SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA

Criminal Division – Felony Division

UNITED STATES OF AMERICA	
v.	Criminal No. F-4160-78 Judge Laura Cordero
SANTAE A. TRIBBLE	

SUPPLEMENT TO MOTION TO VACATE CONVICTION AND DISMISS INDICTMENT WITH PREJUDICE ON THE GROUNDS OF ACTUAL INNOCENCE AND MOTION TO VACATE CONVICTIONS FOR BRADY VIOLATIONS

Santae A. Tribble, through counsel, respectfully supplements his previously filed motion to vacate his conviction for felony murder while armed and dismiss the indictment with prejudice on the grounds of actual innocence, with additional new evidence from the Metropolitan Police Department homicide files never before revealed to Mr. Tribble or his trial counsel. This new evidence, not disclosed until after Mr. Tribble filed his motion to vacate his conviction,[1] undermines the only evidence remaining in the government's case. It is potentially devastating impeachment of B.J. Phillips, the government's only witness to purport to link Mr. Tribble to the murder of Mr. McCormick. And it is substantive evidence that the Metropolitan Police Department ballistics experts identified an entirely different brand of .32 caliber revolver as the

[1] On February 14, 2011, Mr. Tribble filed a *Motion for Post-Conviction DNA Testing Under the Innocence Protection Act,* which this Court granted on August 31, 2011. On January 18, 2012, Mr. Tribble filed a *Motion to Vacate Conviction and Dismiss Indictment with Prejudice Under the Innocence Protection Act* (hereinafter "*Motion to Vacate*"), based on the results of DNA testing. On February 2, 2012, the United States provided counsel with reports from the MPD homicide jacket in the case of *United States v. Santae Tribble,* and on February 7, 2012, with reports from the MPD homicide jacket in the case of *United States v. Cleveland Wright.*

likely murder weapon – a weapon brand with no association whatsoever to Mr. Tribble or his co-defendant.

This new evidence provides even more proof – though none should be needed – that Mr. Tribble has shown by clear and convincing evidence that he is actually innocent of the murder of John McCormick. In his Motion to Vacate, Mr. Tribble described how irrefutable mitochondrial DNA results demolish any connection between Mr. Tribble or Mr. Wright and the stocking mask abandoned by the perpetrator. These results decimate the government's case, rendering it legally insufficient to sustain a murder conviction.[2] That weak case is weaker still once the newly disclosed MPD homicide records are taken into account.

Moreover, the newly revealed homicide records provide an independent basis to vacate the conviction. For the evidence is paradigmatic *Brady* and *Giglio* evidence, and the failure to disclose it constitutes a due process violation under settled law. But this Court need not even reach the *Brady* issue if it agrees, as we believe it must, that Mr. Tribble is entitled to full relief under the Innocence Protection Act on the grounds of actual innocence. Such relief would make consideration of the constitutional claim unnecessary.

I. THE REWARD, THE ACCUSATION OF LYING AND THE IMPLICIT THREAT

Included in the undisclosed homicide records is a report that a week after the July 26, 1978, murder of John McCormick, his niece offered to put up a very substantial reward. The amount, $4,000, is equivalent to nearly $14,000 in today's money.[3] She telephoned Detective Jeff Greene, one of the lead homicide investigators in the case, with her proposal, and he told her

[2] *See Motion to Vacate,* at 14-25.

[3] The Consumer Price Index (CPI) inflation calculator puts the value of 4,000 1978 dollars at $13,905.83 today.

how to coordinate the offer of the reward with the MPD general counsel's office and the other homicide detectives. In his running resume on the Horn and McCormick homicides dated August 4, 1978, Detective Greene wrote:

