

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS: CRIMINAL TERM

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PEOPLE OF THE STATE OF NEW YORK,

Respondent,

**NOTICE OF
MOTION**

-against-

Ind. No.: 2183/86

KEVIN SMITH,

Defendant.

-----X

SIRS:

PLEASE TAKE NOTICE, that upon the annexed Affirmation of JUSTIN BONUS, dated January 3, 2020, and all the proceedings and pleadings had herein and upon the Exhibits annexed hereto, Defendant shall move this court at the courthouse located at 320 Jay Street, Brooklyn, New York on the 15th day of February, 2020 at 9:30 o'clock in the forenoon of that day, or as soon thereafter as counsel can be heard, for an Order pursuant to CPL 440.10 (1) (b), (c), (d), (f), (g) and (h) vacating the judgment and dismissing the indictment on the grounds that:

- (1) Mr. Smith is actually innocent. No fewer than 6 witnesses have stated either that Smith was not the person who shot Van Dorn on November 10, 1984 or that Trent Vernon Richardson is/was wholly unreliable, including affidavits from Ronald Moore, Frederick Shaw, Norman Richardson, Kevin Bazemore, Elpidio DeLeon and Frank Paone. Dr. Richard Leo's and Dr. Brian Cutler's expert reports detailed the high probability that Richardson's testimony at trial was coerced, and, therefore, unreliable. Finally, Dr. Cyril Wecht recreated the shooting and refuted both Richardson's trial testimony and audio taped statement that he provided the DA's Office, which supports witness statements that Richardson did *not see the shooting*.
- (2) Newly discovered evidence:

- a. Expert reports of Dr. Richard Leo and Dr. Brian Cutler;
- b. Expert report of Dr. Cyril Wecht; and
- c. Affidavits of Elpidio DeLeon, Norman Richardson, Frank Paonne, and Joseph Gianni; and
- d. The actions of Detective Louis Scarcella.

(3) Substantive due process violations:

- a. The People's failure to turn over the audio taped statement and transcript of Richardson, which is supported by the affidavit for Joseph Gianni;
- b. The coercive tactics used to procure the testimony of Richardson;
- c. Richardson's testimony was plainly false at trial.

(4) Ineffective assistance of counsel:

- a. Failure to investigate and call eyewitnesses; and
- b. Failure to call a forensic pathologist to recreate the shooting, which would have soundly refuted Richardson's version of the events.

WHEREFORE, based on all the evidence attached to the motion it is prayed the motion be granted in its entirety and the Court vacate the judgment and dismiss the indictment or grant a new trial, or in the alternative, a hearing be held to determine the truth of the claims presented herein. See CPL §§ 440.30(3); 440.10(4) & (5).

PLEASE TAKE FURTHER NOTICE that answer and/or cross moving papers, if any, must be served and filed no later than seven (7) days prior to the return date of this motion, pursuant to Section 2214(b) of the Civil Practice Law and Rules.

Dated: Forest Hills, New York
January 3, 2020

Very truly yours,

JUSTIN C. BONUS, ATTORNEY AT LAW

/s/ Justin Bonus

JUSTIN C. BONUS

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Eric Gonzalez
Kings County District Attorney

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS: CRIMINAL TERM

THE PEOPLE THE STATE OF NEW YORK

Respondents

AFFIDAVIT IN SUPPORT
OF MOTION TO VACATE
JUDGMENT

-against-

IND. NO. 2183/86

KEVIN SMITH,

Defendant.

Justin Bonus, an attorney duly admitted to practice law in the State of New York affirms under the penalty of perjury pursuant to CPLR § 2106, upon information and belief, the following is true:

1. As the attorney for Kevin Smith, I am fully familiar with the facts and circumstances surrounding his case. Therefore, I make this affirmation in support of Mr. Smith's motion to vacate judgment, either by dismissing the indictment or ordering a new trial on the grounds of actual innocence, newly discovered evidence and ineffective assistance of counsel. The information contained herein is based on the court file and other pertinent documents.

2. This C.P.L. 440.10 motion presents an opportunity for the court to correct a manifest injustice. The defendant, Kevin Smith (herein referred to as "Mr. Smith" or "Smith"), was charged and convicted of murder in the second degree based on the testimony of a single witness. However, this supposed witness, Trent Vernon Richardson, told the trial court immediately before the trial that he did not observe Smith on November 10, 1984- the date of the murder. According to his testimony, Richardson was in the vicinity of the crime, but did not actually see the victim, Gary Van Dorn, get killed. Directly after testifying, Richardson was arrested and taken to the 81st Precinct, where he was held for 4 days. During that time, he was not allowed to speak with his family and was denied a

shower, as well as basic required hygiene products. Essentially, he was a hostage of the New York City Police Department and the Kings County District Attorney's Office until he complied with their demands.¹ While he was informed that he was charged with perjury, there are no records stating that he was actually arraigned in criminal court, as he was taken to testify against Mr. Smith instead. It was on the basis of this cruel, coercive, and inhumane punishment that Richardson decided to change his testimony in order to inculcate Mr. Smith.² Mr. Smith was convicted solely upon this coerced false testimony.³

3. Additionally, the murder investigation was led by Detective Louis Scarcella. Det. Scarcella's practice of manufacturing evidence has been documented in a series of cases, including, but not limited to, People v. Hamilton, People v. Ranta, People v. Moses, and, most recently, People v. DeLeon.⁴

4. It is contended here that Scarcella falsely attributed a statement to Smith's co-defendant that attests that he saw Smith shoot Van Dorn, killing him. Mr. Smith now comes to this Court with compelling proof that he was innocent in this murder. Said proof comes from several individuals who witnessed the shooting and can substantiate that Richardson lied at trial and sent Smith to prison.

5. Mr. Smith's innocence in the Van Dorn murder has been established by the most compelling proof possible. He thus submits that this Court should dismiss the charges against him on

¹ This Court should ask itself, if the defense team did this to a witness, would that be acceptable? The resounding answer is NO. Everyone involved would be charged with tampering with a witness and/or bribery.

² It should be noted that Richardson's first statement to police was that he did not know who killed Mr. Van Dorn. See Exhibit A.

³ Since 2013, the Brooklyn District Attorney's Office Conviction Review Unit has not made a determination on whether or not to overturn Kevin Smith's conviction.

⁴ The Court should be aware that over 15 convictions have been vacated based upon Det. Scarcella's conduct in just the last 5 years.

the grounds of actual innocence, pursuant to People v. Hamilton, 979 N.Y.S. 2d 97 (2d Dept. 2014), or alternatively, grant a new trial due to the combined effect of newly discovered evidence, substantive due process violations and ineffective assistance of counsel. At minimum, this Court should order a hearing at which the experts and witnesses to Mr. Smith's innocence may testify. Had the jury heard this evidence now presented within this motion, the outcome probably would have been different.

PRELIMINARY STATEMENT

In the 4 years that I have practiced criminal law, being involved with hundreds of cases, I have never seen a witness who was kidnapped and coerced in the manner that Trent Vernon Richardson was. It is imperative that the criminal justice community resoundly condemn the actions of the People in the case at bar. Mr. Smith's conviction, which was solely obtained through the coerced testimony of Richardson, should be vacated and dismissed or a new trial should be ordered. At the very least, a hearing should be held.

6. Kevin Smith did not kill Gary Van Dorn. The accumulated mountain of evidence is a testament to his innocence. It also clearly displays the unreliability of Trent Vernon Richardson and the lengths that the People went to in order to secure a conviction in this case by coercing him into testifying. Famed forensic pathologist Dr. Cyril Wecht provided an expert report recreating the shooting. See **Dr. Cyril H. Wecht's** expert report and resume attached as Exhibit A. Trent Richardson told police during his initial audio interview and then later at trial that Kevin Smith stood over Van Dorn and fired the fatal shot. See Exhibit B, a transcript of Richardson's audio taped statement to the District Attorney's Office. Dr. Wecht soundly refuted Richardson's version of the event, lending credibility to sworn statements provided by Frederick Shaw's and Norman Richardson's stating that Trent Richardson neither saw how nor by whom Gary Van Dorn was shot and killed. Dr. Wecht's report also corroborates the sworn eyewitness accounts of Ronald Moore and Kevin Bazemore.

7. World-renowned false confession experts Dr. **Richard Leo** and Dr. **Brian L. Cutler** both found that the "conditions of Trent Richardson's interrogation were psychologically coercive and contained interrogation techniques that are known to cause a person to perceive he or she has

no choice but to comply with the demands and/or requests of his or her interrogators”. These techniques are also “known to increase the risk of eliciting involuntary and/or unreliable statements, admissions and/or confessions.” See quotation from expert report of **Dr. Richard A. Leo** attached as Exhibit D; see expert report of **Dr. Brian L. Cutler** attached as Exhibit E. Richardson, after initially detailing what he saw at the scene to police, which entirely omitted Kevin Smith’s name, testified on September 4, 1987 that he did not see the shooting. He only changed his testimony after he was held in police custody for *4 days on perjury charges without having been arraigned or receiving the advice of an attorney.*

8. Mr. Smith has not stopped there in his fight to clear his name and proclaim his innocence. Over the years, two actual eyewitnesses have come forward to state that Kevin Smith is innocent of the murder of Gary Van Dorn. See Kevin Bazemore affidavit attached as Exhibit F; See Ronald Moore affidavit attached as Exhibit G. 4 witnesses have come forward providing sworn affidavits detailing Richardson’s unreliability, as well as the threats and coercion that he was subjected to by the People. See **Elpidio DeLeon**’s affidavit attached as Exhibit H; See **Frederick Shaw**’s affidavit attached as Exhibit I; See **Norman Richardson**’s affidavit attached as Exhibit J; See attorney **Frank Paonne**’s affidavit attached as Exhibit K.

9. The Appellate Division Second Department ruled that if a defendant proves his innocence by clear and convincing evidence “the indictment should be dismissed pursuant to CPL 440.10 (4) which authorizes that disposition where appropriate”, as “there is no need to empanel another jury to consider the defendant’s guilt where the trial court has determined, after a hearing, that no juror, acting reasonably, would find the defendant guilty beyond a reasonable doubt.” People v. Hamilton, 115 A.D.3d 12, 15, 979 N.Y.S.2d 97, 109 (N.Y.App.Div. 2d Dep’t 2014).

10. The Court of Appeals has held that, when a witness testifies falsely, the prosecutor has a duty to correct that testimony. The false testimony creates an “error so fundamental, so substantial,

that a verdict of guilty will not be permitted to stand”, and, therefore, the conviction must be vacated. See People v. Savvides, 1 N.Y.2d 554, 556-557 (1956) (People v. Creasy, 236 N.Y. 205, 221 (1923)).

11. Based upon his trial counsel’s ineffectiveness or the newly discovered evidence presented in this motion, Mr. Smith is also entitled to a vacatur of his conviction if there is a “*reasonable probability* of a different outcome”, which “is ‘a fairly low threshold.’” Riggs v. Fairman, 399 F.3d 1179, 1183 (9th Cir. 2005), citing Sanders v. Ratelle, 21 F.3d 1446, 1461 (9th Cir.1994).

12. Trent Vernon Richardson is a wholly incredible individual whose very first statement made no mention of Kevin Smith, even though Mr. Richardson knew who Smith was. See Exhibit A.5 Richardson became non-compliant with the People and reverted back to his original statement prior to trial. This led to him being brought to Court on a material witness order, which was executed by breaking down his mother’s door to arrest Richardson.⁶ See TT 214. Richardson was brought to court and a Sirois hearing was held, wherein Richardson informed the Court that **he was not threatened by Mr. Smith or his co-defendant Calvin Lee, did not see the shooting, nor did he see Kevin Smith at the scene.** TT 63-74a. The Court then released Richardson, after which the prosecutor informed the Court that Richardson had to pay a fine. See Exhibit K. The material witness order was apparently terminated, and Richardson was released to pay the fine.

13. Smith’s trial attorney requested that Richardson not be questioned by anyone or “coerced” without his attorney being present. The Court reminded the prosecutor that he should not do that and the prosecutor represented to the Court that he wouldn’t and added, “to be frank I would like to spend as little time with Mr. Richardson as possible” as “I find him to be a truly

⁵ As an aside, this Court should be aware of who Mr. Richardson is: Mr. Richardson’s criminal history spans over 30 years and his criminal career began at the time of this incident. See Exhibit L. See also Trial Transcript page 38, wherein the assigned assistant district attorney informed the court disclosed that Mr. Richardson had “a few” other arrests prior to 1987.

⁶This was the first of many threatening tactics used to coerce and intimidate Richardson.

contemptible person.” The Court then advised the prosecutor that he should both have the witness at his office at 9:00 AM on Tuesday morning and talk to him about the upcoming testimony scheduled for Tuesday afternoon. Burns replied “if, in fact we keep him.” It was at this point that Mr. Paonne specifically asked the prosecutor what the People’s intentions were in regard to Richardson. The prosecutor responded, “if they don’t incarcerate him on the warrant, Your Honor, my inclination is he will probably be released”. See TT 60-87.

14. What transpired next was an abominable use of prosecutorial and investigatory tactics within the criminal justice system. Within 5 minutes of the end of the proceedings, the People, without advising Paonne, arrested Richardson as he was leaving the courtroom where the hearing had just taken place. Richardson was handcuffed and brought to the District Attorney’s Office. See TT 287-88; 314-315. There he met the trial assistant and another assistant who told him that he was being charged with perjury in the first degree on the basis of inconsistent statements which the trial assistant had just elicited moments prior. He was also informed that those charges carried a 7-year sentence. Although Richardson testified that an attorney, Leo Kimmel, was present, that would have been impossible.⁷ Paonne was just in Court representing Richardson and there would have been no way for the Court to ignore Mr. Paonne’s representation and appoint another 18B attorney for Richardson in 5 minutes or at any time that afternoon. Paonne was both not present and not informed of Mr. Richardson’s arrest. See Exhibit K.

15. From the District Attorney’s Office, Richardson was then brought directly to the 81st Precinct, not Central Booking. He was held for 4 days without speaking to another person or having a phone call. He was detained, remaining in the same clothing without being able to bathe, wash, or brush his teeth. He was also denied a hot meal, visitors, and any contact with the outside world. He

⁷ Interestingly, Mr. Kimmel, who was interviewed regarding his representation of Richardson, told investigators that he has absolutely no recollection of Richardson or the events surrounding his representation of him.

was *kidnapped*. He was finally brought to Court Tuesday morning September 8, 1987 for arraignment on the perjury charge.⁸ It was only after ADA Silverstein from the homicide bureau met with Richardson that he agreed to testify against Smith. Thus, he was immediately released so that he could be brought back to Court to testify in the afternoon.

Richardson, then and now, should be disregarded as wholly incredible. In fact, there are eyewitnesses that have come forward stating that Kevin Smith did not shoot Gary Van Dorn. There are also witnesses that can provide the Court with insight regarding Richardson's unreliability, as well as proof that he did not see the shooting of Gary Van Dorn.

16. Dr. **CYRIL WECHT** reviewed the case file, which included witness statements and the autopsy report and sketch. Dr. Wecht confirmed what **MOORE** and **BAZEMORE** stated in their affidavits and also substantiated Norman Richardson's and Shaw's sworn statements that Trent Richardson *saw neither how nor by whom Van Dorn was shot* (See Exhibit B):

Following [Dr. Wecht's] review of the medical examiner documents, scene photographs, district attorney and investigative documents, and testimony, it is [Dr. Wecht's] opinion, expressed with a reasonable degree of medical certainty, that Gary Van Dorn died from a single penetrating gunshot wound that entered his left back/side, injured his lungs and aorta, and caused internal bleeding.

After sustaining his injuries, Mr. Van Horn would have been able to walk, talk, run and have purposeful movement for some time. The injuries would not have rendered him instantaneously incapacitated or have caused him to immediately collapse to the ground. Therefore, the decedent could have sustained the gunshot wound and ran toward Mr. Richardson before collapsing.

The features of the gunshot wound and the direction the bullet travelled is most consistent with the decedent being in a standing position and slightly bent over with his back to direction of gunfire. The features of the gunshot wound and the direction the bullet travelled are not consistent with the decedent lying face down on the ground and Mr. Smith firing the gun while standing over his body.

17. Both Dr. **RICHARD LEO** and Dr. **BRIAN CUTLER** agreed that Trent Richardson's testimony was subject to an "increased risk of his giving a false statement in order to escape the deprivation and isolation" and also to "obtain the highly desired outcome of having the

⁸ There is no record of this – Richardson's perjury file is "lost".

perjury charges and the associated seven-year sentence dropped.” See quote from Exhibit E; see also Exhibit D. Dr. **LEO** provided a detailed and startlingly assessment:

According to Trent Richardson, the Kings County District Attorney’s Office literally kidnapped him from the judge’s chambers during the Kevin Smith trial. During this time, according to Mr. Richardson, the Kings County District Attorney’s Office lied to him, as well as to the judge, defense attorneys and family members. The Kings County District Attorney’s Office then charged Mr. Richardson with perjury in the first degree, and subsequently kept him hidden and locked up in a cold and damp police precinct cell for four days without allowing him to contact an attorney or family members, without providing him with hot food, and without allowing him to make a phone call, bathe or change his clothes. The Kings County District Attorney’s Office offered to drop perjury charges if Mr. Richardson agreed to testify against Kevin Smith at his trial, even though Mr. Richardson had previously stated that he did not witness Kevin Smith shoot Gary Van Dorn nor did he witness the crime, and that his grand jury testimony used to indict Kevin Smith had been false. After four days of this treatment, Mr. Richardson agreed to testify against Kevin Smith, and was the only witness against Mr. Smith, who was ultimately convicted of murder.

The conditions of Mr. Richardson’s confinement and interrogation were highly coercive and involved the use of two sets of situational risk factors for interrogation-induced false statements, admissions and/or confessions according to the psychological science.

1) Lengthy Interrogation. Lengthy interrogation/custody is a situational risk factors for making or agreeing to a false statements, admissions and/or confessions during police interrogation. Empirical studies indicate that the overwhelming majority of routine custodial interrogations last less than one hour,²⁸ whereas the combined time period of custody and interrogation in most interrogations leading to a false confession is more than six hours. The Reid and Associates police interrogation training manual specifically recommends that police interrogate for no longer than four (4) hours absent “exceptional situations” and that “most cases require considerably fewer than four hours.” Lengthy detention and interrogation is a significant risk factor for false statements, admissions and/or confessions because the longer an interrogation lasts, the more likely the suspect is to become fatigued and depleted of the physical and psychological resources necessary to resist the pressures and stresses of accusatory interrogation, especially where investigators use physically or psychologically coercive methods. It can also lead to sleep deprivation, which, as mentioned earlier, heightens interrogative suggestibility by impairing decision-making abilities, such as the ability to anticipate risks and consequences, inhibit behavioral impulses and resist suggestive questioning. The longer an interrogation lasts, the more pressure investigators bring to bear on the suspect and the more techniques and strategies they may use to move the suspect from denial to admission. Researchers consider the length of an interrogation to include both the time that a suspect is being questioned and/or accused as well as any breaks between questioning/accusation sessions because breaks between accusation and questioning add to the stress and fatigue of the interrogation and sometimes is used as an interrogation technique itself. Mr. Richardson was isolated, held in custody, and interrogated for an extraordinarily long period of time (4 days) before changing his account to fit the Kings County District Attorney’s Office’s demands.

2) Explicit Threats and Promises. Mr. Richardson was threatened with a 7 year prison sentence for perjury if he did not cooperate with the prosecution and testify against Kevin Smith, but promised with leniency if he recanted his account he had not seen Kevin Smith shoot Gary Van Dorn nor did he witness the crime nor did he know who killed Gary Van Dorn. Mr. Richardson understood that if he changed his account in response to the Kings County District Attorney's Office's threats, he would receive leniency and freedom. Once Mr. Richardson yielded to the coercion, the Kings County District Attorney's Office dropped charges against him, and Mr. Richardson was released.

As discussed earlier, the use of explicit promises of leniency, immunity and/or a tangible benefit, as well as the use of explicit threats of harm, significantly increases the risk of eliciting an involuntary false statement, admission, and/or confession when applied to the innocent. Indeed, as empirical social science research has repeatedly demonstrated, promises of leniency— like threats of harm or harsher punishment and whether explicit or implicit—are widely associated with police-induced false confession in the modern era and are believed to be among the leading causes. Promises and threats (whether implied or express) are inherently coercive because they exert substantial pressure on a suspect to comply and thus can easily overbear the will or ability of a suspect to resist an interrogator's demands or requests. Like other high-end inducements, promises and threats contribute to creating a sense of despair and hopelessness about a suspect's perceptions of his available options during interrogation. This may be especially the case when one is not merely being promised leniency, but being promised complete freedom (i.e., immunity) in exchange for making a statement while being threatened with a harsh outcome if one refuses. There may be no psychological interrogation technique more potent than the use of threats and promises. As discussed earlier, it is well-established that psychologically coercive interrogation techniques increase the risk of eliciting false and/or involuntary incriminating statements, admissions and/or confessions.

18. **ELPIDIO DELEON** spoke to Richardson. Much like the assigned prosecutor in this case, who stated that Richardson was a “truly contemptible person”, Mr. **DELEON** gave little to no weight to Richardson's antics. However, Richardson can be shown to consistently maintain that he was held against his will by the DA's Office. He made this abundantly clear to Mr. **DELEON** during their conversations on October 24, 2017 and November 3, 2017 (See Exhibit H):⁹

Mr. Richardson informed me that the police and District Attorney's Office violated his rights due to his involvement as a witness in Mr. Smith's case in 1987.

Mr. Richardson indicated to me that the People did things to him, and he was forced to testify against Mr. Smith.

⁹ It should be noted that Mr. DeLeon is a highly experienced investigator who was a First Grade Homicide Detective in the 30th Precinct. His resume is attached as Exhibit M.

