFFICER2-W.W.OWEN EMP#-042332 SHIFT-2

SUPPLEMENT NARRATIVE

\*\*\*\*\*PROGRESS REPORT 5-26-84\*\*\*\*\*

WE, ELLIS AND OWEN, CONTINUED THE INVESTIGATION OF THIS CASE.

HAVING THE INFORMATION ON GARY GRAM(AKA) KENNETH STOKES) AS BEING INVOLVED IN SEVERAL ROBBERY CASES WITH THE SAME M.O. AS THIS CASE, WE MADE UP A PHOTO SPREAD CONTAINING HIS PHOTO (ID# 337682), AND FOUR FILL IN PHOTOS (ID #'S 327754, 327753, 300032, 292743). WE TOOK THIS PHOTO LINE UP TO WITNESS BERNADINE SKILLERN AT HER HOME FOR HER TO VIEW. AFTER VIEWING THE PHOTOS THE WITNESS SAID THAT THE PHOTO OF GARY GRAM LOOKED LIKE THE SUSPECT SHE SAW ON THE NIGHT OF THE OFFENSE EXCEPT THE COMPLEXION OF THE SUSPECTR SHE SAW WAS DARKER AND HIS FACE WAS THINNER. SHE SAID SHE COULD NOT SAY THAT THE MAN IN THE PHOTO WAS THE SUSPECT FROM THE PHOTO. SHE SAID THAT SHE WOULD BE WILLING TO VIEW A LINE UP AT THE POLICE STATION IF ONE COULD BE ARRANGED.

LEAVING THE SKILLERN HOME WE WENT TO THE SAFEWAY STORE AT GULF BANK AND N.FWY. LOOKING FOR RONALD HUBBARD TO VIEW THE PHOTO LINE UP. HUBBARD WAS OFF DUTY TONIGHT BUT WILL BE AT WORK TOMORROW, 5-27-84.

SUPPLEMENT ENTERED BY = 31800

NO-0023

OFFENSE- CAPITAL MURDER

STREET LOCATION INFORMATION

NUMBER- 8935 NAME-NORTH TYPE-FWY SUFFIX-
DATE OF OFFENSE-05/13/81 DATE OF SUPPLEMENT-05/27/81
COMPL(S) LAST-LAMBERT FIRST-BOBBY MIDDLE-GRANT

RECOVERED STOLEN VEHICLES INFORMATION

NONE
OFFICER1-D.W.AUTREY EMP#-030476 SHIFT-1 DIV/STATION-HOMICIDE

SUPPLEMENT NARRATIVE

PROGRESS REPORT:

[ DET. AUTREY ASSIGNED TO CONTINUE THE INVESTIGATION INTO THE ABOVE CASE WENT TO FIRE ARMS WHERE I TALKED WITH MARTINEZ ABOUT THE BULLET SUBMITTED FROM LAMBERTS BODY. HE LOOKED AT IT AND SAID HE REALLY COULDN'T TELL ANYTHING UNTIL HE FIRED A BULLET FROM THE GUN SUBMITTED AND COMPARED THE TWO. I PICKED UP A PROPERTY RELEASE FROM HIM WHILE I WAS THERE AND TOOK IT TO THE PROPERTY ROOM IN EXCHANGE FOR THE GUN SUBMITTED.

I WENT TO THE 179 TH DISTRICT COURT WHERE I OBTAINED AN ORDER REGARDING CUSTODY OF DEFENDANT SIGNED BY JUDGE MC MASTER. I TOOK THE ORDER TO THE COUNTY JAIL IN THE BASEMENT AND PRESENTED IT TO THE JAILER. HE CAME BACK AND TOLD ME GRAHAM WAS IN COURT, ( WHICH ONE THEY DIDN'T KNOW ) AND TO TRY BACK AROUND 2:00PM.

I WENT BACK OVER TO THE COUNTY JAIL AT 2:00PM AND THEY HAD FOUND GRAHAM. I BROUGHT HIM TO THE CITY JAIL WHERE I LEFT HIM UNTIL SUCH TIME HE CAN BE PLACED IN A SHOW UP AND THEN TRANSFERED BACK TO THE COUNTY.

NOTE : WHEN I TOOK HIM TO THE JAIL GRAHAM ASKED TO CALL HIS ATTORNEY. I TOLD THE JAILER TO LET HIM USE THE PHONE AS MANY TIMES AS HE NEED TOO.

SUPPLEMENT ENTERED BY = 30476

NO-0024

OFFENSE- CAPITAL MURDER

STREET LOCATION INFORMATION

NUMBER- 8935 NAME-NORTH TYPE-FWY SUFFIX-  
DATE OF OFFENSE-05/13/81 DATE OF SUPPLEMENT-05/27/81  
COMPLESS LAST-LAMBERT FIRST-BOBBY MIDDLE-GRANT

RECOVERED STOLEN VEHICLES INFORMATION

NONE  
OFFICER1-J.W.ELLIS EMP#-031800 SHIFT-2 DIV/STATION-HOMICIDE  
OFFICER2-W.W.OWEN EMP#-042332 SHIFT-2

SUPPLEMENT NARRATIVE

\*\*\*\*\*PROGRESS REPORT 5-27-81\*\*\*\*\*

WE, ELLIS AND OWEN, CONTINUED THE INVESTIGATION OF THIS CASE.

AT 6:40PM WE CHECKED THE SUSPECT, GARY GRAHAM, OUT OF THE CITY JAIL AND ADVISED HIM THAT HE WOULD BE IN A SHOWUP AT 8:15PM THIS DATE. HE INDICATED THAT HE WANTED HIS ATTORNEY PRESENT AT THE SHOWUP BUT COULD NOT TELL US HIS ATTORNEYS NAME OR PHONE NUMBER. HE SAID HE WOULD CONTACT THE ATTORNEY THROUGH HIS MOTHER AND ADVISE HIM OF THE SHOWUP.

WE DROVE TO THE HOME OF WITNESS BERNADINE SKILLERN AND BROUGHT THIS WITNESS TO THE POLICE STATION TO VIEW THE SHOWUP. WE WERE MET BY RONALD HUBBARD AND HIS PARTNER

TS AT THE STATION AND RECEIVED A CALL FROM CHESTER THORNTON WHO CLAIMED HE WAS GRAHAM'S ATTORNEY. THORNTON STATED THAT HE WANTED TO VIEW THE SHOWUP WHICH WAS POSTPHONGED UNTIL THORNTON AND HIS ASSOCIATE TOMMY Q. BOSTON ARRIVED AT THE STATION.

THE SHOWUP BEGAN IN THE 3RD FLOOR SHOWUP ROOM OF THE CENTRAL POLICE STATION AT 9:30PM AND ENDED AT 9:07PM. WITNESSES BERNADINE SKILLERN AND RONALD HUBBARD VIEWED THE SHOWUP FROM OPPOSITE SIDE OF THE SHOWUP ROOM. PRESENT WERE ATTORNEYS THORNTON AND BOSTON. DETECTIVE ELLIS WORKED THE FRONT AND OWEN WORKED THE BACK WITH DETECTIVE BURMEISTER TAKING PHOTOS OF THE SUSPECT AND FILL INS IN THE BACK OF THE SHOWUP ROOM BEFORE BEGINNING THE SHOWUP AND PHOTOS OF THE SHOWUP ON STAGE. PRIOR TO BEGINNING THE SHOWUP ATTORNEY THORNTON WAS ALLOWED IN THE BACK AND PICKED THE POSITION GARY GRAHAM WAS TO HAVE IN THE SHOWUP. ALL FILL INS AND SUSPECT WORE JAIL WHITES.

ALSO PRESENT IN THE SHOWUP ROOM WERE THE PARENTS OF RONALD HUBBARD WHO SAT ON THE OPPOSITE SIDE OF THE ROOM FROM THEIR SON.

AFTER THE SHOWUP MRS SKILLERN WAS TAKEN INTO THE HALL BY ELLIS AND STATED THAT THE PERSON SHE SAW SHOOT THE COMP WAS THE MAN IN THE #3 POSITION (GARY GRAHAM). SHE STATED THAT SHE WAS POSITIVE THIS WAS THE MAN. MRS SKILLERN WAS VERY NERVOUS AND PRIOR TO THE SHOWUP HAD INDICATED THAT SHE DID NOT WISH THE ATTORNEYS TO BE PRESENT WHEN SHE TALKED TO ELLIS CONCERNING A POSSIBLE IDENTIFICATION. THE ATTORNEYS WERE MADE AWARE OF THIS REQUEST AND STOOD SEVERAL FEET AWAY WHILE ELLIS TALKED TO SKILLERN IN THE HALL.

NEXT RONALD HUBBARD WAS ASKED IN THE HALL IF HE COULD ID ANY OF THE PEOPLE ON THE STAGE AND WITH THE ATTORNEYS STANDING NEXT TO HIM HE SAID HE COULD NOT RECOGNIZE ANY OF THE MEN ON THE STAGE AS BEING THE MAN HE SAW SHOOT THE COMP. IT SHOULD BE NOTED THAT HE HAD INDICATED TO ELLIS PRIOR TO THE SHOWUP THAT HE DID NOT GET A LOOK AT THE SUSPECTS FACE AT THE TIME OF THE OFFENSE.

AFTER THE SHOWUP ELLIS ASKED ATTORNEY THORNTON IF HE WOULD ALLOW HIS CLIENT TO SPEAK WITH DETECTIVES CONCERNING THIS OFFENSE. HE SAID THAT HE WANTED TO TALK TO HIS CLIENT AND WOULD COME BACK DOWN AFTERWARD AND LET US KNOW ABOUT TALKING TO GRAHAM. DETECTIVES WAITED UNTIL 10:45PM WITH OUT HEARING FROM THORNTON AND CALLED THE JAIL TO FIND OUT THAT THE ATTORNEYS HAD LEFT SOME TIME AGO. DETECTIVE OWEN WENT TO THE JAIL AND CHECKED OUT GRAHAM AT 10:50PM. HE WAS TAKEN TO THE HOMICIDE DIVISION, ROOM 3, WHERE HE WAS GIVEN A LEGAL WARNING. HE WAS THEN ASKED IF HE WANTED TO TALK ABOUT THIS OFFENSE. HE SAID HE WAS ADVISED BY HIS ATTORNEY NOT TO TALK TO DETECTIVES UNTIL HE (ATTORNEY) COULD TALK TO HIM AGAIN IN THE MORNING. HE FURTHER STATED THAT HE DID NOT EVEN KNOW WHERE THE SAFEWAY STORE WHERE THIS OFFENSE OCCURRED WAS LOCATED. HE WAS CHECKED BACK INTO THE JAIL AT 11:30PM.

