
RECORD NO: 14-1678

**IN THE
UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

Doris Holt, et al.,

Plaintiffs-Appellants

v.

Horry County, South Carolina, et al.,

Defendants-Appellees

**EMERGENCY MOTION FOR REMAND AND DISCOVERY
BY SPECIAL MASTER BASED ON
NEWLY DISCOVERED EVIDENCE AND NATIONAL SECURITY**

INCLUDED EXHIBITS

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EXHIBIT "A"

Part One: Florida South District Federal Court Case 0:12-cv-61735-WJZ, Document #57, entered on 03/25/2014.

Part Two: Document #29-5, entered on 05/31/2013, the Declaration of Former U.S. Senator Bob Graham.

PART ONE

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No.: 12-CV-61735-WJZ

BROWARD BULLDOG, INC., a Florida
corporation not for profit, and DAN
CHRISTENSEN, founder, operator and editor
of the BrowardBulldog.com website,

Plaintiffs,

vs.

U.S. DEPARTMENT OF JUSTICE and
FEDERAL BUREAU OF INVESTIGATION,

Defendants.

**BRIEF *AMICI CURIAE* OF THE MIAMI HERALD AND THE SARASOTA
HERALD-TRIBUNE IN SUPPORT OF PLAINTIFFS' OPPOSITION
TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

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CORPORATE DISCLOSURE STATEMENT

Halifax Media Holdings, LLC, d/b/a the *Sarasota Herald-Tribune*, is a privately held company consisting of 36 newspapers and affiliated websites, published in five states in the southeastern United States. Its investment group includes Stephens Capital Partners, JAARSSS Media, and Redding Investments.

The Miami Herald Media Company, d/b/a the *Miami Herald*, is wholly owned by The McClatchy Company. The McClatchy Company is publicly traded on the New York Stock Exchange under the ticker symbol MNI. Contrarius Investment Management Limited owns 10% or more of the common stock of The McClatchy Company.

INTEREST OF AMICI CURIAE

Halifax Media Holdings, LLC, d/b/a the *Sarasota Herald-Tribune* (the “Herald-Tribune”), and The Miami Herald Media Company, d/b/a the *Miami Herald* (the “Herald”) have a direct interest in the outcome of this litigation.¹ Both the Herald and the Herald-Tribune (collectively, “*Amici*”) have reported on, and continue to cover, the underlying Federal Bureau of Investigation (“FBI”) Tampa field office investigation to which the disputed documents in this matter -- and the deficient government search efforts for such documents -- are directly germane. *Amici*’s primary interests stem from the fact that the FBI records at issue relate to potential pre-9/11 terrorist activities in the respective communities that each serves. The *Broward Bulldog* has been and remains a leading source for original reporting on the FBI’s investigation into potential pre-9/11 terrorist activity in Sarasota and related incidents in South Florida. *Amici* recognize the

¹ By Order dated March 19, 2014 (Docket Entry 55), this Court granted the parties’ motions (Docket Entries 50 and 52) for leave to file this *amici curiae* brief jointly.

incredible public interest in the disputed records and the records searches. They join to stress that the outcome of this case is a matter of intense interest to the media and public generally.

Well over a decade later, the events and aftermath of September 11, 2001, continue to resonate and shape our lives. From domestic concerns of balancing homeland security against individual civil liberties, to foreign military and political affairs, 9/11's legacy remains ever present in the national zeitgeist. The communities in which the 9/11 terrorists operated, the public at large, and most importantly, the families of the close to 3,000 victims who perished on that horrible day, deserve to know fully what transpired in the months leading up to the attacks.

The government officials charged with investigating terrorist connections to our state must also be held fully accountable. The *Broward Bulldog* has provided this Court with ample evidence establishing that the FBI could not have possibly conducted adequate searches in response to its federal Freedom of Information Act ("FOIA") request. The stakes are simply too great to accept as a matter of law the government's vague, often second hand conclusions as to the adequacy of its document searches. *Amici*, therefore, file this brief in support of the *Broward Bulldog's* pursuit of greater disclosure to the public and in support of its opposition to the government's motion for summary judgment.

SUMMARY OF ARGUMENT

Amici present two main arguments in this brief. First, *Amici* present this Court with select examples of situations where federal agencies have, upon a subsequent search, uncovered additional documents in response to a FOIA request, often in cases where the agency claimed to have conducted an adequate search for such records. Such examples demonstrate that agencies do on occasion fail to uncover documents that should have been produced under FOIA. In this case, given the weight of evidence suggesting that the FBI should possess a significant trove of

unproduced documents, this Court should not grant the government's motion for summary judgment. As noted in the *Broward Bulldog's* filings in opposition to the government's summary judgment motion, the FBI has yet to adequately explain why it initially produced no documents, made piecemeal productions thereafter and still have not produced any records former Senator Bob Graham has attested to seeing during the course of 9/11 Congressional inquiries. Nor does the FBI provide any explanation for the absence of records Senator Graham believes exists if the FBI did indeed conduct an investigation in Sarasota.

Failing to exercise such due oversight would deny the public the opportunity to understand the extent to which 9/11 conspirators planned and executed operations in Florida and how our government went about investigating such activities. Indeed, courts recognize that summary judgment is inappropriate in FOIA cases where the adequacy of a search is at issue when substantial evidence exists indicating that additional documents should have been produced. The Court should therefore deny the government's motion for summary judgment.

Second, *Amici* write to emphasize the widespread public interest in the specific FBI Tampa field office investigation of pre-9/11 potential terrorist activity by Saudi nationals who lived in the Estates at Prestancia community of Sarasota, Florida. *Amici* highlight for the Court not only the significant coverage they have given to the matter but also present a sampling of news reporting from throughout Florida, the United States, and at the international level. Such widespread reporting on this single facet of the 9/11 investigation is clear evidence of its universal public interest and underscores the need for this Court to ensure that the government is held to the strictest standard of compliance when searching for records responsive to the *Broward Bulldog's* FOIA request. The media's coverage and pursuit of the issue has also been applauded by the families of 9/11 victims and victims' right groups.

Making the Estates at Prestancia investigation even more compelling is the fact that it appears to be one chapter in the larger investigation of 9/11 terrorists' connection to Sarasota County and the area's potential role as a terrorist financing base. As we came to learn after 9/11, federal authorities soon determined that three 9/11 hijackers, Mohammed Atta, Marwan al-Shehhi, and Ziad Jarrah, all received flight training classes in nearby Venice, Florida. Atta (who piloted American Airlines Flight 11 into the North Tower of the World Trade Center) and al-Shehhi (who piloted United Airlines Flight 175 into the South Tower) both received flight training at Huffman Aviation in Venice. See Staff Report of the National Commission on Terrorist Attacks Upon the United States, *9/11 and Terrorist Travel*, Aug. 21, 2004, at 6, 12.² Ziad Jarrah (the pilot of United Flight 93 which crashed in Shanksville, Pennsylvania) received flight training at the Florida Flight Training Center, also located in Venice. See id. As discussed below, automobiles registered to Atta and Jarrah visited the subject Prestancia residence in the weeks leading up to 9/11.

ARGUMENT

I. History Suggests That This Court Should Be Naturally Reluctant to Defer to the FBI's Contentions as to Its Search for Responsive Records.

Federal FOIA request processing is far from a perfected system. Records that should be produced in response to a FOIA request can, for a variety of reasons, wind up going undiscovered. This section highlights a few examples where: (1) FOIA request responses were initially insufficient and upon further searches agencies uncovered documents central to the request that shed further light on the government activity at issue; (2) federal agencies responding to a FOIA request stated that a limited number of records existed only to have that

² Available at: http://www.9-11commission.gov/staff_statements/911_TerrTrav_Monograph.pdf.

claim later proven false; and (3) the FBI claimed only select documents existed only to later produce additional documents upon further searches and acknowledge in litigation that it improperly withheld documents that were responsive to a FOIA request. These examples illustrate that where, as here, the facts heavily suggest additional documents should be in the possession of the FBI, a court should not be too quick to simply accept an agency's assertion that it conducted an appropriate search. As the United States Court of Appeals for the District of Columbia has held, even in situations where an agency has produced detailed and non-conclusory affidavits attesting to the adequacy of a search, summary judgment is improper if a requester can present countervailing evidence refuting such a claim so as to place the matter at issue. See Founding Church of Scientology of Wash., D.C. v. Nat'l Sec. Agency, 610 F.2d 824, 836 (D.C. Cir. 1979). This case presents such a scenario.

In 2012, the conservative government watchdog group Judicial Watch filed a FOIA lawsuit over records detailing the Obama Administration's alleged coordination with the producers of the Hollywood film *Zero Dark Thirty* to provide them access to highly sensitive national security records that were otherwise unavailable to the public. See Judicial Watch Obtains Stack of 'Overlooked' CIA Records Detailing Meetings with bin Laden Filmmakers, Aug. 28, 2012.³ The film, which chronicled the military planning and execution of the raid that killed Osama bin Laden, was alleged to be viewed as a political tool by White House strategists to help positively shape public perception of the President heading into the 2012 presidential election. See id. Pursuant to court order, the CIA was to produce responsive records, but it was

³ See Judicial Watch Obtains Stack of 'Overlooked' CIA Records Detailing Meetings with bin Laden Filmmakers, Aug. 28, 2012, available at <http://www.judicialwatch.org/press-room/press-releases/judicial-watch-obtains-4-to-5-inch-stack-of-overlooked-cia-records-detailing-meetings-with-bin-laden-filmmakers/>.

only months later that additional “overlooked” documents were produced that included illuminating correspondence among the White House, the Department of Defense and the CIA suggesting a coordinated effort to provide a heightened level of access to the filmmakers and a desire that the administration be portrayed positively. See id.

Author Nathaniel Frank’s 2009 book, *Unfriendly Fire: How the Gay Ban Undermines the Military and Weakens America*, explored the national security threat posed by the military’s former “Don’t Ask, Don’t Tell” policy as it forced the involuntary discharge of hundreds of mission critical servicemen since its inception.⁴ See Nathaniel Frank, *Unfriendly Fire: How the Gay Ban Undermines the Military and Weakens America*, Chapter 1 (Thomas Dunne Books 2009). Of particular import to this case, a gay rights organization had filed a 2004 FOIA request seeking exact numbers on military linguists discharged under “Don’t Ask, Don’t Tell;” the government told the group such figures only existed beginning in 1998. See id. The released documents showed 73 total discharges, including 52 servicemen specializing in strategic defense languages including Arabic, Russian, Persian-Farsi, and Korean. See id. One year later, a 2005 Government Accountability Office report documented data dating back to 1994 and detailed substantially more mission sensitive positions that were eliminated under the policy. See id.

Finally, the FOIA dispute in Islamic Shura Council of Southern California v. FBI is instructive as it demonstrates that the FBI itself has in the past failed to discover all relevant documents responsive to a FOIA search and at times has intentionally concealed such documents from the public and federal courts. See Islamic Shura Council of Southern California v. FBI, 635 F.3d 1160 (9th Cir. 2011). In this case, five citizens and six organizations submitted a joint FOIA request to the FBI regarding government surveillance of their activities. See id. at 1162.

⁴ Chapter 1 of the book is reproduced in full at <http://www.nytimes.com/2009/03/19/books/chapters/chapter-unfriendly-fire.html>.

In response, the FBI initially stated it had no records pertaining to nine of the eleven requesters and produced a total of four pages of documents to the remaining two requesters. See id. When the requesters filed a complaint in district court, the FBI conducted additional searches for nine of the eleven plaintiffs and produced more than 100 hundred pages of heavily redacted documents. See id. at 1162-63.

While defending the legitimacy of the redactions on summary judgment, the FBI later declared through an affidavit by David Hardy, the same individual who supplied an affidavit to the Court here, that the government had identified more additionally responsive documents but never disclosed this fact to the plaintiffs or the court. See id. at 1163. The district court noted that the FBI had misled the court by previously representing that all responsive documents were before the court for consideration. See id. The Islamic Shura Council case clearly illustrates that, while the law affords agencies significant deference when determining whether they have produced or identified all records responsive to a FOIA request, courts must remain vigilant in ensuring that the government is being forthright in complying with legal mandates.

Given that the agency is always the party with the inherent advantage in these situations, it is incumbent upon courts to view representations of adequate FOIA searches with due skepticism when the facts dictate. The intense public interest this case has created further impresses the need for all potentially responsive records to be put before this Court. This is the only way to ensure the public's confidence that the FBI is being forthright in this matter. *Amici* submit that the instant case, where both weighty, contradictory evidence concerning the existence of additional records and great public interest exist, is deserving of such heightened judicial skepticism and supervision. Disputed issues of material fact exist that should not be resolved on summary judgment.

II. Potential 9/11 Links to Sarasota and South Florida are a Matter of Widespread Public Concern, Thereby Requiring the FBI to Conduct Further Searches.

The following examples of media coverage, ranging from *Amici's* own to that of the international press, demonstrates the widespread media coverage the activities underlying this action has garnered and the intertwined public interest in that coverage.

A. *Amici* have both consistently published on this matter.

All told, *Amici* have published no less than nineteen news articles detailing suspected 9/11 conspirators' links to the Estates at Prestancia community and the ongoing controversy over whether the government has disclosed all records related to its investigation. This coverage has included partnering with Mr. Christensen and the *Broward Bulldog*.

The newsworthiness of this story was immediately recognized and *Amici* began publishing contemporaneously with the *Broward Bulldog's* breaking of the story. See Anthony Summers and Dan Christensen, *Link to 9/11 Hijackers Found in Sarasota, FBI Found Ties Between Hijackers and Saudis in Sarasota But Never Revealed Findings*, Miami Herald, Sept. 7, 2011, 2011 WLNR 17710438;⁵ Anthony Summers and Dan Christensen, *FBI Investigated Sarasota Saudis in 9/11 Attacks*, Sarasota Herald-Tribune, Sept. 8, 2011.⁶

In the ensuing days and weeks, *Amici* continued to cover developments both in fact-based and editorial form. See Zac Anderson, *Sarasota-9/11 Link Spurs Call for New Look Into Saudis*, Sarasota Herald-Tribune, Sept. 10, 2011, 2011 WLNR 18028447; Dan Christensen, *Lawmaker: Investigate Sarasota Link to 9/11*, Miami Herald, Sept. 12, 2011, 2011 WLNR 18077286;

⁵ To facilitate access to secondary sources, "WLNR," or Westlaw NewsRoom, citations are provided whenever possible.

⁶ Available at <http://www.heraldtribune.com/article/20110908/wire/110909636>.

Explore Saudi-Sarasota Link, Sarasota Herald-Tribune, Sept. 14, 2011, 2011 WLNR 18270253; Dan Christensen, *FBI: No Link Between Sarasota Family and 9/11 Plot*, Miami Herald, Sept. 15, 2011, 2011 WLNR 18396511; *Public Deserves Answers About Sarasota Connection*, Miami Herald, Sept. 15, 2011, 2011 WLNR 18392936; Dan Christensen, *Graham: Still No FBI Records on Sarasota 9/11 Probe*, Miami Herald, Nov. 10, 2011, 2011 WLNR 23258035.

This coverage continued throughout 2013 as FBI documents released only after the *Broward Bulldog* filed this lawsuit appeared to contradict prior agency statements and point to a much deeper investigation than what was previously publicly acknowledged. The released documents, however, often raised more questions than answers. For example, as the *Herald-Tribune* reported, FBI records indicated that license plates registered to 9/11 hijackers Mohamed Atta and Ziad Jarrah were recorded entering the Prestancia community in the months leading up to 9/11, but released FBI records indicated it appeared the agency did not obtain vehicle entry records during its investigation. See Michael Pollick, *New Hints of Deeper Sarasota Ties to 9/11*, Sarasota Herald-Tribune, Apr. 17, 2013, 2013 WLNR 9444715; see also Dan Christensen and Anthony Summers, *FBI Report: Florida Family Had Ties to People Linked to 9/11 Attacks*, Miami Herald, Apr. 16, 2013, 2013 WLNR 9262329. The FBI's conclusion that it did not confiscate community gatekeeping records has been disputed by a former Prestancia Homeowners Association director who stated that community visitor logs indeed have gaps during relevant time frames, suggesting they were turned over to authorities. See Michael Pollick, *Shrouded in Secrecy*, Sarasota Herald-Tribune, Sept. 11, 2013, 2103 WLNR 22701143.

Mr. Pollick's April 17, 2013 article also details the connections between the family of interest who lived in Prestancia and their connections to the Bin Laden group and the Saudi royal family. As further substantiation of possible Saudi government backing of 9/11, the U.S. Court

of Appeals for the Second Circuit recently restored Saudi Arabia as a defendant in a lawsuit brought by 9/11 victims and their families. See Dan Christensen, *Saudi Arabia Added to 9/11 Lawsuit*, Miami Herald, Dec. 24, 2013, 2013 WLNR 32090484.

Amici have also chronicled former Florida Senator Bob Graham's continuing assertions that the FBI has not been forthcoming and that it is simply illogical that it does not possess significantly more records related to its Sarasota investigation. See, e.g., Dan Christensen and Anthony Summers, *Graham: FBI Report Raises Questions About Who Helped 9/11 Terrorists*, Miami Herald, Apr. 18, 2013, 2013 WLNR 9467587; Dan Christensen and Anthony Summers, *Graham: FBI Hindered Congress's 9/11 Inquiry, Withheld Reports About Sarasota Saudis*, Miami Herald, June 5, 2013, 2013 WLNR 13799271. *Amici* also continue to keep the public informed about this litigation itself and the numerous discrepancies the documentary record has thus far revealed. See, e.g., Dan Christensen and Anthony Summers, *Mystery of Sarasota Saudis Deepens as Justice Moves to End Lawsuit Citing National Security*, Miami Herald, June 3, 2013, 2013 WLNR 13617416; Michael Pollick, *H-T Can Join Suit Over 9/11 Documents*, Sarasota Herald-Tribune, Mar. 21, 2014, 2014 WLNR 7733265. The newsworthiness of *Amici's* coverage and the importance of this litigation have been affirmed by those most directly impacted by 9/11, victims and their families. In the wake of *Amicis'* reporting, a survivors' rights group has called upon the FBI to be more transparent about its Sarasota investigation and are deeply vested in the outcome of the instant case. See Dan Christensen and Anthony Summers, *9/11 Family Members Demand FBI 'Come Clean' About Sarasota Saudis*, Miami Herald, June 7, 2013, 2013 WLNR 14041276; Michael Pollick, *9/11 Victims' Group Applauds Media Suit*, Sarasota Herald-Tribune, Oct. 3, 2013, 2013 WLNR 24833114. See also, *Sarasota, Saudis and 9/11: FBI Needs to*

Account for a Family's Reported Ties to Terrorists, Sarasota Herald-Tribune, Sept. 12, 2013, 2013 WLNR 22957863.

B. Media Throughout Florida and the United States Continue to Report on the FBI's 9/11 Sarasota Investigation.

To be sure, the FBI's investigation into 9/11 links in Sarasota is not simply a local concern. Media throughout Florida and the United States published stories stemming from the Broward Bulldog's initial reporting. *Amici* here further reinforce that state and national media also see the importance of this case and naturally have an interest in ensuring the FBI's search for responsive records under FOIA is as thorough as possible.

Florida media statewide have devoted coverage to this story. *Amici's* reporting was also published in sister newspapers in the state, including the *Lakeland Ledger* and the *Bradenton Herald*. See Michael Pollick, *Miami Herald Joins Lawsuit Asking FBI for 9/11 Documents*, *Lakeland Ledger*, Sept. 30, 2013;⁷ Dan Christensen and Anthony Summers, *FBI 9/11 Connection Probe Coverup Has Tampa Hub*, *Bradenton Herald*, 2013 WLNR 22588103.⁸

Florida citizens have also taken notice, submitting letters to editors urging a more thorough investigation of the Sarasota link to 9/11. See, e.g., Joseph Doodian, *Keep Probing 9/11*, *Stuart News*, Mar. 19, 2012, 2012 WLNR 6017178.

In addition, the *Tampa Bay Times*, for example, wrote at least three such stories in 2011, crediting the *Broward Bulldog* for breaking stories. See Stephen Nohlgren and Susan Taylor Martin, *Before Sept. 11, Saudis Vanished*, *Tampa Bay Times*, Sept. 10, 2011, 2011 WLNR

⁷ Available at <http://www.theledger.com/article/20130930/news/130939973>.

⁸ The *Bradenton Herald* also published certain stories appearing in the *Herald* that were previously cited in this brief. See 2013 WLNR 9432322; 2013 WLNR 1363528; 2013 WLNR 13840898.

18052071;⁹ Susan Taylor Martin and Stephen Nohlgren, *FBI Says Saudi Family Not Connected to 9/11*, Sept. 16, 2011, 2011 WLNR 18455310; Susan Taylor Martin and Stephen Nohlgren, *Questions Over Saudis' Abrupt Exit Still Linger*, Sept. 25, 2011, 2011 WLNR 19542119. The *South Florida Business Journal* has also reported on the matter. See Paul Brinkman, *Local Journalist Sues FBI Over 9/11 Records*, Sept. 6, 2012.¹⁰

Major national media outlets have also covered this matter. See, e.g., Tom Jackman, *Did Arlington Have a More Ominous Link to 9-11?*, Washington Post, Sept. 12, 2011;¹¹ *Unanswered: What Was Saudis' Role?*, Investor's Business Daily, Sept. 12, 2011, 2011 WLNR 17930367; Corky Siemaszko, *9/11 Terrorists Connection to Saudis is Being Hidden, Says Former Commission Chief*, New York Daily News, Mar. 13, 2012;¹² Jamie Reno, *Was the Saudi Government Involved in the 9/11 Terror Attacks?*, The Daily Beast, Mar. 13, 2012;¹³ Bob Graham and Sharon Premoli, *Re-Open the 9/11 Investigation Now*, Huffington Post, Sept. 11, 2012;¹⁴ Further, the *Broward Bulldog's* reporting was picked up by other major news outlets such as the *Seattle Times* and *NBC*. See Dan Christensen and Anthony Summers, *FBI Report:*

⁹ An abridged version of this story also ran in the September 12, 2011 edition of the *Orlando Sentinel*. See 2011 WLNR 18045858.

¹⁰ Available at <http://www.bizjournals.com/southflorida/blog/2012/09/local-journalist-sues-fbi-over-911.html>.

¹¹ Available at http://www.washingtonpost.com/blogs/the-state-of-nova/post/did-arlington-have-a-more-ominous-link-to-9-11/2011/09/12/gIQASuBCNK_blog.html.

¹² Available at <http://www.nydailynews.com/news/national/9-11-terrorists-connection-saudis-hidden-commission-chief-article-1.1038044>.

¹³ Available at <http://www.thedailybeast.com/articles/2012/03/13/was-the-saudi-government-involved-in-the-9-11-terror-attacks.html>.

¹⁴ Available at http://www.huffingtonpost.com/bob-graham/911-saudi-arabia_b_1868863.html.

Florida Family Had Ties to People Linked to 9/11 Attacks, *Seattle Times*, Apr. 16, 2013;¹⁵ Dan Christensen and Anthony Summers, *Saudi Who Left Fla. Before 9/11 Considered Bin Laden a 'Hero,' Informant told FBI in '04*, *NBC News*, Mar. 12, 2012.¹⁶

C. International Media Have Also Reported on the FBI's 9/11 Sarasota Investigation.

Finally, it bears noting that the international press has also found the Sarasota investigation newsworthy. The investigation was of particular interest to UK publications given Abdulaziz al-Hijji's (Esam Ghazzawi's son-in-law who lived in Mr. Ghazzawi's Sarasota home with his wife, Anoud Ghazzawi) subsequent employment with a London-based subsidiary of Saudi Aramco, the Saudi state oil company. See Anthony Summers, Neil Tweedie and Dan Christensen, *City Oil Executive and Mystery Link to 9/11 Attackers*, *Daily Telegraph (UK)*, Feb. 18, 2012, 2012 WLNR 3565416; *A Saudi Family, a Florida Villa and the Al-Qaeda Death Squad*, *Daily Telegraph (UK)*, Feb 18, 2012, 2012 WLNR 3565417. See also *Mystery Surrounds the Ritzy Florida Home Linked to 9/11 Terrorists – and Why the FBI Didn't Tell Congressional Committee About It*, *Daily Mail (UK)*, Sept. 8, 2011.¹⁷

¹⁵ Available at http://seattletimes.com/html/nationworld/2020793881_911familyxml.html.

¹⁶ Available at http://investigations.nbcnews.com/_news/2012/03/12/10626973-saudi-who-left-fla-before-911-considered-bin-laden-a-hero-informant-told-fbi-in-04. MSNBC has also given this matter television news coverage. See *Saudi Couple in Fla. Part of 9/11? FBI Says No, Others Raise Questions*, Sept. 13, 2011. Available at http://investigations.nbcnews.com/_news/2011/09/13/7747417-saudi-couple-in-fla-part-of-911-fbi-says-no-others-raise-questions (embedded MSNBC video within).

¹⁷ Available at <http://www.dailymail.co.uk/news/article-2035199/Mystery-surrounds-posh-Florida-home-linked-9-11-terrorists--FBI-failed-report-it.html>.

CONCLUSION

For the above-stated reasons, this Court should deny the Defendants' Motion for Summary Judgment in its entirety.

Dated: March 25, 2014

Respectfully submitted,

THOMAS & LOCICERO PL

/s/ Carol Jean LoCicero

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Attorneys for Amici Curiae

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on March 25, 2014, I electronically filed with the Clerk of the Court using CM/ECF, The Miami Herald's and The Sarasota Herald Tribune's Brief *Amici Curiae* dated March 25, 2014. I also certify that the same document is being served this day on all counsel of record via transmission of Notices of Electronic Filing generated by CM/ECF.

/s/ Carol Jean LoCicero
Attorney

PART TWO

EXHIBIT 5

**To Plaintiffs' Statement of Undisputed and Disputed Material Facts
Relevant to Defendants' Motion for Final Summary Judgment**

Declaration of Former U.S. Senator Bob Graham

IN THE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 12-61735-Civ-Zloch

BROWARD BULLDOG, INC., a Florida)
Corporation not for profit, and DAN)
CHRISTENSEN, founder, operator and editor)
of the BrowardBulldog.com website,)
)
Plaintiffs,)
)
v.)
)
U.S. DEPARTMENT OF JUSTICE, 950)
Pennsylvania Avenue, NW Washington, DC)
20530, and FEDERAL BUREAU OF)
INVESTIGATION, 935 Pennsylvania Avenue,)
NW Washington, DC 20535,)
)
Defendants.)
_____)

Declaration of D. Robert Graham

D. Robert Graham, pursuant to 28 U. S. C. § 1746, hereby declares under penalty of perjury as follows:

1. My full name is Daniel Robert “Bob” Graham.
2. I have personal knowledge of the facts set forth in this declaration.
3. From 1966 through 1970, I served as a member of the Florida State House of Representatives and from 1970 through 1978, as a Member of the Florida State Senate. Between 1979 and 1987, I served as Governor of the State of Florida.
4. From January 3, 1987 to January 3, 2005, I served as a United States Senator for the State of Florida. During my tenure as a United States Senator, I served on the Senate Select

Committee on Intelligence for ten (10) years, and as Chairman of that Committee between June 6, 2001 and January 3, 2003.

5. In my capacity as Chairman of the Senate Select Committee on Intelligence, I co-chaired the Joint Inquiry of the Senate Select Committee on Intelligence and House Permanent Select Committee on Intelligence into intelligence community activities before and after the terrorist attacks of September 11, 2001 (the "Joint Inquiry").

6. Following my retirement from the Senate, I served for one year as a senior fellow at the Kennedy School of Government. Thereafter, from May 2008 to February 2010, I served as Chairman of the Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism, whose mandate was to build on the work of the National Commission on Terrorist Attacks Upon the United States (the "9/11 Commission").

7. I also served as a Commissioner on the Financial Crisis Inquiry Commission, established by Congress in May 2009 to examine the global and domestic causes of the financial crisis. On May 21, 2010, President Barack Obama appointed me as Co-Chair of the National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling.

8. From 2010-2012, I have served as a member of the Central Intelligence Agency External Advisory Board.

9. I am the Chair of the Board of Overseers of the Graham Center for Public Service at the University of Florida, and the author of numerous books and articles, including *Intelligence Matters: The CIA, the FBI, Saudi Arabia and the Failure of America's War on Terror* (Random House, 2004).

10. I submit this declaration on behalf of the Plaintiffs, based on my experiences as a long-time Member of the Senate Select Committee on Intelligence and Co-Chair of the Joint

Inquiry, descriptions of activities in the Final Report of the 911 Commission and other reports and published materials.

11. In February 2002, the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence agreed to conduct a Joint Inquiry into the activities of the U.S. intelligence community in connection with the terrorist attacks perpetrated against our nation on September 11, 2001. The Committees' decision was unprecedented in congressional history: for the first time, two permanent committees, one from the House and one from the Senate, would join together to conduct a single, unified inquiry.

12. The three principal goals of the Joint Inquiry were to:

- Conduct a factual review of what the intelligence community knew or should have known prior to September 11, 2001, regarding the international terrorist threat to the United States, to include the scope and nature of any possible international terrorist attacks against the United States and its interests;
- Identify and examine any systemic problems that may have impeded the intelligence community in learning of or preventing these attacks in advance; and
- Make recommendations to improve the intelligence community's ability to identify and prevent future international terrorist attacks.

13. The Joint Inquiry had the specific charter to review the activities of the Intelligence Community and was limited to approximately one year's duration. The Joint Inquiry completed its work with the submission of a Final Report to Congress on December 20, 2002. A copy of the declassified version of the Final Report is attached as Exhibit A.

14. At the beginning of the investigation in February 2002, each of the intelligence agencies, including the FBI was asked to provide all information that the agencies possessed.

15. During the course of the Joint Inquiry, the Committees held nine public hearings and thirteen closed sessions in which classified information was considered. In addition, the Joint

Inquiry Staff has reviewed almost 500,000 pages of relevant documents from the Intelligence Community agencies and other sources, of which about 100,000 pages were selected for incorporation into the Joint Inquiry's records.

16. The Staff also conducted approximately 300 interviews, and participated in numerous briefings and panel discussions, that involved almost 600 individuals from the Intelligence Community agencies, other U.S. Government organizations, state and local entities, and representatives of the private sector and foreign governments.

17. As part of the Joint Inquiry, the Inquiry staff conducted an intensive investigation into the details of the 9/11 plot, the activities of the 19 hijackers, and the existence of a network of support that allowed them to carry out the September 11, 2001, attacks.

18. The Joint Inquiry considered testimony from many witnesses from the FBI including Director Robert Mueller; Deputy Assistant Director for Counterterrorism and Counterintelligence James Caruso; Financial Review Group Section Chief Dennis Lorme; Special Agent Michael Rolince; Deputy General Counsel M.E. Bowman; Former Director Louis Freeh; and Executive Assistant Director Pasquale D'Amoro.

19. In addition, the Joint Inquiry heard from or interviewed numerous FBI employees and agents throughout the United States and the world.

20. To the best of my knowledge and belief, none of the FBI employees or agents with whom the Joint Inquiry had contact advised the Joint Inquiry that the FBI had conducted any investigation of the persons living at 4224 Escondito Circle in a gated community known as Prestancia in Sarasota, Florida or specifically of Abdulaziz al-Hijji, his wife Anoud, or his father-in-law and mother-in-law Esam and Deborah Ghazzawi.

21. I initially learned that the FBI had conducted such an investigation when Anthony Summers and Dan Christensen contacted me on Sunday, September 4, 2011 to let me know that they were planning to publish a report about the FBI investigation that had commenced soon after the September 11, 2001 attacks. I was surprised to learn of this FBI investigation because the Joint Inquiry had instructed the FBI to provide it with all information relative to the 9/11 tragedy. Mr. Christensen's comments were the first time that I was made aware of a 9/11 related investigation in Sarasota.

22. Mr. Summers and Mr. Christensen advised me that they had learned that a neighbor of the al-Hijjis, Patrick Gallagher, had sent an email to the FBI on September 11, 2001, expressing his suspicions concerning the al-Hijjis, and that agents quickly arrived and conducted a comprehensive investigation. According to Mr. Christensen, Jone Weist, president of the group that managed Prestancia, confirmed the arrival of the FBI and said that the FBI had requested copies of the al-Hijjis' financial transactions involving the home at 4224 Escondido Circle. Mr. Christensen also advised me that Larry Berberich, senior administrator and security officer of the gated community known as Prestancia and an adviser to the Sarasota County sheriff, reported to law enforcement that the al-Hijjis left the home at 4224 Escondido Circle on or about August 30, 2001, apparently abandoning the home; all of its contents including food, clothing, and furnishings; and three recently registered vehicles. Mr. Christensen further said that agents apparently found phone records and Prestancia gate records linking the house on Escondido Circle to the September 11 hijackers.

23. I told Mr. Christensen that at the beginning the Joint Inquiry's investigation in February 2002, each of the intelligence agencies, including the FBI, was asked to provide all information that the agency possessed in relation to 9/11. I also told him that FBI's failure to tell

the Inquiry about the Sarasota investigation was similar to its failure to provide information linking the September 11 hijackers to other Saudis in California. Investigators from the Joint Inquiry themselves discovered the California relationship.

24. The 28-page section of the Inquiry's Final Report dealing with "sources of foreign support for some of the Sept. 11 hijackers," remains classified to this day even though declassification would not, in my opinion, endanger national security.

25. The Joint Inquiry turned over the records it had accumulated to the National Commission on Terrorist Attacks Upon the United States ("the 9/11 Commission") which was created by Congress and the President on November 27, 2002.

26. The 9/11 Commission completed its work on July 22, 2004 with the completion of "The 9/11 Commission Report." A copy of the report is attached as Exhibit B. The 9/11 Commission Report stated that the 9/11 Commission had "found no evidence that the Saudi government as an institution or senior Saudi officials individually funded al Qaeda. (This conclusion does not exclude the likelihood that charities or commercial entities with significant Saudi government sponsorship or less than senior Saudi officials individually diverted funds to al Qaeda.)" Exhibit B at 171. This statement from the report underscores that the 9/11 Commission was not provided with the information regarding the FBI's Sarasota investigation.

27. It appears to me that the FBI was not forthcoming with the Joint Inquiry regarding its Sarasota investigation.

28. Mr. Christensen advised me on Saturday, September 10, 2011, that on Friday, September 9, 2011, FBI Special Agent Michael D. Leverock in Miami had issued a public statement confirming the existence of its Sarasota investigation, that the investigation was resolved and determined not to be related to any threat nor connected to the 9/11 plot, and that all

of the documentation pertaining to the 9/11 investigation was made available to the 9/11 Commission and the Joint Inquiry.

29. This assertion by the FBI was not credible because no one who I had spoken to with the Joint Inquiry said that the Inquiry had received any information on the FBI's Sarasota investigation. See Paragraphs 42 and 43 regarding my further research on this point.

30. I told Mr. Christensen the FBI's recent statement was further evidence that the U.S. government is concealing information about possible Saudi involvement in the September 11 attacks.

31. In September 2011, I personally asked John Brennan, the President's Chief of Counterterrorism, to ask the President to look into the FBI's Sarasota investigation. An assistant to Mr. Brennan, David Turk, responded to my request with an e-mail indicating that Mr. Brennan had asked the FBI about my inquiry and was told that the 9/11 Commission was well aware of the Sarasota house/occupants and chose not to include it in the final 9/11 Commission report because it didn't stick to the wall. I was disappointed and somewhat surprised. The White House accepted, without independent verification, what the FBI said in spite of the FBI's reputation for not being as transparent as it should be in areas where there are no national security concerns.

32. Mr. Christensen advised me that on Thursday, September 15, 2011, Stephen E. Ibison, FBI special agent in charge of the Tampa Field Office, issued this further statement:

In order to address allegations reported in a September Miami Herald article, Link to 9/11 hijackers found in Sarasota, the FBI is furnishing the following statement to correct the public record. The FBI did follow up on the information about suspicions surrounding the referenced Sarasota home and family. Family members were subsequently located and interviewed. At no time did the FBI develop evidence that connected the family members to any of the 9/11 hijackers as suggested in the article, and there was no connection found to the 9/11 plot. The anonymous "counterterrorism officer" cited in the article apparently was not

an FBI agent and had no access to the facts and circumstances pertaining to the resolution of this lead, otherwise this person would know this matter was resolved without any nexus to the 9/11 plot. Finally, all of the documentation regarding the 9/11 investigation was made available to the 9/11 Commission and the JICI.

33. The files compiled by the Joint Inquiry are maintained by the United States Senate. Soon after learning that the FBI apparently claimed to have turned over the files regarding its Sarasota investigation to the Joint Inquiry, I asked James A. Wolfe, security director for the Senate Intelligence Committee and the custodian of the records of the Joint Inquiry, to let me know whether the Joint Inquiry's files contained any records that the FBI had given the Joint Inquiry concerning its Sarasota investigation.

34. Mr. Wolfe advised me that he contacted the FBI to request file numbers and dates for the FBI files regarding the Sarasota investigation, that he obtained file numbers and dates from the FBI, that he reviewed the identified Joint Inquiry files, and that he concluded that those Joint Inquiry files did not in fact contain records regarding the FBI's Sarasota investigation.

35. Mr. Wolfe also advised me, however, that the FBI then provided to him two files, one dated April 16, 2002, and the other dated September 16, 2002, both of which were five pages or less, which did reflect information concerning the FBI's Sarasota investigation. Mr. Wolfe had not requested these specific files from the FBI. Instead, he had asked for direction that would facilitate his locating information which was already in the files of the Joint Inquiry.

36. I reviewed those documents and concluded that they contradicted the FBI's public statements concerning its Sarasota investigation. To me, the documents reflected that the investigation was not a robust inquiry concerning suspicions related to Saudi nationals who resided in Sarasota before September 11, 2001, that an important investigative lead was not pursued, and that unsubstantiated statements were accepted as true. One of the documents

reflected that an FBI agent suggested that another federal agency should be asked to join the investigation, but that the idea was rejected.

37. I shared this information with the White House which responded by setting up a meeting between me and FBI Deputy Director Sean Joyce during the week of Thanksgiving, 2011.

38. At that meeting, Joyce acknowledged that the FBI files that I had reviewed appeared to contradict the FBI's public statements concerning its Sarasota investigation, but he said that other FBI files would place those files in context and show that the FBI's public statements concerning the Sarasota investigation were correct.

39. I asked Joyce if I could review the other files that he referenced. He assured me that I would be shown those additional files. He asked a female FBI agent who was attending the meeting to provide those additional files to me.

40. In December 2011, the scheduled meeting at which I was to review the additional FBI files was canceled and I was told that I would be allowed no further access to FBI information about Sarasota.

41. I have learned that the FBI agent who was responsible for the Sarasota investigation has been transferred by the FBI to Honolulu, Hawaii. I called his office in Hawaii twice to attempt to ask him questions about the FBI's Sarasota investigation. On neither occasion was he available to speak with me. I left messages asking him to call me. He has not to date returned my calls. Mr. Joyce has advised me that he instructed the agent not to speak with me.

42. I have contacted the co-chairs of the 9/11 Commission, Republican Thomas Kean and Democrat Lee Hamilton and I have asked them if the 9/11 Commission ever learned of the

FBI's Sarasota investigation. Both advised me that they were unaware of it. Kean told me that if the 9/11 Commission had learned of the Sarasota investigation it would have worked it hard because it seemed implausible that the hijackers had completed the planning of the September 11 attacks alone. Phil Zelikow, the 9/11 Commission's executive director, also told me that the 9/11 Commission did not receive any documents from the FBI concerning the Sarasota investigation.

43. I also contacted Porter Goss, chairman of the U.S. House of Representative Permanent Select Committee on Intelligence in 2002 and co-chair with me of the Joint Inquiry, and Eleanor Hill, staff director of the Joint Inquiry to ask them if he ever had become aware of the FBI's Sarasota investigation. They said they had no awareness of that investigation.

44. I am troubled by what appears to me to be a persistent effort by the FBI to conceal from the American people information concerning possible Saudi support of the September 11 attacks.

45. I have been advised that the plaintiffs in this lawsuit submitted a Freedom of Information request to the FBI on October 27, 2011 requesting a search of the FBI's indices to the Central Records System and the filings system of the bureau's Tampa field office for information pertaining to an anti-terrorism investigation regarding activities at the residence at 4224 Escondito Circle, in the Prestancia development near Sarasota, Florida prior to 9/11/2001.

46. I have been further advised that the request specified that the activities involve apparent visits to that address by some of the deceased 9/11/hijackers, that the FBI investigation began in the fall of 2001 and continued into at least 2003, and that local FBI officials had said the investigation was closed. I also understand that the request sought copies of all FBI 302 reports about the matter as well as related investigative reports or FBI memos or correspondence – including the FBI's findings and conclusions as to what happened at that address, and reports,

information or summaries obtained about the matter from any foreign law enforcement organization or intelligence services, to include Saudi intelligence.

47. The two documents shown to me by the FBI dated April 16, 2002, and September 16, 2002, and referenced in paragraphs 35 and 36 above are responsive to the plaintiffs' FOIA request and they reflect that the FBI should have additional responsive documents to the plaintiffs' FOIA request.

48. By virtue of my service as co-chair of the Joint Inquiry and my many years of service in the United States Senate, I have become familiar with the nature of the documentation that the FBI creates in connection with investigations such as the Sarasota investigation described herein. An investigation of that type leads to the creation in the ordinary course of the operation of the FBI of numerous records showing the initial reports made to law enforcement agents, investigations conducted relating to the initial reports, field investigations of the reports, statements taken by witnesses, documents collected from witnesses, and analyses of the raw data and information that it collected. In light of this pattern and practice of the FBI, it is entirely implausible that the FBI did not create or would not now be able to locate documents of this type that are responsive to the plaintiffs' Freedom of Information Act request in this case.

49. I began preparation of this declaration at the request of the plaintiffs in January, 2013, after the defendants filed initial disclosures on January 9, 2013 (DE-12), stating that they "have not located any records responsive to the plaintiffs' [FOIA] request." Before I completed the declaration, plaintiffs advised me that on March 28, 2013, the Department of Justice advised them that, contrary to the initial disclosures, it had located 35 pages of documents responsive to their request, that it was withholding four pages of those documents, and that it was producing the remaining 31 pages, after certain information in them had been redacted.

50. Plaintiffs provided me a copy of the 31 pages produced to them and I reviewed them. Only one of the two documents I have referenced in paragraphs 35 and 36, the document dated April 16, 2002, was included in the documents produced to the plaintiffs on March 28, 2013. That document is numbered SARASOTA-5-6. The September 16, 2002, document that the FBI showed me was not produced to the plaintiffs.

51. The documents that were produced on March 28, 2013, not only do not contain one of the documents shown to me by the FBI, they also do not appear to be the full record of the FBI investigation that was conducted. Once the FBI had found “many connections” between the persons under investigation and individuals associated with the September 11, 2001, terrorist attacks, see SARASOTA-5-6, the FBI should have taken statements from all persons who knew those persons, should have obtained the gatehouse records of the Prestancia subdivision where 4224 Escondito Circle is located, should have compared the license plates on vehicles that the FBI had reason to believe that the terrorists used with photographs that were taken of license tags of vehicles that passed through the Prestancia gatehouse, should have obtained financial records showing how homeowners association fees were paid, and should have created inventories of property taken from the home, at a minimum. On a matter of this magnitude and significance, my expectation is that the FBI would have hundreds or even thousands of pages of documents relating to the 4224 Escondito Circle investigation, and that those documents would be well indexed and easily retrievable to this day. As is apparent from the small number of documents released, this was not an investigation of run-of-the-mill criminal matters. It related to matters of paramount national importance.

52. The released documents bearing page numbers SARASOTA-5-6 and SARASOTA-34-35 state that the FBI found “many connections” between the persons under

investigation and “individuals associated with the terrorist attacks on 9/11/2001.” Any FBI investigative document making such an observation should have been provided immediately to the Joint Inquiry and called specifically to its attention, not left buried in a mountain of other documents. Documents of this type have a direct bearing on the critical issues of whether the 19 individuals who are known to have carried out the attacks on September 11, 2001, did so with the support of a significant network of others living in the United States and, if so, whether our law enforcement agencies have taken appropriate actions against those other persons and to prevent them from supporting other terrorist attacks in the future.

53. The FBI was aware that the Joint Inquiry had been charged with (1) conducting a factual review of what the intelligence community knew or should have known prior to September 11, 2001; (2) identifying and examining any systemic problems that may have impeded the intelligence community in learning of or preventing these attacks in advance; and (3) making recommendations to improve the intelligence community's ability to identify and prevent future international terrorist attacks. The FBI's failure to call documents finding “many connections” between Saudis living in the United States and individuals associated with the terrorist attacked to the attention of the Joint Inquiry interfered with the Inquiry's ability to complete its mission.

54. In a letter to Sen. Patrick Leahy of Vermont dated November 22, 2011, produced to the plaintiffs and marked as SARASOTA-3-4, the Department of Justice asserted that “records concerning the Sarasota matter . . . were . . . available to congressional investigators,” the “FBI is unable to ascertain whether these investigators reviewed records concerning the Sarasota family,” and the “FBI has not identified any specific requests made by the investigators concerning the Sarasota family.”

Case No. 12-61735-Civ-Zloch

55. These statements are troubling and they raise many questions concerning why the FBI proceeded as it did. Most FBI records are theoretically “available” to congressional investigators, but as a practical matter records of an FBI investigation about which Congress has no knowledge are effectively concealed unless brought forward by the FBI because investigators lack information needed to formulate a specific request for them.

56. Public disclosure of all records of the FBI’s Sarasota investigation now would shed much light on why the FBI acted as it did and would allow the public to evaluate whether the FBI reacted appropriately to the important evidence that it found.

57. I am unaware of any national security interests that would be harmed by disclosure of the records of the investigation or of any other interests that would warrant maintaining the confidentiality of these records at this time. In fact, disclosures should serve our national security interests by showing what actions the FBI took or failed to take once it found connections between persons under investigation in Sarasota, Florida, and individuals associated with the September 11 attacks.

Declarant says nothing further. Executed in Hingham, Massachusetts on May 31, 2013.

s/ D. Robert Graham
D. Robert Graham

EXHIBIT "B"

**James Brian Spencer
PMB 183
7001 Saint Andrews Road
Columbia, SC 29212
(803) 414-0889**

February 10, 2006

Nelson Hermilla, Chief
FOIA/PA Branch
Civil Rights Division
Department of Justice
Room 311, NALC Building
Washington, DC 20530

Re: FREEDOM OF INFORMATION ACT REQUEST

Dear Sir or Madam:

Deputy Director Melanie Ann Pustay (Appeal No. 06-0842) advised that I submit this request to you. Under the authority of the Freedom of Information Act and any and all other Federal or State laws that may be applicable, I hereby request copies of the following information in the possession of the FBI and/or the Justice Department.

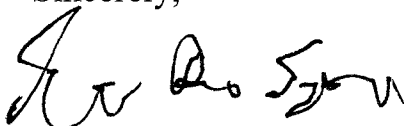
- 1.) Any and all material, in any form, related to any and all, "Investigative Matters" and/or other matters concerning and/or initiated by James Brian Spencer aka Robert Brian Holt (Social Security Number [REDACTED] any derivative thereof, for the period from January 1, 2000 to February 10, 2006.
- 2.) Any and all documents that may have been generated internally and/or externally from any source including directly or indirectly by the FBI concerning James Brian Spencer aka Robert Brian Holt [REDACTED] 52) and any derivative thereof for the period from January 1, 2000 to February 10, 2006.

This information includes, but is not limited to photographic, written, audio and video recordings, computer generated reports or notes, and data files, relating to any and all the above matters. This request also covers e-mail and any and all tape recordings and notes that were sent back and forth between parties both within and external to the Federal Bureau of Investigation and the Justice Department.

The time period covered by this request is from January 1, 2000, to February 10, 2006, also includes any and all communications, notes, recordings made concerning this request. Please expedite sending this information to the address listed on the letterhead above.

Thank you very much for your timely response.

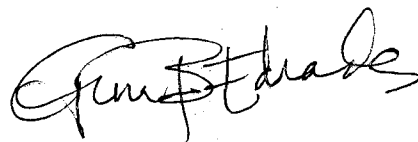
Sincerely,



James Brian Spencer aka
Robert Brian Holt

James Brian Spencer appeared
before me
and executed this letter
on this date: 2/10/06

Cc:
John Rakowsky, Esquire
Ronald Serota, Esquire



My Commission Expires February 2, 2009



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535

MR JAMES BRIAN SPENCER
PMB 183
7001 SAINT ANDREWS ROAD
COLUMBIA, SC 29212

February 16, 2006

Request No.: 1037695
Subject: SPENCER, JAMES BRIAN

Dear Mr. Spencer:

This is in response to your Freedom of Information-Privacy Acts (FOIPA) request.

Your previous FOIPA request and our correspondence were the only records located by a search of the indices to our central records system files of our Columbia field office.

You may file an administrative appeal by writing to the Office of Information and Privacy, U.S. Department of Justice, 1425 New York Avenue, NW, Suite 11050 Washington D.C. 20530-0001, within sixty days from the date of this letter. The envelope and the letter should be clearly marked "Freedom of Information Appeal" or "Information Appeal." Please cite the FOIPA number assigned to your request so that it may be easily identified.

Sincerely yours,

A handwritten signature in black ink, appearing to read "D. Hardy", is positioned below the text "Sincerely yours,".

David M. Hardy
Section Chief,
Record/Information
Dissemination Section
Records Management Division



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535

November 10, 2005

MR JAMES BRIAN SPENCER
POST MASTER BOX 183
70001 SAINT ANDREWS ROAD
COLUMBIA, SC 29212

Request No.: 1032355- 000
Subject: SPENCER, JAMES BRIAN

Dear Mr. Spencer:

This is in response to your Freedom of Information-Privacy Acts (FOIPA) request noted above.

To promptly respond to requests, we concentrate on identifying main files in the Central Records System at FBI Headquarters. No records responsive to your FOIPA request were located by a search of the automated and manual indices.

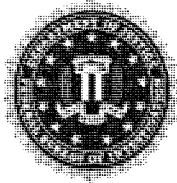
You may file an administrative appeal by writing to the Co-Director, Office of Information and Privacy, United States Department of Justice, Flag Building, Suite 570, Washington, D.C. 20530, within sixty days from receipt of this letter. The envelope and the letter should be clearly marked "Freedom of Information Appeal" or "Information Appeal." Please cite the FOIPA number assigned to your request so that it may be easily identified.

Sincerely yours,

A handwritten signature in black ink, appearing to read "D. Hardy", is positioned below the "Sincerely yours," text.

David M. Hardy
Section Chief,
Record/Information
Dissemination Section
Records Management Division

Enclosure



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535

November 30, 2005

MS IRENE SANTACROCE
205 DEER TRACE CIRCLE
MYRTLE BEACH, SC 29588

Request No.: 1033399- 000
Subject: SANTACROCE, IRENE

Dear Ms. Santacroce:

This is in response to your Freedom of Information-Privacy Acts (FOIPA) request noted above.

To promptly respond to requests, we concentrate on identifying main files in the Central Records System at FBI Headquarters. No records responsive to your FOIPA request were located by a search of the automated and manual indices.

You may file an administrative appeal by writing to the Co-Director, Office of Information and Privacy, United States Department of Justice, Flag Building, Suite 570, Washington, D.C. 20530, within sixty days from receipt of this letter. The envelope and the letter should be clearly marked "Freedom of Information Appeal" or "Information Appeal." Please cite the FOIPA number assigned to your request so that it may be easily identified.

Sincerely yours,

A handwritten signature in black ink, appearing to read "D. Hardy", is positioned below the "Sincerely yours," text.

David M. Hardy
Section Chief,
Record/Information
Dissemination Section
Records Management Division

Enclosure



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535

April 5, 2006

MS MARGUERITE S STEPHENS
207 DEER TRACE CIRCLE
MYRTLE BEACH, SC 29588

Request No.: 1042935- 000
Subject: STEPHENS, MARGUERITE S

Dear Ms. Stephens:

This is in response to your Freedom of Information-Privacy Acts (FOIPA) request noted above.

A search of the automated indices to our central records system files at FBI Headquarters located no records responsive to your FOIPA request.

Although no records responsive to your FOIPA request were located in our automated indices, we are required to inform you that you are entitled to file an administrative appeal if you so desire. Appeals should be directed in writing to the Co-Director, Office of Information and Privacy, U. S. Department of Justice, 1425 New York Ave., NW, Suite 11050, Washington, D. C. 20530-0001, within 60 days from the date of this letter. The envelope and the letter should be clearly marked "Information Appeal." Please cite the FOIPA request number assigned to your request so that it may easily be identified.

Sincerely yours,

A handwritten signature in black ink, appearing to read "D Hardy", is positioned below the "Sincerely yours," text.

David M. Hardy
Section Chief,
Record/Information
Dissemination Section
Records Management Division



U.S. Department of Justice

Federal Bureau of Investigation
Washington, D.C. 20535

August 6, 2015

MS. IRENE SANTACROCE
205 DEER TRACE CIRCLE
MYRTLE BEACH, SC 29588FOIPA Request No.: 1332997-000
Subject: SANTACROCE, IRENE

Dear Ms. Santacroce:

This is in response to your Freedom of Information/Privacy Act (FOIPA) request.

Based on the information you provided, we conducted a search of the Central Records System. We were unable to identify main file records responsive to the FOIPA. If you have additional information pertaining to the subject that you believe was of investigative interest to the Bureau, please provide us the details and we will conduct an additional search.

In accordance with standard FBI practice and pursuant to FOIA exemption (b)(7)(E)/ Privacy Act exemption (j)(2) [5 U.S.C. § 552/552a (b)(7)(E)/(j)(2)], this response neither confirms nor denies the existence of your subject's name on any watch lists.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. § 552(c) (2006 & Supp. IV (2010)). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

For questions regarding our determinations, visit the www.fbi.gov/foia website under "Contact Us." The FOIPA Request number listed above has been assigned to your request. Please use this number in all correspondence concerning your request. Your patience is appreciated.

You may file an appeal by writing to the Director, Office of Information Policy (OIP), U.S. Department of Justice, 1425 New York Ave., NW, Suite 11050, Washington, D.C. 20530-0001, or you may submit an appeal through OIP's eFOIA portal at <http://www.justice.gov/oip/efoia-portal.html>. Your appeal must be received by OIP within sixty (60) days from the date of this letter in order to be considered timely. The envelope and the letter should be clearly marked "Freedom of Information Appeal." Please cite the FOIPA Request Number in any correspondence to us for proper identification of your request.

Enclosed for your information is a copy of the FBI Fact Sheet and Explanation of Exemptions.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Hardy", is written over the typed name.

David M. Hardy
Section Chief,
Record/Information
Dissemination Section
Records Management Division

Enclosure(s)

ATTACHMENT "ONE"
Page 1 Of 2

October 30, 2001

8005 White Ash Court
Oak Ridge, NC 27310
336-334-4533 (work)
336-643-1397 (home)

Mr. Donald Causey
SSRA
Federal Bureau of Investigation
Suite 302
1801 Stanley Road
Greensboro, North Carolina 27407

Re: Complaint & Request.

Dear Mr. Causey:

I am a tenured professor of Marketing at the University of North Carolina at Greensboro. A former coed (a former student of mine) told me and several other individuals that she and her coed roommates were approached at their home and allegedly threatened by at least one of three law enforcement officers, one who identified himself as an FBI agent.

The coed informed me that two uniformed Guilford County, North Carolina, Sheriffs Deputies accompanied by the purported FBI agent who identified himself as "Steve" unexpectedly showed up at her residence around the middle of June 2000. The former coed also informed me that this group of law enforcement officers informed the coeds that a colleague and I were involved in prostitution activities acting as "pimps" and that she was the fifth unwitting coed we were recruiting for that purpose. The two local law enforcement officers and the supposed FBI agent also informed the coeds that a colleague, his mother and I were involved in various activities that smacked of mail fraud schemes from my "home mailing address."

The former coed stated to me that during this initial visit and subsequent meetings and interviews, the law enforcement officers and other alleged associates apparently sought personal information about me that, I believe, was to be used against me because of my failure to comply with a blackmailer's demands. Among the alleged threats to the coeds reported to me by the former coed was that the law enforcement officers and the purported FBI agent would not be able to guarantee the coeds' safety if they ever revealed details of their visit to anybody and furthermore the coeds would be arrested for obstruction of justice.

Additionally, the coed advised me that some combination of the same law enforcement officers negotiated a deal with her to "lure" and "entice" my colleague, the CEO of

ATTACHMENT "ONE"
Page 2 of 2

Southern Holdings, Inc., into a compromising position. They offered her the possible removal of a DUI conviction pending in Guilford County, North Carolina, if she were successful in setting him up and allowing them to "get him." The coeds were informed at that time that the CEO was wanted by the FBI for numerous serious crimes. Subsequent to these events, the coeds moved from the area.

This event is one in a series of allegedly coordinated and related actions that occurred to me after a specific blackmailer threatened that he would ruin my career at the University if I did not go along with the blackmailer's takeover of Southern Holdings, Inc. I am a member of the board of directors and a major shareholder of Southern Holdings, Inc. Taking control of Southern Holdings, Inc. and its assets was the stated objective of the blackmailer. It is important to note that other members of the board of directors of Southern Holdings, Inc. were also allegedly threatened and blackmailed by the same alleged blackmailer if they did not cooperate with the blackmailer's attempt to take over the corporation.

There is and never was any truth to the allegations made by these law enforcement officers and their announced accompanying FBI associate. Given the circumstances it is very unlikely the individual in question was a FBI agent. I request that you please check the records to verify if these events reported to me by the coed involved an actual FBI agent. If so please advise me of the full name of FBI agent involved. I also want to file the appropriate complaints against the individuals (whom I can identify) who allegedly were involved in illegal activities including conspiracy in blackmail and extortion and, I believe, impersonation of a federal law enforcement officer.

Given the alleged participation of local law enforcement personnel in this matter (on some level) and my inability to locate the physical address of the former coeds for confirmation of events (they moved from the area and intentionally left no forwarding addresses) I have been unable to gain the details I have needed to file complaints against the alleged perpetrators with the FBI. Two weeks ago, I reestablished constructive contact with a frightened coed victim, my former student, and gained the additional confirmation and information I had been lacking.

Please advise of the next course of action required of me in my pursuit of this complaint.

I look forward to hearing from you at your earliest convenience.

Sincerely,



Nicholas C. Williamson, Ph.D.

ATTACHMENT "TWO"
Page 1 of 5

Nicholas C. Williamson, Ph.D.
Department of Business Administration
University of North Carolina at Greensboro
Greensboro, NC 27412
(336) 334-4533

November 20, 2001

Chief Robert C. White
Greensboro Police Department
PO Box 3136
Greensboro, North Carolina 27402-3136

Re: Complaint of criminal activity against specific individuals involved in acts of conspiracy to commit blackmail, extortion and racketeering.

Dear Chief White:

I am a tenured professor at the University of North Carolina at Greensboro. I am also a member of the board of directors and a major shareholder of Southern Holdings, Inc. During the middle of June 2000, David N. Smith (1664 Estes Road, Ruffin, NC 27326) telephoned my office at the University of North Carolina at Greensboro on at least two occasions and attempted to blackmail me. He told me that if I did not cooperate with him and interfered with his plan to take control of Southern Holdings, Inc., he would ruin my career at the University. I told him that I would not help him take control of the corporation under any circumstances.

During the same period of June 2000, Mr. Smith also telephoned and emailed other corporate officers and/or members of the board of directors. (I can provide copies of emails and other relevant documents upon request.) The individuals reported he used various methods of coercion in these communications in trying to gain their acquiescence to his take over of the corporation. In at least two separate instances Mr. Smith attempted to blackmail and extort individuals after he determined the individual was not going to support his take over of the company. Mr. Smith claimed credit for having criminal charges brought against the CEO of Southern Holdings, Inc., charges that I knew were without justification. In my particular case, the language that Mr. Smith used was so threatening to me that I asked him whether he intended to cause criminal charges to be brought against me as well, even though I knew there was no justification for any criminal charges.

The CEO also failed to comply with blackmail demands by Mr. Smith. On June 7, 2000, the CEO was unexpectedly pursued by Horry County South Carolina Sheriff Deputies in the company of Mr. Harold Steve Hartness, a North Carolina licensed private investigator and a former police officer in Charlotte, NC. The CEO was ultimately arrested and put in jail on August 6, 2000, despite the fact that Judge Sidney T. Floyd, Resident Judge 15th Judicial Circuit of South Carolina, with the Affiant Police Officer with the Horry County South Carolina Sheriffs Department present, had

ATTACHMENT "TWO"
Page 2 of 5

weeks earlier determined and stated in open court that the "arrest warrant was invalid and should never have been issued." Judge Floyd further stated and ordered in open court during the same hearing that the CEO "be removed from the NCIC." Despite the fact the Horry County South Carolina Sheriffs Department administration was also independently notified of the Circuit Court's decision, two Horry County Sheriff's Deputies on their day off on August 6, 2000, four weeks after Judge Floyd made his ruling, were monitoring the CEO's mother's unoccupied and abandoned home. When the CEO went to the home on that date and attempted to peacefully locate and retrieve property and needed medication, the deputies both called in and participated in the CEO's arrest.

Please keep in mind I am neither a trained investigator nor a lawyer. If there is a factual error or incomplete information in this letter it is unintentional. The events contained in this letter by no means represent a complete list of all the actions taken against those who did not comply with the demands of Mr. David Smith. I have just reported aspects of a few events to support the basis of this complaint. I have strived to be as accurate as possible. I was not present for several of the events that occurred and are reported in this letter; therefore, I can only report the details provided directly to me from the individuals involved. I will be glad to address any issues raised and I am available to provide specific details, documents, and the names addresses and telephone numbers of fellow victims of or witnesses to these events to you and/or your representatives upon request. I believe a proper investigation will reconfirm the tie of the various acts of intimidation and terror involving Mr. Harold Steve Hartness to the failure of targeted individuals to comply with the blackmail and extortion demands of Mr. David N. Smith.

Other individual members of the board of directors and officers of Southern Holdings, Inc., have stated that they were contacted and coerced by various means, including attempted blackmail and extortion, and were directly threatened by Mr. David N. Smith in a coordinated conspiracy with Mr. Harold Steve Hartness (3032 Nance Cove Road, Charlotte, NC, 28214). Mr. Hartness is believed to have personal contacts with Guilford County, NC, and Horry County, SC, law enforcement personnel.

Shortly after my refusal to comply with Mr. David N. Smith's blackmail and extortion demands, Ms. Jenn Howard, a former student of mine, informed me and several other individuals that she and her coed roommates, including Ms. Liz O'Neill, were approached at their home in Greensboro in mid to late June 2000, and threatened by at least one of three law enforcement officers, one of whom identified himself as an FBI agent. Mr. Phil Celestini, a Special Agent with the FBI in Greensboro, in response to a written inquiry, informed me several weeks ago that no known FBI agent was involved with this alleged action.

Ms. Howard informed me that two uniformed Guilford County, North Carolina, Sheriff's Deputies showed up at her former residence located at 1714 K Brice Street, Greensboro, NC, 27403. An individual impersonating an FBI agent who identified himself as "Steve" accompanied the deputies. Ms. Howard informed me that at least

ATTACHMENT "TWO"
Page 3 of 5

one member of this group of law enforcement officers told the coeds that another member of the board of directors of Southern Holdings, Inc., and I were involved in prostitution activities acting as "pimps" and that she was the fifth unwitting coed we were recruiting for that purpose instead of a legitimate position of employment for which she had applied. Some combination of the two local law enforcement officers and the accompanying individual impersonating an FBI agent also informed the coeds that the same board member, his mother and I were involved in various activities that amounted to illegal mail fraud schemes from my "home mailing address." Ms. Howard claims the purported FBI agent tried to convince her to sue for not getting a job with Southern Holdings, Inc. This may have been done to confuse the impressionable, young and disgruntled former job applicant and it motivated her to seek out mechanisms for retribution.

A few days after this visit, Mr. Harold Steve Hartness appeared at her home making similar claims. He offered a method for retribution as he sought personal information of a defamatory nature about me. Mr. Harold Steve Hartness then mailed the information obtained in this manner to the University Attorney of the University of North Carolina at Greensboro. These actions came approximately a week after my refusing to comply with Mr. Smith's blackmail demands on the telephone and his threat to ruin my career at the University for non-compliance to his demands.

Additionally, Ms. Howard advised me that the same law enforcement officers had a follow up meeting at a coffee shop on Tate Street and attempted to negotiate a deal with her to "lure" and "entice" my colleague, the CEO of Southern Holdings, Inc, into a compromising position. They offered her the possible removal of a DUI conviction against her pending in Guilford County, North Carolina, if she were successful in setting him up and allowing them to "get him." Among the alleged threats that Ms. Howard reported were communicated to the coeds by the law enforcement officers and the purported FBI agent was that the law enforcement officers would not be able to guarantee the coeds' safety if they ever revealed details of the law enforcement officers' visits to anybody, and furthermore the coeds would be arrested for obstruction of justice.

Subsequent to these events, the coeds moved from the area leaving no forwarding addresses. Recently, I reestablished constructive contact with Ms. Jenn Howard, my former student, and gained the additional confirmation and information necessary to file complaints against the blackmail and extortion conspirators.

Members of Ms. Irene Santacroce's family became unwitting victims for her non-compliance with Mr. David N. Smith's blackmail and extortion demands. Mr. Harold Steve Hartness was identified as being involved in criminal acts directed against them by several members of the family of the Secretary of Southern Holdings, Inc., Ms. Irene Santacroce, the latter whom Mr. Smith attempted to blackmail and extort. In her particular threat, Mr. Smith told Ms. Santacroce that she and her family could either allow him to take control of the corporation the easy way or he would take it the hard way. He also threatened that Ms. Santacroce was not going to like the violence if

ATTACHMENT "TWO"
Page 4 of 5

she opted for the hard way. After Ms. Santacroce refused to go along with Mr. Smith's blackmail and extortion demands, the threats materialized, as her family became victims of various criminal acts.

Subsequent to her refusal to cooperate, individual family members of the Secretary of the Corporation became victims of various threats of physical harm and other illegal acts of intimidation. Women and children of the family were targeted for these criminal acts. On the evening of June 7, 2000, the CEO's mother had sought refuge and shelter at Ms. Santacroce's home in the process of abandoning her own home. On that date, Mr. Harold Steve Hartness was observed directing the Horry County Sheriff Deputies in the search and seizure of the CEO's mother's home, as just one of several other shareholder homes he was observed directing the search of earlier in the day. Mr. David N. Smith and Mr. Harold Steve Hartness both made telephoned calls to Ms. Santacroce's home, further terrifying the women and children sheltered there on the evening of June 7, 2000. During one telephone call Ms. Santacroce begged Mr. Smith "not to do this to the children." She stated Mr. David N. Smith's response to her pleas on the telephone was laughter.