Mr. Richardson indicated that he was forced to testify to the story that the District Attorney's Office gave him. He believed that if he did not testify to what the District Attorney's Office wanted him to testify to, he would have not been released from jail.

Mr. Richardson indicated to me that he would be willing to change his statements if Mr. Smith would be willing to "help" him out. Richardson continually mentioned that Mr. Smith has a large potential civil settlement based upon Mr. Smith's conviction.

On November 3, 2017, when I spoke with Mr. Richardson, he appeared under the influence of a controlled substance.

Overall, my assessment of Mr. Richardson is that he is wholly unreliable and is willing to say anything to please the person that he is speaking with.

19. **RONALD MOORE AND KEVIN BAZEMORE** both witnessed the shooting and did not see Kevin Smith at the scene. In fact, unlike Richardson, both Moore and Bazemore describe the way Van Dorn was actually shot in the back, standing up, which was confirmed by famed forensic pathologist Dr. Cyril Wecht's expert report. See Exhibits B, F & G.

20. **NORMAN RICHARDSON** and **FREDERICK SHAW** have both provided sworn statements indicating that Trent Richardson did not see the shooting or who did it. See Exhibits I & J. Shaw was actually present at the shooting and began running when shots were fired. He spoke to Richardson right after the shooting, who told Shaw that he did not know who was responsible for it. This is the same thing that he initially told the police. See Exhibits A & I. Norman Richardson also spoke to Richardson (his cousin), who told him that he did not actually witness the shooting and was being threatened by detectives to say that he did see it.¹⁰

21. Finally, this case suffers from the infamous Detective Louis Scarcella. See Exhibit N – documents indicating Detective Louis Scarcella's involvement. Richardson, both in his trial testimony, statements to DeLeon and his cousin, Norman, detailed his harassment and coercion by law enforcement. Scarcella was intimately involved in this case, having taken a statement from Kevin

¹⁰ Norman Richardson also provided insight as to what Richardson was told in furtherance of the kidnapping. Specifically, Norman stated that Trent was told by detectives that, if he did not testify, Trent's family would be killed by the defendants.

Smith's co-defendant, Calvin Lee. As such, Vernon Richardson's allegations of being coerced by law enforcement should not be taken lightly. Fernandez v. Capra, 916 F.3d 215, 229-230 (2d Cir. 2019)

22. Kevin Smith did not kill Gary Van Dorn. Trent Vernon Richardson witnessed neither who shot Van Dorn nor how he was shot. Plainly, Richardson did not witness the shooting. His coerced trial testimony was false and is belied by other witnesses, as well as the forensic evidence that has been developed since trial. As such, this Court should vacate Kevin Smith's conviction and either dismiss the indictment or order a new trial. At the very least, the Court should schedule a hearing to determine the merits.

FACTS AND PROCEDURAL HISTORY

THE PROSECUTION CASE

23. Mr. Van Dorn was killed by a bullet wound to his back that perforated his lungs and aorta. Mr. Van Dorn along with his two friends Vernon "Trent" Richardson and Frederick "Jaboo" Shaw had been on their way to a liquor store when the two supposedly encountered Kevin Smith and Calvin Lee. An altercation allegedly ensued over a dispute. TT 141-142. The prosecution's theory was that Shaw owed at least one of the men money. The altercation lasted about five minutes. Supposedly Smith and Lee then ran off only to return about 10 to 15 minutes later with a gun.

24. When Smith and Lee allegedly returned, Van Dorn attempted to flee but slipped and fell. Although Lee had fired the gun several times, he reportedly did not hit anyone. Lee then supposedly passed the gun to Mr. Smith. Smith stood over Van Dorn, who was still on the ground after falling, and shot him. TT 143-148 (The Court should go to page 148 and 225-229 to review how *exactly* Mr. Richardson stated that Mr. Smith shot Mr. Van Dorn).

25. When Richardson heard the shots, he hid behind a car. After Van Dorn was shot, Richardson supposedly chased the two perpetrators. See TT 296-297. Unable to catch them,

Richardson then returned to the victim, placed him in a car, and helped drive him to St. Mary's Hospital.¹¹

THE INITIAL POLICE INVESTIGATION

26. Smith did not know Richardson. However, Richardson claimed that he knew Smith and Lee for about two to three months from the neighborhood. While Richardson knew Smith and Lee, during his initial police interview on the day of the murder, Richardson did not provide the names of either Kevin Smith or Calvin Lee. See Exhibit A. A few days after the murder, after supposedly receiving an anonymous tip, detectives brought a photo array to Richardson's house that included photographs of both Smith and Lee. It was only then that Richardson identified both men.

27. The police issued an APB for Smith and Lee as the potential culprits. Smith and Lee were arrested 18 months after the murder.

28. Detective Louis Scarcella took a statement from Calvin Lee wherein Lee implicated Smith. See Exhibit N.

THE TRIAL OF MR. SMITH

29. There was no forensic evidence that connected Mr. Smith to the murder. The only witness that connected either Smith or Lee to the murder was Trent Richardson.

30. After the jury was selected, during a hearing outside the presence of the jury, Mr. Richardson told the Judge under oath that he did not witness the shooting and, therefore, could not identify Mr. Smith or Mr. Lee at the scene of the murder: (See TT – 63-74a)¹²

Q: Now, do you also know two people by the name of Renny and Devine?

¹¹ The entirety of the People's theory emulates from Richardson.

¹² Significantly, in what was said to be a Sirois hearing, 38 questions were asked about whether Richardson actually witnessed the events of November 10, 1984, and only 15 questions were asked about whether there were any threats made upon Richardson. Not surprisingly, the People failed to establish that any threats were made to Richardson.

A: I don't know them.

Q: You don't know them?

A: No.

Q: Never heard of them?

A: I heard of the name.

Q: Did you see them on the night of November 10th of 1984?

A: No.

Q: Were you present when Gary was shot?

A: No.

Q: You were not?

A: No.

...

Q: Did you see Gary get shot?

A: No.

...

The Court: Do you remember somebody shooting at you?

Witness: No, nobody shooting at me.

The Court: Nobody ever shot at you?

Witness: No.

(This is despite the fact that there was a count of attempted murder against Richardson)

...

The Court: A block away. And what did you do? You heard the shooting?

Witness: Yes.

The Court: What did you see?

Witness: Nobody, just him lying there and people around him.

The Court: Was Smith and Lee or Divine as he's known – what's the other name, Renny, did you see them in the crowd?

Witness: No.

The Court: Do you know them if you see them?

Witness: Yeah, know them from before in the street.

....

The Court: So you went with Van Dorn to the hospital because he's your wife's cousin?

Witness: Yes.

...

The Court: And that you were going to testify at this trial?

Witness: No, I told them I didn't want to testify.

The Court: Why?

Witness: I don't know nothing

...

The Court: You didn't see who shot Mr. Van Dorn. Is that what you're telling me now?

Witness: Yes.

The Court: And that you won't testify.

Witness: No.

...

The Court: As I said, Mr. Richardson, if you didn't see anything on that night and you didn't see anything happen to Mr. Van Dorn – you see all I expect of you, if you testify in my court, that you tell me the truth. What you said anyplace else or some other time, I'm not concerned with. I am interested in the truth today.

Do you understand what I'm saying?

Witness: Yes

(TT – 70 regarding last excerpt)

31. On September 4, 1987 after Mr. Richardson gave this sworn testimony exonerating Mr. Smith, the trial Judge, Hon. Francis X. Egitto released Mr. Smith on his own recognizance. He also instructed the People to be ready to try the case on September 8, 1987.

32. However, upon leaving the Judge's chamber, Mr. Richardson was immediately arrested on the criminal felony complaint of the prosecutor's office for perjury. TT 315. Mr. Richardson was then jailed and held without bail. Mr. Richardson was not arraigned for 4 days until September 8, 1987, the morning of the rescheduled trial. During that time, Mr. Richardson was held in an 81st Precinct holding cell. In addition to being denied hot meals, he was never supplied with basic hygiene necessities such as a shower, a change of clothes, and a toothbrush. He was also not permitted to make a phone call or speak with his family or an attorney. TT 244-250, 283-284, 317. Richardson was then told by the trial prosecutor that if he recanted his sworn in-camera testimony to Judge Egitto, the perjury charge would be dropped. TT 209-217, 238-254, 284-285. Additionally, the prosecutor promised to relocate his mother into new housing due to her allegation that she had been threatened. There was no evidence that such a threat had been made. Even if she had been threatened, there was no evidence implicating that the supposed threat was in any way connected to either of the defendants.¹³

APPEALS AND POST CONVICTION PROCEEDINGS

33. In Mr. Smith's direct appeal, he alleged that (1) his conviction had been obtained by duress because the main eyewitness had been incarcerated on perjury charges prior to his testimony; (2) there were several instances of juror misconduct during voir dire warranted reversal; and (3) the

¹³ Specifically, the only thing that Trent Vernon Richardson stated that he was afraid of in this case was the 7 years that he was facing by way of the perjury charges that the People charged him with on September 4, 1987. See TT 284.

trial court abused its discretion in discharging two sworn jurors who were considered by the court to be unavailable for continued service. On December 24, 1990, Mr. Smith's conviction was affirmed. See *People v. Smith*, 168 A.D.2d 653 (2d Dep't 1990). His leave to appeal was likewise denied by the Court of Appeals. *People v. Smith* 77 N.Y.2d 967 (1991).

34. On three separate occasions Mr. Smith filed coram nobis applications which were denied.

35. Mr. Smith filed a 440 motion on August 4, 1992. He claimed that (1) he had received ineffective assistance of trial counsel when they did not call Frederick Shaw as a witness; (2) he had newly discovered evidence in the form of an exculpatory witness, Ronald Moore; and (3) the judgment was obtained in violation of his right to be present at a material stage of trial. On February 17, 1993, the Supreme Court denied his motion, and on May 19, 1993, the Appellate Division denied petitioner's application for leave to appeal.

36. Mr. Smith's petition for habeas corpus relief was also denied on the grounds of timeliness. *Smith v. McGinnis*, 49 F. Supp. 2d 102 (E.D.N.Y. 1999).

NEWLY DISCOVERED EVIDENCE SECURED AFTER CONVICTION

37. Mr. Smith has secured affidavits from several people familiar with or present at the time of the murder. They all attest that Mr. Smith did not commit the murder. Furthermore, he has procured three expert reports, all of which reject Trent Vernon Richardson's testimony at trial. Mr. Smith has received the transcript of Richardson's audio statement, which was not turned over at trial. See Exhibit K; see also Exhibit L (an affidavit from Joseph Gianni). Finally, the revelations that Louis Scarcella has tainted the investigations of, at the very least, 15 convictions is a new and developing body of case law. See generally *People v. Hargrove*, 75 N.Y.S.3d 551 (2d Dep't 2018).

DR. CYRIL H. WECHT

38. Dr. Wecht soundly refuted Richardson's version of the shooting, stating that Gary Van Dorn was "in a standing position and slightly bent over with his back to direction of gunfire. The features of the gunshot wound and the direction the bullet travelled are not consistent with the decedent lying face down on the ground and Mr. Smith firing the gun while standing over his body". This is exactly what Mr. Richardson testified to at trial. See Exhibit B. Dr. Wecht's account both corroborates the sworn statements of Ronald Moore and Kevin Bazemore and verifies Shaw's and Norman Richardson's affidavits stating that Trent Richardson saw neither how nor by whom Gary Van Dorn was shot and killed.

DR. RICHARD LEO AND DR. BRIAN CUTLER

39. Both Dr. Leo and Cutler have provided expert reports finding that "[t]he conditions of Mr. Richardson's confinement and interrogation were highly coercive and involved the use of two sets of situational risk factors [known to produce] interrogation-induced false statements, admissions and/or confessions according to the psychological science." See Exhibit D & E.

ELPIDIO DELEON

40. DeLeon is a licensed private investigator who worked on an array of crimes as a detective with the NYPD for 15 years. See Exhibit M – DeLeon resume. However, Mr. DeLeon has since ended his career as a first-grade detective and the homicide coordinator for the 30th Precinct. DeLeon spoke to Richardson on two occasions during which Richardson informed him that the police and District Attorney's office violated his rights and "did things to him" in order to get him to testify against Smith. Furthermore, he told DeLeon that he was forced to testify to the story that the DA's Office provided. See Exhibit H. DeLeon, a professional who has interviewed countless witnesses, found Richardson to be wholly incredible.

RONALD MOORE

41. In a sworn affidavit Mr. Moore admitted that he was at the scene of the murder, where he saw that the perpetrator was a light skinned black male. He also said that he knows Kevin Smith and did not see him at the scene of the crime. He also did not see him firing a gun at Van Dorn.

42. At the time the trial occurred, Mr. Moore was not aware that Kevin Smith had been tried and convicted for murder. See Exhibit G.

KEVIN BAZEMORE

43. Mr. Bazemore was standing on Bergen Street in Brooklyn at the time of the murder. Mr. Bazemore witnessed the shooting. Mr. Bazemore swears that the person who shot Gary Van Dorn was neither Kevin Smith nor his co-defendant Calvin Lee. See Exhibit F.

FREDERICK SHAW

44. Mr. Shaw swears that on the night of the murder, he heard the shots, but did not see who fired the gun. After hearing the gun, Mr. Shaw ran to the home of Trent Richardson, which was nearby. Later that evening, Trent Richardson came to the house and said that Gary Van Dorn had been shot. Mr. Richardson told Mr. Shaw that he didn't know who fired the gun, either. See Exhibit I.

45. Mr. Shaw has sworn in an affidavit that the police harassed him and Mr. Richardson, coercing them into making false statements implicating Smith. In fact, during the trial, Mr. Shaw did not succumb to the pressure, rather refusing to testify to something that was not true. See Exhibit I.

NORMAN RICHARDSON

46. Norman Richardson, in a sworn affidavit attest to the fact that Vernon Trent Richardson is his cousin, said that Vernon had confided in him multiple times regarding details pertinent to the Kevin Smith and Calvin Lee case. According to Norman, Vernon was told by detectives that Smith

and Lee were the people who shot Van Dorn. He was persuaded by these same detectives into making a false identification of Smith and Lee.¹⁴ See Exhibit J.

47. Detectives also told Vernon Richardson that he had to send Smith and Lee to jail or else they would kill him and his family when they were let go. See Exhibit J.

FRANK PAONE

48. Mr. Paone has provided an affidavit swearing to the fact that he was appointed to represent Mr. Richardson on September 4, 1987. He was never advised that Richardson would be arrested for perjury. Furthermore, he would have advised the District Attorney's office and police NOT to speak with Richardson. However, they did so immediately after his arrest *without* Mr. Paone's presence. This was in direct contravention of the Court's directives during the hearing. See Exhibit K.

JOSEPH GIANNI'S AFFIDAVIT AND RICHARDSON'S AUDIOTAPE TRANSCRIPT

49. For the first time ever, Mr. Smith is in possession of the audiotaped transcript of Richardson's statements to the DA's Office. See Exhibit C and Exhibit O – affidavit from attorney Joseph Gianni. Attorney Joseph Gianni provided a sworn statement confirming that Smith never received this vital piece of evidence that was, at the very least, Rosario material. See Exhibit O. In the transcript, Richardson provides an account that varied from his trial testimony and could have easily been used to impeach him. See Exhibit O.

NEW EVIDENCE OF LOUIS SCARCELLA'S MALFEASANCE

50. Over the past two years, significant evidence of misconduct by former Detective Louis Scarcella has been revealed by defendants, the press, and by the Brooklyn District Attorney's Office. Scarcella's misconduct in other cases includes, but is not limited to, fabricating statements by suspects

¹⁴ Interestingly, we know that Scarcella took a statement from Lee. He was entirely involved in this investigation.

and witnesses, destroying notes, and improperly conducting identification procedures. See generally People v. Hargrove, 75 N.Y.S.3d 551 (2d Dep't 2018); People v. Deleon, Ind. # 8153/1995 (Kings County November 19, 2019); People v. Moses, 2018 N.Y. Misc. LEXIS 701 (Kings County Jan. 11, 2018)

Shabaka Shakur

51. On May 29, 2015, the Honorable Desmond A. Green vacated the conviction of Shabaka Shakur based in part on newly discovered evidence of Scarcella's "propensity to embellish or fabricate statements." Decision and Order, May 29, 2015, at 45-46; Shakur had alleged that Detective Louis Scarcella fabricated an incriminating statement attributed to Shakur and that that statement caused his wrongful conviction. The Court held as follows: "The totality of circumstances, regarding the 'orphan' statement and the statement in the Scarcella DD5, provide this court with, a reasonable probability that the alleged confession of defendant was indeed fabricated." Id. at 46. On June 4, 2015, having determined that it could not re-try Mr. Shakur and would not appeal the Court's decision, the Kings County District Attorney's Office moved to dismiss Mr. Shakur's indictment. Decision and Order, June 4, 2015. Mr. Shakur was released from prison on June 8, 2015.

Rosean Hargrave and John Bunn

52. On April 14, 2015, the Honorable ShawnDya L. Simpson vacated the conviction of Rosean Hargrave on the ground that the "new evidence of Detective Scarcella's maleficence requires a new trial." Decision and Order, April 14, 2015, at Justice Simpson made the following findings related to Scarcella:

The findings of this court are that the assigned Detective, Louis Scarcella, was at the time of the investigation engaged in false and misleading practices. The cases of David Ranta, Derrick Hamilton, Robert Hill, Alvena Jennette and Darryl Austin that were investigated by Scarcella and prosecuted contemporaneously with this case in the early nineties demonstrate this pattern and practice. The pattern and practice of Scarcella's conduct which manifest a disregard for rules, law and the truth undermines our judicial system and gives cause for a new review of the evidence. Scarcella has been regarded as a legend in the N.Y.P .D. for his number of homicide arrest. [sic]. There is a saying, when it is too good to be true, it usually is. Id at 15-16.

David Ranta

53. The former Brooklyn District Attorney, Charles Hynes, has admitted that his office chose to overturn the conviction of David Ranta based in part on the conduct of Scarcella. In a 2013 letter to Dorothy Samuels of the *New York Times*, in which Hynes sought the *Times*' endorsement of his campaign, Hynes wrote as follows: During the course of the Ranta investigation, CIU Chief John O'Mara uncovered some questionable conduct by former NYPD Detective Scarcella. **In announcing our decision to release Mr. Ranta, we made it clear that the decision was made in part because of the conduct of Detective Scarcella.** As a result of that announcement, we received numerous referrals from Defense Attorneys complaining about Detective Scarcella. Thereafter, I announced that our CIU would undertake a review of these and other Scarcella related cases.

54. In the case of David Ranta, Ranta accused Scarcella of completely fabricating the statement attributed to him:

During a recent interview with the CIU, the defendant, in the presence of his counsel, denied that he ever made a statement minimizing his responsibility, and instead insisted that he had never made any admission whatsoever.

55. Also in Ranta's case, Scarcella failed to document critical portions of his investigation. Specifically, Scarcella failed to memorialize the meetings he had with one of the key witnesses in the case, Alan Bloom. Id. In addition, Scarcella failed to document his investigation of Joseph Astin, whom the District Attorney's Office believes could be the actual perpetrator of the crime. Id.

Derrick Hamilton, Robert Hill and DOE Investigation

56. Scarcella's fabrication of evidence was not limited to the fabrication of suspects' statements. Scarcella has also been accused of fabricating statements of witnesses. In the cases of People v. Derrick Hamilton, Ind. No. 142/91, and People v. Robert Hill, Ind. No. 2304/87, and in a botched investigation he conducted while employed by NYC Department of Education, Scarcella

followed this same pattern. The convictions of both Derrick Hamilton and Robert Hill were vacated within the past 5 years.

57. Jewel Smith, a witness in the case of People v. Derrick Hamilton, claimed that Scarcella forced her to fabricate a statement implicating Derrick Hamilton in the murder of Nathaniel Cash. In Jewel Smith's Letter to Gov. Elliot Spitzer, Sept. 7, 2007, she explained how she came to fabricate a statement implicating Derrick Hamilton in the murder states:

Once I was at the precinct [sic], Detective Scarcella informed me that Derrick "Bush" Hamilton shot Nathaniel Cash. And if I wanted to leave the precinct and go home. I had to identify Derrick as the person that committed the crime. The scenario was explained to me in detail by detective Scarcella. I followed his script and true to his word I was released. *Id.* at 2.

58. In the case of People v. Robert Hill, Scarcella fabricated the evidence that led to Hill's wrongful conviction. Hill's conviction was vacated on May 6, 2014. The prosecution's two main witnesses against Hill, Teresa Gomez and Bernadette Moore, said nothing to implicate Hill until Scarcella interviewed them, even though other detectives had previously interviewed them. *Id.* at 5-8. Scarcella had not been assigned to investigate the murder for which Hill was convicted – and the only role he played in the investigation was in obtaining the incriminating statements of Gomez and Moore. *Id.* at 5. Scarcella obtained these statements in one-on-one interviews with both Gomez and Moore. *Id.*

59. Even after retiring from the police department and becoming an investigator for the NYC Department of Education, Scarcella continued to engage in the same pattern of misconduct. In 2004, Scarcella worked for the Department of Education's Office of Special Investigations ("OSI"). In 2007, the Special Commissioner of Investigation ("SCI") reviewed an investigation conducted by Scarcella of potential Regents tampering at a public high school in Brooklyn. See, Report of Richard J. Condon, June 26, 2007. The SCI came to the following conclusions about Scarcella's investigation: The SCI review has concluded that the OSI investigation was flawed from its inception. The investigator was unsupervised and acted as an agent of a complainant. In reality, no witness provided credible evidence to support the accusations concerning Capra and George.