IT SHOULD BE NOTED THAT WHILE THE WITNESS SKILLERN WAS BEING DRIVEN TO HER HOME AFTER THE SHOWUP BY OWEN, SHE TOLD OWEN THAT SHE RECOGNIZED THE SUSPECT SHE PICKED OUT AS BEING IN THE PHOTO SHOWUP SHE VIEW THE PREVIOUS NIGHT. SHE SAID THE PHOTO LOOKED LIKE THE MAN SHE SAW SHOOT THE COMP BUT SHE DID NOT WANT TO MAKE A POSITIVE ID ON THE PHOTO BECAUSE HIS SKIN LOOKED TOO LIGHT IN THE PHOTO. WHEN SHE HAD VIEW THE PHOTOS SHE PICKED UP THE PHOTO OF THE SUSPECT AND ASKED DETECTIVES IF THE MAN IN THE PHOTO COULD HAVE DARKER SKIN THAN THE PHOTO SHOWED. AT NO TIME DID DETECTIVES INDICATE TO THE WITNESS WHILE SHE WAS VIEWING PHOTOS THAT WE BELIEVED ANY PARTICULAR PHOTO AS BEING A PERSON WE WANTED IDED IN THE CASE.

SUPPLEMENT ENTERED BY = 31800

NO-0025

OFFENSE- CAPITAL MURDER

STREET LOCATION INFORMATION

NUMBER- 8935 NAME-NORTH TYPE-FWY SUFFIX-  
DATE OF OFFENSE-05/13/84 DATE OF SUPPLEMENT-05/28/84  
COMPL(S) LAST-LAMBERT FIRST-BOBBY MIDDLE-GRANT  
RECOVERED STOLEN VEHICLES INFORMATION

NONE  
OFFICER 1-D.W.AUTERY EMP#-030476 SHIFT-4 DIV/STATION-HOMICIDE

SUPPLEMENT NARRATIVE

PROGRESS REPORT:

I DET. AUTREY ASSIGNED TO CONTINUE INVESTIGATION INTO THE ABOVE CASE CONTACTED ANDERSON IN FIRE ARMS AND ASKED HIM IF HE COULD DO THE BALLISTIC COMPARISON ON THE SLUG AND PISTOL THAT HAD BEN SUBMITTED. HE STATED HE WOULD TRY AND GET TO IT THIS AFTER NOON.

I CALLED WILMA AMOS AT HOME THIS DATE AND ASKED HER IF SHE WOULD BE ABLE TO COME IN TODAY AND VIEW A SHOW UP OF THE SUSPECT WE HAD IN JAIL. SHE STATED SHE WAS VERY ILL AND COULDN'T COME IN TODAY. SHE WENT ON TO SAY SHE HAD A DOCTOR APPOINTMENT TODAY AND WOULDN'T BE HOME UNTIL THIS AFTERNOON. I ASKED HER IF WE CALL HER LATER THIS AFTERNOON AND IF SHE WAS FEELING BETTER WE WOULD COME OUT TO HER HOUSE AND SHOW HER A PHOTO LINE UP. SHE INDICATED SHE WOULDN'T BE FEELING WELL ENOUGH TODAY.

I CALLED ANDERSON BACK IN FIRE ARMS TODAY AT 2:00PM AND INQUIRED ABOUT THE BALLISTIC TEST. HE STATED THE PISTOL WE SUBMITTED HAD 8 LANDS AND GROVES AND THE BULLET THAT WAS SUBMITTED FROM THE COMPLS. BODY HAD ONLY SIX LANDS AND GROVES. THERE FOR HE SAID IT COULDN'T BE THE WEAPON.

I CHECKED GARY GRAM OUT OF THE CITY JAIL THIS DATE AT 3:00PM AND TOOK HIM BACK OVER TO THE COUNTY JAIL.

SUPPLEMENT ENTERED BY = 30476

NO-0026

OFFENSE- CAPITAL MURDER

STREET LOCATION INFORMATION

NUMBER- 8935 NAME-NORTH TYPE-FWY SUFFIX-  
DATE OF OFFENSE-05/13/84 DATE OF SUPPLEMENT-05/28/84  
COMPL(S) LAST-LAMBERT FIRST-BOBBY MIDDLE-GRANT  
RECOVERED STOLEN VEHICLES INFORMATION

NONE  
OFFICER1-J.W.ELLIS EMP#-031800 SHIFT-2 DIV/STATION-HOMICIDE  
OFFICER2-W.W.OWEN EMP#-042332 SHIFT-2

SUPPLEMENT NARRATIVE

\*\*\*\*\*PROGRESS REPORT 5-28-84\*\*\*\*\*

WE, ELLIS AND OWEN WENT TO THE DISTRICT ATTORNEY INTAKE OFFICE AND DISCUSSED THIS CASE WITH ASST.D.A. BRIAN RAINS. CHARGES WERE FILED ON THE SUSPECT GARY GRAHAM @ KENNETH STOKES FOR THE OFFENSE OF CAPITAL MURDER IN THIS CASE.

ARRESTED AND CHARGED: CAPITAL MURDER 182ND DIST COURT, CAUSE 335378  
KENNETH STOKES @ GARY GRAHAM HPD# 337682  
ADDRESS UNKNOWN

NOTE TO TRIAL ATTORNEY: THE WIFE OF THE COMP, LORETTA LAMBERT, REQUESTED NOTIFICATION ON TRIAL SETTING. SHE LIVES IN TUSCON ARIZ, PH# 602-986-3438.

SUPPLEMENT ENTERED BY = 31800



NO. 335378

THE STATE OF TEXAS	§	IN THE 179 <sup>TH</sup> DISTRICT COURT
VS.	§	OF
GARY GRAHAM, aka Shaka Sankofa aka Kenneth Stokes	§	HARRIS COUNTY, TEXAS

**ORDER SETTING EXECUTION**

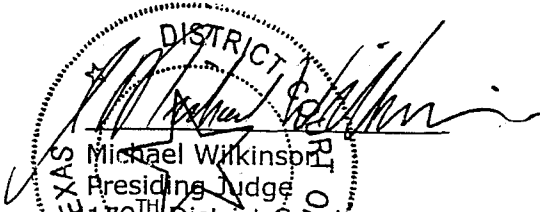
This Court, having received the Mandate from the Court of Criminal Appeals affirming the Defendant's conviction in the above styled and numbered cause and having received notice that the Court of Criminal Appeals has denied habeas relief in the defendant's initial petition for writ of habeas corpus, cause no. 335378-A, now enters the following order:

IT IS HEREBY ORDERED that the Defendant, Gary Graham, aka Shaka Sankofa aka Kenneth Stokes, who has been adjudged to be guilty of Capital Murder as charged in the indictment and whose punishment has been assessed at Death by the verdict of the jury and judgment of the Court, shall be kept in custody by the Director of the Institutional Division of the Texas Department of Criminal Justice at Huntsville, Texas until Thursday, the 22<sup>nd</sup> day of June, 2000, upon which day, at the Institutional Division of the Texas Department of Criminal Justice at Huntsville, Texas, at some time after the hour of 6:00 p.m., in a room arranged for the purpose of execution, the said Director, acting by and through the executioner designated by said Director as provided by law, is hereby commanded, ordered and directed to carry out this sentence of death by intravenous injection of a substance or substances in a lethal quantity sufficient to cause the death of the said Gary Graham, aka Shaka Sankofa aka Kenneth Stokes, and until the said Gary Graham, aka Shaka Sankofa aka Kenneth Stokes, is dead, such procedure to be determined and supervised by the said Director of the Institutional Division of the Texas Department of Criminal Justice.

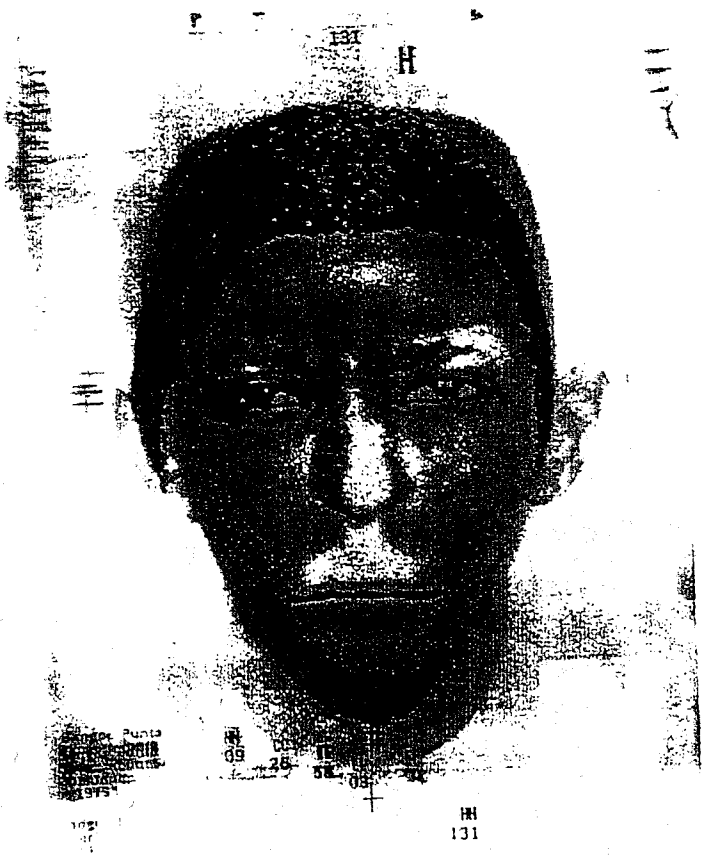
The Clerk of this Court shall issue and deliver to the Sheriff of Harris County, Texas a Death Warrant in accordance with this Order, directed to the Director of the Institutional Division of the Texas Department of Criminal Justice at Huntsville, Texas, commanding him,

the said Director, to put into execution the Judgment of Death against the said Gary Graham, aka Shaka Sankofa aka Kenneth Stokes. The Sheriff of Harris County, Texas is hereby Ordered, upon receipt of said Death Warrant, to deliver said Death Warrant to the Director of the Institutional Division of the Texas Department of Criminal Justice, Huntsville, Texas.

SIGNED AND ENTERED this 4<sup>TH</sup> day of May, 2000.