In another incident, the Secretary of the Corporation's sister, Ms. Marguerite Stephens, named Mr. Harold Steve Hartness as one of the individuals driving one of the two vehicles that pursued the car she was driving, and that ultimately ran the car she was driving off the road. In another terrifying illegal act, Ms. Santacroce received a threat of sexual molestation and death directed against Samatha her twelve-year-old daughter in an unsigned letter through the mail. A few days after Ms. Santacroce received the death threat letter, in an event that further terrorized the child and her mother, Samatha unexpectedly received a visit at her home by an unknown individual. The stranger left a follow up threatening message with the child for her mother. The young girl later identified the uninvited visitor as Mr. Michael Steve Hartness. Mr. Michael Steve Hartness was identified as the driver of the second car involved in running Ms. Stephen's vehicle off the road and was identified at the arrest scene of the CEO on August 6, 2000, by witnesses at the scene. Mr. Michael Steve Hartness is also a North Carolina licensed private investigator and both works and lives with his father Mr. Harold Steve Hartness.

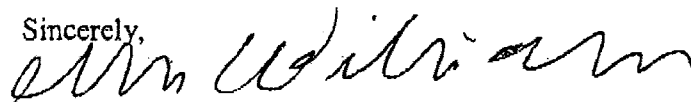
In July 2000, Mr. Haywood R. Starling, the former head of the NC State Bureau of Investigation, was retained by Southern Holdings, Inc. as a forensic document examiner and investigative consultant concerning the preceding matters. During his retention he also became a potential material witness in these matters. Southern Holdings, Inc. has investors in eight states and three foreign countries. Prior to preparation and release of a shareholders' report and news press release to the media it was necessary to engage such a consultant to independently validate the findings and conclusions of management in these matters.

With (1) the recent FBI confirmation that one of their agents was not involved; (2) the recent reestablishment of contact with Ms. Jenn Howard; (3) the fact that charges against the CEO were dropped by Judge Livingston of the Magistrate Court after no

ATTACHMENT "TWO"
Page 5 of 5

probable cause was presented for stopping the automobile in which the CEO was a passenger; and (4) the preponderance of evidence of various criminal acts available (some of which I have mentioned in this correspondence), I request the Greensboro Police investigate the criminal acts that occurred within its jurisdiction. Specifically, I request the acts of conspiracy of attempted blackmail, extortion and racketeering of which I was a victim be investigated. Therefore, please consider this correspondence a report and complaint of criminal conduct in conspiracy of attempted blackmail, extortion and racketeering. In that regard, I respectfully request the Greensboro Police Department conduct a proper investigation into these criminal matters that occurred within its jurisdiction. In order to facilitate the proper investigation of the complaints involving the criminal matters by the Greensboro Police Department, I have requested that the corporation delay the release of information to the shareholders and news media.

Both Mr. Starling and I will be available to meet you and/or your representative(s) to provide any information you request that we have available, that would support bringing criminal charges against Mr. David N. Smith and Mr. Harold Steve Hartness.

Sincerely,


Nicholas C. Williamson, Ph.D.

Cc:
Phil Celestini, Special Agent, FBI
Ralph Wilson, Esquire
Michael Goldberg, Esquire
Haywood R. Starling, Carolina Forensic Science
Irv Rubin, Jewish Defense League

ATTACHMENT "THREE"**Page 1 of 4**

Nicholas C. Williamson, PhD
8005 White Ash Court
Oak Ridge, NC 27310

January 4, 2002

Mr. Phil Celestini
Special Agent
Federal Bureau of Investigation
Suite 302
1801 Stanley Road
Greensboro, NC 27407

Re: Follow-up and inquiry

Dear Mr. Celestini:

I have left several messages for you by telephone before and after the time that I copied you with the correspondence I sent to Chief Robert White of the Greensboro Police Department, dated November 20, 2001. As of the date of this letter to you, I have not received a telephone call from you in response. Therefore, it is clear that I must communicate with you in writing.

Mr. Celestini, I am writing this note to you for three key reasons. First, I am bringing to light for you and for Mr. Causey two items that were not dealt with in either (a) my original letter written to Mr. Causey (and forwarded to you), a letter alleging impersonation of an FBI agent in Greensboro in June of 2000, or (b) my complaint letter to Chief White of the Greensboro Police Department and alleging conspiracy to commit blackmail and extortion, and racketeering. These two new items are the first two which are presented and described in some detail below in numbered blocks of information. (These two new items will have three asterisks ("****") beside them.)

Second, I am enclosing for your and Mr. Causey's evaluation copies of several sworn affidavits that relate to (and substantiate) the contents of the two letters alluded to in the previous paragraph. Third, I am responding to a statement that was made *twice* by Det. Ken Rickard of the Greensboro Police Department to Haywood Starling (former head of the North Carolina State Bureau of Investigation) and to me in a meeting with Det. Rickard and an unidentified law enforcement officer on December 12, 2001, at the Greensboro Police Department. This statement was that a case such as mine might not, at this time, warrant investigation by the FBI--even if the case were clearly within the jurisdiction of the FBI and appeared to have merit. Det. Rickard *twice* indicated that the current resources and priorities of the FBI might be the reason why the FBI would not proceed with my case at this time.

ATTACHMENT "THREE"**Page 2 of 4**

Accordingly, I present to you the following list of items (and associated enclosures) that I request be evaluated very carefully by you and Mr. Causey, for the purpose of evaluating whether the FBI will choose to perform a proper evaluation of the allegations made in the previously described letters--and in this letter to you, with a carbon copy to Mr. Causey. I furthermore request that you and Mr. Causey jointly draft a detailed letter to me substantiating your findings, evaluations and choice to move ahead (or not to move ahead) with a proper investigation into my allegations.

****1. There is a very high likelihood that Harold Steven Hartness and at least two Guilford County Sheriffs Deputies were involved in a criminal violation of the Hobbs Act in their dealings with a former student of mine (Jennifer Howard) and her roommate in Greensboro, NC, in June 2001. In this alleged criminal violation of the Hobbs Act, I am the damaged party. Please find enclosed a copy of an interrogation of Ms. Howard made by Harold Steven Hartness in the middle of June of the year 2000. Mr. Hartness submitted this document to the University Attorney of UNCG, a Mr. Lucien Capone. To the best of my knowledge, no one at the University of North Carolina at Greensboro had commissioned such an interrogation, and no one had up until that point received information that would have warranted the performance such an interrogation. (The date of the interrogation of Jenn Howard was less than a week after Mr. David N. Smith's blackmail demands were made on me).*

In this document, that was signed by both Ms. Howard and Mr. Hartness, Ms. Howard identifies Sheriffs Deputy Zimmerman as having approached her in this matter (detailed in the letter to Chief White). While in this document there is no evidence of any criminal wrongdoing on my part--Det. Rickard and his unnamed partner in the December 12, 2001, meeting both indicated that they were amazed at the extent of my punishment at UNCG for what I was alleged in the document to have done--(1)the performance of the interrogation "out of the blue", (2) the funding of the interrogation by an unknown party, and (3) the unrequested submission of the results of the interrogation to the UNCG Attorney very strongly suggest an infraction of the Hobbs Act. Furthermore, this allegation on my part in no way lessens my charge of conspiracy to commit blackmail and extortion and racketeering by Harold Steve Hartness, as presented in my letter to Chief White (copy to you).

While I am not a lawyer, and do not profess to have the knowledge of a lawyer, my reading of The Hobbs Act -- 18 USC ~1951 in the Criminal Resources Manual 2402-2406 leads me to believe that my allegation of this infraction is true. Since 9-131.020 "Investigative and Supervisory Jurisdiction" indicates to me that "Primary investigative jurisdiction of offenses in 18 U. S. C. ~ 1951 lies with the Federal Bureau of Investigation..." then I would like to call this to your and Mr. Causey's attention for your consideration.

****2. There is very strong evidence of coordinated illegal use across state lines of the federally maintained NCIC computer network by at least one (and maybe three) local law enforcement agencies in the furtherance of conspiracy to commit blackmail, extortion and racketeering activities. At a specific point in the December 12 meeting at the*

ATTACHMENT "THREE"
Page 3 of 4

Greensboro Police Department, I affirmed to Haywood Starling, to Det. Rickard and to Det. Rickard's unnamed colleague that virtually every criminal warrant that had been issued against a colleague of mine had been determined in various court decisions to be illegal. *In apparent knowledge of this situation, the unnamed colleague of Det. Rickard indicated to all persons at the December 12 meeting that whoever fraudulently put information related to my colleague on the NCIC was in legal (criminal) trouble. Up until that point in the conversations, there had been no mention made of the illegal use of the NCIC system by law enforcement personnel. As Haywood Starling can confirm, I previously was very aware of the fraudulent use of the NCIC wire system by Guilford County law enforcement personnel, but I chose not to be the person to initiate identification and discussion of the fraudulent act involving the NCIC in the December 12 meeting. While I am not fully aware of the specific legal ramifications of such abuse of the NCIC, I am virtually certain that these acts were (and are) felonious.*

Mr. Celestini, do you think that abuse of the NCIC computer system is something that is within the jurisdiction of the FBI to pursue?

3. Numerous civil rights violations against peaceful citizens, along with brutality and torture resulting in medically documented permanent paralysis of the left hand of one individual by Horry County, South Carolina, law enforcement personnel. Also included are intimidation tactics and false arrest and imprisonment by identified personnel with a local South Carolina law enforcement agency. *I allege that a proper investigation will show that these acts were used against individuals who failed to comply with David N. Smith's blackmailing demands made on persons in South Carolina. (Please see the letter to Chief White for a description of David N. Smith's activities.)*
4. An ongoing cover-up (regarding acts such as the above) by law enforcement agencies and local government personnel including, but not limited to, denying legal access to public records. This legal access is otherwise guaranteed by federal and state "Freedom of Information Act" legislation.
5. Perpetrators crossing state lines to fulfill the threats against the individuals and their families for non-compliance with blackmailers' demands. The materialization of these threats includes, but is not limited to, running women and children off the road during unwanted one-sided high speed games of "chicken" in moving automobiles.
6. Known impersonation of an FBI agent in furtherance of conspiracy to commit blackmail, extortion and racketeering activities in both North Carolina and South Carolina. Again, the enclosed copy of the interrogation of Jenn Howard by Harold Steve Hartness clearly identifies a Guilford County Sheriffs Deputy that was a party to the impersonation--Officer Zimmerman, *a person whom you told me over the telephone that you were familiar with.*

When considering the preceding and the enclosed documents, please keep in mind the reason behind the blackmailers' outrageous and apparently illegal activities--their seizure of the assets of a multi-million dollar corporation.

ATTACHMENT "THREE"

Page 4 of 4

Mr. Celestini, everything that I have read, and every knowledgeable person with whom I have spoken regarding the matters alluded to in this letter, suggest that *the FBI should perform a proper investigation into matters described in this and previous letters.*

Particularly, (a) infractions of the Hobbs Act, (b) acts that clearly involve breaking a variety of different pieces of federal civil rights legislation, (c) fraudulent abuse of the NCIC wire computer system, and (d) impersonation of an FBI agent appear to me to warrant immediate and vigorous investigation. *However, time and time again, knowledgeable persons have affirmed to me that the only thing that would keep the FBI from properly investigating these matters is that several of the allegedly guilty parties work in law enforcement--even if the law enforcement personnel are clearly guilty of criminal acts. Is this true in general? Is this true in this case?*

Mr. Celestini, I look forward to receiving your and Mr. Causey's carefully considered *written* evaluation of (a) the materials presented to you by me, (b) conversations that you might have had with persons such as Det. Rickard, and (c) any other information that you might choose to gather and use en route toward determining whether the FBI should move forward in performing a proper investigation of matters that I have identified in this and other letters that you have in your possession.

Sincerely,



Nicholas C. Williamson

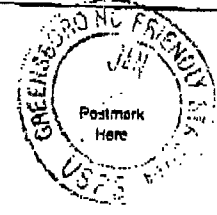
CC Mr. Donald Causey
SSRA
Federal Bureau of Investigation

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

EA38 8433
6029
0003
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0471
7001

OFFICIAL USE

Postage	\$ 1.26
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 4.86



Sent To: PHIL CRESTANI, FBI
 Street, Apt. No. or PO Box No.: SUITE 302 1801 SHAWNEY RD
 City, State, ZIP+4: GREENSBORO NC 27403

PS Form 3800, January 2001 See Reverse for Instructions

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

EA19 8419
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OFFICIAL USE

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 4.86



Sent To: DONALD CAUSEY, FBI
 Street, Apt. No. or PO Box No.: SUITE 302 1801 SHAWNEY RD
 City, State, ZIP+4: GREENSBORO NC 27403

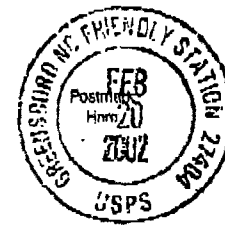
PS Form 3800, January 2001 See Reverse for Instructions

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

0040
6029
0003
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OFFICIAL USE

Postage	\$ 1.26
Certified Fee	2.10
Return Receipt Fee (Endorsement Required)	1.50
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 4.86



Sent To: MR. CHRIS SWICKER
 Street, Apt. No. or PO Box No.: FBI/400 S. 11th St
 City, State, ZIP+4: CHARLOTTE NC 28205

PS Form 3800, January 2001 See Reverse for Instructions

ATTACHMENT "FOUR"
Page 1 of 3

Nicholas C. Williamson, PhD
Department of Business Administration
University of North Carolina at Greensboro
Greensboro, NC 27412
336-334-4533

February 20, 2002

Mr. Chris Swecker
SAC
Federal Bureau of Investigation
Suite 900
400 South Tryon Street
Charlotte, NC 28285
Via Certified Mail

Re: Inquiry and request for assistance

Dear Mr. Swecker:

Please review the enclosed correspondence to Special Agent Phil Celestini and SSRA Donald Causey, both of the Greensboro office of the FBI. I have not received a response to the inquiries I have made.

Please let me know how I can obtain answers to the questions I have inquired about from these individuals. Additionally, please let me know if you also individually believe that the alleged criminal conducts I have reported are not publicly listed priorities for investigation and possible pursuit by the Federal Bureau of Investigation.

Thank you very much for your assistance.

Sincerely,

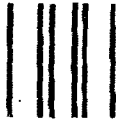


Nicholas C. Williamson

Enclosures

ATTACHMENT "FOUR"
Page 2 of 3

UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •
NICHOLS C. WILLIAMSON, PH.D.
DEPARTMENT OF BUSINESS ADM,
BRYAN SCHOOL
UNIVERSITY OF NORTH CAROLINA
AT GREENSBORO
GREENSBORO, NC 27412

PAGE 12/15

BRYAN SCH

3363345580

14:22

11/01/2010

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> ■ Complete Items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Received by (Please Print Clearly) <u>Louise Perkins</u> B. Date of Delivery <u>2/21</u></p> <p>C. Signature <u>[Signature]</u> <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below:</p>
<p>1. Article Addressed to: <u>MR CHRIS SWECKER</u> <u>SAC</u> <u>FEDERAL BUREAU OF</u> <u>INVESTIGATION</u> <u>SUITE 900</u> <u>400 SOUTH TRYON ST.</u> <u>CHARLOTTE, NC</u> <u>28205</u></p>	<p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Numl <u>7001 1140 0003 6207 0040</u> (Transfer from)</p>	
<p>PS Form 3811, March 2001</p>	<p>Domestic Return Receipt: 102595-01-M-1424</p>

ATTACHMENT "FIVE"

Page 1 of 11

Nicholas C. Williamson
8005 White Ash Court
Oak Ridge, NC 27310
(336) 334-4533

November 17, 2005

FBI Headquarters
FOIPA - Section
Federal Bureau of Investigation/Department of Justice
935 Pennsylvania Avenue, NW
Washington, DC 20535-0001

Re: FREEDOM OF INFORMATION ACT REQUEST

Dear Sir or Madam:

Under the authority of the Freedom of Information Act and any and all other Federal or State laws that may be applicable, I hereby request copies of the following information in the possession of the FBI and/or the Justice Department::

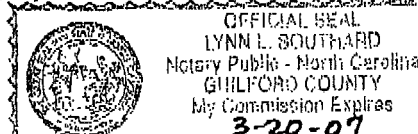
- 1.) Any and all material, in any form, related to any and all, "Investigative Matters" and/or other matters concerning and/or initiated by Nicholas C. Williamson, [REDACTED] for the period from January 1, 2000 to October 25, 2005.
- 2.) Any and all documents that may have been generated internally and/or externally from any source including directly or indirectly by the FBI concerning Nicholas C. Williamson, [REDACTED] and any derivative thereof for the period from January 1, 2000 to October 27, 2005.

This information includes, but is not limited to photographic, written, audio and video recordings, computer generated reports or notes, and data files, relating to any and all the above matters. This request also covers e-mail and any and all tape recordings and notes that were sent back and forth between parties both within and external to the Federal Bureau of Investigation and the Justice Department.

The time period covered by this request is from January 1, 2000, to October 27, 2005, also includes any and all communications, notes, recordings made concerning this request. Please expedite sending this information to the address listed on the letterhead above.

64

Lynn L. Southard
NOTARY PUBLIC



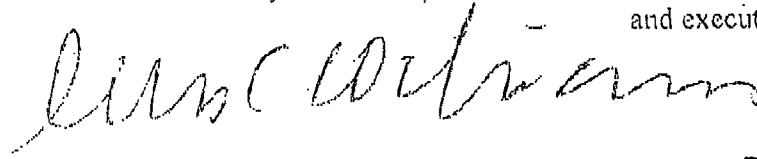
ATTACHMENT "FIVE"

Page 2 of 11

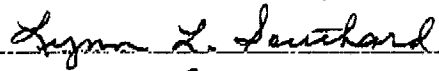
Thank you very much for your timely response.

Sincerely,

Nicholas C. Williamson appeared before me
and executed this letter on this date: November 17,
2005

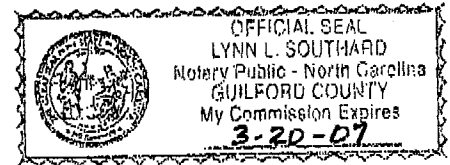


Nicholas C. Williamson



NOTARY PUBLIC

Cc:
John Rakowsky, Esquire
Ronald Serota, Esquire



ATTACHMENT "FIVE"

U.S. Department of Justice **Page 3 of 11**



Federal Bureau of Investigation

Washington, D.C. 20535

February 7, 2006

MR NICHOLAS C WILLIAMSON
8005 WHITE ASH COURT
OAK RIDGE, NC 27310

Request No.: 1037771- 000
Subject: WILLIAMSON, NICHOLAS C

Dear Mr. Williamson:

- This acknowledges receipt of your Freedom of Information-Privacy Acts (FOIPA) request to the FBI. The FOIPA number listed above has been assigned to your request. Your request was forwarded to FBI Headquarters from our Columbia Field Office.
- For an accurate search of our records, please provide the complete name, alias, date and place of birth for the subject of your request. Any other specific data you could provide such as prior addresses, or employment information would also be helpful. If your subject is deceased, please include date and proof of death.
- To make sure information about you is not released to someone else, we require your notarized signature or, in place of a notarized signature, a declaration pursuant to Title 28, United States Code 1746. For your convenience, the reverse side of this letter contains a form which may be used for this purpose.
- If you want the FBI's Criminal Justice Information System (CJIS) to perform a search for your arrest record, please follow the enclosed instructions in Attorney General Order 556-73. You must submit fingerprint impressions so a comparison can be made with the records kept by CJIS. This is to make sure your information is not released to an unauthorized person.
- We are searching the indices to our central records system at FBI Headquarters for the information you requested, and will inform you of the results as soon as possible.
- Processing delays have been caused by the large number of requests received by the FOIPA. We will process your request(s) as soon as possible.

Your request has been assigned the number indicated above. Please use this number in all correspondence with us. Your patience is appreciated.

Sincerely yours,

David M. Hardy
Section Chief,
Record/Information
Dissemination Section
Records Management Division

February 8, 2006

ATTACHMENT "FIVE"

Page 4 of 11

Federal Bureau of Investigation
Charlotte Field Office
FOIPA - Section
400 South Tryon Street
Suite 900
Charlotte, NC 28285
Via: Certified Mail

Re: FREEDOM OF INFORMATION ACT REQUEST

Dear Sir or Madam:

Under the authority of the Freedom of Information Act and any and all other Federal or State laws that may be applicable, I hereby request copies of the following information in the possession and/or control of the FBI and/or the Justice Department at the Charlotte, NC, and Greensboro, NC, offices.

- 1.) Any and all material, in any form, related to any and all, "Investigative Matters" and/or other matters concerning and/or initiated by Nicholas C. Williamson [REDACTED] [REDACTED] for the time period from January 1, 2000, to February 8, 2006.

- 2.) Any and all documents that may have been generated internally and/or externally from any source including directly or indirectly by the FBI concerning Nicholas C. Williamson for the period from January 1, 2000, to February 8, 2006.

ATTACHMENT "FIVE"

Page 5 of 11

The information requested includes, but is not limited to photographic, written, audio and video recordings, computer generated reports or notes, and data files, relating to any and all the above matters. This request also covers e-mail and any and all tape recordings and notes that were sent back and forth between parties both within and external to the Federal Bureau of Investigation and the Justice Department.

The time period covered by this request is from January 1, 2000, to February 8, 2006, and also includes any and all communications, notes, recordings made concerning this request. Please expedite sending this information to the address listed on the letterhead above.

Thank you very much for your timely response.

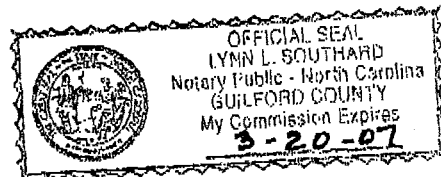
Sincerely,

Nicholas C. Williamson appeared before me and executed this letter on this date: 8th of February, 2006.

Nicholas C. Williamson

Cc:
John Rakowsky, Esquire
Ronald Serota, Esquire

Lynn L. Southard
NOTARY PUBLIC



ATTACHMENT "FIVE"
Page 6 of 11



U.S. Department of Justice

Federal Bureau of Investigation

In Reply, Please Refer to
File No.

400 South Tryon Street, Suite 900
Charlotte, NC 28285
March 22, 2006

Mr. Nicholas C. Williamson
8005 White Ash Court
Oak Ridge, NC 27310

Dear Mr. Williamson:

Please be advised that your Freedom of Information/Privacy Act request for information was received in this office and forwarded to FBI Headquarters in Washington, D.C., for handling.

Additionally, a telephone call to FBI Headquarters this date confirmed that your request was received, and you will be advised as soon as possible whether or not a search of FBI records reveals information identifiable with your request.

Sincerely yours,

Kevin B. Kendrick
Special Agent in Charge

By:
Eric J. Davis
Chief Division Counsel

Nicholas C. Williamson, PhD
8005 White Ash Court
Oak Ridge, NC 27310
(336) 210-0672

February 17, 2006

Nelson Hermilla, Chief
FOIA/PA Branch
Civil Rights Division
Department of Justice
Room 311, NALC Building
Washington, DC 20530

Re: FREEDOM OF INFORMATION ACT REQUEST

Dear Mr. Hermilla:

Deputy Director Melanie Ann Pustay advised that I submit this request to you. Under the authority of the Freedom of Information Act and any and all other Federal or State laws that may be applicable, I hereby request copies of the following information in the possession of the FBI and/or the Justice Department.

Under the authority of the Freedom of Information Act and any and all other Federal or State laws that may be applicable, I hereby request copies of the following information in the possession and/or control of the FBI and/or the Justice Department.

1. Any and all material, in any form, related to any and all, "Investigative Matters" and/or other matters concerning and/or initiated by Nicholas C. Williamson [REDACTED] [REDACTED] for the time period from January 1, 2000 to February 17, 2006, 2006.
2. Any and all documents that may have been generated internally and/or externally from any source including directly or indirectly by the FBI concerning Nicholas C. Williamson for the period from January 1, 2000 to February 17, 2006.

ATTACHMENT "FIVE"

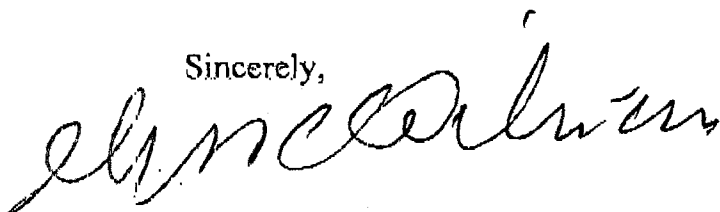
Page 8 of 11

This information includes, but is not limited to photographic, written, audio and video recordings, computer generated reports or notes, and data files, relating to any and all the above matters. This request also covers e-mail and any and all tape recordings and notes that were sent back and forth between parties both within and external to the Federal Bureau of Investigation and the Justice Department.

The time period covered by this request is from January 1, 2000, to February 17, 2006, and also includes any and all communications, notes, recordings made concerning this request. Please expedite sending this information to the address listed on the letterhead above.

Thank you very much for your timely response.

Sincerely,

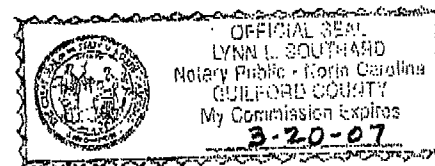


Nicholas C. Williamson

Nicholas C. Williamson appeared before me and executed this letter on this date: February 20, 2006

Cc:
John Rakowsky, Esquire
Ronald Serota, Esquire

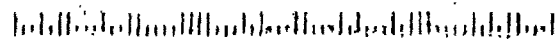
Lynn L. Southard
NOTARY PUBLIC



SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input checked="" type="checkbox"/> X <i>Bryan Sch</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <i>WAP 03 2006</i> C. Date of Delivery</p>
<p>1. Article Addressed to:</p> <p>Nelson Hermilla, Chief FOIA/PA Branch Civil Rights Division Department of Justice Room 311, NALC Building Washington, DC 20530</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input checked="" type="checkbox"/> No</p> <p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer from service label)</p>	
<p>PS Form 3811, August 2001 Domestic Return Receipt 102595-02-M-1035</p>	

• Sender: Please print your name, address, and ZIP+4 in this box •

Nicholas C. Williamson
8005 White Ash Court
Oak Ridge, NC 27310

0001 



U.S. Department of Justice

ATTACHMENT "FIVE"

Civil Rights Division

Page 10 of 11

NDH : SC
2006-0239(6-047)

*Freedom of Information/Privacy Acts Branch- NALC
950 Pennsylvania Avenue, N.W.
Washington, DC 20530*

MAR -7 2006

Nicholas C. Williamson, PhD.
8005 White Ash Court
Oak Ridge, NC 27310

Dear Mr. Williamson:

This is in response to your Privacy Act request dated February 17, 2006, seeking access to Civil Rights Division and Federal Bureau of Investigation records pertaining to you for the period from January 1, 2000 through February 17, 2006.

We have searched the indices of the Civil Rights Division's central filing system and the filing system covering correspondence received by this Division and have located no Civil Rights Division documents pertaining to you.

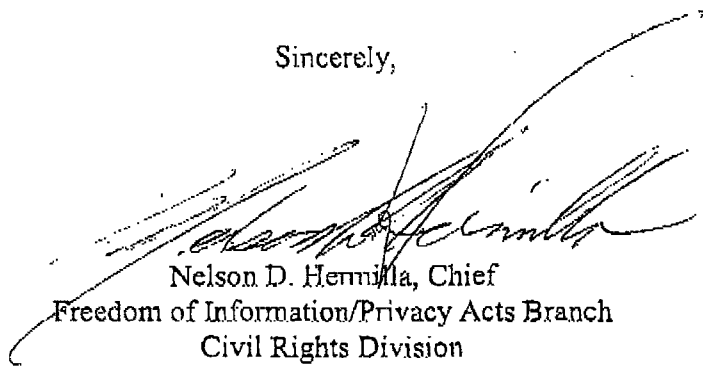
To obtain records pertaining to you from the Federal Bureau of Investigation, you may wish to contact the following individual:

Mr. David M. Hardy, Chief
Record/Information Dissemination Center
Records Management Division
Federal Bureau of Investigation
935 Pennsylvania Avenue, N.W.
Washington, DC 20535-0001
(202) 324-5520

Should you wish to appeal my decision with respect to your request, you may do so by writing, within sixty days, to the Co-Directors, Office of Information and Privacy, United States Department of Justice, 1425 New York Avenue, N.W., Suite 11050, Washington, DC 20530. The envelope should be marked "FOI/PA Appeal". Following review by the Department, judicial review of the decision of the Attorney General is available in the United States District Court in the judicial district in which you reside, in which you have your principal place of business, or in the District of Columbia.

I hope the Civil Rights Division has been of some assistance to you in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Nelson D. Hemmilla", is written over the typed name and title. The signature is fluid and cursive.

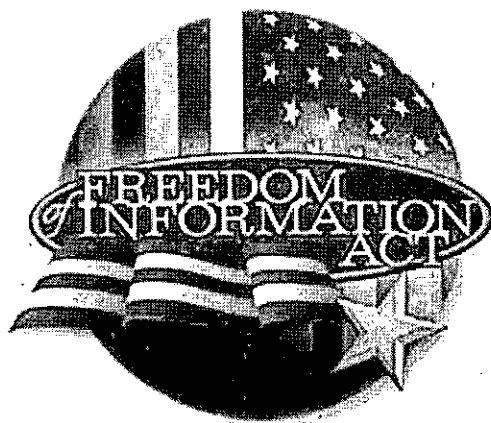
Nelson D. Hemmilla, Chief
Freedom of Information/Privacy Acts Branch
Civil Rights Division

FREEDOM OF INFORMATION AND PRIVACY ACTS

**SUBJECT: MANUAL OF INVESTIGATIVE
OPERATIONS AND GUIDELINES (MIOG)**

UPDATES

PART 1 VOL.1



FEDERAL BUREAU OF INVESTIGATION

**THE BEST COPY
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PART I



PART I

*Manual of
Investigative
Operations
and Guidelines*

Manual of Investigative Operations and Guidelines

Part I

MANUAL OF INVESTIGATIVE OPERATIONS AND GUIDELINESPART IVOLUME ITABLE OF CONTENTSSECTION

12-8 & 12-9	DRUGS
36	MAIL FRAUD
44	CIVIL RIGHTS
46	FRAUD AGAINST THE GOVERNMENT, ET AL.; RENEGOTIATION ACT - CIVIL SUITS, ET AL.; FALSE CLAIMS - CIVIL SUITS
62	ADMINISTRATIVE INQUIRIES, ET AL.
77	BACKGROUND INVESTIGATIONS
137	INFORMANTS
139	INTERCEPTION OF COMMUNICATIONS
190	FREEDOM OF INFORMATION - PRIVACY ACTS
196	FRAUD BY WIRE
263	OFFICE OF PROFESSIONAL RESPONSIBILITY MATTER

PART I

SECTION 44. CIVIL RIGHTS

Item 1 - Title: Provide the full case title to include name of subject(s), victim(s), and complainant. In "Color of Law" cases, fully identify the rank/position of the subject and agency including city and state. If the victim is deceased, write "deceased" behind victim's name and place in parentheses. Thereafter, the classification and office of origin should be listed. The following is an example:

CAPTAIN JOHN DOE,
HUNT POLICE DEPARTMENT,
HUNT, NEW JERSEY;
MICHAEL SMITH (DECEASED) - VICTIM;
MARY SMITH - COMPLAINANT;
CIVIL RIGHTS
OO: NEWARK

Ensure any previous communications are referenced.

Item 2 - Office of Origin File Number: Self-explanatory.

Item 3 - Auxiliary Office File Number: To be completed when an auxiliary office initiates the case and submits the initial FD-610.

Item 4 - Initial/Supplemental Submission: Self-explanatory.

Item 5 - Matter Type: Check appropriate block(s) to best describe the type of case initiated. The type of matter is self-explanatory and has been set forth in such a manner as to best describe separate civil rights subprogram priorities. This format is also used to describe civil rights cases submitted to the DOJ.

Item 6 - Date of Incident: Self-explanatory. If the date of the alleged violation is unknown or ongoing (harassment, failure to take action, etc.), use the latest incident date.

Item 7 - Date of Complaint: This is the date that the complaint is received in the field office/resident agency.

Item 8 - Synopsis of Case: The synopsis should provide a concise summary of the allegation(s). Do not use such phrases as "See LHM" or "Details set forth."

Item 9 - Significant Case: Instructions are on the reverse of the FD-610. If the case is of such a nature that FBIHQ should expedite handling of this case, the "yes" block should be checked. Significant cases are those receiving extensive media attention, involving a prominent individual or extensive media attention, or involving an FBI employee as the subject or victim. Significant cases are also those wherein FBI investigation has determined the allegations to be serious and substantial thus warranting a full investigation. When prosecution becomes imminent, FBIHQ should be advised promptly and a supplemental FD-610 would be submitted designating the case "significant." If there is a question as to whether a case is "significant," contact the CRU, FBIHQ, to resolve the issue.

A "Remarks/Administrative" Section is provided at the bottom of the FD-610 and should be utilized to advise FBIHQ of unusual or administrative matters.

PART I

SECTION 44. CIVIL RIGHTS

(3) It is important to observe that, on occasion, damage or defacement of religious property resulting in a loss of less than \$10,000 may not suffice to violate Subsection (a)(1) but nevertheless may violate Subsection (a)(2) (e.g., a synagogue spray-painted with anti-Semitic threats, not simply slurs or epithets, apparently directed at a particular person or group in order to intimidate them in the exercise of their religion).]

[[44-1.8] Title 42, U.S. Code, Section 1973i - Voting Rights Act of 1965

Section 1973i provides that no person acting under color of law, shall fail or refuse to permit any person to vote who is entitled to vote, nor shall they willfully fail or refuse to give effect to such person's vote. This section also prohibits intimidation of or attempts to intimidate persons for voting or urging or aiding others to vote. Alleged violations of this statute having racial aspects are handled under the 44 classification. They are to be captioned, "Civil Rights - Voting Laws." Other alleged violations of Title 42, Section 1973 are handled under the 56 classification and are captioned "Election Laws."

[[44-1.9] Title 42, U.S. Code, Section 1973dd - Overseas Citizens Voting Rights Act of 1975

This Act applies to all Federal elections held on or after January 1, 1976. It provides rights for citizens residing overseas to register and vote in the state where they were last domiciled. The Act relates to any Federal election, provided the voter meets all qualifications for voting in the state in which he/she was last domiciled.

PART I

SECTION 44. CIVIL RIGHTS

44-1 STATUTES

The Civil Rights statutes covered under Section 44 of this manual are as follows:

- (1) Title 18, § 241, USC, Conspiracy Against Rights
- (2) Title 18, § 242, USC, Deprivation of Rights Under Color of Law
- (3) Title 18, § 243, USC, Exclusion of Jurors on Account of Race or Color
- (4) Title 18, § 244, USC, Discrimination Against a Person Wearing Uniform of Armed Forces
- (5) Title 18, § 245, USC, Federally Protected Activities
- (6) Title 18, § 246, USC, Deprivation of Relief Benefits
- (7) Title 18, § 247, USC, Damage to Religious Property; Obstruction of Persons in the Free Exercise of Religious Beliefs.
- (8) Title 42, § 1973i, USC, Voting Rights Act of 1965
- (9) Title 42, § 1973dd, USC, Overseas Citizens Voting Rights Act of 1975

The Civil Rights Program consists of the following classifications: 44 Civil Rights; 50 Involuntary Servitude and Slavery; 173 Civil Rights Act of 1964; 177 Discrimination in Housing; 189 Equal Credit Opportunity Act; 204 Federal Revenue Sharing; 214 Civil Rights of Institutionalized Persons Act.

44-1.1 Title 18, U.S. Code, Section 241 - Conspiracy Against Rights

This statute makes it unlawful for two or more persons to conspire to injure, oppress, threaten, or intimidate any [inhabitant of any State, Territory or District] in the free exercise or enjoyment of any right or privilege secured to him/her by the Constitution or the laws of the United States, or because of his/her having exercised the same. It further makes it unlawful for two or more persons to go in disguise on the highway or on the premises of another with the intent to prevent or hinder his/her free exercise or enjoyment of any rights so secured. Among the rights secured from interference by private individuals over the years by the courts which have described them as basic substantive rights of Federal citizenship are the following:

- (1) The rights enumerated under the Homestead laws
- (2) The right to vote in a Federal election
- (3) The right of a voter in Federal elections to have his/her ballot fairly counted
- (4) The right to be free from violence while in Federal custody
- (5) The right to assemble and petition the Federal Government
- (6) The right to testify in Federal courts

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- (7) The right to inform a Federal officer of a violation of Federal law
- (8) The right to furnish military supplies to the Federal Government for defense purposes
- (9) The right to enforce a decree of a Federal court by contempt proceedings
- (10) The right of a Federal officer not to be interfered with in the performance of his/her duties
- (11) The right to be free to perform a duty imposed by the Federal Constitution
- (12) The right to travel freely from one state to another

In addition to the above rights, the United States Supreme Court in United States v. Price, 383 US 787 (1966), held that where state participation was involved in the conspiracy, Section 241 covers those rights secured under the 14th Amendment to the U.S. Constitution, which include protection against state action depriving any person of life, liberty, and property without due process of law.

44-1.2 Title 18, U.S. Code, Section 242 - Deprivation of Rights Under Color of Law

(1) This statute makes it a crime for any person acting under color of law, statute, ordinance, regulation, or custom to willfully deprive or cause to be deprived from any inhabitant those rights, privileges, or immunities secured or protected by the Constitution and laws of the United States. This law further prohibits a person acting under color of law, statute, ordinance, regulation or custom to willfully subject or cause to be subjected any inhabitant to different punishments, pains, or penalties, than those prescribed for punishment of citizens on account of such inhabitant being an alien or by reason of his/her color or his/her race. [The Department of Justice (DOJ) has advised that case law defines inhabitant as a person whose mere transitory or momentary presence within the United States, its possessions or territories, either legally or illegally is sufficient to bring that person within the jurisdiction of this section. Acts under "color of any law" include acts not only done by Federal, state, or local officials within the bounds or limits of their lawful authority (law, statute, ordinance, regulation, or custom), but also acts done without and beyond the bounds of their lawful authority; provided that, in order for unlawful acts of any official to be done under "color of any law," the unlawful acts must be done while such official is purporting or pretending to act in the performance of his/her official duties. A private citizen, who is a willful participant with Federal, state or local officials in the commission of "color of law" violations, may also be charged with violation of Title 18, USC, § 242.]

44-1.3 Title 18, U.S. Code, Section 243 - Exclusion of Jurors on Account of Race or Color

This statute holds that no citizen possessing all other qualifications which are or may be prescribed by law shall be disqualified for service as grand or petit jurors in any court of the United States, or any state on account of race, color or previous condition of servitude. It is also a crime for any officer or other person charged with any duty in the selection or summoning of jurors to exclude or fail to summon any citizen for such cause.

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44-1.4 Title 18, U.S. Code, Section 244 - Discrimination Against Persons Wearing Uniform of Armed Forces

This statute makes it a crime for anyone being a proprietor, manager, or employee of a theater or other public place of entertainment or amusement in the District of Columbia, or in any Territory, or Possession of the United States to cause any person wearing the uniform of any of the armed forces of the United States to be discriminated against because of that uniform.

44-1.5 Title 18, U.S. Code, Section 245 - Federally Protected Activities

(1) Prohibits willful injury, intimidation, or interference, or attempt to do so, by force or threat of force of any person or class of persons because of their activity as:

(a) A voter, or person qualifying to vote, a candidate campaigning for elective office, a poll watcher, or an election official in any primary, special, or general election which includes all local, state and Federal elections;

(b) A participant in, or a person enjoying, any benefit, service, privilege, program, facility, or activity provided or administered by the United States;

(c) An applicant for Federal employment or an employee of the Federal Government;

(d) A juror or prospective juror in a Federal court; or

(e) Participant in, or a person enjoying the benefits of, any program or activity receiving Federal financial assistance.

(2) Prohibits willful injury, intimidation, or interference or attempt to do so, by force or threat of force of any person because of race, color, religion, or national origin and because of his/her activity as:

(a) A student or applicant for admission to any public school or public college;

(b) A participant in, or a person enjoying, any benefit, service, privilege, program, facility, or activity provided or administered by a state or local government;

(c) An applicant for private or state employment or a private or state employee; a member or applicant for membership in any labor organization or hiring hall; or an applicant for employment through any employment agency, labor organization or hiring hall;

(d) A juror or prospective juror in a state court;

(e) A traveler or user of any facility of interstate commerce or common carrier; or

(f) A patron of any public accommodation including hotels, motels, restaurants, lunchrooms, bars, gas stations, theaters, arenas, amusement parks, or any other establishment which serves the public and which is principally engaged in selling food or beverages for consumption on the premises.

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(3) Prohibits interference by force or threat of force against any person because he/she is or has been, or in order to intimidate such person or any other person or class of persons from participating or affording others the opportunity or protection to so participate, or lawfully aiding or encouraging other persons to participate in any of the benefits or activities listed in items (1) and (2), above without discrimination as to race, color, religion, or national origin.

(4) Section 245 is applicable to any person or class of person whether or not they acted under color of law. Section 245 specifically provides that no prosecution of any offense described therein shall be undertaken except upon written certification of the Attorney General that prosecution by the United States is in the public interest and necessary to secure substantial justice.

(5) It is noted that Section 245 applies when force and/or violence is utilized within the context of the above statute. When a violation of Section 245 occurs, criminal penalties attach. Those portions of the above-described statute applying to items (1) (b) and (c) and (2) (a), (b), (c), (e), and (f) are investigated as a violation of the Civil Rights Act of 1964, classification 173, when allegations are of a nonviolent and/or discriminatory nature. Violations of statutes which apply under the 173 classification carry civil rather than criminal penalties. (See Section 173 of this manual for appropriate instructions.)

44-1.6 Title 18, U.S. Code, Section 246 - Deprivation of Relief Benefits

Section 246 provides that no person shall directly or indirectly deprive, attempt to deprive, or threaten to deprive any person of any employment, position, work, compensation, or any other benefit provided for or made possible in whole or in part by any Act of Congress appropriating funds for work relief or relief purposes, on account of political affiliation, race, color, sex, religion, or national origin.

44-1.7 [Title 18, U.S. Code, Section 247 - Damage to Religious Property; Obstruction of Persons in the Free Exercise of Religious Beliefs

(1) The statute proscribes two distinct types of conduct: Subsection (a)(1) prohibits intentional damage to, or attempts to damage, religious real property; Subsection (a)(2) prohibits intentional obstruction, or attempted obstruction, by force or threat of force, of any person's free exercise of religious beliefs, without regard to damage to religious real property.

(2) Both subsections establish as a jurisdictional prerequisite the requirement that, in committing the crime, the defendant either travel in interstate or foreign commerce or use a facility or instrumentality of foreign commerce. It is not sufficient that a facility or instrumentality of interstate or foreign commerce be used; such a facility must, in addition, be itself in interstate or foreign commerce. Subsection (a)(1) sets forth an additional jurisdictional prerequisite for a violation of that subsection only, namely, that the loss caused by the defacement, damage, or destruction exceed \$10,000.

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(3) It is important to observe that, on occasion, damage or defacement of religious property resulting in a loss of less than \$10,000 may not suffice to violate Subsection (a)(1) but nevertheless may violate Subsection (a)(2) (e.g., a synagogue spray-painted with anti-Semitic threats, not simply slurs or epithets, apparently directed at a particular person or group in order to intimidate them in the exercise of their religion).]

[[44-1.8] Title 42, U.S. Code, Section 1973i - Voting Rights Act of 1965

Section 1973i provides that no person acting under color of law, shall fail or refuse to permit any person to vote who is entitled to vote, nor shall they willfully fail or refuse to give effect to such person's vote. This section also prohibits intimidation of or attempts to intimidate persons for voting or urging or aiding others to vote. Alleged violations of this statute having racial aspects are handled under the 44 classification. They are to be captioned, "Civil Rights - Voting Laws." Other alleged violations of Title 42, Section 1973 are handled under the 56 classification and are captioned "Election Laws."

[[44-1.9] Title 42, U.S. Code, Section 1973dd - Overseas Citizens Voting Rights Act of 1975

This Act applies to all Federal elections held on or after January 1, 1976. It provides rights for citizens residing overseas to register and vote in the state where they were last domiciled. The Act relates to any Federal election, provided the voter meets all qualifications for voting in the state in which he/she was last domiciled.

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44-2 TIME UTILIZATION RECORDKEEPING (TURK) DESIGNATION IN 44 MATTERS44-2.1 44A Investigations

Any allegation of a violation of Title 18, USC, §§ 241, 242, 243, 244, 245 and 246 involving the use of force and/or violence is to be handled as a 44A matter.

44-2.2 44B Investigations

Any allegation of a violation of Title 18, USC, §§ 241, 242, 243, 244, 245 and 246 which does not involve the use of force or violence is to be handled as a 44B matter.

44-2.3 44C Investigations

Any allegation of a violation of Title 42, USC, §§ 1973i or 1973dc is to be handled as a 44C matter.

44-3 HANDLING OF CIVIL RIGHTS COMPLAINTS - INITIATION OF CIVIL RIGHTS INVESTIGATIONS44-3.1] Initiation of [Civil Rights] Investigation

The following circumstances [represent examples of situations in which a civil rights investigation should be initiated:]

(1) Upon receipt of [a civil rights allegation from a complainant or victim not known to be unreliable.]

(2) Upon receipt of a written request from the Civil Rights Division (CRD), Department of Justice (DOJ), [which is transmitted via FBIHQ. The United States Attorney] (USA) does not have the authority to advise a field office to discontinue investigation specifically requested by the [DOJ.] Any questions regarding the deletion of any portion of a [DOJ] request must be promptly resolved with FBIHQ.]

(3) Upon receipt of a [request from a USA.] If the field office believes the USA's request is not warranted and cannot resolve this with the USA, [promptly] advise the Civil Rights Unit [(CRU), Criminal Investigative Division (CID),] FBIHQ.

(4) Upon receipt of [specific] information [appearing in] the legitimate news media reporting [apparent violation(s) of civil rights statutes.]

(5) [Upon receipt of a civil rights complaint alleging a "Color of Law" violation (Title 18, USC, § 242) from any source not known to be unreliable. The FBI has investigative jurisdiction for any civil rights complaint against any Federal, state, or local law enforcement officials. Upon receipt of a Civil Rights complaint involving allegations against personnel of a Federal law enforcement agency, obtain initial facts of the complaint from complainant, victim or other original source and advise FBIHQ. Conduct no further investigation unless specifically instructed to do so by FBIHQ. The complaint will then be discussed by FBIHQ with the CRD, DOJ, for a determination as to whether the Department will request a criminal civil rights investigation by the FBI or whether the CRD, DOJ, will decline criminal prosecution in favor of an administrative inquiry. Civil Rights allegations against any Federal law enforcement agency official should be promptly brought to the attention of the CRU, FBIHQ. "Color of Law" can also apply to nonlaw

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enforcement officials who have lawful authority due to their position, such as mayor, councilman, tax collector, proprietor of a nursing home, security guard, etc., and who are likewise bound by laws, statutes, ordinances, regulations or customs. Law enforcement personnel are therefore only a few of the "officials" who act under color of law. "Color of Law" is further defined in Section 44-1.2.

(6) Upon receipt of a complaint involving civil rights allegations against FBI personnel, the following procedures are to be followed:

(a) Advise the CRU, CID, and the Office of Professional Responsibility (OPR), Inspection Division (INSD), by telephone, followed by appropriate communications so that FBIHQ may furnish appropriate guidance. The CRU will coordinate with OPR and other FBIHQ components and advise the SAC concerning the proper handling of the matter;

(b) If a civil rights complaint arises during an administrative inquiry, the pertinent administrative inquiry relating only to the civil rights allegation must stop in order to resolve any criminal violations. That portion of the administrative inquiry may not resume until authorized by FBIHQ.

(c) OPR, INSD, and CRU, CID, will coordinate the presentation of the facts of the allegations to OPR, DOJ, and the CRD, DOJ, to determine if a criminal investigation is warranted. If no criminal investigation is warranted, the matter will be administratively handled by OPR, INSD. If CRD, DOJ requests a criminal civil rights investigation, the CRU, FBIHQ, will advise the SAC to initiate an investigation which should be reported to FBIHQ pursuant to the existing provisions of this section of the manual unless advised to the contrary by FBIHQ.

44-3.2 Special Circumstances in Which Investigation May Not Be Required

The following circumstances, not all inclusive, represent examples of situations where investigation should not be initiated:

(1) Upon receipt of information involving mass demonstrations, such as riots, marches, parades, student demonstrations, and major confrontations between local law enforcement officers and groups of persons, immediately advise FBIHQ of the details pursuant to instructions set forth in Part I, Section 157 of this manual entitled "Civil Unrest." Furnish the Civil Rights Unit, FBIHQ with a copy of any "Civil Unrest" communications which contain information indicating possible civil rights interest.

(2) It is not necessary to initiate a civil rights investigation upon receipt of a letter from a Federal or state prison inmate unless specific criteria are met. Pursuant to an agreement between FBIHQ and DOJ, the following specific criteria have been established and must be met prior to initiation of a civil rights investigation based on an inmate letter alleging brutality:

(a) The complainant is the victim or someone with first-hand knowledge of the incident;

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(b) The complainant indicates the kind of injuries sustained as well as whether the injuries required medical treatment; and

(c) Names of witnesses provided.

These criteria do not include death cases and only apply to written complaints from inmates of Federal and state prisons. This policy does not apply to prison inmate letters from lesser facilities (i.e., city or county jails). If all of the above criteria are not satisfied, a letter should be directed to the writer requesting the necessary information. If the writer does not respond or the information furnished still does not meet the criteria, conduct no further investigation. The letter(s) should be indexed and filed in the field office 44-0 file, or a control file.

(3) Each field office is also authorized to place letters in an appropriate "0" or control file if the writer is obviously mentally deranged and makes no legitimate civil rights complaint, or if the writer makes no specific civil rights complaint. Letters which contain a questionable or borderline civil rights complaint should continue to be resolved by sending a letter to the writer requesting additional specific information. If the information thereafter does not indicate a civil rights violation, there is no need to forward the letter(s) to FBIHQ; however, they must be properly indexed and filed in the field office. Letters which allege a pattern of violations, or which are submitted by a legitimate civil rights organization but do not contain sufficient predicate information, should be referred to FBIHQ.]

44-4 INVESTIGATIVE PROCEDURE - 44A MATTERS - FORCE AND/OR VIOLENCE

44-4.1 [Initial Investigation]

(1) Interview the victim(s) and/or complainant(s) for full details of allegation(s). As a part of each interview, secure the identity of [subject(s) and] witness(s) to the incident. [Have victim execute a medical release form (FD-465)] if injuries sustained were treated by a physician or if victim required hospitalization. Advise victim that information furnished may be used in court of law. [See Section 44-10.6(9) regarding the need for signed statements.]

(2) Observe, describe, and photograph, in color, any complaint-related injuries visible on body(s) of victim(s) at the time of interview. If victim's wounds are bandaged, determine whether the bandages can be removed so that the victim's wounds can be photographed. If the bandages can safely be removed, photograph the unbandaged wounds. If the bandages cannot be safely removed, photograph the bandaged wounds. [Photographs made available from other sources may be used if the authenticity of the photographs can be established and used for court purposes.]

(3) At the outset of any Civil Rights investigation involving a possible "Color of Law" violation (Title 18, USC, § 242), the responsible head or appropriate official of the agency or institution involved is to be notified of the initiation of the investigation. This includes all local, state and Federal agencies and institutions. Do not furnish the identity of the complainant to [this official] or any person outside of the FBI or DOJ.

(4) Obtain copies of all police reports relevant to the incident under investigation [with the exception of Internal Affairs reports. Internal Affairs reports are only collected as part of a "Substantial Case" (see Section 44-4.2(4)) and are not collected as part of the "Initial Investigation." A cover FD-302 should be prepared identifying the source of these records and date obtained. Ensure copies of records are readable.

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Determine what criminal and judicial action has been taken or is contemplated by authorities against victim(s) and subject(s). Conduct appropriate criminal record checks for each victim and subject. An inquiry with the state computerized law enforcement system is normally sufficient. In death cases, obtain a copy of the report of the autopsy if conducted, or coroner's report. Do not delay completion of investigation awaiting these reports but show in your report what steps have been taken to obtain relevant records.

(5) Obtain copies of any medical records relating to treatment received by each victim for injuries allegedly sustained at the hands of subject(s). Some hospitals and doctors may require a release (FD-465) signed by victim or a subpoena before making records available. If a subpoena is necessary, obtain the name of the person for whom a subpoena duces tecum should be issued. An FD-302 should be prepared identifying the source of these records and date obtained. Ensure copies of these records are readable.

(6) Conduct field office indices search and set out information regarding other civil rights allegation(s) made against each subject. Also, conduct an indices search regarding victim(s) and summarize information contained in field office file(s).

At this point, a 44A case may be closed when, in the opinion of the SAC, the investigation establishes that the totality of the circumstances indicates that the case is not of a serious or substantial nature and therefore does not warrant further investigation. Furnish results of investigation to FBIHQ for transmittal to the DOJ. (See Section 44-5 for reporting guidelines.)

44-4.2 Additional Investigation Required - Substantial Case

If the case is determined to be serious and substantial in nature, conduct the following additional investigation:

(1) Interview each subject for full details of the incident. As a part of each interview, secure the identity of witnesses. Obtain a complete physical description and background for each subject during interview or from police records. (See Section 44-10.6(9) regarding the need for signed statements.)

(2) Interview all or a sufficient number of witnesses to fully develop the facts of the case. Identity of witnesses may be obtained from subject(s), victim(s), or police reports. Obtain and document the names and addresses of all witnesses who were not interviewed during the investigation. As a part of the interview with each witness, obtain full name, address, telephone number, employment, race, sex, date of birth and social security number. Advise witnesses that information furnished may be used in a court of law.

(3) Identify and interview all physicians and other medical and paramedical personnel who treated each victim for injuries allegedly sustained at the hands of subject(s), including the ambulance attendants who transported victim(s) to the hospital, the hospital admission clerks, orderlies, and the nurses involved in the treatment of victim(s). In the interviews with the doctors and other medical personnel also determine the following information: the severity of victim's injuries, whether victim's injuries could have been caused the way he/she or subject(s) claim, whether victim appeared intoxicated (especially if subject(s) claim the victim was), and whether victim was belligerent and/or unruly (especially if subject(s) claims he/she was). In death cases, interview the pathologist or medical examiner who performed the autopsy.

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(4) Contact appropriate officials at the subject officer's agency to obtain pertinent records, i.e., Internal Affairs Report, personnel file, etc., and any other complaint(s) against subject. It should be noted that the Supreme Court has held that a statement given by a public employee under an express threat of dismissal for failure to answer cannot constitutionally be used against the employee in a subsequent criminal proceeding (Garrity v. New Jersey, 385 US 493 (1967)). Furthermore, subsequent case law has held that the fruits of these statements are likewise not admissible. Accordingly, do not review any of these compelled subject statements but instead forward them to FBIHQ in a sealed envelope marked "potential Garrity statements enclosed." Upon receipt, CRU, FBIHQ will transmit the Garrity material to the DOJ where the report will be reviewed and any compelled subject statements will be removed before the entire investigative report is reviewed by the case Attorney at CRD, DOJ. The cover communication should also note that an Internal Affairs Report is enclosed and it may contain Garrity statements. If the subject officer consents to make such statements available, that fact should be recorded on an FD-302 and it should also be noted in the administrative section of the report.

(5) Where there are conflicts as to the facts, attempt to resolve same. For example, if there is a conflict in the sequence of events, inspect and copy records, such as police logs, tape-recorded radio transmissions, or hospital admission records, that would help resolve the conflict.

(6) Describe the scene of the incident; where appropriate, supplement description with photographs or a diagram.

(7) After completion of the investigation, advise the USA of the results and ask USA if further investigation is warranted. Regardless of the USA's answer, submit report of investigation completed. If USA requests further investigation, conduct whatever investigation USA requests as long as such requests are reasonable and pertinent to the case. If a problem arises with a request of this nature, handle pursuant to instructions set forth in 44-3.1(3) of this manual. The results of this investigation should be furnished in an investigative report supplementing the initial report. When the USA states that the investigation is adequate, request the USA to furnish an opinion as to the prosecutive merit of the matter. Do not delay the submission of any report pending a prosecutive opinion by the USA. USA's prosecutive opinion can be furnished in a supplementary report.]

44-5 REPORTING GUIDELINES - 44A MATTERS

44-5.1 Submission of FD-610

[The FD-610 is to be submitted to FBIHQ within five workdays of the receipt of the complaint pursuant to instructions set forth under Section 44-10.1.

44-5.2 Format of 44A Investigative Report

(1) All investigative activity is to be reported utilizing the FD-263 cover page, the FD-204 synopsis page, FD-302s and investigative inserts. Do not use an LHM unless specifically authorized by FBIHQ. All investigative activity is to be completed and reported within 21 workdays of receipt of complaint. These cases are to be given prompt, preferred, and continuous attention and handled in an impartial manner by mature Agent(s).

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(2) Reports are to be organized in a logical progression. A Table of Contents should be utilized in order to assist review of the investigation by the case Agent, Field Supervisor, Civil Rights Unit, FBIHQ, and DOJ Attorneys. Civil Rights reports should be organized as follows:

(a) Complete the FD-263 and set forth the identity of the responsible head or appropriate official of the agency or institution involved who was advised of the initiation of a Civil Rights investigation under the Administrative Section of the form. Ensure date of this notification is included.

(b) Complete the FD-204 including a detailed synopsis which succinctly sets forth the investigative content of the report. Do not use phrases such as "interview set forth" or "details set forth" in the synopsis.

(c) Predication paragraph is to follow as the first item under "Details" of the report. The predication must contain a brief statement as to the basis for the case being opened.

(d) Interview(s) of victim(s) is to be set forth on an FD-302(s).

(e) Photographs of victim's injuries not submitted to FBIHQ for developing are to be made part of the report and should be handled as enclosures to the report. Observations relative to injuries, photographed or not photographed, are to be recorded on an FD-302.

(f) When necessary, a diagram of the scene where the incident occurred should be made a part of the report.

(g) Interview(s) of witness(s) is to be set forth on FD-302(s) or investigative insert(s). See also Section 44-10.6(9).

(h) Interview(s) of subject(s) is to be set forth on FD-302(s). See also Section 44-10.6(9).

(i) Police records of less than ten (10) pages are to be included as pages in the report. Records of ten (10) or more pages are to be made enclosures to the report. An FD-302 is to be prepared containing the source of these records and date obtained. Ensure these records are readable. Summarize contents of police records in an FD-302 if they are not readable.

(j) Medical records of less than ten (10) pages are to be included as pages in the report. Records of ten (10) or more pages are to be made enclosures to the report. An FD-302 is to be prepared containing the source of these records and date obtained. Ensure these records are readable. Summarize contents of medical records in an FD-302 if they are not readable.

(k) Interviews of medical personnel are to be set forth on FD-302s.

(l) Prior arrest records of subject(s) and/or victim(s) are to be made pages in the report and/or set forth on an investigative insert. The source(s) of these records and date obtained are to be set forth on an investigative insert.

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(m) Results of the field office file review; USA's opinion; SAC's authority to close the case; and list of subject(s) and victim(s) addresses are to be set forth on an investigative insert(s) which normally appears at the end of the report. With respect to the notification list, the CRD, DOJ has established a procedure by which subject law enforcement agency officers, victims and complainants are notified by letter of the DOJ's decision to close Civil Rights cases after reviewing FBI reports. To assist the DOJ in notifying subject(s), victim(s), and complainant(s), a list of the subject(s), victim(s), and complainant(s), along with addresses where they may be notified is to be clearly set forth on the last page of a report. If during the course of the investigation, the head or other appropriate official of the subject officer's department or agency specifically requests to be notified, that specific request should be noted in the details of your report on the last page. Clearly state that this official specifically desires departmental notification. Without this statement the DOJ will not advise the official. Set forth the name and title of the appropriate official and the address to which notification may be sent.

(n) Three copies of each report and three copies of report enclosures are to be submitted to FBIHQ. One copy of report and enclosures is to be forwarded to the USA.]

44-6 INVESTIGATIVE PROCEDURE - 44B MATTERS - NONBRUTALITY

(1) Interview complainant and/or victim(s) if readily available. Secure same information as set forth under[44-4.1(1)]during interview.

(2) Where appropriate to round out the investigation, check police records, office indices, court records, institution records and any other records pertinent to the case.

(3) Examples of nonbrutality allegations are as follows:

- (a) Unlawful arrest or detention
- (b) Unlawful search or seizure
- (c) Police harassment or abuse of power

(d) Failure of any public official to take official action. This involves cases in which a public official, who is a witness to, or cognizant of, a deprivation of civil rights of an individual, such as an assault upon that individual, fails to take appropriate action to protect that individual's person or rights.

(e) Deprivation of civil rights in connection with trial, conviction, or sentence. Includes allegations of improper extradition procedures.

(f) Deprivations relating to or growing out of treatment of incarcerated persons or concerning administration of prisons or jails.

(g) Alleged unlawful deprivation of property by purported action of any public agency. Involves cases relative to imposition of zoning restrictions on property, exercise of eminent domain without due process of law, and like situations.

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44-7 REPORTING OF INVESTIGATION - 44B MATTERS44-7.1 Submission of FD-610

[The FD-610 is to be submitted [to FBIHQ within five workdays of the receipt of the complaint pursuant to instructions set forth in Section 44-10.1.]

44-7.2 Format of 44B Investigative Report

(1) Any matter which contains extensive investigation is to be reported in the same manner as a 44A case. Instructions relating to 44A case reports are set forth under [44-5.2](1) and (2).

(2) All other investigation may be reported by LHM. The LHM must contain a comprehensive description of the investigation conducted. Any FD-302s, investigative inserts, and records of less than ten (10) pages should be appropriately designated as pages in the LHM. Large numbers (over 10 pages) of reproduced records are to be forwarded as enclosures to the LHM.

(3) When an LHM is submitted in a 44B matter, furnish FBIHQ with the original and two (2) copies of the LHM. Furnish local USA with one (1) copy of the LHM.

44-8 INVESTIGATIVE PROCEDURE - 44C MATTERS - VOTING LAWS

(1) Any allegation of a violation of Title 42, USC, § 1973i (Voting Rights Act of 1965) or § 1973dd (Overseas Citizens Voting Rights Act of 1975) involving the use of force or violence is to be investigated in the same manner as a 44A case.

(2) Any allegation of a violation of Title 42, USC, § 1973i (Voting Rights Act of 1965) or § 1973dd (Overseas Citizens Voting Rights Act of 1975) which does not involve the use of force or violence is to be investigated in the same manner as a 44B case.

(3) Agents are not to be assigned to "police" elections or act as observers at the polls. If a request is received for this type of activity, immediately advise the appropriate local and/or state officials, the USA, and FBIHQ of the receipt of the request. The board of election commissioners, all appropriate local law enforcement officials, the USA and FBIHQ are to be informed of any report received in regard to anticipated disturbances at the polls. The LHM or report submitted should show the notification to the outside agencies specifically identifying agency and official notified, as well as date and time notified.

[(4) [DOJ] has advised that in order to fulfill its mandate, there may be instances where it would be most efficient and/or necessary for the FBI to perform related investigations in the vicinity of the open polls. Such requests, however, should be immediately brought to the attention of [CRU,] FBIHQ, and will be approved only on the instructions of the DOJ. Once approved, it must be realized that the potential for misunderstanding of the purpose of the FBI's inquiry(s) requires that every effort be made to limit the investigation to only what is absolutely necessary to meet the objective(s) identified by the DOJ. Agents will not enter the polls, or conduct any investigation inside any facility in which the polls are located.

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(5) Investigations conducted under Title 42, USC, § 1973i, (Voting Rights Act of 1965) are generally civil in nature. Therefore, unless the DOJ advises the investigation under Title 42 is criminal in nature, the FBI is required under the Privacy Act of 1974 to furnish each individual interviewed with a statement that describes certain provisions of the Privacy Act (set forth in Form FD-496). Form FD-496 should be the only [Privacy Act form] used in civil rights investigations. The FD-302 used to report results of these interviews should clearly state that the interviewee was furnished a copy of this statement. All other interviewees (third party sources), when feasible, should be apprised of the purpose for which the information is sought and how it will be used. See Part I, 190-7 of this manual for details regarding express promise of confidentiality made to a third party source.

44-9 REPORTING OF INVESTIGATION - 44C MATTERS

(1) 44C matters alleging use of force or violence are to be reported in the same manner as a 44A case.

(2) 44C matters which do not allege use of force or violence are to be reported in the same manner as a 44B case.

[44-10 ADMINISTRATIVE INSTRUCTIONS[44-10.1 Submission of the FD-610

(1) The purpose of the FD-610 is to promptly provide FBIHQ with a complete set of pertinent facts for each civil rights case investigated by the FBI (Classifications 44, 50, 173, 177, 189, 204, and 214). "Purpose" and "Instructions" are also listed on the reverse side of the FD-610. Data contained on the form is entered directly into a computer which assists in a more effective, efficient, and economical management of the Civil Rights program by FBIHQ and the field. Field divisions may request that FBIHQ provide information/analysis based on data provided from the FD-610.

(2) Initial Submission. Instructions are set forth on the reverse of the FD-610. Upon receipt of a complaint or request for investigation which requires the initiation of a civil rights case, the initial FD-610 must be submitted within five (5) workdays. Every effort should be made to complete items (1-9) on the FD-610. If the complaint is received by an auxiliary office, the auxiliary office should obtain sufficient facts to submit the initial FD-610 to FBIHQ with two (2) copies also being sent to the office of origin.

(3) Supplemental Submission. Instructions are set forth on the reverse of the FD-610. A supplemental FD-610 should be submitted whenever the field office determines that additional information should be submitted to FBIHQ. This may include information which was not known previously, was previously omitted, or was previously incorrectly reported. When submitting a supplemental FD-610, provide data only for those items requiring a change.

(4) The following sets forth specific instructions regarding completion of items 1 through 9 of the FD-610:

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SECTION 44. CIVIL RIGHTS

44-10.2 Deadlines

Investigations are to be given prompt, preferred, and continuous attention and handled in an impartial manner by mature Agents. Deadlines have been established primarily to limit the time period that an allegation against a police officer remains unresolved. Investigations are not to be conducted with local law enforcement officers and are to be independently conducted by the FBI. Investigations of all civil rights cases are to be reported to FBIHQ in accordance with the following deadlines:

(1) FD-610 - Upon receipt of a complaint, the receiving office must submit the FD-610 within five (5) workdays. In those instances where FBIHQ is advised by telephone or teletype of a new case, the FD-610 still must be submitted within five (5) workdays of the receipt of the complaint.

(2) 44A - Substantial Case - Upon receipt of a complaint that initiates a 44A case, and the investigation has determined the matter is substantial, complete investigation and mail the report to FBIHQ within twenty-one (21) workdays. If the investigation cannot be completed and a "Closing" report mailed on or before the expiration of 21 workdays then mail an initial "Pending" report within the 21-workday deadline and follow with a final report within 21 workdays of the initial report. For further instructions regarding complex investigations, see the last paragraph in this section.

(3) 44A - Nonsubstantial Case - Upon receipt of a complaint that initiates a 44A case and investigation determined the matter was not substantial, submit completed investigation by report mailed within 21 workdays.