60. The Report added:

In his Cobble Hill investigation, Scarcella made a number of investigative missteps. Scarcella did not question Nobile's credibility and was biased from the onset. In the end, Scarcella based his findings on Nobile's predetermined conclusions rather than the evidence. *Id.* at 61.

61. As part of his investigation, Scarcella interviewed Elliot Cohen, who was a teacher at the school in question. *See, id.* at 19-21. In an interview with SCI, Cohen described what occurred during Scarcella's interview of him: Cohen described his experience at OSI as being "coerced, bullied," and "threatened" by Scarcella...Cohen reported that, when he denied the cheating allegations, "[Scarcella] was not pleased." Scarcella went on a "horrible" tirade of repeatedly slamming on the table, standing up, going over to Cohen, and threatening him. When Cohen denied the allegations, Scarcella would respond: "Don't go there."

62. *Id.* at 19-20. Cohen explained what happened next:

Cohen and Scarcella repeatedly disagreed about what was standard procedure and what was cheating...Cohen said: "How many times am I going to argue back and forth with Mr. Scarcella when he's slamming on the table telling me 'No! That's cheating, that's cheating, that's cheating!'" Cohen added that there was "no winning with Mr. Scarcella," he "succumbed to [Scarcella's] pressure" and admitted cheating. However, he testified that, in reality, he had not done so. Cohen reported that Scarcella "coerced, bullied, and threatened [him] into believing that [he] had done something wrong." Cohen asserted that he "would have told Mr. Scarcella anything to get out of the room and be away from his threats.

Id. at 20.

63. In the OCI investigation, Scarcella follows his same pattern of coming to a premature conclusion about guilt, and then committing whatever misconduct necessary in order to get the testimony he wanted to hear – whether or not it was truthful.

DISCUSSION

64. CPL § 440.10 provides that:

1. At any time after the entry of a judgment, the court in which entered may, upon motion of the defendant, vacate such judgment upon the ground that... (b) The judgment was procured by duress, misrepresentation or fraud on the part of the court or a prosecutor or a person acting for or in behalf of a court or a prosecutor; or (c) Material evidence adduced at a trial resulting in the judgment

was false and was, prior to the entry of the judgment, known by the prosecutor or by the court to be false; or (d) Material evidence adduced by the people at a trial resulting in the judgment was procured in violation of the defendant's rights under the constitution of this state or of the United States; or... (f) Improper and prejudicial conduct not appearing in the record occurred during a trial resulting in the judgment which conduct, if it had appeared in the record, would have required a reversal of the judgment upon an appeal therefrom; (g) New evidence has been discovered since the entry of a judgment based upon a verdict of guilty after trial, which could not have been produced by the defendant at the trial even with due diligence on his part and which is of such character as to create a probability that had such evidence been received at the trial the verdict would have been more favorable to the defendant; provided that a motion based upon such ground must be made with due diligence after the discovery of such alleged new evidence; or (h) The judgment was obtained in violation of a right of the defendant under the constitution of this state or of the United States..."

65. The Court should be aware of the overriding theme in this case. Vernon Trent Richardson was dragged from his home to testify. During his first chance to testify before this Court, he exonerated Kevin Smith. He was then kidnapped and deprived of basic human rights in a small cell in the 81st Precinct until he was willing to testify to the facts that the People deemed "true". After essentially being tortured for 4 days, he was a broken man. By the time that the trial was set to start, Richardson, the sole witness against Smith, was willing to say anything to be a free man.

66. Due process is violated in a criminal trial is whenever a witness of the State supplies false testimony on a topic that materially prejudices the rights of the accused. See generally Kyles v. Whitley, 514 U.S. 419 (1995).

67. False testimony "is a surprisingly common feature" of the underlying trials that lead to false convictions. Samuel R. Gross, et, al., Exonerations in the United States: 1989 through 2003, 95 J. Crim. L. and Criminology 523, 543 (2005) (Discussing false testimony using the term "perjury").

68. A study of 350 erroneous convictions in "potentially capital cases" revealed that there was "perjury" by prosecution witnesses in approximately one-third of the cases. See Hugo Adam Bedau and Michael L. Raddet, Miscarriages of Justice in Potentially Capital Cases, 40 Stanford L. Rev. 21, 60 (1987).

69. Indeed, false testimony by prosecution witnesses was “twice as frequent a cause of error as the next most important factors.” *Id.* at 61. N. 184. A study of exonerations illustrates that through the present, this continues to be the case. *See e.g., Gross et al.*, 95 J. Crim. L. and Criminology at 544 (Noting that in 43% of the 340 exonerations studied, “at least one sort of perjury” was reported).

70. Obviously, Richardson was the entire case. Now, with 8 witnesses detailing either Smith’s innocence and/or Richardson’s unreliability *and* clear-cut evidence that infamous detective, Louis Scarcella, was intimately involved with the case, this Court should either dismiss this case or order a new trial so the jury can hear the entire story.

POINT I

THE VAN DORN MURDER CHARGES SHOULD BE DISMISSED ON THE GROUND OF ACTUAL INNOCENCE

71. Kevin Smith contends that the proof of his actual innocence, embodied in the affidavits, sworn statements and expert reports annexed hereto, entitles him to dismiss all charges related to the VAN DORN murder.

72. Until recently, it was an open question whether a “free-standing actual innocence claim” i.e., a claim based on evidence of innocence outside the trial record, unaccompanied by any other constitutional violation or newly discovered evidence claim – was cognizable in New York. On January 15, 2014, however, the Second Department in *People v. Hamilton*, 979 N.Y.S.2d 97 (2d Dep’t 2014), answered that question in the affirmative. It is thus now beyond dispute that “a defendant who establishes his or her actual innocence by clear and convincing evidence is entitled to relief under [CPL § 440.10].” *Id.* at 100.

73. The defendant in *Hamilton* was convicted of second-degree murder based on the testimony of a single alleged eyewitness, Jewel Smith, who recanted after trial. He named two witnesses in a pretrial alibi notice but was unable to call them. While his direct appeal was pending,

he filed a CPL § 440.10 motion offering the testimony of other alibi witnesses, but the motion court declined to hear them because they had not been included in the pretrial notice. Subsequently, after the Supreme Court's decision in In re Davis, 130 S. Ct. 1 (2009), he again moved under CPL § 440.10 seeking relief on the ground that the affidavits of these and other witnesses supported a claim of actual innocence. See Hamilton, 979 N.Y.S.2d at 100-02.

74. The Second Department found that the affidavits in question were not newly discovered evidence. See id. at 103. Nevertheless, it found that Hamilton *was* entitled to present a free-standing actual innocence claim. See id. at 103-08.

75. As a threshold matter, the court found that there was no mandatory procedural bar because “[t]he defendant did not raise a claim of actual innocence on his appeal from the judgment of conviction, and the facts underlying his current claims did not appear in the record on direct appeal.” Id. at 104. Moreover, although his prior CPL § 440.10 motion did give rise to a *permissive* procedural bar, such bar is discretionary and “there is no reason why the courts may not consider a credible claim of actual innocence in the exercise of discretion.” Id.

76. Turning to the merits, the Hamilton court found that “[a] freestanding claim of actual innocence is rooted in several different concepts, including the constitutional rights to substantive and procedural due process, and the constitutional right not to be subjected to cruel and unusual punishment.” Id. The court noted that Federal authorities were split as to whether such a claim existed and that a number of sister states had recognized such claims either by statute or case law. Id. at 104-06.

77. The court determined that free-standing actual innocence claims should indeed be recognized in New York, as “it is abhorrent to our sense of justice and fair play to countenance the possibility that someone innocent of a crime may be incarcerated or otherwise punished for a crime which he or she did not commit.” Id. at 107, citing People v. Tankleff, 49 A.D.3d 160, 177 (2d Dept.

2007). It stated further that the New York State Due Process Clause provided greater protection than its federal counterpart, and that “[s]ince a person who has not committed any crime has a liberty interest in remaining free from punishment, the conviction or incarceration of a guiltless person, which deprives that person of freedom of movement and freedom from punishment and violates elementary fairness, runs afoul of the Due Process Clause of the New York Constitution.” Id. at 107-08. “Moreover, because punishing an actually innocent person is inherently disproportionate to the acts committed by that person, such punishment also violates the provision of the New York Constitution which prohibits cruel and unusual punishments.” Id. at 108.

78. The court went on to consider the burden of proof and found that the defendant was responsible for proving his innocence by clear and convincing evidence. Id. “A prima-facie showing of actual innocence,” warranting an evidentiary hearing, “is made out when there is a sufficient showing of possible merit to warrant a fuller exploration by the court.” Id. The court then found that Hamilton had made such a showing due to, *inter alia*, “evidence of a credible alibi.” Id. at 109.

79. Finally, the Hamilton court made two important procedural rulings. First, it stated that “[a]t the hearing, all reliable evidence, *including evidence not admissible at trial based upon a procedural bar*—such as the failure to name certain alibi witnesses in the alibi notice—should be admitted.” Id. (emphasis added); see also Davis, 130 S. Ct. at 1 (finding that defendant was entitled to a hearing, even though the state courts had previously rejected his witnesses’ affidavits on procedural grounds, where “no court, state or federal, has ever conducted a hearing to assess the reliability of the score of post-conviction affidavits that, if reliable, would satisfy the threshold showing for a truly persuasive demonstration of actual innocence”).

80. Furthermore, if a defendant proves his innocence by clear and convincing evidence, “the indictment should be dismissed pursuant to CPL 440.10(4), which authorizes that disposition where appropriate. There is no need to empanel another jury to consider the defendant’s guilt where

the trial court has determined, after a hearing, that no juror, acting reasonably, would find the defendant guilty beyond a reasonable doubt.” Hamilton, 979 N.Y.S.2d at 109.

81. The Hamilton holding is in line with prior decisions of the New York State courts and the courts of other States. Indeed, "virtually all of the [New York] trial courts to explicitly address the issue have concluded that [a freestanding actual innocence] claim may be raised." People v. Days, 2009 N.Y. Misc. LEXIS 3677, *15 (Westchester Co. Ct. 2009), citing People v Cole, 1 Misc. 3d 531 (Sup. Ct., Nassau Co. 2003) (Leventhal, J.); People v Wheeler-Whichard, 25 Misc. 3d 690 (Sup. Ct., Nassau Co. 2009) (McKay, J.); People v. Bermudez, 2009 N.Y. Misc. LEXIS 3099 (Sup. Ct., N.Y. Co. 2009). The "ultimate objective" of the criminal justice system is "that the guilty be convicted and the innocent go free." People v. Henriquez, 3 N.Y.3d 210, 228-29 (2004).

82. The courts of numerous sister states, which the Cole decision cited with approval, have reached similar holdings. See Cole, 1 Misc. 3d at 540-41, citing People v. Washington, 171 Ill. 2d 475, 665 N.E.2d 1330, 216 Ill. Dec. 773 (Ill. 1996) (imprisonment of an innocent inmate violates due process under the Illinois State Constitution); Miller v. Comm'r of Correction, 242 Conn. 745, 700 A.2d 1108 (Conn. 1997) (recognizing a freestanding claim of actual innocence, apparently by way of the state habeas corpus statute, which authorizes habeas courts to "dispose of the case as law and justice require," since "[t]he continued imprisonment of one who is actually innocent would constitute a miscarriage of justice"); In re Clark, 5 Cal. 4th 750, 21 Cal. Rptr. 2d 509, 855 P.2d 729 (Cal. 1993) (apparently relying on the court's inherent authority to correct fundamental miscarriages of justice); Ex parte Elizondo, 947 S.W.2d 202 (Tex. Crim. App. 1996) (which held that the imprisonment or incarceration of an actually innocent person violates the Due Process Clause of the Federal Constitution); State ex rel. Amrine v. Roper, 102 S.W.3d 541 (Mo. 2003) (which recognized a freestanding absolute innocence claim because Missouri habeas corpus rights are broader than Federal

habeas corpus rights and the imprisonment or execution of an innocent person would be a "manifest injustice"); accord. Montoya v. Ulibarri, 163 P.3d 476, 484 (N.M. 2007) (citing Cole).

83. Indeed, at least one Federal court has held that a free-standing actual innocence claim was cognizable, although it found, after an evidentiary hearing, that the defendant had failed to sustain that claim. See In re Davis, 2010 U.S. Dist. LEXIS 87340 (S.D. Ga. 2010).

84. Under the above authorities, it is plain that, at minimum, Kevin Smith is entitled to an evidentiary hearing on his claim of actual innocence. If “evidence of a credible alibi” combined with a witness recantation constituted “sufficient showing of possible merit to warrant a fuller exploration by the court” in Hamilton, then evidence of a declaration against penal interest statement¹⁵ from Vernon Richardson to his family member Norman Richardson, friend Frederick Shaw and investigator DeLeon, coupled with Moore’s and Bazemore’s exculpatory statements with Dr. Wecht’s, Dr. Leo’s and Dr. Cutler’s expert reports constitutes “sufficient showing of possible merit to warrant a fuller exploration by the court”.¹⁶ Conclusively, Dr. Wecht’s report entirely refutes Richardson’s testimony and corroborates Bazemore, Moore, Shaw and Norman Richardson. See Exhibit B. Dr. Leo and Dr. Cutler just provide further proof that Richardson was nothing more than a “loaded gun” who was forced to testify after being held hostage. See Exhibit D & E.

85. Nor are these the only indications that the affidavits of Moore, DeLeon, Bazemore, Shaw and Norman Richardson are credible. It is significant that Vernon Richardson’s first statement did not name Smith *and* that Richardson came before this Court under oath and admitted that he saw neither the shooting *nor* Smith at the scene. Take Richardson’s first statement to police *and* his testimony before this Court on September 4, 1987, wherein he exonerated Kevin Smith, in

¹⁵ See generally People v. Settles, 46 N.Y.2d 154 (1978)

¹⁶ The Court should also not forget the involvement of Louis Scarcella and the body of case law that supports the statements that Richardson made to Norman Richardson and DeLeon that he was threatened by a member of law enforcement.

combination with Louis Scarcella's pattern and practice of corruption, then no reasonable juror would have convicted Smith with the evidence that was presented at trial.

86. When combined, the evidence provided by the witnesses and the Vernon Trent Richardson admission in open court that he did not witness the crime are overwhelming. The witnesses provided a detailed, consistent account, guaranteeing that Mr. Smith was not present when Van Dorn was shot and killed. They were corroborated by the forensic account of the injuries sustained by Van Dorn. See Exhibit B.

87. The witnesses' affidavits were provided independently of each other. The witnesses have no reason to falsify and came forth solely to shed light on the fact that an innocent man was imprisoned for murder.

88. Accordingly, this Court should find that Kevin Smith is not guilty of the Van Dorn murder. Furthermore, he is entitled to a dismissal of the charges related to the killing. At minimum, he has proffered sufficient evidence to warrant a full evidentiary hearing. At such a hearing, this Court should receive "all reliable evidence, including evidence not admissible at trial based upon a procedural bar—such as the failure to name certain alibi witnesses in the alibi notice," Hamilton, 979 N.Y.S.2d at 108, and if it determines that defendant has proven his innocence by clear and convincing evidence, it should dismiss all counts of the indictment that arise from and relate to the murder.

POINT II

NEWLY DISCOVERED EVIDENCE REQUIRES A NEW TRIAL AS TO THE VAN DORN MURDER CHARGES AND RELATED WEAPON COUNTS

89. Alternatively, this Court should find that the affidavits of Frederick Shaw, Norman Richardson, Kevin Bazemore, Ronald Moore, Elpidio DeLeon, Frank Paone, Richard Gianni, Dr. Richard Leo, Dr. Brian Cutler and Dr. Cyril Wecht and the involvement and history of misconduct by Louis Scarcella combined with the testimony of Vernon Richardson during which he admitted that

he never saw the Van Dorn murder constitute sufficient newly discovered evidence. It is well settled that in order to require reversal, the newly discovered evidence must fulfill the following criteria:

(1) It must be such as will probably change the result if a new trial is granted; (2) It must have been discovered since the trial; (3) It must be such as could have not been discovered before the trial by the exercise of due diligence; (4) It must be material to the issue; (5) It must not be cumulative to the former issue; and, (6) It must not be merely impeaching or contradicting the former evidence.

People v. Madison, 106 A.D.3d 1490, 1492 (4th Dept. 2013), quoting People v. Salemi, 309 N.Y. 208, 215-16 (1955); see also People v. Tankleff, 49 A.D.3d 160, 179 (2d Dept. 2007).

90. In evaluating the factors of newly discovered evidence, Appellate Division Second Department ruled in Hargrove, 162 A.D.3d 25, that the courts should only construe the core elements of the statute as strict legal requirements. see CPL § 440.10 [1][g]; accord People v. Jones, 24 NY3d at 637 [Abdus-Salaam, J., concurring]). In other words, a motion for a new trial based on newly discovered evidence should only be granted if the court finds, as a factual matter, that the movant has demonstrated that “(1) (n)ew evidence has been discovered since the entry of a judgment... (2) which could have not have been produced by the defendant at the trial even with due diligence on his part and (3) which is of such character as to create a probability that had such evidence been received at the trial the verdict would have been more favorable to the defendant” (CPL 440.10 (1) (g)). The Appellate Division went on to state: “[t]he remaining three criteria should be used to evaluate the ultimate issue of whether the new evidence would “create a probability” of a more favorable verdict (CPL 440.10 (1) (g). In assessing the probable impact of the new evidence, the court should consider whether and to what extent the new evidence is (1) material to the pertinent issues in the case, (2) cumulative to evidence that was already presented to the jury, and (3) merely impeaching or contradicting the evidence presented at trial (accord People v. Rensing, 14 NY2d at 214, People v. Salemi, 309 NY at 215-216; People v. Shilitano, 218 NY at 170).” People v. Hargrove, 162 A.D.3d 25 (2d Dept. 2018).

91. It should be noted that, in a newly discovered evidence claim under CPL § 440.10(1)(g), the defendant's burden is preponderance of the evidence – i.e., that the new evidence would “probably” change the result – as opposed to the clear and convincing standard that applies on a free-standing actual innocence claim. See Salemi, supra; see generally CPL § 440.30(6) (“the defendant has the burden of proving by a preponderance of the evidence every fact essential to support the motion”).

92. Taking the above elements *seriatim*, it is clear that the testimony from eyewitnesses and experts “[would] probably change the result if a new trial is granted.” As discussed in Point I above, the affidavits are internally consistent, comport with the forensic evidence, and are corroborated by the trial record. Furthermore, at a new trial, the jury would hear from all the witnesses that attest to Smith's innocence and are corroborated by the Dr. Wecht, a famed forensic pathologist. They would also learn how Vernon Trent Richardson was persuaded to “lie” at the trial and convict Smith, an innocent man, in the Van Dorn murder. See generally, People v. Moses, 2018 N.Y. Misc. LEXIS 701 (Kings County Jan. 11, 2018) (The Court may consider all evidence presented collectively).

93. All this evidence is material, and certainly not “merely impeaching”. See Madison, 106 A.D.3d at 1493; see also People v. Lackey, 48 A.D.3d 982, 983-84 (3d Dept. 2008) (a victim's confession to having filed a false complaint of a sexual assault in another case “would not *merely* impeach the victim, but might well have altered the focus of the entire case”) (emphasis added); People v. Gurley, 197 A.D.2d 534, 535-36 (2d Dept. 1993) (police report showing that the victim was shot by a different caliber bullet than was testified to at trial was not merely impeaching). Furthermore, the Appellate Division has held that when evidence, such as all of the affidavits and expert reports presented in this case, has not been heard by the jury, it is newly discovered. See People v. Stokes, 83 A.D.2d 968, 969 (N.Y.App.Div. 2d Dep't 1981).

94. Additionally, there has been a body of case law stemming from the investigations that former homicide Detective Louis Scarcella has been involved with. The 2nd Department has acknowledged that Scarcella has a pattern and practice of misconduct. See People v. Hargrove, supra. In the latest Scarcella related case, the Honorable Dena E. Douglas on November 19, 2019, (Kings County), granted Eliseo Deleon’s motion to vacate the judgment after a hearing and held (amongst other things):

“ A motion to vacate a judgment of conviction upon the ground of newly-discovered evidence rests within the discretion of the hearing court” (People v. Malik, 81 A.D.3d 981, [2d Dept. 2011], citing People v. Tankleff, 49 AD3d 160 [2d Dept. 2007]; People v. Bellamy, 84 AD3d 1260, 1261 [2d Dept. 2011]). Accordingly the hearing court must assess “the probable effect of the newly-discovered evidence on the verdict.”; that is, the hearing court must determine whether the newly discovered evidence, when viewed in conjunction with the trial record, would have probably resulted in a more favorable verdict for the defendant (Malik, 81 A.D. 3d at 982).

95. The Deleon court went on to state:

“Based upon its review of the trial and hearing record, the Court is persuaded that there is a reasonable probability that had the evidence about the investigatory practices of Detective Scarcella ... been known to the jury the result would have been more favorable to defendant (see CPL 440.10 [1] [g]).”

96. Here, Scarcella took the statement of Smith’s co-defendant, Lee. Additionally, Vernon Richardson stated to several witnesses that he was coerced and threatened by law enforcement. This is quintessential Scarcella. He was always the most aggressive cop in the investigation who stopped at nothing to secure a conviction – he was the closer at the time Mr. Smith was prosecuted. The involvement of Scarcella alone warrants a new trial for Mr. Smith.

97. Accordingly, this Court should vacate Smith’s conviction due to newly discovered evidence or, at the very least, order an evidentiary hearing to determine the veracity of his claims.