DISTRICT  
Michael Wilkins  
Presiding Judge  
179<sup>TH</sup> District Court  
Harris County, Texas  
HARRIS COUNTY  
TEXAS



State of Texas            )  
                                  ) SS                    In Re Gary Graham  
County of Harris        )

AFFIDAVIT OF RONALD HUBBARD

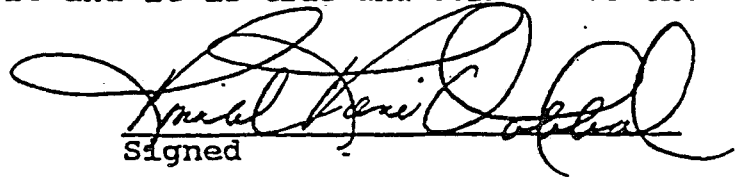
I, Ronald Hubbard, under pain and penalty of perjury make the following affidavit:

1. My name is Ronald Hubbard, I was born on 4-10-64. I am of lawful age to make this affidavit.
2. In May of 1981, I used to work at the Safeway on the North Freeway (I-45) and West Gulf-Bank. On May 13th, I was working on the checkout register that Bobby Grant Lambert paid for his groceries at. I was not working the till, I was bagging groceries. I remember Mr. Lambert bought some foodstuffs and a six-pack of something, it could have been beer or something like beer. It was cans attached to each other.
3. After I bagged Mr. Lambert's goods, my manager sent me on a buggy run. I went outside to collect the carts, we called them "buggies", that people left outside. I went outside before Mr. Lambert did.
4. After going outside I rounded up some of the buggies. I pushed them along the front of the store towards the front door. I was heading away from Gulf-Bank. As I was pushing the buggies someone shouted, "Someone's been shot." I ran to the front doors and saw Mr. Lambert heading towards me. He was coming from the mid-part of the parking lot. I also saw a young black male running. He was wearing a white jacket with dark pants. He had short to medium length hair. He did not look at me so I could not see his face, but I noticed that he was about 5' 6". I am 6' 1" so he was shorter than I am, I would say about six inches or so shorter. He had a medium build. I did not see a gun, nor any money in his hands. He was probably about 50 feet away from me when I first saw him. I gave the police this information. I don't think I could have made out his face from that distance at night in the parking lot, but I did notice his build. No one tried to follow him as he was leaving the area. No cars were going after him.
5. I went inside and told my manager that someone had been shot. When I looked back I saw Mr. Lambert lying on the ground with someone bending over him trying to help him.
6. The police called my house about a week after the shooting. They talked to my mother and father. They told them that they had caught a suspect, and that I should come to a lineup at the police station. When I

got to the lineup I went and viewed a group of young black men. They were all facing me at first, and then were made to turn around. I was unable to pick anyone out of that group that reminded me physically of the guy that shot Mr. Lambert, based on the height and build of the people on the stage. I told the officers that I did not see anyone that reminded me of the guy that did it.

7. The police then made me sit outside and wait while they showed Ms. Bernadine Skillern the lineup. After they brought her out, they told me I could leave. I think that I heard them tell Ms. Skillern that she had got the one they thought it was.
8. I was never contacted by anyone with reference to this case since then. I never met or talked with anyone associated with the defense of Gary Graham, until I was contacted last month. The prosecution did not ask me to come to court. I have never been contacted by Ron Mock, Chester Thornton, nor Merv West.

I have read this affidavit and it is true and correct to the best of my knowledge.

  
Signed

SUBSCRIBED AND SWORN before me the undersigned authority on this 18<sup>th</sup> day of April, 1993.

Michael T. Heath  
Notary

My commission



PLEASE TYPE OR PRINT  
USING BLACK BALL POINT  
PEN. MAKE SURE ALL  
COPIES LEGIBLE.

DEFENDANT DESCRIPTORS

NAME: Graham GARY  
LAST FIRST MIDDLE

ALIAS NAME: Michael Dewayne Graham, Michael D. Brown, Gary Brown, Kenneth <sup>Stokes</sup>

RACE: N SEX: M DOB: 9-5-63, 9-5-60, 1-22-61 BIRTH STATE: TX

BUILD: Med HEIGHT: 5'9" WEIGHT: 150 EYES: bro HAIR: blk SKIN: dkr

MARITAL STATUS: \_\_\_\_\_ U. S. CITIZEN: \_\_\_\_\_ # PRIOR CONV: \_\_\_\_\_

STREET ADDRESS: unknown ADDRESS TYPE: \_\_\_\_\_ (BUS/RES/HANGOUT)

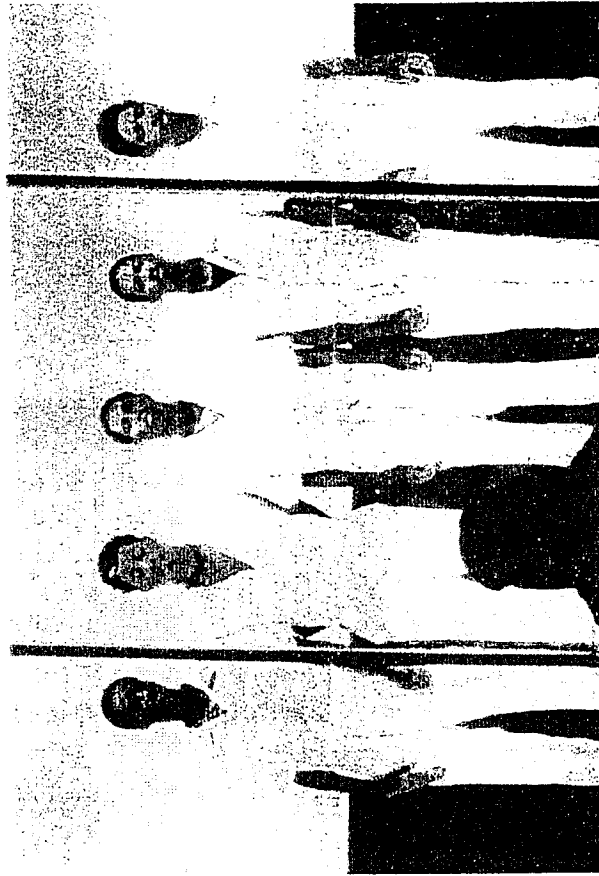
CITY: \_\_\_\_\_ STATE: \_\_\_\_\_

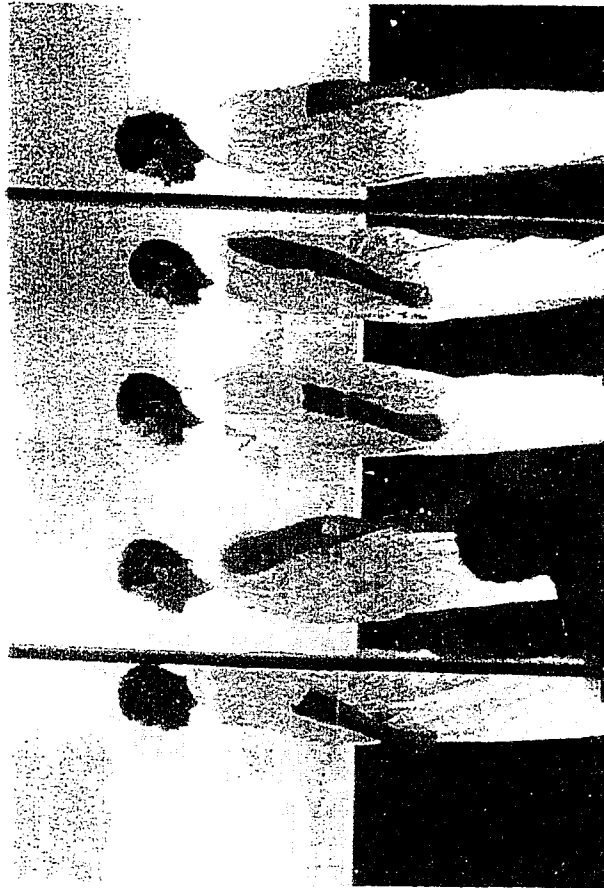
PHONE NO.: \_\_\_\_\_ OCCUPATION: \_\_\_\_\_ ST: \_\_\_\_\_ ZIP: \_\_\_\_\_

FBI #: \_\_\_\_\_ DPS #: \_\_\_\_\_ SOC. SEC. #: 456-39-4850 SCARS: \_\_\_\_\_

DRIVER LICENSE STATE: \_\_\_\_\_ D.L.#: \_\_\_\_\_ S.O.#: \_\_\_\_\_

**COPY FOR WARRANT/COMMITMENT  
(TO BE ATTACHED)**







State of Texas            )  
                              ) SS            In Re Gary Graham  
County of Harris        )

AFFIDAVIT OF SHERIAN ETUK

I, Sherian Etuk, under pain and penalty of perjury swear that the following information is true:

1. My name is Sherian Etuk and I am of lawful age to make this affidavit. I am currently employed as a case work assistant with the Child Protective Services.
2. I am not related to Gary Graham or anyone else associated with his case.
3. In May of 1981, I used to work at the Safeway store located at West Gulfbank and I-45. I had worked there for about a year. I had worked with Safeway from 1977 to 1982. I was a checker. Because I was fast I often worked the register on the express lane. On May 13th, 1981, I was working the express lane. That was the night that someone got shot in the parking lot then made his way back to the doorway of the store where he died.
4. I did not expect the shooting and it took me by surprise. I was helping an older lady. I think she had more groceries than she was supposed to have for the express lane but I helped her anyway. I was fast enough that it would not have made much difference to other people in line. Anyway, after I finished checking her groceries and told her what the bill was she pulled out a purse and began to start counting pennies. I guess I became a little frustrated at this and turned and looked out the window. When I looked out the window I saw a black man dressed really sharply standing by one of the concrete columns outside at the front of the store. He was right up against the window, and appeared to be leaning slightly. I looked at him for quite a while, more than a few seconds. He was looking back in my direction and so I saw him clearly.
5. A few moments later I looked out the window again and the young man was in the center of the lot. He had shot the white guy. I did not see all that happened in the lot, and I don't remember seeing the two men scuffling before the shot.
6. After shooting the white guy the black guy turned and walked out of the parking lot. He was extremely cool. He kinda checked his shoulders to make sure that he was looking right before he began walking out of the parking lot. I did not see anyone trying to follow him.

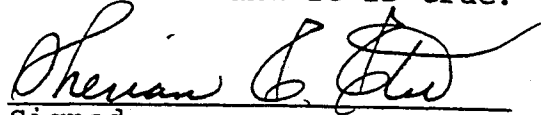
*SE*

7. The man who was shot walked back to the store where he fell in the doorway. He fell down and people started saying he had a heart attack. I told them no, he had been shot. It was kind of unreal in there, it took a few moments before anyone went over to him, and it looked like people were continuing with business as usual. Some people actually stepped over the poor guy as he was laying there.
8. It took the police a while to arrive and when they did come I think that there was a dispute over jurisdiction between HPD and Harris County Sheriff's department over whose case it was. The police took control. People were still just entering and leaving the store. They did not take the names and addresses of everyone in the store, nor try to talk to everyone.
9. The body had a lot of money on it. I think the police ended up with about \$6,000. I talked to the police that night and at a later date signed a written statement.
10. The guy who did the shooting was real clean. I mean he was just meticulous in appearance. He had on a white blazer type jacket and black pants. I could not see his shoes, but he was clean shaven and had real short hair. His face was extremely narrow. Just thin from top to bottom. It was not oval shaped. More like oblong. I am six feet tall and when I first saw him I could see the top of his head. His build reminded me of my ex-husband. My ex-husband was 5' 3" and weighed somewhere around 130 lbs soaking wet. I'm not sure of the guys exact height, but he was not tall. He was not taller than 5' 6" and had a real slim build too.
11. I have been shown four photographs of Gary Graham, that I have signed, and they accompany this affidavit. One arrest photo, two photos where Gary is in a line-up with other guys, and one photo where he's dressed nice. None of these photos depict the guy who shot the man out in the parking lot that night. The guy who did it had a thinner face, and smaller build.
12. I have also been shown a composite photo drawn by Ms. Skillern. I have also signed it. The face in the composite is close, but its shape is wrong. It is too wide at the top.
13. After the police showed me the set of photographs I never heard anything about this case again until this past week. No one associated with Gary Graham's defense at trial ever came to see me or ask me any questions. I had heard about the Gary Graham case, but had not been following it. I did not even know that this was the same case.