(4) Upon receipt of a complaint that initiates a 44B case, submit completed investigation by report/LHM mailed within 21 workdays.

(5) Upon receipt of a complaint that initiates a 44C case, submit completed investigation by report/LHM mailed within 21 workdays.

Initial deadlines are established utilizing the date of receipt of the complaint which should be noted on the FD-610. Deadlines for subsequent reports are based on the date of the previous communication. Under normal conditions, 44B and 44C matters should be completely resolved and reported within 21 workdays. In 44A cases, every effort should be made to complete the investigation and submit the report within 21 workdays. If the investigation is not completed within that time frame, a pending report should be submitted and contain at a minimum, the complainant and/or the victim interview(s), and the police incident report. In a case in which investigation will be extensive and cannot be completed and mailed within 21 workdays, the field office should advise FBIHQ of the investigative steps to be pursued and, UACB, the date the results will be furnished to FBIHQ.

44-10.3 Procedures when Local, State, or Federal Agencies are Investigating Same Incident

From time to time questions have arisen concerning the procedures to be followed by the FBI in conducting investigations of alleged violations of criminal Civil Rights statutes when local or state agencies are simultaneously conducting an investigation of the same incident. Departmental policy in such circumstances is as follows:

PART I

SECTION 44. CIVIL RIGHTS

(1) Upon receipt of information by the FBI sufficient to justify initiation of a Civil Rights investigation, an investigation should be conducted regardless of the fact that a local or state investigation of the same incident is also being conducted. If, during the course of the FBI's investigation, state or local criminal charges arising out of the incident are filed against the subject(s), the FBI's investigation should be suspended and the USA and FBIHQ should be notified of the nature of the criminal charges and the likely timetable for prosecution of such charges. In all other situations, the investigation should continue to completion.

(2) Exceptions to this procedure may be necessary on infrequent occasions. Authority should be sought from FBIHQ on such occasions before discontinuing the investigation in the absence of filing of state or local criminal charges against the subject(s).

44-10.4 Subpoena Matters

Upon receipt of a subpoena for Agent's testimony, production of material or disclosure of information pertaining to a pending or closed Civil Rights investigation, the following procedures must be followed:

(1) Promptly notify the USA for the district in which the demand arose. The USA is under obligation to immediately contact the Deputy Assistant Attorney General, CRD, DOJ, for referral to the appropriate Section Chief for review of the information for which disclosure is sought.

(2) Notify FBIHQ, Attention: Civil Rights Unit, Criminal Investigative Division, by appropriate communication (i.e., teletype, telephone, or airtel) of receipt of the subpoena, the results of your contact with the USA and all pertinent factors you believe appropriate for consideration in reaching a resolution to the demand. The above information will be forwarded to the CRD, DOJ for its final determination of action to be taken in response to the demand. CRD, DOJ will generally notify the concerned USA directly of its decision concerning the subpoena and advise FBIHQ of its instructions to the USA. FBIHQ will then advise the concerned field office of this information. The original and one copy of the airtel with three copies of the subpoena must be provided to FBIHQ.

(3) In all instances, keep FBIHQ advised of all developments concerning each subpoena.

(4) No release of information should be made without FBIHQ and DOJ authority.

44-10.5 Assignment of Special Agents to Civil Rights Investigations

Situations may dictate that certain FBI Agents not be assigned civil rights cases. Those situations are as follows:

(1) Special Agents who are former police officers, when the subject(s) is a law enforcement officer;

(2) Special Agents who have close relatives in the agency involved;

(3) Special Agents who have close working or personal relationship with the officers who are the subjects of a civil rights investigation;

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(4) Special Agents who have a close working relationship with the specific law enforcement agency involved and a question of propriety may be involved; and,

(5) Special Agents assigned to a Resident Agency who fall into categories (1), (2), (3), or (4). Resident Agents may conduct the initial interview of the victim(s) and/or complainant(s) and obtain records for any 44 case in their territory. Unless unusual circumstances exist, Resident Agents may be assigned to 44B and 44C cases involving agencies in their territory.

Special Agents falling into the above categories can be assigned to investigate all other matters within the Civil Rights program such as voting, housing and the Civil Rights Act of 1964. They can also assist in noninterview assignments in police misconduct cases by conducting police record checks, obtaining medical records, and/or court documents.

44-10.6 Miscellaneous

(1) Promptly advise FBIHQ of any imminent prosecution, criticism, controversy, or extensive publicity arising in connection with Civil Rights cases.

(2) If victim or complainant indicated he/she is in fear for his/her life or safety, ensure that the appropriate local authorities are advised without revealing the source of the complaint. This notification should be documented in the field office file and should be provided to FBIHQ only when a civil rights case is initiated.

(3) If victim(s) or witnesses are confined to hospitals or institutions and cannot be interviewed except in the presence of those charged with their custody, interviews should not be conducted and FBIHQ should be advised of such information.

(4) A subject, victim, or other witness may refuse to be interviewed except in the presence of his/her attorney. The SAC may authorize an interview of this nature if, in the opinion of the SAC, such an interview is necessary.

(5) Obtain FBIHQ authority prior to contacting a judge or a judicial officer in a civil or criminal action to determine disposition of a matter which may be pending before the court. Advise FBIHQ precisely why such information cannot be obtained from sources other than the court or judicial officer and furnish recommendation of SAC as to whether or not a particular judge should be interviewed. This information will be conveyed to the DOJ for review. Upon receipt of DOJ approval, the field division will be notified by FBIHQ. This course of action is necessary inasmuch as the CRD, DOJ, prosecutes the majority of civil rights cases and has supervisory responsibility for almost all criminal civil rights prosecutions. Therefore, the DOJ must be made aware of such contacts.

(6) In certain urgent situations the auxiliary office receiving a civil rights complaint should notify FBIHQ and the office of origin by teletype and/or telephone prior to submission of the FD-610. The auxiliary office should forward the victim/complainant interview, FD-302s, inserts, or other pertinent information to the office of origin within ten (10) workdays. If the investigation in the auxiliary office is extensive and such that the information cannot be furnished to the office of origin in ten workdays, mail

PART I

SECTION 44. CIVIL RIGHTS

the details of the original complaint (victim/complainant interview) within 10 workdays and mail the remainder within 21 workdays. In those instances where the office of origin has a civil rights case initiated by an auxiliary office, the office of origin should still mail a complete investigative report to FBIHQ within 21 workdays.

(7) No arrests are to be made or complaints filed without prior CRU, FBIHQ notification.

(8) When exhibits, including photographs, are obtained, furnish one copy to the USA and three copies to FBIHQ. Field offices should keep one copy of the exhibit for their files, including photograph negatives.

(9) Interviews of victims, subjects, and witnesses should be reduced to a signed statement only in the following instances:

(a) Upon specific instructions from FBIHQ.

(b) Upon specific request of USA.

(c) Upon specific request of DOJ.

(d) When deemed appropriate by the Special Agent during the course of the interview.

Interviews should be conducted even though a person declines to furnish a signed statement. If the interviewee is requested to provide a signed statement and declines, note this in the FD-302.

44-11 PENALTIES

(1) Title 18, USC, § 241 - maximum of \$10,000 and/or not more than 10 years. If death results, any term of years or for life.

(2) Title 18, USC, § 242 - maximum of \$1,000 and/or not more than 1 year and if bodily injury results, fined and/or not more than 10 years. If death results, any term of years or for life.

(3) Title 18, USC, § 243 - maximum of \$5,000 fine.

(4) Title 18, USC, § 244 - maximum of \$500 fine.

(5) Title 18, USC, § 245 - maximum of \$1,000 and/or not more than 1 year. If bodily injury results, maximum of \$10,000 and/or not more than 10 years. If death results, any term of years or for life.

(6) Title 18, USC, § 246 - maximum of \$10,000 and/or not more than 1 year.

(7) Title 18, USC, § 247 - if death results, a fine in accordance with this title and imprisonment for any term of years or for life, or both; if serious bodily injury results, a fine in accordance with this title and imprisonment for not more than 10 years, or both; and in any other case, a fine in accordance with this title and imprisonment for not more than 1 year or both.

PART I

SECTION 44. CIVIL RIGHTS

[(8) Title 42, USC, § 1973i - maximum of \$10,000 and/or not more than 5 years.

[(9) Title 42, USC, § 1973dd - maximum of \$5,000 and/or not more than 5 years.

44-12

CHARACTER - CIVIL RIGHTS; CIVIL RIGHTS - VOTING LAWS

RECORD NO. 14-1678

**IN THE
UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

Doris Holt, et al.,

Plaintiffs-Appellants

v.

Horry County, South Carolina, et al.,

Defendants-Appellees

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Michael G. Sribnick, M.D., J.D., LLC
3 Kenilworth Avenue
Charleston, S.C. 29403
Phone: (843) 789-3504
Fax: (843) 789-3504
Email: michael.g.sribnickmdjdllc@gmail.com



AFFIDAVIT OF IRENE SANTACROCE

PERSONALLY APPEARED BEFORE ME, Irene Santacroce, who being duly sworn, deposes and says as follows:

1. I am over eighteen years of age and am qualified to testify.
2. The information in this declaration is true and correct and based on my personal knowledge.
3. I became the Corporate Secretary of Southern Holdings, Inc., (“Southern”) in December of 1999.
4. Prior to becoming the corporate secretary of Southern I was Property Manager for a conglomerate of time share resort properties for a period of twenty four years and as such put together budgets and handled every aspect of property management.
5. As part of my responsibilities with Southern I maintained shareholder records, handled shareholder relations and maintained and distributed the corporate board minutes and corporate books.
6. As part of my responsibilities with Southern I was assembling Southern corporate records in preparation for an upcoming SEC required audit as



Southern was in the process of acquiring a publicly traded company headquartered in Las Vegas, Nevada. At that time I was assisting our CPA who was also located in Las Vegas, Nevada.

7. My father, John Santacroce, was a member of the Southern Board of Directors and was a retired New York City Police Detective. He was awarded the Gold Shield, and had thirty six years of investigative law enforcement experience.
8. In 1999 I was asked to assist my father in reviewing and confirming the money flows between the banks, tobacco companies, purchasers, distributors and Ivestra, S.A., ("Ivestra") from the records of Ivestra and the records of the former CEO of Ivestra, Mr. Roy Sheriff.
9. My review of the books of account and other materials confirmed that Ivestra, was involved in the smuggling of finished tobacco products financed by and for the benefit of Saudi charities including Al-Haramain Islamic Foundation (AHIF) and the World Assembly for Muslim Youth (WAMY).
10. According to Ivestra's records, Mohamed Abed Abdel Aal and Mohammed Jamal Khalifa provided instructions to Roy Sheriff regarding the distribution of funds from the profits of the smuggling and directing them to various banks including, but not limited to, Interbank Aruba, Al Rajhi, HSBC and NationsBank.



11. The Ivestra records I reviewed documented that funding for the purchase of tobacco for the smuggling activities was originally arranged through an individual named Turki al-Faisal in conjunction with the R.J. Reynolds tobacco company.
12. I was both aware of and supported the decision of the Southern Board of Directors to sell Ivestra due to the illegal smuggling of tobacco products, gold and arms that was being conducted through Ivestra.
13. As part of my father's recommendation to sell Ivestra and report these activities to the authorities, Southern had its legal representative firm from South America, Bentata and Associates, contact Interpol, the United States Bureau of Alcohol, Tobacco and Firearms and Venezuelan law enforcement Authorities and provide them the corporate records of the evidence of the smuggling of tobacco products, gold and firearms.
14. I was on the telephone call with the CEO James Spencer when he made the call to the law firm referred to above. I took notes as to the documentation they requested for presentation to the authorities, and both packaged and mailed the information out to the law firm.
15. I was aware that Ancil Garvin and David Smith, who were members of the Southern Board of Directors, wanted to maintain these business dealings with Ivestra and Roy Sheriff. They made their position clear at a June 1999



Board of Directors meeting I attended at Murrells Inlet, South Carolina. Subsequently, I supported the request for them to resign from the Board when the decision was made to sever these business ties and sell Ivestra.

16. My support of the dismantling of the smuggling operations and the reporting that I did of the smuggling that was being carried out by Ivestra resulted in physical assaults and death threats against my child and me.
17. I filed police complaints on the threats and physical assault with the Horry County police department, and the South Carolina law Enforcement Division (“SLED”) and the FBI, but to the best of my knowledge the reports were never investigated.
18. I worked with Haywood Starling the long term head of the North Carolina State Bureau of Investigation in putting together evidentiary information for criminal complaints made to the authorities including SLED the FBI and the Horry County Police Department.
19. Mr. Starling had me review a copy of a Police Videotape recorded at the scene of the August 6, 2000 felony traffic stop of the CEO of Southern. I identified an individual disguised as a police officer in the video as the individual who tried to run my ten year old daughter and me off a bridge into the inland waterway.



20. On July 13, 2004, I supplied records of the smuggling operations and the documentation of the civil rights violations complained of to Assistant United States Attorney ("AUSA") Marshall Prince and FBI SA Andrew T. Hildreth at the United States Attorney's office in Columbia, SC.
21. Included in the documents presented at the meeting on July 13, 2004 I presented documented evidence of Mr. Starling's meeting with FBI SA Phil Celestini at which a complaint was filed for the criminal use of the FBI-NCIC system along with Mr. Starling's affidavit of his investigation confirming the evidence of the criminal use of the FBI-NCIC system.
22. The daylong meeting was also attended by eight other victims of the civil rights violations under color of law. Statements were taken from all the attendees. AUSA Prince stated he was going to personally make sure that this investigation moved forward after the meeting.
23. AUSA Prince gave me his personal cell telephone number and told me he was personally going to assign FBI SA Paul Gardner and FBI SA Andrew Hildreth to handle this case and work with him to bring criminal charges.
24. Approximately one year later I was told by FBI SA Paul Gardner that my civil rights complaints were turned down by the Civil Rights committee at the FBI Headquarters in Washington, DC because of both statute of



limitations problems and that the FBI had exceeded its quota of civil rights cases for that calendar year.

25. When I called AUSA Prince on his personal cell phone immediately after I was told this by Mr. Gardner, he told me he could not talk to me as he was on vacation playing tennis.

26. AUSA Prince and Mr. Gardner never returned my phone calls or emails after that point in time. (See attached attempt at communications.)

27. In November of 2005 when I requested the return of the records that I had submitted to the FBI to document my complaint, I was told there was no documentation of there ever being any investigation or any record of my complaint with the FBI and, therefore, there were no records to return as there were no records of the FBI ever receiving any such documents or accounting records from me. (See attached FBI correspondence.)

AFFIANT SAYETH FURTHER NAUGHT.


Irene Santacroce

SWORN TO ME this 20th Day of July, 2015.

By: 

Notary Public for South Carolina

My Commission Expires:

My Commission Expires December 14, 2019



FIRST EXHIBIT**Page 1 of 3**

Irene Santacroce
205 Deer Trace Circle
Myrtle Beach, SC 29588

July 23, 2005

SA Paul Gardner
Federal Bureau of Investigation
PO Box 7553
Myrtle Beach, SC 29572
Via Fax: 843-449-2588

Dear Agent Gardner,

Based on our telephone conversation on July 22, 2005, please mail and fax the following information to me:


1. The title and mailing address of the committee that made the recommendation not to prosecute.
2. The name, title, telephone number and mailing address of the chairperson of that committee.
3. The names, titles, telephone numbers and mailing addresses of the individual members of the committee.
4. The contact information for the section in the Office of the Inspector General that reviews FBI decisions in this regard.

Your claim that the statute of limitations runs out on August 6, 2005 for the illegal actions committed by the police and their associates is in error. The applicable RICO statute and other criminal statutes do not appear to run out on that date. The RICO statute of limitations alone runs from the last documented Predicate Act as defined by the RICO statute.

In that regard, acts of perjury were committed during defendants' testimony during the summer of 2004. The evidence in our possession concerning this is irrefutable and the false testimony was both cover-up related and could not have been made in error.

To expedite matters please fax the requested information to me locally at 448-5412.

Thank you very much for your assistance in this matter.

Sincerely,

Irene Santacroce

Cc:
ADA Marshal Prince



Print - Close Window **FIRST EXHIBIT**

Irene Santacroce

Page 3 of 3

205 Deer Trace Circle

Myrtle Beach, SC 29588

July 23, 2005

SA Paul Gardner

Federal Bureau of Investigation

PO Box 7553

Myrtle Beach, SC 29572

Via Fax: 843-449-2588

Dear Agent Gardner,

Based on our telephone conversation on July 22, 2005, please mail and fax the following information to me:

1. The title and mailing address of the committee that made the recommendation not to prosecute.
2. The name, title, telephone number and mailing address of the chairperson of that committee.
3. The names, titles, telephone numbers and mailing addresses of the individual members of the committee.
4. The contact information for the section in the Office of the Inspector General that reviews FBI and DOJ decisions in this regard.

Your claim that the statute of limitations runs out on August 6, 2005 for the illegal actions committed by the police and their associates is in error. The applicable RICO statute and other criminal statutes do not appear to run out on that date. The RICO statute of limitations alone runs from the last documented "Predicate Act" which is defined in the RICO statute.

In that regard, defendants, including law enforcement officers committed unquestionable acts of perjury during testimony given in **South Carolina Federal District Court**, during the summer of 2004. The evidence in our possession concerning this is irrefutable and the false testimony was both cover-up related and could not have been made in error. Perjury is defined as a "Predicate Act."

To expedite matters please fax the requested information to me locally at 448-5412.

Thank you very much for your assistance in this matter.

Sincerely,

Irene Santacroce

Cc:

Honorable Lindsey Graham, United States Senator, SC

Honorable Howard Coble, United State Congressman, NC

110

United States ADA Marshal Prince, SC

Center for Legal Reform

United Church of Christ

Former Police Officer Rodney Lail

Tammy Lail

Marguerite Stephens

Ricky Stephens

Doris Holt

Nicholas C. Williamson

J. B. Spencer

SECOND EXHIBIT

**Irene Santacroce
205 Deer Trace Circle
Myrtle Beach, SC 29588**

Page 1 of 2

October 28, 2005

FBI Headquarters
FOIPA - Section
Federal Bureau of Investigation/Department of Justice
935 Pennsylvania Avenue, NW
Washington, DC 20535-0001

Re: FREEDOM OF INFORMATION ACT REQUEST

Dear Sir or Madam:

Under the authority of the Freedom of Information Act and any and all other Federal or State laws that may be applicable, I hereby request copies of the following information in the possession of the FBI and/or the Justice Department:

- 1.) Any and all material, in any form, related to any and all, "Investigative Matters" and/or other matters concerning and/or initiated by **Irene Santacroce, Social Security Number [REDACTED]**, for the period from January 1, 2000 to October 25, 2005.
- 2.) Any and all documents that may have been generated internally and/or externally from any source including directly or indirectly by the FBI concerning **Irene Santacroce, Social Security Number [REDACTED]** and any derivative thereof for the period from January 1, 2000 to October 25, 2005.

This information includes, but is not limited to photographic, written, audio and video recordings, computer generated reports or notes, and data files, relating to any and all the above matters. This request also covers e-mail and any and all tape recordings and notes that were sent back and forth between parties both within and external to the Federal Bureau of Investigation and the Justice Department.

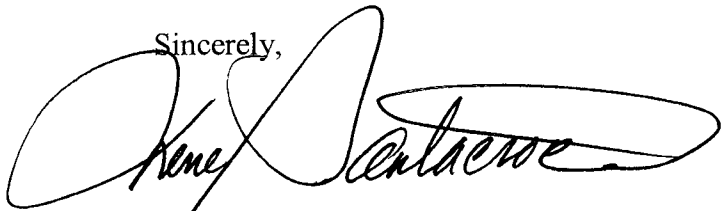
The time period covered by this request is from January 1, 2000, to October 25, 2005, also includes any and all communications, notes, recordings made concerning this request. Please expedite sending this information to the address listed on the letterhead above.

Thank you very much for your timely response.

SECOND EXHIBIT

Page 2 of 2

Sincerely,



Irene Santacroce

Cc:

John Rakowsky, Esquire

Ronald Serota, Esquire

Irene Santacroce appeared before me
and executed this letter on this date:

Sworn before me in the state of
South Carolina, in the county
of Horry

On this the 28th day of October 2005.

Yamale C. Faid

Notary Public for the state of South Carolina

My Commission Expires 23 May 2013.



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535

November 22, 2005

MS IRENE SANTACROCE
205 DEER TRACE CIRCLE
MYRTLE BEACH, SC 29588

Request No.: 1033399- 000
Subject: SANTACROCE, IRENE

Dear Ms. Santacroce:

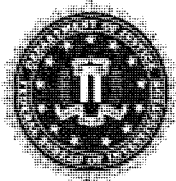
- This acknowledges receipt of your Freedom of Information-Privacy Acts (FOIPA) request to the FBI. The FOIPA number listed above has been assigned to your request.
- For an accurate search of our records, please provide the complete name, alias, date and place of birth for the subject of your request. Any other specific data you could provide such as prior addresses, or employment information would also be helpful. If your subject is deceased, please include date and proof of death.
- To make sure information about you is not released to someone else, we require your notarized signature or, in place of a notarized signature, a declaration pursuant to Title 28, United States Code 1746. For your convenience, the reverse side of this letter contains a form which may be used for this purpose.
- If you want the FBI's Criminal Justice Information System (CJIS) to perform a search for your arrest record, please follow the enclosed instructions in Attorney General Order 556-73. You must submit fingerprint impressions so a comparison can be made with the records kept by CJIS. This is to make sure your information is not released to an unauthorized person.
- We are searching the indices to our central records system at FBI Headquarters for the information you requested, and will inform you of the results as soon as possible.
- Processing delays have been caused by the large number of requests received by the FOIPA. We will process your request(s) as soon as possible.

Your request has been assigned the number indicated above. Please use this number in all correspondence with us. Your patience is appreciated.

Sincerely yours,

A handwritten signature in black ink, appearing to read "D. Hardy", is written below the text "Sincerely yours,".

David M. Hardy
Section Chief,
Record/Information
Dissemination Section
Records Management Division



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535

November 30, 2005

MS IRENE SANTACROCE
205 DEER TRACE CIRCLE
MYRTLE BEACH, SC 29588

Request No.: 1033399- 000
Subject: SANTACROCE, IRENE

Dear Ms. Santacroce:

This is in response to your Freedom of Information-Privacy Acts (FOIPA) request noted above.

To promptly respond to requests, we concentrate on identifying main files in the Central Records System at FBI Headquarters. No records responsive to your FOIPA request were located by a search of the automated and manual indices.

You may file an administrative appeal by writing to the Co-Director, Office of Information and Privacy, United States Department of Justice, Flag Building, Suite 570, Washington, D.C. 20530, within sixty days from receipt of this letter. The envelope and the letter should be clearly marked "Freedom of Information Appeal" or "Information Appeal." Please cite the FOIPA number assigned to your request so that it may be easily identified.

Sincerely yours,

A handwritten signature in black ink, appearing to read "D. Hardy", is positioned below the closing.

David M. Hardy
Section Chief,
Record/Information
Dissemination Section
Records Management Division

Enclosure

RECORD NO. 14-1678

**IN THE
UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

Doris Holt, et al.,

Plaintiffs-Appellants

v.

Horry County, South Carolina, et al.,

Defendants-Appellees

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Michael G. Sribnick, M.D., J.D., LLC
3 Kenilworth Avenue
Charleston, S.C. 29403
Phone: (843) 789-3504
Fax: (843) 789-3504
Email: michael.g.sribnickmdjdlc@gmail.com

AFFIDAVIT OF TAMALA C. LAIL

PERSONALLY APPEARED BEFORE ME, Tamala C. Lail, who being duly sworn, deposes and says as follows:

1. I am over eighteen years of age and am qualified to testify.
2. The information in this declaration is true and correct and based on my personal knowledge.
3. I became the Corporate Treasurer of Southern Holdings, Inc., ("Southern") as a result of the acquisition of LCTC, Inc., in 1999 by Southern.
4. I have been an accountant and auditor for various organizations for the past 26 years.
5. As part of my responsibilities as an accountant and auditor with Southern I reviewed the accounting records of Ivestra, S.A. ("Ivestra") in 1999.
6. I was asked in 1999 to review and confirm the money flows between the banks, tobacco companies, purchasers, distributors and Ivestra, from the records of Ivestra and the records of the former CEO of Ivestra, Mr. Roy Sheriff.

7. My review of the books of account and other materials confirmed that Ivestra was involved in the smuggling of finished tobacco products financed by and for the benefit of Saudi charities including Al-Haramain Islamic Foundation (AHIF) and the World Assembly for Muslim Youth (WAMY).
8. According to Ivestra records, Mohamed AbedAbdelAal and Mohammed Jamal Khalifa were sending instructions to Roy Sheriff regarding the distribution of funds from the profits of the smuggling and directing them to various banks including, but not limited to, NationsBank, Interbank Aruba, Al Rajhi, and HSBC.
9. The Ivestra records I reviewed documented that funding for smuggling activities was originally arranged through a Saudi named Turki al-Faisal in conjunction with the R.J. Reynolds tobacco company.
10. I was both aware of and supported the decision of the Southern Board of Directors to sell Ivestra due to the illegal smuggling of tobacco products, gold and arms that was being conducted through Ivestra.
11. I was aware that Ancil Garvin and David Smith, both members of the Board of Directors of Southern, wanted to maintain these business ties with Ivestra and Roy Sheriff and were forced out of the company when the decision was made to sever these business ties and sell Ivestra.

12. My support of the dismantling of the smuggling operations resulted in physical assaults and death threats against my children and my family.
13. My pregnant daughter Cortney Zilonka was physically assaulted by Appellee Ancil Garvin at a company store, located at Broadway at the Beach, in Myrtle Beach, SC, after he resigned from Southern. My two minor children, Brittany and Keith, and I were physically assaulted in a vehicle driven by Appellee Harold Hartness on HWY 17 in the state of South Carolina, after my husband and I received a death threat in the mail that was forensically tied to Appellee Garvin.
14. My husband, who was a decorated seventeen year law enforcement officer, and I filed police reports with the Horry County Police, and criminal complaints with SLED and the FBI.
15. During July of 2003 I met with United States Senator Lindsay Graham's staff in Washington, D.C. along with my husband and seven other constituents. At that meeting we explained in detail the lack of response to all of our civil rights complaints that we had filed with the FBI in South Carolina at its offices including Myrtle Beach, Columbia and Florence.
16. On July 13, 2004, I attended a day long meeting at the United States Attorney's office with Assistant United States Attorney Marshal Prince and FBI SA Andy Hildreth. During the meeting we both filed complaints related

to the civil rights crimes and the mail threats and I turned over the records I had regarding the civil rights crimes and Ivestra smuggling operations that Ancil Garvin admitted to being a participant in.

17.I was told by SA Paul Gardner that my civil rights complaints were turned down by the Civil Rights committee at the FBI Headquarters in Washington, DC because of both statute of limitations problems and that the FBI had exceeded its quota of civil rights cases for that calendar year.

18.When I requested the return of the records in November of 2005 that I had submitted to the FBI, I was told there was no documentation of there ever being any investigation or record of a complaint with the FBI and, therefore, there were no records to return.

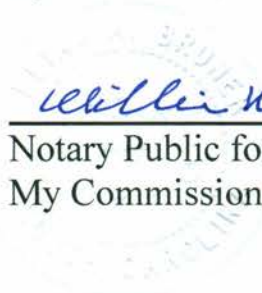
AFFIANT SAYETH FURTHER NAUGHT.

Tamala C. Lail

Tamala C. Lail

SWORN TO ME this 18TH Day of July, 2015.

By:



William M. Bruner
Notary Public for South Carolina
My Commission Expires: 6/10/21

XL

afternoon of 10-13-04 DAC gets et. order & instructions from Maj. Keel to get tapes to Colo. FBI office in 2 days.

morning of 10-14-04 DAC speaks w/ Joe Edison at Colo FBI 551-4303 who says call Vince Flamini at Florence R.A. [REDACTED]

morning of 10-14 DAC calls Flamini who says he'll be in Colo on 15th & get the tapes.

morning of 10-15 Flamini says he doesn't think he needs 'em & asked DAC to find someone who's familiar w/ case. DAC looks for Rubin who is in interview in D. Hunt Semler.

12:25 pm DAC calls Flamini who says "mail it to QT; I'll get you the address."

Joseph Edison
Femring™
estradiol acetate vaginal ring
0.05 mg/day, 0.10 mg/day
12-14-04

[REDACTED]

Florence R.A.
[REDACTED]

[REDACTED]

SOUTH CAROLINA LAW ENFORCEMENT DIVISION

NIKKI R. HALEY
Governor



MARK A. KEEL
Chief

July 10, 2013

Ms. Irene Santacroce
205 Deer Trace Circle
Myrtle Beach, SC 29588

RE: Freedom of Information Act Request #2015-0437
SLED Case No.: 33-04-0149

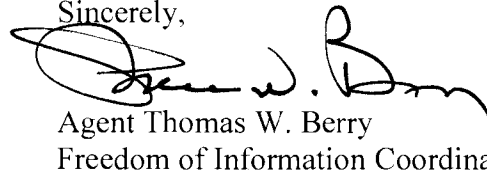
Dear Ms. Santacroce:

Pursuant to your letter of **June 19, 2015**, please find enclosed the case file information available to you under the Freedom of Information Act concerning the above referenced case.

Portions of this file were redacted based on the exemption found at S.C. Code Ann. Title 30-4-40 (a) (2).

If you have any questions or concerns, do not hesitate to contact me at (803) 896-7136 or via email at tberry@sled.sc.gov.

Sincerely,



Agent Thomas W. Berry
Freedom of Information Coordinator

CALEA

122



An Accredited Law Enforcement Agency

P.O. Box 21398 / Columbia, South Carolina 29221-1398 / (803) 737-9000 / Fax (803) 896-7588

U.S. POSTAGE PITNEY BOWES
ZIP 29169 \$001.20
02 1W
0001386805 JUL 13 2015



FIRS

State Law Enforcement Division
ATTN: Public Information
PO Box 21398
Columbia, SC 29221-1398

Ms. Irene Santacroce
205 Deer Trace Circle
Myrtle Beach, SC 29588

SOUTH CAROLINA LAW ENFORCEMENT DIVISION



EXHIBIT "F"

FACSIMILE

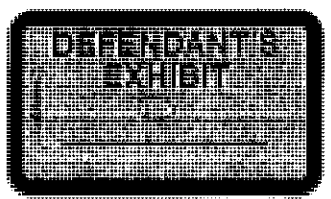
TO: MR. BEN BAROODY DATE: 2/23/05
PHONE: _____ FAX: (843) 664-0097 PAGE 1 OF 6 PAGES
FROM: LYNN - ADMIN ASST. PHONE: 896-7292 FAX: 896-7351

MESSAGE:
INFORMATION YOU REQUESTED PER YOUR CONVERSATION WITH CAPT. CALDWELL.

SOUTH CAROLINA LAW ENFORCEMENT DIVISION
PO BOX 21398
COLUMBIA, SC 29221-1398
(803) 737-9000

- HEADQUARTERS..... (803) 896-7041
- FORENSICS LAB..... (803) 896-7351
- NARCOTICS..... (803) 896-7192
- LOW COUNTRY REGION..... (843) 797-3662
- PIEDMONT REGION..... (864) 467-8121
- CJICS..... (803) 896-7022
- PEE DEE REGION..... (843) 662-5201
- MIDLANDS REGION..... (803) 896-7259
- REGULATORY..... (803) 896-7037

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CONFIDENTIALITY NOTICE

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SOUTH CAROLINA LAW ENFORCEMENT DIVISION



MARK SANFORD
Governor

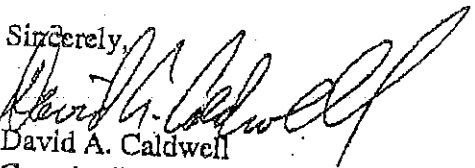
ROBERT M. STEWART
Chief

December 15, 2004

Mr. Kerry Haynes
FBI Engineering Research Facility
Investigative Technology Division
Building 27958-A
Quantico, Virginia 22135

Dear Mr. Haynes,

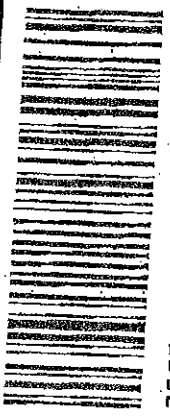
Judge R. Bryan Harwell of the U.S. District Court has ordered that SLED deliver to the FBI the three (3) enclosed VHS videotapes for the purpose of examination to determine if they have been altered or edited. The Columbia Field Office of the FBI advised SLED to mail them directly to your attention. A certified true copy of the Court Order is also enclosed. Questions regarding this matter should be directed to the Honorable R. Bryan Harwell.

Sincerely,

David A. Caldwell
Captain, Special Operations

DAC/tsr
Enclosures



U.S. POSTAL SERVICE
 POSTAGE WILL BE PAID BY ADDRESSEE
CERTIFIED MAIL



7099 3400 0011 5150 4959
 7099 3400 0011 5150 4959

U.S. Postal Service
CERTIFIED MAIL RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)


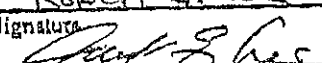
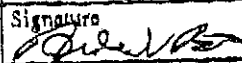
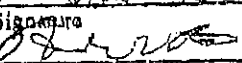
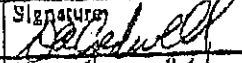

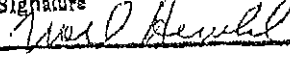
Article Sent To: _____

Postage	\$	Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	

Name (Please Print Clearly) (to be completed by mailer)
 Kerry Haynes Co. FBI-OT
 Street, Apt. No., or PO Box No.
 Building 27958-A
 City, State, ZIP+4
 Quantico Va. 22135

PS Form 3811, August 2001 See Reverse for Instructions

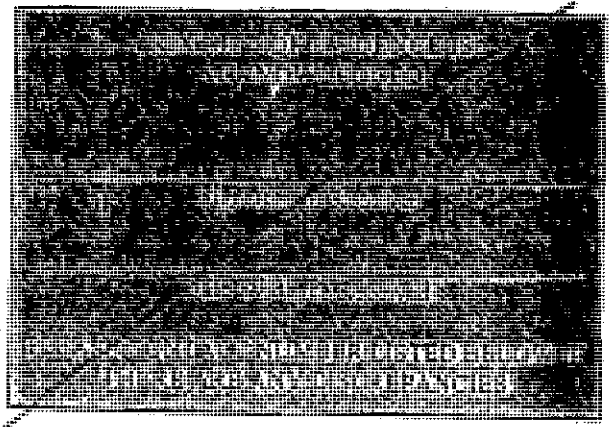
SENDER COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature X <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) C. Date of Delivery</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>
<p>1. Article Addressed to: Mr. Kerry Haynes FBI Engineering Research Facility Investigative Technology Division Building 27958-A Quantico Va. 22135</p>	<p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>
<p>2. Article Number (transfer from service label) 7099 3400 0011 5150 4959</p>	<p>4. Restricted Delivery¹ (Extra Fee) <input type="checkbox"/> Yes</p>

RECEIPT FOR PROPERTY		SLED CASE NUMBER		
I.C. LAW ENFORCEMENT DIVISION		LOCATION		
Name of Person Property is Obtained From <input type="checkbox"/> Owner <input checked="" type="checkbox"/> Other <u>Robert E. Lee</u>		Address (Includes Zip Code) <u>1816.5th St. Suite 401</u> <u>Florida 32901</u>		
Location of Property				
Purpose for Which Obtained <u>Sub. keep</u>				
Item Nr.	Quantity	DESCRIPTION OF ARTICLES		
	1	Video Tape		
	2	Video Tapes		
	2	Letter		
I Certify That I Have Received The Articles Listed Above				
Date <u>11-30-04</u>	Name <u>Andrew V. Betzel</u>	Signature 		
CHAIN OF CUSTODY				
ITEM NR.	DATE	RELINQUISHED BY	RECEIVED BY	PURPOSE OF CHANGE OF CUSTODY
	<u>11/30/04</u>	Name <u>Robert E. Lee</u> Signature 	Name <u>Andrew V. Betzel</u> Signature 	<u>Sub. keep</u>
	<u>11/30/04</u>	Name <u>Andrew V. Betzel</u> Signature 	Name <u>David A. Caldwell</u> Signature 	<u>For shipment to laboratory for examination</u>
		Name <u>David Caldwell</u> Signature 	Name <u>Noel Herold</u> Signature <u>NOEL HEROLD</u>	<u>EXAMINATION OF 3 VIDEO TAPES</u>
	<u>1/14/05</u>	Name <u>Noel Herold</u> Signature 	Name Signature	

7-252 (3-1-00)
ERF Shipping Invoice
FEDERAL BUREAU OF INVESTIGATION
BLDG. 27958A
QUANTICO, VA 22135

Date: 01/10/2005

To: Captain David A. Caldwell
Special operations % SLED
4400 Broad River Road
Columbia, South Carolina 29210
Phone: (803) 737-9000



If box is checked, complete box and return form

Invoice of Contents:
Three (3) VHS video cassette tapes (Q1 through Q3)

Note- Q1 through Q3 are original recordings
and are continuous (in the pertinent area)
except for Q3 and Q2 where the tape is
replaced with Q2 after Q3 runs out
- report to follow

Return to: Noel Herold
Phone: (703) 632-6190
Case ID No. 95A-HQ-1488276
Contributor No. 3304-0419
Lab No. 0412212S4 QE

Title: HORRY COUNTY POLICE
DEPARTMENT & HORRY COUNTY
SHERIFF'S OFFICE-SUBJECTS;
JAMES SPENCER - VICTIM;
ASSAULT

20

Shipping Number: _____
 Federal Express
 Other _____
Packaged by: DA

Personal pick up / delivery: Date: _____
Received from: _____
Unit: _____
Received by: _____
(Signature)
Printed name: _____
Agency: _____

SOUTH CAROLINA LAW ENFORCEMENT DIVISION

MARK SANFORD
Governor



ROBERT M. STEWART
Chief

January 21, 2005

Steve Cain
Forensic Tape Analysis, Inc.
6242 Jones Road
Burlington WI 53105

RE: James Brian Spencer, et al. vs. Horry County et al.

Dear Mr. Cain:

Enclosed please find the videotapes that James Saleeby, Jr. request I forward to you in the above referenced matter. The videotapes are in the original envelopes, sealed with evidence tape, the way I received them from the FBI. Also enclosed are the correspondence from Aiken, Bridges Attorneys at Law, and an Invoice from the FBI stating the videotapes are original recordings.

If I can be of any further assistance, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "David A. Caldwell /s/".

David A. Caldwell
Captain, Special Operations

DAC/lr

Enclosures



FedEx USA Airbill
 Express

841840126147

Plu #

From *Sender's name and address*
 Date 1-21-05 Sender's FedEx Account Number

Sender's Name CAPT. DAVID A. CALDWELL Phone (803) 896-7292

Company SLED

Address 4100 BROAD RIVER RD.

City COLUMBIA State SC ZIP 29221

Your Internal Billing Reference 99-308 APPEARAL

To Recipient's Name STEVE CAIN Phone ()

Company FORENSIC TAPE ANALYSIS, INC

Address *To "WORLDWIDE" as FedEx location, add FedEx 100033*

Address 6242 JONES ROAD

City BURLINGTON State WI ZIP 53105

Try online shipping at fedex.com

By using this Airbill you agree to the service conditions on the back of this Airbill and in our current Service Guide, including terms that limit our liability.

Questions? Visit our Web site at fedex.com or call 1.800.Go.FedEx 900.453.3330.

Sender's Copy

4a Express Package Service
 FedEx Priority Overnight FedEx Standard Overnight FedEx First Overnight
Next business day Next business day Next business day

FedEx 2Day FedEx Express Saver
Second business day Third business day

4b Express Freight Service
 FedEx 10Day Freight FedEx 2Day Freight FedEx 3Day Freight
Over business day Next business day Third business day

5 Packaging
 FedEx Envelope* FedEx Pak* Other
* Declared value limit \$500

6 Special Handling
 SATURDAY Delivery Available ONLY for FedEx Priority Overnight and FedEx 2Day to select ZIP codes
 HOLD Weekday at FedEx Location NOT Available for FedEx Priority Overnight
 HOLD Saturday at FedEx Location Available ONLY for FedEx Priority Overnight and FedEx 2Day to select ZIP codes
 Use this shipment unless otherwise specified. One box must be checked.
 No Yes (over 100 lbs) Yes (over 100 lbs) Dry Ice (Dry Ice, UN 1845)
Overweight codes including Dry Ice cannot be shipped in FedEx packages. Cargo Aircraft Only

7 Payment / Bill to:
 Sender Recipient Third Party Credit Card Cash/Check
 FedEx Acct. No. 2548-7671-2 Exp. Date
 Total Packages 1 Total Weight 5 Total Declared Value* .00
*Our liability is limited to \$100 unless you declare a higher value. See back for details. FedEx USA Only

8 Release Signature Sign to authorize delivery without signature and return to sender.
 By signing you authorize us to deliver this shipment without obtaining a signature and return to sender. Add us to your return list to avoid this.
 446
For this form, call 1.800.453.3330. ©2005 FedEx. PRINTED IN U.S.A. WPSL01

7-243 (Rev. 3-31-04)

EXHIBIT G Laboratory Main Document - Pages 42, 43 (Footnote #74) Chain-of-Custody Log

Laboratory No.: 041221254 Case ID No. (F) [REDACTED]

Container(s)	Received Via	Accepted By	Date	Contributor
1 ENV	Harold [Signature]	Eli [Signature]	12/21/04	Law Enforcement Div. Columbia, SC
	[Signature]	FSU	2:15pm	

Tracking No(s): Certified - 7099 3400 0011 5150 4959

Opened for Retrieval of Communication By: Eli [Signature] Date: 12/21/04

Shipping Container Damage

ECC Comments: _____

Container(s)	Delivered By	Accepted By	Date	Remarks
1 ENV	[Signature] ERF EVIDENCE STORAGE	[Signature]	12/21/04	
	FSU	SA	2:30pm	
1 ENV	ERF EVIDENCE STORAGE	Michael [Signature]	12/28/04	
	[Signature]	FAN/AW/QE	10 ³⁰ A	
Q1, Q2 & Q3 (3VHS TAPES)	Michael [Signature]	Brenda Brent	1/18/05	
	FAN/AW/QE	FSU	10 ³⁰ A	
2 env	Brenda Brent	Eli [Signature]	1/10/05	
	FSU	FSU	6:45AM	
1 Box	Eli [Signature]	Returned Via	1/10/05	
	FSU	Fed Ex	4:30pm	

FBI00000019

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**IN THE UNITED STATES DISTRICT COURT
FOR
THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION**

SOUTHERN HOLDINGS, INC.,)	CA. NO. 4:02-1859-RBH
ET AL.,)	
PLAINTIFFS,)	
)	
VERSUS)	
)	
HORRY COUNTY, ET AL.,)	
DEFENDANTS.)	

ELECTRONIC EXHIBIT - I
TRANSCRIPT
MICHAEL GILMORE

**(Interview with Michael Gilmore, Director of FBI
Laboratory Operations, including the
Forensic Video and Audio Analysis Sections at
Quantico, Virginia.)**

1 **06:14 - 07:15**

2 Interviewer: Is this Mr. Gilmore?

3 Gilmore: Yes, it is.

4 Interviewer: I'm doing some research into, ah, forensics.

5 Gilmore: Okay.

6 Interviewer: And I'm doing a little bit of a paper on a computer control system for receipt of
7 inventory and, basically, chain of custody logs. And so, I wanted to find out what
8 the FBI had in that regard. Are you computerized in the chain of custody log, or?

9 Gilmore: Ah, believe it or not, our chain of custodies are both a mixture of paper and
10 electronic records.

11 Interviewer: Okay. When something comes in, say to the -- it gets mailed into the, ah, --
12 FedEx'd or mailed into the lab, it's received at that point in time?

13 Gilmore: Yeah.

14 Interviewer: It doesn't arrive at the lab and sit there for four days.

15 Gilmore: Oh, no, no, no, no. No.

16 Interviewer: It, um, --

17 Gilmore: Once it's received, then they -- they immediately start the process of inventorying
18 and logging.

19 **10:11 - 13:07**

1 Interviewer: I was reading a DAL report saying that you guys were switching systems or
2 something and I took it that there was a mixture of a system down there, and say
3 it's submitted from a state agency to you all when it comes through FedEx and
4 then you receive it -- receive it, you x-ray it, take photographs of it, and then hold
5 it in evidence until the various departments come and receive it.

6 Gilmore: Exactly, exactly.

7 Interviewer: And, now, at what point -- at what point does -- or the computer...

8 Gilmore: Um, depends on the location. Some of our regional computer forensic labs are
9 actually using bar coding, so they'll bar code from the beginning and -- and it's an
10 electronic record from there on out.

11 Interviewer: Quantico. Would that -- that would be a regional lab, or?

12 Gilmore: Well, Quantico is a headquarters lab. It's not really a regional lab. The lab we
13 have at headquarters here -- and the reason I'm going through this is that we do
14 work from all over, so, although we're not a regional lab in the sense of our
15 regional computer forensic labs, which have other agencies in the lab that accept
16 work from anywhere.

17 Interviewer: Now, are you barcoded at the central lab?

18 Gilmore: No, not here.

19 Interviewer: So, so...

1 Gilmore: Here we are still using the paper chain of custody, although there is an electronic
2 record made. So, although the paper follows the item of evidence, there is an
3 electronic entry made into a data base system.

4 Interviewer: Into a data base system. How long has that been in effect?

5 Gilmore: Oh, that's been here for years and it's -- it's generically just called the Evidence
6 Control System.

7 Interviewer: And that ties to the paper system, then?

8 Gilmore: Yes, yep. So the electronic system is where you'll get the unique number.

9 Interviewer: So they assign, like, the -- you're

10 Gilmore: You'll get a unique lab number for each item.

11 Interviewer: And then that is put onto the paperwork system?

12 Gilmore: Right. It gets put onto the paperwork and that follows the item throughout the
13 whole process.

14 Interviewer: All right. And then like any stage with -- like, say it went to, um, -- let's see, I'm
15 looking at your video I026T. Say it goes to video analysis. It would go from -- it
16 would be picked up and then they -- they would enter it as being picked up into
17 the computer lab, and they'd use their paper lab. It would be kind of a redundant
18 system, then, wouldn't it?

19 Gilmore: Well, it wouldn't make a number of entries into the electronic system. All the --
20 all the tracking for us here at this location, after it's entered into the electronic

1 system, the transfers from individuals to individuals in the lab are then, ah,
2 documented on the paper.

3 Interviewer: So any time an individual touches it, it would be documented on the paper?

4 Gilmore: Right. It's on the paper, the chain of custody form.

5 **14:23 - 14:42**

6 Gilmore: All the -- all the tracking for us here at this location, after it's entered into the
7 electronic system, the transfers from individuals to individuals in the lab are then
8 documented on the paper.

9 Interviewer: So any time an individual touches it, it would be documented on the paper?

10 Gilmore: Right. It's on the paper, the chain of custody form.

11 **15:57 - 16:17**

12 Interviewer: Anything that comes in the package, no matter what it is, it would be -- whether
13 it's instructions or whatever, it would be assigned a number?

14 Gilmore: Yes, yep. They might get a number with an NE for not examined if it were just an
15 instruction book. Perhaps it came in with it because it was seized at the scene or
16 something like that.

17 **17:22 - 21:06**

18 Interviewer: Now, protocols. Is there a book of protocols for each specific science, or?

1 Gilmore: No, not for each science. There is an overall policy on evidence handling and
2 that's not set up by our division. That's actually set up by the Bureau's
3 Laboratory Division.

4 Interviewer: And how long is the -- the system for the handling of evidence been in effect
5 that's standard now?

6 Gilmore: Oh, my goodness. For years.

7 Interviewer: Since before -- since after 2000, or before 2000, or before that?

8 Gilmore: Oh, way before 2000. The chain of custody has been used for -- I don't even -- I
9 couldn't even guess when it began, but it's been ages.

10 Interviewer: You've been accredited with that course, the International Accreditation. I think
11 it came through in 2007 and before that you had the domestic course -- had the
12 Legacy -- excuse me. That's what they call the Legacy Program.

13 Gilmore: We were not accredited before then.

14 Interviewer: Okay. So that was when he first became accredited?

15 Gilmore: Right. Now, the laboratory division at the Bureau has been accredited for years
16 and that's the, ah, the other side of forensic science; chemistry, bio, finger prints,
17 all of that.

18 Interviewer: Okay. So...

19 Gilmore: Strictly on the digital and multimedia evidence side that -- those disciplines, or
20 that discipline, was not accredited prior to our receiving the accreditation.

1 Interviewer: Now, do you have, say, the forms you use, chain of custody and all that? Is that
2 anywhere online where I could...

3 Gilmore: No, it's not. Those are internal forms.

4 Interviewer: So you don't -- those are all made up internally, then?

5 Gilmore: Right.

6 Interviewer: So there's nothing I could access that could show me what a typical form looks
7 like?

8 Gilmore: No, but I can -- I can try to see if, you know, if it's all right for you to look at one.

9 Interviewer: That form has been standard for years I guess?

10 Gilmore: Yes.

11 Interviewer: Okay.

12 Gilmore: I mean, it's had its revisions over the years, but, yeah, it's a standard form.

13 Interviewer: Now, the chain of custody form actually starts at the -- at the --

14 Gilmore: Generally, in forensics, it starts at the door of the laboratory, but that doesn't
15 mean that, for example, if a investigator in the field actually sees the evidence on
16 scene, they may also start, and should start, a chain of custody form. But as far as
17 the laboratory is concerned, our chain of custody starts when it arrives at our door.
18 And the reason for that is we can't be responsible nor know what happened to that
19 before it hit our door. That's up to the submitting agency to track that. So, we
20 track it from the time it hits our door to the time it leaves our door again.

1 Interviewer: So, now, our door would be like receiving is what you're talking about?

2 Gilmore: That's right. Right. From the time the FedEx driver drops it at our front door
3 step, and obviously they drop it and we have to sign for it. It's not like they drop
4 it on a Saturday and it sits on the doorstep till Monday. It's signed for, but from
5 that point forward, that's when our chain of custody -- we take over and document
6 everything. But, let's say Virginia State Police is going to drop us something off.
7 They would have chain of custody documented for the time that they had it in
8 their care and custody.

9 Interviewer: Okay.

10 Gilmore: Every piece of evidence could have two different -- not different in the sense of,
11 two consecutive chain of custody forms or a tracking mechanism is what I'm
12 trying to say.

13 Interviewer: So they could actually send -- let's say they wanted you to know if they'd sent in
14 their package a chain of custody -- not chain -- yeah. They could send their own
15 chain of custody forms?

16 Gilmore: If -- if they sent it to us, we would just simply keep it as part of the admin
17 documentation.

18 Interviewer: Which would be?

19 Gilmore: But we would not add on to that.

20 22:54 - 23:00

1 Gilmore: Now, sometimes what they might do is they may actually bring it here and ask us
2 to sign their chain as having received it. We will do that.

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1 STATE OF SOUTH CAROLINA

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3 CERTIFICATE

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7 Be it known that I, Bonnie Davenport, a Professional Court Reporter and
8 Notary Public, did have digital telephone conversations presented to me on July 31, 2015 in
9 Cayce, South Carolina;

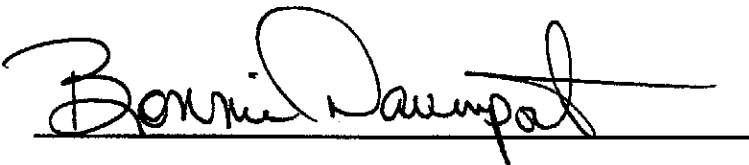
10 That the foregoing pages constitute a true and accurate transcription of the
11 recordings given at that time and place aforesaid to the best of my skill and ability;

12 I further certify that I am not counsel or kin to any of the parties to this cause of
13 action, nor am I interested in any matter of its outcome.

14 In Witness whereof, I have hereunto set my hand this 15th Day of August, 2015.

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18 _____

19 Bonnie Davenport

20 Notary Public For South Carolina

21 My Commission Expires February 1, 2018

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1 **01:08:27 – 01:13:14**

2

3 Charlie Peters: Evidence Control. Charlie speaking.

4 Interviewer: Hey, Charlie. Spencer here. I'm trying to decipher a code and I was
5 wondering if you could give me a hand. It's a case code, ah, 95A HQ, and
6 I know the 95A stands for priority local police department, correct?

7 Charlie Peters: Right.

8 Interviewer: And HQ, of course, is out of headquarters?

9 Charlie Peters: Right.

10 Interviewer: And then the rest of it's the case number. Now, that's assisting a local
11 police department in a priority, correct?

12 Charlie Peters: Right.

13 Interviewer: And HQ, of course, is out of Headquarters?

14 Charlie Peters: Right.

15 Interviewer: And then the rest of it's the case number. Now, that's assisting a local
16 police department in a priority case. A, um, but, -- now, the A stands for
17 priority, doesn't it? Like a murder, capital murder case, or something?

18 Charlie Peters: Oh, yes. Let's see. I've got the book here.

19 Interviewer: You've got the book there?

20 Charlie Peters: I think. (Inaudible). The 95A is crimes against persons.

21 Interviewer: 95A is crimes against persons?

22 Charlie Peters: Yeah, like murders and stuff like that, or rape. That's what that is. The B
23 is property cases, C is society, and D is civil cases.

24 Interviewer: So a 95D would be a civil case?

25 Charlie Peters: Right.

1 Interviewer: 'Cause D stands for civil case?

2 Charlie Peters: Yeah.

3 Interviewer: So now, again, A is like crimes against the individual?

4 Charlie Peters: Right.

5 Interviewer: Which is like rape or murder?

6 Charlie Peters: Right.

7 Interviewer: Ah, and B is?

8 Charlie Peters: Property.

9 Interviewer: Property damage or theft.

10 Charlie Peters: Right.

11 Interviewer: And C is?

12 Charlie Peters: Society, against.

13 Interviewer: But a 95D would be a civil case?

14 Charlie Peters: Right.

15 Interviewer: And the rest of the coding is, um, like HQ. What would that -- that come

16 from Headquarters?

17 Charlie Peters: Right. That is considered a Headquarters' entity, so that's why they put

18 HQ on it.

19 Interviewer: So since it's a headquarters lab, that's the one that's performing it, right?

20 Charlie Peters: No. That shows that the case -- that shows that the case originated here.

21 Interviewer: It originated at Quantico?

22 Charlie Peters: Right. So say, for instance, the Indianapolis Police D – Police Department

23 sends in a firearms for testing, or something like that, and it was a murder

24 case. That would be a 95A, um, that we'd originate here at the lab. That's

25 headquarters, yeah, the 95 is just reserved for us, basically.

1 Interviewer: Just reserved for Quantico?

2 Charlie Peters: The field -- the field does not use it.

3 Interviewer: All right. And the rest of the numbers are just randomly assigned?

4 Charlie Peters: Right.

5 Interviewer: By computers as they come in. Ah, that's what I needed to know. Ah,

6 and you're Charlie, and my name is Spencer. Jim is my first name,

7 Charlie, so. But you do all the coding at the HQ, or you guys do, right?

8 Charlie Peters: Well, except for the field cases 'cause it comes in with a number

9 on it already.

10 Interviewer: Right.

11 Charlie Peters: A file number. But all the new cases coming in here from anybody but the

12 FBI, and we don't get too many of them anymore. We get them from, you

13 know, the park service and DEA and that kind of stuff. But local

14 contributors is less and less all the time, so there's less and less 95s

15 being created.

16 Interviewer: Right, ah. Karen Lanning wouldn't be in today, would she?

17 Charlie Peters: No, she's out. Her -- her daughter had surgery.

18 Interviewer: Oh, sorry to hear that. Are you in charge in her absence, or?

19 Charlie Peters: No, Mike Van Arsdale is.

20 Interviewer: Okay. What's your last name?

21 Charlie Peters: Peters, P-e-t-e-r-s.

22 Interviewer: P-e-t-e-r-s?

23 Charlie Peters: Uh-huh.

24 Interviewer: Thank you.

25 Charlie Peters: Bye, bye.

1 Interviewer: Bye, bye.

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1 STATE OF SOUTH CAROLINA

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3 CERTIFICATE

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7 Be it known that I, Bonnie Davenport, a Professional Court Reporter and
8 Notary Public, did have digital telephone conversations presented to me on July 31, 2015 in
9 Cayce, South Carolina;

10 That the foregoing pages constitute a true and accurate transcription of the
11 recordings given at that time and place aforesaid to the best of my skill and ability;

12 I further certify that I am not counsel or kin to any of the parties to this cause of
13 action, nor am I interested in any matter of its outcome.

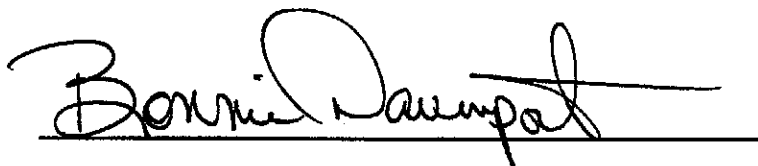
14 In Witness whereof, I have hereunto set my hand this 15th Day of August, 2015.

15

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A handwritten signature in black ink, appearing to read "Bonnie Davenport", is written over a horizontal line.

19 Bonnie Davenport

20 Notary Public For South Carolina

21 My Commission Expires February 1, 2018

22

23

EXHIBIT C

PAGE 1 OF 5

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
Florence Division

_____)
SOUTHERN HOLDINGS, INC.,)
et al.)
	Plaintiffs,)
)
	v.)
)
HORRY COUNTY, SOUTH)
CAROLINA, et al.)
	Defendants.)
_____)

Case No.
4:02-CV-01859-RBH

EXHIBIT "J"

AFFIDAVIT OF FREDERIC W. WHITEHURST, J.D. PH.D.

PERSONALLY APPEARED before me the undersigned Frederic W. Whitehurst who after being duly sworn states the following:

1. I was employed full-time by the Federal Bureau of Investigation from 1982-1998.
(Please see attached Curriculum Vita.)
2. From 1986-1998, I worked at the FBI Laboratory in Washington, D.C.
3. At the FBI Laboratory, I was employed as a Forensic Chemist.
4. I testified on FBI Laboratory failures before the House Judiciary Committee U.S. Congress in 1997.
5. I testified on FBI Laboratory failures before the Senate Judiciary Committee U.S. Congress in 1997.
6. On or about September 28, 2007, I provided a copy of the FBI Laboratory Quality Assurance Manual to the Plaintiffs which I had acquired doing casework in collaboration with fellow forensic scientists.
7. The FBI Laboratory Quality Assurance manual contains FBI Chain of Custody Log Forms 7-243 and 7-243(a).

8. Based on my knowledge and experience neither the forms nor the manual is/are classified as confidential FBI information, and each contains information accessible to the public.
9. The FBI Laboratory Quality Assurance manual contains procedures for the handling of evidence, including videotapes, procedures that are required to be followed unless an exception is granted in writing.
10. Any exception is documented on designated forms which are kept in the applicable case file.
11. When I worked with the FBI I never testified in a case in which the FBI Laboratory Quality Assurance manual and its contents were ever considered classified.
12. When I worked with the FBI I never had redactions made on case numbers or laboratory work sheets that were work products submitted to the Court.
13. Based on my experience and knowledge I have never presented testimony in Court for the FBI where the names of the peer reviewers of my work and/or other personnel involved in the examination with me were redacted on the paperwork submitted to opposing side in litigation, as was done in this case.
14. Based on my experience and knowledge, I have never presented testimony in a case where the case numbers were redacted by the FBI.
15. Based on my experience and knowledge, this case does not have and never had a relationship with issues involving FBI confidentiality or National Security.
16. On November 28, 2007, I obtained and provided to the Plaintiffs a 7-243 form (Please see Attachment A) with the Revision date of 03-31-04, which should be an exact match to the form FBI-19 produced to the Plaintiffs by the Defendants, as both forms have the same form numbers and the same revision dates.
17. Exhibit FBI-19, (Please see Attachment B) produced to the Plaintiffs by the Defendants, is missing several defined categories contained on the 7-243 form I obtained from an FBI examination initiated in January 2007.
18. The Defendants' produced Exhibit FBI-19 and identified it as a complete FBI Chain of Custody Log. However, it is missing the required FBI 7-243(a) form which identifies the intradepartmental handling of evidence needed to be a

complete FBI Chain of Custody Log. The Defendants omission of the 7-243(a) form and the misidentification of the 7-243 form as the entire FBI Chain of Custody Log, in my expert opinion, constitute a presentation of misinformation.

19. Based on my knowledge and experience, the FBI case number assigned to this case, **95A-HQ-1488276**, does not prove or even suggest FBI involvement in this case as having ever been ordered by a Federal District Judge.

20. Based on my knowledge and experience the case number that was redacted by the FBI on the paperwork submitted by Noel Herold is **95A-HQ-1488276**, which designates this case as one where assistance was provided by the FBI Laboratory to a local police department in a murder or rape case. This redaction is an obliteration of evidence that is contained in an FBI case number and, therefore, denies the Trier of fact evidence in this case.

21. Based on my experience and direct handling of several thousand FBI case files obtained through FOIA request, I have received thousands of documents where the case file numbers were not redacted.

FURTHER AFFIANT SAYETH NAUGHT.

NOTARIZED SIGNATURE

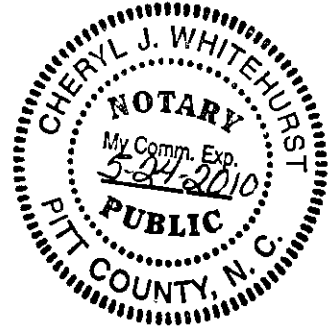
Your Signature: *Frederic W. Whitehurst*
(To be signed in the presence of a Notary)

Subscribed and sworn before me, this 8th day of May of the year 2008.

Signature of Notary: *Cheryl J. Whitehurst*

Expiration date of Commission: 5-24-2010

Notary Seal or Stamp



PAGE 4 OF 5
 7-243 (Rev. 3-31-04)

FBI Laboratory Chain-of-Custody Log

PAGE 1 OF 1
COPY

Laboratory No.: ██████████0004 PF Case ID No.: ██████████

Container(s)	Received Via	Accepted By	Date	Contributor
1 box	FedEx	<i>Mundy Kojinski</i>	1/8/07	Springfield, IL FBI

Tracking No(s): 8567 9007 126

Opened for Retrieval of Communication By: *Mundy Kojinski* Date: 1/8/07

Shipping Container Damage

CC Comments: _____

Container(s)	Delivered By	Accepted By	Date	Remarks
1 box	<i>Mundy Kojinski</i>	Into ECU Storage <input type="checkbox"/> Refrigerator <input type="checkbox"/> Safe <input checked="" type="checkbox"/> Shelf C3	1/8/07	
1 box	From ECU Storage	<i>Mundy Kojinski</i>	1/8/07	Q35-Q37
Q35-Q37	<i>Mundy Kojinski</i>	ECU Storage	1/8/07	For Laboratory

Items Received:

Q35-Q37	ECU Storage	<i>WLS</i>	1/10/07	
		TECU		
Q35-Q37	<i>WLS</i>	TEU Storage	1/10/07	
	TECU			
Q35-Q37.1	TEU Storage	<i>Mundy Kojinski</i>	1/12/07	Q37.1 added by TEU 7454

EXHIBIT C

EXHIBIT B of PC

7-343 (Rev. 3-31-04)

PAGE 5 OF 5

FBI Laboratory
Chain-of-Custody Log

PAGE 1 OF 1

Laboratory No.: 041221254 Case ID No.: [REDACTED]

Container(s)	Received Via	Accepted By	Date	Contributor
1 ENV.	<i>Hand</i>	<i>Eliz</i>	<i>12/21/04</i>	Law Enforcement Div. Columbia SC
	<i>Box</i>	<i>FSU</i>	<i>2:05pm</i>	

Tracking No(s): Control - 1097 300 conl 510 4057

Opened for Retrieval of Communication By: *Eliz* Date: *12/21/04*

Shipping Container Damage

ECC Comments: _____

Container(s)	Delivered By	Accepted By	Date	Remarks
1 ENV	<i>Eliz</i>	ERF EVIDENCE STORAGE	<i>12/21/04</i>	
	<i>FSU</i>	<i>SO</i>	<i>2:30pm</i>	
1 ENV	ERF EVIDENCE STORAGE	<i>Neil</i>	<i>12/28/04</i>	
	<i>ERF</i>	FAVIAV/QE	<i>10:30 A</i>	
Q1, Q2 & Q3 (3VHS TAPES)	<i>Neil</i>	<i>Brenda Brent</i>	<i>1/10/05</i>	
	FAVIAV/QE	<i>FSU</i>	<i>10:30 A</i>	
2 env	<i>Brenda Brent</i>	<i>Eliz</i>	<i>1/10/05</i>	
	<i>FSU</i>	<i>FSU</i>	<i>6:55AM</i>	
1 Box	<i>Eliz</i>	Returned Via	<i>1/10/05</i>	
	<i>FSU</i>	Fed Ex	<i>4:30pm</i>	

FBI000000019

FREDERIC W. WHITEHURST, J.D. Ph.D.

*Attorney at Law (NC Bar # 28864), Forensic Consultant,
P.O. Box 820, 126 W Washington Street, Bethel, N.C., (252) 825-1123, email: cfwhiteh@aol.com*

EDUCATION

**Bachelor Of Science 1974
East Carolina University, Greenville, N.C.
Chemistry**

**Ph.D. 1980
Duke University, Durham, N.C.
Chemistry**

**Postdoctoral Fellow 1980-1982
Texas A&M University
College Station, Texas**

**Juris Doctorate 1996
Georgetown University School of Law
Washington, D.C.**

EMPLOYMENT

**United States Army 1969-1972
23RD DIV., 11TH, 196TH AND 198TH BDE
Infantry/Military Intelligence
Vietnam**

**East Carolina University 1973-1974
Research Assistant - Chemistry
Greenville, North Carolina**

**Duke University 1974-1980
Research/Teaching Assistant - Chemistry
Durham, North Carolina**

Texas A&M University 1980-1982
Robert Welch Research Fellow - Chemistry
College Station, Texas

Federal Bureau of Investigation 1982-1998

General/Reactive Crime Investigation 1982-1983
Houston, Texas

General/Reactive Crime Investigation 1983-1984
Organized Crime/Reactive Crime Narcotics Investigation
Sacramento, California

Organized Crime: Columbian Cocaine and Middle Eastern
Heroin Trafficking 1984-1986
Los Angeles, California

FBI Laboratory: Principally Forensic Analytical Chemistry -
Involving Explosives 1986-1998
Explosives Residue, Polymers, Lubricants, Coatings, Expert
Analysis, and Testimony -- Involving such investigations as Pan
Am 103 and World Trade Center Bombings
Washington, D.C.

Forensic Justice Project 1998- Present
Executive Director
Washington, D.C.

Attorney at Law 2003-Present
Bethel, N.C.