> Friday, August 4, 1978 this a.m. received a call from a niece of the decedent John McCormick. Mrs. Betty Millison [redaction by the USAO] is the owner/manager of a hotel in Lexington Park, Maryland. Mrs. Millison went on to say that she has considered offering a reward in this case (McCormick case) and that she had four thousand dollars already. She was hoping that the cab company would come up with another one thousand dollars. I told her that she would have to coordinate this through our General Coun[sels] Office, Richard Brooks. I explain that Wood & Muse & Kilcullen & I would be working this case and that for her to give Wood or Muse a call at about 2:15 this date. She seemed very concerned and stated that she had not discussed this reward with Mrs. McCormick as it was too soon and she thought that she would do this on her own. I got the impression that she was fairly well off and somewhat close to the decedent in a family way.[4]

Betty Millison died of dementia in 2002. But her only daughter has confirmed to undersigned counsel that her mother was as the police report states: a devoted niece of John McCormick, who lived in Lexington, Kentucky, managed a hotel/restaurant, and had substantial means with which to post a reward.

This reward was used to induce B.J. Phillips to implicate Santae Tribble in the murder of Mr. McCormick, or so a jury could believe. Homicide detectives expressed their interest in B.J. Phillips, in the gun she had reported to police, and in getting her to provide statements from the suspects in an earlier report. On August 9, 1978, Detective Kilcullen wrote: "Much work continues with Leadmon and his girl relative to the suspects making any statements and also to a purchase or taking of the gun."[5] B.J. Phillips was "Leadmon's girl." In the early morning hours

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[4] The August 4, 1978, Report of Investigation of Detectives Greene and Kilcullen is attached as Supplement Appendix 1.

[5] MPD Report of Investigation (Aug. 9, 1978). *See Motion to Vacate*, at 20-21.

of August 13, 1978, police brought Ms. Phillips to homicide to interview her again and to take a statement. Detective Greene was unhappy with the results: She did not give him sufficient evidence to get arrest warrants, nor explain what happened to the gun to his satisfaction; she only "appeared" believable; in fact the detective thought she was lying. And she had expressly denied hearing anything about the McCormick murder. In his previously undisclosed report of the investigation, Detective Greene wrote:

> Brought BJ in again for a statement this time and she tells about the gun and also about a conversation with Santae. She appears believable before and during the statement. There is not enough information in her statement for a warrant in the opinion of the undersigned. She has not been able to get any more on the gun, see statement in jacket.
>
> However, with certain discrepancies she is probably lying about certain information such as selling and buying the gun, how the gun got missing, etc.[6]

After her statement, Detective Green confronted Ms. Phillips with the fact that he believed she was lying: "she was confronted with this." *Id.* (emphasis added). Then, he offered her an inducement to tell him more: she was "told about the pending reward." *Id.* (emphasis added). She was promised "information about keeping her kept out of it all for as long as possible." At the same time she was ordered to come to talk to the Assistant United States Attorney who might change her mind about what she told them: "[s]he was served with a subpoena for this coming Thursday to appear with BREWER as the "DA." We hope this may help turn her over." *Id.* (emphasis added). Madison Brewer was then an Assistant United States Attorney. The subpoena was for Thursday, August 17, 1978. Its purpose was to give the

[6] MPD Report of Investigation (August 13, 1978) (emphasis on "appears" in original, other emphasis added), attached as Supplement Appendix 2.

AUSA the opportunity to "turn her," that is, to get her to change her story. It was likely unlawful.[7]

This was classic impeachment evidence. A very sizeable reward had been offered by a relative of the decedent; police detectives were dissatisfied with a statement B.J. Phillips had given to them on August 13, 1978; they confronted her with the accusation that she was lying; and they induced further damaging statements against Mr. Tribble by simultaneously informing her of the reward and serving her with a subpoena to meet with a "DA" in the "hope this may turn her over." Five days after this confrontation and offer of a reward, and one day following her subpoena to meet with Assistant United States Attorney Madison Brewer, B.J. Phillips was "turned over." She gave a statement to police in which, in direct contradiction of her previous statement, she claimed that Mr. Tribble had confessed to her a role in the shooting of the cab driver.