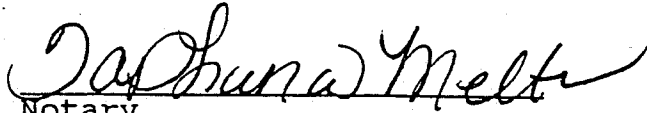
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14. I was so scared by the shooting that I asked to be transferred to another store. Since I'm so tall I thought that the shooter would easily be able to recognize me if he wanted to.

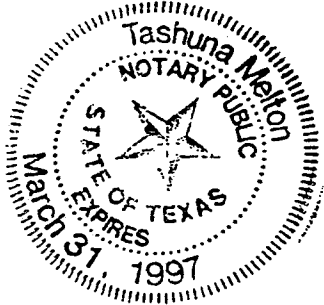
I have read and had read to me this affidavit and it is true.

  
Signed

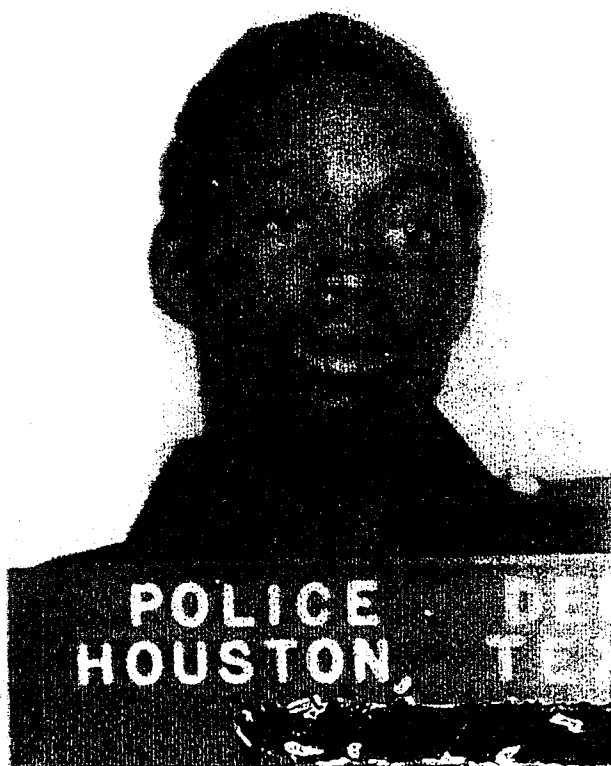
SUBSCRIBED AND SWORN before me the undersigned authority on this 10th day of July, 1993.

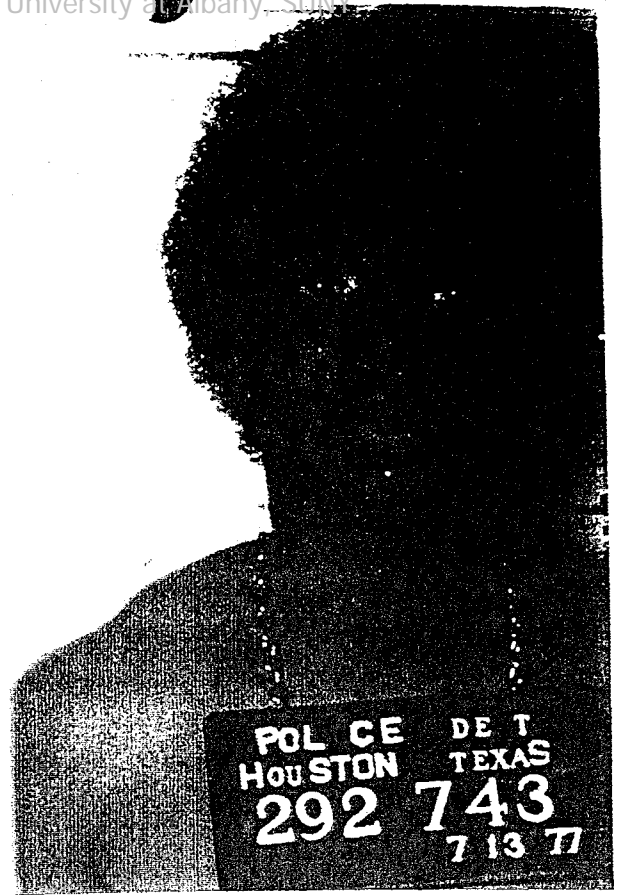
  
Notary

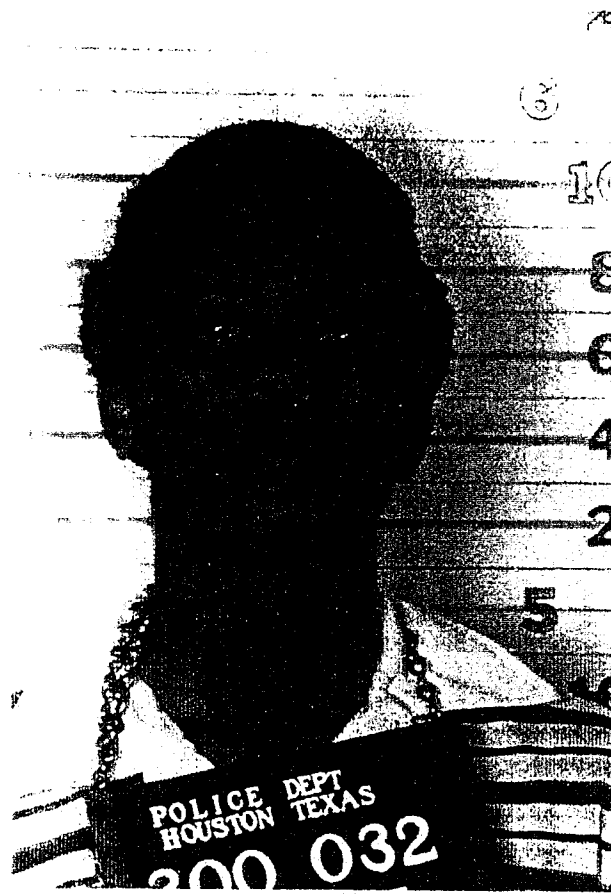
My commission expires:

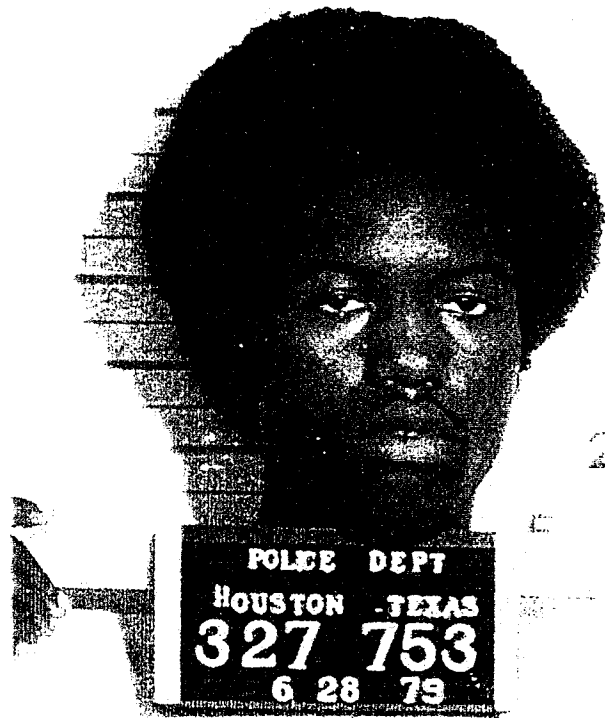




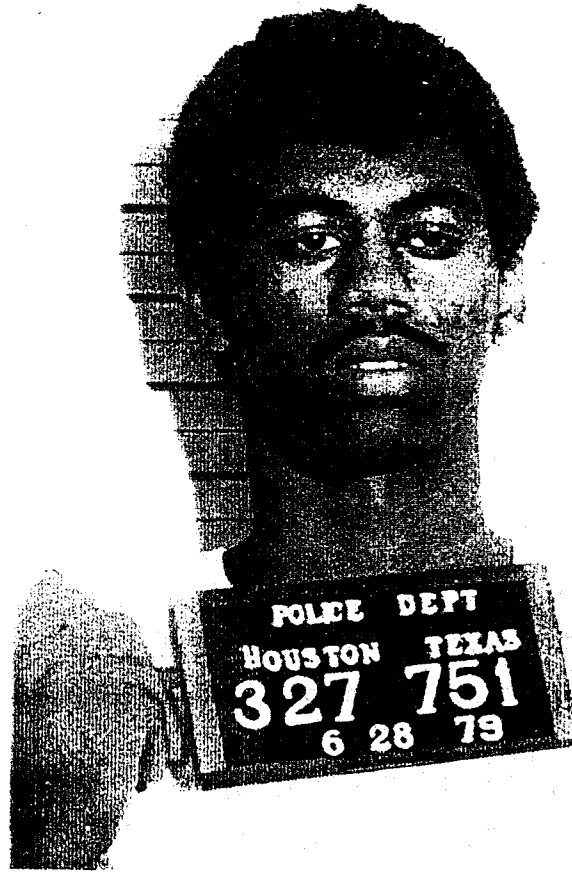








POLICE DEPT  
HOUSTON - TEXAS  
327 753  
6 28 79





DECLARATION OF ELIZABETH F. LOFTUS

Elizabeth F. Loftus declares the following under penalty of perjury:

1. I am a professor of psychology at the University of Washington. My office address is Department of Psychology, University of Washington, Seattle, Washington 98195.

2. I have a Ph.D. in psychology from Stanford University, and I specialize in the field of cognitive psychology. Since approximately 1972, I have devoted a considerable portion of my research and writing to the examination of eyewitness observation and testimony. I have written several books on this subject, including Loftus, Eyewitness Testimony (1979), and I have also co-edited a book, Wells and Loftus, Eyewitness Testimony: Psychological Perspectives (1984).

3. Because of my special area of study, I have been asked by counsel for Gary Graham to examine the eyewitness observations and testimony in connection with the crime for which he was convicted and sentenced to death in the State of Texas in 1981. The results of my examination are reported in this declaration.