Professional Organizations

American Chemical Society
International Society of Explosives Engineers
Sigma Xi, The Scientific Research Society
American Academy of Forensic Science
North Carolina Bar Association
North Carolina Academy of Trial Lawyers

TRAINING/SHORT COURSES

**New Agents Training
FBI Academy
2/22/82-6/5/82
Quantico, Virginia**

**FBI Narcotics Matters Training
Federal Law Enforcement Training Center
1984/one week
Glynco, Georgia**

**Illicit Drug Lab Training
Southwest Regional Drug Enforcement Administration
1984
National City, California**

**Instrumental Analysis of Explosives and Explosive Residues
FBI Academy
7/1986
Quantico, Virginia**

**Chromatography Training Course
Federal Bureau of Investigation
12/24-30/86
Quantico, Virginia**

**Pittsburgh Analytical Chemistry Conference
1986/1987
Pittsburgh, Pennsylvania**

**American Chemical Society
Short Course on Polymer Chemistry
3/14-20/87
Virginia Polytechnical Institute
Blacksburg, Virginia**

**Pyrotechnics and Explosives Seminar
8/2-7/87
Washington College
Chestertown, Maryland**

**Mass Spectrometry Training
Finnegan Corporation
11/18-23/87
Cincinnati, Ohio**

**Instrumental Analysis of Paints and Plastics
FBI Academy
4/10-14/95
Quantico, Virginia**

**Training/Liaison for Forensic Paint Analysis
7/18-19/95
Royal Canadian Mounted Police
Ottawa, Canada**

**Forensic Paint Analysis Training
8/20-25/95
German Federal Police Laboratory
Weisbaden, Germany**

**Conference of the Technical Working Group
on Forensic Paint Analysis
11/13-15/95
FBI Academy
Quantico, Virginia**

**SPIE Robotic Conference
11/18-22/96
Boston, Massachusetts**

**Landmine Detection Conference
12/2-3/96
Washington, D.C.**

LECTURES/PRESENTATIONS

Forensic Science Lectures

**Lecturer at and Administrator of the FBI's Instrumental
Analysis of Explosives and Explosives Residue Class
1988-1995
FBI Academy
Quantico, Virginia**

**Presentation explaining Explosives Detection and Tagging to
Summit Seven Conference
3/2-3/89
U.S. State Department
Washington, D.C.**

**Lecturer at the FBI's Forensic Analysis Paint School
6/7-10/88
8/29/89
FBI Academy
Quantico, Virginia**

**Lecturer at the FBI's Forensic Applications of
Chromatography School
1990-1994
FBI Academy
Quantico, Virginia**

**Plenary Lecturer
University of Rhode Island Conference on Forensic Science
4/12-14/91
Rhode Island**

**Lecturer FAA Conference on Airline Security
4/13-17/92
Avalon, New Jersey**

**Lecturer in Explosives, Central Intelligence Agency
Training Facility
6/29-30/93**

**Lecturer in Explosives Detection to U.S. Marine Corps JAG
11/16/93
Washington, D.C.**

**Lecturer FBI's Explosives School
6/18/95
Dayton, Ohio**

**International Conference on Development of Forensic
Explosive Analysis Protocols
6/18-25/93
Quantico, Virginia**

**Lecturer Federal Aviation Administration
Conference on Explosive Detection
11/13-15/91
Atlantic City, New Jersey**

**Testimony concerning FBI Laboratory failures before the
House Judiciary Committee
U.S. Congress 1997**

**Testimony concerning FBI Laboratory failures before the
Senate Judiciary Committee
U.S. Congress 1997**

**Chemical/Biological Warfare Agent Crime Scene Training
4/7-11/87
Department of Defense**

**Office of Technology Assessment Workshop on Drug Detection
Technologies for Port of Entry Traffic and the Intelligence
Research and Development Council
Workshop on Drug Detection Technologies
1986-1987**

**Physical Testing of Paints and Coatings
5/15-20/88
Department of Chemistry
University of Missouri**

Rolla, Missouri

**Introduction to Polymer Chemistry
10/30-11/3/88
Department of Chemistry
University of Missouri
Rolla, Missouri**

**Advanced Explosives Detection Equipment Conference
4/25-26/89
Corps of Engineers
Research and Development Center
Ft. Belvoir, Virginia**

**Third International Conference on Explosives and
Explosives Residue Analysis
7/8-17/89
Mannheim, Germany**

**Advanced Pyrotechnic and Explosives Applications
8/14-20/89
Washington College
Chestertown, Maryland**

**Explosives Plant Tours, Atlas and Independent Explosives
Manufacturers
10/18-19/89
Pennsylvania**

**National Academy of Science
International Symposium on Commercial
Aviation Security (Detection of Explosives)
2/26-27/90
Washington, D.C.**

**Designer Industrial and Military Explosives Class
4/18-20/90
University of Missouri
Rolla, Missouri**

Standard Fusee Plant Tour
6/27/90
Easton, Maryland

Forensic Trace Analysis Symposium
6/24-26/91
FBI Academy
Quantico, Virginia

Holston Army Munitions Plant
Radford Arsenal Munition Plant
7/17-22/91
Kingsport, Tennessee
Radford, Virginia

Conference Regarding Forensic Analysis of Copy Toner
10/13/94
Lexmark Corporation
Lexmark, Kentucky

Continuing Legal Education Courses and Academic Presentations

National Association of Criminal Defense Lawyers
4/20/98 Conference
Santa Monica, California

Federal Public Defenders Conference
6/18-19/98
Dallas, Texas

Federal Public Defenders Conference
8/26-28/98
Portland, Maine

Federal Public Defenders Conference
10/98

San Diego, California

Accuracy in Media

10/24/98

Washington, D.C.

**National Conference on Wrongful Convictions & The Death
Penalty**

11/13-15/98

Chicago, Illinois

Connecticut Criminal Defense Lawyers Association

3/4/99

Hartford, Connecticut

National Association of Criminal Defense Lawyers

3/18-20/99

St. Louis, Missouri

Maryland Public Defenders Office

4/28/99

Maryland

Office of the State Appellate Defender, Conference

5/14/99

Chicago, Illinois

New Mexico Criminal Defense Lawyers Association Conference

7/10/99

Albuquerque, New Mexico

Southern Association of Forensic Science

9/28/99

Myrtle Beach, South Carolina

American Society of Access Professionals

8/31/98

Rockville, Maryland

Public Administration Forum

**11/30/99
Washington, D.C.**

**National Forensic Center
11/11-13/99
Newport Beach, California**

**Minnesota Justice Foundation
11/4-6/99
Minneapolis, Minnesota**

**American Academy of Forensic Science
2/21-24/00
Reno, Nevada**

**California Public Defenders Association
3/2/00
Newport Beach, California**

**Oregon Criminal Defense Lawyers Association
3/11/00
Eugene, Oregon**

**Montana Association of Criminal Defense Lawyers
8/4/00
Helena, Montana**

**New Jersey Association of Criminal Defense Lawyers
10/28/00
New Brunswick, New Jersey**

**Federal Public Defenders Office
Northern District of Ohio
8/17-18/00
Cleveland, Ohio**

**National Institute of Justice Conference on Science and the
Law, US Dept of Justice
11/11-14/00
San Diego, California**

Oregon Criminal Defense Lawyers Association
11/4-6/00
Puerto Vallarta, Mexico

University of Michigan School of Law
11/16/00
Ann Arbor, Michigan

District of Columbia Bar Association
3/16/01
Washington, D.C.

South Carolina Association of Criminal Defense Lawyers
4/7/01
Columbia, South Carolina

North American Conference on Wrongful Conviction
Investigations
5/18-19/01
Chicago, Illinois

Duke University School of Law
11/13/01
Durham, North Carolina

Illinois Association of Criminal Defense Lawyers Conference
3/8/02
Chicago, Illinois

Illinois Association of Criminal Defense Lawyers Conference
3/22/02
Marion, Illinois

Washington University School of Law
3/18/02
Washington, D.C.

Harvard University School of Law
Wrongful Convictions Symposium
4/19-20/02

Cambridge, Massachusetts

**North Carolina Academy of Trial Lawyers
Problems with Forensic Sciences Seminar
4/2/03
Raleigh, North Carolina**

**North Carolina Association of Public Defenders
5/14/03
Wrightsville Beach, North Carolina**

**Harris County Criminal Lawyers Association Conference
4/29-30/03
Houston, Texas**

**Florida Association of Criminal Defense Lawyers Conf.
6/12-13/05
Palm Beach, Florida**

**Wisconsin Association of Criminal Defense Lawyers Conf.
6/18-20/05
Madison, Wisconsin**

**Maryland Criminal Defense Attorneys' Association
10/10-11/05
Baltimore, Maryland**

**Federal Public Defenders Conference
10/08-09/03
Wilmington, North Carolina**

**Massachusetts Continuing Legal Education Conference
10/17/03
Boston, Massachusetts**

**North Carolina Public Defender Investigators Conference
3/17-19/04
Chapel Hill, North Carolina**

National Defender Investigator Association Conference

4/06-09/04
Boston, Massachusetts
Virginia Association of Criminal Defense Lawyers Conf.
5/21/04
Richmond, Virginia

New Jersey Public Defenders Office
9/09-10/04
Atlantic City, New Jersey

Alaska Investigators Association Conference
9/27/04
Anchorage, Alaska

North Carolina Bar Association Conference
11/19/04
Greensboro, North Carolina

University of Kentucky
Eastern Kentucky University
Criminal Justice & Policy Studies Seminar
2/10/05

Oregon Criminal Defense Lawyers Association
3/12/05
Portland, Oregon

Rowan County, NC, Criminal Defense Bar Meeting
4/15/05
Salisbury, North Carolina

Alabama Criminal Defense Lawyers Association Conference
6/23-25/05
Pensacola Beach, Florida

National Association of Criminal Defense Lawyers Conf.
9/30/05 - 10/01/05
Las Vegas, Nevada

**North Carolina Public Defenders Investigators Conference
Myrtle Beach, South Carolina
3/16/06**

**Washington State Association of Criminal Defense Lawyers
Seattle, Washington
3/24/06**

**Utah Academy of Criminal Defense Lawyers
Salt Lake City, Utah
4/21-22/06**

**Maine Academy of Criminal Defense Lawyers
Freeport, Maine
6/2/06**

**North Carolina Academy of Trial Lawyers
Sunset Beach, North Carolina
6/13/06**

**Iowa Public Defenders Association
Iowa City, Iowa
6/22/06**

**Louisiana Association of Criminal Defense Lawyers
Baton Rouge, Louisiana
7/22/06**

**Texas Criminal Defense Lawyers Association
Dallas, Texas
9/20-21/06**

**University of Cincinnati School of Law
Cincinnati, Ohio
11/9/06**

**University of North Carolina School of Government
Chapel Hill, North Carolina
11/30/06 - 12/1/06**

**South Texas College of Law
Houston, Texas
6/15/07**

**National Association of Criminal Defense Lawyers
San Francisco, California
8/1-4/07**

Testimony Experience

Approximately 50 testimonies as expert witness in analytical chemistry of explosives, plastics, lubricants, analytical chemistry.

**Testimony concerning FBI Laboratory failures before the House Judiciary Committee
U.S. Congress 1997**

**Testimony concerning FBI Laboratory failures before the Senate Judiciary Committee
U.S. Congress 1997**

FREDERIC W. WHITEHURST, J.D. Ph.D.

*Attorney at Law (NC Bar # 28864), Forensic Consultant,
P.O. Box 820, 126 W Washington Street, Bethel, N.C., (252) 825-1123, email: cfwhiteh@aol.com*

EDUCATION

**Bachelor Of Science 1974
East Carolina University, Greenville, N.C.
Chemistry**

**Ph.D. 1980
Duke University, Durham, N.C.
Chemistry**

**Postdoctoral Fellow 1980-1982
Texas A&M University
College Station, Texas**

**Juris Doctorate 1996
Georgetown University School of Law
Washington, D.C.**

EMPLOYMENT

**United States Army 1969-1972
23RD DIV., 11TH, 196TH AND 198TH BDE
Infantry/Military Intelligence
Vietnam**

**East Carolina University 1973-1974
Research Assistant - Chemistry
Greenville, North Carolina**

**Duke University 1974-1980
Research/Teaching Assistant - Chemistry
Durham, North Carolina**

**Texas A&M University 1980-1982
Robert Welch Research Fellow - Chemistry
College Station, Texas**

Federal Bureau of Investigation 1982-1998

**General/Reactive Crime Investigation 1982-1983
Houston, Texas**

**General/Reactive Crime Investigation 1983-1984
Organized Crime/Reactive Crime Narcotics Investigation
Sacramento, California**

**Organized Crime: Columbian Cocaine and Middle Eastern
Heroin Trafficking 1984-1986
Los Angeles, California**

**FBI Laboratory: Principally Forensic Analytical Chemistry -
Involving Explosives 1986-1998
Explosives Residue, Polymers, Lubricants, Coatings, Expert
Analysis, and Testimony -- Involving such investigations as Pan
Am 103 and World Trade Center Bombings
Washington, D.C.**

**Forensic Justice Project 1998- Present
Executive Director
Washington, D.C.**

**Attorney at Law 2003-Present
Bethel, N.C.**

Professional Organizations

**American Chemical Society
International Society of Explosives Engineers
Sigma Xi, The Scientific Research Society
American Academy of Forensic Science
North Carolina Bar Association
North Carolina Academy of Trial Lawyers**

TRAINING/SHORT COURSES

**New Agents Training
FBI Academy
2/22/82-6/5/82
Quantico, Virginia**

**FBI Narcotics Matters Training
Federal Law Enforcement Training Center
1984/one week
Glynco, Georgia**

**Illicit Drug Lab Training
Southwest Regional Drug Enforcement Administration
1984
National City, California**

**Instrumental Analysis of Explosives and Explosive Residues
FBI Academy
7/1986
Quantico, Virginia**

**Chromatography Training Course
Federal Bureau of Investigation
12/24-30/86
Quantico, Virginia**

**Pittsburgh Analytical Chemistry Conference
1986/1987
Pittsburgh, Pennsylvania**

**American Chemical Society
Short Course on Polymer Chemistry
3/14-20/87
Virginia Polytechnical Institute
Blacksburg, Virginia**

**Pyrotechnics and Explosives Seminar
8/2-7/87
Washington College
Chestertown, Maryland**

**Mass Spectrometry Training
Finnegan Corporation
11/18-23/87
Cincinnati, Ohio**

**Instrumental Analysis of Paints and Plastics
FBI Academy
4/10-14/95
Quantico, Virginia**

**Training/Liaison for Forensic Paint Analysis
7/18-19/95
Royal Canadian Mounted Police
Ottawa, Canada**

**Forensic Paint Analysis Training
8/20-25/95
German Federal Police Laboratory
Weisbaden, Germany**

**Conference of the Technical Working Group
on Forensic Paint Analysis
11/13-15/95
FBI Academy
Quantico, Virginia**

**SPIE Robotic Conference
11/18-22/96
Boston, Massachusetts**

**Landmine Detection Conference
12/2-3/96
Washington, D.C.**

LECTURES/PRESENTATIONS

Forensic Science Lectures

**Lecturer at and Administrator of the FBI's Instrumental
Analysis of Explosives and Explosives Residue Class
1988-1995
FBI Academy
Quantico, Virginia**

**Presentation explaining Explosives Detection and Tagging to
Summit Seven Conference
3/2-3/89
U.S. State Department
Washington, D.C.**

**Lecturer at the FBI's Forensic Analysis Paint School
6/7-10/88
8/29/89
FBI Academy
Quantico, Virginia**

**Lecturer at the FBI's Forensic Applications of
Chromatography School
1990-1994
FBI Academy
Quantico, Virginia**

**Plenary Lecturer
University of Rhode Island Conference on Forensic Science
4/12-14/91
Rhode Island**

**Lecturer FAA Conference on Airline Security
4/13-17/92
Avalon, New Jersey**

**Lecturer in Explosives, Central Intelligence Agency
Training Facility
6/29-30/93**

**Lecturer in Explosives Detection to U.S. Marine Corps JAG
11/16/93
Washington, D.C.**

**Lecturer FBI's Explosives School
6/18/95
Dayton, Ohio**

**International Conference on Development of Forensic
Explosive Analysis Protocols
6/18-25/93
Quantico, Virginia**

**Lecturer Federal Aviation Administration
Conference on Explosive Detection
11/13-15/91
Atlantic City, New Jersey**

**Testimony concerning FBI Laboratory failures before the
House Judiciary Committee
U.S. Congress 1997**

**Testimony concerning FBI Laboratory failures before the
Senate Judiciary Committee
U.S. Congress 1997**

**Chemical/Biological Warfare Agent Crime Scene Training
4/7-11/87
Department of Defense**

**Office of Technology Assessment Workshop on Drug Detection
Technologies for Port of Entry Traffic and the Intelligence
Research and Development Council
Workshop on Drug Detection Technologies
1986-1987**

**Physical Testing of Paints and Coatings
5/15-20/88
Department of Chemistry
University of Missouri**

Rolla, Missouri

Introduction to Polymer Chemistry

10/30-11/3/88

Department of Chemistry

University of Missouri

Rolla, Missouri

Advanced Explosives Detection Equipment Conference

4/25-26/89

Corps of Engineers

Research and Development Center

Ft. Belvoir, Virginia

Third International Conference on Explosives and

Explosives Residue Analysis

7/8-17/89

Mannheim, Germany

Advanced Pyrotechnic and Explosives Applications

8/14-20/89

Washington College

Chestertown, Maryland

**Explosives Plant Tours, Atlas and Independent Explosives
Manufacturers**

10/18-19/89

Pennsylvania

National Academy of Science

International Symposium on Commercial

Aviation Security (Detection of Explosives)

2/26-27/90

Washington, D.C.

Designer Industrial and Military Explosives Class

4/18-20/90

University of Missouri

Rolla, Missouri

Standard Fusee Plant Tour

6/27/90

Easton, Maryland

Forensic Trace Analysis Symposium

6/24-26/91

FBI Academy

Quantico, Virginia

Holston Army Munitions Plant

Radford Arsenal Muniton Plant

7/17-22/91

Kingsport, Tennessee

Radford, Virginia

Conference Regarding Forensic Analysis of Copy Toner

10/13/94

Lexmark Corporation

Lexmark, Kentucky

Continuing Legal Education Courses and Academic Presentations

National Association of Criminal Defense Lawyers

4/20/98 Conference

Santa Monica, California

Federal Public Defenders Conference

6/18-19/98

Dallas, Texas

Federal Public Defenders Conference

8/26-28/98

Portland, Maine

Federal Public Defenders Conference

10/98

San Diego, California

Accuracy in Media

10/24/98

Washington, D.C.

**National Conference on Wrongful Convictions & The Death
Penalty**

11/13-15/98

Chicago, Illinois

Connecticut Criminal Defense Lawyers Association

3/4/99

Hartford, Connecticut

National Association of Criminal Defense Lawyers

3/18-20/99

St. Louis, Missouri

Maryland Public Defenders Office

4/28/99

Maryland

Office of the State Appellate Defender, Conference

5/14/99

Chicago, Illinois

New Mexico Criminal Defense Lawyers Association Conference

7/10/99

Albuquerque, New Mexico

Southern Association of Forensic Science

9/28/99

Myrtle Beach, South Carolina

American Society of Access Professionals

8/31/98

Rockville, Maryland

Public Administration Forum

**11/30/99
Washington, D.C.**

**National Forensic Center
11/11-13/99
Newport Beach, California**

**Minnesota Justice Foundation
11/4-6/99
Minneapolis, Minnesota**

**American Academy of Forensic Science
2/21-24/00
Reno, Nevada**

**California Public Defenders Association
3/2/00
Newport Beach, California**

**Oregon Criminal Defense Lawyers Association
3/11/00
Eugene, Oregon**

**Montana Association of Criminal Defense Lawyers
8/4/00
Helena, Montana**

**New Jersey Association of Criminal Defense Lawyers
10/28/00
New Brunswick, New Jersey**

**Federal Public Defenders Office
Northern District of Ohio
8/17-18/00
Cleveland, Ohio**

**National Institute of Justice Conference on Science and the
Law, US Dept of Justice
11/11-14/00
San Diego, California**

Oregon Criminal Defense Lawyers Association
11/4-6/00
Puerto Vallarta, Mexico

University of Michigan School of Law
11/16/00
Ann Arbor, Michigan

District of Columbia Bar Association
3/16/01
Washington, D.C.

South Carolina Association of Criminal Defense Lawyers
4/7/01
Columbia, South Carolina

North American Conference on Wrongful Conviction
Investigations
5/18-19/01
Chicago, Illinois

Duke University School of Law
11/13/01
Durham, North Carolina

Illinois Association of Criminal Defense Lawyers Conference
3/8/02
Chicago, Illinois

Illinois Association of Criminal Defense Lawyers Conference
3/22/02
Marion, Illinois

Washington University School of Law
3/18/02
Washington, D.C.

Harvard University School of Law
Wrongful Convictions Symposium
4/19-20/02

Cambridge, Massachusetts

**North Carolina Academy of Trial Lawyers
Problems with Forensic Sciences Seminar**

4/2/03

Raleigh, North Carolina

North Carolina Association of Public Defenders

5/14/03

Wrightsville Beach, North Carolina

Harris County Criminal Lawyers Association Conference

4/29-30/03

Houston, Texas

Florida Association of Criminal Defense Lawyers Conf.

6/12-13/05

Palm Beach, Florida

Wisconsin Association of Criminal Defense Lawyers Conf.

6/18-20/05

Madison, Wisconsin

Maryland Criminal Defense Attorneys' Association

10/10-11/05

Baltimore, Maryland

Federal Public Defenders Conference

10/08-09/03

Wilmington, North Carolina

Massachusetts Continuing Legal Education Conference

10/17/03

Boston, Massachusetts

North Carolina Public Defender Investigators Conference

3/17-19/04

Chapel Hill, North Carolina

National Defender Investigator Association Conference

4/06-09/04

Boston, Massachusetts

Virginia Association of Criminal Defense Lawyers Conf.

5/21/04

Richmond, Virginia

New Jersey Public Defenders Office

9/09-10/04

Atlantic City, New Jersey

Alaska Investigators Association Conference

9/27/04

Anchorage, Alaska

North Carolina Bar Association Conference

11/19/04

Greensboro, North Carolina

University of Kentucky

Eastern Kentucky University

Criminal Justice & Policy Studies Seminar

2/10/05

Oregon Criminal Defense Lawyers Association

3/12/05

Portland, Oregon

Rowan County, NC, Criminal Defense Bar Meeting

4/15/05

Salisbury, North Carolina

Alabama Criminal Defense Lawyers Association Conference

6/23-25/05

Pensacola Beach, Florida

National Association of Criminal Defense Lawyers Conf.

9/30/05 - 10/01/05

Las Vegas, Nevada

**North Carolina Public Defenders Investigators Conference
Myrtle Beach, South Carolina
3/16/06**

**Washington State Association of Criminal Defense Lawyers
Seattle, Washington
3/24/06**

**Utah Academy of Criminal Defense Lawyers
Salt Lake City, Utah
4/21-22/06**

**Maine Academy of Criminal Defense Lawyers
Freeport, Maine
6/2/06**

**North Carolina Academy of Trial Lawyers
Sunset Beach, North Carolina
6/13/06**

**Iowa Public Defenders Association
Iowa City, Iowa
6/22/06**

**Louisiana Association of Criminal Defense Lawyers
Baton Rouge, Louisiana
7/22/06**

**Texas Criminal Defense Lawyers Association
Dallas, Texas
9/20-21/06**

**University of Cincinnati School of Law
Cincinnati, Ohio
11/9/06**

**University of North Carolina School of Government
Chapel Hill, North Carolina
11/30/06 - 12/1/06**

**South Texas College of Law
Houston, Texas
6/15/07**

**National Association of Criminal Defense Lawyers
San Francisco, California
8/1-4/07**

Testimony Experience

Approximately 50 testimonies as expert witness in analytical chemistry of explosives, plastics, lubricants, analytical chemistry.

**Testimony concerning FBI Laboratory failures before the House Judiciary Committee
U.S. Congress 1997**

**Testimony concerning FBI Laboratory failures before the Senate Judiciary Committee
U.S. Congress 1997**

FILED

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION**

DEC 10 2004

LARRY W. PROPPS, CLERK
FLORENCE, SC

ENTERED
12-10-04

Southern Holdings, Inc.; James Spencer;)
Rodney Keith Lail; Irene Santacrose; Ricky)
Stephens; Marguerite Stephens; and Doris Holt,)
Plaintiffs,)

C/A NO.: 4-02-1859-27

vs.

EXHIBIT "K"

Horry County, South Carolina; Horry County)
Sheriff's Department; Horry County Police)
Department; James Albert Allen, Jr.,)
Individually and in his official capacity as an)
officer with the Horry County Sheriff's)
Department; Sidney Rick Thompson,)
Individually and in his official capacity as an)
officer with the Horry County Sheriff's)
Department; Jeffrey S. Caldwell, Individually)
and in his official capacity as an officer with the)
Horry County Sheriff's Department; Charles)
McClendon, Individually and in his official)
capacity as an officer with the Horry County)
Police Department; Jay Brantly, Individually)
and in his official capacity as an officer with the)
Horry County Police Department; Andy)
Christensen, Individually and in his official)
capacity as an officer with the Horry County)
Police Department; Michael Steven Harness,)
Harold Steven Harness, Ancil B. Garvin, III;)
David Smith; and John Does,)
Defendants.)

ORDER

This matter comes before me with the consent of the parties. At issue in this case, among other things, is the arrest and stop of Plaintiffs James Brian Spencer and Rodney Keith Lail by the Horry County Police Department on August 6, 2000. There are three original videotapes of the stop made from the video equipment in the two Horry County police vehicles. The Plaintiffs have alleged that the videotapes may have been altered or edited and have retained an expert to inspect

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**DEFENDANT'S
EXHIBIT**

and analyze the tapes. The original tapes have previously been delivered to the Plaintiffs' expert; however, he did not complete his analysis. Since the tapes were first inspected by the Plaintiffs' expert, they have been turned over to the State Law Enforcement Division ("SLED") by Horry County so that entity or the Federal Bureau of Investigation ("FBI") could investigate or analyze the tapes as well.

The Plaintiffs deserve the opportunity to have their expert conduct a full analysis of the subject videotapes prior to trial. Accordingly, I am ordering that the following guidelines be adhered to so that SLED and/or the FBI can investigate and/or review the tapes, but that the tapes are also timely returned and the Plaintiffs' expert can complete his analysis:

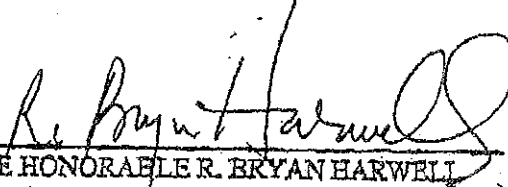
1. Within three days of the execution of this Order a certified copy of this Order will be delivered to SLED by the Horry County Police. Within two days after service of this Order upon SLED, SLED will deliver the videotapes together with a certified copy of this Order to the FBI.
2. On or before January 3, 2005 the FBI will return the videotapes at issue to SLED together with their report. A copy of the FBI's report will also be delivered to this Court on or before January 3 and a copy of the report will be disseminated to all counsel of record in this case.
3. The original videotapes will be produced to the Plaintiffs' expert, Steve Cain, to complete his analysis during the week of January 3, 2005 under the directions of this Court.
4. There is to be no destructive testing performed on the videotapes or equipment by any person or entity.

Handwritten signature
#2

5. Horry County will review their files to identify any paperwork concerning the whereabouts of Officer Brantley's video recorder and produce any such documentation to Plaintiffs' counsel by December 20, 2004.
6. If it is determined that Horry County still has possession of Officer Brantley's video recorder and can identify the same, it will be produced to the Plaintiffs' expert, Steve Cain, by January 10, 2005.
7. If any part of this Order cannot be complied with by the parties or entities subject to this Order, this Court is to be notified immediately.

IT IS SO ORDERED.

*W. W. W. SC,
Dec 10, 2004*


THE HONORABLE R. BRYAN HARWELL
JUDGE FOR THE U. S. DISTRICT COURT,
DISTRICT OF SOUTH CAROLINA

[Handwritten initials]

**PLAINTIFFS' REQUEST FOR INSPECTION AND COPYING
TO DEFENDANT HORRY COUNTY POLICE DEPARTMENT**

COME NOW plaintiffs in the above-referenced civil action and hereby serve this request for inspection and copying to defendant Horry County Police Department pursuant to Federal Rules of Civil Procedure 34 and request the inspection and copying of the following tangible items to be performed at the Horry County Police Department or other suitable premises on or before January 15, 2004.

1. Inspection of the police vehicle and video equipment used by Officer Brantley during the arrest of James Brian Spencer on August 6, 2000, for the purpose of examining the equipment and making an identifier videotape using the equipment;
2. Inspection of the police vehicle and video equipment used by Officer McClendon during the arrest of James Brian Spencer on August 6, 2000, for the purpose of examining the equipment and making an identifier vidcotape using the equipment;
3. Original videotape(s) from Officer McClendon's vehicle which depict the arrest of James Brian Spencer on August 6, 2000, for the purpose of making a pristine copy from the original;
4. Original videotape(s) from Officer Brantley's vehicle which depict the arrest of James Brian Spencer on August 6, 2000, for the purpose of making a pristine copy from the original;
5. Original audio cassette of the dispatch communications from the Horry County Police Department during the time span of the arrest of James Brian Spencer on August 6, 2000, for the purpose of making a pristine copy from the original.


Respectfully submitted,

COOPER, COFFAS, MOORE & GRAY, P.A.



JAMES D. COOPER
1416 Laurel Street
Columbia, South Carolina 29201
Phone: (803) 779-3939
Fax: (803) 779-4037

STRAWINSKI & GOLDBERG, L.L.P.



MICHAEL L. GOLDBERG
Georgia Bar I.D. No. 299472
3423 Piedmont Road
Ivy Place - Suite 510
Atlanta, Georgia 30305
Phone: (404) 264-9955
Fax: (404) 264-1450

ATTORNEYS FOR PLAINTIFFS

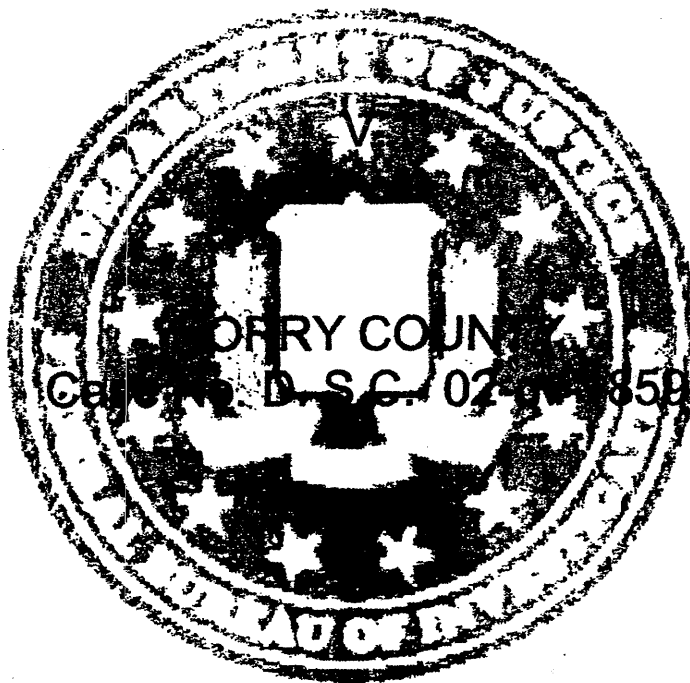
FBI Exhibit (Pages FBI 1 - FBI 23)
Main Document - Pages 42, 43(Footnote #74)

EXHIBIT "L"

DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

JAMES B. SPENCER



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Δ π EXHIBIT	<u>1</u>
Deponent	<u>Herold</u>
Date	<u>3-08-07</u> Rptr. <u>teh</u>
<small>WWW.DEFOBOOK.COM</small>	

Excised Copy

7-2 (Rev. 5-13-99)

FBI Exhibit (Pages FBI 1-FBI 23)

Main Document - Pages 42, 43(Footnote #74)

RECORDED
bjb

FEDERAL BUREAU OF INVESTIGATION
UNITED STATES DEPARTMENT OF JUSTICE

Herold
vid

Laboratory Work Sheet

To: Captain David A. Caldwell
Special Operations
South Carolina Law Enforcement Division
P.O. Box 21398
Columbia, South Carolina 29221-1398

Date: December 23, 2004

Case ID No.: (F)

Lab No.: 041221254 QE

Reference: Communication dated December 15, 2004

Your No.: 3304-0419

Title: HORRY COUNTY POLICE DEPARTMENT and
HORRY COUNTY SHERIFF'S OFFICE - SUBJECTS;
JAMES B. SPENCER - VICTIM;
ASSAULT

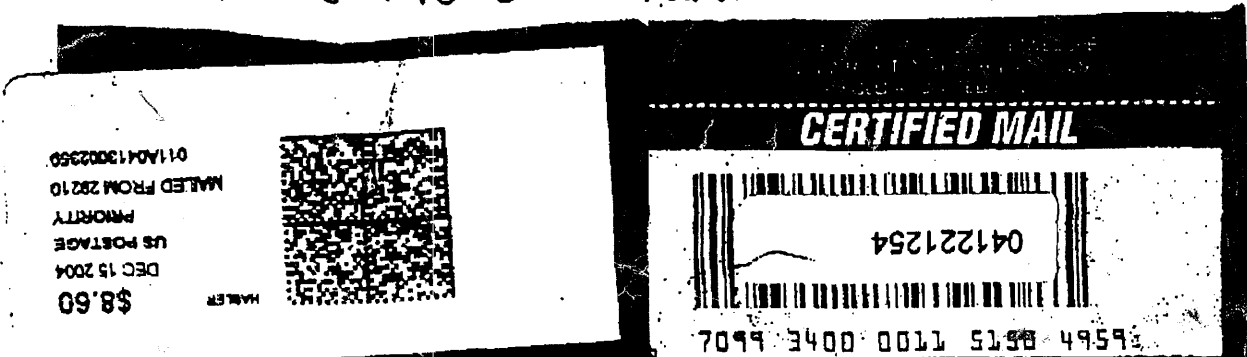
ATTN - JAY SALSBY - "AIKEN BRIDGES"
FLORENCE, SC 843-664-2209

Date specimens received: December 21, 2004

Specimens:

Q1-3, NE1-3

Reviewed Q1 through Q3 with Examiner Herold.
All three recordings are SLP VHS with
Hi-Fi/linear audio and are original. Concur
with results of Examiner Herold.



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FBI00000001

VIDEO ANALYSIS WORKSHEET

Lab. No. 041221254QE

Specimen(s): Q1

Date: 12/28/04

Bufile No. (F)

Agency: SPEC OPS - SLED

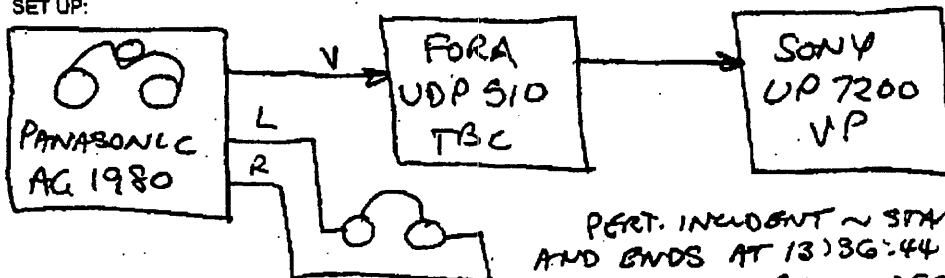
TAPE FORMAT	RECORD MODE	DISPLAY	ERASE TAB	AUDIO SIGNAL	AUDIO CHARACTERISTICS
<input type="checkbox"/> VHS	<input checked="" type="checkbox"/> REAL TIME <u>SLP</u>	<input checked="" type="checkbox"/> COLOR	<input checked="" type="checkbox"/> REC'D OUT	<input type="checkbox"/> NONE	<input type="checkbox"/> Tones:
<input type="checkbox"/> S-VHS	<input type="checkbox"/> TIME LAPSE	<input type="checkbox"/> B & W	<input type="checkbox"/> REC'D IN - RBM*	<input checked="" type="checkbox"/> FULL TK MONAURAL	<input type="checkbox"/> Distortion:
<input type="checkbox"/> BETA/BETACAM	<input type="checkbox"/> STILL VIDEO	<input type="checkbox"/> DATE	<input type="checkbox"/> REC'D LEFT	<input type="checkbox"/> HALF TK MONAURAL	<input type="checkbox"/> N/F Party:
<input type="checkbox"/> S-BETA	<input checked="" type="checkbox"/> TV STANDARD	<input checked="" type="checkbox"/> TIME	<input type="checkbox"/> REC'D RT - SBM*	<input checked="" type="checkbox"/> STEREO	<input type="checkbox"/> Conv. Prob:
<input type="checkbox"/> 8mm	<input checked="" type="checkbox"/> NTSC	<input type="checkbox"/> QUAD	*RBM = Removed by me	<input checked="" type="checkbox"/> LINEAR	<input type="checkbox"/> Modulation:
<input type="checkbox"/> Hi-8mm	<input type="checkbox"/> PAL		*SBM = Switched left by me	<input type="checkbox"/> Hi-Fi	Noise: Lo ___ Hi ___ WB ___
<input type="checkbox"/> U-MATIC	<input type="checkbox"/> SECAM				Sig/Noise: <u>GOOD</u>
<input type="checkbox"/> M-II	<input checked="" type="checkbox"/> ORIGINAL		Recorded Time Approx:		Intell: <u>GOOD</u>
<input type="checkbox"/> RL to RL	<input type="checkbox"/> COPY / No. of Switch Points		<u>RT TRK - M1 (IN EAR MIKE)</u>		Speed Problems:
			<u>LFT TRK - M2 (LAPOL MIKE)</u>		

Physical Condition (Tape/Housing): RECD IN SLEAVED ENV. VIA CERT MAIL

Audio/Video Signal Char: TOTAL LENGTH (CTL) IS 5:59:30 Q1 STARTS (15:00:00) ON 07/26/2000 AT 09:40:56 Q1 ENDS (09:00) ON 09/03/2000 AT 15:44:05 PERT. INCIDENT STARTS ~ 57 MIN FROM BEG. OF

Specimen Description: Q1 - ONE BASF T130 VHS VIDEO CASSETTE TAPE MIP" JM BRANTLY START: 7-23-00 STOP: 9-6-00 ORIGINAL" ON TOP LABEL AND START: 7-23-00 STOP 9-6-00 Q1- 10/27/04 "Q-1/10/27/04 "ORIGINAL" ON SPINE LABEL

SET UP:



PERT. INCIDENT ~ STARTS ON 08/06/2000 AT 12:56 AND ENDS AT 13:36:44 ON 08/06/2000 IT IS NOTED THAT A NOISE BAND DEPENDS FROM ABOUT 12:57:21 AND QUICKLY ENDS BEFORE SUBJECT VEHICLE IS STOPPED

ALL INCIDENTS END { ARE FOLLOWED BY ~ 1 ~ 8 SEC OF NOISE (NO CTL) EXCEPT END OF PERT. INCIDENT IS FOLLOWED BY ABRUPT START OF UNRELATED INCIDENT ON 08/06/2000 AT 17:18:46 AND ANOTHER ABRUPT STOP/START FROM 08/19/2000 AT 19:48:56 TO 08/19/2000 AT 23:56:09 WHICH ARE UNRELATED TO PERT. INCIDENT ARE Q1 ENDS ON 09/03/2000 AT 15:44:05

Video Tape Copies/Prints

NONE (PRINTS FOR NOTES) (7 - 6 1/2" x 8 1/2" SONY COLOR VHS PRINTS)

FBI Exhibit (Pages FBI 1 - FBI 23)
Main Document - Pages 42, 43(Footnote #74)

VIDEO ANALYSIS WORKSHEET

Lab. No. 04/22/254 QE

Specimen(s): Q2

Date: 12/28/04

Bufile No. (F) [REDACTED]

Agency: SPEC. OPS - SLED

Tape Format	Record Mode	Display	Erase Tab	Audio Signal	Audio Characteristics
<input checked="" type="checkbox"/> VHS <input type="checkbox"/> S-VHS <input type="checkbox"/> BETA/BETACAM <input type="checkbox"/> S-BETA <input type="checkbox"/> 8mm <input type="checkbox"/> HI-8mm <input type="checkbox"/> U-MATIC <input type="checkbox"/> M-II <input type="checkbox"/> RL to RL	<input checked="" type="checkbox"/> REAL TIME <u>SLP</u> <input type="checkbox"/> TIME LAPSE _____ <input type="checkbox"/> STILL VIDEO _____ TV STANDARD <input checked="" type="checkbox"/> NTSC <input type="checkbox"/> PAL <input type="checkbox"/> SECAM <input checked="" type="checkbox"/> ORIGINAL <input type="checkbox"/> COPY / No. of Switch Points _____	<input checked="" type="checkbox"/> COLOR <input type="checkbox"/> B & W <input checked="" type="checkbox"/> DATE <input type="checkbox"/> TIME <input type="checkbox"/> QUAD	<input checked="" type="checkbox"/> RECD OUT <input type="checkbox"/> RECD IN - RBM* <input type="checkbox"/> RECD LEFT <input type="checkbox"/> RECD RT - SBM* *RBM = Removed by me *SBM = Switched left by me Recorded Time Approx: RT TAK - M1 LPT TAK - M2	<input type="checkbox"/> NONE <input checked="" type="checkbox"/> FULL TK MONAURAL <input type="checkbox"/> HALF TK MONAURAL <input checked="" type="checkbox"/> STEREO <input type="checkbox"/> LINEAR <input checked="" type="checkbox"/> Hi-Fi	<input type="checkbox"/> Tones: <input type="checkbox"/> Distortion: <input type="checkbox"/> N/F Party: <input type="checkbox"/> Conv. P/rob: <input type="checkbox"/> Modulation: Noise: Lo _____ Hi _____ WB _____ Sig/Noise: <u>GOOD</u> Intell: <u>GOOD</u> Speed Problems: _____

Physical Condition (Tape/Housing): RECD IN SATURD ENV. VIA CERT. MAIL (NO SLEEVE) - SLEEVE WAS PROVIDED BY ME

Audio/Video Signal Char: CONTINUOUS VIDEO IN DESIG. AREA STARTS (OCP.) - 13:37:40, ENDS - 14:47:32 (08/06/00) FOLLOWED BY ~8 SEC NOISE (NO CTL) THEN NEW TRAF STOP STARTS ON 08/07/2000 AT 18:59:21. RUNS ~ 1:09:49 (PERT. STOP)

Specimen Description: Q2 - ONE VHS VIDEO CASSETTE TAPE WITH RCA SPINE LABEL M1 P" 8-6-00 8:23:00 132S 1100 ORIGINAL Q-2 10/23/04" THIS CAR APPARENTLY CONTAINS SPENCER (HANDCUFFED)

Q2 STARTS WITH PERT. STOP (NO PULL-DOWN) N 3-4 SEC OF BLANK TAPE BE TRAFFIC STOPS (NO CTL) (SAME 8-10 SEC INT) ON OCCA
SET UP:
TAPE RUNS TOTAL OF ~ 4:47:04
ENDING ON 08/23/2000 AT 7:43:13 - ABRUPT END - NO PULL-DW, (SAME SET-UP AS Q1)

Q2 IS A CONTINUATION OF Q3 STARTING ~ 10 MINUTES AFTER Q3 EN (Q3 STOPS BECAUSE THE TAPE RUNS OUT)
THE INCIDENT (PERT.) STARTS AT 13:27:39 ON 08/06/2000 AND ENDS ON 08/06/2000 AT 14:47:32
LATER ON Q2, AN UNRELATED ABRUPT STOP/START ACTION OCCURS ON 08/20/2000 AT 21:25:37 AND STARTS ON 08/20/2000 AT 23:09:18

Video Tape Copies/Prints
NONE (PRINTS PER NOTES) (5- 6 1/2" x 8 1/2" SANDY COLOR VIDEO PRINTS)

FBI Exhibit (Pages FBI 1 - FBI 23)
Main Document - Pages 42, 43(Footnote #74)

NOTE

VIDEO ANALYSIS WORKSHEET

Lab. No. 041221254 Q2

Specimen(s): Q3

Date: 12/28/04

Bufile No. (F) [REDACTED]

Agency: SPEC. OPS - SLED

TAPE FORMAT	RECORD MODE	DISPLAY	ERASE TAB	AUDIO SIGNAL	AUDIO CHARACTERISTICS
<input checked="" type="checkbox"/> VHS	<input checked="" type="checkbox"/> REAL TIME <u>SLP</u>	<input type="checkbox"/> COLOR	<input checked="" type="checkbox"/> REC'D OUT	<input type="checkbox"/> NONE	<input type="checkbox"/> Tones:
<input type="checkbox"/> S-VHS	<input type="checkbox"/> TIME LAPSE	<input type="checkbox"/> B & W	<input type="checkbox"/> REC'D IN - RBM*	<input checked="" type="checkbox"/> FULL TK MONAURAL	<input type="checkbox"/> Distortion:
<input type="checkbox"/> BETA/BETACAM	<input type="checkbox"/> STILL VIDEO	<input checked="" type="checkbox"/> DATE	<input type="checkbox"/> REC'D LEFT	<input type="checkbox"/> HALF TK MONAURAL	<input type="checkbox"/> N/F Party:
<input type="checkbox"/> S-BETA	<u>TV-STANDARD</u>	<input checked="" type="checkbox"/> TIME	<input type="checkbox"/> REC'D RT - SBM*	<input type="checkbox"/> STEREO	<input type="checkbox"/> Conv. Prob:
<input type="checkbox"/> 8mm	<input checked="" type="checkbox"/> NTSC	<input type="checkbox"/> QUAD	*RBM = Removed by me	<input checked="" type="checkbox"/> LINEAR	<input type="checkbox"/> Modulation:
<input type="checkbox"/> Hi-8mm	<input type="checkbox"/> PAL		*SBM = Switched left by me	<input type="checkbox"/> Hi-Fi	Noise: Lo ___ Hi ___ WB ___
<input type="checkbox"/> U-MATIC	<input type="checkbox"/> SECAM		<u>RIGHT</u>		Sig/Noise: <u>GOOD</u>
<input type="checkbox"/> M-J	<input checked="" type="checkbox"/> ORIGINAL		Recorded Time Approx: <u>MARK - M1</u>		Intell: <u>GOOD</u>
<input type="checkbox"/> RL to RL	<input type="checkbox"/> COPY / No. of Switch Points		<u>LEFT TRK - M2</u>		Speed Problems:

Physical Condition (Tape/Housing): FOUND IN SEALED ENV. VIA CERT. MAIL (NO SLEEVE) SLEEVE WAS PROVIDED BY ME

Audio/Video Signal Char: ~ 4 SEC OF NOISE AT START (NO CRT) NO PULL-DOWN START 4 00005 - : - 07/21/2000 LTS 18:3
DEP. TIME OF START OF PERT. INCIDENT IS
PERT. INCIDENT STARTS ~ 5:36:25 INTO TAPE

Specimen Description: Q3 - ONE 7120 VHS VIDEO CASSETTE TAPE WITH BASF TOP LABEL MIP "ROBERT HOLT JAMES B SPENCER" AND RCA SPINE LABEL MIP "7-21-00 1800 8-6-00 1320 ROBERT HOLT Q-3 10/27/04"
APPARENTLY A CONTINUATION OF THE Q2 TAPE (~ 10 MIN LATER)

SET UP:
ERT. INCIDENT STARTS ~ 27 MIN FROM END OF (Q3) TAPE
Q2 TAPE RESUMES RECORDING OF INCIDENT ~ 10 MIN LATER
NE1 - ONE 2-PAGE LETTER FROM "STATE BUDGET AND CONTROL BOARD"
NE2 - ONE NOTARIZED 4-PAGE COPY OF COURT ORDER FOR VIDEO TAPE TESTING
NE3 - ONE 3-PAGE COPY OF DEFENSE EXPERT'S REPORT
(SAME SET-UP AS Q1)

Video Tape Copies/Prints
NOTE (PRINTS FOR NOTES) (3- 6 1/2" x 8 1/2" SONY COLOR VIDEO PRINTS

FBI Exhibit (Pages FBI 1 - FBI 23)
Main Document - Pages 42, 43(Footnote #74)

FBI Exhibit (Pages FBI 1 - FBI 23)
Main Document - Pages 42, 43(Footnote #74)

7-252 (3-1-00)
ERF Shipping Invoice
FEDERAL BUREAU OF INVESTIGATION
BLDG. 27958A
QUANTICO, VA 22135

Date: 01/10/2005

To: Captain David A. Caldwell
Special operations % SLED
4400 Broad River Road
Columbia, South Carolina 29210
Phone: (803) 737-9000

RECEIPT OF EVIDENCE IS ACKNOWLEDGED
Signature of Receiver
Date Evidence Received
PLEASE CONTACT NUMBER LISTED BELOW IF THERE ARE ANY DISCREPANCIES

If box is checked, complete box and return form

Invoice of Contents:

Three (3) VHS video cassette tapes (Q1 through Q3)

Note- Q1 through Q3 are original recordings
and are continuous (in the pertinent area)
except for Q3 and Q2 where the tape is
replaced with Q2 after Q3 runs out
- report to follow

Return to: Noel Herold

Phone: (703) 632-6190

Case ID No.

(F)

Contributor No. 3304-0419

Lab No. 041221254 QE

Title: HORRY COUNTY POLICE
DEPARTMENT & HORRY COUNTY
SHERIFF'S OFFICE-SUBJECTS;
JAMES SPENCER - VICTIM;
ASSAULT

20

Shipping Number: 7903 9067 6656

Federal Express

Other _____

Packaged by: SA

Personal pick up / delivery: Date: _____

Received from: _____

Unit: _____

Received by: _____

(Signature)

Printed name: _____

Agency: _____

193

FBI Exhibit (Pages FBI 1 - FBI 23)

Main Document - Pages 42, 43(Footnote #74)

7-252 (3-1-00)
ERF Shipping Invoice
FEDERAL BUREAU OF INVESTIGATION
BLDG. 27958A
QUANTICO, VA 22135

Date: 02/04/2005

To: Captain David A. Caldwell
Special operations c/o SLED
4400 Broad River Road
Columbia, South Carolina 29210
Phone; (803) 737-9000

RECEIPT OF EVIDENCE IS ACKNOWLEDGED
Signature of Receiver
Date Evidence Received
PLEASE CONTACT NUMBER LISTED BELOW IF THERE ARE ANY DISCREPANCIES

If box is checked, complete box and return form

Invoice of Contents:
One Receipt of Property form (executed)

Return to: Noel Herold

Phone (703) 632-6190

Case ID No. (F)

Contributor No. 3304-0419

Lab No. 041221354 QE

Title: HORRY COUNTY POLICE
DEPARTMENT OF HORRY CO.
SHERIFF'S OFFICE-SUBS;
JAMES SPENCER-VICTIM;
ASSAULT

19

Shipping Number: 792198836807

Federal Express

Other _____

Packaged by: SH

Personal pick up / delivery: Date: _____

Received from: _____

Unit: _____

Received by: _____
(Signature)

Printed name: _____

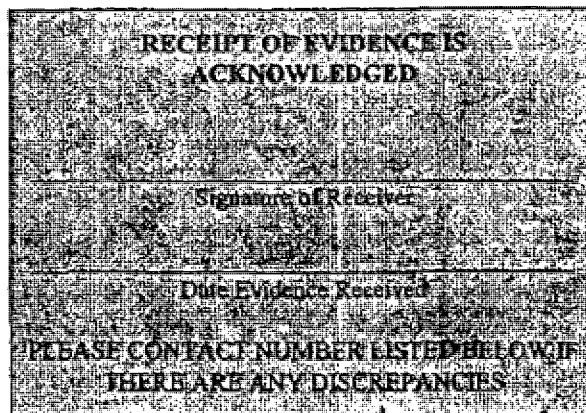
Agency: _____

194

7-252 (3-1-00)
ERF Shipping Invoice
FEDERAL BUREAU OF INVESTIGATION
BLDG. 27958A
QUANTICO, VA 22135

Date: 01/10/2005

To: Captain David A. Caldwell
Special operations % SLED
4400 Broad River Road
Columbia, South Carolina 29210
Phone: (803) 737-9000



If box is checked, complete box and return form

Invoice of Contents:

Three (3) VHS video cassette tapes (Q1 through Q3)

Note- Q1 through Q3 are original recordings
and are continuous (in the pertinent area)
except for Q3 and Q2 where the tape is
replaced with Q2 after Q3 runs out
- report to follow

Return to: Noel Herold

Phone: (703) 632-6190

Case ID No.

(F)

Contributor No. 3304-0419

Lab No. 041221254 QE

Title: HORRY COUNTY POLICE
DEPARTMENT & HORRY COUNTY
SHERIFF'S OFFICE-SUBJECTS;
JAMES SPENCER - VICTIM;
ASSAULT

Shipping Number: 7903 9067 6656

Federal Express

Other _____

Packaged by: CAW

Personal pick up / delivery: _____

Date: _____

Received from: _____

Unit: _____

Received by: _____

(Signature)

Printed name: _____

Agency: _____

195

FBI000000007

SOUTH CAROLINA LAW ENFORCEMENT DIVISION

Q1-3
NEI-3

MARK SANFORD
Governor



ROBERT M. STEWART
Chief

December 15, 2004

Mr. Kerry Haynes
FBI Engineering Research Facility
Investigative Technology Division
Building 27958-A
Quantico, Virginia 22135

041221254 *JE HEOLD*

Dear Mr. Haynes,

Judge R. Bryan Harwell of the U.S. District Court has ordered that SLED deliver to the FBI the three (3) enclosed VHS videotapes for the purpose of examination to determine if they have been altered or edited. The Columbia Field Office of the FBI advised SLED to mail them directly to your attention. A certified true copy of the Court Order is also enclosed. Questions regarding this matter should be directed to the Honorable R. Bryan Harwell.

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Original
Copy & Specs Detached

Sincerely,

David A. Caldwell
David A. Caldwell
Captain, Special Operations

C/W - 3304-0149
Vic - James B. Spencer
AKA - Robert B. Holt

DAC/tsr
Enclosures

Subj - Horry Co. Police Dep.
Horry Co. Sheriff's



- 1 Uio - Assault

ecs 12/23/04
bjb



1 Env.
Cert.
7099 3400 0011 5150 4957

RECEIVED
DEC 21 2004
ERF, QT
FBI000000008

NE1 041221254QE

FBI Exhibit (Pages FBI 1 - FBI 23)

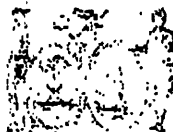
Main Document - Pages 42, 43(Footnote #74)

STATE OF SOUTH CAROLINA
State Budget and Control Board
OFFICE OF INSURANCE RESERVE FUND

MARK SANFORD, CHAIRMAN
GOVERNOR

GRACY L. PATTERSON, JR.
STATE TREASURER

RICHARD ECKSTROM
COMPTROLLER GENERAL



INSURANCE RESERVE FUND
POST OFFICE BOX 11066
1301 MAIN STREET, SUITE 300
COLUMBIA, SOUTH CAROLINA 29201
(803) 737-0020
FAX (803) 737-0042

HUGH K. LEATHERMAN, III
CHAIRMAN, SENATE FINANCE COMMITTEE

ROBERT W. HAZRUI, III
CHAIRMAN, WAYS AND MEANS COMMITTEE

FRANK W. PUSCO
EXECUTIVE DIRECTOR

VIA FACSIMILE (803) 896-7588
AND U.S. MAIL

November 23, 2004

Major Mark A. Keel
State of South Carolina
State Law Enforcement Division
P. O. Box 21398
Columbia, South Carolina 29221-1398

RE: *Southern Holdings, et al. v. Horry County, et al.*
C.A. No. 4:02-1859-12
IRF No. 01806

Dear Major Keel:

This letter follows our recent telephone conversation concerning the above case. This matter began when officers of Horry County Sheriff's Department and Horry County Police Department responded to a fax from the district attorney of Guilford County, North Carolina consisting of an Order of Arrest for Civil Contempt, an NCIC report and a letter from the district attorney stating that Robert B. Holt (a/k/a James B. Spencer) was wanted for a felony and extradition would not be waived.

While there are some technicalities at issue in the ensuing arrest of Mr. Holt, the main thrust of the civil litigation is that Holt's civil rights were violated in the arrest. Additionally, there are now allegations that officers played a form of Russian roulette with the plaintiff while detained. Most disturbingly, there is a new allegation that the tape recorded from the deputy's cruiser has been altered by editing out some or all of the alleged wrongdoing by the officers.

As you are aware, the Budget and Control Board does not wish to be placed in a position of defending criminal actions or apparently paying off victims of abuse if such has occurred. The original tape of the stop is in the possession of our defense attorney, Robert E. Lee, of the Aiken Bridges Firm in Florence. The tape was given directly to him by the sheriff's department.

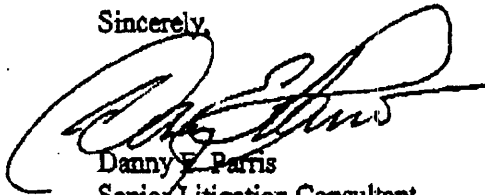
FBI Exhibit (Pages FBI 1 - FBI 23)
Main Document - Pages 42, 43(Footnote #74)

Major Keel
November 23, 2004
Page 2

If at all possible, we are asking for SLED to take possession of the tape to use your expertise in determining if the tape has in fact been altered. Mr. Lee is located at 181 East Evans St, Suit 409, Florence, SC and his telephone number is (843) 669-8787. If there is an administrative charge or other expense required, please let me know and we will be happy to provide you with the necessary funds.

With highest regards, I remain

Sincerely,



Danny F. Parris
Senior Litigation Consultant

EP/dof

Dec-09-2004 05:33pm From-ANETLAN
Dec-09-2004 03:45pm From-ANETLAN

0436640087
0436640087

T-657 P.004/007 F-762
T-652 P.002/006 F-747

NE2 041221254QE

FILED

DEC 10 2004

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

LARRY W. PROPER, CLERK
FLORENCE, SC

ENTERED
12-10-04

Southern Holdings, Inc.; James Spencer;)
Rodney Keith Lail; Irene Samacroe; Ricky)
Stephens; Marguerite Stephens; and Doris Holt,)

C/A NO.: 4-02-1859-27

Plaintiffs,)

FBI Exhibit (Pages FBI 1 - FBI 23)
Main Document - Pages 42, 43(Footnote #74)

vs.)

Horry County, South Carolina; Horry County)
Sheriff's Department; Horry County Police)
Department; James Albert Allen, Jr.)
Individually and in his official capacity as an)
officer with the Horry County Sheriff's)
Department; Sidney Rick Thompson)
Individually and in his official capacity as an)
officer with the Horry County Sheriff's)
Department; Jeffrey S. Caldwell, Individually)
and in his official capacity as an officer with the)
Horry County Sheriff's Department; Charles)
McClendon, Individually and in his official)
capacity as an officer with the Horry County)
Police Department; Jay Brantley, Individually)
and in his official capacity as an officer with the)
Horry County Police Department; Andy)
Christensen, Individually and in his official)
capacity as an officer with the Horry County)
Police Department; Michael Steven Hartness)
Harold Steven Hartness, Ancil B. Garvin, III;)
David Smith; and John Does,)

ORDER

Defendants.)

This matter comes before me with the consent of the parties. At issue in this case, among other things, is the arrest and stop of Plaintiffs James Brian Spencer and Rodney Keith Lail by the Horry County Police Department on August 6, 2000. There are three original videotapes of the stop made from the video equipment in the two Horry County police vehicles. The Plaintiffs have alleged that the videotapes may have been altered or edited and have retained an expert to inspect

199
127

Doc-09-2004 05:33pm From:ANETLAW
Doc-09-2004 03:46pm From:ANETLAW

8436640097
8436640097

T-657 P.005/007 F-762
T-652 P.003/003 F-747

FBI Exhibit (Pages FBI 1 - FBI 23)

Main Document - Pages 42, 43(Footnote #74)

and analyze the tapes. The original tapes have previously been delivered to the Plaintiffs' expert; however, he did not complete his analysis. Since the tapes were first inspected by the Plaintiffs' expert, they have been turned over to the State Law Enforcement Division ("SLED") by Henry County so that either the Federal Bureau of Investigation ("FBI") could investigate or analyze the tapes as well.

The Plaintiffs deserve the opportunity to have their expert conduct a full analysis of the subject videotapes prior to trial. Accordingly, I am ordering that the following guidelines be adhered to so that SLED and/or the FBI can investigate and/or review the tapes, but that the tapes are also timely returned and the Plaintiffs' expert can complete his analysis:

1. Within three days of the execution of this Order a certified copy of this Order will be delivered to SLED by the Henry County Police. Within two days after service of this Order upon SLED, SLED will deliver the videotapes together with a certified copy of this Order to the FBI.
2. On or before January 3, 2005 the FBI will return the videotapes at issue to SLED together with their report. A copy of the FBI's report will also be delivered to this Court on or before January 3 and a copy of the report will be disseminated to all counsel of record in this case.
3. The original videotapes will be produced to the Plaintiffs' expert, Steve Cain, to complete his analysis during the week of January 3, 2005 under the directions of this Court.
4. There is to be no destructive testing performed on the videotapes or equipment by any person or entity.

[Handwritten signature]
#2

Dec-09-2004 05:34pm From:ANETLAN

8436840087

T-657 P.006/007 F-762

Dec-09-2004 03:46pm From:ANETLAN

8436840087

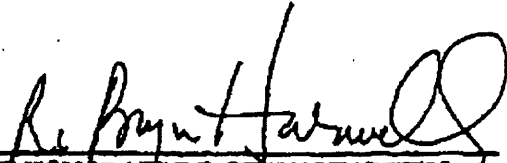
T-662 P.004/006 F-747

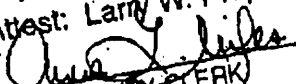
**FBI Exhibit (Pages FBI 1 - FBI 23)
Main Document - Pages 42, 43(Footnote #74)**

5. Horry County will review their files to identify any paperwork concerning the whereabouts of Officer Brantley's video recorder and produce any such documentation to Plaintiffs' counsel by December 20, 2004.
6. If it is determined that Horry County still has possession of Officer Brantley's video recorder and can identify the same, it will be produced to the Plaintiffs' expert, Steve Cain, by January 10, 2005.
7. If any part of this Order cannot be complied with by the parties or entities subject to this Order, this Court is to be notified immediately.

IT IS SO ORDERED.

*Flowers, SC,
Dec 10, 2004*


 THE HONORABLE R. BRYAN HARWELL
 JUDGE FOR THE U. S. DISTRICT COURT,
 DISTRICT OF SOUTH CAROLINA

A TRUE COPY
 Attest: Larry W. Probes
 By: 
 DEPUTY CLERK

[Handwritten initials]

Dec-08-2004 05:34pm From:ANETLAW
Dec-08-2004 03:46pm From:ANETLAW

8436640097

T-857 P.007/007 F-762

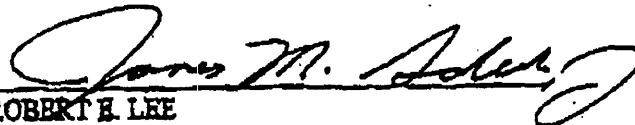
8436640097

T-652 P.005/005 F-747

FBI Exhibit (Pages FBI 1 - FBI 23)
Main Document - Pages 42, 43(Footnote #74)

WB CONSENT:

AIKEN, BRIDGES, NUNN, ELLIOTT & TYLER, P. A.

By: 


ROBERT H. LEE
FEDERAL I.D. # 5509
JAMES M. SALEEBY, JR.
FEDERAL I.D. # 6715
SUITE 409
181 EAST EVANS STREET
P. O. DRAWER 1931
FLORENCE, SC 29503
Phone: (843) 669-8787
Fax: (843) 664-0097
E-mail Address: jms@AikenBridges.com
rsj@AikenBridges.com

AIKEN, BRIDGES, NUNN, ELLIOTT & TYLER, P. A.

By: 

E. GLENN ELLIOTT
FEDERAL I.D. # 700
SUITE 409
181 EAST EVANS STREET
P. O. DRAWER 1931
FLORENCE, SC 29503
Phone: (843) 669-8787
Fax: (843) 664-0097
E-mail Address: egc@AikenBridges.com

STRAWINSKI & GOLDBERG, L.L.P.

By: 

MICHAEL L. GOLDBERG
3423 PIEDMONT ROAD
IVY PLACE - SUITE 510
ATLANTA, GA 30305
Phone: (404) 264-9955
Fax: (404) 264-1450





NE3

0412212540

FBI Exhibit (Pages FBI 1 - FBI 23)
Main Document - Pages 42, 43(Footnote #74)

Forensic Tape Analysis, Inc.

Steve Cain MFS 638 W. Main St. Lake Geneva, WI 53147
President/C.E.O.
Forensic Scientist

Michael R Chial, PhD
University of Wisconsin
Board of Directors

3/16/2004

Michael L. Goldberg
Strawinski & Goldberg, LLP
3423 Piedmont Road, N.E. Suite 510
Atlanta, GA 30305

FTA Case File # 04-016
Re: James Brian Spencer, et al v. Horry County Sheriff

Lab Report

Dear Attorney Goldberg,

On 3/2/2004 I received several videotape copies, one of which was forensically tested for authenticity purposes, namely videotape marked Exhibit Q-2 and containing label notation "Felony Traffic Stop", 8/6/2000, J M Brantly, with a notation "Circuit Court" circled to the right of the label. This tape is also identified as Exhibit B in a fax dated 3/9/2004 provided to FTA by Mr. Spencer. I was advised that the originals of the submitted videotapes were not available and since it is not possible to fully authenticate a videotape copy, it is strongly recommended that the original videotapes be ultimately obtained for examination purposes.

Your attention is invited to the enclosed article entitled "Verifying the Integrity of Audio and Videotapes" by Steve Cain which is published in an International Forensic Journal and deals with various procedures and instrumentation utilized by forensic tape experts in determining whether questioned videotape recordings have been edited or tampered with. As discussed in the cited article, videotape copies by their very nature cannot be authenticated as they were produced by different recording equipment than the original VCR/Camcorder used to make the original tape. It may be useful to obtain and download a copy of my discovery affidavit for the production of the original tape evidence which is contained on the internet at; www.videoexam.com , www.forensictapeexpert.com .

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Free Consultation (1-877-827-3397) Tel: 262-348-1313 Fax: 262-348-0037 Email: info@tapeexpert.com
www.ForensicTapeAnalysisInc.com www.VideoExam.com www.ForensicTapeExpert.com

FBI00000015

FBI Exhibit (Pages FBI 1 - FBI 23)
Main Document - Pages 42, 43(Footnote #74)

The forensic testing of the mechanical and electrical signals associated with the manufacturer of Exhibit Q-2 disclosed a number of significant and suspicious interruptions in the recording signals which cast serious doubt on the tape's authenticity. These suspicious record events, i.e. "anomalies" are more fully described below:

Q-2 Anomaly Descriptions

The beginning of Q-2 does not start with a typical police vehicle stop but instead involves a pre-recorded television segment involving a sports broadcast. As this tape was reportedly produced by the Horry County Police Department through a discovery process and submitted to the South Carolina Circuit Court, I was somewhat dismayed to determine that a previously recorded sports program was part of a police videotape copy submitted to the South Carolina Circuit Court.