POINT III

MR. SMITH’S RIGHT TO A FAIR TRIAL WAS VIOLATED BY THE COERCIVE TACTICS USED BY THE PEOPLE WHICH LEAD TO THE FALSE TESTIMONY VERNON TRENT RICHARDSON

98. Richardson’s testimony is the lone piece of evidence against Smith. First, he made statements against penal interest to Frederick Shaw, Norman Richardson and Elpidio DeLeon. See generally People v. Settles, 46 N.Y.2d 154 (1978); see Exhibits I, J, H. These statements, because they are essentially admissions of perjured testimony by Richardson, should be viewed as highly credible. But more importantly, Dr. Cyril Wecht, in his expert report, provides definitive evidence that Vernon Richardson *did not see the shooting*, thereby corroborating the statements he made to his cousin, Shaw and DeLeon. Richardson’s initial statement *and* his testimony on September 4, 1987 both align with this version of the events, as well. He only changed his story after being held in isolation for four days, deprived of human comforts and care.

99. This Court should not blindly accept the testimony of a witness if it flies in the face of credible evidence that is supported by forensic science. In People v. Garafolo, 44 A.D.2d 86 (1974), some 44 years ago, the New York Court of Appeals most eloquently stated:

“It is well settled of course, that issues of credibility are primarily for the trial court and its determination is entitled to great weight. However, reversal is warranted where the fact-finders of the trial court are manifestly erroneous or so plainly unjustified by the evidence that the interest of justice necessitates their nullification. We refuse to credit testimony which has all appearances of having been patently tailored to nullify constitutional objection. In evaluating testimony, we should not discard common sense and common knowledge.”

100. This concept is expressed in section 649 of 22 New York Jurisprudence, Evidence, as follows:

“The rule is that testimony which is incredible and unbelievable, that is, impossible of belief because it is manifestly untrue, physically impossible, contrary to experience, or self-contradictory, is to be disregarded as being without evidentiary value, even though it is not contradicted by other testimony or evidence introduced in the case.” 44 A.D. at 88-89.

101. “A conviction obtained through the use of false evidence, known to be such by representatives of the states, must fall under the Fourteenth Amendment.” Napue v. Illinois, 360 U.S. 264, 269 (1959) (Citations omitted). “The same result obtains when the State, although not soliciting false evidence, allows it to go uncorrected when it appears.”

102. In People v. Saviddes, the New York Court of Appeals held:

It is of no consequence that the falsehood bore upon the witness' credibility rather than directly upon defendant's guilt. A lie is a lie, no matter what its subject, and, if it is in any way relevant to the case, the district attorney has the responsibility and duty to correct what he knows to be false and elicit the truth. Nor does it avail respondent to contend that defendant's guilt was clearly established or that disclosure would not have changed the verdict. The argument overlooks the variant functions to be performed by jury and reviewing tribunal. "It is for jurors, not judges of an appellate court such as ours, to decide the issue of guilt." (People v. Mleczko, 298 N.Y. 153, 163 (1948)). We may not close our eyes to what occurred; regardless of the quantum of guilt or the asserted persuasiveness of the evidence, the episode may not be overlooked. That the district attorney's silence was not the result of guile or a desire to prejudice matters little, for its impact was the same, preventing, as it did, a trial that could in any real sense be termed fair.

103. Prosecutors, in their role as public officers "must deal fairly with the accused, and be candid with the courts." People v. Steadman, 82 N.Y.2d 1, 7 (1993); People v. Pelchat, 62 N.Y.2d 97, 105 (1984). "Deliberate deception of court and jury by the presentation of testimony known to be perjured is inconsistent with the rudimentary demands of justice." Mooney v. Holohan, 294 U.S. 103,112 (1935).

104. Due process requires that a prosecutor correct false testimony. Banks v. Dretke, 540 U.S. 668 (2004); Alcorta v. Texas, 355 U.S. 28 (1957). This includes a duty to correct mistaken testimony. People v. Colon, 13 N.Y.3d 343,349 (2009); Steadman, 82 N.Y.2d at 7-8.

105. Due process is violated if a prosecutor allows a witness to "mischaracterize" facts or if he or she knowingly exploits a witness' inaccurate testimony in summation. Novoa, 70 N.Y.2d at 497-498. A prosecutor's misleading presentation of evidence or one which gives the jury a false "impression" similarly violates due process. People v. Vielman, 31 A.D.3d 674 (2006) (conviction reversed where prosecutor knew her argument rested on a "false premise" and was "blatant attempt to mislead jury"); see also Jenkins v. Artuz, 294 F.3d 284, 294-296 (2d Cir. 2002) (affirming habeas reversal of murder conviction in case where prosecutor elicited "technically accurate testimony" that no plea deal with witness existed, but questions were "misleading" and phrased in a manner which "left the jury with the mistaken impression" that no agreement existed with the witness).

106. The trial prosecutor need not be aware of the falsity of a witness' testimony; if any member of her office is aware that the testimony is inaccurate, this knowledge and the responsibility to correct the false testimony is imputed to the trial prosecutor. Steadman, 82 N.Y.2d at 8. Even if the prosecutor does not have actual knowledge of the witness' false testimony, he is obligated to correct it if he should have known of its falsity. People v. Witkowski, 19 N.Y.2d 839 (1967); People v. Robertson, 12 N.Y.2d 355, 360 (1963); Su v. Filion, 335 F.3d 119,126-127 (2d Cir. 2003); People v. Irvin, 180 A.D.2d 753 (2d Dept. 1992); People v. Stern, 226 A.D.2d 238,240 (1st Dept. 1996); see also People v. Bermudez, 25 Misc.3d 1226(a) (New York Cty. Sup. Ct. 2009) (the First and Second Departments have acknowledged that CPL 440.10(l)(c) encompasses ... situations where the prosecutor should have known of false testimony). "Good faith" or negligence is not a defense to a prosecutor's obligation to present accurate testimony and correct it if it is false or misleading. Robertson, 12 N.Y.2d at 359-360; Savvides, 1 N.Y.2d at 557.

107. A conviction tainted by a prosecutor's knowing use of false or mistaken testimony requires reversal and a new trial "unless there is no reasonable possibility that the error contributed to the conviction." Colon, 13 N.Y.3d at 349; People v. Pressley, 91 N.Y.2d 825, 82 (1997). If a prosecutor "knowingly permitted the introduction of false testimony, reversal is "virtually automatic." United States v. Wallach, 935 F.2d 445, 456 (2nd Cir. 1991).

108. *Under the reasonable possibility standard, the People cannot establish beyond a reasonable doubt that their reliance upon the false testimony of Richardson did not affect the verdict. It was their entire case.*¹⁷

109. The People knew, after September 4, 1987, that Vernon Trent Richardson did not see the shooting of Gary Van Dorn. They also knew that the forensic evidence in this case

¹⁷ The People fail under any standard.

conclusively refuted his coerced testimony. See Exhibit B.¹⁸ Even more egregious was the trial prosecutor's misrepresentation of what he was going to do to Richardson *after* this Court released Richardson from the material witness order. The People circumvented Richardson's right to counsel, threatened him at the District Attorney's Office and threw him in a cell for 4 days without any communication with the outside world or his attorney. See Exhibits D, E, J, H, K.

110. New York state and federal courts have frequently reversed convictions and indictments where the prosecutor relied on false testimony and/or false argument. *See e.g. Colon*, 13 N.Y.3d 343 (2009) (murder); *Steadman*, 82 N.Y.2d 1 (1993)(manslaughter); *Novoa*, 70 N.Y.2d 490 (1987) (murder); *People v. Pelchat*, 62N.Y.2d 97 (1984); *Witkowski*, 19 N.Y.2d 839 (1967); *Robertson*, 12 N.Y.2d 355(1963); *Savvides*, 1 N.Y.2d 554 (1956); *People v. Bournes*, 60 A.D.3d 687 (2d Dept. 2009); *Vielman*, 31 A.D.2d 674 (2d Dept. 2006); *People v. Jones*, 31 A.D.3d 666(2d Dept. 2006) (murder); *People v. Anderson*, 256 A.D.2d 413 (2d Dept. 1998) (murder); *Walters*, 251 A.D.2d 433 (2d Dept. 1998) (murder); *People v. Schwartz*, 240 A.D.2d 600 (2d Dept. 1997); *People v. Lewis*, 174 A.D.2d 294 (1st Dept. 1992) (murder); *Conlan*, 146 A.D.2d 319 (1st Dept. 1989) (murder); *Su*, 335 F.3d 119 (2d Cir. 2003) (murder); *Jenkins*, 294 F.3d 284 (2d Cir. 2002) (murder).

111. The case at bar relied entirely on the coerced and false testimony of Vernon Trent Richardson. On that basis, this Court should either vacate Mr. Smith's conviction or hold an evidentiary hearing. *See* CPL § 440.10(1)(b), (c), (d), (f), & (h).

POINT IV

THE CONVICTION SHOULD BE VACATED DUE TO THE PEOPLE'S FAILURE TO TURN OVER BRADY AND ROSARIO MATERIAL

Vernon Trent Richardson's audiotaped transcript constituted Brady Material as it provided key
impeachment evidence.

¹⁸ Frankly, the proverbial nail in the coffin is the expert report of Dr. Wecht. It proves that Richardson did not see the shooting, as Shaw and Norman Richardson previously stated. It also proves that the statements of Bazemore and Moore are credible. More dishearteningly, the People could have conducted their own "scene recreation" to determine the reliability of Richardson, but they did not.

112. In Brady v. Maryland, 373 U.S. 83, 87 (1963), the U.S. Supreme Court held that the prosecution's suppression of evidence favorable to a criminal defendant "violates due process where the evidence is material either to guilt or punishment, irrespective of the good faith or bad faith of the prosecution." The duty to comply with Brady is an institutional one; the obligation of disclosure exists irrespective of an individual prosecutor's good or bad faith. Brady, 373 U.S. at 154 (1963). People v. Steadman, 82 N.Y.2d 1, 7 (1993).

113. To establish a Brady violation a defendant must show that (1) exculpatory or impeaching evidence, (2) was suppressed by the prosecution, and (3) the evidence was material. Evidence is material if there is a "reasonable probability" that had the evidence been disclosed to the defense, the result of the trial would have been different. United States v. Bagley, 473 U.S. 667, 680 (1985). A reasonable probability exists whenever the chances of a different outcome are "better than negligible," United States ex. rel. Hampton v. Leibach, 347 F.3d 219, 246 (7th Cir. 2003), or put another way, if they are "more than mere speculation." United States v. Berryman, 322 Fed. Appx. 216, 222 (3d Cir. 2009).

114. New York employs a more lenient materiality standard where the defense made a specific request for the withheld favorable evidence. In these circumstances, the failure to disclose is "seldom, if ever excusable" and reversal is required if there is a "reasonable possibility" that the prosecution's failure to disclose favorable evidence could have contributed to the defendant's conviction. People v. Vilardi, 76 N.Y.2d 67, 76-77 (1990).

115. Here, the pretrial discovery requests show that Mr. Smith's attorney requested the audio transcript.¹⁹ See Vilardi, 76 N.Y.2d at 77 (The failure to disclose specifically requested Brady

¹⁹ The reasonable possibility standard applies in the instant case because of Mr. Smith's attorneys request for the specific evidence that the People withheld in this case. Counsel for Smith requested and were absolutely entitled to the audio taped statement and transcript of Richardson.

material is “seldom, if ever” excusable). Therefore, Smith has the burden of showing that there is reasonable possibility that, had his attorney had the transcript, the outcome of his trial would have been different.

116. Smith meets his burden here. As elucidated in Joseph Gianni’s affidavit, who was Calvin Lee’s attorney, Richardson’s audiotaped transcript is rife with inconsistencies when compared to his trial testimony. See Exhibit O. Had counsel for Smith been able to “single-mindedly” litigate this case with the transcript, he would have been able to fully cross examine Richardson. Because of the actions of the prosecution, this ability was stripped from him. See People v. Rosario, 9 N.Y.2d 286, 290 (1961) (“[O]missions, contrasts and even contradictions, vital perhaps, for discrediting a witness, are certainly not as apparent to the [prosecutor] as to single-minded counsel for the accused; the latter is in a far better position to appraise the value of a witness' [benefit provided by a prosecutor] for impeachment purposes. Until the [defendant’s] attorney has an opportunity to [evaluate the true nature of the benefits conferred upon a witness], it is asked, how can he effectively [reply to the prosecutor’s] assertion that it contains nothing at variance with the testimony given or, at least, useful to him in his attempt to discredit such witness?”).

The People’s failure to turn over Richardson’s Audiotaped Transcript with the District Attorney’s Office Constitutes a Rosario Violation

117. The United States Supreme Court has held that a defendant "is entitled to inspect" any statement made by the Government's witness which bears on the subject matter of the witness' testimony.” People v. Rosario, 9 N.Y.2d 286, 289 (1961) (see Jencks v. United States, 353 U.S. 657, 667, 668 (1957)). “The procedure to be followed turns largely on policy considerations, and upon further study and reflection this court is persuaded that a right sense of justice entitles the defense to examine a witness' prior statement, whether or not it varies from his testimony on the stand. As long as the statement relates to the subject matter of the witness' testimony and contains nothing that must be kept confidential, defense counsel should be allowed to determine for themselves the use to

be made of it on cross-examination.” Id. (Cf. U. S. Code, tit. 18, § 3500). The question then turns to whether a defendant was prejudiced by the failure of the People to turn over the documents that relate to that witnesses’ testimony. Id. at 291 (citations omitted).

118. Here, Richardson’s transcript of the audiotaped statement is clearly Rosario material. As stated by Gianni in his affidavit, it varied greatly from Richardson’s trial testimony and could have easily been used to further impeach Richardson to an unknown degree.

119. “When, as here, the prosecution's violation of the rule is not delay in compliance, but a complete failure to deliver the items, the violation constitutes per se error....” See People v. Jones, 70 N.Y.2d 547, 553 (1987). The next step in the evaluation is to determine whether the failure to turn over the documents creates a reasonable possibility that the documents materially contributed to the result of the trial. See CPL 240.75; see also People v. Martinez, 22 N.Y.3d 551, 563 (2014).

120. Joseph Gianni, counsel for Calvin Lee, clearly stated in his affidavit that he would have used the audiotaped transcript to point out the glaring inconsistencies from Richardson’s testimony. In fact, Gianni stated that the audiotaped transcript provided direct evidence that Richardson fabricated his story. See Exhibit O.

121. Furthermore, “defense counsel ‘is in a far better position [than the court or the prosecutor] to appraise the value of a witness' pretrial statements for impeachment purposes People v. Jones, 70 N.Y.2d at 550 (People v Rosario, supra, at 290) and that the ultimate appraisal of the material's usefulness must be made by defense counsel...”to afford the defendant a fair opportunity to cross-examine the People's witnesses at trial.” People v. Jones, 70 N.Y.2d at 550; People v Rosario, supra, at 290; People v Perez, 65 N.Y.2d 154, 158 (1985); quoting People v Poole, 48 NY2d 144, 149 (1979)).

122. Gianni's affidavit is clear: he felt the audiotape transcript provided powerful evidence of Richardson's fabricated testimony. For this reason, this Court should reverse Mr. Smith's conviction and order a new trial.

POINT V

TRIAL COUNSEL WAS INEFFECTIVE WHEN HE FAILED TO PRESENT A FORENSIC PATHOLOGIST OR FORENSIC EXPERT TO REFUTE RICHARDSON'S VERSION OF THE EVENTS. COUNSEL FURTHER FAILED TO INVESTIGATE OR CALL EYEWITNESSES TO REFUTE RICHARDSON'S TESTIMONY

123. Mr. Smith submits that the failure to call a forensic expert to refute Richardson's testimony amounted to ineffective assistance of counsel. Dr. Wecht, who has been practicing medicine for 57 years, has been involved in numerous scene recreations, including the assassinations of John F. Kennedy and Robert F. Kennedy. He provided definitive proof that, with the evidence in the possession of the defense at the time of trial, Richardson's testimony was refuted by forensic science. See Exhibit B. He did not see the murder of Gary Van Dorn.

124. It is axiomatic that under both the United States and New York State Constitutions that criminal defendants are entitled to effective assistance of counsel. See Strickland v. Washington, 466 U.S. 668, 686 (1984); see also People v. Baldi, 54 N.Y.2d 137, 147 (1981).

125. Under Strickland and its progeny, a defendant who claims that he was denied the effective assistance of counsel must pass a two-prong test: he must show both that his attorney fell below accepted professional standards and that he was prejudiced by his counsel's lapse. See id. In New York, a defendant may obtain relief if he was denied "meaningful representation" at every stage of the trial process. See Baldi, 54 N.Y.2d at 147.

126. In order to demonstrate prejudice under the Strickland standard, the defendant must show a reasonable probability that his counsel's errors affected the outcome of the trial. See Strickland, 466 U.S. at 686. In Kyles v. Whitley, 514 U.S. 419, 434 (1995), the United States Supreme Court explained that the "reasonable probability" standard is met when the errors of trial counsel

“undermine confidence in the outcome of the trial.” In addition, the Kyles Court further stated that the reasonable probability standard does not require demonstration by a preponderance of the evidence that counsel’s error “would have resulted ultimately in the defendant's acquittal” and that “[a] defendant need not demonstrate that after discounting the [errors of counsel], there would not have been enough left to convict.” Id. at 434-35.

127. Thus, a defendant need not show that he would have been acquitted or that he would have been entitled to judgment as a matter of law had his counsel not erred, but only that his counsel’s performance undermines confidence in the outcome when considered as part of the whole case. Id. Moreover, this determination may be made with the benefit of hindsight. Lockhart v. Fretwell, 506 U.S. 364, 372 (1993).

128. The New York standard under Baldi, which demands that criminal defense attorneys provide "meaningful representation," is a more "flexible standard" than Strickland. See People v. Murray, 300 A.D.2d 819, 821 (3d Dept. 2003). New York courts have never applied the ineffective assistance test "with such stringency as to require a defendant to show that, but for counsel's ineffectiveness, the outcome would probably have been different." People v. Stultz, 2 N.Y.3d 277, 283 (2004). Prejudice, under New York law, is "a significant *but not indispensable* element in assessing meaningful representation," with the court's focus being "on the fairness of the proceedings as a whole." Id. at 284 (emphasis added). Thus, a defendant may obtain relief for ineffective assistance of counsel under the New York Constitution even if he cannot demonstrate sufficient prejudice to meet the Federal standard.

129. The reverse, however, is *not* true. If an attorney commits a single error that rises to the level of prejudice specified by Strickland, then the defendant has been deprived of his Sixth Amendment rights even if that attorney's representation was "competent in all other respects." Henry v. Poole, 409 F.3d 48, 61 (2d Cir. 2005). In Rosario v. Ercole, 601 F.3d 118 (2d Cir. 2010), the Second

Circuit further explored the interplay between the New York State ineffective assistance standard and Strickland. The majority opinion included, *inter alia*, the following:

[The New York] approach... creates a danger that some courts might misunderstand the New York standard and look past a prejudicial error as long as counsel conducted himself in a way that bespoke of general competency throughout the trial. *That would produce an absurd result inconsistent with... the mandates of Strickland.* Id. at 126 (emphasis added).

130. Thus, the defendant in this case is entitled to relief if he can satisfy *either* the Strickland or Baldi standard, although this issue is academic because he has met both standards. Moreover, the Second Circuit has strongly urged state courts to analyze ineffective assistance claims separately under the State and Federal standards where both are invoked. See Rosario v. Ercole, 617 F.3d 683, 685, 687-88 (2d Cir. 2010).

131. Finally, unlike actual innocence claims which must be proven by clear and convincing evidence, or even newly discovered evidence claims where the defendant must prove that the evidence at issue *probably* would have changed the result at trial, an ineffective assistance claim only requires proof of a *reasonable probability* of a different outcome. And a reasonable probability is "a fairly low threshold." Riggs v. Fairman, 399 F.3d 1179, 1183 (9th Cir. 2005), citing Sanders v. Ratelle, 21 F.3d 1446, 1461 (9th Cir.1994).

132. In particular, the reasonable probability standard does not require that prejudice be demonstrated by a preponderance of the evidence. Kyles v. Whitley, 514 U.S. 419, 434 (1995). Courts have accordingly held that a reasonable probability "may be less than fifty percent." Ouber v. Guarino, 293 F.3d 19, 26 (1st Cir. 2002); United States v. Bowie, 198 F.3d 905, 908-09 (D.C. Cir. 1999) (same); United States v. Vargas, 709 F. Supp. 2d 48, 50 (D.D.C. 2010) (same); United States v. Nelson, 921 F. Supp. 105, 120 (E.D.N.Y. 1996) (finding that 33 percent chance amounted to a reasonable probability). Indeed, it has been held that a reasonable probability exists whenever the chances of a different outcome are "better than negligible," United States ex. rel. Hampton v. Leibach, 347 F.3d 219, 246

(7th Cir. 2003), or put another way, if they are "more than mere speculation." United States v. Berryman, 322 Fed. Appx. 216, 222 (3d Cir. 2009).

133. In the case at bar, trial counsel rendered ineffective assistance of counsel when he failed to call a forensic pathologist or forensic expert to refute the false testimony Richardson. See Exhibit B. The science was available to the defense at the time of the shooting, yet, neither the defense nor the prosecution sought to use it. The testimony of Richardson was the entire case. Had forensic experts been called to rebut these witnesses, there is more than a reasonable probability that the outcome would have been different. People v. Caldavado, 26 N.Y.3d 1034, 1036-37 (2015).