But it was an impeachment which defense counsel could not attempt because the reports had not been disclosed to him. And, because defense counsel was unaware, Assistant United States Attorney David Stanley could argue to the jury that B.J. Phillips had no motivation to lie. He stated, "B. J. Phillips, what possible motives as has been suggested to you for her to suggest to the authorities that Santae Tribble had told her about participating in two homicides, none

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[7]*See United States v. Thomas*, 320 F.Supp 527, 529 (D.C. 1970) ("The precise practice at issue in this motion, the summoning of witnesses to the prosecutor's office, has been labeled unprofessional conduct by the American Bar Association. ... The United States Attorney does not even claim a subpoena power to compel persons to go to his office for interviews. The 'summons' here in question is on offensive document under the A.B.A. standards; and although these standards are not technically binding on the Court, we are convinced that this 'summons' is a usurpation of judicial power.") (citations omitted). *See also In re Grand Jury Subpoenas to Witness X*, SP-2802-00, Memorandum Order (D.C. Superior Court, October 23, 2001) (Chief Judge King rules that it is an abuse of process to subpoena witnesses to United States Attorney's Office for the purpose of an interview with an Assistant United States Attorney).

whatsoever." Tr. at 449 (emphasis added). In fact, a jury might have believed that she had the oldest motivators in the world: greed and fear.

Defense attorney Vito Potenza was left to merely imply that she made false statements against Mr. Tribble because she feared repercussions from the disappearance of the gun. He did not know that her change may have been induced by the promise of a reward. Nor did he know how right he may have been that she feared prosecution for obstruction of justice for making the gun disappear: the detective accused her of lying about what happened to the gun, and compelled her to appear before AUSA Brewer. Mr. Potenza argued as best he could:

> The prosecutor asks, where does B.J. get a motive, get a reason, where did she start getting pressed. What do you think the detectives would do when they discovered it [the gun] was missing? What do you think happened when the Homicide dragged her down in the middle of the night and questioned her?
>
> What about 28th Place, Mr. McCormick. Well the first time she talked to the police B.J. Phillips was asked, do you know of any other crimes that Santae Tribble and/or Cleveland Wright were involved in on the 14th. And she says no. This was the first time on the 14th.[8] She says no. Four days later she is back down there with another statement, and what did she say. Well she says again Santae Tribble told me that he caught a cab – he and Cleveland Wright caught a cab around Minnesota and Pennsylvania Avenue. And then something about the cab driver turned around and Cleveland Wright shot him, she didn't remember too much more beyond that. Does that make any sense?[9]

In rebuttal, the prosecutor once again took maximum advantage of what defense counsel did not know:

> What motive did Mr. Potenza suggest to you for B.J. Phillips to fabricate all of this? None, I suggest. Was she charged with

[8] In fact, Ms. Phillips made her first statement on August 13, 1978.

[9] Tr. at 467-68.

> anything? Did you hear anything about that, or any deals made with her, did you hear anything about?[10]

For all of the reasons already set forth in Mr. Tribble's motion to vacate his convictions, Ms. Phillips was a very unreliable witness. The story she eventually told was impossible to reconcile with the known facts. It made no sense. No taxi cab driver at the end of his shift in the middle of the night would stop for two black youths and drive them two blocks, to his own home. No armed robbers willing to commit murder would let their victim park his car, stand by while he locked all of the taxis' doors (push buttons did not then exist), then follow him past four cars, cross the street, and climb the many steps to his front door. Why would they not order him to drive to a location that at 3:00 a.m. was empty, and not to a residential street? When did they don the stocking mask? Why not rob him in the cab? A prosecutor assigned to the McCormick case before trial admitted B.J.'s story was "bullshit."[11]

The suppressed homicide reports would have given the jury reasons why her testimony made no sense: she was making it up for a share, if not the entirety, of a very large reward; she was making it up because the detectives accused her of lying about the gun and she feared what they would do if she did not give them more; she was making it up because she was compelled to meet with the "DA" who "turned her."

A *Brady* violation occurs when the prosecution suppresses evidence favorable to the accused where the evidence is material either to guilt or punishment, irrespective of the good faith or bad faith of the prosecution. *Brady v. Maryland*, 373 U.S. 83, 87 (1963). "When the 'reliability of a given witness may well be determinative of guilt or innocence,' nondisclosure of evidence affecting credibility falls within the general rule. *Giglio v. United States,* 405 U.S. 150,

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[10] Tr. at 480.