Secondly, during the first five to ten seconds there are literally hundreds of corrupted video frames which indicate the possibility that insert editing had taken place at the beginning of the stop sequence involving Mr. Spencer. More specifically at approximately 11 seconds elapsed time and at 23 seconds elapsed time into the Q-2 videotape there appears evidence of a full-width erase head which transcends from the top of the screen to the bottom and which normally indicates that selected portions of the tape had been erased at these particular times.

It was further noted that the tension perimeters associated with the VCRs used to make the Q-2 tape varied and it appears that different VCRs were used in the production of the overall videotape. It also appeared somewhat unusual that audio that was occurring while either mic 1 or mic 2 were open and transmitting information that all of a sudden at approximately 1:08 pm that both mics were turned off and no further audio or speech information was heard until the end of the 40 minutes of recording.

It was also determined that at the end of the Spencer stop at 39:55 that there was an instant scene change to another vehicle and time of 17:18:47 with index number of 02218. This scene only lasts less than two seconds and its appearance at the end of the Spencer stop sequence together with no other footage is somewhat suspicious. It is further noted that at the transition between the last two scenes at 39:55 that the index numbers on the top left hand portion of the time code change from 2217 to 2218 and then back again to 2217 during the transition. This should not have happened unless potential editing had occurred at this particular time.

Lastly, there was what is known as "rainbow effects" which again indicate the possibility of insert editing which occurred at approximately 39:56 elapsed time into the tape just prior to the end of the visible footage.

All of the above anomalies collectively cast serious doubt concerning the authenticity of portions of the original videotape from which Exhibit Q-2 was reportedly manufactured by the Horry County Police Department. As per the aforementioned articles dealing with videotape authentication it is strongly recommended that the original tapes be obtained for examination purposes. It is further recommended as indicated in the 1999 article attached that

the original VCR or other video recording equipment that was used to make the original tapes also be inspected for authenticity purposes.

FBI Exhibit (Pages FBI 1 - FBI 23)
Main Document - Pages 42, 43(Footnote #74)

All provided tape copies are being retained at FTA until notification by counsel.

Sincerely yours,



Steve Cain
Board Certified Forensic Tape Examiner
President Forensic Tape Analysis, Inc.

Cc: Brian Spencer

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Free Consultation (1-877-827-3397) Tel: 262-348-1313 Fax: 262-348-0037 Email: info@tapeexpert.com
www.ForensicTapeAnalysisInc.com www.VideoExam.com www.ForensicTapeExpert.com

FBI000000017

FBI Laboratory Activity and Communication Log

Laboratory No.: 041221254

Case ID No. (F)

Date	Activity/Communication and Outcome
12/22/04 By: TAJ	Spoke with Capt. Caldwell he gave the case #, victims and the subjects. The subjects are being handled as Harry Co P.D. and Harry Co Sheriff's office instead of the individuals per his request.
12/28/04 By: NH	TEL CALL TO CAPT. LARRY GAINNEY SUGG. INVESTIGATIVE SERVICES ARE NEEDED FOR MORE TIME TO AUTHENTICATE THE 3 TAPES. CAPT GAINNEY CONFIRMED THE IDENT. OF THE INCIDENT
1/1/05 By:	
1/1/05 By:	
1/1/05 By:	
1/1/05 By:	
1/1/05 By:	

7-243 (Rev. 3-31-04)

FBI Laboratory

Chain-of-Custody Log

Laboratory No.: 041221254 Case ID No.: (F) [REDACTED]

Container(s)	Received Via	Accepted By	Date	Contributor
1 ENV.	<i>Harold [Signature]</i>	<i>Eli [Signature]</i>	12/21/04	Law Enforcement Div. Columbia, SC
	<i>[Signature]</i>	<i>FSU</i>	2:15pm	

Tracking No(s): Certified - 7099 3400 0011 5150 4959


Opened for Retrieval of Communication By: *Eli [Signature]* Date: 12/21/04

Shipping Container Damage

ECC Comments: _____

Container(s)	Delivered By	Accepted By	Date	Remarks
1 ENV.	<i>[Signature]</i>	ERF EVIDENCE STORAGE	12/21/04	
	<i>FSU</i>	<i>EA</i>	2:30pm	
1 ENV.	ERF EVIDENCE STORAGE	<i>Michael [Signature]</i>	12/28/04	
	<i>EA</i>	FAN/AW/OE	10 ³⁰ A	
Q1, Q2 & Q3 (3VHS TAPES)	<i>Michael [Signature]</i>	Brenda Brent	1/18/05	
	FAN/AW/OE	<i>FSU</i>	10 ³⁰ A	
2 env	Brenda Brent	<i>Eli [Signature]</i>	1/10/05	
	<i>FSU</i>	<i>FSU</i>	6:45AM	
1 Box	<i>Eli [Signature]</i>	Returned Via	1/10/05	
	<i>FSU</i>	Fed Ex	4:30pm	

FBI00000019


FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D. C. 20535

To: Captain David A. Caldwell
Special Operations
South Carolina Law Enforcement Division
P.O. Box 21398
Columbia, South Carolina 29221-1398

Date: February 9, 2005

Case ID No.: (F)

Lab No.: 041221254 QE

Reference: Communication dated December 15, 2004

Your No.: 3304-0149

Title: Horry County Police Department and
Horry County Sheriff's Office - SUBJECTS;
James B. Spencer - VICTIM;
ASSAULT

Date specimens received: December 21, 2004

Specimens:

- Q1 One BASF T130 VHS video cassette tape marked in part "JM Brantly
start: 7-23-00 stop: 9-6-00 original"
- Q2 One VHS video cassette tape with RCA spine label marked in
part "8-6-00 8-23-00 1325 1100 original Q-2 10/27/04"
- Q3 One T120 VHS video cassette tape with BASF top label marked in
part "Robert Holt James B Spencer" and RCA spine label marked
in part "7-21-00 1800 8-6-00 1320 Robert Holt Q-3 10/27/01"
- NE1 One two-page letter from the "State Budget and Control Board"
- NE2 One four-page notarized copy of court order for video testing
- NE3 One three-page copy of defense expert's report

Remarks:

The results of the Forensic Audio, Video and Image Analysis Unit examinations are included in this report.

Q1 through Q3 were returned to your office via Federal Express on January 10, 2005.

The "Receipt of Property" form was executed and returned to your office via Federal Express on February 4, 2005.

It is noted that NE1 through NE3 are being retained.



FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D. C. 20535

Report of Examination

Examiner Name: Noel Herold

Date: February 2, 2005

Unit: Forensic Audio, Video & Image Analysis

Phone No.: (703) 632-6190

Case ID No.: (F) [REDACTED]

Lab No.: 041221254 QE

Results of Examinations:

A physical and electronic examination of Q1 through Q3 revealed that they are original recordings with many discontinuities consistent with the depiction of numerous traffic stops. It is noted that, on Q1, after the start of the pertinent area, a "noise bar" briefly descends down the screen starting at about 12:57:20 (depicted time) and quickly ends well before the subject's vehicle is stopped. Although the cause of the "noise bar" is not known, this anomaly is normally associated with some sort of tape damage. The Q1 through Q3 tapes have not been altered and all edits are "camera edits" or real-time edits, none made subsequent to the recordings.

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U.S. Department of Justice
Federal Bureau of Investigation

EXHIBIT "M"



FBI Laboratory Division

Quality Assurance Manual

FBI Laboratory Quality Assurance Manual

Contents

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Approval

Assistant Director

 Signature on File

Date: 7/15/02

Dwight E. Adams

Issuance

QASU Chief

 Signature on File

Date: 7/16/02

Janet R. Cantamessa

Introduction

Quality performance, conforming to recognized standards of good laboratory practice, is the most important goal of the FBI Laboratory Division. Just as new and improved methods of scientific analysis are developed to meet the expanding needs of the criminal justice system, it is essential for laboratory quality standards to progress in parallel. The FBI Laboratory is committed to diligently implementing policy and procedure changes to ensure quality in all facets of laboratory operations.

The FBI Laboratory quality system, represented by the Quality Assurance Manual, provides a mechanism for identifying and implementing the practices that support excellent performance. All units within the FBI Laboratory are responsible for the incorporation of quality practices, consistent with the requirements specified by the Quality Assurance Manual, into daily unit functions.

All Laboratory employees share in the responsibility for adherence to the established quality measures as well as the overall success of the quality program.

The continued development and improvement of the FBI Laboratory quality system serve to increase confidence in the resulting work product while strengthening the professional integrity of the Laboratory and its employees. Through the use of recognized quality practices and procedures, the FBI Laboratory will continue to meet the challenges of future laboratory accreditations.

Allyson A. Simons
Acting Assistant Director
Laboratory Division

FBI Laboratory Authorization and Approval Hierarchy

The FBI Laboratory Quality Assurance Manual Hierarchy outlines the hierarchy of authority necessary to implement change within the context of each level (see the following chart).

Level 1 of this hierarchy governs the approval process necessary to implement division-level policy (an overall principle, plan, or course of action). The policy statements contained in this manual have been authorized by the Deputy Assistant Directors (DAD) and approved by the Assistant Director (AD) of the FBI Laboratory Division for issuance. Changes to these policy statements require the authorization and approval of the same. Changes to Level 1 policy statements are expected to be rare.

Level 2 of this hierarchy governs the approval process necessary to implement division-level practices (documents specifying operational requirements) and procedures (documents specifying casework requirements). The procedures are contained in the Caseworking Procedures Manual and it is an appendix to this manual. Practices and procedures are intended to supplement policy statements. The practices and procedures contained in this manual have been recommended by the section chiefs (SC), authorized by the DADs and approved by the AD of the FBI Laboratory Division for issuance. Changes to these practices and procedures require the authorization and approval of the same. Changes to Level 2 practices and procedures are expected as needed.

Level 3 of this hierarchy governs the approval process necessary to implement section- and unit-level policies and section-level practices and procedures that supplement the division-level policies, practices, and/or procedures. Each section's section-level policies, practices, and/or procedures are appendices to this manual. The policies, practices, and/or procedures contained in those appendices have been authorized and approved by the managing SC. Changes to those policies, practices, and/or procedures require authorization and approval of the same. Changes to Level 3 policies, practices, and/or procedures are expected as needed.

Level 4 of this hierarchy governs the approval process necessary to implement unit-level practices and procedures that supplement the division- or section-level policies, practices, and/or procedures. Each unit's unit-level practices and/or procedures are appendices to this manual. The practices and/or procedures contained in those appendices have been authorized and approved by the managing unit chief (UC). The unit operational requirements should be separate from unit technical standard operating procedures. Changes to those practices and/or procedures require authorization and approval of the same. Changes to Level 4 practices and/or procedures are expected as needed.

**FBI Laboratory
Authorization and Approval Hierarchy**

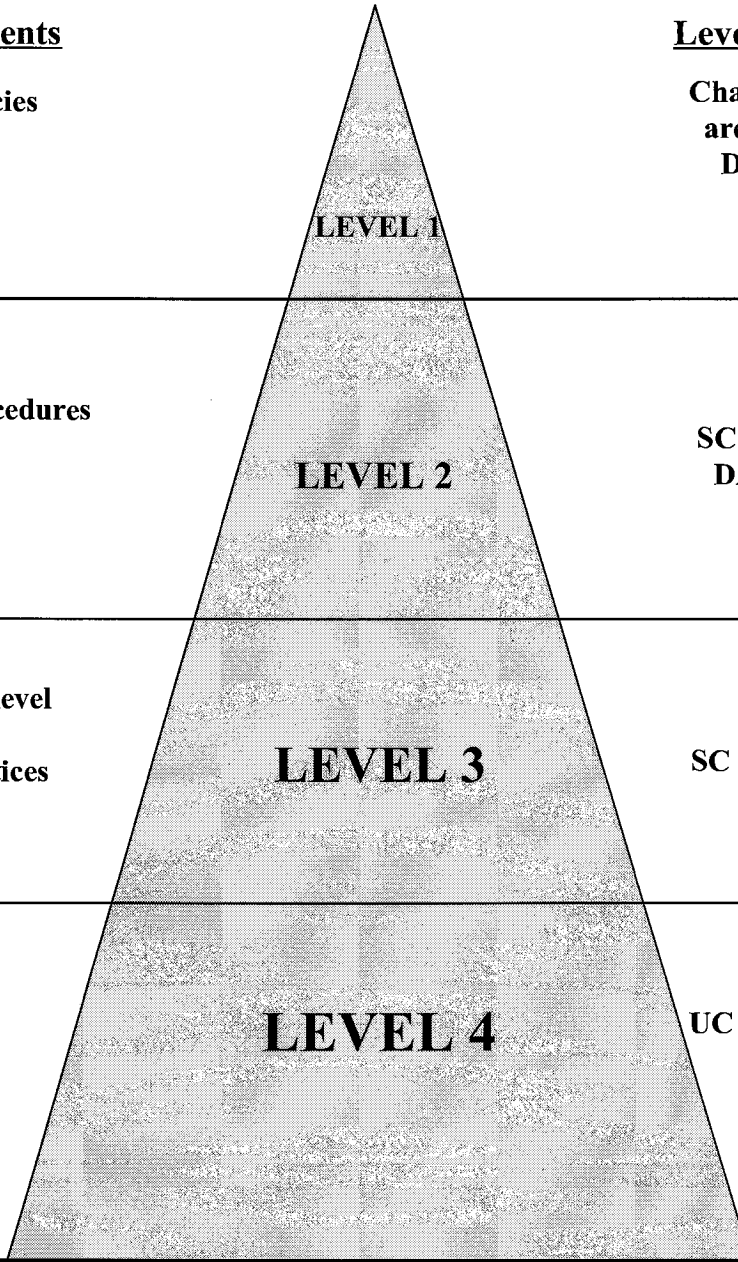
Document Contents

Division-level policies

**Division-level
practices and procedures**

**Section- and unit-level
policies
Section-level practices
and procedures**

**Unit-level
practices and
procedures**



Levels of Authority

**Changes to document
are rare and require
DAD authorization
and
AD approval**

**Changes to
document require
SC recommendation,
DAD authorization,
and
AD approval**

**Changes to
document require
SC authorization and
approval**

**Changes to
document require
UC authorization and
approval**

Rev. #	Issue Date	History
4	01/02/02	New title. Previously entitled "Preface," contained within the table of contents section. Level 3 has been reworded to allow a section chief to make section-level policies, practices, and/or procedures supplementing division-level policies, practices, and/or procedures. Level 4 has been added to allow unit chiefs the authority to approve and implement unit practices and/or procedures. Reworded to support the <i>Practices for Document Control</i> .
5	07/22/02	Included the Caseworking Procedures Manual as an appendix to the Quality Assurance Manual.

Approval

Assistant Director

Signature on File

Dwight E. Adams

Date: 7/15/02

Issuance

QASU Chief

Signature on File

Janet R. Cantamessa

Date: 7/16/02

FBI Laboratory Laboratory Quality System

1 Vision Statement

The FBI Laboratory will be foremost in the delivery of forensic examinations and other services to law enforcement through:

- A total commitment to quality.
- Technical leadership.
- Prompt, accurate, and thorough responses to requests.
- Innovative uses of technology to facilitate investigations.
- Sharing information and technology with the criminal justice community.
- A work environment that fosters open communication, creativity, individual initiative, and personal achievement.

2 Policy

The Laboratory Division of the Federal Bureau of Investigation will continually strive to ensure the quality and reliability of its laboratory data through the adequately documented use of established methods and procedures. Through the quality system and in accordance with good laboratory practice, the FBI Laboratory will strive to ensure that functions are performed as intended.

3 Goals and Objectives

The following general goals and objectives serve as a guide for providing quality laboratory services.

- 3.1 To assure that laboratory results from the FBI Laboratory provided to contributing agencies are reliable and scientifically sound.
- 3.2 To establish formal methods of quality assurance within the FBI Laboratory and to maximize reliability of laboratory data through the implementation of recognized standards for good laboratory practice.
- 3.3 To use procedures that are valid, reliable, reproducible, and adequate for the intended purpose.
- 3.4 To monitor the routine operational performance of units within the Laboratory.

- 3.5** To periodically audit all areas of the quality system by, or on behalf of, the Laboratory management to ensure that policies, practices, and procedures are being followed.
- 3.6** To maintain laboratory quality, excellence, and reliability.
- 3.7** To maintain requirements for laboratory accreditation.
- 3.8** To provide the necessary training for personnel to carry out the provisions of the quality system.

4 Organization

The Federal Bureau of Investigation is the principal investigative arm of the United States Department of Justice. The FBI is a field-oriented organization with Headquarters (FBIHQ) located in Washington, DC. The executive managers within FBIHQ provide program direction and support services to field offices; satellite offices, known as resident agencies; specialized field installations; and foreign liaison posts. The FBI Laboratory consists of three branches: Investigative Technologies Branch, Forensic Analysis Branch, and Operational Support Branch. Additionally, the Laboratory has offices and laboratories at FBIHQ, the FBI Academy, as well as additional off-site locations.

5 Quality System

The FBI Laboratory quality system consists of division-, section-, and unit-level policies, practices, and procedures. With the support of the Laboratory's management and input from personnel, policies, practices, and procedures are developed and implemented when necessary. All current policies, practices, and procedures are annually reviewed and audited as appropriate. If areas having an adverse impact on the quality system are identified, appropriate changes will be made and/or corrective actions will be taken.

6 Authority/Responsibility for the Quality System

To be successful, the Laboratory quality system must have the complete support of the Assistant Director (AD), Deputy Assistant Director(s) (DAD), and other Laboratory managers, as well as the commitment of all Laboratory personnel. This section identifies Laboratory management and other Laboratory personnel responsibilities for implementing the quality system.

6.1 The Assistant Director and Deputy Assistant Directors will:

- Support and promote the quality system.
- Ensure that the policies, practices, and procedures within the quality system are documented.
- Ensure that the Laboratory personnel understand and apply current policies, practices, and procedures to appropriate situations.

6.2 Each Section Chief will:

- Support and promote the quality system.
- Ensure that the current policies, practices, and procedures are implemented within the section.
- Ensure that the corrective action is taken and documented to resolve deficiencies when they are found.

6.3 Each Unit Chief will:

- Support and promote the quality system.
- Ensure that the unit-specific quality system is annually reviewed.
- Communicate the quality system and related policies, practices, and procedures to all employees within the unit.
- Appropriately delegate authority within the unit to implement the quality system.
- Ensure that all unit personnel receive necessary training and are qualified for assigned work.
- Approve the selection and use of analytical methods and procedures within the unit; establish criteria for method and procedure validation; and, as necessary, review and update methods and procedures.
- Ensure the completeness of Laboratory reports and supporting documentation.
- Ensure that the corrective action is taken and documented to resolve deficiencies when they are found.

6.4 The Quality Assurance and Safety Unit (QASU) Chief will:

- Serve as the quality assurance manager.
- Ensure all quality assurance and safety programs function in accordance with Laboratory goals and objectives.
- Advise management regarding the development, implementation, and maintenance of the quality system.
- Provide, as necessary, reports to the Laboratory AD on progress of QASU activities.
- Advise management on issues relating to laboratory quality and good laboratory practice.

6.5 The Quality Assurance and Safety Unit Personnel will:

- Coordinate the development and revision of the quality system.
- Assist units, as needed, in the development of specific quality system policies, practices, and procedures.
- Conduct periodic quality audits to provide management with the necessary verification that established quality policies, practices, procedures, and objectives are being met.
- Provide guidance and direction to Laboratory personnel regarding compliance with accreditation standards.

6.6 The Quality Assurance Working Group, comprising representatives from units within the Laboratory, will:

- Participate in revising division-level policies, practices, and/or procedures, as necessary.
- Provide assistance, as needed, in conducting quality audits.

6.7 Each Laboratory Examiner will:

- Ensure compliance with current policies, practices, and procedures.
- Ensure that the Laboratory procedures are performed in a careful and responsible manner in accordance with current policies, practices, and procedures.
- Make recommendations and suggestions for improving Laboratory policies, practices, and procedures as appropriate.

6.8 Technical Personnel will:

- Ensure compliance with current policies, practices, and procedures.
- Ensure that the Laboratory procedures are performed in a careful and responsible manner in accordance with current policies, practices, and procedures.
- Advise examiners of relevant case-related issues.

6.9 Administrative Personnel will:

- Perform administrative/clerical duties in a careful and responsible manner.

7 Management Review of the Quality System

An annual management review of the quality system will be conducted to assess the status and effectiveness of the quality system, and to identify improvement opportunities. The QASU chief will provide information regarding the quality system to the AD and DAD(s). The QASU chief and the AD and DAD(s) together will review the current status and future direction of the quality system. This review will assess:

- Adequacy and completeness of the policies, practices, and procedures for meeting the quality objectives of the FBI Laboratory, and the standards of the American Society of Crime Laboratory Directors Laboratory Accreditation Board.
- Adequacy of the organizational structure and staffing levels to implement the quality system.
- Support for, and ownership of, the elements of the quality system by all levels of management in the Laboratory.
- Status of the Quality Assurance Manual.

- Effectiveness of the implementation of those policies, practices, and procedures by Laboratory personnel.
- Adequacy of managers' knowledge and understanding of the accountability for quality achievement and verification.
- Status of the proficiency testing and audit programs.
- Timeliness of managers' actions in identifying problems and taking corrective actions.
- Response to the previous year's recommendations, if any.

This management review will be documented and used as the foundation for future development of goals and objectives. If deficiencies are identified through the management review process, a plan of corrective action will be developed and implemented within an appropriate time frame.

8 Personnel Training and Qualifications

Units that handle evidence will develop and maintain appropriate training manuals. Each unit chief will ensure records of the relevant qualifications, training, skills, and experience of examiners and technical personnel will be kept up to date. All records will be retained within the applicable unit.

9 Types of Examinations/Functions Conducted

Forensic examinations of evidence are performed in the Laboratory in support of the FBI and other foreign, federal, state, and local investigations. The FBI provides expert witness testimony on a national and international level. FBI Laboratory personnel participate in ongoing field investigations by conducting crime scene searches, performing special surveillance photography, and providing other on-scene scientific and/or technical services as necessary.

10 Administrative Matters

Policies, practices, and procedures regarding Laboratory administrative matters will be retained in various units responsible for those functions. These policies, practices, and procedures may include 1) personnel listing by unit, 2) personnel symbols, 3) statements of qualification, 4) budget, 5) annual report, 6) job descriptions, 7) control of materials and supplies, 8) duty hours, and 9) leave time.

11 Environmental Health and Safety

Laboratory operations will be performed in a safe manner and in accordance with the standards established by applicable regulatory agencies. A written laboratory safety manual, prepared by the Health and Safety Group, QASU, will be made available to Laboratory personnel.

12 Dissemination of Information

Refer to Part II, section 9 of the Manual of Administrative Operations and Procedures (MAOP) for FBI guidelines regarding the dissemination of information. |

13 References

ANSI/ASQC Q2-1991. *Quality Management and Quality Systems Elements for Laboratories - Guidelines*. American Society for Quality Control, Milwaukee, Wisconsin, 1991.

ANSI/ISO/ASQC Q10013-1995. *Guidelines for Developing Quality Manuals*. American Society for Quality Control, Milwaukee, Wisconsin, 1995.

The American Council of Independent Laboratories, Inc. *Quality Assurance: A Laboratory Management Practice Manual*. 1986.

Ratliff, T.A. *The Laboratory Quality Assurance System*. Van Nostrand Reinhold, New York, NY, 1990.

Manual of Administrative Operations and Procedures, Part II, section 9. U.S. Department of Justice, Federal Bureau of Investigation, Washington, DC.

Rev. #	Issue Date	History
0	12/4/96	Original document issued.
1	05/09/97	Changed section 17 - Court Testimony (monitoring and training), added section 22 - Conflict Resolution, and renumbered subsequent sections.
2	12/05/97	Section 21 was replaced by Management Review of Quality System and subsequent sections were renumbered to reflect changes.
3	02/27/98	Deleted section 2, renumbered sections, added deviations and revised corrective action, complaint, document control, and internal audits. Inserted EC Historical Reference Section.
4	02/26/99	Deleted Appendix I reference and made editorial changes to policy statements.
5	01/02/02	New format - references to units other than QASU have been removed; the policy statements, sections 12 through 25, were moved to the new <i>Statements of Policy</i> document (rev. 5); and the definitions, section 26, were moved to a new <i>Definitions</i> document.

EC Historical Reference: Case I.D. #: 66F-HQ-A1073267
 Serials: 1, 32, 33, 47, 60, 77

Approval

Acting Assistant Director _____ Signature on File _____ Date: 12/21/01
 Allyson A. Simons

Issuance

QASU Chief _____ Signature on File _____ Date: 12/26/01
 Richard A. Guerrieri

FBI Laboratory Definitions

1 Scope

The following definitions apply to policies, procedures, and practices in this Quality Assurance Manual.

2 Definitions

- 2.1 Activity and Communication Log (7-245) - A form used within the FBI Laboratory to document activity or communication.
- 2.2 Administrative Documents - All notes, forms, printouts, charts, and other data or records used or generated by an examiner/team that **do not** pertain to the conclusions of examinations.
- 2.3 Administrative Error - A clerical error such as a typographical error in a report. In proficiency testing, administrative errors also include those errors associated with the making of the proficiency test.
- 2.4 Administrative Personnel - Personnel who provide administrative/clerical duties in support of FBI Laboratory functions.
- 2.5 Administrative Review - A review that determines whether the report is clear, concise, accurate, complete, and formatted correctly and whether the case file documentation is complete, as set out in section 4.4 of the *Procedures for the Examination of Evidence*.
- 2.6 Administrative Reviewer - A unit chief or designee who conducts an administrative review.
- 2.7 Analytical/Interpretative Error - An error in analysis, examination, or interpretation that produces an incorrect result or conclusion. Such errors include but are not limited to calibration error, equipment error, examiner observation error, calculation error, examiner interpretation error, errors due to deviations from procedures, errors due to use of inappropriate methods or procedures, or errors due to lack of thoroughness or completeness. Analytical/interpretative errors may be attributable to the examiner or technician.

- 2.8 Audit - A planned and documented activity performed to determine the adequacy of, and compliance with, established procedures, instructions, drawings, and other applicable documents, and the effectiveness of implementation by investigation, examination, or evaluation of objective evidence.
- 2.9 Audit Team Leader - An experienced auditor who is assigned the responsibility of leading a team to conduct a portion of an audit.
- 2.10 Calibration - The checking, adjusting, or standardizing of any instrument and/or equipment to ensure agreement with a measurement standard of known value.
- 2.11 Case Identification Number - A unique alphanumeric number that is assigned to an investigation.
- 2.12 Cause - The fundamental reason for a condition adverse to quality, that, if corrected or precluded, would minimize or prevent that condition, and/or similar conditions, from occurring. Cause determination is important to detect systemic problems.
- 2.13 Chain-of-Custody Log (7-243 and 7-243a) - A form used within the FBI Laboratory to document all transfers of evidence (to include nonevidentiary items) over which this Laboratory has control.
- 2.14 Condition Adverse to Quality - An all-inclusive term used in reference to any of the following: failures, malfunctions, deficiencies, defective items, and nonconformance issues.
- 2.15 Confirmation of Identifications and Associations - A process that corroborates the original conclusion.
- 2.16 Container, Evidence - Either the primary or secondary container intended to secure the integrity of the item.
- 2.17 Container, Primary - The container in direct contact with the evidence.
- 2.18 Container, Secondary - A container that houses the primary container(s).
- 2.19 Container, Shipping - The outer container that houses evidence containers.
- 2.20 Corrective Action Request (7-254) - A form used to identify and document the resolution of significant conditions adverse to quality, repeat findings (a recurring finding from the previous audit), or as requested by a section chief.
- 2.21 Corrective Maintenance - Actions taken on instruments and equipment to restore them to proper operation.

- 2.22 Custody - The care and control of an item implying responsibility for its protection and preservation.
- 2.23 Customer/Contributor - The recipient of work performed by the FBI Laboratory. Internal customers are within the FBI; external customers are outside the FBI.
- 2.24 Court Official - Prosecutor or defense attorney (excluding the judge).
- 2.25 Court Testimony Monitoring Review Board (CTMRB) - A panel consisting of the appropriate section chief and two appropriate unit chiefs as well as technical expert(s) as deemed necessary by the section chief.
- 2.26 Deficiency - An unauthorized deviation from documented procedures, practices, or requirements, or a condition or situation detrimental, or potentially detrimental, to quality.
- 2.27 Deviation - Any variance, major or minor, from a documented policy, practice, or procedure.
- 2.28 Deviation, Major - A deviation that has the potential to impact the quality process, may affect a range of circumstances, or is applicable over an extended period of time.
- 2.29 Deviation, Minor - A deviation that is not expected to impact the quality process and generally will not have an extended duration.
- 2.30 Deviation Request (7-258) - A form used to document the approval of a major deviation.
- 2.31 Discipline - A major area of casework.
- 2.32 Document - Information in any medium including, but not limited to paper copy, computer disk or tape, audio or video tape, photograph, overhead, or photographic slide.
- 2.33 Document, Controlled - A document that is distributed in a trackable manner and is labeled to identify it as being controlled.
- 2.34 Document, Uncontrolled - A copy of a controlled document furnished for informational purposes only. Examples include copies provided to inspectors and copies furnished as examples.

- 2.35 Document Control - The process of ensuring that documents prescribing quality-affecting activities or specifying quality requirements (controlled documents), including revisions, are reviewed for adequacy, approved for release by authorized personnel, and distributed for use to the personnel performing the prescribed activities.
- 2.36 Evidence - An item submitted for analysis(es) or examination(s).
- 2.37 Evidence, Drug - Illegal substances, drug paraphernalia, and prescription and nonprescription drugs.
- 2.38 Evidence, Valuable - Money, irrespective of amount and country of origin; jewelry, irrespective of value and composition; medals; rare coins; works of art and antiques; furs; and other items of intrinsic value, excluding drug evidence.
- 2.39 Examination Documents - All notes, forms, printouts, charts, photographs, and other data or records used or generated by an examiner/team that pertain to the conclusions of examinations.
- 2.40 Examination Team - A team, generally consisting of one examiner and technical support personnel within a unit, that processes, examines, and/or analyzes items of evidence. The technical support personnel perform duties at the direction of the examiner in direct support of conclusions. When necessary, a technician(s) from outside the unit, who provides assistance in a specific technical discipline, or an additional examiner(s) may be included as a part of the examination team.
- 2.41 Examination Team Record (7-243b) - A form used within the FBI Laboratory, located on the reverse side of the *Chain-of-Custody Log* (both the 7-243 and the 7-243a) to record team members.
- 2.42 Examiner - A person who is certified by the FBI Laboratory as having successfully completed a documented training program in a particular forensic discipline, and who conducts examinations within that discipline, writes reports conveying the results of those examinations, and testifies to those results in court.
- 2.43 External Evaluation of Testimony (7-257) - A form supplied to a court official to evaluate an FBI Laboratory individual's testimony.
- 2.44 External Proficiency Test - An open proficiency test obtained from other than an FBI source, the expected results of which are unknown to the Laboratory staff.
- 2.45 Finding - An item that is not compliant with documented requirements.
- 2.46 Follow-Up Actions (7-255) - A form used to document other situations adverse to quality that do not meet the criteria for a *Corrective Action Request (7-254)*.

- 2.47 Good Laboratory Practice - The organizational process, conditions, and operating procedures under which laboratory analyses are planned, performed, monitored, recorded, and reported so as to maintain the quality and integrity of the work product.
- 2.48 Internal Evaluation of Testimony (7-256) - A form used to evaluate the testimony of an FBI Laboratory individual by means of direct observation, transcript review, video tape review, or audio tape review.
- 2.49 Internal Proficiency Test - A proficiency test prepared by an FBI source, the expected results of which are unknown to those individuals taking the test.
- 2.50 Item Identifier - An alphanumeric designator assigned to an item submitted to the FBI Laboratory.
- 2.51 Laboratory File - A portion of an official file maintained by the Laboratory. At a minimum, requests for examinations, acknowledgment letter file copies, report file copies, and 7-251s, *Supporting Documentation Envelope* (which contains administrative and examination documentation), will be included in a Laboratory file.
- 2.52 Laboratory Number - The FBI Laboratory's unique identifier that is assigned to each request for examination. This nine-digit number indicates the year, month, day, and sequential request for examination processed on that day.
- 2.53 Lead Auditor - An experienced auditor who is assigned the overall responsibility for conducting the audit.
- 2.54 May - The word used when an element is optional or discretionary.
- 2.55 Must - The word used when an element is required.
- 2.56 Nonroutine Process/Procedure - A process or procedure that is not performed on a regular basis. It may include the examination of rare or unusual evidence.
- 2.57 Observation - An item where compliance is met but there remains a concern regarding the effectiveness or meeting the intent of the requirement.
- 2.58 Official Documents - Communications that are serialized.
- 2.59 Open Proficiency Test - A test, known to the testee as such, prepared to evaluate the testee's competence related to casework.

- 2.60** Peer Review - A review that determines whether the appropriate examinations have been performed, the examiner's conclusions are consistent with the documented data and are within the limitations of the discipline, and there is sufficient supporting documentation for each conclusion.
- 2.61** Peer Reviewer - A person having expertise in a specific discipline gained through documented training and experience.
- 2.62** Preventive Maintenance - Actions taken to ensure instruments and equipment continue to operate properly.
- 2.63** Proficiency - An item where the auditee has exceeded expectations.
- 2.64** Proper Seal - A seal that prevents loss, cross-transfer, or contamination while ensuring that accessing the evidence will result in obvious damage or alteration to the seal and identifies the person creating the seal. A compliant proper seal includes a heat seal, tape seal, or lock seal with the initials of the person creating the seal being placed across the seal onto the package when possible.
- 2.65** Qualitative Analysis - Procedures that use visual, microscopic, or instrumental methods of comparison of sample characteristics and composition to determine the sample's constituents without regard to quantity.
- 2.66** Quality Assurance - Planned or systematic actions necessary to provide adequate confidence that the results from laboratory analyses and testing will satisfy given requirements for quality.
- 2.67** Quality Control - The day-to-day operational techniques and activities used by the laboratory to consistently provide accurate analytical results that fulfill the requirements for quality.
- 2.68** Quality System - An operational plan defined by the Laboratory's organizational structure, responsibilities, procedures, processes, and resources.
- 2.69** Quantitative Analysis - Analysis of a substance that determines the amount or proportion of its constituents.
- 2.70** Record - A document that provides evidence of a condition, work performed, activities conducted, and/or quality for archival purposes.
- 2.71** Reference Material - A material or substance having known properties. These materials may be used for the identification of unknown substances, calibration of instruments, assessments of a measurement method, or assigning value to materials.

- 2.72 Repeat Finding - A recurring uncorrected finding from the previous audit.
- 2.73 Report of Examination (7-1) - The official document that presents case-related information to a contributor regarding Laboratory activity.
- 2.74 Routine Process/Procedure - A process or procedure that is performed on a regular basis for the analysis of evidentiary material.
- 2.75 Scientific Resolution Board - Personnel selected to resolve an issue or concern having widespread or substantial impact on the FBI Laboratory.
- 2.76 Secondary Evidence - Material derived from an item of evidence.
- 2.77 Secured Area - An area that has controlled access.
- 2.78 Should - The word used when an element is recommended.
- 2.79 Standard Operating Procedure (SOP) - A written document that specifies the steps, equipment, and materials necessary to perform a task properly. SOPs are written to provide instruction and standardization for activities affecting quality.
- 2.80 Subdiscipline - A specific type of analysis within an accredited discipline.
- 2.81 Subdivided Evidence - Multiple items of evidence that were originally inventoried as a single item and have subsequently been assigned a unique identifier.
- 2.82 Supporting Documents - Case-related administrative and examination documents that are not serialized.
- 2.83 Systemic Error - An error that occurs when all appropriate procedures are followed; interpretations seem correct based on the information provided; and appropriate thoroughness, judgment, and completeness are exercised. Systemic errors may indicate an error or oversight in documented procedures or the lack of validity of those procedures for that instance. Examples include computer software error, a chemical or physical interference that was not documented in the procedure or determinable by the controls, or a certified reference material that is defective. A systemic error means that the problem is not attributable to the examiner or technician.
- 2.84 Technical Support Personnel/Technician - Personnel who conduct qualitative or quantitative methods of casework analysis under the direction of an examiner.
- 2.85 Universal Precautions - A concept in which all human blood, blood products, and certain body fluids should be treated as if contaminated with bloodborne pathogens. (Refer to the Laboratory Division Safety Manual.)

- 2.86 Validation - A process used by the scientific community to assess the ability of a procedure to produce reliable results, determine the conditions under which such results can be obtained, and determine the limitations of the procedure.

- 2.87 Verifier - A person who performs an independent review to confirm or refute the conclusion (an identification or association) offered by the original examiner. A verifier is both qualified in the discipline being reviewed and has successfully completed a current proficiency test, according to the *Practices for Open Proficiency Testing*, within the discipline being reviewed.

- 2.88 Will - The word used when an element is required.

Rev. #	Issue Date	History
0	01/02/02	Definitions were previously located throughout the manual. They have been consolidated into one list and more terms were defined.
1	07/22/02	Added more detail to section 2.64 and added "(7-1)" to section 2.73.

Approval

Assistant Director

Signature on File

Dwight E. Adams

Date: 7/15/02

Issuance

QASU Chief

Signature on File

Janet R. Cantamessa

Date: 7/16/02

EXHIBIT "N"

IN THE UNITED STATES DISTRICT COURT
FOR
THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

SOUTHERN HOLDINGS, INC.,)
ET AL.,)

PLAINTIFFS,)

VERSUS)

HORRY COUNTY, ET AL.,)
DEFENDANTS.)

CA. NO. 4:02-1859-RBH

ELECTRONIC EXHIBIT - I
TRANSCRIPT
CHRISTI OBERBROECKLING

**(Interview with Christi Oberbroeckling, Administrator,
with FBI Evidence Control Unit at Quantico, Virginia,
regarding FBI Chain of Custody Documentation Forms.)**

1 **57:00 – 59:20**

2 Oberbroeckling: Yeah. The -- the forms that you're -- that you're referring to are
3 laboratory-only forms. Um, some of the forms that you obtained through
4 discovery?

5 Interviewer: That's correct.

6 Oberbroeckling: Okay. I just wanted to make sure so that I can explain it so that you can
7 understand it a little bit better.

8 Interviewer: Right.

9 Oberbroeckling: Do you have copies of two different forms? You have the one of the, uh,
10 the two different laboratory chains of custody, the 243 and 243(a)?

11 Interviewer: Right.

12 Oberbroeckling: Oh, yes. The 243 is what we call a main chain. The 243(a), those are
13 intra-unit chains.

14 Interviewer: Right.

15 Oberbroeckling: Which means once the evidence is delivered to a particular unit, the
16 transfer of that evidence within that unit is recorded on the 243(a).

17 Interviewer: They mark on the 7-243 received and then they generate a 7-243(a).

18 Oberbroeckling: Correct.

19 Interviewer: For transfers internal to their unit.

20 Oberbroeckling: Correct.

21 Interviewer: Okay.

22 Oberbroeckling: Yeah. For cases that are main chain, the 243 records the receipt
23 information for receipt of the evidence into the laboratory. So then, yeah,
24 the 243(a) is within a unit during their examination to keep track of the
25 evidence that they have been handed for their examination.

1 Interviewer: Like the 7-243(b) is, um, as I said, I'm reading out of the Q and A
2 manual. I found on the reverse of the 7-243 or the 7-243(a).

3 Oberbroeckling: You're looking at the laboratory Q &A manual?

4 Interviewer: Yeah.

5 Oberbroeckling: Bear with me. Our internet is finally back up. Can you -- just so that I
6 don't have to sort through it, what section are you in- in the Q &A
7 manual?

8 Interviewer: I'm under Exhibit D.

9 Oberbroeckling: Exhibits. Here are the exhibits. Okay. So it's just an internal tracking of
10 what teams were involved.

11 Interviewer: Well, there's a 243 and a 243(a) were used.

12 Oberbroeckling: Absolutely. That -- that is your actual chain of custody. 243(b) is
13 information only, or who is involved in teams.

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1 STATE OF SOUTH CAROLINA

2

3 CERTIFICATE

4

5

6

7 Be it known that I, Bonnie Davenport, a Professional Court Reporter and
8 Notary Public, did have digital telephone conversations presented to me on July 31, 2015 in
9 Cayce, South Carolina;

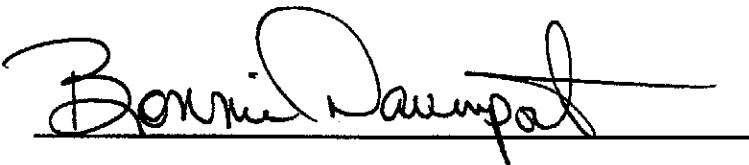
10 That the foregoing pages constitute a true and accurate transcription of the
11 recordings given at that time and place aforesaid to the best of my skill and ability;

12 I further certify that I am not counsel or kin to any of the parties to this cause of
13 action, nor am I interested in any matter of its outcome.

14 In Witness whereof, I have hereunto set my hand this 15th Day of August, 2015.

15

16

17 
18 _____

19 Bonnie Davenport

20 Notary Public For South Carolina

21 My Commission Expires February 1, 2018

22

23

EXHIBIT "O"

DEFIANCE COLLEGE

Beverly Harrington

To: James Spencer

Registrar

701 North Clinton Street

Fax No. : 803-708-6225

Defiance Ohio 43512

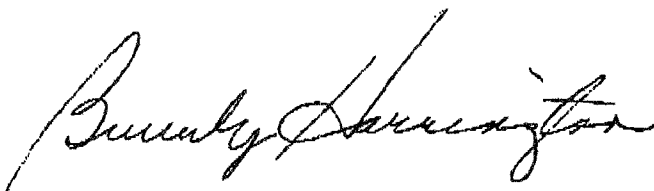
Fax: 419-783-2579

Date: 9-8-08

Phone: 419-783-2358

Email: bharrington@defiance.edu No. of pages: 1

I cannot find any record that Defiance College has ever offered a bachelor of arts degree in nuclear and atomic physics. At one time we did offer a bachelor of arts degree in physics.



Confidentiality Notice

The documents being transmitted may contain information that is privileged and confidential under applicable law. If the reader of this message is not the intended recipient or an employee responsible for delivering this information to the addressee, you are hereby notified that any disclosure, copying, distribution, or taking of any action in reliance on the contents of this faxed information is strictly prohibited. If you have received this communication in error, please notify me immediately by telephone and return the original documents to me at the above address via the U.S. Postal Service.

SEP 15 2003

FBI
Supervisory Special Agent (retired) Noel Herold

2003 Noel Herold C.V.

BACKGROUND - RESUME

Nine years - U.S. Marine Corps Reserve - Infantry

B.A. in Nuclear and Atomic Physics

I worked Five years (1965-1970) as Physicist for Grumman Aerospace Corporation - working at Bethpage, New York, Cape Canaveral, and Kennedy Space Center, Florida, on the Project Apollo Lunar Module Primary Guidance and Navigation Subsystem. Acquired Private (aircraft) Pilot's licence in 1968.

I joined the FBI In January, 1970 as Special Agent. Worked for two years In the Cincinnati and New York field offices on Fugitives and Organized Crime, respectively.

I worked for three years in the Physics and Chemistry Section of the FBI Laboratory as an Examiner in the Firearms Unit at FBI Headquarters.

I worked for over 20 years in the Radio Engineering Section of the Laboratory and now the Engineering Section of The Laboratory Division at FBI Headquarters. Presently working at the Engineering Research Facility, Quantico, Virginia. This work has included the following:

- (1) Acoustic Measurements
- (2) Examinations/measurements of (weapons) silencers and sound suppressors
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- (4) Video and audio copyright violations examinations
- (5) Video authenticity examinations
- (6) Video world standards conversions/examinations
- (7) Computer enhancement of video and audio
- (8) Technical support for the field and Headquarters
- (9) Research on video systems, examination methods and signal recovery
- (10) (Weapons) silencers/suppressors & Video/audio forensic training

I have Received formal training in Systems Engineering, Analog Video Technology, Video Copyright Control, Digital Technology, Digital Audio Signal Processing, Digital Image Processing, Imaging, and Digital Image Processing For Law Enforcement.

I have testified in Federal, State, Local, and International courts as expert

witness over 150 times in Firearms, Toolmarks, Audio, Acoustics, (weapons) silencers/suppressors, and video. I have provided forensic assistance in all 50 States, the U.S. Virgin Islands, and international video and audio forensic assistance for Australia, Canada, Denmark, Egypt, El Salvador, Germany, Great Britain, Hong Kong, Ireland, Israel, Kuwait, Latvia, Mexico, Netherlands, New Zealand, Philippines, Saudi Arabia, Singapore, South Korea, Sweden, and the United Nations.

I lectured at the FBI Academy, Quantico, Va. for New Agent's Training, Technically Trained Agent's, and National Academy students. Have guest lectured at the Acoustical Society of America, National Technical Investigator's Association (NATIA), and for the International Conference on "Equipment For The Police" in Ottawa, Canada. Wrote an article on "A Method of Audio Copyright Examination," co-authored an article entitled "Equipping the Modern Audio-Video Forensic Laboratory", and contributed to an article in "Photo Electronic Imaging" magazine entitled "Testing Reality" (Sept/97). Member of NATIA and "The Academy Group". Have assisted in providing (expert witness) and moot court training for Assistant U.S. Attorney's in Washington, D.C.

I retired on May 31, 1996, as a Supervisory Special Agent and resumed case work as a consultant with the FBI on June 7, 1996.

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11) 10/02/74	Bridgeton, New Jersey	Trial
12) 10/07/74	Valparaiso, Indiana	Trial/double homicide
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14) 08/25/75	San Angelo, Texas	Trial
15) 09/30/75	Los Angeles, California	Trial
16) 01/14/76	Birmingham, Alabama	Trial
17) 06/02/76	San Angelo, Texas	Trial
18) 12/03/76	Boston, Massachusetts	Fed trial (copmat)
19) 08/22/77	Los Angeles, California	Trial
20) 09/14/77	Los Angeles, California	Fed trial (copmat)
21) 10/21/77	Upper Marlboro, Maryland	Trial (audio enh)
22) 06/06/78	Bluefield, West Virginia	Fed trial (copmat)
23) 07/17/78	Wilmington, Delaware	Trial (silencer)
24) 09/20/78	Miami, Florida	Trial
25) 10/07/78	Newark, New Jersey	Fed trial

26) 10/23/78	Rodgersville, Tennessee	Trial
27) 11/08/78	Miami, Florida	Trial
28) 11/15/78	Houston, Texas	Trial (audio enh)
29) 11/27/78	Miami, Florida	Fed trial (drugs)
30) 12/05/78	Fairfax, Virginia	Trial (audio enh)
31) 12/08/78	Virginia Beach, Virginia	Trial
32) 02/23/79	Houston, Texas	Trial
33) 02/27/79	Gallup, New Mexico	Fed trial
34) 05/29/79	Miami, Florida	Trial
35) 08/15/79	Cumming, Georgia	Trial
36) 09/19/79	Hendersonville, Tennessee	Trial
37) 10/09/79	Albany, Georgia	Trial
38) 11/05/79	Houston, Texas	Trial Judge dropped case
39) 01/09/80	Roanoke, Virginia	Trial
40) 01/22/80	Philadelphia, Pennsylvania	Bench hearing
41) 02/25/80	Georgetown, Delaware	Trial (bench)
42) 03/06/80	Bessemer, Alabama	Trial (bombing)
43) 05/05/80	Philadelphia, Penn sylvania	Trial
44) 06/16/80	Martinsville, Virginia	Trial
45) 08/06/80	Tampa, Florida	Trial
46) 08/19/80	Chicago, Illinois	Trial (silencer)
47) 12/08/80	West Palm Beach, Florida	Fed trial (RICO)
48) 01/06/81	Wilmington, Delaware	Bench hearing
49) 02/10/81	Salt Lake City, Utah	Trial
50) 03/24/81	Reno, Nevada	Defense stipulates
51) 05/04/81	Salt Lake City, Utah	Mistrial (juror)
52) 08/24/81	Salt Lake City, Utah	Re-trial
53) 10/20/81	Albany, New York	Fed bench hearing
54) 10/27/81	Panama City, Florida	Trial (drugs)
55) 12/10/81	Fort Lauderdale, Florida	Trial
56) 12/14/81	Newark, New Jersey	Fed bench hearing

57)	02/01/82	Newark, New Jersey	Fed trial
58)	April/82	Washington, D.C.	Trial (enhance)
59)	06/21/82	San Diego, California	Trial
60)	08/30/82	Lake County, Indiana	Trial
61)	09/28/82	Boston, Massachusetts	Trial
62)	Oct. 1982	Easton, Maryland	Trial
63)	02/14/83	Denver, Colorado	Trial
64)	05/16/83	New York, New York	Fed trial (IRA)
65)	08/30/83	Los Angeles, California	Trial
66)	10/19/83	Raleigh, North Carolina	Trial
67)	11/03/83	Cleveland, Ohio	Fed trial
68)	01/10/84	Cleveland, Ohio	Fed trial
69)	04/09/84	Phoenix, Arizona	Fed trial
70)	05/10/84	Fairfax, Virginia	Trial (civil)
71)	06/29/84	Cleveland, Ohio	Trial
72)	08/14/84	Providence, Rhode Island	Fed trial
73)	02/05/85	Las Vegas, Nevada	Trial
74)	07/22/85	Midland, Texas	Trial
75)	10/21/85	Tampa, Florida	Trial
76)	11/17/85	Knoxville, Tennessee	Trial
77)	01/21/86	Atlanta, Georgia	Trial
78)	02/03/86	Indianapolis, Indiana	Fed trial (copmat)
79)	06/23/86	Tampa, Florida	Fed trial (delayed)
80)	06/29/86	Tampa, Florida	Fed trial
81)	OCT/1986	Washington, D.C.	Trial (enhance)
82)	06/23/87	Dallas, Texas	Trial
83)	08/17/87	Beckley, West Virginia	Trial
84)	12/17/87	Newark, New Jersey	Fed trial
85)	03/01/88	Deland, Florida	Trial
86)	04/18/88	Jacksonville, Florida	Trial (drugs)
87)	05/09/88	Hartford, Connecticut	Fed hearing(WELLROB)
88)	08/15/88	Milwaukee, Wisconsin	Trial (copmat)
89)	Feb/1989	Chicago, Illinois	Stipulation
90)	07/19/89	Grand Junction, Colorado	Trial (del-minor)
91)	11/14/89	Philadelphia, Pennsylvania	Trial
92)	12/04/89	Birmingham, Alabama	Fed trial (Hobbs)

93)	01/30/90	Tampa, Florida	Trial
94)	09/10/90	Lexington, South Carolina	Trial
95)	06/26/91	Tyler, Texas	Trial (Lunsford)
96)	06/03/92	Key West, Florida	Fed trial (drugs)
97)	09/01/92	Merrillville, Indiana	Trial
98)	05/18/93	Lockport, New York	Trial (vid auth)
99)	08/25/93	Savannah, Georgia	Trial delayed
102)	04/26/94	Augusta, Georgia	Trial
103)	06/09/94	Milwaukee, Wisconsin	Trial
104)	10/04/94	Columbus, Georgia	Trial (shoot-out)
105)	12/06/94	E L Dorado, Arkansas	Trial (Subway murder)
106)	03/21/95	Guntersville, Alabama	Trial
107)	05/10/95	Farmington, Missouri	Trial (vid auth)
108)	09/11/95	Birmingham, Alabama	Fed re-trial
109)	10/25/95	Englewood, Colorado	Trial (rob-vid)
110)	11/30/95	SDNY, New York City	Trial FBI-drugs
111)	01/18/96	Magnolia, Arkansas	Trial (shooter)
112)	02/28/96	Colorado Springs, Colorado	Trial (Quad murder)
113)	03/15/96	Eugene, Oregon	Trial (Tips-Auth)
114)	06/28/96	Brooklyn, New York	Trial (Chld-abuse-V)
115)	12/06/96	Los Angeles, California	Trial (vid/aud/sync)
116)	02/10/97	Tulsa, Oklahoma	Disc. (vid/aud-mur)
117)	02/11/97	Tulsa, Oklahoma	Trial (vid/aud-mur)
118)	05/12/97	Tulsa, Oklahoma	Disc. (vid/aud-mur)
119)	05/14/97	Tulsa, Oklahoma	Trial (vid/aud-mur)
120)	11/19/97	Quantico, Virginia	Deposition(Mexican)
121)	02/10/98	Cincinnati, Ohio	Trial (vid/BR/prnts)
122)	03/6/98	LA, CA-deposition (civil)	Summ Judge(vid/auth)*
123)	4/01/98	Maumee, Ohio	Trial (vid/enh/auth)
124)	5/05/98	Wash., D.C.-USDO	Dep.(prison suicide-Trentadue
125)	6/23/98	The Hague, Netherlands	War-Crim-Trib.(Vid/auth-ICTY)
126)	8/23/98	Kansas City, Kansas	Trial (vid auth)
127)	10/23/98	FBI-HQ-Washington, D.C.	Deposition(Mexican)
128)	10/30/98	Clifton, Virginia (civil)	Deposition(Lexmark)
129)	04/28/99	Abingdon, Virginia	Suppr. (Vid auth)
130)	03/31/00	Wash., D.C.-USDOJ	Deposition-Waco
131)	05/24/00	Marion, Va.	Phone Dep. Vid/auth*
132)	05/31/00	Towson, Md	Vid- auth/Innoc Images
133)	07/19/00	Fort Worth, Texas	Vid/auth/enh - murder

- 134) 07/25/00 Virginia, Minnesota
- 135) 10/5,6/00 Singapore (Capitol case)
- 136) 03/13/01 U.S. Virgin Islands-St. Croix
- 137) 04/04/01 USN-Norfolk, Virginia
- 138) 05/09/01 USN-Norfolk, Virginia
- 139) 08/11/01 Augusta, Georgi
- 140) 09/13/01 Appling, Georgia
- 141) 11/29/01 Dayton, Ohio
- 142) 01/09/02 Los Angeles, CA
- 143) 02/20/02 Tampa, Florida
- 144) 03/08/02 Hags Head, North Carolina
- 145) 03/26/02 Paducah, Kentucky
- 146) 05/01/02 San Francisco, Califor
- 147) 07/13/02 South Bend, Indiana
- 148) 08/23/02 South Bend, Indiana
- 149) 12/06/02 South Bend, Indiana
- 150) 12/17/02 Mobile, Alabama
- 151) 03/06/03 Portsmouth, Ohio
- 152) 04/09/03 Norfolk, Virginia

- Vid/auth/enh -kid/murder ✓
- Vid/aud/auth/enh -drugs/ 3 sub ✓
- DEA - Vid/aud enh ✓
- NCIS-rape-vid auth./repair ✓
- NCIS-rape-vid auth./repair (2ndsub) ✓
- Vid/auth/Hearing/Drugs ✓
- Video authenticity/trial/drugs ✓
- Vid/aud enh/mogang/mur trial ✓
- Video auth ATF machine gun ✓
- Video auth/perjury ✓
- Audio authenticity* ✓
- Vid auth/aud/vid enhancement ✓
- Video/audio enhancement ✓
- Video auth/enh 1st def-3 murder ✓
- Video auth/enh 2nd def-3 murder ✓
- Video auth/enh 3rd def-3 murder ✓
- Video/audio enh/sync def. Stipu. ✓
- Video/aud enh/disc.Hearing/trial dep. ✓
- Video/aud enh/murder trial/Dis.Court ✓

* Not physically present

Video tape of individual defendant purchasing gloves to commit the murder. Noel Herold. Triple homicide three construction workers killed. The Three proprioceptors buying gloves at a gas station in 2000. Security camera videos.

FBI Supervisory Special Agent (retired) Noel Herold

CURRICULUM VITAE - RESUME

Six years - U.S. Marine Corps Reserve - Infantry

Attended: Hofstra University, Brooklyn Polytechnical College, Nassau Community College, Rollins College, University of Connecticut, Ohio University (course by mail), and Defiance College

B.A. in Nuclear and Atomic Physics from Defiance College (Majored in Physics and Mathematics)

I worked Five years (1965-1970) as Physicist for Grumman Aerospace Corporation - working at Bethpage, New York, Cape Canaveral, and Kennedy Space Center, Florida, on the Project Apollo Lunar Module Primary Guidance and Navigation Subsystem. Acquired Private (aircraft) Pilot's licence in 1968.

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I have testified in Federal, State, Local, and International courts as an expert witness over 155 times in Firearms, Toolmarks, Audio, Acoustics, (weapons) silencers/suppressors, and video. I have provided forensic assistance in all 50 States, the U.S. Virgin Islands, and international video and/or audio forensic assistance for Argentina, Australia, Bolivia, Canada, Columbia, Denmark, Egypt, El Salvador, Germany, Great Britain, Guam, Hong Kong, Iraq, Ireland, Israel, Jamaica, Kuwait, Latvia, Mexico, Netherlands, New Zealand, Pakistan, Philippines, Puerto Rico, Romania, Saudi Arabia, Singapore, South Korea, Sweden, and the United Nations, and the U.S. Defense Department.

I lectured at the FBI Academy, Quantico, Va. for New Agent's Training, Technically Trained Agent's, and National Academy students. Have guest lectured at the Acoustical Society of America, National Technical Investigator's Association (NATIA), and for the International Conference on "Equipment For The Police" in Ottawa, Canada. Wrote an article on "A Method of Audio Copyright Examination," co-authored an article entitled "Equipping the Modern Audio-Video Forensic Laboratory", and contributed to an article in "Photo Electronic Imaging" magazine entitled "Testing Reality" (Sept/97). Member of NATIA and "The Academy Group". Have assisted in providing (expert witness) and moot court training for Assistant U.S. Attorney's in Washington, D.C.

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29) 11/27/78	Miami, Florida	Fed trial (drugs)
30) 12/05/78	Fairfax, Virginia	Trial (audio enh)
31) 12/08/78	Virginia Beach, Virginia	Trial
32) 02/23/79	Houston, Texas	Trial
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35) 08/15/79	Cumming, Georgia	Trial
36) 09/19/79	Hendersonville, Tennessee	Trial
37) 10/09/79	Albany, Georgia	Trial
38) 11/05/79	Houston, Texas	Trial Judge dropped case
39) 01/09/80	Roanoke, Virginia	Trial
40) 01/22/80	Philadelphia, Pennsylvania	Bench hearing
41) 02/25/80	Georgetown, Delaware	Trial (bench)
42) 03/06/80	Bessemer, Alabama	Trial (bombing)
43) 05/05/80	Philadelphia, Pennsylvania	Trial
44) 06/16/80	Martinsville, Virginia	Trial
45) 08/06/80	Tampa, Florida	Trial
46) 08/19/80	Chicago, Illinois	Trial (silencer)
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55) 12/10/81	Fort Lauderdale, Florida	Trial
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61)	09/28/82	Boston, Massachusetts	Trial
62)	Oct. 1982	Easton, Maryland	Trial
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64)	05/16/83	New York, New York	Fed trial (IRA)
65)	08/30/83	Los Angeles, California	Trial
66)	10/19/83	Raleigh, North Carolina	Trial
67)	11/03/83	Cleveland, Ohio	Fed trial
68)	01/10/84	Cleveland, Ohio	Fed trial
69)	04/09/84	Phoenix, Arizona	Fed trial
70)	05/10/84	Fairfax, Virginia	Trial (civil)
71)	06/29/84	Cleveland, Ohio	Trial
72)	08/14/84	Providence, Rhode Island	Fed trial
73)	02/05/85	Las Vegas, Nevada	Trial
74)	07/22/85	Midland, Texas	Trial
75)	10/21/85	Tampa, Florida	Trial
76)	11/17/85	Knoxville, Tennessee	Trial
77)	01/21/86	Atlanta, Georgia	Trial
78)	02/03/86	Indianapolis, Indiana	Fed trial (copmat)
79)	06/23/86	Tampa, Florida	Fed trial (delayed)
80)	06/29/86	Tampa, Florida	Fed trial
81)	OCT/1986	Washington, D.C.	Trial (enhance)
82)	06/23/87	Dallas, Texas	Trial
83)	08/17/87	Beckley, West Virginia	Trial
84)	12/17/87	Newark, New Jersey	Fed trial
85)	03/01/88	Deland, Florida	Trial
86)	04/18/88	Jacksonville, Florida	Trial (drugs)
87)	05/09/88	Hartford, Connecticut	Fed hearing(WELLROB)
88)	08/15/88	Milwaukee, Wisconsin	Trial (copmat)
89)	Feb/1989	Chicago, Illinois	Stipulation
90)	07/19/89	Grand Junction, Colorado	Trial (del-minor)
91)	11/14/89	Philadelphia, Pennsylvania	Trial
92)	12/04/89	Birmingham, Alabama	Fed trial (Hobbs)

93)	01/30/90	Tampa, Florida	Trial
94)	09/10/90	Lexington, South Carolina	Trial
95)	06/26/91	Tyler, Texas	Trial (Lunsford)
96)	06/03/92	Key West, Florida	Fed trial (drugs)
97)	09/01/92	Merrillville, Indiana	Trial
98)	05/18/93	Lockport, New York	Trial (vid auth)
99)	08/25/93	Savannah, Georgia	Trial delayed
102)	04/26/94	Augusta, Georgia	Trial
103)	06/09/94	Milwaukee, Wisconsin	Trial
104)	10/04/94	Columbus, Georgia	Trial (shoot-out)
105)	12/06/94	E L Dorado, Arkansas	Trial (Subway murder)
106)	03/21/95	Guntersville, Alabama	Trial
107)	05/10/95	Farmington, Missouri	Trial (vid auth)
108)	09/11/95	Birmingham, Alabama	Fed re-trial
109)	10/25/95	Englewood, Colorado	Trial (rob-vid)
110)	11/30/95	SDNY, New York City	Trial FBI-drugs
111)	01/18/96	Magnolia, Arkansas	Trial (shooter)
112)	02/28/96	Colorado Springs, Colorado	Trial (Quad murder)
113)	03/15/96	Eugene, Oregon	Trial (Tlps-Auth)
114)	06/28/96	Brooklyn, New York	Trial (Chld-abuse-V)
115)	12/06/96	Los Angeles, California	Trial (vid/aud/sync)
116)	02/10/97	Tulsa, Oklahoma	Disc. (vid/aud-mur)
117)	02/11/97	Tulsa, Oklahoma	Trial (vid/aud-mur)
118)	05/12/97	Tulsa, Oklahoma	Disc. (vid/aud-mur)
119)	05/14/97	Tulsa, Oklahoma	Trial (vid/aud-mur)
120)	11/19/97	Quantico, Virginia	Deposition(Mexican)
121)	02/10/98	Cincinnati, Ohio	Trial (vid/BR/prnts)
122)	03/6/98	LA, CA-deposition (civil)	Summ Judge(vid/auth)*
123)	4/01/98	Maumee, Ohio	Trial (vid/enh/auth)
124)	5/05/98	Wash., D.C.-USDO	Dep.(prison suicide-Trentadue)
125)	6/23/98	The Hague, Netherlands	War-Crim-Trib. (Vid/auth-ICTY)
126)	8/23/98	Kansas City, Kansas	Trial (vid auth)
127)	10/23/98	FBI-HQ-Washington, D.C.	Deposition(Mexican)
128)	10/30/98	Clifton, Virginia (civil)	Deposition(Lexmark)
129)	04/28/99	Abingdon, Virginia	Suppr. (Vid auth)
130)	03/31/00	Wash., D.C.-USDOJ	Deposition-Waco
→ 131)	05/24/00	Marion, Va.	Phone Dep. Vid/auth*

* Not physically present



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Introduction

Authenticity examinations of VHS (video home system) cassettes are commonly performed in forensic laboratories and can usually determine whether a submitted recording is original, continuous, and unaltered. One of the important determinations of this analysis is identifying any portions that have been recorded over. An *overrecording* occurs by placing a cassette in a VCR (video cassette recorder) or a camcorder (camera-recorder) and recording over previously written information. This paper reviews the appropriate VHS recording principles, explains overrecording theory, details the procedures and results of test overrecordings, provides examples, and discusses forensic authenticity applications.

This paper is concerned with the normal overrecording process, not insert or other editing functions available on some VCRs and camcorders. All of the video recorders tested for this research article employed the National Television System (or Standards) Committee (NTSC) standard, which is used in the United States, Canada, Korea, Japan, and some other countries; however, the methodology can be easily adapted to other related video standards, such as PAL (Phase-Alternation Line Standard) and SECAM (*Séquentiel Couleur avec Mémoire*, which is French for "Sequential Color with Memory").

VHS Recording Methodology

When a VHS cassette is inserted into a standard VCR or camcorder, which is then placed in the record mode, the following mechanical, electronic, and magnetic processes occur (Epstein 2003; Goodman 1996; Grob and Herndon 1999; Luther and Inglis 1999; Trundle 1996):

1. The tape is pulled from its cassette housing by threading guides and then wound over a series of rollers, spindles, guides, stationary erase and record heads, a pinch roller/capstan mechanism, and a helical-scan head drum. Figures 1a (without a VHS cassette) and 1b (with a cassette) show the inside of a typical consumer VCR with the major components labeled.
2. When the record function is activated, the erase heads start erasing any previously recorded material on the VHS tape.
3. Simultaneously with the erase function, the helical-scan video heads start recording any new video being provided to the recorder; additionally, units with helical-scan high-fidelity (hi-fi) audio heads start recording any new audio.
4. Simultaneously with the erase, video record, and hi-fi audio record functions, the linear audio head starts recording any new audio being provided to the recorder.
5. Simultaneously with the erase, video record, and audio record functions, the control-track record head starts recording 29.97-hertz (Hz) pulses.

Figure 1a: Inside of a typical consumer VCR with no VHS cassette inserted. This figure is in Adobe Portable Document Format. To view it, you will need to have the Adobe Acrobat Reader plug-in installed on your computer. The Reader can be downloaded at no cost from <http://www.adobe.com/products/acrobat/readermain.html>.

Figure 1b: Inside of a typical consumer VCR with a VHS cassette inserted and the front cover removed. This figure is in Adobe Portable Document Format.

VHS Format

All VHS recorders have helical-scan video, and many have hi-fi audio heads, which record information at a shallow angle across the 12.65-millimeter (mm)-wide tape surface. Simultaneously, linear control-track and audio heads record longitudinally on the tape edges. As seen in Figure 2, which is a photograph of a recorded segment of a VHS tape at SP (Standard Play) speed (see below), the narrow linear audio track is at the top, the wider helical-scan video and hi-fi audio tracks are in the middle, and the narrow control track is at the bottom. The tracks in Figure 2 were made visible by coating the tape with a ferrofluid (that is, magnetically developing), which contains small iron particles in the 1- to 3-micron range, which are suspended in Freon CFC-113, or chemically, 1,1,2-Trichloro-1,2,2-trifluoroethane (Koenig 1990). *Ferrofluids normally should not be applied to evidential VHS tape surfaces because even with proper cleaning, they can cause playback problems, including tracking errors;*

degraded audio and video; and clogging of the video, audio, erase, and control-track heads. However, if magnetic development is required, application of a ferrofluid should be the final step in the examination process. Table 1 (International Electrotechnical Commission [IEC] 1993; IEC 1994; IEC 1999) sets forth many of the standards involved in recording and playing back the video and audio information onto VHS cassettes, including the helical-scan angles and track widths.