4. My examination is based on a review of the following materials: Police Report (Lambert murder); statement of Bernadine Skillern; composite drawing by Bernadine Skillern; statement of Daniel Grady; statement of Wilma Amos; crime scene photos; photo spreads (#1 and #2); lineup report and lineup photos; crime scene reconstruction report; affidavits of Ronald Hubbard, Wilma Amos, Malcolm Stephens, Lorna Stephens, Leodis Wilkerson, and Sherian

Etuk; transcript of testimony from hearing to suppress identification; transcripts of the trial testimony of Wilma Amos, Daniel Grady, Meschell Gilliam, and S. Wilson; and report of Curtis Wills, Ph.D., evaluating eyewitness testimony.

5. The crime that is the subject of eyewitness testimony can be described briefly. At approximately 9:30 p.m. on May 13, 1981, Bobby Grant Lambert, purchased about \$20 worth of items at the Safeway store at 8935 North Freeway in Houston. He paid with a \$100 bill and received change. As Mr. Lambert walked across the lot to his car, a man approached him from behind, and after a brief confrontation, shot Mr. Lambert and fled. Lambert had sixty \$100 bills on his person. The \$70 plus in change from his purchase was not found. At least eight people witnessed the shooting and/or saw the gunman as he fled from the scene. All of the eyewitnesses agreed that the gunman was a young black man wearing a white jacket and dark pants. The differences and similarities of their additional reported observations are the subject of my report.

6. At the outset, I must note that this is an extremely unusual case. There are numerous eyewitnesses -- eight that are known -- yet only one of the eight, Bernadine Skillern, identified Mr. Graham as the gunman. In one way or another, all seven of the other eyewitnesses excluded Graham. Six -- Wilma Amos, Ronald Hubbard, Leodis Wilkerson, Sherian Etuk, Malcolm Stephens, and Lorna Stephens -- estimated the height of the gunman as 5'5" - 5'6", and Graham was 5'9" at the time. The seventh, Daniel Grady, was apparently shown a photo spread and/or lineup that included Mr.

Graham and did not identify him. Wilma Amos and Ronald Hubbard were also shown photo spreads and/or lineups that included Graham and did not identify him. Wilma Amos, Leodis Wilkerson, Sherian Etuk, Malcolm Stephens, and Lorna Stephens now say positively that Graham is not the gunman.

7. The sheer number of people who exclude Mr. Graham compel one to take a closer look both at their opportunities to observe and acquire information about the gunman and at the process by which Bernadine Skillern identified Graham as the gunman. On examination, there is ample reason for concern about the process that led to Ms. Skillern's identification.

8. Any analysis of eyewitness identification must begin with the recognition that the process of eyewitness identification can produce unreliable memories. There are three distinct cognitive functions involved in eyewitness identification: the acquisition of information, the retention of the information, and the retrieval of the information. Each of these functions can be influenced by a variety of factors that distort the accuracy of what is perceived and remembered. Accordingly, the analysis of a particular eyewitness identification must account for as many of these factors as possible. With this in mind, one needs to identify the factors in operation during the course of the eyewitness observations of the Lambert murder and the processes by which witnesses later tried to identify the gunman.

9. Two sets of factors warrant comment with respect to the seven eyewitnesses who did not identify Mr. Graham. The first has

to do with the opportunities these witnesses had to acquire information about the gunman. The second has to do with the estimates of the gunman's height.

(a) When information is acquired, we know that the acquisition is more accurate if it is taken in over a longer period of time and through multiple exposures. Even if there is only a single exposure, the acquisition of information is more accurate if the exposure is relatively stress-free. In this regard, observations during a violent crime, particularly when a gun is involved, are often less accurate than observations during a non-violent event.

(b) Of the eight witnesses who saw the events, six of those who did not identify Graham as the gunman -- Amos, Hubbard, Etuk, Wilkerson, and Malcolm and Lorna Stephens -- had the opportunity to observe the gunman in a non-violent situation. Amos saw him three times in the store, and Hubbard and Etuk saw him once outside the store before the crime occurred. Mr. and Ms. Stephens saw him when he ran in front of their car. At the time they did not know what had happened, so their observations were not distorted by the violence of the situation. Mr. Stephens also reports seeing the gunman on several occasions subsequent to the crime under non-stressful conditions. Finally, Leodis Wilkerson reported to the police that he had seen the gunman in his neighborhood both before and after the crime.

(c) Despite the opportunities these witnesses had to observe the gunman under non-violent or non-stressful conditions,

the information that some of them acquired may have been distorted by other factors. Though Amos, Hubbard, and Etuk saw the gunman in non-stressful circumstances before the crime, they subsequently saw him in violent, stressful circumstances. On occasion, the observations such witnesses make during the violent episode supplant the earlier observations and are subject to the same inaccuracies associated with any observation in violent circumstances. Though not made under the extreme stress of witnessing a murder with a gun, Mr and Ms. Stephens' observations on the night of the crime were nevertheless made under stress, since they nearly hit the man they observed.

(d) Even if some of the non-identifying eyewitnesses' observations made outside the stress of the crime were compromised, collectively these witnesses still had a much better opportunity to observe the gunman than Ms. Skillern did. Ms. Skillern's observations were made entirely on the basis of a violent event, where a gun was involved, and where her children might have been at risk. If her account of following the gunman as he left the parking lot is credited, she observed the gunman's face twice, for only a brief period each time. Both observations were made during the course of the same violent, stressful event.

(e) With respect to the eyewitnesses' estimates of the gunman's height, one factor is quite significant. Estimates of height are usually more accurate when they are made in reference to something or someone whose height is known. Two of the six witnesses who estimated the gunman's height at 5'5" - 5'6" made

their estimates in reference to something else. Ms. Amos observed the gunman face-to-face only a few feet away. She was 5'2 1/2" and noted that she and the gunman looked at each other nearly eye to eye. Mr. Wilkerson noted that the gunman was shorter than Mr. Lambert, and the medical examiner testified that Lambert was 5'6". By contrast, Ms. Skillern estimated the gunman's height as 5'9" - 5'10". As far as the record reveals, however, her estimate was not made in reference to something of known or ascertainable height.

10. In the face of seven other eyewitnesses who did not identify Mr. Graham, all but one of whom says that the gunman was considerably shorter than Mr. Graham, the identification of Mr. Graham by Bernadine Skillern compels close scrutiny of the process that led to her identification. That process is one that created a considerable risk of mistaken identification.

(a) Over the two week period following the crime, Ms. Skillern was shown two photo spreads, containing a total of ten photographs. Only one of those photographs, in the second photo spread, met the two basic facial features of the gunman described by Skillern, i.e., no facial hair and short-cropped head hair -- the photograph of Gary Graham. Even if Graham's photograph did not match her image of the gunman, Skillern would have been drawn to it for this reason. In addition, Skillern appears to have been strongly motivated to help the police.<sup>1</sup> A person so motivated

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<sup>1</sup> Whether Ms. Skillern followed the gunman through the parking lot or not, her account of doing so reflects a strong motivation to help the police. Most people who witness a crime are motivated to some degree to be of assistance to the police. Ms. Skillern appears to be highly motivated.

will often pick out the person in a photo array who comes the closest to their recollection even if the person does not match their recollection.

(b) That appears to be what happened here. Skillern was drawn to Graham's photograph even though the person depicted there did not match her recollection of the gunman. According to the police,

[Ms. Skillern] said that the photo of Gary Gram [sic] looked like the suspect she saw on the night of the offense except the complexion of the suspect she saw was darker and his face was thinner. She said she could not say that the man in the photo was the suspect from the photo.

Police Report, at 33.

(c) Having been drawn to Graham through the photo spread, Skillern may have identified him when she saw him in the lineup the next day even if he was not the gunman. Graham looked enough like the gunman to have attracted Skillern's attention in the photo spread. In addition, he was the only person who appeared both in the photo spreads and in the lineup. In these circumstances, there is an enhanced likelihood that a witness will identify the person in the lineup whom she has seen in the photo spread, whether or not the person is actually the one whose crime she witnessed. This occurs because the witness goes to the lineup, and the person whose photograph was seen before looks familiar. This familiarity may be mistakenly related back to the crime rather than back to the photograph where it may properly belong. It is well-documented that photo spreads can bias lineup identifications in precisely this way.

(d) Skillern clearly recognized, by her statements to the police following the lineup identification, that she had seen Graham's picture previously in the photo spread. As noted in the police report,

[W]hile the witness Skillern was being driven to her home after the showup by Owen, she told Owen that she recognized the suspect she picked as being in the photo showup she view[ed] the previous night.

Police Report, at 35. There is no way to determine whether the identification of Graham was based on the photograph or on Skillern's memory of the gunman. However, the risk is substantial that it was based solely on the photograph.

11. One other feature of Ms. Skillern's identification process must be noted. At least one person has reported that the police told Skillern after her identification that she picked out the person who was their prime suspect. If this occurred, Skillern's confidence in her identification may have been artificially inflated. She would likely have felt that she "knew it all along," a feeling that shrouds an identification in tremendous confidence even if it is mistaken. For this reason, Ms. Skillern's expressed confidence in the identification should be viewed cautiously. In general, there is little correlation between the confidence expressed in an identification and the accuracy of the identification. When a person's confidence has been artificially enhanced, this is manifestly the case.

12. Within a few hours of the murder of Mr. Lambert, Bernadine Skillern worked with a police artist to create a composite drawing of the gunman. Not surprisingly, information



that is remembered closer to an event is more likely to be accurate than information remembered later. Thus, the composite may reflect Ms. Skillern's most accurate recollection of the gunman. Several other eyewitnesses -- Hubbard, Wilkerson, Etuk, and Malcolm Stephens -- have said that the composite fairly resembled the gunman, confirming to some extent that the composite was an accurate accounting of the gunman's appearance. However, they and the other eyewitnesses have also been clear that Gary Graham was not the gunman. In these circumstances, where Ms. Skillern is the only one of eight eyewitnesses to identify Mr. Graham, serious concerns are presented about her identification. The photo spread clearly could have biased her lineup identification. Given other witnesses' views about the composite, it may well be that when Ms. Skillern identified Graham she was identifying the person she saw in the photograph the day before, not the person she saw murder Mr. Lambert, whose likeness is reflected in the composite.