[11] *See Motion to Vacate*, at 18-19.

154 (1972) (quoting *Napue v. Illinois,* 360 U.S. 264, 269 (1959)). The Supreme Court has held that even an undisclosed reward as small as $300 may result in a due process violation. *United Sates v. Bagley,* 473 U.S. 667 (1985). On remand, the lower court determined that it did and ordered a new trial. *Bagley v. Lumpkin,* 798 F.2d 1297 (9th Cir. 1986). In *Banks v. Dretke,* 540 U.S. 668, 685 (2004), the undisclosed payment that required a new capital sentencing hearing was a mere $200. Indeed, as recently as three months ago, the Eleventh Circuit reversed a conviction under the stringent federal habeas standard where the state's star witness received an undisclosed payment of $500 in reward money. *Guzman v. Sect'y, Department of Corrections,* 663 F.3d 1336 (11th Cir. 2011). Closer to home, in this very court, Judge Winston vacated a murder conviction when the government failed to disclose that one of the witnesses against the accused was motivated in her testimony by the hope of a substantial reward. *United States v. Dwight Grandson,* Criminal Number F 5751-04, Order (May 11, 2010). Without a doubt, by failing to disclose that the only witness purporting to link Mr. Tribble to the murder of John McCormick had been promised a reward for her cooperation (and implicitly been threatened if she did not come through), the United States committed a *Brady* violation and the conviction cannot stand.

II. BALLISTICS: THE BRAND OF GUN THAT DISAPPEARED

At trial, Officer Joseph Masson, Jr., of the MPD Firearms Examination Section, testified that the bullets used to kill Mr. Horn and Mr. McCormick were likely fired by a .32 caliber revolver manufactured by F.I. Industries, Harrington and Richardson or Hopkins and Allen. These three manufacturers made half of all of the .32 caliber revolvers then produced, and Masson acknowledged that without examining the weapon it was impossible to say which

manufacturer made the weapon. Nonetheless, he opined that the most likely weapon was one made by F.I. Industries. Tr. 307. This was a convenient conclusion given that Santae Tribble and Cleveland Wright had sold a .32 caliber revolver manufactured by F.I. Industries under the brand name Kimel to B.J. Phillips' friend Brenda McLean in early August, 1978. The prosecutor argued in rebuttal closing argument: "Officer Masson said based on the characteristics, he thinks it is more probable that the gun was an F.I. Industries .32 caliber." Tr. at 477.

Unbeknownst to Mr. Tribble, his trial attorney, or even undersigned counsel when she drafted Mr. Tribble's Motion to Vacate his Convictions, this was not Officer Masson's original opinion. Guns manufactured by F.I. Industries played no part in his, or other MPD experts' opinions until they learned that Mr. Tribble and Mr. Wright sold the Kimel to Ms. McLean. On July 18, 1978, the running resume of Detectives Green and Kilcullen states:

> From Joe Masson at Firearms, he identifies the weapon as an H & R [Hopkins and Richardson], Iver Johnson, Hopkins & Allen. The weapon has a lot of slippage to it, not in good shape. There are 6 right lands and grooves.[12]

After the murder of Mr. McCormick, the MPD ballistics experts tilted towards the Iver Johnson as the likely murder weapon. On July 27, 1978, Detective Green wrote in his running resume:

> After becoming aware thru F.I.S.[13] at 7:30 this a.m. that both of these decedents were killed with the same .32 caliber revolver the undersigned read through the McCormick case jacket and observed that these two cases fit the same basic pattern as the Horn

[12] MPD Report of Investigation (Continuation) (July 18, 1978), attached as Supplement Appendix 3.