Figure 2: A recorded segment of a VHS tape at SP speed that has been magnetically developed with a ferrofluid. The angle and direction of the helical-scan lines and the length of a single line of one field are represented. This figure is in Adobe Portable Document Format.

Table 1: NTSC VHS tape and track standards (all dimensions in mm, except as noted)

FEATURE	SP	EP/SLP
Videotape Width	12.65 ± 0.01	
Linear Tape Speed (mm/s)	33.35	11.12
Video Tracks: Total Vertical Height	10.60	
Effective Vertical Height	10.07	
Width	0.058	0.019
Helical-Scan Angle (Stationary)	5°56'07.4"	
Helical-Scan Angle (Moving)	5°58'09.9"	5°56'48.1"
Azimuth Angles	+6° ± 10' (field 1) -6° ± 10' (field 2)	
Linear Width (Stationary)	96.86	
Linear Width (Moving)	96.30	96.67
Hi-Fi Audio Tracks: Width	0.010 → 0.029	
Azimuth Angles	-30° ± 30' (channel 1) +30° ± 30' (channel 2)	
Control-Track Width	0.75 ± 0.10	
Linear Audio Track Widths: Monaural	1.00 ± 0.10	
Each Stereo	0.35 ± 0.05	
Stereo Guard Band	0.30 ± 0.05	
Linear Audio/Control-Track Distance from End of Field 2	79.244	79.253

Sources: Beeching 2001; International Electrotechnical Commission 1993, 1994, and 1999; Ryan 1992

Based on the NTSC nomenclature, each video picture ("frame") has a total of 525 scan lines of information, with approximately 485 lines containing visible information (usually lines 32.5 through 517.5). Each video frame is composed of two interlaced "fields," with the first field containing the odd-numbered scan lines and the second field, the even-numbered lines. The playback and recording rates are always 29.97 frames, or 59.94 fields per second. There are only two standardized linear record/playback speeds, SP (33.35 mm/second) and EP (Extended Play, at 11.12 mm/second). EP is often referred to as SLP (Super Long Play), and many VCRs have an interim speed of LP (Long Play, at 22.24 mm/second), which, however, has not been standardized (Grob and Herndon 1999; Luther 1999; Weise and Weynand 2004).

Video Heads

To record the high frequencies required for VHS video, VCRs normally use a spinning 62.0-mm-diameter helical-scan drum with a tape wrap of slightly more than 180 degrees. The drum contains two embedded video heads, 180 degrees apart on the drum, with each head recording one of the two fields in a frame. The drum spins at 1,798.2 revolutions per minute (rpm) in the same direction as the linear movement of the videotape, so that each recorded field lasts 0.01668 second ($1 \div 59.94$). Many camcorders use a smaller helical-scan mechanism with a 41.3-mm-diameter drum, a 270-degree wrap, and a 2,250-rpm spin speed (Trundle 1996). The helical-scan drums are placed at a slight angle to the horizontal alignment of the tape, so that each track starts near the lower edge of the tape and finishes near the upper edge in a right-to-left configuration. This produces a series of parallel diagonal tracks, each containing a recorded field. Each video field comprises 262.5 scan lines of information, recorded along the length of the diagonal track (see Figure 2). Although the standards reflect that the track widths are 0.058 mm for the SP speed and 0.019 mm for EP, in reality, on most VCRs, the actual widths are usually narrower for SP and wider for EP. To avoid interference between adjacent tracks, the two field tracks in each frame are recorded at different azimuth angles, as listed in Table 1 (Beeching 2001; IEC 1994; Ryan 1992).

For illustration purposes, Figure 3 is a drawing of the curved VHS tape path represented in a straight-line, linear mode, for a tape at the SP speed. In this figure, the magnetic side of the tape is shown moving right to left from a viewpoint behind the erase, video, audio, and control-track heads. The vertical dimensions have been enlarged four times compared to the horizontal to provide increased detail. The video heads travel diagonally across the tape at a shallow angle (see Figures 2 and 3), which is directly affected by the linear tape speed. As noted in Table 1, the heads in the helical-scan drum are at a "stationary" angle of $5^{\circ}56'07.4''$ (5 degrees, 56 minutes, and 7.4 seconds of arc); however, when the tape is transported during recording or playback, the effective angles are changed slightly, to $5^{\circ}58'09.9''$ for SP speed and $5^{\circ}56'48.1''$ for EP. These changes in angle affect the length of each field track on the videotape, including its linear width, as noted in Table 1. The linear width of the tracks recorded on the tape change from 96.86 mm for the stationary drum to 96.30 mm for SP speed (see Figure 3) and 96.67 mm for EP.

Figure 3: A linear representation of the magnetic side of a segment of VHS tape, 253

aligned with the video, audio, and erase heads, in a typical VCR at SP speed. The actual tape path is not straight, but curved, and the helical-scan drum is circular, not flat, as shown in Figures 1a and 1b. The vertical dimensions have been enlarged four times compared to the horizontal to allow for increased detail. This figure is in Adobe Portable Document Format.

The helical-scan drums often contain additional heads for better video recording and playback at different VCR speeds, for video special effects, for hi-fi audio, and for "flying erase" capability.

Audio Heads

Most modern VHS recorders and camcorders have two types of audio heads: linear and hi-fi. The stationary linear audio head is located exactly 79.244 mm from the very end of the second field track of a frame at SP speed (79.253 mm at EP) and continuously records the incoming audio information. It is usually in the same head block as the control-track head, as shown in Figure 3. The quality of the linear audio is directly dependent upon the linear record speed of the recorder; thus information at the SP speed will be of higher fidelity than at EP. The linear audio track is usually monaural on newer VHS units, but some older recorders can have a stereo track configuration (IEC 1993; IEC 1994; Luther 1999).

The hi-fi, or frequency-modulation (FM), audio stereo heads are located on the helical-scan drum, often 60 degrees out of phase with the video heads. The hi-fi audio is recorded during the 0.0334-second time period just prior to, but in the same tape location as, the corresponding video information. To allow differentiation of the audio and video signals and to avoid complete erasure of the audio track by the subsequent overlying video track, the signals have different azimuth angles and track widths and record at different tape depths. The video head partially erases the hi-fi audio, usually dropping its amplitude about 12 decibels (dB). The two channels of stereo audio are recorded with different FM carrier frequencies for better record and playback characteristics. Because of the recording methods, the signal-to-noise ratio, frequency response, and other specifications are always better for hi-fi than linear audio. Hi-fi audio quality is virtually the same at both SP and EP speeds; however, not all VCRs have hi-fi audio capability (Beeching 2001; IEC 1999; Trundle 1999).

Control-Track Head

The stationary control-track record head is located exactly 79.244 mm from the very end of the second field track of a frame at SP speed (79.253 mm at EP) and is usually located in the same head block as the linear audio head, as shown in Figure 3. The control-track head records and reads the 29.97-Hz pulses placed on the track at the bottom edge of the VHS tape, designating the beginning of the first field in the two-field frame. Each synchronization pulse is composed of a rectangular signal consisting of:

1. A full-amplitude positive impulse lasting less than 200 microseconds (μ s).
2. A direct-current (DC) segment lasting about 0.0222 second.
3. A full-amplitude negative impulse lasting less than 200 μ s.

4. A DC segment lasting until the start of the next synchronization pulse.

Each positive pulse is physically recorded on the tape at the very end of each frame (see the bottom of Figure 2), where the positive and negative impulses are recorded as a series of short vertical lines. Only the positive pulses are used by the playback VCR, where the magnetically developed control track is aligned with the rectangular pulse signal, as reflected in Figure 4. The control track is used to determine playback speed, to maintain proper playback speed even with tape stretching or shrinkage, to ensure that the playback heads properly read the recorded video tracks, and to update the elapsed time on VCR real-time counters (IEC 1993; IEC 1994; McComb 1995).

Figure 4: A portion of the control track from Figure 2, which has been aligned with the rectangular signal that produced it. This figure is in Adobe Portable Document Format.

Erase Heads

VHS recorders can contain up to four separate erase heads: full-track, flying, linear audio, and control-track. The full-track erase head precedes all of the record, playback, and other erase heads; it erases all previously recorded information on the tape, including the control, linear audio, hi-fi audio, and video tracks. Some VCR units and many camcorders also contain a flying erase head (sometimes two), located on the helical-scan drum. The flying erase head allows the start of a video recording over previously recorded information with little or no distortion or degradation of the ensuing video images and hi-fi audio. A properly functioning flying erase head allows for a recording with an uncorrupted image of the last frame of the underlying recording, followed by an uncorrupted frame of the new recording. The linear audio and control-track erase heads normally are located in the same housing and erase their respective tracks when the record mode is activated. Most units do not have a separate control-track erase head and instead use the erasing effect of the record head and the full-track erase head to delete any underlying information (Epstein 2003; Luther 1999; Luther and Ingliis 1999; McComb 1995).

General Overrecording Theory

An overrecording occurs when new information is written over a previous VHS recording, erasing a segment of the existing video, audio, and control-track information, while replacing it with new video, audio, and control-track data.

Video Changes

When a VHS video recorder is placed in the record mode over an existing recording, the full-track erase head starts erasing all of the information on the tape, including the video tracks. However, at the start of the video overrecording, in the "pre-video erased area," the full-track erase head cannot erase the information physically located between itself and the writing video heads (see Figure 3). If the recorder has a flying erase head, this underlying video information will be erased just ahead of the video-recording process, and the new information will be recorded properly. However, without

a flying erase head, the existing video information normally will not be completely erased by the video record head in this portion.

When the overrecording ends and is long enough for the video record heads to have reached the fully erased portion of the VHS tape (at the end of the pre-video recorded area), then a portion of completely erased tape will follow the end of the newly written video. At the end of the completely erased portion, the underlying video information returns as very short partial-field tracks, which progressively increase in length until the entire track is present. This portion of partial tracks is equal to the linear width of the helical-scan tracks because the full-track erase head produces a vertical, 90-degree erasure on the videotape across the slanted (about 6 degrees) field tracks. Therefore, at SP speed, the segment is 96.30 mm in length (96.67 mm at EP), which is based on solving the sine function using the 10.07-mm effective vertical height of the tracks and the angle of 5°58'09.9" (5°56'48.1" at EP), which results in a playback time of 2.89 seconds (8.69 seconds at EP). If the overrecording is not long enough for the video heads to reach the fully erased portion, then a segment of the underlying video will be present between the end of the overrecording and the completely erased segment.

Audio Changes

When a VHS video recorder is placed in the record mode over an existing recording, the linear audio record, the linear audio erase, and the full-track erase heads are activated simultaneously. The linear audio erase head deletes the underlying audio recording, except for the short distance between the audio erase and record heads, where the new signal will mix with the old. The full-track erase head starts erasing all of the information on the tape, including the linear audio track(s). At SP speed, the linear audio information is physically located 175.544 mm (175.923 mm at EP) from the beginning of its matching video field track because the linear length of the helical-scan tracks is 96.30 mm (96.67 mm at EP) and the distance from their end to the linear audio track is 79.244 mm (79.253 mm at EP), as shown in Figure 3. When an overrecording ends and its physical length is at least equal to the pre-video erased area, the linear audio does not return until 175.544 mm (175.923 mm at EP) after the end of the erased portion. If the physical distance of the overrecording is less than the pre-video erased area, then a segment of the underlying audio will be present between the end of the overrecording and the erased portion.

When the recorder has a flying erase head, the underlying hi-fi audio information will be erased just ahead of the hi-fi audio-recording process and the new information will be recorded properly. However, even without a flying erase head, the FM audio information normally is completely erased by the hi-fi audio-writing head. When the overrecording ends and its physical length is at least equal to the distance between the hi-fi heads and the full-track erase head, then a portion of completely erased tape will follow the end of the newly written audio. After the end of the completely erased portion, the underlying hi-fi audio information is present on the videotape, but as partially erased tracks. These partial tracks will not play back on most VCRs because their audio-output circuitry automatically switches to the linear audio track whenever the hi-fi signal is not present, is mistracking, or, as in this case, has complete dropouts (Trundle 1999). If the overrecording is not long enough for the audio head to reach the fully erased portion, then a segment of the underlying audio will follow the end of the newly written hi-fi audio.

Control-Track Changes

When a VHS recorder is placed in the record mode over an existing recording, the underlying control-track information is erased by both the full-track erase head and the control-track record head. If the overrecording is not long enough for the control-track record head to have reached the fully erased portion, then a segment of the underlying control-track information will follow the end of the newly written control track.

Test Overrecordings

For this experiment, a series of test recordings was prepared on four VCRs, ranging from consumer-level to professional-quality units, with the following parameters:

1. The video test signals were interlaced, composite, and at a 1.0-volt peak-to-peak amplitude. The test audio signals were sine waves adjusted to peak at 0 dB on the hi-fi input meter of each unit. On the VCRs that did not have an audio meter, the test signals were supplied at an amplitude of -10 dB volt peak.
2. For the underlying recordings, continuous audio/video recordings were prepared at both SP and EP (SLP) speeds, with an all-green raster and a 400-Hz audio signal.
3. Overrecordings consisting of a white crosshatch grid over a black raster video signal and a 1-kHz audio signal were then produced. Overrecordings were made with lengths ranging from 2 to 30 seconds, at both SP and EP (SLP) speeds.
4. Additional test recordings were made with a variety of other audio and video samples to reflect more real-world scenarios.

Examinations of Test Recordings

The test recordings were examined as follows:

1. Professional-quality laboratory equipment was used, and all connections were made using either S-video (separated video) or BNC (Bayonet Neil-Concelman) cabling, as appropriate.
2. The recordings were played back on a VCR, viewed on a high-resolution monitor (usually in the "underscan" mode), and listened to with high-fidelity headphones in both linear audio and hi-fi audio modes. (Note: the VCR automatically switched to the linear mode when either no hi-fi audio was present or the track information was partially erased.) Optimized manual tracking, instead of automatic tracking, was used for the underlying and overrecording segments, as appropriate, for improved playback.
3. The video was cabled through a time-base corrector (TBC) with digital storage capability, which allowed the capture and review of both individual frames and

fields.

4. The recordings were also played back on the same VCR with the linear audio output selected, cabled through the TBC, and connected to an external computer video-capture/audio-capture device. The capture device was connected to a laboratory computer via a high-speed cable and set to the Moving Picture Experts Group 2 (MPEG-2) format at 15 million bits per second (Mbps), 720- x 480-pixel resolution, and 48-kHz stereo linear pulse-code modulation (LPCM). The recordings were then saved as MPEG (".mpg") files.
5. An additional set of MPEG files was produced, using the same procedures as number 4 above, except that the hi-fi audio output was selected on the VCR.
6. The MPEG computer files were then reviewed using software that simultaneously displayed the video (with frame numbers added) and the audio information.
7. The MPEG computer files and the original recording for each test were then reviewed to determine the following
 - a. The general visual characteristics of the overrecorded and underlying video information.
 - b. The timing of the changes in the video information, including the beginning and end of the overrecording, the fully erased segment, and the partial-track portion.
 - c. The timing of the changes in the linear audio information, including the beginning and end of the overrecording, the fully erased segment, and the partial-track portion.
 - d. The timing of the changes in the hi-fi audio information, including the beginning and end of the overrecording, the fully erased segment, and the partial-track portion.
 - e. The visual and time differences for overrecordings and underlying recordings produced at different record speeds.
 - f. The visual and time differences for overrecordings of different lengths.

Test-Recording Results

A review of the test recordings revealed two general classes of results, broken down by the length of the overrecordings. The longer test overrecordings were of sufficient length to completely erase the portion of the videotape between the full-track erase head and the beginning of the helical-scan heads (the pre-video erased area) (see Figure 3); whereas the short overrecordings did not completely erase that segment.

Longer Overrecordings—Video Characteristics

When the longer class of overrecordings was played back, it produced a sequential series of separate video segments, as follows (see Figures 5a, 5b, 6a, and 6b):

$$U \rightarrow O \text{ or } (O_U + O_P + O) \rightarrow E \rightarrow U_{NP} \rightarrow U_N \rightarrow U$$

where

U = Underlying video recording (green angled lines)

O = Video overrecording (red angled lines)

O_U = Video overrecording with remnants of underlying video recording—only present on overrecording VCRs without a flying erase head—(red angled lines with green shading)

O_P = Video overrecording with a pull-down effect—only present on overrecording VCRs without a flying erase head—(red angled lines with blue shading)

E = Completely erased portion (gray area)

U_{NP} = Underlying video recording with a pull-down effect and no control-track sync (blue angled lines)

U_N = Underlying video recording with no control-track sync (light-green angled lines)

Figure 5a: Color-coded representation of a longer overrecording on a VCR at SP speed, with the vertical dimension enlarged 35 times. This VCR has a flying erase head. This figure is in Adobe Portable Document Format.

Figure 5b: Color-coded representation of a longer overrecording on a VCR at SP speed, with the vertical dimension enlarged 35 times. This VCR does not have a flying erase head. This figure is in Adobe Portable Document Format.

Figure 6a: Example test video clip of a longer overrecording made on a VCR at SP speed. This VCR has a flying erase head. This figure is an XviD-encoded MPEG-4 video file with an .avi file suffix. To view it, you will need an XviD/MPEG-4 video codec installed on your computer. The XviD/MPEG-4 video codec can be downloaded at no cost from <http://www.xvidmovies.com/codecs/>.

Figure 6b: Example test video clip of a longer overrecording made on a VCR at SP speed. This VCR does not have a flying erase head. This figure is an XviD-encoded MPEG-4 video file.

This sequence is illustrated in Figures 5a and 5b as recorded on the videotapes and in Figures 6a and 6b as video clips from test overrecordings. Figures 5a and 5b have a vertical dimension that has been enlarged 35 times compared to the horizontal dimension. For example, a 10-mm length in the horizontal direction would be represented as 350 mm in the vertical direction. This nonlinear representation is necessary to allow the complete video sequence to be displayed over a relatively short length. These figures show the narrow linear audio track at the top, the wide helical-scan video and hi-fi audio tracks in the middle, and the narrow control track at the bottom (only the positive sync pulses are displayed). The white spaces between the tracks are the guard bands. The angled, vertical lines in the video track represent individual fields, which are recorded and played back at an angle from the bottom right to the top left (because of scaling, the field tracks are at an angle of about 75 degrees in the figures, instead of the standard of about 6 degrees, as shown in Table 1). The video line widths are not to scale. The color coding in Figures 5a and 5b for the video, linear audio, and control information is consistent throughout both drawings. For example, the red vertical lines in the linear audio track are the physical location of the linear audio for the red angled tracks in the O video. This color coding also reflects a lack of corresponding linear audio or control information, for example, in the blue U_{NP} portion, which has neither control-track sync nor linear audio. Figures 5a and 5b represent the recorded information at SP speed. For EP and other linear speeds, some of the values will be slightly different (see Table 1).

When the overrecording VCR had a flying erase head, the beginning of the overrecorded portion, O, usually produced an uncorrupted frame transition from the underlying recorded portion, U, if both were recorded at the same speed (segments O_U and O_P are not present on units with a flying erase head). When the overrecording VCR did not contain a flying erase head, remnants of the underlying recording combined with the new video information, producing a pull-down effect as illustrated in the O_U and O_P portions of Figure 5b and in the Figure 6b video clip. During the O_U segment, complete field tracks played back with a mix of video from the underlying recording, U, and the new overrecorded video. These complete O_U tracks continued until the physical distance between the full-track erase head and the beginning of the video record heads, which is located at the beginning of O_P on Figure 5b, was reached. The O_P segment started with the playback of very short track segments of only the overrecorded video information, followed by the mixed information in the O_U portion. As playback continued, the percentage of the video track containing only the overrecorded video information progressively increased, while the mixed portion proportionally decreased, until a full field of only the overrecorded video was present at the beginning of the O segment. This progression produced the so-called pull-down effect, which displayed the pure overrecorded video as a horizontal band starting at the top of the frame (beginning of the field tracks) and progressing downward to completely replace the mixed video at the bottom. This pull-down effect lasted a distance of 96.30 mm on the videotape at SP speed (see Figure 3) and 96.67 mm at EP. Therefore, on playback this segment lasted 2.89 seconds (about 87 frames) at SP ($96.30 \div 33.35$) and 8.69 seconds (about 260 frames) at EP ($96.67 \div 11.12$). During the visual review of O_P , because only about 485 of the 525 video lines were visible because of vertical blanking, the pull-down effect was visible for no more than 2.67 seconds at SP and 8.00 seconds at EP, even using the underscan feature on professional monitors. When the overrecording was at a different recording speed than the underlying information,

the beginning of O (for the units with a flying erase head) or O_U (no flying erase head) usually had a short series of distorted frames containing information from both the underlying video and the overrecording.

The completely erased video portion, E, followed the end of the images in the overrecording, O. The length of this erased area was exactly equal to the physical distance between the full-track erase-head gap and the beginning of the video record heads on the drum of the overrecording VCR (see Figures 1a, 1b, and 3). This erased portion was displayed only as noise, usually in a random, herringbone-like pattern, as seen in the Figure 6a and 6b video clips.

The next segment on the test recordings was U_{NP} , which is the return of the underlying video but with a pull-down effect and no control-track sync. As reflected in Figures 5a and 5b, at the beginning of U_{NP} , the playback of very short track segments of video information was followed by the erased information in the E portion. As playback continued, the video track lengths progressively increased, while the erased portion decreased, until a full field of video information was present at the beginning of the U_N portion. Usually, at the beginning of the U_{NP} portion, the underlying information was not in color and was very distorted, but it improved in quality as the sequence continued. This progression produced the visual pull-down effect, which displayed the underlying video as a horizontal band starting at the top of the frame (beginning of the field tracks) and progressed downward to fill the frame with the underlying video. This sequence lasted a distance of 96.30 mm at SP speed (96.67 mm at EP) on the videotape (see Figure 3); therefore, on playback this segment lasted 2.89 seconds (about 87 frames) at SP and 8.69 seconds (about 260 frames) at EP. During the visual review of U_{NP} , because only about 485 of the 525 video lines were visible because of vertical blanking, the pull-down effect was visible for no more than 2.67 seconds at SP and 8.00 seconds at EP, even using the underscan feature on professional monitors. There was no control-track sync in this portion because the control-track information for the beginning of each field track in U_{NP} would be located 175.544 mm "earlier" at SP speed (175.923 at EP) on the videotape, which had already been erased by the full-track head, as noted in Figures 5a and 5b. At SP speed, the 175.544 mm was based on the standardized 79.244-mm distance from the end of each field track plus the 96.30-mm linear distance of each track (see Figure 3). At EP speed, the 175.923 mm was based on the standardized 79.253-mm distance from the end of each field track plus the 96.67-mm linear distance of each track (see Figure 3). The most obvious effect of this loss of sync was that the information for individual frames was often combined with data from either previous or following frames, producing images that were not a true reflection of the originally recorded information. An additional effect of the loss of sync was that the underlying video in this segment played back at the same speed as the overrecording; that is, SP overrecordings with EP underlying recordings played back the underlying recording at SP instead of EP speed.

The last segment of the overrecordings, U_N , had all of the video information from the underlying recording but had no control-track sync because it had been erased by the full-track erase head. This portion was exactly 79.244 mm in length at SP speed (79.253 mm at EP), based on the standardized distance between the end of the video heads and the linear audio record head (see Figure 3). This segment lasted 2.38 seconds (about 71 frames) at SP playback and 7.13 seconds (about 214 frames)

at EP. As the U_P portion had, this portion played back at the overrecording speed, regardless of the underlying recording speed, and had sync problems.

Longer Overrecordings—Audio Characteristics

The hi-fi audio information played back only in portions where complete video fields were present on the videotape and not, for instance, in the U_P pull-down segments. Therefore, hi-fi audio was present throughout the overrecording (the O, O_U , and O_P segments) but then ended and did not return until the beginning of U_N . However, when the overrecording was at a different speed than the underlying information, the hi-fi audio did not play back until after U_N . Unlike the video information recorded by VCRs without a flying erase head, there was no observed mix of the underlying and overrecorded hi-fi audio information in the O_U segment. The start and stop times in these segments were very close to those of the video information, except when the overrecording and underlying recordings were recorded at different speeds. In those cases, a delay usually occurred at the beginning because of the speed change.

The linear audio was present during the overrecorded video segments O, O_U , and O_P , except when the underlying information and the overrecording were recorded at different speeds. In those instances, a delay usually occurred at the onset of the recorded audio. After the end of the overrecording, there was no high-level recorded linear audio information until the end of U_N ; however, low-level audio (30 to 45 dB below the original amplitude) from the underlying recording was often present in this portion.

Longer Overrecordings—Control-Track Characteristics

The control-track information matched the high-level information on the linear audio track. Therefore, whenever the control-track and linear audio track recordings were not present, the video information lacked control-track synchronization and linear audio, as noted in Figures 5a and 5b.

Short Overrecordings—Video Characteristics

When the short overrecordings were played back, they produced a sequential series of separate video segments that were mostly different from the longer overrecordings, as follows (see Figures 7a, 7b, 8a, and 8b):

$$U \rightarrow O \text{ or } O_U \rightarrow U \rightarrow U_P \rightarrow E \rightarrow U_P \rightarrow U \rightarrow U_N \rightarrow U$$

where

U_P = Underlying video recording with an erased area pull-down (light-blue angled lines)

This sequence is illustrated in Figures 7a and 7b as recorded on the test videotapes

and in Figures 8a and 8b as video clips from test overrecordings. Figures 7 and 8 have the same scaling and other characteristics as Figures 5 and 6, respectively.

Figure 7a: Color-coded representation of a short overrecording on a VCR at SP speed with the vertical dimension enlarged 35 times. This VCR has a flying erase head. This figure is in Adobe Portable Document Format.

Figure 7b: Color-coded representation of a short overrecording on a VCR at SP speed with the vertical dimension enlarged 35 times. This VCR does not have a flying erase head. This figure is in Adobe Portable Document Format.

Figure 8a: Example test video clip of a short overrecording made on a VCR at SP speed. This VCR has a flying erase head. This figure is an XviD-encoded MPEG-4 video file.

Figure 8b: Example test video clip of a short overrecording made on a VCR at SP speed. This VCR does not have a flying erase head. This figure is an XviD-encoded MPEG-4 video file.

The O and O_U segments had the same general characteristics as the longer overrecordings, except they were shorter in length and usually had no pull-down area, O_P, because the short overrecordings were shorter than the pre-video erased area.

Between the end of the overrecorded portion and the erased area, there was a short segment of the original underlying recording, U, that was not present on the longer overrecordings.

The next segment contained an erased portion, E, in the middle of the underlying recording. The erased portion physically appeared on the videotape as a vertically erased area across the angled video tracks of the underlying information, as seen in Figures 7a and 7b. When played back, the erased, herringbone-like portion started appearing at the top of the frame, progressively replacing the partial tracks of the first underlying recording segment, U_P. At the end of the erased portion, E, the partial tracks of the second U_P video started appearing at the top of the frame, with the erased information appearing as a band below it and the first U_P information beneath it, as seen in Figures 8a and 8b. These three bands progressed downward in the frame, with the first U_P portion disappearing off the bottom first, followed by the erased portion, and finally, only the second U_P segment is visible at the beginning of the next U segment.

The length and time of the erased area were exactly equal to the length of the short overrecording, either O or O_U. One method of determining this distance and its timing is to count the total number of video lines in the erased band and then use the following formulas:

$$\text{Length (in mm)} = (\text{linear length of video track}) \times (\text{scan lines in erased band}) \div (\text{total lines in frame})$$

Time (in seconds) = length ÷ playback speed

As an example, at SP speed with 350 scan lines in the erased band, the length and time would be:

$$\text{Length} = 96.30 \text{ mm} \times 350 \div 525 = 64.20 \text{ mm}$$

$$\text{Time} = 64.20 \text{ mm} \div 33.35 \text{ mm/sec} = 1.92 \text{ seconds}$$

The second U_P portion occurred across the full linear width of the scanning video heads, a distance of 96.30 mm at SP speed (96.67 mm at EP). On playback this segment lasted 2.89 seconds (about 87 frames) in SP and 8.69 seconds (about 260 frames) in EP. During the visual review of the second U_P portion, because only about 485 of the 525 video lines were visible because of blanking, the pull-down effects were visible for no more than 2.67 seconds at SP and 8.00 seconds at EP, even using the underscan feature on professional monitors. This area played back at the correct speed, even if the underlying recordings and overrecordings were at different speeds, because the control-track information was present. If the overrecording measured more than 79.244 mm in length at SP speed (79.523 mm at EP), then the end of the second U_P portion lacked synchronization.

The second underlying recording segment, U , appeared after the end of the second U_P portion and contained synchronization and full tracks. However, if the overrecording measured more than 79.244 mm in length at SP speed (79.523 mm at EP), then this U segment was not present.

The last segment of this overrecording sequence was U_N , which had all of the video information from the underlying recording but no control-track sync. The loss of sync was caused by the erasure of the control-track information in segment E, which was located 175.544 mm earlier at SP speed (175.923 mm at EP). The combined length of U_N and the preceding U segment was exactly 79.244 mm at SP speed (79.253 mm at EP), based on the standardized distance between the end of the video heads and the linear audio record and control-track heads. The length of U_N was the same as the erased/overrecorded portion whenever U_N did not exceed 79.244 mm in length at SP speed (79.523 mm at EP).

Short Overrecordings—Audio Characteristics

The hi-fi audio information was present throughout the overrecording and the first U segment (after O or O_U) and then returned at the beginning of the second U segment before U_N . These results reflect that the hi-fi audio was present only in the portions that contained complete video fields. If the overrecording and underlying recordings were recorded at different speeds, then a delay usually occurred at the beginning because of the speed change.

The linear audio normally was present throughout the entire overrecording sequence,

except for the U_N portion; however, if the overrecording was more than 79.244 mm in length at SP speed (79.523 mm at EP), then the linear audio was not present at the end of the second U_P portion (the second U segment was not present). Because of the erasure of the linear audio track in the E segment, the audio was not present 175.544 mm ahead of the entire erased portion at SP speed (175.923 mm at EP); therefore, the entire U_N segment lacked linear audio. If the overrecording and underlying recordings were recorded at different speeds, then a delay usually occurred at the beginning because of the speed change.

Short Overrecordings—Control-Track Characteristics

The control-track information matched the high-level information on the linear audio track.

Examples

The following three examples of overrecording configurations are commonly encountered in forensic applications and are based on the previously described video overrecording theory and test results. All three examples use 80.00 mm for the pre-video erased area, and the frame numbers have been rounded to the nearest whole number. Both the underlying recording and overrecording VCRs have hi-fi audio, and some of the Video Sequence totals in Tables 2 through 4 have slight variances because of rounding errors.

The first example is a 10.00-second overrecording with the following characteristics: (1) the underlying recording is at SP speed, (2) the overrecording is at SP speed, and (3) the underlying recording and overrecording VCRs have flying erase and hi-fi audio heads. As listed in Table 2 and generically illustrated in Figure 5a, this overrecording configuration is divided into four segments:

1. Segment O is the overrecording, lasting 10.00 seconds, which is recorded on the videotape over a total of 333.50 mm (10.00×33.35) and consists of 300 frames (10.00×29.97). The control track is present during this portion, and so are the linear audio and hi-fi audio.
2. The 80.00-mm erased segment, E, which is the pre-video erased area, has no video, hi-fi audio, linear audio, or control-track information because they were erased by the full-track erase head. This portion lasts 2.40 seconds ($80.00 \div 33.35$).
3. Segment U_{NP} is a pull-down portion of partial tracks, without synchronization, of the underlying recording. It is 96.30 mm in length, lasts 2.89 seconds ($96.30 \div 33.35$), and consists of 87 frames (2.89×29.97). The 96.30-mm distance represents the linear distance of the full helical-scan video-head track at SP speed. The pull-down consists of the underlying recorded information progressively replacing the erased segment. The hi-fi audio does not play back in this area, even though it is present on the videotape, because only partial tracks are present. The linear audio and control-track information are not present because they have been erased by the full-track erase head. If the

audio and control data had been present, they would have been located 175.544 mm earlier on the tape (see Figure 5a).

The last portion of the overrecording sequence is segment U_N , which contains the underlying recording without synchronization. It is 79.244 mm in length, lasts 2.38 seconds ($79.244 \div 33.35$), and consists of 71 frames (2.38×29.97). The 79.244-mm length represents the distance between the end of the video tracks and the recording control-track and linear audio heads. The hi-fi audio information is present in this portion, but the linear audio and control-track information have been erased by the full-track erase head. Following this U_N segment, the underlying recording, U , returns with the video, audio, and control-track information intact.

Table 2: An example of the representative video, audio, and control-track times, lengths, and frames for a 10.00-second overrecording with the following characteristics: (1) the underlying recording is at SP speed, (2) the overrecording is at SP speed, and (3) the underlying recording and overrecording VCRs have flying erase and hi-fi audio heads. The distance from the full-track erase head to the video-recording head has been designated as 80.00 mm, the frame numbers have been rounded to the nearest whole number, all lengths are in mm, and all times are in seconds.

The second example is a 20.00-second overrecording with the following characteristics: (1) the underlying recording is at SP speed, (2) the overrecording is at EP speed, and (3) the underlying recording and overrecording VCRs have hi-fi audio heads, but the overrecording unit does not have a flying erase head. As listed in Table 3 and generically illustrated in Figure 5b, this overrecording configuration is divided into six segments:

1. Segment O_U is the first part of the total overrecording and contains a mixture of both the underlying recording and overrecording because there is no flying erase head. This section is 80.00 mm in length, based on the pre-video erased area between the full-track erase head and the beginning of the video-head recording. This segment lasts 7.19 seconds ($80.00 \div 11.12$) and consists of 216 frames (7.19×29.97). The control track is present during this portion, and so are the linear audio and hi-fi audio.
2. Segment O_P is the pull-down segment and the second part of the total overrecording. It starts at the beginning of the full-track erasure and ends 96.67 mm later. The 96.67-mm distance represents the linear distance of the full helical-scan video-head track at EP speed. The pull-down consists of the pure overrecording information progressively replacing the mixture of the underlying recording and the overrecording. This segment lasts 8.69 seconds ($96.67 \div 11.12$) and consists of 260 frames (8.69×29.97). The linear audio, hi-fi audio, and control-track information are present during this segment.
3. Segment O is the pure overrecording segment and the third part of the total overrecording. It lasts 4.12 seconds ($20.00 - 7.19 - 8.69$), covers a length of 45.81 mm, and consists of 123 frames (4.12×29.97). The linear audio, hi-fi

audio, and control-track information are present during this segment.

4. The 80.00-mm erased segment, E, which is the pre-video erased area, has no video, hi-fi audio, linear audio, or control-track information because they were all erased by the full-track erase head. This portion lasts 7.19 seconds ($80.00 \div 11.12$) and has an equivalent of 216 frames (although no video information is actually present).
5. Segment U_{NP} is a pull-down portion of partial tracks, without synchronization, of the underlying recording. It is 96.67 mm in length, lasts 8.69 seconds ($96.67 \div 11.12$), and consists of 260 frames (8.69×29.97). The hi-fi audio does not play back in this area, even though it is present on the videotape, because only partial tracks are present and the playback speed is incorrect (EP versus SP). The linear audio and control-track information are not present because they have been erased by the full-track erase head. If the audio and control data had been present, they would have been located 175.923 mm ($96.67 + 79.253$) earlier on the tape.
6. The last portion of the overrecording sequence is segment U_N , which contains the underlying recording without synchronization. It is 79.253 mm in length, lasts 7.13 seconds ($79.253 \div 11.12$), and consists of 214 frames (7.13×29.97). The hi-fi audio information is not present in this portion because the playback speed is incorrect (EP versus SP). The linear audio and control-track information are also not present because they have been erased by the full-track erase head. Following this U_N segment, the underlying recording, U, returns with the video, audio, and control-track information intact.

Table 3: An example of the representative video, audio, and control-track times, lengths, and frames for a 20.00-second overrecording with the following characteristics: (1) the underlying recording is at SP speed (2) the overrecording is at EP speed, and (3) the underlying recording and overrecording VCRs have hi-fi audio heads, but the overrecording unit does not have a flying erase head. The distance from the full-track erase head to the video-recording head has been designated as 80.00 mm, the frame numbers have been rounded to the nearest whole number, all lengths are in mm, and all times are in seconds.

The third example is a 2.00-second overrecording with the following characteristics: (1) the underlying recording is at SP speed, (2) the overrecording is at SP speed, and (3) the underlying recording and overrecording VCRs have flying erase and hi-fi audio heads. As listed in Table 4 and generically illustrated in Figure 7a, this overrecording configuration is divided into six segments:

1. Segment O is the overrecording, lasting 2.00 seconds, which is recorded on the videotape over a total of 66.70 mm (2.00×33.35) and consists of 60 frames (2.00×29.97). The control track is present during this portion, and so are the linear audio and hi-fi audio.
2. The first U segment is the return of the underlying recording for 13.30 mm, or

0.40 second ($13.30 + 33.35$), with the control track, the linear audio, and the hi-fi audio present. On short overrecordings, the total of the O and first U segments equals the pre-video erased area length.

3. The E-U_P pull-down segment has the same length and timing as the overrecording, or 66.70 mm, 2.00 seconds, and 60 frames. This pull-down consists of the underlying recorded information being progressively replaced with the erased segment, E, until the erased portion is at the top and the underlying recording is at the bottom of the frame. The linear audio and control-track information are present; however, the hi-fi audio is not present because there are only partial video tracks.
4. The U_P-E pull-down segment is 96.30 mm in length, lasts 2.89 seconds ($96.30 + 33.35$), and consists of 87 frames (2.89×29.97). The 96.30-mm distance represents the linear distance of the full helical-scan video-head track at SP speed. The partial tracks of the second U_P video start appearing at the top of the frame, with the erased information appearing as a band below it and the first U_P information beneath it. These three bands progress downward in the frame, with the first U_P portion disappearing off the bottom first, followed by the erased portion, and finally, only the second U_P segment is visible at the beginning of the second U segment. The hi-fi audio does not play back in this area, even though it is present on the videotape, because only partial tracks are present. The linear audio and control-track information are present.
5. The second U segment is the return of the underlying recording for 12.54 mm, 0.38 second ($12.54 + 33.35$), and 11 frames. The control track, the linear audio, and the hi-fi audio are present. On short overrecordings, the total length of the second U and the U_N segments equals the 79.244-mm distance between the end of the video tracks and the recording control track and linear audio heads.
6. The last portion of the overrecording sequence is segment U_N, which contains the underlying recording without synchronization. It is the same length and time as the overrecording, or 66.70 mm, 2.00 seconds, and 60 frames. The linear audio and control-track information are not present because they were erased by the full-track erase head; however, the hi-fi audio is present. Following this U_N segment, the underlying recording, U, returns with the video, audio, and control-track information intact.

Table 4: An example of the representative video, audio, and control-track times, lengths, and frames for a 2.00-second overrecording with the following characteristics: (1) the underlying recording is at SP speed, (2) the overrecording is at SP speed, and (3) the underlying and overrecording VCRs have flying erase and hi-fi audio heads. The distance from the full-track erase head to the video-recording head has been designated as 80.00 mm, the frame numbers have been rounded to the nearest whole number, all lengths are in mm, and all times are in seconds.

Forensic Applications

The analyses of the test overrecordings and the underlying video-recording principles reflect a number of audio and video parameters that can be measured and considered by the authenticity examiner. The following are recommended examination procedures for analyzing VHS cassettes for suspected overrecordings and a list of observations that can be important to the forensic examiner.

Examination Procedures

The following are the generally recommended examination procedures for reviewing an evidential VHS videocassette in the laboratory. However, other analysis steps or modification of some of the recommendations may be necessary for a specific recording.

1. The VHS videocassette should be played back on a professional-quality VCR and visually reviewed on a professional monitor with underscan capability and/or digitized and reviewed using an appropriate high-resolution computer monitor (with appropriate hardware and software that enables the user to view individual fields). The separate optimized manual-tracking setting, instead of automatic tracking, should be used for the underlying and overrecording segments because this often produces better playback, especially when there is a speed change. If audio and/or video problems are encountered on one VCR, then playback on other brand/model VCRs is advisable.
2. The video signal from the professional-quality VCR should be routed through a TBC, which will add stability in the areas lacking a control track.
3. The linear audio and hi-fi audio should be listened to separately on the original videocassette. Those portions containing no hi-fi audio (when the VCR automatically switches to linear audio) should be identified.
4. The audio and video information in question should be digitized with a high-quality video-capture/audio-capture device, using an appropriate format that exceeds the quality of the VHS recording.
5. A software program should be used that can simultaneously display both the audio and the individual video frames and/or fields, with accurate time registration and frame/field numbering.
6. An initial determination should be made of whether the suspected event is consistent with the longer or shorter overrecording configuration.
7. Based upon the specific characteristics of the overrecording category, the pertinent audio and video times should be measured. If no audio was recorded on an evidential tape, then record- and erase-head signals, changes in the noise floor, and other indications of segment boundaries should be identified.

8. The parameters identified with the specific type of overrecording should be compared with the information on the videocassette in question.

Test-Recording Observations

1. The test recordings clearly showed the importance of the linear audio information, which also reflects the presence or absence of the control track. This was useful even with videotapes containing no high-level linear audio because system artifacts were often recorded on the linear audio track at segment boundaries.
2. It was important to identify the portions that lacked synchronization because those areas often had video images with a loss of color, added noise, and vertical instability.
3. Pull-down portions usually did not show accurate video information and had color loss, added noise, and synchronization problems.
4. In some cases, the linear audio was not completely erased by the full-track erase head; the remaining audio signal was about 30 to 45 dB below its original amplitude. This was probably an effect of the full-track erase head, which is designed to delete the helical-scan tracks and not the linear track information.
5. The linear audio and the control tracks are in the same head stack, and thus, when linear audio was present, the control track was also present. Similarly, when the linear audio was erased, the control track was also erased.
6. A thorough examination of the separate video, linear audio, hi-fi audio, and control-track information provided the best representation of the overrecording sequence.
7. The updating/stationary counter on most real-time counters is a direct indication of the presence or absence of control-track pulses.
8. Because super VHS (S-VHS) and compact VHS (VHS-C) use pertinent standards that are identical to VHS, the findings of this paper apply to those formats as well (IEC 1991; IEC 1993).

Acknowledgments

The authors thank the following individuals who reviewed this paper and provided important technical and grammatical improvements: Holly Breault and George Skaluba (FBI, Quantico, Virginia); Marla E. Carroll (Unilux, Ltd., Fort Lauderdale, Florida); Dean Catoggio, Bryson Shearwood, and Jason Ferridge (Victoria Police, Macleod, Victoria, Australia); Steven A. Killion (BEK TEK LLC, Clifton, Virginia); Graeme Kinraid

(Australian Federal Police, Canberra, Australia); and Wayne R. Runion (U.S. Army Crime Laboratory, Fort Gillem, Forest Park, Georgia).

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DWIGHT C.H. LUM

ATTORNEY AT LAW
P.O. BOX 37055
HONOLULU, HAWAII 96837
Telephone: (808) 524-4481

Attachment
~~EXHIBIT~~ 58
PAGE 1 OF 8

August 16, 2007

James Spencer
Suite 183
7001 Saint Andrews Road
Columbia, South Carolina 29212

EXHIBIT "P"

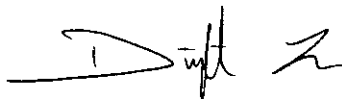
CONFIDENTIAL
LEGAL CORRESPONDENCE

Re: State v. Shane Mark. First Circuit Court.
State of Hawaii.

Dear Mr. Spencer:

This letter is to follow up on our telephone conversation on August 13, 2007. Per your request, I am enclosing for your information a copy of the resume for Noel Herold that was used in Mr. Mark's trial. I hope you will find it useful in your investigation. I would certainly appreciate it if you would share with me any information regarding Mr. Herold that would help Mr. Mark's case.


Sincerely yours,



DWIGHT C.H. LUM
Attorney-at-Law

ENC: (1)

7-1 (Rev. 5-13-99)


FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D. C. 20535

ATTACHMENT 58

PAGE 2 OF 9

Date: September 16, 2003

**To: Mr. Christopher T. Van Marter
Deputy Prosecuting Attorney
Department of the Prosecuting Attorney
Alifl Place
1050 Richards Street
Honolulu, Hawaii 96813**

**Case ID No.: 95A-HQ-1420747
Lab No.: 030404256 QE**

Reference: Communication dated April 2, 2003

Your No.: 03-1-0496/03-026746

**Title: SHANE MARK - DEFENDANT;
GLEN GASPER (DECEASED) - VICTIM;
KILLING A POLICE OFFICER IN THE LINE OF DUTY**

Date specimens received: April 4, 2003

Specimens:

- Q1 One Sony MP120 8mm video cassette tape with a manufacturer's spine marks in part "21EA250PC 2617"**
- NE1 One 5-page Honolulu Police Department Incident Report**

Remarks:

The results of the Forensic Audio, Video and Image Analysis Unit examinations are included in this report.

Q1, NE1, the VHS copies, the video prints, and the DVD were forwarded to your office via Federal Express on May 22, 2003.

Page 1 of 1

This Report is Furnished for Official Use Only

witness over 150 times in Firearms, Toolmarks, Audio, Acoustics, (weapons) silencers/suppressors, and video. I have provided forensic assistance in all 50 States, the U.S. Virgin Islands, and international video and audio forensic assistance for Australia, Canada, Denmark, Egypt, El Salvador, Germany, Great Britain, Hong Kong, Ireland, Israel, Kuwait, Latvia, Mexico, Netherlands, New Zealand, Philippines, Saudi Arabia, Singapore, South Korea, Sweden, and the United Nations.

I lectured at the FBI Academy, Quantico, Va. for New Agent's Training, Technically Trained Agent's, and National Academy students. Have guest lectured at the Acoustical Society of America, National Technical Investigator's Association (NATIA), and for the International Conference on "Equipment For The Police" in Ottawa, Canada. Wrote an article on "A Method of Audio Copyright Examination," co-authored an article entitled "Equipping the Modern Audio-Video Forensic Laboratory", and contributed to an article in "Photo Electronic Imaging" magazine entitled "Testing Reality" (Sept/97). Member of NATIA and "The Academy Group". Have assisted in providing (expert witness) and moot court training for Assistant U.S. Attorney's in Washington, D.C.

I retired on May 31, 1996, as a Supervisory Special Agent and resumed case work as a consultant with the FBI on June 7, 1996.

ATTACHMENT 58
PAGE 4 OF 9

LIST OF COURT APPEARANCES

Noel Herold

ATTACHMENT 58

PAGE 5 OF 8

1) Feb./71	Cincinnati, Ohio	Fed trial (line-up)
2) 10/10/73	Los Angeles, California	Trial (firearms)
3) 10/18/73	Stafford County, Virginia	Bench trial
4) 11/08/73	Portland, Oregon	Bench trial
5) 02/21/74	Pittsburgh, Pennsylvania	Fed trial
6) 03/12/74	Omaha, Nebraska	Trial
7) 03/26/74	Milwaukee, Wisconsin	Guilty plea
8) 05/07/74	Greenville, Mississippi	Guilty plea
9) 05/22/74	Doylestown, Pennsylvania	Local Trial (firearms)
10) 06/20/74	South Bend, Indiana	Trial
11) 10/02/74	Bridgeton, New Jersey	Trial
12) 10/07/74	Valparaiso, Indiana	Trial/double homicide
13) 01/15/75	Bridgeton, New Jersey	Re-trial
14) 08/25/75	San Angelo, Texas	Trial
15) 09/30/75	Los Angeles, California	Trial
16) 01/14/76	Birmingham, Alabama	Trial
17) 06/02/76	San Angelo, Texas	Trial
18) 12/03/76	Boston, Massachusetts	Fed trial (copmat)
19) 08/22/77	Los Angeles, California	Trial
20) 09/14/77	Los Angeles, California	Fed trial (copmat)
21) 10/21/77	Upper Marlboro, Maryland	Trial (audio enh)
22) 06/06/78	Bluefield, West Virginia	Fed trial (copmat)
23) 07/17/78	Wilmington, Delaware	Trial (silencer)
24) 09/20/78	Miami, Florida	Trial
25) 10/07/78	Newark, New Jersey	Fed trial

ATTACHMENT 58

PAGE 6 OF 8

- 26) 10/23/78 Rodgersville, Tennessee Trial
- 27) 11/08/78 Miami, Florida Trial
- 28) 11/15/78 Houston, Texas Trial (audio enh)
- 29) 11/27/78 Miami, Florida Fed trial (drugs)
- 30) 12/05/78 Fairfax, Virginia Trial (audio enh)
- 31) 12/08/78 Virginia Beach, Virginia Trial
- 32) 02/23/79 Houston, Texas Trial
- 33) 02/27/79 Gallup, New Mexico Fed trial
- 34) 05/29/79 Miami, Florida Trial
- 35) 08/15/79 Cumming, Georgia Trial
- 36) 09/19/79 Hendersonville, Tennessee Trial
- 37) 10/09/79 Albany, Georgia Trial
- 38) 11/05/79 Houston, Texas Trial Judge dropped case
- 39) 01/09/80 Roanoke, Virginia Trial
- 40) 01/22/80 Philadelphia, Pennsylvania Bench hearing
- 41) 02/25/80 Georgetown, Delaware Trial (bench)
- 42) 03/06/80 Bessemer, Alabama Trial (bombing)
- 43) 05/05/80 Philadelphia, Pennsylvania Trial
- 44) 06/16/80 Martinsville, Virginia Trial
- 45) 08/06/80 Tampa, Florida Trial
- 46) 08/19/80 Chicago, Illinois Trial (silencer)
- 47) 12/08/80 West Palm Beach, Florida Fed trial (RICO)
- 48) 01/06/81 Wilmington, Delaware Bench hearing
- 49) 02/10/81 Salt Lake City, Utah Trial
- 50) 03/24/81 Reno, Nevada Defense stipulates
- 51) 05/04/81 Salt Lake City, Utah Mistrial (juror)
- 52) 08/24/81 Salt Lake City, Utah Re-trial
- 53) 10/20/81 Albany, New York Fed bench hearing
- 54) 10/27/81 Panama City, Florida Trial (drugs)
- 55) 12/10/81 Fort Lauderdale, Florida Trial
- 56) 12/14/81 Newark, New Jersey Fed bench hearing

57) 02/01/82	Newark, New Jersey	Fed trial
58) April/82	Washington, D.C.	Trial (enhance)
59) 06/21/82	San Diego, California	Trial
60) 08/30/82	Lake County, Indiana	Trial
61) 09/28/82	Boston, Massachusetts	Trial
62) Oct. 1982	Easton, Maryland	Trial
63) 02/14/83	Denver, Colorado	Trial
64) 05/16/83	New York, New York	Fed trial (IRA)
65) 08/30/83	Los Angeles, California	Trial
66) 10/19/83	Raleigh, North Carolina	Trial
67) 11/03/83	Cleveland, Ohio	Fed trial
68) 01/10/84	Cleveland, Ohio	Fed trial
69) 04/09/84	Phoenix, Arizona	Fed trial
70) 05/10/84	Fairfax, Virginia	Trial (civil)
71) 06/29/84	Cleveland, Ohio	Trial
72) 08/14/84	Providence, Rhode Island	Fed trial
73) 02/05/85	Las Vegas, Nevada	Trial
74) 07/22/85	Midland, Texas	Trial
75) 10/21/85	Tampa, Florida	Trial
76) 11/17/85	Knoxville, Tennessee	Trial
77) 01/21/86	Atlanta, Georgia	Trial
78) 02/03/86	Indianapolis, Indiana	Fed trial (copmat)
79) 06/23/86	Tampa, Florida	Fed trial (delayed)
80) 06/29/86	Tampa, Florida	Fed trial
81) OCT/1986	Washington, D.C.	Trial (enhance)
82) 06/23/87	Dallas, Texas	Trial
83) 08/17/87	Beckley, West Virginia	Trial
84) 12/17/87	Newark, New Jersey	Fed trial
85) 03/01/88	Deland, Florida	Trial
86) 04/18/88	Jacksonville, Florida	Trial (drugs)
87) 05/09/88	Hartford, Connecticut	Fed hearing(WELLROB)
88) 08/15/88	Milwaukee, Wisconsin	Trial (copmat)
89) Feb/1989	Chicago, Illinois	Stipulation
90) 07/19/89	Grand Junction, Colorado	Trial (del-minor)
91) 11/14/89	Philadelphia, Pennsylvania	Trial
92) 12/04/89	Birmingham, Alabama	Fed trial (Hobbs)

ATTACHMENT 58

PAGE 7 OF 8

ATTACHMENT 58
 PAGE 8 OF 9

- | | | | |
|------|----------|----------------------------|--------------------------------|
| 93) | 01/30/90 | Tampa, Florida | Trial |
| 94) | 09/10/90 | Lexington, South Carolina | Trial |
| 95) | 06/26/91 | Tyler, Texas | Trial (Lunsford) |
| 96) | 06/03/92 | Key West, Florida | Fed trial (drugs) |
| 97) | 09/01/92 | Merrillville, Indiana | Trial |
| 98) | 05/18/93 | Lockport, New York | Trial (vid auth) |
| 99) | 08/25/93 | Savannah, Georgia | Trial delayed |
| 102) | 04/26/94 | Augusta, Georgia | Trial |
| 103) | 06/09/94 | Milwaukee, Wisconsin | Trial |
| 104) | 10/04/94 | Columbus, Georgia | Trial (shoot-out) |
| 105) | 12/06/94 | E L Dorado, Arkansas | Trial (Subway murder) |
| 106) | 03/21/95 | Guntersville, Alabama | Trial |
| 107) | 05/10/95 | Farmington, Missouri | Trial (vid auth) |
| 108) | 09/11/95 | Birmingham, Alabama | Fed re-trial |
| 109) | 10/25/95 | Englewood, Colorado | Trial (rob-vid) |
| 110) | 11/30/95 | SDNY, New York City | Trial FBI-drugs |
| 111) | 01/18/96 | Magnolia, Arkansas | Trial (shooter) |
| 112) | 02/28/96 | Colorado Springs, Colorado | Trial (Quad murder) |
| 113) | 03/15/96 | Eugene, Oregon | Trial (Tips-Auth) |
| 114) | 06/28/96 | Brooklyn, New York | Trial (Child-abuse-V) |
| 115) | 12/06/96 | Los Angeles, California | Trial (vid/aud/sync) |
| 116) | 02/10/97 | Tulsa, Oklahoma | Disc. (vid/aud-mur) |
| 117) | 02/11/97 | Tulsa, Oklahoma | Trial (vid/aud-mur) |
| 118) | 05/12/97 | Tulsa, Oklahoma | Disc. (vid/aud-mur) |
| 119) | 05/14/97 | Tulsa, Oklahoma | Trial (vid/aud-mur) |
| 120) | 11/19/97 | Quantico, Virginia | Deposition(Mexican) |
| 121) | 02/10/98 | Cincinnati, Ohio | Trial (vid/BR/prnts) |
| 122) | 03/6/98 | LA, CA-deposition (civil) | Summ Judge(vid/auth)* |
| 123) | 4/01/98 | Maumee, Ohio | Trial (vid/enh/auth) |
| 124) | 5/05/98 | Wash., D.C.-USDO | Dep. (prison suicide-Trentadue |
| 125) | 6/23/98 | The Hague, Netherlands | War-Crim-Trib. (Vid/auth-ICTY) |
| 126) | 8/23/98 | Kansas City, Kansas | Trial (vid auth) |
| 127) | 10/23/98 | FBI-HQ-Washington, D.C. | Deposition(Mexican) |
| 128) | 10/30/98 | Clifton, Virginia (civil) | Deposition(Lexmark) |
| 129) | 04/28/99 | Abingdon, Virginia | Suppr. (Vid auth) |
| 130) | 03/31/00 | Wash., D.C.-USDOJ | Deposition-Waco |
| 131) | 05/24/00 | Marion, Va. | Phone Dep. Vid/auth* |
| 132) | 05/31/00 | Towson, Md | Vid- auth/Innoc Images |
| 133) | 07/19/00 | Fort Worth, Texas | Vid/auth/enh - murder |

ATTACHMENT - 59

- | | | | |
|----------------|-------------------------------|--|------------|
| 134) 07/25/00 | Virginia, Minnesota | Vid/auth/enh -kid/murder | PAGE 9 (9 |
| 135) 10/5,6/00 | Singapore (Capitol case) | Vid/aud/auth/enh -drugs/ 3 sub | |
| 136) 03/13/01 | U.S. Virgin Islands-St. Croix | DEA - Vid/aud enh | |
| 137) 04/04/01 | USN-Norfolk, Virginia | NCIS-rape-vid auth./repair | |
| 138) 05/09/01 | USN-Norfolk, Virginia | NCIS-rape-vid auth./repair (2 nd sub) | |
| 139) 08/11/01 | Augusta, Georgia | Vid/auth/Hearing/Drugs | |
| 140) 09/13/01 | Appling, Georgia | Video authenticity/trial/drugs | |
| 141) 11/29/01 | Dayton, Ohio | Vid/aud enh/mogang/mur trial | |
| 142) 01/09/02 | Los Angeles, CA | Video auth ATF machine gun | |
| 143) 02/20/02 | Tampa, Florida | Video auth/perjury | |
| 144) 03/08/02 | Hags Head, North Carolina | Audio authenticity* | |
| 145) 03/26/02 | Paducah, Kentucky | Vid auth/aud/vid enhancement | |
| 146) 05/01/02 | San Francisco, Califor | Video/audio enhancement | |
| 147) 07/13/02 | South Bend, Indiana | Video auth/enh 1 st def-3 murder | |
| 148) 08/23/02 | South Bend, Indiana | Video auth/enh 2 nd def-3 murder | |
| 149) 12/06/02 | South Bend, Indiana | Video auth/enh 3 rd def-3 murder | |
| 150) 12/17/02 | Mobile, Alabama | Video/audio enh/sync def. Stipg. | |
| 151) 03/06/03 | Portsmouth, Ohio | Video/aud enh/disc.Hearing/trial dep. | |
| 152) 04/09/03 | Norfolk, Virginia | Video/aud enh/murder trial/Dls.Court | |

* Not physically present

Exhibit Q

STATE OF SOUTH CAROLINA

COUNTY OF HORRY

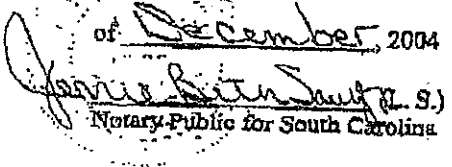
)
)
)
AFFIDAVIT OF CHIEF JOHNNY MORGAN

PERSONALLY APPEARED before me, Chief Johnny Morgan, who, being duly sworn, states as follows:

I am Johnny Morgan, Chief of the Horry County Police Department. I am aware that there have been requests for the Horry County Police Department to locate the videotape equipment which was in Officer Jay Brantley's car at the time of a stop and arrest which occurred on August 6, 2000. Unfortunately, it is impossible to locate or identify the subject equipment. When Officer Brantley's vehicle was removed from service and listed as surplus the equipment was removed and placed in a common area with other like equipment for re-install into new vehicles. The Police Department and County do not inventory that equipment or keep track of it. It has never been a practice to list which equipment came from which vehicle, or document where it went. Also, during the course of several years, the Police Department has sent this type of equipment back to the factory for various reasons causing some of it to be replaced with new recorders due to damage or breakage. There is no way of determining if Officer Brantley's former recorder is still in possession of the Police Department and if it is, we do not have the capacity or ability to identify in which vehicle it might be.

FURTHER AFFIANT SAYETH NOT


CHIEF JOHNNY MORGAN

SWORN to before me this 10th day
of December, 2004

Notary Public for South Carolina

My Commission expires: 11-20-06



**IN THE UNITED STATES DISTRICT COURT
FOR
THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION**

SOUTHERN HOLDINGS, INC.,)	CA. NO. 4:02-1859-RBH
ET AL.,)	
PLAINTIFFS,)	
)	
VERSUS)	
)	
HORRY COUNTY, ET AL.,)	
DEFENDANTS.)	
<hr/>)	

**ELECTRONIC EXHIBIT II RECORDING
WITH GREG BRATCHER**

**Assistant Director
Horry County Fleet Maintenance**

1 **6:29 – 10:32**

2 Interviewer: Hello?

3 Mr. Bratcher: Yes, sir. Can I help you?

4 Interviewer: Yeah. I'm looking at purchasing a surplus vehicle and they told me to call down
5 to fleet and I could pick up some of the records from y'all on the
6 maintenance, um, this asset number 31290.

7 Mr. Bratcher: Hold on, son. Let me get to my desk. Hold on a minute.

8 Interviewer: Okay.

9 Mr. Bratcher: Okay. You said it was 32190?

10 Interviewer: No, 31290.

11 Mr. Bratcher: '97 Ford Crown Vic, right?

12 Interviewer: '97 Ford Crown Vic, yup.

13 Mr. Bratcher: What would you like to know about it?

14 Interviewer: Ah, do you have the service records on it?

15 Mr. Bratcher: Yeah, pretty much.

16 Interviewer: Ah, could you fax them to me because I'm looking to --

17 Mr. Bratcher: Well, I mean, no, just on the (inaudible). We can't fax 'em to you or nothing like
18 that. I mean, I could tell you a little about it, but. It's been serviced on a regular
19 basis every 3,000 miles.

20 Interviewer: Every 3,000 miles.

21 Mr. Bratcher: And the transmission's been serviced every 21.

22 Interviewer: Every 21,000?

23 Mr. Bratcher: Uh, huh.

24 Interviewer: When was it put into service?

25 Mr. Bratcher: It was put into service January of, ah, 1st of '98.

26 Interviewer: January of '98?

27 Mr. Bratcher: Uh, huh.

1 Interviewer: Okay. And when was it taken out?

2 Mr. Bratcher: It was taken out 10/03.

3 Interviewer: 10/03. Okay. And when was -- was it a --

4 Mr. Bratcher: It's always a police vehicle.

5 Interviewer: Oh, it was a police vehicle. All the way through 10/03?

6 Mr. Bratcher: Uh, huh.

7 Interviewer: Okay. Now, what was the mileage on it at that time?

8 Mr. Bratcher: The ending mileage?

9 Interviewer: Uh, huh.

10 Mr. Bratcher: The ending mileage was somewhere around 135 – 136 thousand.

11 Interviewer: 136,000?

12 Mr. Bratcher: Uh, huh.

13 Interviewer: Could you do me a big favor?

14 Mr. Bratcher: Uh, huh.

15 Interviewer: And just -- the only thing I need is the asset number of the '97 Ford Crown Vic

16 and the put-into-service date, the January --

17 Mr. Bratcher: Uh, huh.

18 Interviewer: '98.

19 Mr. Bratcher: '98.

20 Interviewer: And the ending mileage of -- the ending, taken out on 10/03, and the ending

21 mileage of 136,000.

22 Mr. Bratcher: Yeah.

23 Interviewer: Could you send me just a fax cover sheet with that on it? It's to John Rakowsky,

24 J-o-h-n.

25 Mr. Bratcher: Okay, John. How do you spell the last name?

26 Interviewer: R-a-k-o-w-s-k-y.

27 Mr. Bratcher: R-a-k-

1 Interviewer: -o-w-s-k-y.

2 Mr. Bratcher: Okay.

3 Interviewer: And, um, okay. I know you guys – there was no major transmission
4 work or anything on it?

5 Mr. Bratcher: No, sir.

6 Interviewer: What do you do when you take all the parts? I'm just curious. When you take
7 all the parts out, what do you do, like...

8 Mr. Bratcher: If we take any off, we, you know, just install another one back on. It ain't no
9 problem.

10 Interviewer: But, I mean, like the video camera and stuff.

11 Mr. Bratcher: Oh, they just take it and re-put it in a new vehicle.

12 Interviewer: Put it in a new vehicle?

13 Mr. Bratcher: Yep.

14 Interviewer: So they -- they kind of -- they lock them in by serial numbers per vehicle?

15 Mr. Bratcher: Oh, yeah, yeah, yeah.

16 Interviewer: So...

17 Mr. Bratcher: And, you know, whatever worked. They may have -- and they pull it out of an
18 old Crown Vic and you got an impala or something, you know, they put it in that
19 one. They don't leave none of that left in it.

20 Interviewer: I mean, you keep track of every one of those recorders, though?

21 Mr. Bratcher: Oh, well, the individuals -- our department don't, but the individuals do that.
22 You know, the police department or whichever the department it is that's used it,
23 yeah, they keep track of that.

24 Interviewer: They keep track of that?

25 Mr. Bratcher: Yeah. We have a different department that does that.

26 Interviewer: You got a different department that does that?

27 Mr. Bratcher: Yeah.

1 Interviewer: Okay. What department is that?
2 Mr. Bratcher: Horry County Police.
3 Interviewer: Oh, they do it themselves?
4 Mr. Bratcher: Yeah.
5 Interviewer: They do both the sheriff and police cars?
6 Mr. Bratcher: Yes, sir.
7 Interviewer: Oh, okay. Yeah, if you could fax that to me, I sure do appreciate it.
8 Mr. Bratcher: Okay.
9 Interviewer: Okay. I thank you very much, sir.
10 Mr. Bratcher: You're welcome.
11 Interviewer: Bye, bye.
12 Mr. Bratcher: Bye.

13

14

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27

1 STATE OF SOUTH CAROLINA

2

3 CERTIFICATE

4

5

6

7 Be it known that I, Bonnie Davenport, a Professional Court Reporter and
8 Notary Public, did have digital telephone conversations presented to me on July 31, 2015 in
9 Cayce, South Carolina;

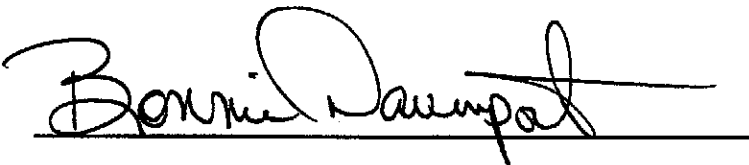
10 That the foregoing pages constitute a true and accurate transcription of the
11 recordings given at that time and place aforesaid to the best of my skill and ability;

12 I further certify that I am not counsel or kin to any of the parties to this cause of
13 action, nor am I interested in any matter of its outcome.

14 In Witness whereof, I have hereunto set my hand this 15th Day of August, 2015.

15

16

17 
18 _____

19 Bonnie Davenport

20 Notary Public For South Carolina

21 My Commission Expires February 1, 2018

22

23

Horry County Fleet Service
4457 Privetts Road
Conway, South Carolina 29526
www.horrycounty.org



Horry County
SOUTH CAROLINA

Committed to Excellence

FACSIMILE COVER SHEET

ATTACHMENT 55

PAGE 1 of 3
Phone: (843) 365-0044
365-0055
Fax: (843) 365-0064

TO: John Rakowsky

FROM: Greg Bratcher

DATE: 5-11-2007

FAX NUMBER: [REDACTED]

TOTAL NUMBER OF PAGES INCLUDING THE COVER SHEET: 2

COMMENTS: _____

Horry County Fleet Service
4457 Privetts Road
Conway, South Carolina 29526



ATTACHMENT 55
Telephone: (843) 365-0044
PAGE 2 **OF** 3
365-0045
365-0064

May 11, 2007

John Rakowsky
ABUL
South Carolina

Dear Mr. Rakowsky:

To the best of my knowledge, the vehicle with the Asset # 31290 was put into service around January 1998. It was placed out-of-service around October 2003, with an ending mileage of 136,000 miles.