134. Additionally, Counsel's failure to call eyewitnesses (Frederick Shaw, Ronald Moore and Kevin Bazemore) was plainly a violation of Mr. Smith's right to effective assistance of counsel. In sum, "if certain [of counsel's] omissions cannot be explained convincingly as resulting from a sound trial strategy, but instead arose from oversight, carelessness, ineptitude, or laziness," then the defendant has been deprived of his constitutional rights. Eze v. Senkowski, 321 F.3d 110, 112 (2d Cir. 2003); accord Cornell v. Kirkpatrick, 665 F.3d 369, 371 (2d Cir. 2011) (citing Eze). That is clearly the case here, given that trial counsel was fully on notice of Frederick Shaw, and others, but did nothing to contact or investigate Shaw let alone call him. See also People v. Bussey, 6 A.D. 3d 621 (2d Dept. 2004)

135. Therefore, this Court should vacate Mr. Smith's conviction or, alternatively, grant him a hearing.

POINT VI

THE COMBINED EFFECT OF NEWLY DISCOVERED EVIDENCE, FRAUD UPON THE COURT, BRADY AND ROSARIO VIOLATIONS AND INEFFECTIVE ASSISTANCE REQUIRES A NEW TRIAL

136. As noted above, defendant contends that *either* the newly discovered evidence in the form of the expert reports, Scarcella's pattern and practices, the fraud upon the court, Brady and/or

Rosario violations or his trial counsel's ineffectiveness, entitles him to relief. But even if this Court were to find that each of these claims standing alone was insufficiently prejudicial, it nevertheless can and should vacate Mr. Smith's conviction based on their cumulative effect.

137. The courts have recognized that "[u]ltimately, sufficient harmless errors must be deemed harmful." People v. LaDolce, 196 A.D.2d 49, 53 (4th Dept. 1994), quoting People v. Dowdell, 88 A.D.3d 239, 248 (1st Dept. 1982). As discussed above, for reasons that defendant will not belabor the record by reiterating, although *either* fraud upon the court, Brady/Rosario violations, or the new expert reports are sufficient to require a new trial on their own, together they can only be described as compelling. Thus, this Court should find that the cumulative effect of the evidence provided in this motion requires CPL § 440.10 relief in the form of a new trial or hearing to determine the merits.

POINT VII

AN EVIDENTIARY HEARING SHOULD BE HELD TO DETERMINE THE VERACITY OF SMITH'S BASED UPON ACTUAL INNOCENCE, FRAUD UPON THE COURT, BRADY/ROSARIO VIOLATIONS, INEFFECTIVE ASSISTANCE OF COUNSEL AND NEWLY DISCOVERED EVIDENCE. NEW YORK CRIMINAL PROCEDURE LAW 440.30 (5).

138. At this late stage in jurisprudence, it is elementary that the right to an evidentiary hearing on claims that dehor the record is mandated under Criminal Procedure Law 440.10. (See e.g., People v. Peque, 22 NY3d 168, 202, 980 NYS2d 280, 3 NE3d 617 [2013]; People v. Denny, 85 NY2d 921, 923, 743 NE2d 877, 721 NYS2d 304 [2000]; also see Criminal Procedure Law 440.30 (5); People v. Kocaj, 160 AD3d 766, 767, 73 N.Y.S.2d 234 [2d Dept. 2018]; People v. Taylor, 156 AD3d 86, 91-92, 64 N.Y.S.3d , 714 [3d Dept. 2017].

139. The facts in this case warrant nothing less than an evidentiary hearing to discern the truth so that it may be proven that Mr. Smith's right to due process was violated during his trial.

CONCLUSION

KEVIN SMITH WAS CONVICTED MERELY UPON THE FALSE TESTIMONY OF ONE COERCED WITNESSED. THIS WITNESS'S TESTIMONY IS BELIED NOT ONLY BY OTHER WITNESSES, BUT ALSO FORENSIC SCIENCE. AS SUCH, SMITH'S CONVICTION SHOULD NOT STAND. PLEASE CORRECT A MANIFEST INJUSTICE.

WHEREFORE, in light of the foregoing, this Court should issue an Order granting defendant's motion in its entirety; dismissing the Murder charges and related weapon possession counts or granting a new trial thereon; and granting such other and further relief as it may deem just and proper.

Dated: Forest Hills, New York
January 3, 2020

Respectfully submitted,

JUSTIN C. BONUS, ATTORNEY AT LAW

/s/ Justin Bonus

JUSTIN C. BONUS

Attorney for Kevin Smith

118-35 Queens Blvd, Suite 400
Forest Hills, NY, 11375

Exhibit A

PD 313 (Rev. 9-83)		Homicide #44					
Date of Orig Report	Date Assigned	Case No.	Unit Reporting	Follow-up No			
11/10/84	11/10/84		Detective Boro Bklyn Nghtwtgh	4			
Complainant's Name - Last, First, M.I.				Victim's Name - If Different			
P.O.S.N.Y.				Gary Louis Vandorn			
Witness No 1	Last Name, First, M.I.			Address, include City, State, Zip			Apt. No.
	Home Telephone	Business Telephone	Position/Relationship to Victim	Date of Birth			
Witness No 2	Last Name, First, M.I.			Address, include City, State, Zip			Apt. No.
	Home Telephone	Business Telephone	Position/Relationship to Victim	Date of Birth			
AREA WITHIN BOX FOR DETECTIVE/LATENT FINGERPRINT OFFICER ONLY. THIS BOX WILL BE UTILIZED BY INVESTIGATOR WHENEVER POSSIBLE AND MUST BE FULLY COMPLETED WHEN USING THIS FORM TO CLOSE A CASE "NO RESULTS."							
Comp. Interviewed	In Person	By Phone	Date	Time	Results: Same as Comp. Report - Different (Explain in Details)		
<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/> <input type="checkbox"/>		
Witness Interviewed	In Person	By Phone	Date	Time	Results: Same as Comp. Report - Different (Explain in Details)		
<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/> <input type="checkbox"/>		
Canvass Conducted	If Yes - Make Entry in Body Re: Time, Date, Names, Addresses, Results			Crime Scene Visited	If Yes - Make Entry in Details Re: Time, Date, Evidence Obtained		
<input type="checkbox"/> Yes <input type="checkbox"/> No				<input type="checkbox"/> Yes <input type="checkbox"/> No			
Complainant Viewed Photos	Results:						
<input type="checkbox"/> Yes <input type="checkbox"/> Refused <input type="checkbox"/> Future							
Witness Viewed Photos	Results:						
<input type="checkbox"/> Yes <input type="checkbox"/> Refused <input type="checkbox"/> Future							
Crime Scene Dusted	By (Enter Results in Details)			Crime Scene Photos	By (Enter Results in Details)		
<input type="checkbox"/> Yes <input type="checkbox"/> No				<input type="checkbox"/> Yes <input type="checkbox"/> No			
If Closing Case "No Results," Check Appropriate Box and State Justification in Details:							
<input type="checkbox"/> C-1 Improper Referral		<input type="checkbox"/> C-2 Inaccurate Facts		<input type="checkbox"/> C-3 No Evidence/Can't ID		<input type="checkbox"/> C-4 Uncooperative Complainant	

DETAILS:

INVESTIGATION: 77 PCT. HOMICIDE#44
 SUBJECT: GARY LOUIS VANDORN
 CONTENTS: PRELIMINARY INVESTIGATION -WITNESS INTERVIEW

1. At approx. 0230 hrs., this date, the above officer was present at St. Mary's Hospital. Also present was one Vernon Richardson Richardson is a cousin of the deceased.
2. When interviewed, Richardson stated the following:
 - a) he was with a group of friends on Bergen St., near Buffalo Ave. and the Kingsbor Projects.
 - b) at least two (2) male blacks approached the group. One of males began firing shots in the direction of where the group was standing. There were at least four (4) shots fired.
 - c) He noticed his cousin on the ground wounded. The pebrator ran towards Ralph Ave.
 - d) He observed an auto on Bergen St. traveling towards Buffalo Ave. He with others stopped the auto and requested that the driver take them to the hospital (St. Mary's) only four (4) blocks away.
 - e) His cousin was unconscious from the time he fell to the ground wounded to his admission to the hospital.
3. The witness became emotional. The undersigned was unable to interview him any further.
4. In view of the foregoing and after conferring with the undersigned superior, this case will remain ACTIVE.

Reporting Officer's Name - Signature - Command	Name Printed	Tax Registry No.	Supervisor's Signature	C.O.'s Initials
DEPRESSIVE D.B.B.N.W.	DUNBAR	865755	<i>[Signature]</i>	<i>[Initials]</i>

Exhibit B

CYRIL H. WECHT, M.D., J.D.

900 FIFTH AVENUE

SUITE 505

PITTSBURGH, PENNSYLVANIA 15219

(412) 281-9090

FAX (412) 281-3650

EMAIL wechtpath@cyrilwecht.com

FORENSIC PATHOLOGY
LEGAL MEDICINE

PRIVILEGED & CONFIDENTIAL

ATTORNEY WORK PRODUCT

November 7, 2019

Justin C. Bonus, Esquire
Attorney at Law
118-35 Queens Boulevard, Suite 400
Forest Hills, NY 11375

Re: Kevin "Renny" Smith

Dear Mr. Bonus:

Pursuant to your request, I have reviewed the following materials provided to me in the matter referenced above:

1. Autopsy Report, Body Diagrams, and Medical Examiner Documents
2. New York City Police Department (NYPD) Documents
3. District Attorney Information Sheet
4. Black and White Copies of Scene Photographs
5. Testimony of Dr. Beverly Leffers
6. Testimonies of Trent Vernon Richardson
7. Assistant District Attorney interview with Vernon Richardson

Mr. Gary Van Dorn, a 24 year old African-American male, was fatally shot once on November 10, 1984. Kevin Smith was tried and convicted in the death of Mr. Van Dorn. Trent Vernon Richardson testified as a witness to the shooting.

Beverly Leffers, M.D., Deputy Chief Medical Examiner, Office of Chief Medical Examiner, City of New York, performed an autopsy on Gary Van Dorn, on November 10, 1984, and testified to her findings:

Cause of Death: Gunshot wound of back, lungs, and aorta with internal hemorrhage
Manner of Death: Homicide

At autopsy Gary Van Dorn, a 24 year old African-American man, weighed approximately 136 pounds and measured 5 feet 11 inches.

One perforating gunshot wound was identified and tracked through the body. The bullet entered on the left side of the back near the armpit, traveled through the 11th rib at the posterolateral aspect, left lower lobe of lung, descending aorta, right upper lobe of lung, and right 4th rib at the anterolateral aspect. The bullet was lodged in the right chest wall. The bullet was recovered and submitted to the NYPD. The bullet travelled back to front, left to right, and upward. In the right chest cavity there was 800 ml of blood.

There were abrasions over the left nose, cheek, and chin.

Medical interventions, including a left chest tube placement and a left thoracotomy incision, were identified.

The decedent was wearing a pair of blood-soaked white boxer shorts that were removed and given to the NYPD.

No significant natural disease processes were identified.

Fluids and tissues were collected for toxicology testing. Dr. Leffers testified that the decedent had an ethanol level of 0.15 in brain tissue.

Dr. Leffers described no soot or stippling around the entrance gunshot wound. She testified that she could not determine the distance at which the gun was fired, other than to say that the gun was fired more than approximately 16 to 18 inches from the decedent's body or there was an object, such as clothing, between the gun and the body. Dr. Leffers was not provided with the decedent's clothing for review.

The New York City Police Department documents reveal the following:

Gary Van Dorn (aka Gary Hall) was shot at approximately midnight on November 10, 1984 in Brooklyn, New York on Bergen Street between Buffalo and Ralph Avenues while walking with a friend.

He died at St. Mary's Hospital where Dr. William identified a bullet wound entrance on the left side under the upper arm. The decedent did not have a shirt on his body upon arrival at the hospital.

An autopsy was performed by Dr. Leffers on November 10, 1984 at 9 a.m.

Six photographs of the scene were taken by NYPD. They highlighted an area of sidewalk between a small, dark-colored vehicle and small, light-colored vehicle.

The bullet recovered from autopsy was analyzed and found to be a .38 caliber, deformed, lead bullet.

Detective Dunbar interviewed Mr. Richardson at the hospital on November 10, 1984 at approximately 2:30 a.m. Mr. Richardson told the detective that a group of at least two black males approached him and his friends and fired at least four shots. He noticed the decedent on the ground and flagged down someone to drive them to the hospital. Mr. Richardson reported that the decedent was unconscious from the time he fell to the ground through his admission to the hospital.

Kings County District Attorney Information Sheet reveals the following:

The decedent knew Kevin "Renny" Smith and Calvin "Devine" Lee. The evening of the incident, the decedent had a dispute with Mr. Smith and Mr. Lee. Mr. Smith and Mr. Lee left and returned with a handgun. Mr. Lee shot a few times at the decedent. None of the bullets struck the decedent. Mr. Lee gave the gun to Mr. Smith. Mr. Smith fired the gun, and shot the decedent. The decedent was pronounced dead at 12:25 a.m. at St. Mary's Hospital.

No gun nor bullets were recovered.

Witness Vernon Richardson knew Mr. Lee for approximately two years before the incident. Mr. Richardson identified both Mr. Lee and Mr. Smith in a photo array on November 10, 1984. Mr. Richardson then identified Mr. Smith in a line-up on March 15, 1986.

Detective Scarcella took a statement from Mr. Lee on April 5, 1986. Mr. Lee admitted to being present at the scene of the shooting. Mr. Lee "agreed with the detective that something happened there similar to him handing a gun to a (sic) co-defendant, who shot the (sic) deceased".

Assistant District Attorney Jonathan Frank interviewed Vernon Richardson on November 10, 1984 at 5:50 p.m. The transcript of the interview reveals the following:

Mr. Richardson spoke to the ADA voluntarily. He told the ADA that he, Mr. Shaw, and the decedent went to the liquor store. He saw Mr. Smith and Mr. Lee searching Mr. Shaw for money. Mr. Smith motioned to Mr. Richardson with his hand in his pocket as if he had something and told him to "back off". Mr. Smith punched Mr. Shaw in the face and then Mr. Lee joined the fight. Mr. Richardson separated the men and was struck in the mouth. Mr. Richardson struck back and the men continued to fight. Mr. Smith and Mr. Lee then ran away from the fight and Mr. Richardson heard them say "We're gonna get the motherfuckers. We're gonna kill'em. We're gonna kill'em". Mr. Richardson was looking for his keys which he had lost during the fight and was talking to a female from the neighborhood. Mr. Shaw and the decedent were walking ahead of him. He heard a "pop" and then he saw Mr. Lee shooting at Mr. Shaw. Mr.

Smith and another male were with Mr. Lee as he was shooting. Mr. Shaw ran away from the shots. Mr. Lee shot toward the decedent and toward Mr. Richardson. Mr. Lee, Mr. Smith and another male continued across the street toward the decedent and they shot at the decedent again, as well as at Mr. Richardson. The decedent fell to the ground. At that time, Mr. Lee was holding the gun. Mr. Richardson then heard Mr. Smith say "Pass me the gun, I'm gonna kill him". Mr. Smith stood over the decedent and shot again. Mr. Richardson chased after the men before turning back to check on the decedent and take him to the hospital.

Testimony of Trent Vernon Richardson reveals the following:

The decedent knew Kevin "Renny" Smith and Calvin "Devine" Lee. After testifying in grand jury that he witnessed the incident where the decedent was shot, Mr. Richardson told the judge, the Honorable Francis X. Egitto, on September 4, 1987 that he did not witness the shooting and that he feared for his safety if he were to testify, even though he had not witnessed the shooting.

Mr. Richardson was charged with perjury and the District Attorney agreed to drop the charges if Mr. Richardson testified to what he witnessed.

In a mini Wade hearing, Mr. Richardson testified that he did witness the shooting on November 10, 1984. Mr. Richardson knew Mr. Smith and Mr. Lee from the neighborhood as Renny and Devine, respectively, but he did not spend time with either man as a friend or an acquaintance. Mr. Richardson testified that he did not view photographs for the police but that he did view a line-up approximately one and a half years after the incident, where he identified Mr. Smith. The line-up contained five or six people. At that time, Mr. Richardson testified that when he was interviewed a couple of hours after the shooting, he told police that he had witnessed the shooting and identified Mr. Smith and Mr. Lee as being responsible for the shooting.

Mr. Richardson testified in trial that just before midnight on November 10, 1984 he was at his house with the decedent and a friend from work, Frederick Shaw. Mr. Richardson had just gotten home from work. The decedent was Mr. Richardson's wife's cousin. The men walked to the liquor store and the decedent entered the liquor store. Mr. Richardson saw Mr. Smith and Mr. Lee on the street near the liquor store. Mr. Smith and Mr. Lee saw Frederick Shaw and stood on either side of him and started going through his pockets like they were searching his pockets because the decedent owed them something. Mr. Shaw was pushing away. Mr. Richardson was approximately five feet away from Mr. Shaw. Mr. Richardson approached Mr. Smith and Mr. Lee and told them to leave Mr. Shaw alone. The men began fighting and exchanging punches for less than five minutes. The decedent was involved in the fighting as well. As Mr. Smith and Mr. Lee ran away, Mr. Lee stated "We're going to get these mother fuckers". Approximately ten to fifteen minutes after the fight, the decedent and Mr. Shaw were walking ahead of Mr. Richardson as Mr. Richardson searched for a lost key. Mr. Richardson was approximately 40 feet from the decedent and Mr. Shaw when he heard a gunshot. He saw Mr. Shaw running and Mr. Smith and Mr. Lee with a third male crossing Bergen street. Mr. Lee was shooting a gun. Mr. Richardson

yelled to the decedent to “Duck. Run. Come back”. As the decedent came toward him, the decedent fell on his face and did not get up. He did not see the decedent move after he fell to the ground. There was a total of four or five shots fired from the gun. One shot was fired at each of the three men, Mr. Richardson, Mr. Shaw and the decedent.

The street was lit by street lights. Mr. Richardson estimated that Mr. Smith and Mr. Lee were approximately three to four car lengths from the decedent as the shooting was taking place. Mr. Richardson heard Mr. Smith say “pass the gun” and then saw Mr. Smith go over to the decedent, stand at the decedent’s side, and with an outstretched arm, fire the gun from approximately three to four feet away. Mr. Smith was standing over the decedent when he shot him. Mr. Richardson refused to demonstrate Mr. Smith’s position for the jury.

Mr. Richardson chased after the men for approximately one block before turning around to check on the decedent and call the police. He took the decedent to St. Mary’s hospital in a car driven by Kenny Martin. Mr. Richardson spoke to Detective Dunbar and a police officer at the hospital the morning of the shooting. Mr. Richardson left the hospital and went home where he saw Mr. Shaw.

Mr. Richardson heard but did not see the first gunshot. He saw the second gunshot. Mr. Richardson denied having a fight with Mr. Smith and Mr. Lee in the weeks before the shooting. Mr. Richardson was aware that a few weeks before the shooting Mr. Shaw had an argument with Mr. Smith and Mr. Lee. However, Mr. Richardson denied that he, the decedent, and Mr. Shaw went out the night of the shooting to confront Mr. Smith and Mr. Lee.

MEDICOLEGAL QUESTIONS

1. What was the cause of Gary Van Dorn’s death?

Gary Van Dorn died from a single, penetrating gunshot wound of the torso. The bullet entered the left side / back and injured the lungs and the aorta, causing bleeding inside the chest cavities.

2. What was the mechanism of Gary Van Dorn’s death?

The mechanism of Gary Van Dorn’s death was hemorrhage into the chest cavities.

3. Would Gary Van Dorn have died immediately from the injuries he sustained from the gunshot wound?

No.

The decedent would have most likely been able to walk, talk, run, and have purposeful movement for a least a few to many seconds before collapsing as a result of the blood loss from his cardiovascular system through the defects associated with the gunshot wound.

4. What do the features of the gunshot wound indicate about the positions of the decedent and the shooter?

The entrance gunshot wound had no features to suggest that the gun was fired very close to the decedent's body. There was no soot or stippling present around the wound. Soot is typically seen when a gun is fired within 6 to 8 inches from the body. Stippling is seen when the gun is fired within 18 to 24 inches of the body. This indicates that the gun was fired further than approximately two feet from the body, or that there was an object, such as clothing, between the gun and the skin, that could have collected any gunshot residue.

The rim of abrasion surrounding the gunshot wound was symmetric, which indicates that the bullet entered the body perpendicular to the surface of the skin rather than at an angle. The direction that the bullet travelled was left to right, forward, and upward.

5. Do the features of the gunshot wound indicate the position of Mr. Van Dorn when he was shot?

Yes.

The decedent would have had his left side / back toward the direction of the gunfire.

a. Is this consistent with the decedent running away from the gunfire?

Yes.

The decedent was witnessed to be ducking and running away from the gunfire, exposing his back to the gunfire. The upward direction that the bullet travelled as well as the symmetric rim of abrasion are consistent with the decedent standing and slightly bent over.

6. To sustain the gunshot wound and have the bullet travel in the path identified, what position would Mr. Van Dorn and the shooter need to have been in?

The decedent's left side / back wound have had to have been exposed to the shooter with his arm moved away from the torso. If the decedent was collapsed face down on the ground, the left side of the decedent would have had to have been closest to the shooter. Given that the bullet travelled upward in the body from the posterior left 11th rib to the right anterior 4th rib, the shooter would have had to have fired the gun at a very sharp upward angle toward the decedent's head. With the witness describing the decedent falling face down and not moving, the angle that the bullet travelled is not consistent with the description of Mr. Smith standing over the decedent and shooting from three to four feet away with an outstretched arm. Additionally, the symmetric

rim of abrasion indicates that the bullet entered the decedent nearly perpendicular to the surface of the skin. Based on the path the bullet travelled, if Mr. Smith had shot the decedent as described, the rim of abrasion would have been noticeably asymmetric. Accordingly, the shooter would have had to have been low to the ground rather than standing over the decedent.

7. Mr. Richardson described Mr. Van Dorn falling to the ground and not moving after he fell. Is this description consistent with Mr. Van Horn collapsing following a gunshot wound?

Yes.