  
Elizabeth F. Loftus

131

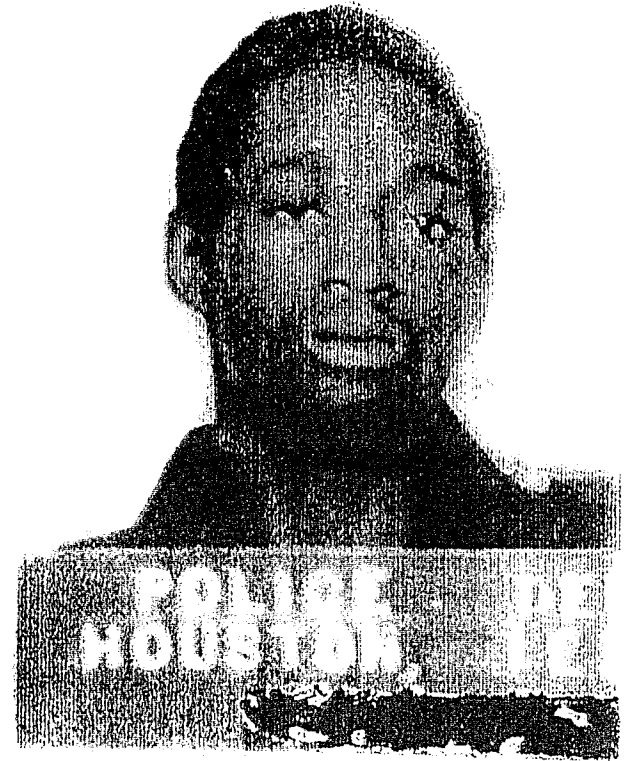
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HOUSTON POLICE DEPARTMENT  
FIREARMS AND TOOL MARK SUBMISSION

DATE SUBMITTED: 5-14-81

CASE NO. 25207081

SUBMITTING OFFICER: D.W. Autrey  
(Print Name and Assignment)

FIREARMS CASE NO. \_\_\_\_\_

EVIDENCE SUBMITTED:

WEAPON(S) OR OTHER: 1 Bullet (Fired pass 22 cal)

FIRE BULLETS: 1 CARTRIDGES: \_\_\_\_\_

FIRE CARTRIDGE CASES: \_\_\_\_\_

IT IS REQUESTED THAT AN EXAMINATION BE MADE TO DETERMINE: hold for comparison

OFFENSE: Murder DATE OF OFFENSE: 5-13-81

LOCATION OF OFFENSE: 8935 North Freeway (45)

SUSPECT(S) (Full Name, Color, Age, Sex): UNK B/M

VICTIM(S) (Full Name, Color, Age, Sex): BOBBY GRANT LAMBERT WMS3

PLEASE SEND (\_\_\_\_) COPIES OF REPORT TO: DW Autrey Homicide  
(Name and Division)

DW Autrey 30476 Detective  
(Signature and Employee No) (Official Title)

RECEIVED FROM: \_\_\_\_\_ RECEIVED BY: \_\_\_\_\_

DATE EVIDENCE RELEASED: \_\_\_\_\_ TIME EVIDENCE RELEASED: \_\_\_\_\_

EVIDENCE RELEASED TO: \_\_\_\_\_

EVIDENCE RELEASED BY: \_\_\_\_\_

HOUSTON POLICE DEPARTMENT  
FIREARMS AND TOOL MARK SUBMISSION

DATE SUBMITTED: 5.26.81

CASE NO. 25207081

FIREARMS CASE NO. \_\_\_\_\_

SUBMITTING OFFICER: D.W. Autrey Homicide  
(Print Name and Assignment)

EVIDENCE SUBMITTED:  
WEAPON(S) OR OTHER: 22 cal Rev. Middle Robin R.G.  
S&W # 260170 Recovered in case #  
26536581

FIRED BULLETS: \_\_\_\_\_ CARTRIDGES: 6 live

FIRED CARTRIDGE CASES: \_\_\_\_\_

IT IS REQUESTED THAT AN EXAMINATION BE MADE TO DETERMINE: if the ballistic from  
this gun match those of the bullet already  
submitted in this case.  
OFFENSE: \_\_\_\_\_ DATE OF OFFENSE: 5-13-81

LOCATION OF OFFENSE: 3935 North Freeway

SUSPECT(S) (Full Name, Color, Age, Sex): GARY GARM NIMRO

VICTIM(S) (Full Name, Color, Age, Sex): BOBBY GRANT LAMBERT

PLEASE SEND (1) COPIES OF REPORT TO: Homicide D.W. Autrey  
(Name and Division)

DW Autrey 30426 Detective  
(Signature and Employee No.) (Official Title)

RECEIVED FROM: \_\_\_\_\_ RECEIVED BY: \_\_\_\_\_  
DATE EVIDENCE RELEASED: \_\_\_\_\_ TIME EVIDENCE RELEASED: \_\_\_\_\_  
EVIDENCE RELEASED TO: \_\_\_\_\_  
EVIDENCE RELEASED BY: \_\_\_\_\_

STON POLICE DEPARTMENT - OFFENSE REPORT SUPPLEMENT Incident No. 25207081  
MURDER LOCATION 8935 N Freeway  
PLAINTANT(S) Bobby Grant Lambert DATE OF OFFENSE 5-13-81  
DATE SUPPLEMENT MADE 5-28-81

Firearms Case No. 263-81

Examinations were completed, on this date 5-28-81

Firearms Section of the Identification Division of the  
City of St. Louis, Missouri

Received from:

22 caliber Rohm RG-14 revolver,  
Serial#360170  
Fired coated lead bullet

Locked Evidence Box, Homicide Div. 5-27-81  
Locked Evidence Box, Homicide Div. 5-15-81

Examinations revealed: the one (1) fired coated lead bullet (EB-1) was not fired in  
above described weapon.

TRIGGER PULL: (Single Action): \_\_\_\_\_ (Double Action): \_\_\_\_\_

CONDITION OF EVIDENCE: Bullet - Fair, Weapon - Good

Forementioned evidence will be:

(Retained in Firearms Section):  (Returned to): \_\_\_\_\_

*C. E. Anderson*  
Firearms Examiner, C. E. Anderson #20483 Emp. No.  
Firearms Section,  
Identification Division

Firearms Examiner,  
Firearms Section,  
Identification Division

Emp. No.:

Dear Governor Richards:

April 11, 1993

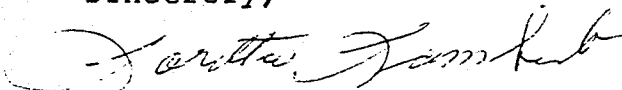
My name is Loretta Lambert. I was married to Bobby Grant Lambert at the time of his death in May, 1981. Gary Graham was convicted of the murder of my husband and sentenced to death. It is my understanding that he is scheduled to be executed on April 29th 1993.

It has been brought to my attention that there is evidence that creates a possibility of reasonable doubt as to whether or not Gary Graham did in fact commit this crime. I do not want the execution of a possibly innocent man on my conscience. I do not believe in capital punishment.

I am therefore writing this letter to request that you, Governor Richards commute Mr. Graham's sentence of death to life. In the alternative, please stay Mr. Graham's execution and provide him with an opportunity to fully present his evidence in the appropriate forum.

I do not want to live with the possibility that the State executed an innocent man. The death of my husband was a tragedy; the execution of Gary Graham, who very well may be innocent, would be a travesty. Please do not allow the State to execute Mr. Graham on April 29, 1993. Thank You.

Sincerely,



Loretta Lambert



**ZIMMERMANN & LAVINE, P. C.**

ATTORNEYS AT LAW  
770 SOUTH POST OAK LANE, SUITE 620  
HOUSTON, TEXAS 77056  
713-552-0300  
FAX 713-552-0746

June 1, 2000

Mr. Gerald Garrett  
Member, Texas Board of Pardons & Paroles  
420 South Main  
San Antonio, Texas 78204

Dear Mr. Garrett,

We write to request an interview at your convenience to discuss clemency for Gary Graham, who has an execution date of June 22, 2000. Today in Austin, we filed our formal Petition for a Recommendation of a Reprieve of Execution and Pardon, or Alternatively, a Conditional Pardon or Commutation of a Death Sentence. We understand you will receive your copy and other materials early next week.

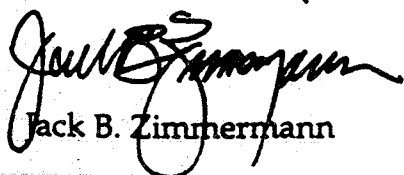
We know that you are not required to meet with us, but we urge you to exercise your discretion to do so because we truly believe this is a case of an innocent man about to be executed for a crime he did not commit.

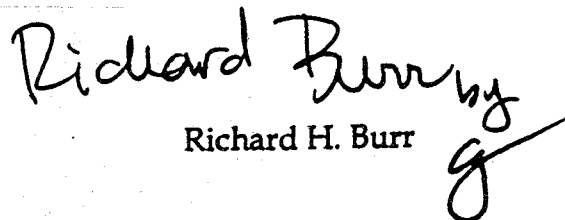
We can come to anywhere you suggest. We request no more than an hour of your time. We can meet individually with you, or jointly with the other members in your area. We believe this is even more important today because yesterday Governor Bush assured the nation that if there is any doubt about a person's guilt in a death penalty case, other evidence should be reviewed.

There are two eyewitnesses who clear Gary Graham, but have never been heard in court. There is no evidence whatsoever to corroborate the mistaken identification by the single identifying witness who did testify. This case is a good example of why the Bible says, "But no one shall be put to death on the testimony of only one witness." Numbers 35:30 and Deuteronomy 17:6.

Can you give us an hour so that you can be completely comfortable with whatever your recommendation is to the Governor?

Sincerely,

  
Jack B. Zimmermann

  
Richard H. Burr



**ZIMMERMANN & LAVINE, P. C.**

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HOUSTON, TEXAS 77056  
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JACK B. ZIMMERMANN  
BOARD CERTIFIED  
CRIMINAL LAW  
NATIONAL BOARD OF TRIAL ADVOCACY &  
TEXAS BOARD OF LEGAL SPECIALIZATION

June 7, 2000

Mr. Gerald Garrett  
Member, Texas Board of Pardons & Paroles  
420 South Main  
San Antonio, Texas 78204

Dear Mr. Garrett,

We have provided you a videotape that we urge you to view before you reach your decision on a recommendation to Governor Bush. It begins with a presentation from Jack B. Zimmermann, outlining our position on clemency in less than 15 minutes. Please watch this portion if you have time for nothing else.


Following the initial presentation are two recently videotaped interviews of the two store employees who viewed the shooter in this case. As we explain in the clemency petition, they both exclude Gary Graham as the shooter. We have provided a videotaped interview with them in addition to their affidavits which are appended to the petition, because we think the taped interviews will help you in evaluating their credibility. We ask that you watch them both and reach your own conclusions as to their credibility. As we noted, Ms. Etuk has been an employee of Harris County for over 10 years, and Mr. Hubbard is a long-time Postal Service employee. The interviews last 26 minutes and 23 minutes.

In sum, if you can give us an hour, we believe it will make a difference. Please know that we made this videotape ourselves — we are working without a fee at this point — so please listen to the content and do not be influenced because it is homemade.

Since the comparison of the composite drawing of the shooter with the booking photograph of Gary Graham is referred to in the opening 15 minutes, a copy is enclosed so you can see it better. We also have appended this comparison document to the petition, but we think it is so important that we wanted it to be at your fingertips. In addition, enclosed is a scene diagram so you can follow the description by the witnesses.