Sincerely,

Greg Bratcher
Horry County Fleet Assistant Director

inv

FERRY COUNTY POLICE DEPARTMENT
 WEEKLY REPORT

ATTACHMENT 55

OFFICER: J. M. BRANTLY CALL #: 485 S.S. #: 2446163 **PAGE 3 OF 3**
 BEGIN ODOMETER: 76053 END ODOMETER: 76678 TOTAL MILES: 625
 GALLONS OF GAS: 41 ASSET # 31290 AREA: 5 MONTH: AUG 2000

WEEKS #	TOTAL HOURS FROM PRIOR WEEK OF PAY PERIOD				
DAY	DATE	10-41	10-42	HOURS	JUSTIFICATION FOR OVERTIME
SAT.	12	1800	2330	5.5	MB Speedway - County Time
SUN.	13	off			
MON.	14	0530	1800	12.5	
TUE.	15	0600	1800	12	
WED.	16	off			
THU.	17	off			
FRI.	18	1745	0600	12.25	
TOTAL HOURS				42.25	

DAY	DATE	MILEAGE	GALLONS	ARREST	CALLS	WARRANTS	REPORTS WRITTEN	ESCORTS	COMMUNITY CONTACTS
SAT.	12	30	Φ	Φ	Φ	Φ	Φ	Φ	Φ
SUN.	13	off							
MON.	14	218	12	1	9	Φ	4	Φ	Φ
TUE.	15	179	15	Φ	8	Φ	6	Φ	Φ
WED.	16	off							
THU.	17	off							
FRI.	18	198	14	Φ	13	Φ	3	Φ	Φ
TOTAL		625	41	1	30	Φ	13	Φ	Φ

SPECIAL ASSIGNMENT'S (OFF DUTY SECURITY)

DATE	LOCATION	HOURS

CHECK VEHICLE FLUIDS DAILY :
 _____ TRANSMISSION _____ OIL _____ WATER

A.C. 241

REPORTS ARE TO BE TURNED IN EVERY MONDAY MORNING !

Plaintiff's Ex. 139

IN THE UNITED STATES DISTRICT COURT
FOR
THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

SOUTHERN HOLDINGS, INC.,)
ET AL.,)
PLAINTIFFS,)

CA. NO. 4:02-1859-RBH

VERSUS)

HORRY COUNTY, ET AL.,)
DEFENDANTS.)

ELECTRONIC EXHIBIT - II

TRANSCRIPT

RHONDA JOHNSON

**(Interview with Rhonda Johnson, Asset Manager, Horry
County, South Carolina on **Disposition**
Date of Brantley Police Cruiser and records on Brantley
Police Camera and Recorder.)**

1 **12:19 – 14:35**

2 Johnson: Finance. It's Rhonda.

3 Interviewer: Hi, Miss Johnson. How are you doing?

4 Johnson: Fine and you?

5 Interviewer: Pretty good. I'm curious how inventories work; would you have a few minutes?

6 Johnson: Sure

7 Interviewer: Talk about just personal property, like police cars.

8 Johnson: Okay.

9 Interviewer: Equipment in police cars.

10 Johnson: All right.

11 Interviewer: I mean, do I have the right person or?

12 Johnson: Yes.

13 Interviewer: Okay, alright now, there's an annual audit done every year right?

14 Johnson: Uh, huh. I send out a list of all the inventory to every department in the county.

15 Interviewer: Uh, huh.

16 Johnson: And they check it off and they answer it.

17 Interviewer: Right.

1 Johnson: But as far as the vehicle they're tracked like that and then they're tracked daily through
2 Fleet. Now, we track all vehicles til we sell them through egov .com.

3 Interviewer: Now, does the individual department track their equipment expenses, like say a
4 camera and recorder for \$3,000? Would they track something like that?

5 Johnson: Oh yes, they keep up with their individual stuff.

6 Interviewer: Like a camera and recorder, I mean, which a \$3,000 purchase or something,
7 \$4,000 that would be the individual department that would keep that serial
8 number.

9 Johnson: Right.

10 Interviewer: Okay, like you would show, I know the ASY 400, which I think is the system that
11 is being replaced now, you would, that keeps the inventory of the, of the, well,
12 that keeps the asset records of the car when it was with the County?

13 Johnson: Uh, huh.

14 Interviewer: Would you have, like, the disposal date of an asset of that?

15 Johnson: It would be on the same screen as the acquisition date.

16 Interviewer: So like if I gave you, let's say asset number 31290...

17 Johnson: Uh, huh.

18 Interviewer: Would you be able to give me disposal and acquisition date?

19 Johnson: If it's been disposed of.

1 Interviewer: Sure, is there...

2 Johnson: What number you want?

3 Interviewer: 31290.

4 Johnson: 31290?

5 Interviewer: Right.

6 Johnson: Ah, what you want to know about it?

7 Interviewer: Um, the disposal.

8 Johnson: The disposal date was 10-11 of 2003.

9 Interviewer: 10-11 of 2003. Okay. Well, I sure do appreciate it. Okay, bye, bye.

10 Johnson: Bye.

11

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1 STATE OF SOUTH CAROLINA

2

3 CERTIFICATE

4

5

6

7 Be it known that I, Bonnie Davenport, a Professional Court Reporter and
8 Notary Public, did have digital telephone conversations presented to me on July 31, 2015 in
9 Cayce, South Carolina;

10 That the foregoing pages constitute a true and accurate transcription of the
11 recordings given at that time and place aforesaid to the best of my skill and ability;

12 I further certify that I am not counsel or kin to any of the parties to this cause of
13 action, nor am I interested in any matter of its outcome.

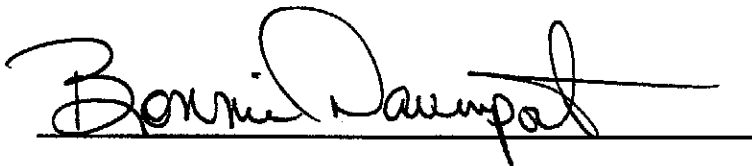
14 In Witness whereof, I have hereunto set my hand this 15th Day of August, 2015.

15

16

17

18



19 Bonnie Davenport

20 Notary Public For South Carolina

21 My Commission Expires February 1, 2018

22

23

6. As part of my engagement by the Plaintiffs' Counsels, I was to analyze police videotapes and police dispatch recordings produced by the Horry County Defendants to authenticate if videotapes and audiotapes produced by the Defendants were in fact the unedited recordings made on August 5, 2000, and August 6, 2000.
7. As part of my engagement by the Plaintiffs' Counsels, I was to analyze and detect any evidence of editing of any police videotape and any police dispatch audiotape produced by the Horry County Defendants.
8. In order to authenticate any videotape produced by the Defendants as an **actual** original videotape recorded at the scene on August 6, 2000, at the time of my engagement, I made sure that Plaintiffs' Counsels understood that both cameras and both recorders from police cruisers employed at the scene on August 6, 2000, by Defendant Brantly and Defendant McLendon had been requested to be produced through discovery by the Horry County Defendants.
9. The Brantly recorder was necessary for forensic examination so I could authenticate by employing the industry benchmark standard of using a comparison of electronic signatures to authenticate a videotape produced by the Defendants as, in fact, the true original and unedited videotape recorded by the equipment employed by Brantly at the scene.
10. In order to determine what, if anything, had been edited out of the Horry County Police dispatch tape copies presented to me by Plaintiffs, I requested that the original dispatch recordings be obtained through discovery from the Horry County Defendants.
11. On October 27, 2004, Horry County Defendants' Counsel Robert E. Lee personally delivered to my laboratory in Lake Geneva, Wisconsin, three videotapes and one Mobil Vision System-7 camera and recorder.
12. Horry County Defendants' Counsel Lee identified the camera and recorder as the equipment used by Defendant Brantly to record the events at the scene on August 6, 2000.

13. On October 27, 2004, I provided to Defendants' Counsel Lee an article I authored entitled "Forensic Video." The article was published in *The Forensic Examiner of Video Recordings* - November/December - Fall 1999. The article provided information on issues regarding the forensic examination of videotapes. Counsel Lee would be attending and witnessing a forensic examination of videotapes conducted at my laboratory over the next couple of days under the authority of the Federal District Court in this case. In that regard, the article discussed the use of the original recording equipment in the authentication process.
14. On October 28, 2004, under the authority of Court Order No. 109, Defendants' Counsel Robert Lee attended the preparation stages at my laboratory for the examination of the three videotapes Lee had delivered.
15. On October 28, 2004, Defendants' Counsel Lee asked me about alternative methods to authenticate if the Brantly videotape he delivered was the original if he [Lee] had not delivered the recorder and camera used by Brantly to record the original videotape.
16. I described an alternative method which involved the use of the electronic signature from an *exemplar* videotape (any other videotape ever recorded with the same recording equipment used by Brantly on the scene on August 6, 2000) to determine the authenticity of a Brantly videotape by matching the Brantly videotape's electronic signature to the electronic signature on the *exemplar* videotape.
17. On October 28, 2004, before the actual examination of the three videotapes began and after I described the use of exemplar videotapes to authenticate the videotape as an original recorded by a specific recorder, Defendants' Counsel Lee unexpectedly took the videotapes he had just delivered to me and left the laboratory. I was informed by Lee that he would return with the videotapes and the McClendon recorder and camera as soon as he took care of an unexpected situation that had developed in South Carolina that required his immediate presence.

- 18. On or about October 31, 2004, I started my examination of the camera and recorder that Defendants' Counsel Lee had identified as the equipment that was used by Defendant Brantly to record events at the scene on August 6, 2000.
- 19. On or about October 31, 2004, I determined that the recording equipment Mr. Lee had delivered to me was in fact not the equipment used by Defendant Brantly, as identified by Horry County Defendants' Counsel Lee, but was the equipment used by Defendant McClendon to record events at the scene on August 6, 2000.
- 20. On or about October 31, 2004, as a result of discovering Defendants' Counsel Lee had wrongly identified the recording equipment he presented to me as the recording equipment used by Defendant Brantly at the scene, I immediately called Plaintiffs' Counsel Goldberg and requested he expedite securing an exemplar videotape from the Horry County Defendants so I could authenticate the Brantly videotape through the use of an exemplar videotape.
- 21. The use of the protective 5-digit sequential counter installed by Mobil-Vision into the System-7 to determine points of editing confirmed results of the analysis I conducted whereby I concluded that at or about the area of counter numbers 02217 and 02218, the number 02217 repeats itself. That repetition is conclusive evidence that the Defendant Brantly videotape was, in fact, edited.

FURTHER AFFIANT SAYETH NAUGHT.

NOTARIZED SIGNATURE

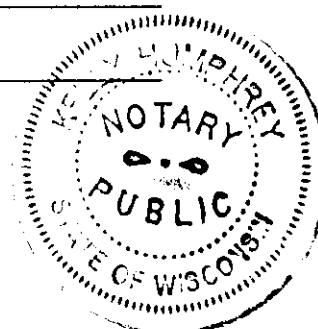
Your Signature: *[Handwritten Signature]*
(To be signed in the presence of a Notary)

Subscribed and sworn before me, this 6th day of May of the year 2008.

Signature of Notary: *Kelly Humphrey*

Expiration date of Commission: May 24, 2009

Notary Seal or Stamp





VCR Enclosure -- Camera -- Microphone -- Monitor -- Overhead

In-Car Video System



- Powered by a **JVC** video Recorder.
- JVC's new KZ-V10MV VCR - manufactured exclusively for Mobile-Vision!! The only industrial VCR built specifically to operate in an extreme temperature, dusty, high shock environment.
- Built tough for Law Enforcement Professionals -- VCR is protected by a tough 14 gauge stainless steel outer shell and an inner "thermo" chassis of 90 mil aluminum.
- Trunk mounted with internal environmental control systems.
- Total protection against evidence tampering.
- Small, low-light camera -- 1 lux, 128X Zoom, auto-focus, back-light compensation and 8 shutter speeds

Why Use In-Car Video?

- Provides an indisputable video and audio record of all encounters involving officer and citizen.
- Enhances prosecution of DUI, drug interdiction, traffic violations and other offenses.
- Reduces court appearances -- saves overtime expenses.
- Supports officer's testimony.
- Improves level of professionalism.
- Reduces complaints.
- Excellent training and self-evaluation tool.
- Serves as a video and audio notebook to enhance memory when reporting.

Why use the Mobile-Vision In-Car Video System?

- Low-Light Color camera with an automatic 128X zoom lens -- **STANDARD!**
- Simple six button control head.
- "Active Matrix" color LCD monitor with built in speaker.
- Compact 14 gauge Stainless Steel VCR enclosure -- **STANDARD!!**
- Programming changes restricted to authorized personnel.
- Digitally encoded wireless microphone -- **STANDARD!!**
- JVC VCR exclusive to Mobile-Vision, Inc.!!
- In-Car Microphone is controlled by user.
- Easy installation -- single cable harness -- installation typically takes between 2 to 3 hours.

EXHIBIT E

EXHIBIT A OF E

How is it operated?

PAGE 6 OF 6

PAGE 2 OF 2

- Record mode can be activated by the emergency lights, wireless microphone or control head. Also optionally controlled from the menu, the siren or an auxilliary input can be used.
- Digitally encoded signal from the wireless microphone ensures RECORD cannot be activated from any other RF source.
- Recorded tape can be viewed on the monitor in the vehicle.
- Audio from the wireless microphone and in-car microphone is recorded on separate channels.

How is the Evidence Protected

- Locked enclosure mechanically and electrically prevents tape removal. "Record Lock" allows tapes to be played back in the vehicle while preventing recording over evidence.
- Unlocking tape door does not allow access to any VCR controls, wiring or any other components.
- Removal and reinsertion of tape is indicated on recorded tapes.
- ✓ 5-digit sequential counter is superimposed on recording to detect tape alteration. ✓
- Programming can only be set by authorized personnel.

Copyright © 2001 Mobile-Vision, Inc.

10/14/01



Forensic Tape Analysis

Steve Cain MFS
President/C.E.O.
Forensic Scientist

6242 Jones Rd
C/O Steve Cain
Burlington WI 53105

Full Curriculum-Vitae

Steve Cain

M.F.S.; M.F.-S.Q.D.; D.A.B.F.E.; D.A.B.R.E.; F.A.C.F.E.

Questioned Document/Audio & Video Analysis

Steve Cain has over 20 years experience in examining audio and/or video tapes for the U.S. Department of Justice (including the White House Senate Select Judiciary Committee: Clarence Thomas/Anita Hill, the Senate Investigation Sub-Committee: "China Gate" Investigation), U.S. Attorney's Office, over 100 Public Defenders' offices, F.B.I., S.E.C., D.E.A., Customs, I.R.S., Secret Service, A.T.F., and over 1,000 law firms in both criminal and civil cases in the U.S. and overseas.

Following twenty two (22) years as both a Special Agent and a forensic specialist with the U.S. Secret Service and IRS National Crime Laboratories, Steve started Forensic Tape Analysis, Ltd. in Lake Geneva, Wisconsin. A variety of forensic services are offered although the majority of requests concern the identification of questioned voice recordings or issues relating to audio or video tape recording authenticity (i.e. tampering or editing evidence). Steve is also Board Certified as a Questioned Document Examiner. Experts in other forensic disciplines are available upon request.

Steve received his B.S. at the USAF Academy in 1967 and later completed two Masters of Forensic Science Degrees at George Washington University and Antioch School of Law. He has completed two years of a PhD in Criminology at the University of Maryland. He has attended numerous specialized courses of instruction in forensics throughout the U.S. and is both nationally board certified and court qualified (federal and state) in a variety of disciplines. A member of several international forensic organizations, Steve has published more than twenty articles in forensics, investigative, and legal journals and has been a guest speaker at numerous national/international conferences regarding forensic examination techniques.

He has testified in over 40 states, Hong Kong, Puerto Rico, and Canada in both criminal and civil cases. He has examined over twenty thousand (20,000) cases during his almost thirty five years of forensic experience. Mr. Cain is also President/CEO of the International Institute for Forensic Training (IIFT).

IIFT provides quality "hands-on" forensic instruction in a variety of different disciplines including audio/videotape examinations, voice identification or elimination, tape enhancement, and audio and videotape tampering identification techniques. IIFT instructors have provided training to foreign law enforcement and attorneys in the Middle East, Argentina, Turkey, South Africa, Dubai and other overseas locations.

References and a Federal Rule 26 listing of recent case testimony are available upon request. Steve was also a member of the Board of Directors of the Association of Forensic Document Examiners (AFDE) and the American Board of Recorded Evidence (ABRE).

Important Expert Witness Cases

- State of Wisconsin v Richard L. Kittilstad-(Innocence Project)-2005
- Homeland Security v Martha Taylor-2005
- Catherine Bosley et.al v WFMJ Television Inc. et. al-2005
- “48 Hours” News Special on State of Wisconsin v John R. Maloney-2004
- Slesinger v. Disney - “Winnie the Pooh” litigation - 2004
- Alfonso Gonzalez v Ford Motor Company - 2004
- United Airlines (employment litigation) 2004
- Consultant to MSNBC News – Authenticating “Bin Laden” Videotapes – Air, 2002
- “48 Hours” News Special – “The Bookie’s Wife” (Texas v. Angleton – Murder Trial Acquittal – Broadcast January, 2002 and June, 2002)
- Senator John Danforth (Independent Counsel – “Waco” – 1999)
- Andrade v. Chojnacki; et al v. U.S. (Branch Davidian Law Suit – 1999-2000)
- JonBenet Ramsey– CBS News Consultant (1999)
- Texas v. Angleton murder case (all charges dismissed)(1997)
- U.S. v. Aisenberg (Florida 1999)
- CBS consultant re: 60 Minutes story on “The Scuffed Halls of Ivy” (1999)
- Forged Autograph Litigation re: Golfers, Nicklaus, Palmer and Tiger Woods (1996-1997)
- Consultant to: “The Artist Formerly Known as Prince” (1996)
- Consultant to “Court TV” (Voice Identification)
- “Waco” criminal case (1994-1995)
- World Trade Center Bombing (1993)
- CNN’s expert for “Flowers/Clinton” audiotapes (1992)
- Over 425 Court Cases or Depositions (1978-Present)

Publication/Books:

Co-Author of book entitled Advanced Forensic Criminal Defense Investigations, published by Lawyers and Judges Publishing Co., Copyright 2000 and author of chapter entitled, “Forensic Tape Examination Techniques”.

Present Positions:

President - Forensic Tape Analysis, Inc., - Forensic Audio/Video Tape Examiner/ Examiner of Questioned Documents, Lake Geneva, WI and Diplomat and Fellow, American College of Forensic Examiners.

Past Positions:

Editorial Advisory Board for the “Forensic Examiner” (2000-2006)

Chief Liaison Officer for Law Enforcement (Domestic & Foreign), American College of Forensic Examiners (Internationally accredited forensic organization) – Diplomat for the American Board of Law Enforcement Experts (1997-2001)

President – Applied Forensic Technologies Intl., Inc., Lake Geneva/Williams Bay, Wisconsin (1989– 2001)

Diplomat – American Board of Law Enforcement Experts (ACFE) (1998-2001)

Special Agent/Branch Supervisor, Senior Document Examiner, Chief Polygraph/Voiceprint Units – IRS National Crime Lab, Chicago, IL (1986-1989)

Special Agent/Questioned Document Examiner/Voiceprint Examiner/Polygraph Operator – U.S. Secret Service, San Antonio, TX and Washington DC (1971-1985)

Special Agent/Polygraph Examiner – USAF Office of Special Investigations (1967-1971)

Captain, USAF, assigned to San Antonio, TX and Republic of Vietnam (1967-1971), Honorable Discharge (August, 1971)

Major, U.S. Army Reserves (1981-1992) Honorable Discharge

Education:

B.S. – USAF Academy, Colorado Springs, CO (1967) - Bachelor of Science (Engineering)
Graduated with honors

M.F.S. – George Washington University, Washington DC, (1978)- Master of Forensic Science (General Criminalistics)

QD - M.F.S.Q.D. – Antioch School of Law, Washington DC, (1980) Master of Forensic Science
Questioned Documents

PhD Candidate– University of Maryland (1984-1985) (Criminology)

Specialized Forensic Audio Training at the Following Institutions:

Michigan State Police Crime Laboratory, Lansing, MI 1981-1989

OJT Training Program - U.S. Treasury Department and Michigan State Police Crime Laboratory (1981-1985) (1987-1989)

Attended various orientation courses involving forensic tape analysis and voice identification techniques at FBI Crime Laboratory, Washington, DC; National Transportation Safety Board; Los Angeles Sheriff's Department; New York City Police Department, Michigan State Police; U.S. Postal Inspection Service; U.S. Secret Service (Technical Security Division) (1984-1989)

Attended numerous specialized seminars and forensic training and educational programs hosted by the International Association of Identification; Voice Identification, Inc.; Michigan State Police; Michigan State University; Audio Engineering Society (1981-present) American College of Forensic Examiners; New York Institute of Forensic Audio/Video

Forensic Audio Analysis Techniques, Accredited Seminar (1 week), Bowling Green, KY (May, 1992) -- Standards Meeting (AES), Bowling Green, KY (August, 1992), AES

Working Group (12)--Standards Committee for developing Audio Tape Authentication Criteria (1992-present)

New York Institute of Forensic Audio/Video Seminar (Accredited), New York, NY (1993) (1995) (May 1997) (May 1998) (June 2000) (May 2002) (June 2005). Approximately 40 Hours C.E.U. Credits Earned (1989-Present) (Engineering)

Certificates of Achievement /Completion:

CCTV – A Complete Review, Certificate of Completion (accredited) Stam Multimedia Inc. December 2003

New York Institute for Forensic Audio (Accredited), Forensic Audio and Video Examinations, June 1993, September 1995, May 1997, May 1998, June 2000, May 2002 and June 2005.

***Note:** National certification by New York Institute of Forensic Audio in Audio Tape Authentication Techniques in 1997 and 1998. Separate national certification by American Board of Recorded Evidence, May 1998, and June 2005 in Video and Audio Tape Authentication.

Southern Conference Seminar - Forensic Audio - Western Kentucky University, May 1992 (Accredited)

Federal Interagency Polygraph Seminar, Washington DC, June, 1987, hosted by CIA and FBI Federal Bureau of Investigation, Advanced Polygraph Studies Program, University of Virginia, September - October, 1988

Federal Bureau of Investigation, Washington, DC, Audio Enhancement Training, 1984 (certificate issued)

Michigan Department of State Police/Michigan State University, Advanced Voice Identification and Acoustic Analysis Seminar, October, 1984

Michigan State University, Institute of Voice Identification, Voice Identification Workshop, March - April, 1983

George Washington University, Washington DC, course entitled, "Magnetic Recording Engineering", December, 1982

Antioch School of Law, Washington, DC, course entitled, "Physical Significance of Blood Stain Evidence", July, 1980

U.S. Secret Service Questioned Document School, Washington, DC, 1977

U.S. Secret Service, Special Agent Training Course & Technical Operations Schools. Washington, DC
1972 & 1974

U.S. Army Military Police School, Advanced Polygraph Examiner Course, No. 1, November - December,
1976

U.S. Army Military Police School, Polygraph Training, 18 August 69 - 9 November 69, Honor Graduate

Forensic Memberships/Past Certification:

QD - American Board of Forensic Document Examiners (August 1980-December 1988)

QD - United States Treasury Department (U.S. Secret Service and IRS) Polygraph, Voiceprint and
Questioned Documents (1971-1985) (1986-1989)

American Polygraph Association (1972-1977)

QD - American Society of Questioned Document Examiners (A.S.Q.D.E. - 1982-1989)

Mid-Atlantic Association of Forensic Scientists (M.A.F. S.) (1981-1985)

Northeastern Association of Forensic Scientists (N.E.A.F. S.) (1985-1986)

American Academy of Forensic Sciences (A.A.F.S.) (1977-1984)

International Association for Identification (1977-1996) (Voiceprint Examiner)

Forensic Memberships/Present Certifications:

***Note:** Multiple certifications by New York Institute of Forensic Audio in Tape Authentication
Techniques in 1997, 1998, 2000, 2002, 2005. Additional certification by America Board of Recorded
Evidence (ABRE).

QD - Association of Forensic Document Examiners (Board Certified) (1991-Present), Member – Board of
Directors (1997-2000)

American College of Forensic Examiners, M.F.S.; M.F.S.Q.D.; D.A.B.F.E.; D.A.B.R.E.; F.A.C.F.E;
Diplomat and Fellow Audio and Videotape Analysis.

Other Organizational Affiliations:

Audio Engineering Society (National and Chicago Chapter Organizations-- AES) (1990-Present)
Chicago Crime Commission (Organized Crime Committee) (1991-1994)

Institute of Electrical & Electronic Engineers (I.E.E.E.) (1992-1997)
American Society of Industrial Security (ASIS) (1992-1996) (2002-Present)
International Narcotic Enforcement Officers Association (1990-1993)
National Association of Criminal Defense Lawyers (NACDL) (1990-2001) (Associate Member)
National Forensic Center (1990-1997)
Wisconsin Narcotic Officers Association (1991-1993)
World Association of Detectives (W.A.D.) (1995-2000)
Association of Professional Videographers (1995-1999)
Society of Motion Picture and Television Engineers (SMPTE) (1997-2002)
International Society for Optical Engineering (SPIE) (2001-present)
Law Enforcement and Emergency Services Video Association (LEVA) (2001-2004)

Published Articles:

Question Document:

“Potential Applications of Casting Materials in Document Examination Problems”- Journal of Police Science and Administration, 1978.

“Scientific Study of Pencil Lead Components” - Journal of Forensic Sciences, 1978

“Striation Evidence in Counterfeiting Cases” - Journal of Forensic Sciences, 1983

“Laser and Fiber-Optic Photographic Analysis of Single-Edge Paper Striations”- Journal of Forensic Sciences, 1984

“Examining Questioned Documents” - The Legal Investigator, 1990

“Disguised Writings”- Paper presented at AFDE annual meeting in Milwaukee, WI, 1998.

“Examining Questionable Documents” – Published – South Florida Investigators Association Journal, May, 2000.

“Locating, Qualifying, and Paying the Expert Forensic Witness” -The Legal Investigator, 1991

“Techniques for the Collection, Preservation, and Transmission of Evidence”- The Legal Investigator, 1991

“The Psychodynamics of the Presidential Assassin and An Examination of Theme/Graphic Variables of His Threatening Correspondence”- Forensic Science International, 1982

Audio Tape:

“CD Copies of Taped Audio Recording” A Poor Forensic Alternative for Attorneys’ The Forensic Examiner, summer of 2004

“Voiceprint Identification” - Money Laundering and Narcotics Update, Department of Justice, 1988, and The Legal Investigator, 1990

“Examination of Telephone On-Hook Off-Hook Transients” - Submitted for publication October, 1991, Journal of Forensic Identification. Published March 1994

Contributing author of two chapters dealing with forensic document examination techniques and voice identification/acoustic analysis reported to be entitled, “Scientific Evidence”, accepted for publication in 1993 by Shepard’s/McGraw-Hill.

“Voice Identification”, National District Attorneys Association, NDAABulletin, Vol. 110, No. 6, December 1993

“Tape Authentication”, National District Attorneys Association, NDAABulletin, Vol.110, No. 6, January, 1992

“Sound Recordings as Evidence in Court Proceedings” PROSECUTOR MAGAZINE, September/October 1995 Volume 29, Number 5

Video Tape:

“The Forensic Examination of Video Tape—Technical, Integrity and Legal Issues”— accepted for publication-American College of Forensic Examiners (AFCE) – published in The Forensic Examiner, Vol. 8, Nos. 11 & 12, November/December 1999.

“Forensic Examination of CCTV Digital Surveillance Recording Equipment”, The Forensic Examiner, winter of 2005

Audio / Video Tape:

“Verifying the Integrity of Audio and Videotapes”, Submitted to National Association of Criminal Defense Lawyers, Champion, (May, 1992), Accepted November, 1992; published in July 1993

“Audio for Video Post Production” – Paper presented at AES annual meeting, New York City, NY, September, 1999.

“The Forensic Examination of Audio and Videotapes” – Published papers presented at the Illinois Association Of Criminal Defense Attorneys – Southern Illinois University – Paper and Lecture – March, 2002

“Emerging Forensic Technologies”, OACDL Vindicator, (Fall, 1995) official publication of the Ohio Association of Criminal Defense Attorneys.

“Anomalies Associated with Computer Editing of Recorded Telephone Conversations”--Published paper at the Second International Chemical Congress Forensic Symposium, Fall 1995, San Juan, Puerto Rico. (Program Coordinator).

Lecturer and Teaching Background:

George Washington University, Washington DC (1978-1979)

Northern Virginia College, Woodbridge, VA (1978-1980) Adjunct Professor of Criminalistics

University of Delaware, (Washington DC extension) (1980)

U.S. Secret Service Questioned Documents School, Washington DC (1978-1982)

Guest lecturer at Antioch School of Law, “Questioned Documents” (1980)

Guest lecturer at Harper College, Chicago, IL (1989)

National Association of Legal Investigators, (NALI) Mid-Winter Convention, Kansas City, MO (October, 1990)

NALI, Annual Convention Houston, TX, speaking to approximately 200 to 300 legal investigators, on June 20 and 21, 1991, speaking on Questioned Documents and other forensic subjects.

The International Association of Credit Card Investigators, (Milwaukee) Guest Speaker, 1991. The

Association of Financial Crime Investigators, Chicago, IL (July, 1990)

The Safety Deposit Association, Milwaukee, WI speaking to 100 investigators (July, 1990)

Cook County Public Defenders Office (Multiple Defendant Division) (June 3, 1991)

Cook County Investigators Seminar (Public Defender Office) speaking before 80 investigators (July 17, 1991)

Cook County Public Defender Office, Bridgeview, IL (August 20, 1991)

Cook County Public Defenders Office, District 2, Skokie, IL (August 21, 1991)

Iowa State Investigators Association, Semi-Annual Meeting, Des Moines, IA (August, 1991)

DuPage Criminal Defense Attorney’s Association (September, 1991)

American Society of Industrial Security (ASIS), Annual Convention, Orlando, FL (September 1991)

Audio Engineering Society (AES), Annual Meeting, New York, (October 1991), Panelist on Forensic Audio Working Committee

Surveillance EXPO '91, Annual Meeting, Washington, DC, (November, 1991), Guest Speaker, Forensic Tape Analysis and Voice Identification Techniques

Wisconsin Narcotic Officers Association, winter 1991 Seminar, Milwaukee, WI, speaking to over 100 state and Federal Narcotics Enforcement Agents (November, 1991)

Chicago Bar Association, Criminal Defense Division (February, 1992)

National Association of Criminal Defense Lawyers (NACDL), Annual Spring Convention (May 1992)

ION '92 Conference, Denver, CO, (February, 1992) Faculty member and Guest Speaker for National Association of Certified Investigators (Questioned Document and Forensic Tape Analysis)

American Board of Criminal Lawyers Annual Board Meeting Phoenix, AZ (March, 1992)

MAGLOCLEN, Middle Atlantic Great Lakes Organized Crime Law Enforcement Network, Law Enforcement Investigators meeting, Cleveland, OH (January, 1992)

Chicago Crime Commission, Monthly Meeting, Spoke to over 40 federal law enforcement and other invited guests of the Organized Crime Committee, (April, 1992)

Wisconsin League of Financial Investigators, (Questioned Documents and Forensic Tape Analysis) Milwaukee, WI, (December, 1992)

National Association of Legal Investigators, Mid-Winter Convention/Seminar (Regions II & V) Guest Lecturer, Chicago, IL, (March 26, 1994)

American Academy of Forensic Sciences, "Authentication of Sound Recordings for Evidentiary Purposes", presented at 1994 Annual meeting (Jurisprudence Section) San Antonio, TX, February 18, 1994

Kent Law School, (Illinois Institute of Technology), Four lectures on Forensic Science Techniques (1994-Present).

Third Pan American Chemical Congress, Guest Lecturer & Workshop Moderator, September 1995, San Juan, Puerto Rico.

Wisconsin Association of Criminal Defense Lawyers, Featured Speaker on "New Forensic Technologies", Annual Convention, 1996

Minnesota State Bar Convention, Minneapolis, MN, June 1996

Ohio Association of Criminal Defense Lawyers (O.A.C.D.L.), Annual Convention, "Emerging Forensic Technologies", Dayton, OH, June, 1996

Federal Special Agents Association, Annual Meeting, Guest Speaker, "Forensic Technologies" Chicago, IL, February 1997

Association of Forensic Document Examiners (Annual Meetings - Boston, MA, Chicago, IL,

El Paso, TX, San Juan, Puerto Rico) 1997 - "Identifying Forged Autograph Signatures"; Milwaukee, WI, 1998 - "Disguised Writings"

Chicago Bar Association & NACDL semi-annual meeting – Guest Speaker, "Tape Tampering Technologies", Chicago, IL, October 1998

American College of Forensic Examiners, Annual Convention, Guest Speaker, "Videotape Editing Detection – Forensic Tape Exam Issues", New York, NY, October 1999

Louisiana Association of Criminal Defense Lawyers (LACDL) – Guest Speaker on "Tape Authentication", New Orleans, LA, December 1999

American College of Forensic Examiners, Annual Convention, Guest Speaker, "Voice Identification – Theory and Applications", Las Vegas, NV, October 2000

American College of Forensic Examiners, Annual Convention, Seminar, "Audio and Video Tape Editing – Linear vs. Non-Linear Computer Editing", Las Vegas, NV, October 2000

American Academy of Forensic Sciences, "Audio and Video Tampering and Detection", presented at the 2001 Annual Meeting (Computer and High Technology Crime Panel and Workshop) Seattle, WA, February 22, 2001

National Association of Criminal Defense Lawyers (NACDL), Exhibitor and Speaker to NACDL Evidence Committee on CD-ROM corruption, Las Vegas, NV, February 2001

Illinois Association of Criminal Defense Lawyers (IACDL), Carbondale, Illinois (March 2002)

Wisconsin Rotary Club-Guest Speaker on "Forensic Technologies" Elkhorn Wisconsin, September 2005.

Kenosha Kiwanis Club-Guest Speaker on "Forensic Technologies" Kenosha Wisconsin, October 2005.

Texas Criminal Defense Lawyers Annual Meeting, Guest Speaker on "Tape Editing and Corrupted Digital Evidence." October 2005, Dallas Texas.

Smoky Mountain Criminal Justice Conference-Guest Speaker "Forensic Technologies" Gatlinburg Tennessee, November 2005.

Court Qualified:

Over 425 previous occasions. Called to testify in approximately 850 cases. Testified in over 40 states and overseas.

Rev. 2/2006

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

SOUTHERN HOLDINGS, INC.;
JAMES SPENCER; RODNEY KRITH
LAIL; IRENE SANTACROCE; RICKY
STEPHENS; MARGUERITE
STEPHENS; DORIS HOLT; and
NICHOLAS C. WILLIAMSON,

Plaintiffs,

vs.

HORRY COUNTY, SOUTH
CAROLINA; HORRY COUNTY
SHERIFF'S DEPARTMENT; HORRY
COUNTY POLICE DEPARTMENT;
JAMES ALBERT ALLEN, JR.,
Individually and in his official capacity
as an officer with the Horry County
Sheriff's Department; SIDNEY RICK
THOMPSON, Individually and in his
official capacity as an officer with the
Horry County Sheriff's Department;
JEFFREY S. CALDWELL, Individually
and in his official capacity as an officer
with the Horry County Sheriff's
Department; CHARLES MCCLENDON,
Individually and in his official capacity
as an officer with the Horry County
Police Department; JAY BRANTLEY,
Individually and in official capacity
as an officer with the Horry County
Police Department; ANDY
CHRISTENSEN, Individually and in his
official capacity as an officer with the
Horry County Police Department;
MICHAEL STEVEN HARTNESS;
HAROLD STEVEN HARTNESS;
ANCIL B. GARVIN, III; DAVID
SMITH; and JOHN DORS,

Defendants.

Civil Action No.: 4:025-CV-01859-RBH

AFFIDAVIT OF DETECTIVE
JAY BRANTLEY

312



02/06/2007 10:25:25 AM

PERSONALLY appeared before me, Detective Jay Brantley, who, being duly sworn, deposes and says:

1. I am a police officer employed with the Horry County Police Department.
2. When I was a uniformed road officer, I did keep the original videotapes of traffic stops and arrests recorded by my in-vehicle camera equipment. I kept these tapes in the trunk of my patrol car. Generally, I kept these tapes beyond the retention period required by our policy in case issues in a case arose while a case was being prosecuted.
3. In August of 2002, I was promoted from road officer to detective and given an unmarked car to replace my patrol car. When I cleaned out my old patrol car, I took the tapes from the trunk and placed them in a drawer in a desk in my home. When this litigation began, I looked through the half a dozen or so tapes that were in this drawer, and the tape containing the traffic stop at issue in this case was on one of those tapes.
4. I provided this original tape to my attorneys at the Alken, Bridges law firm. I believe that a copy was also made and entered into evidence in Horry County, but I provided the original videotape for this civil case.
5. The remaining tapes from the drawer at my house were thrown away when I moved in November of 2004.

6. When I was a patrol officer, we recycled tapes for reuse by taking them to a local television station to be erased. These tapes were then stacked in the department's control room and we would use them in no particular order, as needed, to replace the full tapes in the in-vehicle cameras. As the County now has its own equipment, we no longer have to use the equipment at the television station.

FURTHER AFFIANT SAITH NOT!



JAY BRANTLEY

SWORN TO AND SUBSCRIBED before me
this 10 day of February, 2007
Rosetta Headley
NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: 2-27-2013

"VERIFYING THE INTEGRITY OF AUDIO AND VIDEOTAPES"

By Steve Cain

An ever-increasing reliance on tape evidence in criminal prosecutions, especially in organized crime and drug cases, under scores the importance of tape integrity and the methods used to qualify or disqualify tape evidence.

This article will discuss some of the procedures utilized in analog and digital editing of tapes and assess their potential threat vis-a-vis tape tampering issues; the "legal admissibility" issue surrounding tape recorded evidence to include defining strategies for the defense to require the government to release the 'best evidence' for analysis purposes; and an overview of the accepted techniques for the scientific analysis of recorded tape evidence.

Tape Editing Technology,

The forensic examination of "tampered tapes" should include an inspection of the original tape(s) and the recorder(s) used to produce the tape(s). In the simple case, the existence of an electronic edit and/or evidence of physical splicing will produce acoustic irregularities which can be viewed with instruments and documented.

Modern day technology was apparently used in the electronic editing performed on the disputed Gennifer Flowers/Gov. Bill Clinton tape recordings. The Cable News Network (CNN) asked that I provide an expert opinion on Mr. Clinton's voice and also asked that I examine the tape submitted by the STAR News Magazine for any evidence of possible tampering. The later examination disclosed a number of suspicious acoustic events (anomalies) including: a total loss of signal (dropouts) ;a change in the speakers' frequency response during different telephone conversations; and "spikes" (audible sounds of short duration which are often attributable to normal stop/start and pause functions of the recorder).

In order to provide any definitive conclusion, I requested the original recorder and tape to determine if these electronic edits were intentional edits or possible malfunction/anomalies of the recorder/microphone equipment. CNN has never received the requested tape or recorder from the *Star News Magazine*.

Digital editing of both audio and video tapes, however, greatly complicates the issue and increases the likelihood that altered tapes can escape detection.

The Federal Bureau of Investigation (FBI) Signal Analysis Branch has already acknowledged, "It is difficult to detect some alterations when a recording is digitized into a computer system, physically or electronically edited and recopied on to another tape."

The days of utilizing a razor blade and splicing tape to effectively alter or "doctor" a recorded conversation are all but gone. Right now there are at least twenty manufacturers of desktop computer editing work stations or digital

recorders which can be used as "turn key" editing systems. Software and add on computer cards can transform an IBM personal computer or a Macintosh computer into a sophisticated digital audio editing machine. Some of the systems require a digital audio recorder for initial conversion of the analog format before accessing the computer hardware. These editing work stations were developed to save the motion picture and recording industries money by precluding the necessity of recording sessions or to correct subtle errors in multi track releases.

Some computer boards and software cost less than a \$1000, and provide both recording and editing of sound in an IBM compatible or Mac personal computer format. Editing options are practically inexhaustible thus giving the operator the ability to alter the tape in a word processor type of mode (i.e. cut and paste, copy, delete, etc.) while selected playback files utilize subdue cross fading effects that can "shape" the sound. The typical telltale signs of traditional analog recorder editing including "clicks, pops" and other short duration sounds, can now all be effectively removed without any detectable, audible clue.

Traditional Editing Techniques

Present tape editing practices include either physical splices or electronic editing on one or more analog tape recordings whenever portions of selected conversations are over recorded (i.e. erased) or the original recorder was stopped and restarted inappropriately. While listening to the tape, the attorney may first suspect an alteration by noting either unexplained transients, equipment sounds, extraneous voices, or inconsistencies with provided written information.

The major categories of tape alterations include: (1) Deletion; (2) Obscuration; (3) Transformation; and (4) Synthesis. Deletion of unwanted material can readily be done through splicing or by using one or more recorders to erase, rerecord, or stop/pause the recorder at strategic points within the conversation. Obscuration involves the distortion of a recorded signal with the purpose of rendering selective portions unintelligible. This method, for example, was used during the editing of the infamous 18minute gap in the Watergate tapes. This technique is also used to mask splices, clicks, or suspicious transients and is more difficult to detect than deletion methods. By judicious use of two tape recorders, one may add "noise" to the copy and thereby mask the original recording and render it less intelligible. One can also reduce the volume of the slave recorder and thus weaken the amplitude of target conversations on the original tape.

Transformation involves the alteration of portions of a recording so as to change the meaning of what is said. The technique is similar to deletion practices but greater skill and care must be applied as a knowledge of acoustic phonetics is required to avert a suspicious edit.

Lastly, synthesis is the generation of artificial text by adding background sounds or conversation to the tape copy which were not present on the original recording. The addition of selective phrases can be accomplished if a sufficient data base library of recorded conversations is available. It must be emphasized that all of the traditional analog methods of altering audiotapes can be more efficiently and surreptitiously accomplished through the use of digital editing work

stations.

Tape Authentication And Detection Of Edits

With the threat of digital editing looming larger, it is more inoperative than ever that both the official tapes and recorders be made available for inspection.

The FBI's Signal Analysis Branch has developed a set of well defined procedures for the acceptance of authentication requests which provides an excellent overview of what the government considers to be essential for a scientifically valid tape analysis:

1. Sworn testimony or written allegations by defense, plaintiff, or government witnesses of tampering or other illegal acts. The description of the problem should be as complete as possible, including exact location in recording, type of alleged alteration, scientific test performed, and so on;

2. The original tape must be provided. Copies of a duplicate tape cannot be authenticated and are normally not accepted for examination by the FBI;

3. The tape recorders and related components used to produce the recording must be provided; and,

4. Written records of any damage or maintenance done to the recorders, accessories, and other submitted equipment must be provided.

In addition, there must be a detailed statement from the person or persons who made the recording describing exactly how it was produced and the conditions that existed at the time, including:

- A. Power source, such as alternating current, dry cell batteries, automobile electrical system, portable generator.

- B. Input, such a telephone, radio, frequencies (RF) transmitter/receiver, miniature microphone, etc.

- C. Environment, such as telephone transmission line, small apartment, etc.

- D. Background noise, such as television, radio, unrelated conversations, computer games, etc.

- E. Foreground information, such as number of individuals involved in the conversation, general topics of discussion, closeness to microphone, etc.

- F. Magnetic tape, such as brand, format, when purchased and whether previously used.

- G. Recorder operation, such as number of times fumed on and off in the record mode, type of keyboard or remote operation for all known record events, use of voice activated features, etc.

Also recommended is a typed transcript of the recording, to include both English and foreign language versions.

It is essential in all tape authentication exams to obtain the original recorder and tape, as copies cannot normally be authenticated. If the defense is encountering difficulties in obtaining the necessary "originals they may wish to cite Koenig's article" as an authoritative resource which specifies the reasons why the original evidence is essential in any tape tampering request.

If the original tape and recorder are not available for inspection, the forensic expert can still conduct a preliminary examination of the submitted "copy" for any evidence of discontinuous recorder operation, although all conclusions must

necessarily be qualified regarding possible editing effects. The examination process normally includes both an aural, physical, and instrumental analysis of the evidential tape. Phase continuity, speed determination, azimuth determination, waveform analysis, spectrographic and narrow band spectrographic analysis are among the techniques employed to evaluate the tape.

The techniques and tests are usually adequate in the detection of altered analog recordings. Fortunately, the vast majority of altered tapes today are still analog tapes.

Defense counsel should have a working knowledge of how tapes are analyzed.

First, there is a physical inspection of the submitted tape, the tape housing, the tape recorder and all ancillary equipment used to make the original recording: microphones, telephone couplers, transceivers, etc. A magnetic development test involves the application of a special fluid which under proper magnification will make visible the head track configuration, off-azimuth recordings, start/stop functions, damage to recording heads, etc. The forensic expert can subsequently determine whether the submitted tape is a copy, has been over-recorded, or was made on a different recorder than the one submitted. The original recorder can be detected by slight speed fluctuations and deformities in the rotating parts which provide a unique "wow and flutter" signature which can be measured. Also, spectrum analysis can be used to measure slightly different signals transmitted through the microphone or telephone equipment. All of the signal analysis equipment can be useful in answering questions related to bandwidth, distortion effects, or unique tones generated during the original recording process.'

Forensic Video Examinations

The forensic video examiner is concerned with the authenticity and integrity of the signal. Questions relating to whether the tape is a copy, a compilation, or other tapes or an edited version are of important consideration. Forensic examinations of videotapes usually consist of both a visual and aural examination. One of the more important pieces of equipment used in forensic video examinations is a waveform monitor which is a specialized oscilloscope. It displays the voltage versus time modes and has specialized circuits to process the signal. If any editing occurs, then it's possible to display the signal aberration on the display screen of the instrument.'

Additional tests include measurements of the chrominance, hue and burst of the color videotape by using a vector scope. The vector scope measures the chrominance information and allows for the examination of matching bursts of multiple signals. It also permits the investigation of edit points.

Vertical, interval and horizontal information known as video synchronizing information can be observed on a cross pulse monitor. This "cross pulse" information can be viewed on a cross pulse monitor and with proper application, one can often determine if the videotape is a copy or an original. In cases where the helical heads are out of alignment, a set of marks could exist for each succeeding generation or copy.'

micro-phones hidden in an apartment. Trial motions for the information had not been made nor had the defendants offered any technical basis for the value of the information. The government successfully objected to the questions concerning the microphones location on the grounds that it would reveal sensitive surveillance techniques anti jeopardize future criminal investigations.

In upholding the district court, the First Circuit, citing *Van Horn*,¹³ and *United States' v. Harley*,¹⁴ and making an analogy to the informer's privilege in *Roviano* held that a qualified privilege against compelled government disclosure of sensitive investigative techniques exists."¹⁵ The privilege can be overcome, however, by a sufficient showing of need. The defendant must show that, "he needs the evidence to conduct his defense and that there are no adequate independent means of getting at the same point."¹⁶ The *Cintolo* court stressed that the extent to which adequate alternative means could have substituted for the proper testimony is, "a key to evaluating this claim of necessity."¹⁷

As technological advances have occurred in digital editing, there likewise has been a tremendous increase in the number of body worn FM transmitters and other recording devices used by law enforcement to collect evidence against defendants. It should be emphasized, however, that some of this evidence may not be admissible in court if the agencies do not comply with several Federal Communication Commission (FCC) regulations. First, all nonfederal agencies must use only transmitters that are approved by the FCC and without this approval the transmitter is not considered a legal transmitting device and therefore cannot be legally used to gather evidence. Secondly, state and local agencies must be licensed in the FCC's Police Radio Service and thus far most departments reportedly have not met this requirement. These observations are part of the information contained in "Equipment Performance Report: Body Worn FM Transmitters," a report of the Technology Assessment Program (TAP). This program tested nine Body-Worn FM transmitters in accordance with National Institutes of Justice (NIJ) Standard 0214.01. These standards require transmitters passing the test to provide intelligible audio signals that result in acceptable quality voice recordings.¹⁸ As noted in the *Cintolo* and *Angiulo* decisions, the defense failed to provide a sufficient showing of necessity, thus, it is imperative that defense experts vouch for the necessity of access to the government evidence as soon as possible.

The Need For Original Recording Equipment And How To Get It

There are a number of valid scientific reasons for accessing original tapes, recorders, and related equipment to conduct a proper analysis.

In practically every credible forensic publication dealing with forensic tape analysis procedures, the authors emphasize the necessity of examining the original evidence or a direct patch cord copy. In many cases, however, experience has shown an unwillingness of the government prosecutor and agents to provide such materials to the defense for examination purposes. The government may object that the defense never requested the original or direct copy recordings and therefore, their motions for access at the eleventh hour are basically "delay strategies." This argument can be effectively countered if the

defense obtains an appropriate court order requesting the defense expert be provided access to the required "best evidence recordings."

Secondly, the government may contend that it has a qualified (if not absolute) privilege of withholding technical data from the defense counsel citing "National Security" or indicating that such release may jeopardize future criminal investigations. The *Anguilo* and *Cintolo* decisions provide the defense counsel relief from such government actions. Counsel must show the need for the evidence to conduct the defense and that there "is no adequate independent means of getting at the same points."

The importance of the defense obtaining the original or at least a direct parent record copy of all evidential recordings can not be over emphasized. In -practical y every case I have seen, the copy initially provided by the government was not adequate for the best voice identification, tape enhancement or tape authentication examination. Subsequent motions filed by the defense citing the aforementioned requisite need for the Original evidence often results in its release by the court. As reflected in the newly approved International Association for Identification standards for analysis of questioned voice recordings, the, "unknown and known voice samples must be original recordings, unless listed as a specific exception"¹⁹

Notes:

1. Bruce E. Koenig, *Authentication of Forensic Audio Recordings*, JOURNAL OF AUDIO ENGINEERING, 38 No. 1/2, 1990, Jan/Feb, page 4.
2. National Commission For The Review of Federal and State Wiretapping Laws, pp 223225,1972.
3. Steve Cain, *Voiceprint Identification*, NARCOTICS, FORFEITURE, AND MONEY LAUNDERING UPDATE NEWSLETTER, U.S. Department of Justice, Criminal Division, (Winter 1988).
4. Bruce E. Koenig, *Authentication of Forensic Audio Recordings*, JOURNAL OF AUDIO ENGINEERING SOCIETY, 38 No. 1/2, 1990, Jan/Feb, page 4.
5. Tom Owen, *Forensic Audio and Video Theory And Applications*, JOURNAL OF AUDIO ENGINEERING SOCIETY, Vol. 36, No. 1/2, 1988, Jan/Feb, page 39.
6. *Ibid* page 40.
7. Edward J. Imwinkelried, and Robert G. Scofield, *Attacking The Weight Of Prosecution -Scientific Evidence*, THE CHAMPION PION, April 1992.
8. Nancy Hollander and Lauren M. Baldwin, *Testimony In Criminal Trials: Creative Uses, Creative Attacks*, THE CHAMPION, December 1991.
9. *California v. Trombetta*, 467 U.S. 479, 485 (1984).
10. *United States v. Valenzuela Bernal*, 458 U.S. 858, 867 (1982).
11. 353 U.S. 53 ().
12. See *United States v. Anguilo*, 817 F.2d. 956,96182 (1st Cir. 1988); and *United States v. Cintolo*, 818 F.2d. 980, 100103 (1st Cir. 1987); *United States v. Van Horn*, 789 F.2d. 1492, 150708 (11th Cir. 1986).
13. 798, F.2d. 1492 ().
14. 682 F.2d. 1018, 1020 (D.C. Cir 1982).
15. *Cintolo*, 818 F.2d. 1002.
16. See *Harley*, *supra*.
17. *Cintolo*, 818 F.2d. 1003.
18. Copies are available at no charge from the Technology Assessment Program Information Center (TAPIC), tollfree number 800-248-2742 or (301) 251-5060.
19. *IAI Voice Comparison Standards*, JOURNAL OF FORENSIC IDENTIFICATION, January/February, 1992



Forensic Tape Analysis

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Full Curriculum-Vitae

Steve Cain

M.F.S.; M.F.-S.Q.D.; D.A.B.F.E.; D.A.B.R.E.; F.A.C.F.E.

Questioned Document / Audio & Video Analysis

Steve Cain has over 20 years experience in examining audio and/or video tapes for the U.S. Department of Justice (including the White House Senate Select Judiciary Committee: Clarence Thomas/Anita Hill, the Senate Investigation Sub-Committee: "China Gate" Investigation), U.S. Attorney's Office, over 100 Public Defenders' offices, F.B.I., S.E.C., D.E.A., Customs, I.R.S., Secret Service, A.T.F., and over 1,000 law firms in both criminal and civil cases in the U.S. and overseas.

Following twenty two (22) years as both a Special Agent and a forensic specialist with the U.S. Secret Service and IRS National Crime Laboratories, Steve started Forensic Tape Analysis, Ltd. in Lake Geneva, Wisconsin. A variety of forensic services are offered although the majority of requests concern the identification of questioned voice recordings or issues relating to audio or video tape recording authenticity (i.e. tampering or editing evidence). Steve is also Board Certified as a Questioned Document Examiner. Experts in other forensic disciplines are available upon request.

Steve received his B.S. at the USAF Academy in 1967 and later completed two Masters of Forensic Science Degrees at George Washington University and Antioch School of Law. He has completed two years of a PhD in Criminology at the University of Maryland. He has attended numerous specialized courses of instruction in forensics throughout the U.S. and is both nationally board certified and court qualified (federal and state) in a variety of disciplines. A member of several international forensic organizations, Steve has published more than twenty articles in forensics, investigative, and legal journals and has been a guest speaker at numerous national/international conferences regarding forensic examination techniques.

He has testified in over 40 states, Hong Kong, Puerto Rico, and Canada in both criminal and civil cases. He has examined over twenty thousand (20,000) cases during his almost thirty five years of forensic experience. Mr. Cain is also President/CEO of the International Institute for Forensic Training (IIFT).

IIFT provides quality "hands-on" forensic instruction in a variety of different disciplines including audio/videotape examinations, voice identification or elimination, tape enhancement, and audio and videotape tampering identification techniques. IIFT instructors have provided training to foreign law enforcement and attorneys in the Middle East, Argentina, Turkey, South Africa, Dubai and other overseas locations.

References and a Federal Rule 26 listing of recent case testimony are available upon request. Steve was also a member of the Board of Directors of the Association of Forensic Document Examiners (AFDE) and the American Board of Recorded Evidence (ABRE).

Important Expert Witness Cases

- State of Wisconsin v Richard L. Kittilstad-(Innocence Project)-2005
- Homeland Security v Martha Taylor-2005
- Catherine Bosley et.al v WFMJ Television Inc. et. al-2005
- “48 Hours” News Special on State of Wisconsin v John R. Maloney-2004
- Slesinger v. Disney - “Winnie the Pooh” litigation - 2004
- Alfonso Gonzalez v Ford Motor Company - 2004
- United Airlines (employment litigation) 2004
- Consultant to MSNBC News – Authenticating “Bin Laden” Videotapes – Air, 2002
- “48 Hours” News Special – “The Bookie’s Wife” (Texas v. Angleton – Murder Trial Acquittal – Broadcast January, 2002 and June, 2002)
- Senator John Danforth (Independent Counsel – “Waco” – 1999)
- Andrade v. Chojnacki; et al v. U.S. (Branch Davidian Law Suit – 1999-2000)
- JonBenet Ramsey – CBS News Consultant (1999)
- Texas v. Angleton murder case (all charges dismissed)(1997)
- U.S. v. Aisenberg (Florida 1999)
- CBS consultant re: 60 Minutes story on “The Scuffed Halls of Ivy” (1999)
- Forged Autograph Litigation re: Golfers, Nicklaus, Palmer and Tiger Woods (1996-1997)
- Consultant to: “The Artist Formerly Known as Prince” (1996)
- Consultant to “Court TV” (Voice Identification)
- “Waco” criminal case (1994-1995)
- World Trade Center Bombing (1993)
- CNN’s expert for “Flowers/Clinton” audiotapes (1992)
- Over 425 Court Cases or Depositions (1978-Present)

Publication/Books:

Co-Author of book entitled Advanced Forensic Criminal Defense Investigations, published by Lawyers and Judges Publishing Co., Copyright 2000 and author of chapter entitled, “Forensic Tape Examination Techniques”.

Present Positions:

President - Forensic Tape Analysis, Inc., - Forensic Audio/Video Tape Examiner/ Examiner of Questioned Documents, Lake Geneva, WI and Diplomat and Fellow, American College of Forensic Examiners.

Past Positions:

Editorial Advisory Board for the “Forensic Examiner” (2000-2006)

Chief Liaison Officer for Law Enforcement (Domestic & Foreign), American College of Forensic Examiners (Internationally accredited forensic organization) – Diplomat for the American Board of Law Enforcement Experts (1997-2001)

President – Applied Forensic Technologies Intl., Inc., Lake Geneva/Williams Bay, Wisconsin (1989 – 2001)

Diplomat – American Board of Law Enforcement Experts (ACFE) (1998-2001)

Special Agent/Branch Supervisor, Senior Document Examiner, Chief Polygraph/Voiceprint Units – IRS National Crime Lab, Chicago, IL (1986-1989)

Special Agent/Questioned Document Examiner/Voiceprint Examiner/Polygraph Operator – U.S. Secret Service, San Antonio, TX and Washington DC (1971-1985)

Special Agent/Polygraph Examiner – USAF Office of Special Investigations (1967-1971)

Captain, USAF, assigned to San Antonio, TX and Republic of Vietnam (1967-1971), Honorable Discharge (August, 1971)

Major, U.S. Army Reserves (1981-1992) Honorable Discharge

Education:

B.S. – USAF Academy, Colorado Springs, CO (1967) - Bachelor of Science (Engineering)
Graduated with honors

M.F.S. – George Washington University, Washington DC, (1978) - Master of Forensic Science (General Criminalistics)

QD - M.F.S.Q.D. – Antioch School of Law, Washington DC, (1980) Master of Forensic Science Questioned Documents

PhD Candidate – University of Maryland (1984-1985) (Criminology)

Specialized Forensic Audio Training at the Following Institutions:

Michigan State Police Crime Laboratory, Lansing, MI 1981-1989

OJT Training Program - U.S. Treasury Department and Michigan State Police Crime Laboratory (1981-1985) (1987-1989)

Attended various orientation courses involving forensic tape analysis and voice identification techniques at FBI Crime Laboratory, Washington, DC; National Transportation Safety Board; Los Angeles Sheriff's Department; New York City Police Department, Michigan State Police; U.S. Postal Inspection Service; U.S. Secret Service (Technical Security Division) (1984-1989)

Attended numerous specialized seminars and forensic training and educational programs hosted by the International Association of Identification; Voice Identification, Inc.; Michigan State Police; Michigan State University; Audio Engineering Society (1981-present) American College of Forensic Examiners; New York Institute of Forensic Audio/Video

Forensic Audio Analysis Techniques, Accredited Seminar (1 week), Bowling Green, KY (May, 1992) -- Standards Meeting (AES), Bowling Green, KY (August, 1992), AES

Working Group (12)--Standards Committee for developing Audio Tape Authentication Criteria (1992-present)

New York Institute of Forensic Audio/Video Seminar (Accredited), New York, NY (1993) (1995) (May 1997) (May 1998) (June 2000) (May 2002) (June 2005). Approximately 40 Hours C.E.U. Credits Earned (1989-Present) (Engineering)

Certificates of Achievement /Completion:

CCTV – A Complete Review, Certificate of Completion (accredited) Stam Multimedia Inc. December 2003

New York Institute for Forensic Audio (Accredited), Forensic Audio and Video Examinations, June 1993, September 1995, May 1997, May 1998, June 2000, May 2002 and June 2005.

***Note:** National certification by New York Institute of Forensic Audio in Audio Tape Authentication Techniques in 1997 and 1998. Separate national certification by American Board of Recorded Evidence, May 1998, and June 2005 in Video and Audio Tape Authentication.

Southern Conference Seminar - Forensic Audio - Western Kentucky University, May 1992 (Accredited)

Federal Interagency Polygraph Seminar, Washington DC, June, 1987, hosted by CIA and FBI Federal Bureau of Investigation, Advanced Polygraph Studies Program, University of Virginia, September - October, 1988

Federal Bureau of Investigation, Washington, DC, Audio Enhancement Training, 1984 (certificate issued)

Michigan Department of State Police/Michigan State University, Advanced Voice Identification and Acoustic Analysis Seminar, October, 1984

Michigan State University, Institute of Voice Identification, Voice Identification Workshop, March - April, 1983

George Washington University, Washington DC, course entitled, "Magnetic Recording Engineering", December, 1982

Antioch School of Law, Washington, DC, course entitled, "Physical Significance of Blood Stain Evidence", July, 1980

U.S. Secret Service Questioned Document School, Washington, DC, 1977

U.S. Secret Service, Special Agent Training Course & Technical Operations Schools. Washington, DC 1972 & 1974

U.S. Army Military Police School, Advanced Polygraph Examiner Course, No. 1, November - December, 1976

U.S. Army Military Police School, Polygraph Training, 18 August 69 - 9 November 69, Honor Graduate

Forensic Memberships/Past Certification:

QD - American Board of Forensic Document Examiners (August 1980-December 1988)

QD - United States Treasury Department (U.S. Secret Service and IRS) Polygraph, Voiceprint and Questioned Documents (1971-1985) (1986-1989)

American Polygraph Association (1972-1977)

QD - American Society of Questioned Document Examiners (A.S.Q.D.E. - 1982-1989)

Mid-Atlantic Association of Forensic Scientists (M.A.F.S.) (1981-1985)

Northeastern Association of Forensic Scientists (N.E.A.F.S.) (1985-1986)

American Academy of Forensic Sciences (A.A.F.S.) (1977-1984)

International Association for Identification (1977-1996) (Voiceprint Examiner)

Forensic Memberships/Present Certifications:

***Note:** Multiple certifications by New York Institute of Forensic Audio in Tape Authentication Techniques in 1997, 1998, 2000, 2002, 2005. Additional certification by America Board of Recorded Evidence (ABRE).

QD - Association of Forensic Document Examiners (Board Certified) (1991-Present), Member – Board of Directors (1997-2000)

American College of Forensic Examiners, M.F.S.; M.F.S.Q.D.; D.A.B.F.E.; D.A.B.R.E.; F.A.C.F.E; Diplomat and Fellow Audio and Videotape Analysis.

Other Organizational Affiliations:

Audio Engineering Society (National and Chicago Chapter Organizations-- AES) (1990-Present)
Chicago Crime Commission (Organized Crime Committee) (1991-1994)

Institute of Electrical & Electronic Engineers (I.E.E.E.) (1992-1997)

American Society of Industrial Security (ASIS) (1992-1996) (2002-Present)

International Narcotic Enforcement Officers Association (1990-1993)

National Association of Criminal Defense Lawyers (NACDL) (1990-2001) (Associate Member)

National Forensic Center (1990-1997)

Wisconsin Narcotic Officers Association (1991-1993)

World Association of Detectives (W.A.D.) (1995-2000)

Association of Professional Videographers (1995-1999)

Society of Motion Picture and Television Engineers (SMPTE) (1997-2002)

International Society for Optical Engineering (SPIE) (2001-present)

Law Enforcement and Emergency Services Video Association (LEVA) (2001-2004)

Published Articles:

Question Document:

“Potential Applications of Casting Materials in Document Examination Problems”- Journal of Police Science and Administration, 1978.

“Scientific Study of Pencil Lead Components” - Journal of Forensic Sciences, 1978

“Striation Evidence in Counterfeiting Cases” - Journal of Forensic Sciences, 1983

“Laser and Fiber-Optic Photographic Analysis of Single-Edge Paper Striations”- Journal of Forensic Sciences, 1984

“Examining Questioned Documents” - The Legal Investigator, 1990

“Disguised Writings”- Paper presented at AFDE annual meeting in Milwaukee, WI, 1998.

“Examining Questionable Documents” – Published – South Florida Investigators Association Journal, May, 2000.

“Locating, Qualifying, and Paying the Expert Forensic Witness” -The Legal Investigator, 1991

“Techniques for the Collection, Preservation, and Transmission of Evidence”- The Legal Investigator, 1991

“The Psychodynamics of the Presidential Assassin and An Examination of Theme/Graphic Variables of His Threatening Correspondence”- Forensic Science International, 1982

Audio Tape:

“CD Copies of Taped Audio Recording” A Poor Forensic Alternative for Attorneys’ The Forensic Examiner, summer of 2004

“Voiceprint Identification” - Money Laundering and Narcotics Update, Department of Justice, 1988, and The Legal Investigator, 1990

“Examination of Telephone On-Hook Off-Hook Transients” - Submitted for publication October, 1991, Journal of Forensic Identification. Published March 1994

Contributing author of two chapters dealing with forensic document examination techniques and voice identification/acoustic analysis reported to be entitled, “Scientific Evidence”, accepted for publication in 1993 by Shepard’s/McGraw-Hill.

“Voice Identification”, National District Attorneys Association, NDAA Bulletin, Vol. 110, No. 6, December 1993

“Tape Authentication”, National District Attorneys Association, NDAA Bulletin, Vol.110, No. 6, January, 1992

“Sound Recordings as Evidence in Court Proceedings PROSECUTOR MAGAZINE, September/October1995 Volume 29, Number 5

Video Tape:

“The Forensic Examination of Video Tape—Technical, Integrity and Legal Issues”-- accepted for publication-American College of Forensic Examiners (AFCE) – published in The Forensic Examiner, Vol. 8, Nos. 11 & 12, November/December 1999.

“Forensic Examination of CCTV Digital Surveillance Recording Equipment”, The Forensic Examiner, winter of 2005

Audio / Video Tape:

“Verifying the Integrity of Audio and Videotapes”, Submitted to National Association of Criminal Defense Lawyers, Champion, (May, 1992), Accepted November, 1992; published in July 1993

“Audio for Video Post Production” – Paper presented at AES annual meeting, New York City, NY, September, 1999.

“The Forensic Examination of Audio and Videotapes” – Published papers presented at the Illinois Association Of Criminal Defense Attorneys – Southern Illinois University – Paper and Lecture – March, 2002

“Emerging Forensic Technologies”, OACDL Vindicator, (Fall, 1995) official publication of the Ohio Association of Criminal Defense Attorneys.

“Anomalies Associated with Computer Editing of Recorded Telephone Conversations”--Published paper at the Second International Chemical Congress Forensic Symposium, Fall 1995, San Juan, Puerto Rico. (Program Coordinator).