[13] This acronym may stand for Firearms Investigation Section.

homicide. ... Talked to SKIP VORHEES and we are probably looking for an old IVER JOHNSON.[14]

The ballistics evidence was already incredibly weak. Any one of hundreds of thousands of .32 caliber revolvers could have been the murder weapon, as Officer Masson acknowledged. What he did not admit – and could not be asked about since the reports had not been disclosed – was that he only decided to put his thumb on the scale in favor of a gun manufactured by F.I. Industries as the likely murder weapon after he learned that Mr. Tribble helped sell Mr. Wright's F.I. Industries' Kimel to Brenda McLean. Prior to that, this manufacturer was not even in the conversation. Instead, Harrington & Richardson, Hopkins and Allen, and Iver Johnson – the gun "we are probably looking for," according to Skip Vorhees – were the manufacturers that Officer Masson considered the source of the murder weapon.

To withhold evidence that the murder was likely committed with a gun with no connection to Mr. Tribble, while presenting evidence to the jury suggesting the opposite – that the weapon connected to the defendant was used to commit the crime – is patently unfair. It is also a *Brady* violation. In *Barbee v. Warden, Md. Penitentiary*, 331 F.2d 842 (4th Cir. 1964), a case that predates Mr. Tribble's trial, the prosecutor displayed a .32 caliber Iver Johnson that defendant Barbee had admitted possessing in relation to an offense more recent than the offense for which he was on trial. The government thereby suggested to the jury that it could draw the unsupported inference that the gun associated with the defendant was used in the crime at issue when in fact a bullet found at the scene was a .38 caliber. Reversing, and ordering the issuance of a writ of habeas corpus, the court ruled: "We cannot condone the attempt to connect the defendant with the crime by questionable inferences which might be refuted by undisclosed and

[14] MPD Report of Investigation (July 27, 1978), attached as Supplement Appendix 4 (emphasis added).

unproduced documents then in the hands of the police." *Id.* at 846. In a conclusion equally apt here, the court stated, "The report might not have been proof of the defendant's innocence, but if its contents had been made known, it might well have nurtured, even generated, a reasonable doubt as to guilt." *Id.* at 847.

CONCLUSION

This new evidence from the MPD homicide files makes Santae Tribble's actual innocence even more clear. There is simply no reliable evidence that connects him to the crime and there is powerful evidence that he had nothing whatsoever to do with it: the hairs in the stocking mask abandoned by the perpetrator came from somebody else; the sole witness against him was motivated by greed and fear to provide unreliable admission evidence that cannot be reconciled with the known facts; the ballistics evidence supports an inference even more strained that the inference at trial; Mr. Tribble had a compelling alibi defense; he swears now and has always sworn that he is innocent.

At trial the FBI hair "match" testimony, and the manner in which the United States exploited it, overwhelmed an otherwise extraordinarily weak government case, and strong defense case. As Mr. Tribble wrote in his motion:

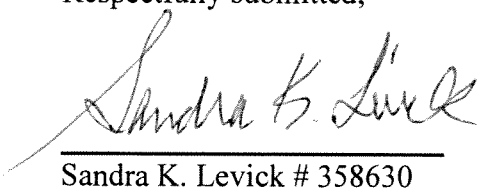
> The power of scientific testimony to overawe and mislead a jury is well-recognized. Where that scientific testimony was not only relied upon, but grossly exaggerated by the prosecution, and where it was the focus of the deliberating jury's sole note, and where the guilty verdict came hard on the heels of the trial judge's response, the impact of spurious scientific testimony cannot be denied. No matter how weak the remainder of the government's case, or how powerful Mr. Tribble's proof that he was elsewhere at the time of the crime, he could not overcome the "scientific" evidence from our nation's foremost forensic laboratory that seemed to place him on the scene, or the argument of the United States that the odds against his presence were infinitesimally small. That the

> government's other evidence was both weak and false and the alibi evidence, that the false scientific evidence overbore, was both strong and true makes the fact of Mr. Tribble's wrongful conviction indisputable.[15]

This new evidence from the MPD homicide files demonstrates that the government's case was even weaker and more false than previously known. Not only can it not sustain the conviction, it would be a manifest injustice to rely on it to continue to punish an innocent man.