If there is any question you have, please remember that we would be very grateful to appear before you in person to address any concern you may have about what we have presented.

Sincerely,

  
Jack B. Zimmermann

  
Richard H. Burr

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dick@burrandwelch.com  
**Mandy Welch**  
mandy@burrandwelch.com

(713) 523-2299  
fax (713) 523-3833

June 17, 2000

**TO:** Charles A. Shipman, Member, Texas Board of Pardons and Paroles

**FROM:** Richard Burr and Jack Zimmermann, Counsel for Gary Graham

**RE:** Matters discussed with Chairman Gerald Garrett and General Counsel Laura McElroy on June 16, 2000, concerning the *Gary Graham* case

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Co-counsel Jack Zimmermann and I met with Board Chairman Gerald Garrett and General Counsel Laura McElroy on June 16, 2000 to discuss the Gary Graham case. Mr. Garrett asked that we prepare a memorandum concerning the matters discussed during the meeting so that all Board members might have the benefit of our discussion.

After going over a brief synopsis of the relevant facts in Mr. Graham's case, Mr. Zimmermann focused on why we believe that the two eyewitnesses who did not testify at Mr. Graham's trial – Sherian Etuk and Ron Hubbard – have more reliable observations about the shooter than the only eyewitness who identified Mr. Graham, Bernadine Skillern.

In arguing that the observations of Ms. Etuk and Mr. Hubbard are more reliable than the observations of Ms. Skillern, we do not in any way impugn Ms. Skillern's credibility. She is credible – that is, she is telling the truth as she knows it – just as Ms. Etuk and Mr. Hubbard are credible. However, her account is not as reliable – not as accurate in describing who the shooter was – as the accounts of Ms. Etuk and Mr. Hubbard.

The circumstances under which Ms. Skillern observed the shooter were quite different from the circumstances under which Ms. Etuk and Mr. Hubbard observed the shooter. These circumstances explain why the observations of Ms. Etuk and Mr. Hubbard are more reliable than the observations of Ms. Skillern.

➤ Ms. Skillern saw the man in the white coat, by her estimate, for a total of a minute

or a minute-and-one-half – the time that elapsed from the moment Ms. Skillern first saw the shooter approach Mr. Lambert, to the end of the incident, when the shooter disappeared into the night. During this time, she had only two brief glimpses of the front of the shooter's face – once for *"a split second"* when she honked her horn to try to prevent the shooting and the shooter glanced at her, and again, for *"two or three seconds,"* when the shooter was fleeing and she was following him in her car through the parking lot and he hesitated and glanced at her.<sup>1</sup> During all the rest of the time the incident took place, Ms. Skillern had a view of the side of the shooter's face or the back of his head.

- **By contrast, Sherian Etuk saw the front of the face of the man in the white coat over a *twenty-to-thirty minute* period preceding the shooting. Ron Hubbard, on the other hand, saw the face of the man in the white coat as he approached him on foot, then looked at him to speak, and then again as he walked past him.**
- **The lighting conditions in the parking lot where Ms. Skillern observed the shooter were marginal. The shooting took place after 9:00 pm, and the lot was dark, illuminated only by a few lights.**
- **By contrast, Ms. Etuk and Mr. Hubbard both saw the shooter in the same place – under the well-lighted overhang immediately in front of the grocery store.**
- **Ms. Skillern's initial observation of the front of the shooter's face was at a distance of *30-40 feet through the windshield of her parked car*. Ms. Skillern's second observation of the front of the shooter's face was closer – about a car length away – but she was driving and the child who was in the car with her was screaming.**
- **By contrast, Ms. Etuk's observation of the shooter's face occurred about 10-15 feet away through the window glass of the store. Mr. Hubbard, on the other hand, walked within *one or two feet* of the shooter and saw him *unobstructed, face-to-face* as he spoke to the shooter.**
- **Because of what she was seeing, the entire time that Ms. Skillern saw the shooter, she was experiencing the trauma of the shooting incident and was under very intense stress.**
- **By contrast, Ms. Etuk and Mr. Hubbard both observed the shooter without any stressors – no trauma, no negative emotions, no fear of a**

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<sup>1</sup>These time estimates are found in Ms. Skillern's trial testimony. See Volume XV, at 331, 389.

**gun or of being shot, no screaming child in the car.**

➤ Ms. Skillern estimated the shooter's height at between 5'10" and 6'. However, she has never expressed a known measure against which she estimated the shooter's height. She did not, for example, compare the shooter's height to Mr. Lambert's height, nor did she compare his height to anyone she knew.

➤ By contrast, Ms. Etuk gauged her estimate of the shooter's height by comparison to her husband, who was 5'3". She said that the shooter was about the height of her husband because she could see the crown of his head in the way she could see the crown of her husband's head. Similarly, Mr. Hubbard estimated the shooter's height to be about the same as his mother's height, which was 5'4". Mr. Hubbard developed this impression when he walked right by the shooter and looked at him. The shooter's height was similar to his mother's.<sup>2</sup>

➤ Finally, Ms. Skillern was subjected to a suggestive identification process. When she was shown a photo array that included Mr. Graham's photo, she was drawn to Mr. Graham's photo because it was the only photo of an individual with short hair and no facial hair. No one else depicted in the photo array had these characteristics, which were the characteristics Ms. Skillern and all the other eyewitnesses who saw the shooter's face agreed on. Even then, however, Ms. Skillern noted that she could not say that Mr. Graham was the shooter because the "complexion of the suspect she saw was darker and his face was thinner." Houston Police Department Offense Report, at page 33 (Appendix 3 to the clemency petition). The day after she saw the photo array, Ms. Skillern saw a lineup which included Mr. Graham but no one else from the photo array. She identified him as the shooter and noted to a police officer that she recalled seeing his photograph the day before. This process of identification makes it very likely that Ms. Skillern identified Mr. Graham because she was familiar with him from the photo array, not because she saw him shoot Bobby Lambert.

➤ **Neither Ms. Etuk nor Mr. Hubbard was subject to a suggestive identification process which could have distorted their memories of the shooter.<sup>3</sup>**

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<sup>2</sup>We also noted for Mr. Garret and Ms. McElroy that the other eyewitnesses who have given height estimates of the shooter to present counsel for Mr. Graham, and who made their estimates in relation to their own height or Mr. Lambert's height – Wilma Amos and Leodis Wilkerson – also estimated that the shooter was shorter than Mr. Lambert, who was, according to the autopsy, 5'6".

<sup>3</sup>The accuracy of Ms. Etuk's and Mr. Hubbard's accounts is further confirmed by the additional evidence of Mr. Graham's innocence – that his .22 caliber pistol did not fire and could

As we have argued in the clemency petition, the reason Mr. Graham was deprived of a fair trial is that none of the evidence concerning the observations of Ms. Etuk and Mr. Hubbard, and none of the evidence showing the suggestiveness of the identification process used with Ms. Skillern and the distortion of her memory that may very well have been caused by that process, was presented to the jury. The fault for this lay with Ron Mock and Chester Thornton, Mr. Graham's two inexperienced appointed trial counsel. They never undertook any investigation of these facts and did not present any of this information to the jury. Without investigation, lawyers cannot represent their clients effectively in criminal cases. Without investigation, they cannot make reasonable and reliable strategy decisions in defending their clients.

The evidence of innocence that we have put forward is not "new" evidence. It was there for the finding if trial counsel had investigated the leads they saw in the police report. It was there for the finding in connection with the first state and federal writ proceedings (from 1984 - 1993) if Mr. Graham's then-counsel, Doug O'Brien, had thought to access to the police report and conducted some investigation. That no one representing Mr. Graham until later in 1993 - present counsel - undertook any investigation before 1993 should not be held against Mr. Graham. He has always insisted that he was innocent of the killing of Bobby Lambert, while admitting his guilt of many other, non-capital offenses. That no lawyer undertook any investigation of the eyewitnesses until 1993 is not his fault.

Following discussion of these matters, we then focused on the lack of any fair court consideration of the evidence of Mr. Graham's innocence. We reminded Mr. Garrett and Ms. McElroy that there has never been an evidentiary proceeding in court where a judge (1) heard the testimony of Sherian Etuk and Ron Hubbard under oath and (2) considered the testimony of Bernadine Skillern anew in light of the suggestive identification she was taken through. Since April 20, 1993, we as counsel for Mr. Graham have been asking for such an evidentiary hearing, but no court has been willing to hold a hearing. The number of judicial proceedings we have gone through in that effort has been characterized by the state as evidence that Mr. Graham has gotten full and fair review of his claims of actual innocence and the denial of a fair trial. That is a complete distortion. We have gone to numerous courts to try to persuade those courts to order a hearing, but none has been willing to do so. In essence, their reason for refusing to hold an evidentiary hearing has been that the evidence of innocence should have been discovered and presented in the first writ proceedings, and that it was too late in 1993 or thereafter for the courts to hold a hearing.

We concluded our discussion with Mr. Garrett and Ms. McElroy by explaining what we envisioned by our request in Mr. Graham's clemency petition for a "hearing." While we request that the Board recommend a pardon, conditional pardon, or at least commutation of sentence, we recognize that the Board may not think that it is in a position to grant clemency until it holds a hearing within which to consider the relevant facts. The Board is empowered to hold hearings in

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not have fired the .22 caliber bullet that killed Mr. Lambert.

connection with requests for reprieve or commutation of sentence. See Rules 143.43 (f)(3) and 143.57(g)(3). Unless the Board is inclined to grant clemency at this time, we ask that the Board do what the courts should have done but have failed to do: Require that a hearing be held before it or a hearing officer in accord with Rules 147.2 *et seq.* and decide after that hearing whether Mr. Graham should be granted clemency. The testimony at the hearing should include, at a minimum, the testimony of Bernadine Skillern, the police officers who had contact with her and investigated the case, J.W. Ellis and W.W. Owen, Sherian Etuk, Ron Hubbard, and eyewitness identification expert, Elizabeth Loftus.

If the Board has any doubt about whether Mr. Graham's case deserves an evidentiary hearing, we ask that the Board at least hold a hearing to consider oral arguments from counsel for Mr. Graham and counsel for the State as to whether there should be a hearing.

We urged Mr. Garrett, and we now urge all the members of the Board, not to let the execution of Mr. Graham take place without at least these minimal steps being taken to assure yourselves that you are not permitting the execution of a person whose guilt is in real doubt.

At the conclusion of our meeting, we submitted three additional items for the Board's consideration. We submitted affidavits from two of Mr. Graham's trial jurors, who reviewed the same videotape of the interviews with Ms. Etuk and Mr. Hubbard that we provided to the Board. After reviewing those tapes, both jurors concluded that they would have voted to acquit Mr. Graham had these witnesses testified.