Lecturer and Teaching Background:

George Washington University, Washington DC (1978-1979)

Northern Virginia College, Woodbridge, VA (1978-1980) Adjunct Professor of Criminalistics

University of Delaware, (Washington DC extension) (1980)

U.S. Secret Service Questioned Documents School, Washington DC (1978-1982)

Guest lecturer at Antioch School of Law, “Questioned Documents” (1980)

Guest lecturer at Harper College, Chicago, IL (1989)

National Association of Legal Investigators, (NALI) Mid-Winter Convention, Kansas City, MO (October, 1990)

NALI, Annual Convention Houston, TX, speaking to approximately 200 to 300 legal investigators, on June 20 and 21, 1991, speaking on Questioned Documents and other forensic subjects.

The International Association of Credit Card Investigators, (Milwaukee) Guest Speaker, 1991.

The Association of Financial Crime Investigators, Chicago, IL (July, 1990)

The Safety Deposit Association, Milwaukee, WI speaking to 100 investigators (July, 1990)

Cook County Public Defenders Office (Multiple Defendant Division) (June 3, 1991)

Cook County Investigators Seminar (Public Defender Office) speaking before 80 investigators (July 17, 1991)

Cook County Public Defender Office, Bridgeview, IL (August 20, 1991)

Cook County Public Defenders Office, District 2, Skokie, IL (August 21, 1991)

Iowa State Investigators Association, Semi-Annual Meeting, Des Moines, IA (August, 1991)

DuPage Criminal Defense Attorney’s Association (September, 1991)

American Society of Industrial Security (ASIS), Annual Convention, Orlando, FL (September 1991)

Audio Engineering Society (AES), Annual Meeting, New York, (October 1991), Panelist on Forensic Audio Working Committee

Surveillance EXPO '91, Annual Meeting, Washington, DC, (November, 1991), Guest Speaker, Forensic Tape Analysis and Voice Identification Techniques

Wisconsin Narcotic Officers Association, winter 1991 Seminar, Milwaukee, WI, speaking to over 100 state and Federal Narcotics Enforcement Agents (November, 1991)

Chicago Bar Association, Criminal Defense Division (February, 1992)

National Association of Criminal Defense Lawyers (NACDL), Annual Spring Convention (May 1992)

ION '92 Conference, Denver, CO, (February, 1992) Faculty member and Guest Speaker for National Association of Certified Investigators (Questioned Document and Forensic Tape Analysis)

American Board of Criminal Lawyers Annual Board Meeting Phoenix, AZ (March, 1992)

MAGLOCLIN, Middle Atlantic Great Lakes Organized Crime Law Enforcement Network, Law Enforcement Investigators meeting, Cleveland, OH (January, 1992)

Chicago Crime Commission, Monthly Meeting, Spoke to over 40 federal law enforcement and other invited guests of the Organized Crime Committee, (April, 1992)

Wisconsin League of Financial Investigators, (Questioned Documents and Forensic Tape Analysis) Milwaukee, WI, (December, 1992)

National Association of Legal Investigators, Mid-Winter Convention/Seminar (Regions II & V) Guest Lecturer, Chicago, IL, (March 26, 1994)

American Academy of Forensic Sciences, "Authentication of Sound Recordings for Evidentiary Purposes", presented at 1994 Annual meeting (Jurisprudence Section) San Antonio, TX, February 18, 1994

Kent Law School, (Illinois Institute of Technology), Four lectures on Forensic Science Techniques (1994-Present).

Third Pan American Chemical Congress, Guest Lecturer & Workshop Moderator, September 1995, San Juan, Puerto Rico.

Wisconsin Association of Criminal Defense Lawyers, Featured Speaker on "New Forensic Technologies", Annual Convention, 1996

Minnesota State Bar Convention, Minneapolis, MN, June 1996

Ohio Association of Criminal Defense Lawyers (O.A.C.D.L.), Annual Convention, "Emerging Forensic Technologies", Dayton, OH, June, 1996

Federal Special Agents Association, Annual Meeting, Guest Speaker, “Forensic Technologies” Chicago, IL, February 1997

Association of Forensic Document Examiners (Annual Meetings - Boston, MA, Chicago, IL,

El Paso, TX, San Juan, Puerto Rico) 1997 - “Identifying Forged Autograph Signatures”; Milwaukee, WI, 1998 - “Disguised Writings”

Chicago Bar Association & NACDL semi-annual meeting – Guest Speaker, “Tape Tampering Technologies”, Chicago, IL, October 1998

American College of Forensic Examiners, Annual Convention, Guest Speaker, “Videotape Editing Detection – Forensic Tape Exam Issues”, New York, NY, October 1999

Louisiana Association of Criminal Defense Lawyers (LACDL) – Guest Speaker on “Tape Authentication”, New Orleans, LA, December 1999

American College of Forensic Examiners, Annual Convention, Guest Speaker, “Voice Identification – Theory and Applications”, Las Vegas, NV, October 2000

American College of Forensic Examiners, Annual Convention, Seminar, “Audio and Video Tape Editing – Linear vs. Non-Linear Computer Editing”, Las Vegas, NV, October 2000

American Academy of Forensic Sciences, “Audio and Video Tampering and Detection”, presented at the 2001 Annual Meeting (Computer and High Technology Crime Panel and Workshop) Seattle, WA, February 22, 2001

National Association of Criminal Defense Lawyers (NACDL), Exhibitor and Speaker to NACDL Evidence Committee on CD-ROM corruption, Las Vegas, NV, February 2001

Illinois Association of Criminal Defense Lawyers (IACDL), Carbondale, Illinois (March 2002)

Wisconsin Rotary Club-Guest Speaker on “Forensic Technologies” Elkhorn Wisconsin, September 2005.

Kenosha Kiwanis Club-Guest Speaker on “Forensic Technologies” Kenosha Wisconsin, October 2005.

Texas Criminal Defense Lawyers Annual Meeting, Guest Speaker on “Tape Editing and Corrupted Digital Evidence.” October 2005, Dallas Texas.

Smoky Mountain Criminal Justice Conference-Guest Speaker “Forensic Technologies” Gatlinburg Tennessee, November 2005.

Court Qualified:

Over 425 previous occasions. Called to testify in approximately 850 cases. Testified in over 40 states and overseas.

Rev. 2/2006

1994-2006 Testimony Cases
Steve Cain, President - Forensic Tape Analysis, Inc.

Date	File #	Case/Client	Attorney
11/5/2006	06-060	United States of America v David L. Knellinger Case No.: 3 06 CR 00126	Ian N. Friedman & Associates, LLC Ian N. Friedman 700 West St. Clair Avenue Suite 110 Cleveland, Ohio 44113 216-928-7700
8/23/2006	05-046	State of WI v Richard Kittilstad Case No.: 97CF635	Keith A. Findley Wisconsin Innocence Project Fran J. Remington Center University of Wisconsin Law School 975 Bascom Mall, Madison, WI 53706-1399 608-262-6548
7/18/2006	02-044	State of Indiana v. Christopher M. Allen Court No.: 33C01-0005-CF-013	Bingham McHale LLP Kevin McGoff 8900 Keystone Crossing Suite 400 Indianapolis, IN 46240 317-848-2300
4/25/2006	05-014	Ahmad A. Elborno, MD v. University Anesthesiologists, et al. Case No.: 2005 CH 386	Roth Law Firm Fred Roth 47 East Chicago Avenue Naperville, IL 60540 630-778-1120
3/12/2006	06-005	Pleasance v City of Chicago Court No. 04L1343	Kralovec, Jambois & Schwartz Alan Schwartz 60 West Randolph 4 th Floor Chicago, IL 60601 312-782-2525
3/14/2006	05-032	Atlantic Mutual Insurance Co., a/s/o Tesso Technologies v Mayor and City Council of Baltimore, et al	Lee & McShane, P.C. Terrance M. McShane 1211 Connecticut Avenue Suite 425 Washington, DC 20036 202-530-8102
12/22/2005	04-057	American Islamic College v Cowlas	Harry Schroeder 1619 Western Ave Chicago, IL 60411 708-747-4700
11/18/2005	05-025	David M. Nelson and Rosemary Feehan v. City of St. Mary's Point Case No. 02-2923	Pierre Regnier Jardine, Logan & O'Brien, PLLP 8519 Eagle Point Blvd. Suite 100 Lake Elmo, MN 55042 651-290-6563

**1994-2006 Testimony Cases
Steve Cain, President - Forensic Tape Analysis, Inc.**

Date	File #	Case/Client	Attorney
9/26/2005	03-088	State of Alaska v. Charles Collins	Cynthia Strout 415 W. 8th Ave Anchorage, AK 99501 907-276-0377
8/31/2005	98-003	Burke Carter	Tommy Thomas 7588 Woodrow Street Imo, SC 29063 803-732-5507
8/10/2005	05-016	Brooks Vs Dodge City	Scott Baumbach 100 East Wisconsin Avenue Suite 3300 Milwaukee, WI 53202 262-956-6543
6/3/2005	05-013	Yaitsky	William J. Thrower Harrell Law Firm 2000 Sam Rittenberg Blvd. Suite 2001 Charleston, SC 29407 843-766-4700
5/25/2005	04-051	Tony Westercamp	Merlyn Shiverdecker Carr & Shiverdecker 817 Main Street Suite 200 Cincinnati, OH 45202 513-651-5651
4/4/2005	04-044	Patricia Johnson vs Leroy Sipes, et al.	Johnson Law Firm Christopher D. Johnson 36 East Broadway Avenue Forest Lake MN 55025 651-464-7292
3/15/2005	03-085	POSI vs. Dellace Holten	Joshua B. Kutnick 820 West Jackson Blvd., Ste 300 Chicago IL 61061 312-441-0211
3/15/2005	04-026	Cheryl Ann Abold v. City of Black Hawk, et al.	Rick L. Bove 2001 Stover Street. Fort Collins CO 80525 970-484-7825
2/24/2005	04-055	Richie Wyatt	Cook County Larry Smith 1001 south 8th avenue Maywood IL 60153 708-769-1912
1/3/2005	04-034	USA v. Robert Brown III 04-12-P--S	Attorney at Law Robert C. Andrews P.O. Box 17621 Portland ME 04112 207-879-9850
9/04	03-010	Leaslie Harris v. Sheila Winkler, et al	The Holliday Law Firm Jonathan Boulton

1994-2006 Testimony Cases
Steve Cain, President - Forensic Tape Analysis, Inc.

Date	File #	Case/Client	Attorney
			600 Bryant Bldg. Kansas City MO 64106 816-842-1600
7/04	01-046	Wolosonssovich v. Memorial City Hospital	Cash Allen Tanya Sullivan Chase Tower Houston TX 77002 713-224-6767
04/2004	04-012		Campbell Collins, PSC Adam Collins 161 W. Main Street Hindman KY 41822 606-785-5048
3/04	03-049	Scott Hollander v. Black & Decker, et al	Winston & Strawn LLP Lee Paterson 333 South Grand Avenue 38th Floor.01 Los Angeles CA 90071-1543 213-615-1725
02/04	03-058	US v. Pierre Dawson No. 02CR688	Durkin & Roberts Jodi Garvey 53 W Jackson Blvd Suite 615 Chicago IL 60604 312-922-8980
6/03	03-014	Ron Lityy Dan Tubbs & Vincent Lawber	Horas, Radice & Deean John M. Horas 1600 S. Brentwood Blvd.Ste 770 St Louis MO 63144 314-963-9300
4/03	01-043	Fidelity v. Inter County	Lord Bissell & Brook Andrew R. Gifford 115 S La Salle St Chicago, IL 60603 312-443-0700
4/03	03-001	Universal Surveillance	Feldman 10722 Edison Ct Rancho Cucamonga, CA 91730 909-484-7870
3/03	02-050	State of Texas v. Robert Angleton Case No.: 759693	Michael Ramsey River Oaks/Welch Bldg 2120 Welch Houston, TX 77019 713-523-7878
1/03	02-093	Local 2322, IBEW (Levangie & Everman Discharges)	Pyle, Rome, Lichten & Ehrenberg 18 Tremont Street, Suite 500 Boston, MA 02108 617-367-7200
1/03	02-058	Donna Ehlert v. Dennis Rodman	Andrew Leavitt 633 South Seventh Street Las Vegas, NV 89101

**1994-2006 Testimony Cases
Steve Cain, President - Forensic Tape Analysis, Inc.**

Date	File #	Case/Client	Attorney
			702-382-2800
9/02	02-086	Buras, Eric J. Case No.: 01-0603	Michael Clement P.O. Box 964 Belle Chasse, LA 70037 504-392-6690
8/02	02-026	Commonwealth of Kentucky v. Jeremy Howard, et al	McCoy & West 309 N. Broadway P.O. Box 1660 Lexington, KY 40588 859-254-6363
07/02	01-082	State of WI v. Dennis Mitchell	Attorney Carey J. Reed Landmark Square 200 East Washington Street Appleton, WI 54911 920-968-1108
05/02	01-040 (02-044)	State of IN v. Christopher M Allen	Kiefer & McGoff 8900 Keystone Crossing, Ste. 400 Indianapolis, IN 46240 317-848-2300
05/02	02-037	Dobine, et al v. Motor City Casino, et al	Moss & Colella, PC David Moss 29100 Northwestern Hwy. S 310 Southfield, MI 48034 248-945-0100
04/02	02-018	State of AK v. Joshua Wade	Cynthia L Strout 415 W 8 th Ave. Anchorage, AK 99501 907-276-0377
03/02	01-006 (02-060)	Mikrut & Mudjer v. First Bank of Oak Park NO. 98L5319	Lord, Bissell & Brook 115 South LaSalle Street Chicago, IL 60603 312-443-3070
01/02	01-044	Super Natural Distributors, Inc. v. MuscleTech Research & Development	Michael Bowen Foley & Lardner Firstar Center 777 E. Wisconsin Ave. Milwaukee, WI 53202 414-271-2400
01/02	01-079	James Maddox v. Kentucky Lottery	Bryan Cassis Goldberg & Simpson, PSC 3000 National City Tower 101 S. Fifth St. Louisville, KY 40202-3118 502-585-8547
11/01	00-048	Bine v. Owens, et al	Rebecca O'Black Furbee, Amos, Webb & Critchfield 5000 Hampton Center, Ste. 4 Morgantown, WV 26505 304-598-0900

1994-2006 Testimony Cases
Steve Cain, President - Forensic Tape Analysis, Inc.

Date	File #	Case/Client	Attorney
07/01	01-046	Wolosonssovich v. Memorial City Hospital	Tanya Sullivan Cash Allen Chase Tower 600 Travis, Ste. 6710 Houston, TX 77002 713-224-6767
07/01	00-058	Martin Conneally	Terry Chiganos 3051 Oak Grove Drive Downers Grove, IL 60515 630-990-1700
04/01	00-033	State of Ohio v. Robert Bickley	K. Ronald Bailey K. Ronald Bailey & Assoc. 220 W. Market St. Sandusky, OH 44871-0830 419-625-6740
04/01	99-002	Howard Basso Jr. v. Robert Limosani	Terry P. Race 162 W. Main St. Whitewater, WI 53190 262-473-7374
04/01	00-120	Gerald J. Mansour Jr. v. Outback Steakhouse of Dallas, Ltd. et al	Timothy Zeiger 10100 N. Central Express Way, Ste. 600 Dallas, TX 75231-4159 214-696-0600
04/01	00-100	Wisconsin Dept. of Corrections v. Brenda J. Anderson	Jay Taylor Wisc Department of Corrections 149 East Wilson St. Madison, WI 53707 608-266-2471
04/01	00-102	State of Illinois v. James Thivel	Gary V. Johnson Camic, Johnson, Wilson & McCulloch 546 West Galena Blvd. Aurora, IL 60506 630-859-0135
02/01	00-118	U.S. v. Tammy Miller	D. Peter Wise Gates, Wise & Schlosser P.C. 1231 S. Eighth St. Springfield, IL 62703 217-522-9010
02/01	00-113	U.S. v. Jaime Rodriguez	Jeffry T. Mandell 29 S. LaSalle, Ste. 415 Chicago, IL 60603 312-782-3589
11/00	98-99	State of Indiana v. Rusty Amonette	Michael K. Ausbrook P.O. Box 1554 Bloomington, IN 47402 812-334-4116
10/00	97-29	Arnold Palmer Enterprises et al v. Gotta Have It Golf Collectibles et al	Teresa Ragatz Isicoff & Ragatz, P.A. 1101 Brickell Ave.

**1994-2006 Testimony Cases
Steve Cain, President - Forensic Tape Analysis, Inc.**

Date	File #	Case/Client	Attorney
			Suite 800, South Tower Miami, FL 33131 305-373-3232
10/00	99-58	Welling v. Golden Circle Air, Inc. et al	Brent Rosenberg Rosenberg Law Firm 1010 Insurance Exchange Bldg. Des Moines, IA 50309 515-243-7600
9/00	00-31	Paul Larisey v. Charles Schwab & Co., Inc. et al	Dena L. Narbaitz Steeffel, Levitt & Weiss One Embarcadero Center, 13 th Fl San Francisco, CA 94111-3719 415-788-0900
6/00	98-94	Acuff, Stearns, et al. v. IBP, Inc.	Robert K. Leyshon Winstein, Kavensky & Wallace 224 18 th St 4 th Fl Rock Isl Bank Bldg. Rock Island, IL 61204 309- 794-1515
6/00	00-30	Darryl N. Veazey v. Communications & Cable of Chicago, Inc.	Victoria P. Hallock D'Ancona & Pflaum LLC 111 E. Wacker Drive, Ste. 2800 Chicago, IL 60601 312-602-2000
5/00	98-97	U.S. v. Kevin P. O'Neill, Randall Miller, et al.	Raymond Dall'Osto, Esq. Gimbel, Reilly, Guerin & Brown 2400 Milwaukee Center 111 East Kilbourn Ave. Milwaukee, WI 53202 414-271-1440
4/24/00	99-63	Andrade v. Chojnacki; et al v. U.S. (Branch Davidian Law Suit)	Michael Caddell Caddell & Chapman The Park in Houston Center 1331 Lamar, Ste. 1070 Houston, TX 77010-3027 713-751-0400
4/18/00	99-63	Isabel G. Andrade, et al v. Phillip J Chojnacki, et al., Holub v. Reno, Ferguson v. Reno, Brown v. U.S., Riddle v. Reno Gyarfas v. U.S. Martin v. U.S. Holub v. U.S. Brown v. U.S. Sylvia v. U.S. (Waco civil suit)	Michael Caddell Caddell & Chapman The Park in Houston Center 1331 Lamar, Ste. 1070 Houston, TX 77010-3027 713-751-0400
3/00	00-24 (Ref. 94- 114)	David Hill (Death Penalty)	Theresa N. Johns 1720 Main Street, Ste. 202 Columbia, SC 29201 803-799-0885
1/00	99-07	Jerold Clark Parks, Debtor et al	Samuel A. Guiberson Guiberson Law Offices 55 Waugh Dr., Suite 555 Houston, TX 77007-5812 713-861-3500
9/99	99-78	U.S. v. Solano	Brent Rosenberg

**1994-2006 Testimony Cases
Steve Cain, President - Forensic Tape Analysis, Inc.**

Date	File #	Case/Client	Attorney
			Rosenberg Law Firm 1010 Insurance Exchange Bdg 505 Fifth Avenue Des Moines, IA 50309 515-243-7600
9/99	99-42	U.S. v. American Indians	David Eldridge Ritchie, Fels & Dillard, P.C. Suite 300, Main Place 606 West Main Street Knoxville, TN 37902 423-637-0661
7/99	99-36	U.S. v. Kevin P. O'Neill	William O. Marquis Attorney at Law 230 W. Wells Street #224 Milwaukee, WI 53203 414-276-4766
5/99	99-25	Wayne Wallace v. N.J. Transit	Mike Melillo Schibell & Mennie, L.L.C. 1806 Highway 35 South Ocean, NJ 07712 732-774-1000
5/99	98-98	People v. John C. Howell	Bill Roberts Hultquist & Roberts, P.C. 405 South Maplewood Rantoul, IL 61866 217-893-2535
4/99	98-40	U.S. v. Gerald Leach	Clemens Erdahl Tindal, Erdahl, Goddard & Nestor, P.L.C. 311 Iowa State Bank 102 S. Clinton Street Iowa City, IA 52240 319-338-0183
3/99	99-13	State of WI v. Joseph Eckstein	Johnathan Smith Boyle, Boyle & Smith The Pettibone Mansion 2051 W. Wisconsin Ave. Milwaukee, WI 53233 414-343-3300
2/99	98-84	Jordaan v. Jordaan	Scott Downing McCurley Kinser & Nelson 4242 Renaissance Tower 1201 Elm Street Dallas, TX 75270 214-744-4620
2/99	98-57	State of MO v. Little & Breeden	Cheryl Turlington Missouri State PD Office Capital Litigation Eastern Div 1221 Locust St., Suite 410 St. Louis, MO 63103

**1994-2006 Testimony Cases
Steve Cain, President - Forensic Tape Analysis, Inc.**

Date	File #	Case/Client	Attorney
			314-340-7662
11/98	98-72	Patterson v. Paramount's Great America	Larry Langley Langley & Andrews 4984 El Camino Real, Second FL Los Altos, CA 94022 650-428-1100
11/98	98-71	State of MO v. Timothy Cable	Ellen A. Blau Missouri State PD System 1221 Locust St., Suite 650 St. Louis, MO 63103 314-340-7525
12/98	98-65	US v. Janadrick Drones	Gregory Kahn Fulbright & Jaworski 1301 McKinney, Suite 5100 Houston, TX 77010 713-651-5151
7/98	98-51	State of TX v. Robert Angelton	Michael Ramsey River Oaks/Welch Building 2120 Welch Houston, TX 77019 713-523-7878
3/98	98-24	E.E.O.C. v. AmeriClean Systems, Inc.	Mike Cleveland Vedder, Price, Kaufman & Kaammholz 222 N. LaSalle St. Chicago, IL 60601 312-609-7500
5/98	98-21	State of SC v. Cheeseboro (Death Penalty)	Jeff Bloom Richland County Public Defenders 1701 Main Street P.O. Box 192 Columbia, SC 29201 803-765-2592
7/98	98-08	State of TX v. Angelton	Ted Wilson Harris County District Attorney's 201 Fannin, Suite 200 Houston, TX 77002 713-755-5800
3/98	97-58	US v. J.R. Houston	Kenneth R Sasse Legal Aid & Defender Ass McKinnin Bldg 653 S Saguinaw Suite 105 Flint MI 48502 810-232-3600
2/98	97-70	State of WI v. Pizzini	Attorney James Koby Parke O'Flaherty 201 Main Street LaCrosse WI 54602-1147 608-784-1605
9/97	95-11	Sanders	Stephen Passen David P Susler

**1994-2006 Testimony Cases
Steve Cain, President - Forensic Tape Analysis, Inc.**

Date	File #	Case/Client	Attorney
			Suite 2900 120 North LaSalle St Chicago IL 60602 312-236-5878
5/97	96-92	State of WI v. Saffold	Ricardo Lugo State Public Defender 411 7 th Street Racine, WI 53403 414-638-7530
7/97	97-51	Gregory Thomas	Joe Friedberg 250 2 nd Ave South Suite 205 Minneapolis MN 55401 612-339-8626
6/97 and 3/98	97-48	State of MA v. Lykus	Ted Barone Sullivan Largely & Barone 277 New Port Ave Quincy MA 02170 617-328-6900
4/97 thru 8/97	97- 293031	Tiger Woods;Arnold Palmer;Jack Nicklaus Depo & Trial	Lewin & Laytin Jeff Laytin 1776 Broadway 5 th Floor New York NY 10019 212-586-3490
9/97	97-022	Mike Massey	Attorney Steve Donivan 19701 W Tamiami Trail Lot 98 North Fort Myers, FL 33903 765-342-1896
6/97	97-023	"The Artist" Vs Majica	Laura Pfeffer C/o Winthrop & Weinstein 3000 Dain Bosworth Plz 60 South 6 th Street Minneapolis MN 55402 612-290-8400
3/97	97-024	United States of America vs. Assaf Oiknine	James Blatt Penthouse 1208 16000 Ventura Boulevard Encino, CA 91436 818-986-4180 Robert Wolf 250 West 57 th Street, Suite 1619 New York, NY 10107 212-315-9797
2/97 8/96	96-37	Archuleta, et. al. vs. La Cuesta, et. al.	Robert Rothstein 500 Montezuma, Suite 101 Santa Fe, NM 87504 505-988-8004
1/97	96-71	Robert Dawson vs. J.G. Wentworth	Andrew Fletcher Hangley Aronchick Segal & Pudlin

1994-2006 Testimony Cases
Steve Cain, President - Forensic Tape Analysis, Inc.

Date	File #	Case/Client	Attorney
			One Logan Square, 12 th Floor Philadelphia, PA 19103 215-568-6200
11/96	96-88	Union vs. Walz Masonry	Greg Naylor Shearer, Templer & Pringel 3737 Woodland Ave., Suite 437 West Des Moines, IA 50266 515-225-3737
10/96	94-140	Mallas vs. Dillard Dept. Stores, Inc.	Phillips & Aker Attorneys at Law 3400 Phoenix Tower 3200 Southwest Freeway Houston, TX 77027 713-552-9595
8/96	96-58	Helbrig vs. Columbus Hospital	Jeanine Stevens Barrister Hall, Suite 220 29 South LaSalle Street Chicago, IL 60603 312-782-2800
8/96	94-115	Mitchell Carlton Sims	David Voison South Carolina Death Penalty 1247 Sumter Street, Suite 303 Columbia, SC 29211 803-765-0650
8/96	96-008	Lottery International vs. The Corner Pocket	Thomas Welk, Attorney Norwest Center, Suite 600 101 N. Phillips Avenue Sioux Falls, SD 57117 605-336-2424
6/96	95-27	Margaret Moen	Keven Bloese 124 C. S. County Farm Road Wheaton, IL 60189 630-665-2500
6/96	95-096	Illinois vs. Richard Troutwine	Eugene Stockton Henry County Public Defender 217 W. Second Street Kewanee, IL 61443 309-852-2127
5/96	95-073	Ohio vs. Ollie Mastronardi	Patrick Ducharme 251 Goyeau Street Windsor, Ontario, Canada N916V4 519-258-9333
4/96	94-147 95-076	Kevin George vs. Quaker Oats	Kevin B. Reid Wilman & Dixon 225 W. Wacker Drive Chicago, IL 312-222-7802
3/96	96-14	State of Iowa vs. Brent Schroeder	Michael Sheehy Shea Law Offices 101 Second Street, SE Cedar Rapids, IA 52401

**1994-2006 Testimony Cases
Steve Cain, President - Forensic Tape Analysis, Inc.**

Date	File #	Case/Client	Attorney
2/96	95-036	Original Chicago Corp. vs. Robert C. Ansani	Richard Reibman Schwartz, Cooper, Greenberger & Krauss 180 N. LaSalle Street, Suite 2700 Chicago, IL 60601 312-346-1300
2/96	96-018	Golden Enterprises vs. AT&T	Attorney Michael Kahn PO Box 1549 Orlando FL 32802 401-422-6600
1/96	95-074	Hong Kong vs. Yeung Euk Kwong	Greg Gienko, Attorney 2007 W. Grand Avenue Chicago, IL 60612 312-226-1919
10/95	95-081	Anderson vs. New Mexico Police (Officer Samrock)	Jerry Walz 3939 Osuna Road, NE S 322 Albuquerque, NM 87109 505-344-4848
10/95	95-011	City of Chicago vs. Sanders 91-L7200	Stephen M. Passen David P. Susler 120 N. LaSalle Street, Suite 2900 Chicago, IL 60602 312-236-5878
9/95	95-026	Douglas vs. Robin S. Kaplan	Christian Poland Ross & Hardus Law Firm 150 N. Michigan Avenue Chicago, IL 60601-7567 312-558-1000
8/95	95-041	Iowa vs. Wickus	J. Keith Rigg 601 Locust Avenue Des Moines, IA 50309 515-245-3816
8/95	95-031	Harmon Motive vs. James Tapp	Steve Sonnega District Attorney's Office Morgan Co. Courthouse Martinsville, IN 46151 317-342-1050
7/95	95-004	Ideal Box Co.	Dan Bitterman Schoenberg, Fisher & Newman 222 S. Riverside Plaza Chicago, IL 60606 312-648-2300
7/95	95-023	State of Wisconsin vs. Michael Olsen	David A. Danz Wassel Kilkenny & Danz Lake Comus Professional Bldg 125 N. Second Street Delavan, WI 53115 414-728-8211
7/95	95-045	US vs. German Montalvo CR-94-360-Puerto Rico	Ricardo Pesquera 930 Woodcock Road, Suite 234 Orlando, FL 32803

1994-2006 Testimony Cases
Steve Cain, President - Forensic Tape Analysis, Inc.

Date	File #	Case/Client	Attorney
			407-898-4000
7/95	95-059 X90-045	Albahri/Reinert CTFC Docket #88-R95 CTFC Docket #89-R170	Darren Van Puymbrouch Schiff, Hardin & Waite 7200 Sears Tower Chicago, IL 60606 312-258-5559
6/95	94-111	Theresa Stania	Stanley Heller Thomas R. Cirignani & Assoc. 11 S. LaSalle Street Chicago, IL 60603 312-346-8700
5/95	95-002	Anderson Consulting Co. vs. Direct Decisions Inc. Jim Lee	Michael Allen Kirkland & Ellis 200 E. Randolph Drive Chicago, IL 60601 312-861-2000
5/95	95-020	Jeff Lanning	Bidwell & Beachler PO Box 6810 865 Bryden road Columbus, OH 43205 614-252-5116
2/95	95-014	US vs. Valerie Parker	John Wasielewski Wasielewski & Erickson 1442 N. Farwell, Suite 606 Milwaukee, WI 53202 414-278-7776
1/95	95-001	Hatfield, Elizabeth & Malcolm 93-FA-1107	Susan Perry Holtak, Henzl, Birchler 840 Lake Avenue Racine, WI 53401 414-632-7541
10/93 12/94	93-011 94-076	Brant Robinson Peter Cignetti	Harold Lichten Angoff, Goldman, Manning, Pyle, Wagner & Hiatt P.C. 24 School Street, 3 rd Floor Boston, MA 92108 617-723-5500
10/94	94-103	State of Wisconsin vs. Rolando A. Gil	Craig Mastantuono State of Wi Public Defender 407 Pilot Ct., Suite 500 Waukesha, WI 53188 414-521-5173
7/94	94-026	Ralph Frye	Michael Hemstreet, Attorney Kathleen T. Zelter & Assoc. 1717 North Naper Blvd. Naperville, IL 60563 708-955-1212
8/94	94-085	Michael Barrett	Graydon, Head & Ritchey 1900 Fifth Third Center

1994-2006 Testimony Cases
Steve Cain, President - Forensic Tape Analysis, Inc.

Date	File #	Case/Client	Attorney
			511 Walnut Street Cincinnati, OH 45202 513-621-6464
4/94	94-038	Florida vs. Kramer	Ken Kukec 105 E. Palmetto Park Road Boca Raton, FL 33432 407-362-5201
2/94	94-005	South Carolina vs. James Whipple	Jeffrey P. Bloom Richland County Judicial Center 1701 Main Street, PO Box 192 Columbia, SC 29201 803-765-2592
1/94	94-001	Norman Demma Sandstone, MN	Abraham Silverstein 205 W. Wacker Dr., Ste. 510 Chicago, IL 60606 312-759-2820
1/94	94-012	Stephen R. Toy Orland Park, IL 60462	David Laz 32 W. Burlington Ave., Suite 7 Westmont, IL 60559 708-769-0101

American College of Forensic Examiners • 2750 E. Sunshine, Springfield, Missouri 65804
Phone: (417) 881-3818 • Fax: (417) 881-4702 • E-mail: cao@acfei.com • Web: www.acfei.com



**Executive Board of Advisors
for Professional Standards
2005 Term of Office**

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Board of Advisors:**

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PhD, MPH, FACFEI, DABFE,
DABFM, CMI-V, FACA (agood),
Forensic Science Dean, Chair,
American Board of Forensic Medicine

**Vice Chairman of the
Executive
Board of Advisors:**

Michael Baer, PhD, FACFEI, DABFE,
DABFM, DABPS, Chair, American
Board of Psychological Specialties

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of Honor Recipient, Past Pres.,
Congressional Medal of Honor Society,
Civilian Aide to Sec. of Army, Chair,
American Board for Certification in
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DABFE, Chair, American Board of
Law Enforcement Experts

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MAGD, FACFEI, DABFE, DABFM,
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DABRE, DABFE, Chair, American
Board of Recorded Evidence

Marc A. Rabinoff, EdD, CFC,
FACFEI, DABFE, Chair, American
Board of Forensic Examiners

Russell R. Rooms, MSN, RN, CPN,
CMI-EL, DABFN, Chair, American
Board of Forensic Nursing

J. Bradley Sargent, CPA, DABFA,
CFPA, Chair, American Board of
Forensic Accounting

Janet M. Schwartz, PhD, FACFEI,
DABFE, DABPS, DABFM, Chair,
Continuing Education Committee

Date: October 11, 2005
To: Steve Cain, M.F.S.
Forensic Tape Analysis, Inc
6242 Jones Road
Burlington, WI 53105
From: Lisa Dill, Director of Certification
Subject: Verification of status with ACFEI

Steve Cain, M.F.S. has been a member in good standing with the American College of Forensic Examiners International since April 3, 1995.

Mr. Cain has held Diplomate Status with the American Board of Forensic Examiners since February 15, 1996, the American Board of Recorded Evidence since September 24, 1997, as well as with the American Board of Law Enforcement Experts since July 1, 1999. Mr. Cain has also been awarded ACFEI's honorary Fellow status.

Lisa Dill

Lisa Dill
Director of Certification

10/11/05

Date

**INVESTIGATIONS, INC.**

10-13-05

Steve Cain
Forensic Tape Inc
638 W. Main St
Geneva, WI 53147

262 348 1313
262 348 0037 Fax

RE: Certification

Dear Sir,

This note is to verify that Steve Cain has passed all the Certification Requirements for Video Authenticity, Audio Authenticity, and Voice Identification from the New York Institute for Forensic Audio.

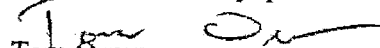
In video, Mr. Cain was certified in May of 1998.

The NYIFA is the training and testing center in order to achieve Diplomate status in the American Board of Recorded Evidence, a division of the American College of Forensic Examiners.

I have enclosed the list of current ABRE Board Certified Examiners and their specialty.

I have also included the requirements for certification.

Please call with any questions.


Tom Owen

NYIFA/Owl Investigations

Chair- American Board of Recorded Evidence

P. O. BOX 189 • COLONIA, NJ 07067
VOICE (732) 574-9672 • 1-800-OWL-AUDIO • FAX (732) 381-4523


OWL
INVESTIGATIONS, INC.

December 1, 2000

Robert O'Block
 Executive Director
 American College of Forensic Examiners
 2750 East Sunshine
 Springfield, MO 65804

417 881 3818

Dear Robert,

It has come to my attention through the Courts, that some members of ACFE are testifying that they are "Certified" by ACFE as Forensic Audio Experts.

As you are well aware, the only way to be a "Certified" Diplomat in Audio Authenticity or Video Authenticity is to fulfill the enclosed requirements and pass the practical and written exam from the New York Institute for Forensic Audio. Below is the list of all the ACFE/ABRE members who have fulfilled these requirements.

Voice Identification

Grandfathered

Ernst Alexanderson	1997	Anthony Pellicano	1997
Thomas J. Owen	1997	Mindy Wilson	1997
Lonnie Smrkovski	1997	Steve Cain	1997
Linda Chiari	1997	Peter Fraser	1997
Michael McDermott	1997		

Certified Forensic Audio Diplomats

Thomas J. Owen	1997
Michael McDermott	1997
William Andrews	1997
Steve Cain	1997
Norman Perle	1997
Peter Fraser	1997
Orlando Gattillo	2000
Barry Dickey	2000

Certified Forensic Video Diplomats

Thomas J. Owen	1998
Mark Schubin	1998
Steve Cain	1998
Peter Fraser	2000

The next testing date for qualified candidates in these fields will be June 2001.

Respectfully Submitted,


 Thomas J. Owen

New York Institute for Forensic Audio
 Chairman American Board of Recorded Evidence

CC: Sally Scheid, American College of Forensic Examiners

P. O. BOX 189 • COLONIA, NJ 07067
 VOICE (732) 574-9672 • 1-800-OWL-AUDIO • FAX (732) 381-4523



No grandfather period

Requirements

- Membership in good standing in the American College of Forensic Examiners.
- No record of disciplinary action from any state province or territory licensing or certification board during the last 10 years, nor currently under investigation.
- Agreement to uphold the American College of Forensic Examiners' Principles of Professional Practice.
- No felony convictions.
- Education: Doctorate Degree and 1 year of Forensic Audio/Video/Voice Identification related experience or Masters Degree and 3 years of related experience or Bachelors Degree and 5 years of experience as a or, a person with 10 years of Forensic Audio/Video/Voice Identification experience may qualify for Diplomate.

Requirements for Voice Identification Certification

The applicant must join ABRE/ACFE and present his/her credentials. Upon acceptance as a member, the student will pay a fee for preliminary written materials, which the students will complete and return to the ABRE for scoring. This will determine whether or not the applicant shows an aptitude for the pattern matching and aural analysis techniques presented in the preliminary written materials. Provided the student passes the preliminary tests, and an audiologist hearing and word discrimination test, he/she may move to the next step. The next step consists of a two week (9 to 5) training course in the fundamentals of aural/spectrographic voice identification analysis. Once the student completes this course, and works under a mentor (a certified examiner), and completes a total of 100 cases, he/she may be eligible to take the Certification Examination. This exam consists of a written and a practical exam. If the student passes the examination, he/she may apply to the ABRE for Diplomate/Certified/Voice Identification Examiner.

Requirements for Audio and Video Authenticity Certification

The applicant must join ABRE/ACFE and present his/her credentials. Upon acceptance as a member, applicant must attend a total of two (one-week) sessions at The New York Institute for forensic Audio in order to be eligible to take the certification tests in these two specialties. The NYIFA specializes in audio and video authenticity, enhancement, and advanced digital voice identification analysis.

After attending the second session, the student applies to take the certification test by submitting a hearing/vision test, a 25 case roster of cases completed in each area (Audio/Video), and two complete reports of two current cases in each area. If the student passes the certification test, has no ethics violations, and displays good oral and writing skills, the student is then eligible for certification.

For further information on Voice Identification Certification

VOICE (732) 574-9672 • 1-800-OWL-AUDIO • FAX (732) 381-4523

**INVESTIGATIONS, INC.**

Ernst "Rik" Alexanderson
Voice Identification, Inc.
P.O. Box 714
Somerville, NJ 08876
(908) 526-3408

or

Lonnie Smrkovski
Smrkovski & Associates
4829 Tartan Lane
Holt, MI 48842
(517) 694-1433

For further information on Audio/Video Authenticity Contact:

Tom Owen
NYIFA c/o Owl Investigations
P.O. Box 189
Colonia, NJ 07067
(732) 574-9672

In addition to meeting the all of the above requirements the following is required:**After January 1, 2000**

- Successful completion of Ethics and Recorded Evidence I courses.
- Successful completion of Law comprehensive three part examination.

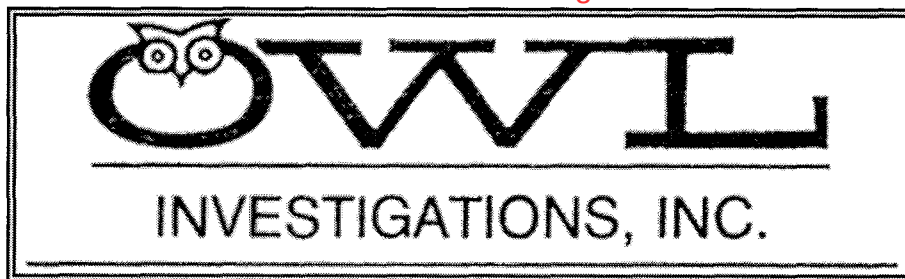
After January 1, 2001

- Successful completion of Ethics and Recorded Evidence I courses.
- Successful completion of Law and Recorded Evidence II courses.
- Successful completion of comprehensive three part examination.

After January 1, 2002

- Successful completion of Ethics and Recorded Evidence I courses.
- Successful completion of Law and Recorded Evidence II courses.
- Successful completion of Evidence and Recorded Evidence III courses.
- Successful completion of comprehensive three part examination.

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PROFESSIONAL VITAE TOM OWEN

FEDERAL ID 61-1187317

EDUCATION

- B.A. History 1969
- Bellarmine College, Louisville, Kentucky
- Certificate of Achievement, Electro-Acoustics Synergetic Audio Concepts, 1983
- Completion of Voice Identification Course, 1985
- Certification as Voice Identification Examiner, July 17, 1986 by the
- International Association for Identification,
Life Member Kentucky Division
Life Member New Jersey Division
- Audio Engineering Society NY Chapter Board of Directors 1989-1991 1996-1998
- Chairman (1991 to Present) Audio Engineering Society WG0-12 Working Group
"Forensic Audio"
- The American Board of Forensic Examiners - BCFE, ABFE Fellow, Life Member,
Board Certified, Homeland Security Advisory Board
- Chairman Emeritus of the Board of Recorded Evidence - American College of
Forensic
Examiners 1997, 1998, 2001, 2002, 2003, 2004
- Diplomate in Audio/Video Authenticity and Voice Identification
- Instructor "Southern Conference Seminar" Western Kentucky University 1992
- Instructor "New York Institute for Forensic Audio" 1993, 1994, 1995, 1996, 1997,
1998,
1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006
- Special Deputy, Warren County Sheriff's Department, Bowling Green, KY
- Experience in the Recording Arts, 35 years

COURT QUALIFIED as EXPERT in VOICE IDENTIFICATION, AUDIO AND VIDEO AUTHENTICATION, SIGNAL PROCESSING, TAPE ENHANCEMENT, RECORDING INDUSTRY PRACTICES.

To date: New York Southern District, New York Eastern District, New York, Buffalo, and New York State Court. Philadelphia, PA; Bethlehem, PA; Hartford, CT; Bridgeport, CT; New York Rockland County; Raleigh, NC; Newark, NJ; Mays Landing, NJ; Tottawa, NJ;

Nashville, TN; Savannah, GA; Carmel, NY; Dover, DE; Tulsa, OK; Louisville, KY; Los Angeles, CA; Bowling Green, KY; Alexandria, VA; Zenia, OH; Kansas City, MO; Denver, CO; NY Bronx Superior Court, Manhattan Supreme Court; NYPD Arbitration Hearing Board; Morganville, West Virginia; Fresno, CA; Grand Cayman, Cayman Islands; Washington DC; Maryland; Florida; Idaho, Las Vegas, Nevada, Hartford, CT, Evanston, IL, Somerville, NJ, Brooklyn, NY, Miami, FL and others.

1981 to PRESENT:

PRESIDENT and CEO

OWL INVESTIGATIONS, INC.

P.O. Box 189

COLONIA, NJ 07067

732 574 9672

732 381 4523 FAX

Responsible for overall operations of Forensic Consulting business (including but not limited to) Audio and VideoTape Authentications, Enhancement, and Voice Identification. Fully equipped Audio-Video processing laboratory with digital capabilities for audio-video signal processing.

CLIENTS SERVICED

- Law Enforcement Agencies
- State Police
- the Federal Government
- Insurance Companies
- Prosecuting Attorneys
- Defense Attorneys
- Banks
- Private Investigators
- Security Directors
- Legal Aid Society
- Public Defenders
- Corporations and the business community in general

PREVIOUS WORK EXPERIENCE:

January 1979 - September 1989

NEW YORK PUBLIC LIBRARY AT LINCOLN CENTER

New York City, New York 10023 212 870 1609

CHIEF ENGINEER

RODGERS AND HAMMERSTEIN ARCHIVES OF RECORDED SOUND

DUTIES: (included but not limited to) Audio Restoration, Video Restoration, Data Base Systems Management, Public Service Systems Management. Responsible for

the Metropolitan Opera Archives (Broadcasts)

Responsible for 4 recording studios and public service projects.

Voice Identification, Tape Aging studies and Archival Storage.

1973 - 1978

Engineer, Producer, Quality Control for SPRINGBOARD, MUSICOR, VIVA, TRIP SPECTOR Record Labels.

Staff Producer for the above consortium of labels producing over 700 LP's.

PUBLICATIONS & SPEAKING ENGAGEMENTS

Tom Owen, *Audio Restoration and Transfer Technology*, Audio Engineering Society AES 1737 X-3 1981

Tom Owen and John Fesler, *Electrical Reproduction of Acoustically Recorded Cylinders and Disks*, Audio Engineering Society AES 1854 E-1 1981

Tom Owen, *Reproduction of Acoustically Recorded Cylinders and Disks*, Journal of the Audio Engineering Society Vol. 31 #4 April 1983

Tom Owen and George Alexandrovich, *A Technical and Historical Look at the Stylus Groove Interface in Recording, Past to Present*, Audio Engineering Society AES 2048 J-5 1983

Tom Owen, *Audio Restoration*, Association for Recorded Sound Collections Convention 1981 Lecture and Panel

Tom Owen, *New Directions in Recording Technology*, Association for Recorded Sound Collections Convention 1983 Lecture and Panel

Tom Owen, *Advanced Signal Processing Techniques*, International Association for Identification, 70th Annual Conference, Savannah, GA July 1985

Tom Owen, *Restoration of Sound*, International Symposium on B. Pilsudski Cylinders, Hakkido University, Sapporo, Japan. Lecture and Session Chairman September 1985

Tom Owen, *Forensic Audio and Signal Processing*, Association for Recorded Sound Collections, Paper delivered at 20th Annual Convention, NYC Lincoln Center April 1986

Tom Owen, *Forensic Audio, Signal Processing and Tape Enhancement*,

International Association for Identification, 71st Annual Conference, London, England August 1986

Tom Owen, *A Forensic Audio Inspection of the Dictaphone 5000*, International Association for Identification, 72nd Annual Conference, Washington, DC August 1987

Tom Owen, *Voice Identification and Acoustic Analysis*, International Association for Identification, Panel Moderator and Lecture on Authentication of Audio, Washington, DC August 1993

Tom Owen, *Forensic Audio/Video Theory and Applications*, Audio Engineering Society Journal Vol. 36, No. 1/2 Jan/Feb 1988

Tom Owen, Bruce Koenig, and Noel Herold, *Tapping the Pros: Getting the Goods on Forensic Audio and Video*, Audio Engineering Society, New York Section Meeting October 1988

Tom Owen, *Introductory Voice Identification and Forensic Audio*, Security Management Institute, John Jay College of Criminal Justice October 1988

Tom Owen, *An Introduction to Forensic Examination of Audio and Video Tapes*, Journal of Forensic Identification Vol. 39, No. 2 March/April 1989

Tom Owen, *Voice ID/Tape Enhancement & Authentication*, International Association for Identification, New Jersey State Division Cape May, New Jersey October 1989

Tom Owen, *Magnetic Tape Analysis and Voice Identification*, John Jay College of Criminal Justice, December 16, 1989

Tom Owen, Seth Winner, William Storm, Fred Layn, *Analog and Digital Archival Storage from Transcription to R-DAT*, Audio Engineering Society, New York Section Meeting, March 1990

Tom Owen, *Forensic Digital Video Enhancement of Surveillance Films*, International Association for Identification, Nashville, TN July 28 - Aug. 3, 1990

Tom Owen, *The Introduction of Voice Identification into the Courts. Frey and McCormick. Are they still an obstacle with Rule 702 and the other "Helpfulness to the Jury" Federal Rules*, International Association for Identification, Nashville, TN 1990

Tom Owen, Workshop Chairman, *Preservation and Restoration of Sound*

Recordings 1977 - 1990 Magnetic Tape Problems in Depth, Audio Engineering Society 89th Annual Convention, Los Angeles, CA September 1990

Tom Owen, Workshop Chairman, *Investigating Forensic Audio*, Audio Engineering Society AES 91st Convention, New York City, NY Oct. 4 - 8, 1991

Tom Owen, *Forensic Audio Enhancement and Voice Identification*, Surveillance Expo '91 - Third Annual International Surveillance and Counter Surveillance Conference and Exposition, November 14, 15 & 16, 1991 Washington DC

Tom Owen, *Computer Based Video Enhancement*, Surveillance Expo '91 - Third Annual International Surveillance and Counter Surveillance Conference and Exposition, November 14, 15 & 16, 1991 Washington DC

Tom Owen, Jim Reames, Sean Walsh, *Southern Conference Seminar on Forensic Audio*, Spring Training Seminar, May 18-22, 1992 Bowling Green, KY

Tom Owen, *Board Meeting of the Audio Engineering Society's Forensic Audio Work Group WG-12*, Tom Owen Chairman October 1, 1992, San Francisco, CA

Tom Owen, *Voice Identification and Its Uses Today*, Meeting of the Kentucky Chapter of the International Association for Identification Local Chapter January 8, 1993 Bowling Green, KY

Tom Owen, Jim Reames, Mark Schubin, *New York Institute for Forensic Audio*, Spring Training Seminar, June 24 - 27, 1993 New York City, NY

Tom Owen, *Audio Voice Comparisons*, Fourth Annual International Training Conference, Law Enforcement Video Association, L.E.V.A., Baltimore, MD October 13 -16, 1993

Tom Owen, *Authenticating Videotape*, Fourth Annual International Training Conference, Law Enforcement Video Association, L.E.V.A., Baltimore, MD October 13 - 16, 1993

Tom Owen, *Board Meeting of the Audio Engineering Society's Forensic Audio Standards Committee*, Tom Owen, Chairman, October 9, 1993 New York City, NY

Tom Owen, *Voice Identification & Audio Tape Enhancement*, Society of Professional Investigators Inc. 7th Annual Workshop, College of Insurance, NYC November 5, 1993

Tom Owen, Mark Schubin, *Authenticating Videotape, Published Article*, Law Enforcement Video Association Journal, The Viewfinder April, 1994

Tom Owen, Don Ritenour, Mark Schubin, Steve Crump, *New York Institute for Forensic Audio*, Spring Training Seminar, May 11 - 15, 1994 New York City, NY

Tom Owen, *Voice Identification*, Eighth Annual New Jersey State Division of the International Association for Identification, October 16 - 19, 1994 Cape May, NJ

Tom Owen, *Board Meeting of the Audio Engineering Society's Forensic Audio Standards Committee*, Tom Owen, Chairman November 12, 1994 San Francisco, CA AED, Document AES27xxxx

Tom Owen, *Voice Identification, Theory and Legal Applications*, International Forensic Science Symposium, November 26 - December 3, 1994 Taipei, Republic of China

Tom Owen, Michael C. McDermott, Gabe Wiener, *An Introduction to Forensic Audio*, Audio Engineering Society, New York Section Meeting, January 10, 1995

Tom Owen, *Twin, Voice Identification of Twins*, 80th Annual International Association for Identification July 23 - 27, 1995 Costa Mesa, CA

Tom Owen, Don Ritenour, Bill Seidel, Mark Schubin, *New York Institute for Forensic Audio*, Fall Training Seminar, August 23 - 26, 1995 New York City, NY

Tom Owen, *Voice Identification, Past and Present*, American Academy of Forensic Sciences, Annual Meeting, Nashville, TN

Tom Owen, *Testimony before the Maryland Senate Bill Committee Regarding Voice Identification*, Senator Ida Rubin, March 5, 1996 Annapolis, MD

Tom Owen, Mark Schubin, Bill Seidel, Sean Walsh, *New York Institute for Forensic Audio*, Spring Training Seminar, May 1 - 4, 1996 New York City, NY

Tom Owen, Michael C. McDermott, *Voice Identification, The Aural/Spectrographic Method*, American College of Forensic Examiners, <http://www.acfe.com>, December 1996, Published on the Internet <http://www.acfe.com>

Tom Owen, *Voice Identification, Past and Present Panel*, American College of Forensic Examiners, South Annual Scientific Meeting, December 12 - 14, 1996 San Diego, CA

Tom Owen, Earnest Aschkanasy, Michael C. McDermott, *Forensic Audio, A Historical Perspective*, Audio Engineering Society, New York Chapter, January 21, 1997 New York

Tom Owen, *Forensic Audio I, II, III*, American Association for the Advancement of

Science, 1333 H Street, NW, Washington DC AAAS Science Update April 1997

Tom Owen, James Reames, Steve Crump, Judge Leslie Crocker-Snyder, *New York Institute for Forensic Audio*, Spring Training Seminar May 19 - 23, 1997 New York City, NY

Tom Owen, *Forensic Audio Analysis - Authenticity Examinations*, The International Association for Identification, 82nd Annual Training Seminar, July 27 - August 2, 1997, Danvers, MA

Tom Owen, Anthony Pellicano, James Reams, Mark Schubin, Michael C. McDermott *Forensic Audio Workshop W-8*, 103rd Audio Engineering Society Convention, September 27, 1997

Tom Owen, Earnst Alexanderson, Jennifer Owen, *Forensic Audio Analysis- Authenticity Examinations*, American College of Forensic Examiners, 5th Annual Scientific Conference, December 11 -13, 1997 Hotel DelCoronado, San Diego, CA

Tom Owen, Mark Schubin, James R. Reames, *New York Institute for Forensic Audio*, Spring Training Seminar May 18 - 22, 1998, New York City, NY

Tom Owen, Judge O'Lander, Mary Galvin, Hugh Keefe, "*Junk Science*" Movie made June 10, 1998 in Connecticut State Court demonstrating Voice Identification Issues and Daubert Considerations. Judge Support Services, Continuing Education, CT

Tom Owen, *The Kennedy Assassination - Has the Zapruder Film Been Edited?* American College of Forensic Examiners Sixth National Conference, October 12 - 14, 1998 , The Registry Hotel, Naples, FL

Tom Owen, *Forensic Audio, Forensic Video, and Theory and Legal Applications of Voice Identification*, Society of Professional Investigators, January 21, 1999 installation of new officers meeting at Harry's, New York City, NY

Tom Owen, *Introduction to Forensic Audio Applications and Voice Identification*, New Jersey Licensed Private Investigators Association Inc. April 15, 1999 Meeting at Holiday Inn, Carteret, NJ

Tom Owen, Mark Schubin, Rick Carlson, Craig Maier *New York Institute for Forensic Audio*, Spring Training Seminar June 7 - 11, 1999, Colonia, NJ

Tom Owen, Anthony Pellicano, Thomas Edwards, Michael C. McDermott, James Reames, *Advances in Forensic Analysis and Techniques*, Workshop Panel, Audio Engineering Society 107th Annual Convention September 24, 1999, Jacob Javitts Center, New York City, NY

Tom Owen, *Recorded Evidence: Experts and Their Challenges*, 1999 Meeting American College of Forensic Examiners, October 30, 1999, Waldorf Astoria Hotel, New York City, NY

Tom Owen, *Forensic Audio and Video Enhancement and Analysis, and Voice Identification*, Northeast Super Conference 2000, March 24, 2000, Atlantic City, NJ, Trump Plaza Hotel, Atlantic City, NJ

Tom Owen, Thomas Edwards, Mark Schubin, *New York Institute for Forensic Audio*, Spring Training Seminar June 6 - 9, 2000, Colonia, NJ

Tom Owen, *Theory and Application of Aural and Spectrographic Voice Identification*, American College of Forensic Examiners 8th Annual Conference, October 26, 2000, Las Vegas, Nevada

Tom Owen, Sal Gallina, Richard Carlson, *New York Institute for Forensic Audio*, Fall Training Seminar November 13 - 17, 2000, Colonia, NJ

Tom Owen, Sal Gallina, Kevin Murray, Steve Crump, Mark Schubin, *New York Institute for Forensic Audio*, Spring Training Seminar June 11 - 15, 2001, Colonia, NJ

Tom Owen, Grant Fredericks, *New York Institute for Forensic Audio/Video*, Summer Training Seminar June 24 - 28, 2002, Colonia, NJ

Tom Owen, Sachs, Jessica Snyder "Graphing the Voice of Terror" *Popular Science*, March 2003 issue. Pg. 38-43

Tom Owen, Blades, Heather Barbre "Tom Owen, Voice Identification Audio & Video Analysis", *The Forensic Examiner 12 Steps* September/October 2003 pg. 15-21

Tom Owen, "How the Experts Identify Bin Laden", *The Prosecutor* September/October issue 2003 pg. 29-30

Tom Owen, *Voice Identification and the Osama Bin Laden Tape*, John Jay College of Criminal Justice, New York, Dec 3, 2003

Tom Owen, *12 Step Methodology, Audio, Video, and Voice Identification*, American College of Forensic Examiners, Chicago, Illinois, October 14-16, 2004

Tom Owen, *Voice Identification, The Aural Spectrographic 12 Step Methodology*, John Jay College of Criminal Justice, New York, Dec 1, 2004

Tom Owen, Michael McDermott, Jennifer Owen, Jill Lindsay, *Law and the Expert*

Witness- The Admissibility of Recorded Evidence, Audio Engineering Society, Denver, Colorado, July 2005

Tom Owen *Audio and Video Enhancement*, The World Investigator's Conference September 23, 2005

Tom Owen *Audio an Video Authentication*, The World Investigators Conference September 24, 2005

Tom Owen, Michael McDermott, Jennifer Owen, Jill Lindsay, *Law and the Expert Witness- The Admissibility of Recorded Evidence*, American College of Forensic Examiners, San Diego, California October 1, 2005

Tom Owen, *Forensic Audio, Video, Voice Identification, and Court Testimony: Applications In Education*, College of Digital Expressions, Oakland, California February 1, 2006

Tom Owen, *Forensic Audio, Forensic Video and Voice Identification: Workbook 101*, Monmouth University, Monmouth NJ February 22, 2006

Tom Owen, *Forensic Audio in the Digital Age*, Audio Engineering Society, NY Section. New York City, The New School University. June 13, 2006

WINNER OF THE "AMPEX GOLDEN REEL AWARD" 1976

NOMINATED for 2 N.A.R.A.S. "GRAMMY AWARDS" 1986

WINNER of the "GOLDEN EAGLE AWARD" 1997 American Board of Recorded Evidence

AWARDED BY "AMERICAN COLLEGE OF FORENSIC EXAMINERS" for appreciation and gratitude for his dedicated leadership as Chairman of the American Board of Recorded Evidence 1997 - 1998

AWARDED BY "AMERICAN COLLEGE OF FORENSIC EXAMINERS" The ACFE Outstanding Service Award for his efforts and dedication to the ACFE Organization. October 2000, Las Vegas, NV

BOOKS PUBLISHED

- Tom Owen, *Scaling the Fretboard* (Chappell Music 1973)
- Tom Owen, *The Chord Coloring Book* (Chappell Music 1974)
- Tom Owen, *Tenor Banjo* (Chappell Music 1975)
- Tom Owen, *Lead Guitar* (Chappell Music 1976)
- Tom Owen, *The Classic Blues Singers* (Chappell Music 1977)

ORGANIZATIONS:

- AUDIO ENGINEERING SOCIETY
- THE AMERICAN BOARD OF FORENSIC EXAMINERS, Diplomat, Fellow
- THE AMERICAN BOARD OF RECORDED EVIDENCE, Chairman
- THE AMERICAN ACADEMY OF FORENSIC SCIENCES
- INTERNATIONAL ASSOCIATION FOR IDENTIFICATION, NEW JERSEY DIVISION
- INTERNATIONAL ASSOCIATION FOR IDENTIFICATION, KENTUCKY DIVISION
- MUSICIANS LOCALS 11, 637, 802 (resigned)

CONTRIBUTOR TO THE FOLLOWING PUBLICATIONS:

- Audio Engineering Society,
- International Association for Identification
- Law Enforcement Video Association,
- The Viewfinder,
- Videography Magazine
- NJ Division of The Criminalist,
- American Academy of Forensic Sciences,
- Proceedings
- American College of Forensic Examiners,
- Journal and Internet Web Site, Mix Magazine

Mr. Owen has appeared as a Consultant to ABC Nightline, NBC, CBS, CNN, MSNBC, FOX 5 NY, NPR Radio, NOVA, Taipei, Chinese Television, Dateline, 60 Minutes, Law & Order, Forensic Files, CSI, CSI Miami other Networks and Television Programs.

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SOUTH CAROLINA LAW ENFORCEMENT DIVISION



MARK SANFORD
Governor

EXHIBIT "S"
ROBERT M. STEWART
Chief

Irene Santacroce
205 Deer Trace Circle
Myrtle Beach, SC 29588

April 19, 2004

RE: Case # 11-01-11

Dear Ms. Santacroce:

In answer to your question in your letter dated March 12, 2004. The State Law Enforcement Division does not have, nor ever had possession of the original videotapes or audiotapes of the August 6, 2000 arrest of James Spencer.

If you have any other questions, please contact me at the above address or by telephone at (803) 896-7488.

Yours truly

Michael Prodan
Special Agent

Cc: Case # 11-01-11

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EXHIBIT "T"

**JAMES B. SPENCER
BOX 183
7001 SAINT ANDREWS ROAD
COLUMBIA, S.C. 29212
803-414-0889**

May 1, 2007

The Honorable Lindsey Graham
United States Senate
290 Russell Senate Office Building
Washington, D.C. 20510-4001

Re: Use of Your Offices in Acts of Obstruction of Justice

Dear Senator Graham:

Please note attached previous correspondence sent to your office. As I and the lawyers discussed with your office, all the records have disappeared from the FBI files and the Justice Department now claims there was never an investigation into these matters nor complaints filed with the FBI. Furthermore, why has your office not followed up on the NCIC report that was sent through your office in response to our federal subpoena which was fabricated and involved the Assistant Director of the FBI, Michael Kirkpatrick?

These are some other questions your seven constituents have:

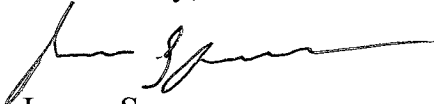
- Since there was no criminal investigation of this matter, how did Noel Herold of the FBI become involved in the Federal District Court civil case?
- Why are Noel Herold and Bruce Koenig being paid with US taxpayer money to be forensic experts for non-US government defendants in a private matter in Federal District Court?
- Why did the United States Attorney's office in Columbia, South Carolina which was heavily involved in this case disappear and there are no records of your constituents ever being involved with them? Your records will document that your office was instrumental in setting up their involvement.

- Our original complaint to your office and the FBI concerned the misuse of the FBI-NCIC system in civil rights violations under color of law in an attempted murder. Why was the FBI and the Justice Department focus on the business dealings with RJ Reynolds tobacco, Ivestra and the Saudi's and not on the crimes committed against your constituents? Why was the focus on our knowledge and the records of these matters rather than the local police involved in the misuse of the FBI-NCIC system? As an example, FBI agent Paul Gardner did not even take a copy of the handwritten documentation of bribes being paid to the local sheriff deputies, but the FBI insisted on wanting the original transaction records of Ivestra distributions the banks and correspondence with the Saudi's regarding profits for their charities.

Please expedite checking into what happened to our records and the falsification of the NCIC records as we need the business records regarding valuation matters in the civil lawsuit and the correct NCIC records for the upcoming civil lawsuit. I cannot fathom why someone would involve your office in obstruction of justice regarding these NCIC records, when you are Chairman of the Senate Judiciary Subcommittee on the Constitution and Civil Rights.

I look forward to hearing from you at your earliest convenience.

Yours truly,



James Spencer

enclosures

Cc:

Irene Santacroce

Rodney Lail

John Rakowsky, Esquire

Nick Williamson

Bruce Benson

Adrian Falgione, Esquire

John Rakowsky
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March 2, 2006

The Honorable Lindsey Graham
United States Senate
290 Russell Senate Office Building
Washington, D.C. 20510-4001
C/O James Galyean, Esquire
Majority Counsel
Senate Committee on the Judiciary
Sent by US Mail and Fax: (202) 224-3808

Subject: Follow up of our telephone conversation regarding actions being requested by constituent/victims.

Dear Senator Graham:

Listed below are four requests made by the alleged seven constituent/victims I represent in civil litigation.

1. An introduction to the Inspector General of the FBI, to permit the constituent victims to present evidence of a cover-up and obstruction of justice by law enforcement personnel allegedly including individual members of the FBI regarding the misuse of the NCIC system.

- In the summer of 2004, seven constituent/victims met in person with James Galyean and a second member of your staff and verbally presented their case. According to the constituent victim attendees, they were promised by Mr. Galyean that he would make an introduction to the Inspector General of the FBI if a proper investigation was not made into their particular situation.
- The constituent/victims were informed by SA Paul Gardner of the FBI that based on the evidence; he made a recommendation that an official investigation be conducted by the FBI. However, SA Gardner further informed the seven constituent/victims that due to national "percentages limitations" a special committee with the Justice Department in Washington had turned down the FBI recommendation to investigate the case. SA Gardner claimed the FBI had already met their annual quota limit for this type of case involving civil rights violations and, therefore, the Justice Department decided that there would not be an investigation.
- Two FOIA requests that were sent in by victims Irene Santacroce and James B. Spencer, the latter was left permanently disabled by alleged violators of his civil rights during his torture (captured on police video and audio tapes) and can no longer economically support himself and his elderly mother. The former (a single

parent) suffered congestive heart failure and due to her injuries she is no longer able to economically support her child and herself. The FOIA responses received by these two individuals stated that there was no confirming paperwork of any nature in existence in Washington, DC, Columbia, SC and the Myrtle Beach offices of the FBI and the Department of Justice. Such paperwork would be in existence if an investigation had in fact been conducted. The constituent/victims now **respectfully request** a meeting be set up as promised by Mr. Galyean with Glenn Fine, the Inspector General of the FBI.

- 2. Arrange access to the Victims Assistance Programs so the seven constituent/victims of the crimes committed can qualify for help for their serious physical and financial injuries they have suffered. Access to normally available programs has been denied since the law enforcement agencies with geographic responsibility refused to allow the submission of crime reports from constituent/victims. These agencies and individual officers are now being sued in a civil lawsuit for the officers' alleged participation in the crimes in a 1983 action. The 1983 action has survived Summary Judgment in Federal District Court. However, the defendants continue their delay tactics, which have gone on for close to six years, and the seven constituent victims are being further victimized by law enforcement agencies deliberately prevented them from receiving any victims' assistance, which normally would be available.**
- 3. Arrangement for a proper independent investigation into the lack of government oversight controls regarding the criminal misuse of Federal Computers and databases with the results presented to the Senate Committee on the Judiciary. A cover-up was coordinated to conceal the crimes committed against the seven constituent victims with the use of the NCIC system. The cover-up was presumably done to avoid public exposure and embarrassment in the ongoing political debate in Washington regarding the oversight controls and executive and law enforcement discretionary powers. This debate includes the potential misuse of such computers and databases as maintained by FBI-CJIS.**
- 4. Arrangement for the production of the two standard reports that CJIS has readily available and has refused to provide even under Federal Subpoena. The two reports concern a victim, I represent, who was admittedly put on the NCIC system without legitimate basis.**

Enclosed please note related correspondence sent by the constituent/victims to Mr. Fine. I look forward to discussing with you the taking of action on the above four requests as soon as possible. Thank you very much for your kind assistance.

Very truly yours,

John Rakowsky
Attorney at Law

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