WHEREFORE, it is respectfully requested, based upon this Supplement, and the previously filed Motion to Vacate, and the entire record herein, that this Court vacate Mr. Tribble's conviction for felony murder while armed and dismiss the indictment with prejudice on the grounds of actual innocence. Alternatively, it is respectfully requested that it vacate the conviction based upon violations of the due process clause.

Respectfully submitted,



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[15] *Motion to Vacate Conviction*, at 14 (footnote omitted).

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion to Vacate Conviction and Dismiss Indictment With Prejudice on the Grounds of Actual Innocence Under the Innocence Protection Act has been served by hand and by electronic mail on Robert Okun, Chief, Special Proceedings Division, and Timothy Lucas and Kim Herd, Special Proceedings Division, 555 4th Street, N.W., Washington, D.C. 20001, this 13th day of March, 2012.

Sandra K. Levick

Sandra K. Levick

SUPPLEMENT APPENDIX 1

ROPOLITAN POLICE DEPARTMENT
WASHINGTON, D.C.

REPORT OF INVESTIGATION

P.D. 123 Rev. 1/74

COMPLAINANT/VICTIM: HORN & McCORMICK HOMICIDES

DATE OF OCCURENCE: July 13 & 26, 1978

TYPE OF CASE: HOMICIDE SHOOTING (ROBBERIES)

CCN 321-280 / 344-943

FILE NO. 78-1157 / 78-1225

NARRATIVE: GIVE A SYNOPSIS OF CASE INVESTIGATION SUBSEQUENT TO THE LAST REPORT, WITH PERSONS INTERVIEWED, NEW LEADS, AND OTHER INFORMATION ON CASE PROGRESS.

8-4-78

Friday, August 4, 1978 this a.m. recieved a call from a niece of the decedent JOHN McCORMICK Mrs. BETTY MILLISON, [redacted] she is the owner/manager of a hotel in Lexington Park, Maryland. Mrs. MILLISON went on to say that she has considered offering a reward in this case (McCORMICK case) and that she had four thousand dollars already. She was hoping that the cab company would come up with another one thousand dollars. I told her that she would have to coordenate this thru our General Council's Office, RICHARD BROOKS. I explained that WOOD & MUSE and KILCULLEN & I would be working this case and that for her to give WOOD or MUSE a call at about 2:15 P.M. this date. She seemed very concerned and stated that she had not discussed this reward with Mrs. McCORMICK as it was too soon and she thought that she would do this on her own, I got the impression that she was fairly well off and somewhat close to the the decedent in a family way.

* *

8-7-78

Thus a.m. recieved information from SHARKEY that he heard from Det. NYLAND P.G. Co. Homicide that one of their uniformed officers recovered a .32 caliber H&R Responded to P.G. Co. B.C.I. and obtained this weapon from their property man and had it test fired by Officer MILLER in our ballastics unit. This weapon is described as a .32 caliber H & R revolver, blue steel in color loaded with two live rounds, serial # AF11144. This weapon is not the one we are looking for althlough it had six lands & grooves. Officer MILLER stated that he would check this gun against any other recent .32 caliber open cases we have downstairs. The defendant in P.G. Co. is one JAMES WESLEY CALHOUN, male, Negro, [redacted], residing at [redacted] M.P.D.C. I.D. # 311-508. CALHOUN is charged in P.G. Co. with C.D.W. gun and U.U.V. Package made on CALHOUN and placed in the HORN jacket.

* *

This a.m. phoned Mr. ROBERT WEAVER # [redacted] Mr. WEAVER was the victim of an armed robbery and shooting on the 6th of January, 1978 at 3000 Nelson Place S.E. at about 7:55 P.M., C & R # 007-149. at which time he was shot in the left thigh by the gunman who demanded money, he obtained Mr. WEAVERS' wallet and fled into the alley from Nelson Place. L.O.F. male, Negro, 18-20 years, five foot six, 165 pounds, medium complected, armed with a small silver handgun. dark blue jacket, brown or blue pants, wearing a white scarf.