Abrasions were identified at autopsy over the left side of the face, consistent with a terminal collapse. Mr. Richardson described the decedent falling on his face and not moving. The injuries caused by the gunshot would not have rendered Mr. Van Dorn immediately incapacitated. Rather, Mr. Van Dorn would have been able to have purposeful movement for some length of time as blood was escaping from the cardiovascular system through the gunshot wound injuries and collecting in his chest cavities.

Mr. Richardson's description of the decedent collapsing and not moving is indicative of the decedent dying from a gunshot wound sustained before he fell to the ground, while the gun was being fired by Mr. Lee. Since the decedent was only shot one time, even if Mr. Smith did fire the gun at the decedent, he did not strike the decedent. The bullet he fired was not responsible for the decedent's death.

OPINION

Following my review of the medical examiner documents, scene photographs, district attorney and investigative documents, and testimony, it is my opinion, expressed with a reasonable degree of medical certainty, that Gary Van Dorn died from a single penetrating gunshot wound that entered his left back / side, injured his lungs and aorta, and caused internal bleeding.

After sustaining his injuries, Mr. Van Dorn would have been able to walk, talk, run, and have purposeful movement for some time. The injuries would not have rendered him instantaneously incapacitated or have caused him to immediately collapse to the ground. Therefore, the decedent could have sustained the gunshot wound and turned and ran toward Mr. Richardson before collapsing.

The features of the gunshot wound and the direction the bullet travelled is most consistent with the decedent being in a standing position and slightly bent over with his back to direction of

gunfire. The features of the gunshot wound and the direction the bullet travelled are not consistent with the decedent lying face down on the ground and Mr. Smith firing the gun while standing over his body.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Cyril H. Wecht".

Cyril H. Wecht, M.D., J.D.

CHW/srw

Curriculum Vitae

CYRIL HARRISON WECHT, B.S., M.D., J.D.

Residence:

Dr. Cyril H. Wecht
5420 Darlington Road
Pittsburgh, PA 15217
(412) 521-2881 (Tel.)

Office:

Cyril H. Wecht & Pathology Associates, Inc.
900 Fifth Avenue – Suite 505
Pittsburgh, PA 15219
(412) 281-9090 (Tel.) • (412) 261-3650 (Fax)
E-mail: wechtpath@cyrilwecht.com

Birthplace: Pittsburgh, Pennsylvania
March 20, 1931

EDUCATION

1943-1948	Fifth Avenue High School – Highest Honors, Valedictorian
1948-1952	University of Pittsburgh – B.S. – Cum Laude
1952-1954	University of Buffalo School of Medicine
1954-1956	University of Pittsburgh School of Medicine – M.D.
1957-1959	University of Pittsburgh School of Law – Law Review
1961-1962	University of Maryland School of Law – LL.B.
1962	University of Pittsburgh School of Law – J.D.

ACADEMIC SCHOLARSHIPS, HONORS, AND AWARDS

Educational Awards

1948	Daughters of American Revolution History Award
1948	Rensselaer Polytechnic Institute Medal for Science and Mathematics
1948-1952	Allegheny County Achievement Award Honor Scholarship, University of Pittsburgh
1948-1952	Buhl Foundation Scholar, University of Pittsburgh
1951	Senior Worthy, University of Pittsburgh (Outstanding Junior Student)
1951	Outstanding Undergraduate of Year Award, Phi Epsilon Pi International Fraternity
1952	Hall of Fame, University of Pittsburgh
1954-1956	State Senatorial Scholarship, University of Pittsburgh School of Medicine
1957-1959	Owens Fellowship, University of Pittsburgh School of Law

Professional Awards

1975	Who's Who in Israel
1976	Voice of Medicine Award, Pennsylvania Medical Society
1977	Who's Who in Government
1978	Who's Who in America
1978	"Distinguished Service to Law Enforcement Award" Pennsylvania State Division of the International Association of Identification Officer
1979	Honorary Member, Allegheny County Police Department
1990	"Distinguished Service to Law Enforcement Award", County Detectives Association of Pennsylvania

- 1991 Certificate of Appreciation for Meritorious Service,
American College of Legal Medicine
- 1995 Career Achievements Award, Contributions to Forensic Pathology and
Legal Medicine, New York Society of Forensic Sciences
- 1996 The Best Lawyers in America: Directory of Experts
- 1996 Gold Medal Award, Lifetime Achievement in Legal Medicine,
American College of Legal Medicine
- 1999 100 Most Popular Scientists for Young Adults - Forensic Pathology
- 2003 "1st Annual Medical Board Citizen of the Year Award", Recipient and
Guest Lecturer, The Medical Bureau of Pittsburgh, Nov. 18, 2003
- 2010 "Distinguished Forensic Science Award", The Henry C. Lee Institute of
Forensic Science at the University of New Haven, presented at 19th
Annual Arnold Markle Symposium, Sept. 27, 2010
- 2012 Special Award – "Lifetime of Outstanding Achievements in Forensic
Science", National Conference of Metropolitan Judges Annual
Symposium, Pittsburgh, Pennsylvania, October 9, 2012
- 2016 "JFK Lancer Mary Ferrell Pioneer Award", presented at JFK Lancer
November in Dallas Conference 2016, Dallas, Texas,
November 19, 2016

Community Awards

- 1971 Selected as one of the "Outstanding Young Men of America",
National Junior Chamber of Commerce
- 1972 Honorary Life Member, Italian Sons and Daughters of America
- 1976 "Outstanding Alumnus of 1976", University of Pittsburgh,
Gamma Circle of Omicron Delta Kappa
- 1977 Myrtle Wreath Award, Hadassah, Pittsburgh Chapter
- 1978 Dictionary of International Biography
- 1978 "Speaker of the Year Award",
Speech Communications Association of Pennsylvania
- 1979 "Man of the Year Award", American Legion of Allegheny County
- 1979 Meah Club Award, Hebrew Institute of Pittsburgh
- 1979 Distinguished Alumnus Award, Alpha Phi Omega Fraternity, Beta Chapter,
University of Pittsburgh
- 1982 Board of Directors, Jewish Sports Hall of Fame of Western Pennsylvania
- 1983 Humanitarian Award, Jewish War Veterans, Pennsylvania Department
- 1984 Honorary Member, Honorable Order of Kentucky Colonels
- 1984 Community Leaders of America
- 1984 "Man of the Year Award", Israel Bonds ZOA
- 1991 Special Alumni Award, Zeta Beta Tau Fraternity
- 1995 Hall of Fame Award for Outstanding Achievements in Professional,
Communal, and Governmental Activities, B'nai B'rith,
District Three, Philadelphia
- 1996 Ziggy Kahn Award for Outstanding Contributions to Activities of Young
People in Western Pennsylvania, Jewish Sports Hall of Fame of
Western Pennsylvania and Sports for Israel
- 1998 Lifetime Achievement Award, B'nai B'rith, Areas of Western Pennsylvania,
Western New York, West Virginia, and Ohio
- 2002 Lifetime Achievement Award, Champions of Excellence, Champion
Enterprises, Pittsburgh/Allegheny County Public Services
- 2004 Legion of Living Legends Award, Phi Epsilon Pi Fraternity
- 2004 First Honorary Member, Black and Gold Society, Allegheny Club

- 2004 Distinguished Alumni Award, Pittsburgh Public Schools
 2004 Annual Award, Pittsburgh Council of Jewish Women, Na'Amat
 2009 Award for Outstanding Civic & Professional Contributions, Syria Shriners
 2010 Dedication of Allegheny County Medical Examiner's Building, Pittsburgh, PA as "Cyril H. Wecht Institute of Forensic Science" for exemplary services as Allegheny County Coroner 1970-1980 and 1996-2006, and Chief Medical Examiner 2006, by Official Proclamation of the Allegheny County Council, Allegheny County, Pennsylvania, October 14, 2010
 2010 Lifetime Achievement Award, Zionist Organization of America, Pittsburgh District
 2011 Kentucky Colonel, The Honorable Order of Kentucky Colonels, Commonwealth of Kentucky
 2011 Annual Award – Eight over 80, Jewish Association on Aging
 2011 Inaugural Award, "Amen Corner Excellence in Leadership Award", Amen Corner
 2016 Legal Excellence Honoree, presented at 2nd Annual Salute to Legal Excellence Dinner, Pittsburgh, Pennsylvania, October 22, 2016
 2016 Western Pennsylvania Humanitarian Award honoring those who "Heal the World . . . Make it a Better Place", presented at 2nd annual Achieving Greatness Dinner, Pittsburgh, Pennsylvania, January 7, 2017. The Western Pennsylvania Humanitarian Awards were renamed the "Dr. Cyril H. Wecht Western Pennsylvania Humanitarian Awards" at the presentation event.

University Extracurricular Achievements

- 1948-1952 Concertmaster, University of Pittsburgh Orchestra
 1948-1952 Varsity Team, University of Pittsburgh Varsity Debate
 ▪ Vice President, 1951-1952
 1949-1952 Pitt Players
 ▪ Business Manager, 1950-1952
 ▪ Musical Orchestra Conductor, 1950-1952
 ▪ Lead Role, "Our Town", 1952
 1950-1952 Business Manager, Pitt Players
 1951-1952 President, Phi Epsilon Pi Fraternity, Zeta Chapter
 1951-1952 President, Pitt YMCA
 1951-1952 President, Pitt Student Congress

SOCIAL, PROFESSIONAL AND HONORARY SOCIETIES

- 1948 Phi Epsilon Pi
 ▪ National Officer, 1958-1970
 ▪ President, Tri-State Alumni Association, 1962-1963
 ▪ National President, 1967-1969
 1948 Phi Eta Sigma (Freshman Scholastic Achievement)
 1949 Alpha Phi Omega (Service to University)
 1950 Druids, President (Sophomore and Junior Activities/Scholarship Fraternity)
 1950 Beta Beta Beta Honorary Biology Fraternity, University of Pittsburgh
 1951 Pi Delta Epsilon (Journalism)
 1951 Delta Sigma Rho (Debate)
 1951 Theatron (Dramatics)

- 1952 Omicron Delta Kappa (Junior/Senior Activities/Scholarship)
 1953 Phi Delta Epsilon Medical Fraternity
 1956 "Scope and Scalpel" (Medical School Drama Group)
 ▪ President and Founder
 ▪ Orchestra Conductor, Musical Presentation
 1962-present Phi Delta Epsilon Graduate Club of Pittsburgh
 2002 Phi Alpha Delta Law Fraternity International, Duquesne University
 School of Law, Honorary Member
 2004 International Gold Key Society (Duquesne University Chapter), Honorary
 Member

PROFESSIONAL TRAINING

- 1954-1956 Externship, St. Francis General Hospital and Rehabilitation Institute,
 Pittsburgh, Pennsylvania
 1956-1957 Internship, St. Francis General Hospital and Rehabilitation Institute,
 Pittsburgh, Pennsylvania
 1957-1959 Resident in Pathology, Veterans Administration Hospital,
 Pittsburgh, Pennsylvania
 1959-1961 Associate Pathologist, United States Air Force Hospital,
 Maxwell Air Force Base, Montgomery, Alabama
 1961-1962 Research Fellow in Forensic Pathology, and Associate Pathologist,
 Office of Chief Medical Examiner, Baltimore, Maryland

PROFESSIONAL EXPERIENCE

- 1961-1962 Pathologist, North Charles General Hospital, Baltimore, Maryland
 1962-1964 Acting Chief, Laboratory Service, and Pathologist, Leech Farm Veterans
 Administration Hospital, Pittsburgh, Pennsylvania
 1964-1968 Acting Chief, Laboratory Service, and Pathologist, Charleroi-Monessen
 Hospital, North Charleroi, Pennsylvania
 1966-1980 Pathologist, West Allegheny Hospital
 1966-1988 Director, Pittsburgh Pathology and Toxicology Laboratory,
 Pittsburgh, Pennsylvania
 1968-1972 Associate Pathologist and Associate Director of Laboratories,
 St. Clair Memorial Hospital, Pittsburgh, Pennsylvania
 1969-1971 Consultant Pathologist, Woodville State Hospital
 1973-1999 Chairman, Department of Pathology, and Chief Pathologist,
 St. Francis Central Hospital (formerly Central Medical Center &
 Hospital), Pittsburgh, PA, 1973-1996
 ▪ Chairman, Tumor and Tissue Committee, 1974-1996
 ▪ Member, Board of Directors, 1975-1982
 ▪ Member, Medical Staff Executive Committee, 1975-1999
 ▪ President, Medical Staff, 1995-1997
 ▪ Director of Forensic Pathology, 1997-1999
 1973-2003 Consultant Pathologist, Mayview State Hospital
 1978-1992 Pathologist and Laboratory Director, Podiatry Hospital of Pittsburgh
 1985-1991 Consultant Pathologist and Director, Latrobe Laboratory,
 MDS Health Group, Ltd.
 1992-1999 Consultant Pathologist, Torrance State Hospital

ARMED FORCES

1959-1961 Captain, United States Air Force (Medical Corps) - Active Duty
 1961-1963 Captain, Inactive Reserve, United States Air Force (Medical Corps)

TEACHING APPOINTMENTS

1957-1959 Teaching Fellow, Department of Pathology,
 University of Pittsburgh School of Medicine
 1962-1963 Lecturer, Law-Science Academy of America
 1962-1964 Lecturer in Legal Medicine, University of Pittsburgh School of Medicine
 1962-1964 Clinical Instructor in Pathology (Forensic Pathology),
 University of Pittsburgh School of Medicine
 1963-1997 Adjunct Associate Professor of Epidemiology,
 University of Pittsburgh Graduate School of Public Health
 1964-1966 Clinical Instructor in Medicine (Legal Medicine),
 University of Pittsburgh School of Medicine
 1964-1969 Director, Institute of Forensic Sciences, Duquesne University School of Law
 1964-1971 Clinical Assistant Professor of Pathology,
 University of Pittsburgh School of Medicine
 1964-1984 Research Professor of Law, Duquesne University School of Law
 1971-1996 Clinical Associate Professor of Pathology,
 University of Pittsburgh Schools of Medicine and Dental Medicine
 1974-present Adjunct Professor of Pathology and Legal Medicine,
 Duquesne University School of Pharmacy
 1984-present Adjunct Professor of Law, Duquesne University School of Law
 1988-1998 Lecturer, Pennsylvania State Police Academy, Greensburg Barracks
 1991-present Adjunct Professor, Duquesne University
 John G. Rangos, Sr. Graduate School of Health Sciences
 1991-2000 Member, Advisory Committee,
 Duquesne University Graduate School of Health Sciences
 1996-present Clinical Professor of Pathology, University of Pittsburgh School of Medicine
 1996-2006 Clinical Professor of Pathology,
 University of Pittsburgh School of Dental Medicine
 1997-present Adjunct Professor of Epidemiology,
 University of Pittsburgh Graduate School of Public Health
 2003-present Distinguished Professor of Anatomy, Carlow University
 2005-present Adjunct Professor and Consultant in Forensic Science,
 Albany State University, Georgia
 2006-2011 Adjunct Professor of Law, Aristotle University College of Law, San Diego
 2007-present Adjunct Professor of Forensic Science, Medicine, and Pathology,
 Lagos State University College of Medicine, Ikeja, Lagos State,
 Nigeria
 2011-present Adjunct Professor of Forensic Science, Medicine, and Pathology,
 Nnamdi Azikiwe University (UNIZIK), Awka, Anambra State,
 Nigeria
 2013-present Adjunct Professor of Forensic Pathology and Legal Medicine, American
 University of Sovereign Nations School of Medicine (AUSN),
 Scottsdale, AZ

VISITING PROFESSORSHIPS AND SPECIAL GUEST LECTURES

- 1963-present Special Guest Lecturer, Numerous Professional Organizations, Academic Institutes and Programs, and Governmental Agencies - United States and Foreign Countries (More than 500)
- 1964 University of Texas School of Law, Law and Medicine Course
- 1973 Harvard University School of Law
- 1979 Southern Illinois University Medical and Law School
(One of three keynote speakers, along with Supreme Court Justice Harry Blackmun and President of the Illinois State Bar Association)
- 1985 Ministry of Health, Singapore (Special Invitee, Keynote Speaker)
- 1988 Royal Society of Medicine Inaugural Meeting, Section on Clinical Forensic Medicine, London (Special Invitee, Keynote Speaker)
- 1988 Bicentennial Celebration, Australian Medical Association, Cairns
(Special Invitee, Plenary Session Speaker)
- 1988 International Congress on Forensic Sciences, Forensic Medicine Association of China, Beijing (Designated Member, International Organizing Committee, and Vice Chairman-Speaker)
- 1992 Yale University School of Medicine, Grand Rounds
- 1996 Symposium Director and Special Guest Lecturer, Quinnipiac College, Dedication of New Law School, New Haven, Connecticut
- 2001 Annual Special Guest Lecturer,
Mount Sinai Hospital, New York, New York
- 2001 Keynote Speaker, "Sulzer Hip Recall", Sulzer Hip Implant Litigation Conference, Philadelphia, Pennsylvania
- 2002 The Chao Tzee Cheng Visiting Professor and Guest Lecturer in Pathology & Forensic Science, National University of Singapore
- 2002 Lee Kuan Yew Distinguished Scholar,
National University of Singapore
- 2002 Distinguished Lecturer, Annual Meeting, Philippine Society of Pathologists, Manila, Philippines
- 2002 Special Guest Lecturer, "Forensic Issues in the JonBenet Ramsey and other Famous Cases", Criminology Club of Western Connecticut State University
- 2002 Special Guest Lecturer, Annual User Group Meeting, Panorama Business Views, Toronto, Canada
- 2002 Guest Lecturer, "Some of My Most Interesting Cases" and "Ethical & Medical-Legal Issues in Medicine", Summer Speakers Program, Congregation Shirat HaYam, Nantucket, Massachusetts
- 2002 & 2004 H. Horton Rountree Distinguished Lecturer in Health Law,
East Carolina University, Brady School of Medicine, Greenville, North Carolina
- 2002 Featured Speaker, 10th Annual American Association of Forensic Examiners Meeting, Coronado Springs Resort, Walt Disney World, Florida
- 2002 Conference Co-Chairman, Law, Family and Violence: A Multidisciplinary Symposium, Annual Forensic Science and Law Conference, Duquesne University, Pittsburgh, Pennsylvania
- 2002 Lecturer, Allegheny County Bar Foundation, Juvenile Court Project and Community Legal Services
- 2002 & 2003 Guest Speaker, Aventura Chamber of Commerce, Florida
- 2002 & 2003 Guest Lecturer, Aventura Turnberry Jewish Center, Florida
- 2003 Drs. John M. Jr., and Josephine J. Templeton Guest Lecturer, "Analysis and

- Consideration of Trends in Violent Deaths: A National and Local Review”, Annual Meeting of American Trauma Society, Pennsylvania Division, Hershey, Pennsylvania
- 2003 Guest Lecturer, Hirsh Medical/Legal Lecture Series, Georgetown University, Grand Rounds, March 2003
- 2003 Lecturer, Habeas Corpus Resource Center, Spring Conference, San Francisco
- 2003 Lecturer, Northern Chapter of American College of Surgeons, San Francisco
- 2003 Guest Lecturer, “Some of My Most Interesting Cases”, Palm Beach County Trial Lawyers Association Dinner Meeting, Florida
- 2003 Course Director and Lecturer, “CMI Review Course”, American College of Forensic Examiners International, New York
- 2003 Course Director and Lecturer, “Certified Medical Investigator Certification Program”, American College of Forensic Examiners International, National Conference, Arizona
- 2003 Guest Lecturer, “How Forensic Pathology is Used to Prove Your Case: Working with the Medical Examiner”, Trial Advocacy Seminar, Palm Beach County Trial Lawyers Association, Florida
- 2003 Guest Lecturer, “The Role of Forensic Pathologists in DNA Use: From Autopsy to Courtroom”, and “The Role of Forensic Sciences in the Investigation of Random Acts of Violence and Mass Murders”, Nebraska Institute of Forensic Sciences, Forensic Science, DNA, & the Law: Reining in the Revolution, National Conference, Lincoln, Nebraska
- 2003 Guest Lecturer, “JFK Assassination”, CIA Medical Division, Washington, D.C.
- 2004 Guest Lecturer, “JFK Assassination”, Alabama Osteopathic Medical Society Annual Meeting, Destin, Florida
- 2005 Guest Lecturer, “Controversial Deaths of the Rich and Famous”, 11th Annual Investigation for Identification Educational Conference, Pensacola, Florida
- 2005 Keynote Speaker, “Expert Witness Workshop”, Mid-Atlantic Association of Forensic Scientists Annual Meeting, Pittsburgh, Pennsylvania
- 2005 & 2006 Guest Lecturer, “Medico Legal and Scientific Investigation – Forensic Case Studies”, 10th and 11th Annual Smoky Mountain Criminal Justice Conferences, Gatlinburg, Tennessee
- 2006 Guest Lecturer, “Role of Forensic Scientist in the Evolution of Criminal Justice Reform in the United States”, 13th Annual Alzheimer’s Association Meeting, New Mexico Chapter, Roswell, New Mexico
- 2006 Guest Lecturer, “The Role of the Medical Examiner/Coroner after a Disaster”, 54th House of Delegates & Annual Scientific Meeting, American Association of Physician Specialists, Inc., Vancouver, British Columbia
- 2006 Keynote Speaker, “Great Forensic Cases and their Investigations”, Nebraska Institute of Forensic Sciences, Crime Scene Reconstruction Conference, Lincoln, Nebraska
- 2007 Featured Speaker with Dr. Henry Lee, “The Role of the Forensic Scientist in Controversial, Politically Charged Death Investigations Internationally”, American Academy of Forensic Sciences 59th Annual Meeting, San Antonio, Texas
- 2007 Keynote Speaker, “Great Forensic Cases and Their Investigations”, Forensic Science Symposium, Albany State University, Albany, Georgia