The third item was a seven-minute videotape of a statement by a woman from North Carolina, Jennifer Thompson, who spoke in Houston on June 12, 2000, about her own experience as an eyewitness as a rape victim seventeen years ago. Ms. Thompson explained that she concentrated during the entire time her assailant was in her presence – nearly an hour – on remembering every feature of his face and his body. She then recounted a process of identification that was similar to Ms. Skillern's. She helped construct a composite of the assailant's face, she viewed photo arrays, and she viewed a lineup in which she identified her assailant. She was absolutely certain that the man she identified was the man who raped her, and her identification of him convicted him and sent him to prison for life. She then recounted that, after eleven years, another man bragged about raping her. This was a man who was in the lineup she viewed, in which she identified the other man as the person who raped her. This new suspect was then subjected to DNA testing, and the testing determined conclusively that he, not the man she had identified, was the man who had raped her. She explains that her story is a chilling lesson about how eyewitnesses can and do make mistakes and urges you and the Governor to take extra care in examining the case of Mr. Graham so that the same mistake is not made with respect to him.

**BURR & WELCH**  
**Attorneys at Law**  
**1630 Castle Court, Suite A**  
**Houston, Texas 77006**

**Richard H. Burr**  
**Mandy Welch**

**(713) 523-2299**  
**fax (713) 523-3833**

**FACSIMILE TRANSMISSION**

**TO: Jack Zimmermann**

**DATE: June 17, 2000**

**FAX NO.: 713-552-0746**

**VOICE NO.: 713-552-0300**

**NO. OF PAGES: 24 (including cover sheet)**

**FROM: Dick Burr**

**MESSAGE: Here is an example of what was sent to each office of the BPP today. Each memo was personalized to the members of that office.**

\* \* \* \* \*

**This facsimile contains privileged and confidential information intended only for the use of the individual or entity named above. If the reader of the facsimile is not the intended recipient or the employee or agent responsible for delivering it to the intended recipient, you are hereby notified that any dissemination or copying of this facsimile is strictly prohibited. If you have received this facsimile in error, please immediately notify us by telephone and return the original facsimile to us at the above address by U.S. mail. Thank you.**

**ZIMMERMANN & LAVINE, P. C.**

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HOUSTON, TEXAS 77056  
713-552-0300  
FAX 713-552-0746

**JACK B. ZIMMERMANN**  
BOARD CERTIFIED  
CRIMINAL LAW  
NATIONAL BOARD OF TRIAL ADVOCACY &  
TEXAS BOARD OF LEGAL SPECIALIZATION

June 21, 2000

TO: Mr. Gerald Garrett, Chairman, and Members of the  
Texas Board of Pardons and Paroles

FROM: Richard H. Burr & Jack B. Zimmermann

We recognize the late hour, but are compelled to reply to the affidavits submitted yesterday by the State. We just received copies, having learned of this via the media upon returning from Death Row yesterday.

1) If the State wants you to credit an affidavit purporting to recall an incident occurring 19 years ago, it must be admitting that the affidavits submitted by eyewitnesses Sherian Etuk and Ronald Hubbard 12 years after the event are reliable for your consideration.

2) Sherian Etuk and Ronald Hubbard reported their observations to police within days of the shooting. The bailiff and Assistant District Attorney never recorded their information at the time of its alleged occurrence.

3) No memorandum or note reporting this alleged statement was placed in the file, even though an experienced prosecutor would have known this could be important and that future litigation had to occur in a capital case.

4) We know that no note or memo was in the file because there was one evidentiary hearing after the trial. On January 8, 1988, Gary Graham testified for the first and only time in court. On redirect examination, he was specifically asked if he committed this offense. He said he did not. He then was asked if he ever told anyone, or admitted to anyone, that he committed this offense. He said he had not done so. This would have allowed the prosecutor to ask him if he had made the statement now attributed to him 19 years later. The prosecutor never asked that question.

5) If the statement had been made, it would be noted in the file. If it were in the file, it would have caused the question to be asked of Mr. Graham. No such question was asked. The testimony, including the State's cross-examination, is found at pages 213 to 218 of the transcript of the 1988 state writ hearing.

The 11th hour submission by the state emphasizes the need for a hearing to resolve matters after cross-examination. We urge you to recommend a reprieve, long enough to conduct a hearing, decide the reliability issues yourselves, and then make your recommendation to the Governor.



**AFFIDAVIT**

**STATE OF TEXAS** §

**COUNTY OF HARRIS** §

BEFORE ME, the undersigned authority, on this day personally appeared [REDACTED] known to me to be the person whose name is subscribed below, who being first by me duly sworn did depose and say:

“My name is [REDACTED] I am over 21 years of age. I am of sound mind, and capable of making the following statement.

I served as a juror in Gary Graham’s case in 1981. I voted to convict him. I based my decision on the evidence that was presented at the time. There was no scientific evidence. The only evidence that connected Mr. Graham to the shooting was the testimony of Bernadine Skillern. She was the witness who identified Mr. Graham. No one contradicted her, and I did not think there was any evidence to show that she was mistaken.

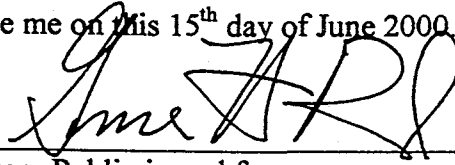
I have watched a videotape that I understand was sent to the Board of Pardons and Paroles. I am concerned that the jury did not have all of the facts when we made our decision. If I had heard the testimony of Sherian Etuk and Ronald Hubbard, it would have made a difference to me. If I had known that Mr. Graham was the only man in the live lineup whose photograph had also been shown to Bernadine Skillern the day before, it would have helped explain why she might have been mistaken. If I had known that Mr. Graham’s pistol did not shoot the bullet that killed Mr. Lambert, it would have made a difference.

I believed what Sherian Etuk and Ronald Hubbard had to say. At the very least if I had heard Bernadine Skillern, Sherian Etuk and Ronald Hubbard testify I would have had a doubt about who was right. I would not have been able to convict Gary Graham on that evidence. I would have voted not guilty. I am in favor of putting off Gary Graham’s execution until things can be cleared up. I think it is important that all of the evidence be heard before a man is put to death.

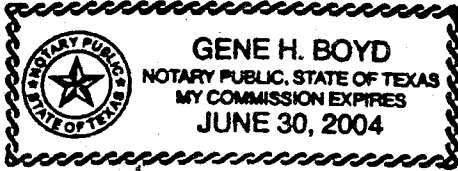
The above statement is true and correct.”

[REDACTED]

SWORN TO AND SUBSCRIBED before me on this 15<sup>th</sup> day of June 2000.



Notary Public in and for  
The State of Texas



**AFFIDAVIT**

**STATE OF TEXAS** §

**COUNTY OF HARRIS** §

BEFORE ME, the undersigned authority, on this day personally appeared [REDACTED] known to me to be the person whose name is subscribed below, who being first by me duly sworn did depose and say:

“My name is [REDACTED] I am over 21 years of age. I am of sound mind, and capable of making the following statement.

I served as a juror in Gary Graham’s case in 1981. I voted to convict him, and I voted to answer the questions that I thought would assist the judge in setting punishment. I based my decision on the evidence that was presented at the trial. The evidence that allowed me to find Mr. Graham guilty was the testimony of the woman who said she saw Gary Graham shoot Mr. Lambert. She was the most important witness.

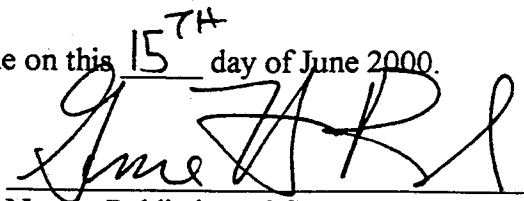
I have watched a videotape that I understand was sent to the Board of Pardons and Paroles. I do not understand why Gary Graham’s lawyer did not bring those witnesses in to testify. I was also surprised to learn that there was a ballistics test that said Graham’s gun did not shoot Lambert. That would have made a difference to me. Sherian Etuk and Ronald Hubbard seemed to me to be telling the truth. At the time, I thought the state’s witness was telling the truth also. If Etuk and Hubbard had testified at the trial I think the outcome could have been different. I cannot speak for the other jurors, but I would have had a serious doubt about him being guilty.

I think all of the evidence should be gathered up so a judge or jury could hear the case before Mr. Graham is executed. I think there was a screw up in the system in this case. I do not think that Gary Graham got a fair trial.

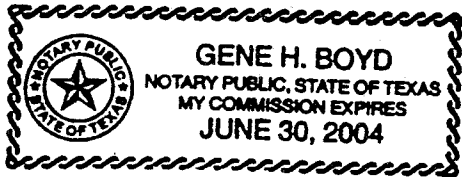
The above statement is true and correct.”

[REDACTED]  
NAME

SWORN TO AND SUBSCRIBED before me on this 15<sup>TH</sup> day of June 2000.



Notary Public in and for  
The State of Texas



AFFIDAVIT

§

§

BEFORE ME, the undersigned authority, on this day personally appeared [REDACTED]  
[REDACTED] known to me to be the person whose name is subscribed below, who being first by me  
duly sworn did depose and say:

"My name is [REDACTED] I am over 21 years of age. I am of sound mind, and capable of making the following statement.

I served as a juror in Gary Graham's case in 1981. I voted to convict him, and I voted to answer the questions that the jurors knew would mean a death sentence. I based my decisions on the evidence that was presented. It was a difficult decision. There was no smoking gun. There were no fingerprints. No physical evidence was presented that tied Gary Graham to the crime. The only evidence that connected Mr. Graham to the shooting was the testimony of Bernadine Skillern. She was the witness who identified Mr. Graham. No one contradicted her. I do not remember any evidence to show that she may have been mistaken.

If I had heard evidence from other witnesses that were at the scene that differed from what Bernadine Skillern said it would have made a difference to me. I have viewed a videotape that contains interviews with Sherian Etuk and Ronald Hubbard. I understand that this videotape was sent to the Texas Board of Pardons and Paroles. My impression of both Mr. Hubbard and Ms. Etuk is that they are sincere and credible. If they had testified at the trial it could have made a difference in the outcome of the trial. What they had to say causes me to have a doubt about Bernadine Skillern's testimony. The jury should have had an opportunity to hear them testify and be cross-examined.

I do not understand why these witnesses were not presented by the defense at the trial. I also do not understand why the jury did not learn that the gun Gary Graham was arrested with could not have fired the shot that killed Bobby Lambert.

I am concerned by these omissions. It bothers me that the jury may not have had all of the information it needed to make the correct decision. I am not comfortable with this execution being carried out under these circumstances. I

would be in favor of delaying the execution until a jury can hear all of the evidence at the same time.

The above statement is true and correct."

[REDACTED]

SWORN TO AND SUBSCRIBED before me on this 17<sup>th</sup> day of June 2006.

[REDACTED]

[REDACTED]