CASE STATUS: [X] OPEN [ ] CLOSED [ ] OTHER (Explain) PAGE OF PAGES

INVESTIGATOR'S SIGNATURE: JEFF GREENE & tom kilcullen — DATE: 8-8-78 — c.c. to McCORMICK case jacket.

SUPERVISOR'S SIGNATURE: — DATE:

SUPPLEMENT APPENDIX 2

ROPOLITAN POLICE DEPARTMENT
WASHINGTON, D.C.

REPORT OF INVESTIGATION

P.D. 123 Rev. 1/74

COMPLAINANT/VICTIM	DATE OF OCCURENCE	
William Horn and John Mc Cormick	July 1978	
TYPE OF CASE	CCN	FILE NO.
Homicide Shootings		

NARRATIVE: GIVE A SYNOPSIS OF CASE INVESTIGATION SUBSEQUENT TO THE LAST REPORT, WITH PERSONS INTERVIEWED, NEW LEADS, AND OTHER INFORMATION ON CASE PROGRESS.

Brought BRENDA in for a statement and she admits to buying the gun and gives other information, see statement in jacket. She is fairly believable in opinion of undersigned.

Brought BJ in again for a statement this time and she tells about the gun and also about a conversation with SANTEE. She appears believable before and during the statement. There is not enough information in her statement for a warrant in the opinion of the undersigned. She has not been able to get any more on the gun, see statement in jacket.

However, with certain discrepancies, she is probably lying about certain information such as selling and buying of the gun, how the gun got missing, etc. She was confronted with this, told about the pending reward, information about keeping her kept out of it all for as long as possible, etc. and she did say that she wasn't telling all the truth and was keeping some information back because she is afraid. She was served with a subpoena for this coming Thursday to appear with BREWER as the "DA". We hope this may help turn her over.

Still no gun at this time. In both statements it appears as if the gun is accounted for at 6:00 PM Sunday, then found to be missing as of about 5:00 PM on Monday. A list of those who had access to the gun in any possible way is included in the statements, at least most of the people who could have had access to it.

JEFF and LEMMON and HANSON responded to GERALDINE'S apartment in quest of the gun, negative. More work from here will continue. Nothing further at this time.

Kilcullen/Greene

CASE STATUS: ☒ OPEN ☐ CLOSED ☐ OTHER (Explain) PAGE 1 OF 1 PAGES

INVESTIGATOR'S SIGNATURE		DATE
Kilcullen/Greene	T J Kilcullen	August 13, 1978
SUPERVISOR'S SIGNATURE		DATE

SUPPLEMENT APPENDIX 3

METROPOLITAN POLICE DEPARTMENT
WASHINGTON, D.C.

REPORT OF INVESTIGATION
(Continuation)

P.D. 123A Rev. 4/74

COMPLAINANT/VICTIM

William Francis Horn Homicide Shooting occurred 7-13-78 CCN 321-280

There are no fingerprints yet in this case, the decedent's wallet is to be processed in a day or so by JOHNCOX of the print unit.

From JOE MASSON at Firearms, he identifies the weapon as an HER, Iver Johnson, Hopkins & Allen. The weapon has a lot of slippage to it, not in good shape. There are 6 right lands and grooves. The bullet is in reasonably good shape for comparison. The bullet is made by Smith and Wesson, a heavier bullet that Remington etc. Nothing further.

Obtained the audit photo from the decedent's driver permit. It should be noted that the photo was taken in 1974, we have nothing better so far. It is a reasonable likeness but the decedent's mustache is thicker now than in the photo. We also have the MCL polaroid taken at the [illegible] - in our jacket.

From the scene, there is a cup of soda from the Hot Shoppes Jr. and a box of carry out foods from the same store. Two things come to mind, either the decedent had been to a Junior Hot Shoppes, or the perpetrator. Checked the Hot Shoppes with the following results:

There are 4 Junior Hot Shoppes in DC;

3821 Minnesota Ave. SE,	phone 396-9695
331 M St. NE,	phone 544-9455
1400 Rhode Island NE,	phone 832-9804

All 3 of these stores closed Wednesday night at 11:00 PM. Generally the employees take about 1 or 1½ hours to clean up and leave. It is possible that an employee of one of these stores could be responsible. We should check employee addresses and see if anyone lives near the scene.