- 2007 Guest Lecturer and Visiting Professor, "Law Enforcement Training", University of Alaska Anchorage, Alaska Medical Examiner's Office
- 2007 Guest Lecturer, "Managing Mass Fatalities", 6th UCLA Conference on Public Health and Disasters, Torrance, California
- 2007 Moderator, "Issues & Challenges in the Identification & Management of Mass Disaster Victims", "Coordinating Federal, State and Local Mass Disaster Response Policy & the Legal, Constitutional and Jurisdictional Issues Involved", and "The Role of Forensic Pathologists & D MORT in Mass Disasters", Nebraska Institute of Forensic Sciences, 4th Annual Forensic Sciences Symposium: Forensic Investigation & Management of Mass Disasters/Medico-Legal Investigation of Child Abuse Cases, Lincoln, Nebraska
- 2008 Professional Guest Lecturer, "Malpractice/Legal Disasters", Department of Emergency Medicine Grand Rounds, Johns Hopkins Medical Institute, Baltimore, Maryland, May 23, 2008
- 2009 Featured Lecturer Presentation, Wecht, C.H., Lee, H.C., and Baden, M.M. "New Investigative Techniques and Scientific Advancements for Forensic Scientists in the Future", American Academy of Forensic Sciences, 61st Annual Scientific Meeting, Colorado Springs, Colorado, February 16-21, 2009
- 2009 Featured Lecturer, "Medical Legal and Forensic Scientific Objectivity in Celebrity and Nationally Prominent Cases: Can Truth Withstand the News Media Onslaught?", American College of Legal Medicine, 49th Annual Meeting, Las Vegas, Nevada, February 27-March 1, 2009
- 2009 Featured Lecturer, "The Silent Witness: Using Forensic Evidence to Win Your Case", Criminal Defense Summit, Las Vegas, Nevada, March 17, 2009
- 2009 Featured Lecturer, "Disaster Medicine: The Role of the Forensic Pathologist", American Board of Disaster Medicine, American Board of Physician Specialties, International Conference, Tampa, Florida, March 26-27, 2009
- 2009 Featured Lecturer, "Coroners and Medical Examiners: Scope of Authority and Responsibility", American Board of Disaster Medicine, American Association of Physician Specialists, Inc., Annual Scientific and House of Delegates Meeting, San Diego, California, June 22-27, 2009
- 2009 Featured Lecturer, "A Forensic Perspective Involved in Investigations Dealing with Various Famous Cases Including the Caylee Anthony Case", Florida Association of Private Investigators, Inc., Annual Litigation and Investigators Conference, Tampa, Florida, August 21, 2009
- 2009 Keynote Speaker, "Great Forensic Cases & Their Investigations", Nebraska Institute of Forensic Sciences and American Board of Legal Medicine, Crime Scene Reconstruction Conference, Kearney, Nebraska, September 18, 2009
- 2009 Keynote Speaker, "Strengthening Forensic Science in the U.S. - Report of The National Academy of Sciences", Beaver County Bench-Bar Conference, Beaver County, Pennsylvania, October 2, 2009
- 2009 Featured Lecturer, "Challenges and Opportunities for Forensic Scientists in Future Years", American College of Forensic Examiners Institute, 2009 National Conference, Las Vegas, Nevada, October 14, 2009

- 2009 Featured Lecturer, "The Political Assassinations of President Kennedy and Dr. King – What Were They All About?", COPA, 15th Anniversary Regional Meeting, Dallas, Texas, November 20-22, 2009
- 2010 Featured Lecturer Presentation, "...Horse to Water - How to Educate Legal and Forensic Communities Concerning the Processes and Importance of Expert and Scientific Evidence in the Law", American Academy of Forensic Sciences, 62nd Annual Meeting, Seattle, Washington, February 22-27, 2010
- 2010 Featured Lecturer, "A Fifty Year History of the American College of Legal Medicine - Highlights and Accomplishments", American College of Legal Medicine, 50th Annual Meeting, Orlando, Florida, March 4-7, 2010
- 2010 Featured Lecturer, "The Silent Witness: Using Forensic Evidence to Win Your Case and Handling the Scientific Controversies", Criminal Defense Summit, Las Vegas, Nevada, April 8, 2010
- 2010 Featured Lecturer, "The Silent Witness: Using Forensic Evidence to Determine the Manner and Cause of Death", New Jersey Association for Justice Educational Foundation, Annual Convention and Boardwalk Seminar, Atlantic City, New Jersey, April 22, 2010
- 2010 Special Guest Lecturer, "Recognizing a Potential Crime Scene Following a Disaster", National Aeronautics and Space Administration, and American Board of Disaster Medicine, 2010 NASA Occupational Health Meeting, San Antonio, Texas, June 7, 2010
- 2010 Keynote Speaker, "The Need for Competent Medical-Legal Investigation in Death Cases Involving Potential Civil or Criminal Litigation", Mississippi State Coroner-Medical Examiner Association, Annual Summer Conference, Biloxi, Mississippi, June 22-25, 2010
- 2010 Keynote Speaker, "Some of My Most Interesting Cases - From JFK and RFK to OJ and JonBenet", Cremation Association of North America, 92nd Annual Convention, Waikiki, Honolulu, Hawaii, August 5, 2010
- 2010 Keynote Presentation, Wecht, C.H., and Lee, H.C. "Some of Their Most Notable Cases", American College of Forensic Examiners Institute, National Conference, Orlando, Florida, September 23, 2010
- 2010 Featured Speaker, "Role of Forensic Scientists in Civil and Criminal Cases", American College of Forensic Examiners Institute, National Conference, Orlando, Florida, September 23, 2010
- 2010 Keynote Address, "Lessons from the Coroner: Medicolegal Problems Associated with Vascular Access Procedures - Vascular Access Accidents - Lessons to be Learned from Coroners and Medical Examiners", Association for Vascular Access, 24th Annual Scientific Meeting Washington, DC, September 26, 2010
- 2010 Featured Speaker, "Investigation and Analysis of Police Related Deaths.", The Henry C. Lee Institute of Forensic Science at the University of New Haven, 19th Annual Markle Symposium, West Haven, Connecticut, September 27, 2010
- 2010 Keynote Speaker, "Determining Cause and Mechanism of Death in Insurance Cases", National Association of Subrogation Professionals, 12th Annual Educational Conference, Dallas, Texas, November 7-10, 2010
- 2010 Keynote Speaker, "The Role of the Forensic Scientist in Maintaining Integrity in the Criminal Justice System - Forensic Scientists and

- Prosecutorial Bias (Impact of the 2009 National Academy of Sciences Report)", South Texas Law Review's 17th National Ethics Symposium, South Texas School of Law, Houston, Texas, November 12, 2010
- 2010 Featured Lecturer, "Forensic Science and the Assassination of President Kennedy", Coalition on Political Assassinations, Annual Regional Meeting of COPA, Dallas, Texas, November 20, 2010
- 2011 Featured Lecturer Presentation, Wecht, C.H., Welner, M., and Lee H.C. "Relevant, Reliable, and Valid Forensic Science - Application and Utilization in Pre-Trial Case Analysis and Trial Testimony", American Academy of Forensic Sciences, 63rd Annual Scientific Meeting, Chicago, Illinois, February 22, 2011
- 2011 Featured Lecturer, "Civil and Criminal Defense Trial Attorneys: Relevant Issues and Relationships with Forensic Pathologists", American Academy of Forensic Sciences, 63rd Annual Scientific Meeting, Chicago, Illinois, February 24, 2011
- 2011 Featured Speaker, "The Need for Medical-Legal Education in Medical Schools and Post-Graduate Residency Programs", American College of Legal Medicine, 51st Annual Meeting: Medicine and Law for Healthcare Professionals, Las Vegas, Nevada, February 26, 2011
- 2011 Multimedia Stage Presentation, Wecht, C.H., Lee, H.C., and Geragos, M. "The Three Sleuths: The Real CSI: Where Truth is Often Stranger than Fiction and the Dead Do Tell Tales", at *Paris*, Las Vegas, Nevada, March 11-13, 2011
- 2011 Featured Lecturer, "Determining Cause and Manner of Death: An Approach to Dealing with the Forensic Pathologist", California Public Defenders Association, 11th Annual Public Defender Las Vegas Retreat, Las Vegas, Nevada, April 2, 2011
- 2011 Closing Keynote Speaker, "Some of My Most Interesting Cases", Department of Veterans Affairs – Employee Education System, 2011 VISN 4 Quality and Patient Safety Conference, Seven Springs, Pennsylvania, September 29, 2011
- 2011 Panelist, Wecht, C.H., Burris, S.C., Cohen, M.B., LaBahn, D., and Stephens, T. "Legalizing Marijuana", Pennsylvania Bar Institute, Public Policy Seminar, September 2011
- 2011 Featured Speaker, "Forensic Scientific Investigation: Medical and Legal Considerations", *The Cyril H. Wecht Lecture Series*, Northern Ohio Trauma System (NOTS), Trauma Symposium, Cleveland, Ohio, October 1, 2011
- 2011 Featured Speaker, "Police-Related Deaths – Investigation, Analysis, and Prevention", American College of Forensic Examiners Institute, 2011 Executive Summit, Branson, Missouri, October 14, 2011
- 2011 Featured Speaker, "Forensic Medicine and Pathology: Past, Current, and Future Issues", Union of American Physicians and Dentists, 2011 Membership Meeting, Los Angeles, California, October 22, 2011
- 2011 Closing Keynote Speaker, "Insights from JFK to RFK to OJ", National Funeral Directors Association, 2011 Chicago Convention, Chicago, Illinois, October 26, 2011
- 2012 Featured Speaker, "Opioid Deaths: Forensic Pathology and

- Investigations”, Board Review Course: Medical, Ethical & Legal Aspects of Pain Management, American College of Legal Medicine, 52nd Annual Meeting: Law and Medicine Update, New Orleans, Louisiana, February 23, 2012
- 2012 Moderator, *Cyril Wecht Luncheon*: “An Update on Pharma and Medical Device Litigation”, American College of Legal Medicine, ACLM 52nd Annual Meeting: Law and Medicine Update, New Orleans, Louisiana, February 24, 2012
- 2012 Multimedia Stage Presentation, Wecht, C.H., Lee, H.C., and Geragos, M. “The Three Sleuths: The Real CSI, at *Bally’s*, Las Vegas, Nevada, March 16-18, 2012
- 2012 Featured Speaker, “The Role of the Forensic Pathologist in the Criminal Justice System”, National Association of Criminal Defense Lawyers, 5th Annual Forensic Science Seminar: Making Sense of Science V, Las Vegas, Nevada, March 23, 2012
- 2012 Program Chairman and Lecturer, “Effective & Credible Expert Witness Testimony”, American College of Forensic Examiners International and American Board of Legal Medicine, Eastern Caribbean Cruise Seminar, March 25-April 1, 2012
- 2012 Featured Speaker, “Historical High Profile Cases” and “Current High Profile Cases”, Columbia College, Columbia, Missouri, April 20-21, 2012
- 2012 Lecturer, “History, Development, and Utilization of Forensic Scientific Investigation” and “Coroner and Medical Examiner Systems – How Did They Get Started, and What Are the Differences”, University of Pittsburgh, Osher Lifelong Learning Institute, Pittsburgh, Pennsylvania, May 10, 2012
- 2012 Lecturer, “JFK, RFK, and MLK Assassinations”, University of Pittsburgh, Osher Lifelong Learning Institute, Pittsburgh, Pennsylvania, May 17, 2012
- 2012 Lecturer, “Controversial Celebrity Deaths”, University of Pittsburgh, Osher Lifelong Learning Institute, Pittsburgh, Pennsylvania, May 24, 2012
- 2012 Lecturer, “Other Famous Cases”, University of Pittsburgh, Osher Lifelong Learning Institute, Pittsburgh, Pennsylvania, May 31, 2012
- 2012 Lecturer, “Police-Related Deaths” and “Prosecutorial Bias and Police Misconduct”, University of Pittsburgh, Osher Lifelong Learning Institute, Pittsburgh, Pennsylvania, June 7, 2012
- 2012 Featured Speaker, “Preparing and Winning of Medical Negligence Cases”, American Board of Professional Liability Attorneys, 2012 Annual Conference, San Diego, California, June 8, 2012
- 2013 Featured Speaker, “150 Years – Does Time Bring Agreement: The HL Hunley, the RMS Titanic, and the Assassination of John F. Kennedy.” “The Assassination of President Kennedy – A 50 Year Retrospective Analysis”, American Academy of Forensic Sciences, 65th Anniversary Scientific Meeting, Washington, D.C., February 19, 2013
- 2013 Lecturer, “Effective and Credible Witness Testimony”, American Board of Legal Medicine, Board Review Course, Las Vegas, Nevada, February 21, 2013
- 2013 Featured Speaker, “Some of My Most Impressionable Cases”, American

- College of Legal Medicine, 53rd Annual Meeting, Las Vegas, Nevada, February 23, 2013
- 2013 Guest Lecturer, "The Role of the Forensic Pathologist in Controversial Cases", Alumni Lecture Series (Spring 2013), Youngstown State University, Youngstown, Ohio, April 30, 2013
- 2013 Guest Speaker, Penn State Greater Allegheny's CPA Series, Pittsburgh, Pennsylvania, May 22, 2013
- 2013 Guest Speaker, Western Pennsylvania Summer STEM Academy, Fox Chapel Area High School, Pittsburgh, Pennsylvania, Summer 2013
- 2013 Featured Speaker, "The Role of the Pathologist in Medical Malpractice Cases", American Medical Technologists Annual Conference, Pittsburgh, Pennsylvania, July 8, 2013
- 2013 Featured Speaker, "Official Governmental Medical-Legal Investigation", Annual Conference of PA Prothonotaries and Clerks of Courts, Pittsburgh, Pennsylvania, July 11, 2013
- 2013 Guest Lecturer, "Famous American Murders: My Most Interesting Cases", DeSales University Fall Forensic Forum, Center Valley, Pennsylvania, September 17, 2013
- 2013 Guest Speaker, "Some of My Most Interesting Cases", The URI Forensic Seminar, University of Rhode Island, Kingston, Rhode Island, September 20, 2013
- 2013 Featured Speaker, "The JFK Assassination: A Forensic Scientific Fiasco", Northeastern Association of Forensic Scientists, 39th Annual Meeting, Cromwell, Connecticut, September 26, 2013
- 2013 Keynote Speaker, "The 50th Anniversary of the JFK Assassination – A Time for Justice", Cyril H. Wecht Institute of Forensic Science and Law, Duquesne University, Pittsburgh, Pennsylvania, October 17-19, 2013
- 2013 Guest Lecturer, "JFK Speaker Series: Cyril Wecht discusses the JFK Assassination", Oakland Community College, Oakland, Michigan, October 25, 2013
- 2014 Lecturer, "Role of Medical Examiners and Coroners in Civil and Criminal Cases", Pathology Medical School Residents/Students Interest Group, University of Pittsburgh Medical Center (UPMC), Pittsburgh, Pennsylvania, February 18, 2014
- 2014 Featured Lecturer, "The Kennedy Assassination..." American College of Legal Medicine, 54th Annual Meeting, Dallas, Texas, March 1, 2014
- 2014 Guest Lecturer, "Some of My Most Interesting Cases", Grand Rounds, UPMC Passavant, Pittsburgh, Pennsylvania, April 9, 2014
- 2014 Keynote Speaker, "The Role of the Forensic Pathologist in Civil and Criminal Cases", Research Days 2014: Forensics in Medicine, UPMC Hamot, Erie, Pennsylvania, April 24, 2014
- 2014 Organizer and Active Participant, Mock Trial, American College of Forensic Examiners Institute, 2014 Executive Summit, ES-22, Tucson, Arizona, May 7-9, 2014
- 2014 Lecturer, "Credible Expert Testimony", American College of Forensic Examiners Institute, 2014 Executive Summit, ES-22, Tucson, Arizona, May 8, 2014
- 2014 Guest Lecturer, "Forensic Pathology and Legal Medicine", The Frank H. Netter MD School of Medicine at Quinnipiac University,

- North Haven, Connecticut, September 2014 (2014-2015 Academic Year)
- 2014 Keynote Speaker, "Interesting Legal Cases Involving Neurological Issues", Pennsylvania Neurological Society, IXth Annual Meeting, Pittsburgh, Pennsylvania, September 13, 2014
- 2014 Lecturer, "The Role of the Medical Examiner/Coroner in High Profile Deaths", New York State Association of County Coroners and Medical Examiners, Fall 2014 Conference, Ellicottville, New York, September 20, 2014
- 2014 Lecturer, "Role and Relationships of Forensic Science in Civil and Criminal Matters", University of Pittsburgh, Osher Lifelong Learning Institute, Pittsburgh, Pennsylvania, Sept.-October 2014
- 2014 Lecturer, New York State Division of International Association for Identification, October 2014
- 2014 Featured Speaker, "Forensic Medicine", Monroeville Area Chamber of Commerce, 62nd Annual Meeting, Pittsburgh, Pennsylvania, December 4, 2014
- 2015 Featured Speaker, "The Basics of Forensic Pathology", Pennsylvania Conference of State Trial Judges, Mid Annual Meeting, Pittsburgh, Pennsylvania, February 27, 2015
- 2015 Honored Speaker, "Forensic Pathology and Criminal Justice", Westmoreland County Community College, 2015 Criminal Justice Scholarship Dinner Youngwood, PA, March 19, 2015
- 2015 Guest Speaker, "Forensic Pathology: Some of My Most Interesting Cases", American Academy of Psychiatry and the Law, 32nd Annual Meeting, Midwest Chapter, Pittsburgh, Pennsylvania, March 20, 2015
- 2015 Guest Lecturer, "Medical Ethics and Legal Medicine", *Continuing Education - The University At Sea*, American College of Legal Medicine/American Board of Legal Medicine, Alaska Cruise on board MS OOSTERDAM, June 7-14, 2015
- 2015 Guest Speaker, Fox Chapel Area High School, 2016 Western Pennsylvania Summer STEMM Academy Pittsburgh, Pennsylvania, Summer, July 1, 2015
- 2015 Keynote Speaker, "Medicolegal Aspects of Right to Die: Societal and Ethical Concerns", World Association for Medical Law (WAML), 21st Annual Congress, Coimbra, Portugal, August 3, 2015
- 2015 Featured Speaker, "Crossroads of Forensic Science and Radiology", Pittsburgh Area Radiology Managers, Autumn Symposium, Champion, Pennsylvania, October 2, 2015
- 2015 Featured Speaker, "The Role of the Forensic Pathologist in Police-Related Death Investigations", The Henry C. Lee Institute of Forensic Science at the University of New Haven, 24th Annual Arnold Markle Symposium, New Haven, CT, October 3, 2015
- 2016 Featured Speaker, "Prosecutorial Bias and Excessive Police Force", 56th Annual American College of Legal Medicine Meeting, Austin, Texas, February 27, 2016
- 2016 Featured Speaker, "The Role of the Forensic Pathologist in the Resolution of Cold Cases: Analysis of Evidence and Trial Testimony", American Investigative Society of Cold Cases (AISOCC), 3rd Annual Educational Conference, St. Louis,

- Missouri, June 28, 2016
- 2016 Featured Speaker, “Medicolegal Considerations – Sports-Related Head Injuries”, Pennsylvania Neurosurgical Society, 103rd Annual Scientific Meeting, Hershey, Pennsylvania, July 22, 2016
- 2016 Featured Speaker, “Chronic Traumatic Encephalopathy – Relationship to Concussions”, and “Sports-Related Brain Injuries – Medical and Legal Considerations”, Steadman Philippon Research Institute, 15th Annual Literacy Project Luncheon, Vail, Colorado, July 25, 2016
- 2016 Keynote Speaker, “Hollywood and Medical Law and Ethics”, World Association for Medical Law (WAML), 22nd Annual Congress, Los Angeles, California, August, 2016
- 2016 Keynote Speaker, “Changing History Through the Microscope: A Glimpse into Famous Cases”, Next Level Purchasing Association (NLPA), 2016 NLPA Conference: Make Your Mark on Procurement History Day, Heinz History Center, Pittsburgh, Pennsylvania, October 25, 2016
- 2016 Keynote Speaker, “Mass Fatality Responses”, Nebraska Department of Health & Human Services, University of Nebraska Public Policy Center, Nebraska Law Enforcement Training Center, The Center for Preparedness Education, Nebraska Mass Fatality Seminar: Exploring the Role of Public Health and Public Safety, Grand Island, Nebraska, November 2, 2016
- 2016 Guest Speaker, “Forensic Pathology in Civil and Criminal Cases”, Dedication Ceremony, Forensic Investigative Sciences Museum, Sino-American Law and Forensic Education Conference, Rugao, China, November 5, 2016
- 2016 Guest Speaker, “Historical Review and Update of JFK Assassination”, JFK Conferences, LLC, The 4th Annual JFK Assassination Conference, Dallas, Texas, November 19, 2016
- 2016 Special Guest Speaker, “Historical Review and Update of JFK Assassination”, JFK Lancer, November in Dallas Conference 2016: Teaching Strategies for the JFK Assassination, Dallas, Texas, November 19, 2016
- 2017 Featured Speaker, “Modern Forensic Pathology in Civil and Criminal Cases”, American College of Legal Medicine, 57th Annual Meeting, Las Vegas, Nevada, February 25, 2017
- 2017 Featured Speaker, “The Cold Facts from Forensic Evidence”, Citizens Against Political Assassinations (CAPA), JFK at 100: State of the Records News Conference and Forum, National Press Club, Washington, DC, March 16, 2017
- 2017 Dinner and Keynote Speaker with The Honorable David N. Wecht, Justice, PA Supreme Court, “Legal Vignettes of Famous Controversial Cases”, Pennsylvania Bar Association, 2017 Civil Litigation Section Retreat, Farmington, Pennsylvania, March 24, 2017
- 2017 Speaker, “Judicial Gatekeeping on Scientific Evidence and the Role of Experts in Frye and Daubert Jurisdictions” (Panel Discussion), Pennsylvania Bar Association, 2017 Civil Litigation Section Retreat, Farmington, Pennsylvania, March 26, 2017
- 2017 Exclusive Speaker, “A Case for Conspiracy”, The Sixth Floor Museum at Dealey Plaza, Dallas, Texas, April 11, 2017