The fourth store, 7th and V Sts. NW, phone 232-9759.

This store closes at 2:00 AM. The decedent could have driven there after leaving his friends' home and gotten something to eat there.

The above information concerning Hot Shoppes Junior food and soda is not positive, but the soda and food box were observed very fresh. There is probably something worthwhile to come from it all, probably the decedent, but maybe the killer. It should be noted that the food comes from a Junior, not a regular Hot Shoppes and not a Roy Rogers since they all have different lettering.

One more thing concerning addresses, we should check the suspect's friends addresses to help locate which one called the confidential Police line. If the suspect stopped and talked like the caller stated, he probably stopped along his way home.

FBK

7-18-78 Lilcullen/Greene

SUPPLEMENT APPENDIX 4

ROPOLITAN POLICE DEPARTMENT
WASHINGTON, D.C.

P.D. 123 Rev. 1/74

REPORT OF INVESTIGATION

HO 78-1157
HO 78-1225

COMPLAINANT/VICTIM	DATE OF OCCURENCE	
WILLIAM F. HORN JOMICIDE & JOHN McCORMICK HOMICIDES	7-13- 7-26-78	
TYPE OF CASE	CCN	FILE NO.
Homicide shootings, ROBBERIES	321-280 344-943	

NARRATIVE: GIVE A SYNOPSIS OF CASE INVESTIGATION SUBSEQUENT TO THE LAST REPORT, WITH PERSONS INTERVIEWED, NEW LEADS, AND OTHER INFORMATION ON CASE PROGRESS.

Running Resume, Thursday, July 27,
1978, GREENE & kilcullen

After becoming aware thru the F.I.S. at 7:30 this a.m. that both of these decedents were killed with the same .32 caliber revolver the undersigned read thru the McCORMICK case jacket and observed that these two cases fit the same basic pattern as the HORN Homicide. Re: gun, see MUSE'S writeup. Talked with SKIP VORHEES and we are proably looking for an old IVER JOHNSON, maybe silver in color, at least thats what the majority of complaints in numerous robberies in that area observed, a silver handgun.

A copy of The F.I.S. formal report linking the two cases togather will be placed in both jackets as soon as it is recieved by the undersigned. This will proably be done by SKIP VORHEES.

Several hours spent this a.m. reading robberies reports from 6-7 D and obtaining copies of these reports and placing same in both jackets. Spoke at length with GROAT from ROBBERY SQUAD and will further discuss in this running resume the idea of keeping LARRY SYLVESTER KNIGHT under surrvilance this weekend.

A package on KNIGHT was placed in the jacket and two color photos from the M.O. Section were placed in this package. These photos were taken, March 19, 1978, for D.D.A. & May 18, 1978 for Armed Robbery. During the course of the May 18th 1978 robbery GROAT from Robbery Sq. tells us that (2) two jogging suits were recovered from the vehicle he was in at the time of his arrest. A copy of the 163, 251 & Robbery Sq. write up will be obtained and placed in the jacket. Detective. KIEPFEL had the jacket in court this a.m.

Recieved information from GROAT of Rob. Sq. who stated that in reference to KNIGHTS' robbery case from May 18, 1978 he failed to show for a court ordered line-up and he spent 20 days in jail from June 22, tco July 11, 1978. Sgt. CRIST called the jail and confrimed this thru an employee, not an inmate.

Of Partucular interest were the following robbery cases from April, 5, 78 thru June 5, 1978.

CASE STATUS: ☒ OPEN ☐ CLOSED ☐ OTHER (Explain) PAGE OF PAGES

INVESTIGATOR'S SIGNATURE	DATE
GREENE & kilcullen	7-27-78 - 8-1-78
SUPERVISOR'S SIGNATURE	DATE