- 2017 Featured Guest Speaker, "Legalization of Medical and Recreational Marijuana – Medical and Legal Considerations", 2017 World Medical Cannabis Conference and Expo, Pittsburgh, Pennsylvania, April, 21, 2017
- 2017 Featured Speaker, "Professional Relationship: Forensic Pathology and Criminalistics", The Cyril H. Wecht Institute of Forensic Science and Law, Pioneers of Forensic Science Conference, Inaugural Honorary Program: Honoring Dr. Henry Lee – A Life in Criminalistics, Pittsburgh, Pennsylvania, June 1, 2017

MEDICAL LICENSES

- 1957 Diplomate, National Board of Medical Examiners
 1957-present Pennsylvania
 1962-2007 California
 1963-2005 Maryland

MEDICAL SPECIALTY CERTIFICATION

- 1963 Diplomate, American Board of Pathology, Anatomic and Clinical Pathology
 1964 Diplomate, American Board of Pathology, Forensic Pathology
 1982 Charter Diplomate, American Board of Legal Medicine
 2006 Charter Diplomate, American Board of Disaster Medicine
 ▪ Vice President, 2006

MEDICAL SOCIETIES AND SCIENTIFIC ORGANIZATIONS

- 1957-present Allegheny County Medical Society
 ▪ Member, Grievance Committee, 1965-1968
 ▪ Delegate of Pennsylvania Medical Society, 1968-1970
 ▪ Member, Board of Directors, 1968-1971
 ▪ Member, Drug Abuse Committee, and Chairman, 1970-1974
 ▪ Member, Medical-Legal Committee, and Chairman, 1973-1974
 ▪ Chairman, Medical-Legal Committee, 1998
 ▪ Member, Committee for the Medical Examiner System
 ▪ Member, Anesthesia Mortality Committee
- 1957-present Pennsylvania Medical Society
 ▪ Member, Commission on Forensic Medicine, 1969-1977
- 1957-present American Medical Association
 ▪ Physician's Recognition Award, 1970-present
- 1957-present Pittsburgh Pathology Society
- 1960-present Fellow, College of American Pathologists
 ▪ Inspector, 1991-1992
- 1961-present Fellow, American Society of Clinical Pathologists
- 1963-1985 Pan American Medical Association
- 1963-1988 American Association for the Advancement of Science
- 1963-present Pennsylvania Association of Pathologists
 ▪ Co-Chairman, Legislation Committee, 1965-1966
- 1964-1980 Pittsburgh Academy of Medicine

- 1965-1979 Pennsylvania Association of Clinical Laboratories, Inc.
 - Member, Board of Directors, 1978-1980
- 1965-1983 International Association of Coroners and Medical Examiners
- 1965-1985 American Society of Forensic Odontology
- 1966-1976 Charles F. Bailey Chair for Cardiothoracic Surgery, Hahnemann University
 - Member, Steering Committee
- 1970-1980 & 1996-2006 Pennsylvania State Coroners Association
- 1973-1982 Pennsylvania Academy of Science
- 1973-1983 Baltimore Pathology Society
- 1974-1995 Fellow, American Physicians Fellowship for the Israel Medical Association
- 1988-2006 Royal Society of Medicine
 - Member, Clinical Forensic Medicine Section
 - Member, Accident and Emergency Medicine Section
- 1991-1995 Pittsburgh Medical Forum
- 2006-present American Academy of Disaster Medicine
 - Vice President, 2006
- 2006-present Depravity Scale Advisory Board
 - Member, Board of Advisors
- 2006-present American College of Forensic Examiners International
 - Chair, Executive Advisory Board, 2009-present
- 2006-present American Board of Forensic Medicine
 - Vice Chair, Executive Board, 2006-2009
 - Chair, Executive Board, 2009-2015
- 2010-2015 American College of Forensic Examiners Institute, American Board of Registered Investigators
 - Registered Investigator, and Member, Board of Advisors
- 2013-present The American Investigative Society of Cold Cases (AISOCC)
 - Member, Review Board, 2013-present
- 2014-present American Board of Stem Cell Medicine and Surgery
 - Member, Executive Board of Directors, 2014-present

LAW LICENSES

- 1963 Pennsylvania
 - United States District Court for the Western District of Pennsylvania
 - Third Circuit Court of Appeals
 - United States Supreme Court

LEGAL SOCIETIES

- 1962-1973 Western Pennsylvania Trial Lawyers Association
- 1963-1997 American Society of Hospital Attorneys
- 1963-present Allegheny County Bar Association
 - Member, Medical-Legal Committee, 1973-1990
 - Vice Chairman, Medical-Legal Committee, 1973
 - Chairman, Medical-Legal Committee, 1974-1978
 - Member, Building Committee, 1981-1988
 - Member, Health Law Council, 1997-2002
 - Honorary Senior Member, Health Law Council, 2002-present

- 1963-present Pennsylvania Bar Association
- Member, Joint Medico-Legal Committee
 - Member, Medico-Legal Committee, 1981-1988
 - Member, Senior Lawyers Committee, 1996-present
- 1963-present American Bar Association
- Member, Committee on Law and Medicine, 1973-present
 - Vice-Chairman, Committee on Law and Medicine, 1973-1977
 - Publications Vice-Chairman, Committee on Law & Medicine, 1975-1977
 - Products, General Liability, and Consumer Law Committee, 1985-1988
 - Toxic and Hazardous Substances Committee, 1985-1988
 - Forum Committee on Health Law, 1985-1988
- 1964-1978 American Judicature Society
- 1965-1992 American Arbitration Association
- 1971-1973 Association of Trial Lawyers in Criminal Court, Allegheny County, PA
- 1972-1979 Association of Trial Lawyers of America
- Member, National Committee on Professional Negligence Insurance, 1968-1975
 - Chairman, Committee on Liaison with Medical Associations, 1969-1973
 - Member, Medical Malpractice Committee, 1975-1976
 - Member, Professional Legislative Affairs Committee, 1975-1976
- 1973-1976 Federal Bar Association
- Chairman, Tort Section, Pittsburgh Chapter, 1976
- 1973-1978 Pennsylvania Trial Lawyers Association
- 1974-1982 Member, SCRIBES (Society of Legal Writers)
- 1989-1992 American Association of Law Schools
- Member, Law and Psychiatry Section

MEDICAL-LEGAL SOCIETIES

- 1962-present Fellow, American Academy of Forensic Sciences
- Interview Coordinator, Mid-Atlantic States, 1966
 - Chairman, Legislative Affairs Committee, Pathology Section, 1966
 - Secretary, Pathology and Biology Section, 1967-1969
 - Chairman, Pathology and Biology Section, 1968-1969
 - Member, Executive Committee, 1968-1973
 - Associate Program Chairman, 1969 Annual Meeting
 - Program Chairman, 1970 Annual Meeting
 - President-Elect, 1970-1971
 - President, 1971-1972
 - Liaison Representative to the Association of Trial Lawyers of America, 1977-1980
 - Chairman, International Relations Committee, 1977-1982
 - Co-Chairman, International Relations Committee, 1978-1988
 - Member, Select Committee of Past Presidents, 1980-1981
- 1963-present Pittsburgh Institute of Legal Medicine
- Director and President
- 1964-present Fellow, American College of Legal Medicine
- Member, Board of Governors, 1965-1976

- Vice President, 1968-1969
 - President, 1969-1972
 - Chairman, Honorary Fellowship Committee, 1973-1977
 - Member, Legislation Committee, 1974-1978
 - Member, Medical Malpractice Committee, 1975-1976
 - Member, Nominating Committee, 1975-1976, and Chairman, 1988
 - Member, Projects Committee, 1975-1976
 - Member, Ad Hoc Task Force on Death and Dying, 1978-1979
 - Program Chairman, 1979 Annual Meeting
 - Member, Publications Committee, 1979-present
 - Member, Select Committee on Policy and Planning, 1983-present
 - Chairman, Judicial Council Committee, 1984-1988
 - Vice President, Board of Trustees, ACLM Foundation, 1985-1987, and Chairman, 1987-Present
 - Member, Education Committee, 1989-present
 - Chairman, Ad Hoc Legal Medicine Library Committee, 1989-1991
 - Member, Finance Committee, 1992-present
 - Chairman, 800-HELP Line Task Force, 1993-2015
 - Member, Referral Committee, 1995-2015
 - Chairman, Senior Members Committee, 2003-2015
- 1965-2000 International Association for Accident and Traffic Medicine
- Member, Executive Council
 - Secretary-General, 1966-1969
 - Vice President, 1970-1973
- 1965-present International Academy of Legal Medicine and Social Medicine
- Vice President, 1976-1979
 - National Correspondent for North America, 1976-1984
- 1966-1970 Fellow, Law-Science Academy of America
- Vice Chancellor and Member, Board of Trustees
- 1966-present International Association of Forensic Sciences
- Vice President, 1975-1978
- 1966-present National Association of Medical Examiners
- Member, Board of Directors, 1976-1978
- 1968-2000 Association for the Advancement of Automotive Medicine
- 1970-1984 Fellow, International Academy of Law and Science
- Member, Board of Regents, 1966-1969
- 1972-1999 American Association of Medico-Legal Consultants
- Vice President
- 1973-2010 Fellow, British Academy of Forensic Sciences
- 1973-2006 Fellow, Forensic Science Society of England
- 1974-1978 Fellow, American Society of Legal and Industrial Medicine (Formerly American Academy of Compensation Medicine)
- 1977-1996 American Society for Testing and Materials
- Chairman, Committee E-30 on Forensic Sciences
- 1977-1996 National Foundation for the Study of Health Science Liability
- Member, Board of Directors
- 1978-1981 The Forensic Sciences Foundation, Inc.
- Member, Board of Trustees
- 1979-1995 Pan American Association of Forensic Sciences
- Member, Organizing Committee
- 1980-1982 United Physicians Association/United Physicians Insurance
- Member, Board of Directors

- 1981-present American Board of Legal Medicine
 - Chairman, Program Development Committee on Forensic Medicine, 1984-present
 - Chairman, Board of Trustees, 1986-1995
- 1985-1995 International Society of Clinical Forensic Medicine
 - Vice President
- 1987-2002 American Medico-Legal Foundation
 - Member, Board of Directors
- 1987-present American College of Legal Medicine Foundation
 - Chairman, Board of Trustees, 1989-1995
- 1990-present Fellow, Royal Society of Medicine, London, England
- 2000-present Cyril H. Wecht Institute of Forensic Science and Law, Duquesne University School of Law
 - Chairman, Advisory Board
- 2016 Medico-Legal Society of Singapore
 - Honorary Member

HONORARY LIFE FELLOWSHIPS IN PROFESSIONAL SOCIETIES

- 1970 Spanish Association of Forensic Medicine
- 1972 Society of Legal Medicine and Criminology of France
- 1978 American Society of Law, Medicine, and Ethics Inc.
- 1979 Medical-Legal Society of Brazil
- 1980 Mexico Association of Legal Medicine
- 1981 Society of Legal Medicine of Belgium
- 1983 Yugoslav Association for Forensic Medicine
- 1985 Society of Psychiatry, Neurology, and Legal Medicine of Columbia, South America
- 2003 American College of Forensic Examiners International

NATIONAL CONFERENCES ORGANIZED AND SPONSORED BY THE CYRIL H. WECHT INSTITUTE OF FORENSIC SCIENCE AND LAW DUQUESNE UNIVERSITY, PITTSBURGH, PENNSYLVANIA

- 2000 "Forensic Science and the Law: A Multi-Disciplinary Approach by the Professional Community to the Medicolegal Investigation of Crimes, Personal Injury and Death." Inaugural Forensic Science and Law Conference, October 27-28, 2000.
- 2001 "DNA and the Law: Reining in the Revolution. A National Conference Exploring the Capabilities and Limitations of DNA Testing." 2nd Annual Forensic Science and Law Conference, November 30-December 1, 2001.
- 2002 "Law, Family and Violence: A Multidisciplinary Symposium. A National Conference to Advance Legal, Scientific and Social Strategies for Combating Child, Domestic and Elder Abuse." 3rd Annual Forensic Science and Law Conference, November 7-9, 2002.
- 2003 "Solving the Great American Murder Mystery: A National Symposium on the 40th Anniversary of the JFK Assassination." 4th Annual Forensic Science and Law Conference, November 20-23, 2003.

- 2004 “Tracking Terrorism in the 21st Century: A National Symposium on the Roles of Science and Law in Detecting, Investigating and Adjudicating Political Violence.” 5th Annual Forensic Science and Law Conference, October 21-23, 2004.
- 2006 “Justice for All: A National Symposium on the Role of Forensic Science in the Evolution of Criminal Justice Reform in America.” 6th Annual Forensic Science and Law Conference, April 20-22, 2006.
- 2007 “Preserving Evidence, Saving Lives: The Roles of Forensic Science, Medicine and the Law in Mass Disaster Response.” 7th Annual Forensic Science and Law Conference, March 29-31, 2007.
- 2008 “Where Fact Meets Fiction: A National Symposium on the Intersection of Forensic Science and Pop Culture.” 8th Annual Forensic Science and Law Conference, April 3-5, 2008.
- 2009 “Evidence in the Information Age: A National Symposium on the Collection, Analysis and Legal Application of Digital Evidence.” 9th Annual Forensic Science and Law Conference, October 23-24, 2009.
- 2010 “Cause of Death: An Interdisciplinary Look at the State of Forensic Death Investigation.” 10th Annual Forensic Science and Law Conference, November 19-20, 2010.
- 2011 “Predators and Their Prey: Forensic Scientific and Legal Perspectives on the Investigation and Prosecution of Violent Offenders.” 11th Annual Forensic Science and Law Conference, October 21-22, 2011.
- 2012 “Post Combat Problems in the 21st Century: Medical Legal and Societal Considerations.” 12th Annual Forensic Science and Law Conference, November 8-9, 2012.
- 2013 “Passing the Torch: An International Symposium on the 50th Anniversary of the Assassination of President John F. Kennedy.” 13th Annual Forensic Science and Law Conference, October 17-19, 2013.
- 2014 “Finding Closure: The Science, Law and Politics of Cold Case Investigations.” 14th Annual Forensic Science and Law Conference, October 30-31, 2014.
- 2015 “Beyond Baltimore: Bridging Public Safety and Social Justice in the Policing of America’s Streets.” 15th Annual Forensic Science and Law Conference, November 12-13, 2015.
- 2016 “From Out of the Shadows . . . Illuminating the Intersection of Mental Health and the Law.” 16th Annual Forensic Science and Law Symposium, October 20-21, 2016.

Other Major Conferences:

- 2008 “Making Sense of the Sixties: A National Symposium on the Assassinations and Political Legacies of Martin Luther King Jr., Robert F. Kennedy and John F. Kennedy.” (Panel Discussion), October 5, 2008.
- 2009 “Does Forensics Need Fixing? A Seminar on the National Academy of Sciences’ 2009 Report on the Future of Forensic Science in the U.S.” (Panel Discussions), September 11, 2009.
- 2017 “Pioneers of Forensic Science Conference.” Inaugural Honorary Program: Honoring Dr. Henry Lee – A Life in Criminalistics, June 1-2, 2017.

**SEMINARS ORGANIZED AND SPONSORED BY
THE CYRIL H. WECHT INSTITUTE OF FORENSIC SCIENCE AND LAW
DUQUESNE UNIVERSITY, PITTSBURGH, PENNSYLVANIA**

Forensic Fridays Professional Education Seminar Series

- Spring 2010 “Alcohol and Drug Toxicity in Criminal Litigation.”, *Forensic Fridays* professional education seminar series, January, 2010.
 “Forensic Issues in Medical Malpractice Cases.” (Lecture and Panel Discussion), *Forensic Fridays* professional education seminar series, February 12, 2010.
 “Is Football Bad for the Brain? Forensic Scientific, Medical-Legal and Societal Aspects of the Concussion Debate.” (Panel Discussion), *Forensic Fridays* professional education seminar series, March 12-13, 2010.
 “Accident Reconstruction in Personal Injury Cases.” (Lecture and Panel Discussion), *Forensic Fridays* professional education seminar Series, April 9, 2010.
 “Forensic Investigation of Sexual Assault Cases.” *Forensic Fridays* professional education seminar series, May 2010.
 “Behavioral Science Evidence in Divorce and Custody Cases.” *Forensic Fridays* professional education seminar series, June 12, 2010.
- Fall 2010 “Forensic Scientific Applications in Product Liability Cases.” *Forensic Fridays* professional education seminar series, September, 2010.
 “Forensic DNA Analysis – An Introduction.” *Forensic Fridays* professional education seminar series, October, 2010.
 “Medical and Recreational Marijuana: Scientific, Legal and Societal Considerations.” (Lecture and Panel Discussion), *Forensic Fridays* professional education seminar series, November 5, 2010.
 “Trace Evidence Analysis: Legal Opportunities and Challenges.” *Forensic Fridays* professional education seminar series, December, 2010.
- Spring 2011 “The Investigation of Drug-Facilitated Sexual Assault.” *Forensic Fridays* professional education seminar series, January, 2011.
 “How to Find and Work with the Right Expert for Your Legal Needs.” (Lecture and Panel Discussion), *Forensic Fridays* professional education seminar series, February 18, 2011.
 “The Science and Criminal Law of End-of-Life Decisions.” *Forensic Fridays* professional education seminar series, March, 2011.
 “Emerging Topics in the Investigation and Prosecution of Cyber-Crime.” *Forensic Fridays* professional education seminar series, April, 2011.
 “Investigative and Familial DNA.” *Forensic Fridays* professional education seminar series, May, 2011.
 “Problems and Advances in Eyewitness Identification.” *Forensic Fridays* professional education seminar series, June, 2011.
- Fall 2011 “Truth Crushed to Earth: A Collaborative Seminar on the Martin Luther King Assassination.” (Lecture and Panel Discussion), *Forensic Fridays* professional education seminar series, August 26, 2011.
 “Everything You Always Wanted to Know About Working with Forensic Experts.” *Forensic Fridays* professional education seminar series, September, 2011.

- Spring 2012 “How to Make the Most Effective Use of Financial Experts.” *Forensic Fridays* professional education seminar series, November, 2011.
- “Reporting Child Abuse Obligations, Procedures and Pitfalls.” *Forensic Fridays* professional education seminar series, January 20, 2012.
- “Neuroscience on Trial: New Uses of Neuroscientific Evidence in Civil and Criminal Litigation.” *Forensic Fridays* professional education seminar series, February 10, 2012.
- “The Role of Private Investigators in Forensic Cases.” *Forensic Fridays* professional education seminar series, March, 2012.
- “The Role of Legal Nurse Consultants and Nurse Experts in Forensic Investigation and Legal Proceedings.” *Forensic Fridays* professional education seminar series, April, 2012.
- “Shaken Baby Syndrome: Clinical, Investigative and Legal Considerations.” *Forensic Fridays* professional education seminar series, May, 2012.
- Fall 2012 “Death by Medication: Investigating the Prescription Abuse Epidemic.” *Forensic Fridays* professional education seminar series, September 7, 2012.
- “Scientific Evidence and the Right to Confrontation.” *Forensic Fridays* professional education seminar series, October 19, 2012.
- “Enhancing Courtroom Knowledge of Forensic Scientific Innovations.” *Forensic Fridays* professional education seminar series, December, 2012.
- Spring 2013 “Digital Detectives: A Computer Forensics Update.” *Forensic Fridays* professional education seminar series, January 18, 2013.
- “DUID: The Science and Law of Driving Under the Influence of Distractions.” *Forensic Fridays* professional education seminar series, February 15, 2013.
- “Whose DNA is it Anyway? Legal, Scientific and Ethical Issues in DNA Access Today.” *Forensic Fridays* professional education seminar series, March 15, 2013.
- “Interpreting Behavior from Sexual Homicide Crime Scenes.” *Forensic Fridays* professional education seminar series, April 19, 2013.
- “Forensic Audio and Linguistic Analysis of Insider Threats: From Watergate to Today.” *Forensic Fridays* professional education seminar series, May 10, 2013.
- Spring 2014 “New Advances in Fire Investigation.” *Forensic Fridays* professional education seminar series, January, 17, 2014.
- “Forensic Lessons from the Mortgage Fraud Crisis.” *Forensic Fridays* professional education seminar series, February 21, 2014.
- “The Role of Computer Forensics in Data Breach Response.” *Forensic Fridays* professional education seminar series, March 21, 2014.
- “Best Practices in Sexual Assault Cases: An Interdisciplinary Approach.” *Forensic Fridays* professional education seminar series, April 11, 2014.
- Fall 2014 “The Forensics of Fracking: The Science and Law of Hydraulic Gas Extraction.” *Forensic Fridays* professional education seminar series, September 12, 2014.
- Spring 2015 “Is Forensics Getting Fixed? The State of the Profession Five Years After the NAS Report.” (Panel Discussion – “The State of the Profession in 2015: An Interdisciplinary Consideration”), *Forensic Fridays* professional education seminar series, January 16, 2015.

- “Social Media and the Courts: Privacy, Discovery, Admissibility and the Role of Computer Forensics.” *Forensic Fridays* professional education seminar series, March 6, 2015.
- “Sexual Assault on Campus: Investigation, Prosecution and the Role of Forensic Nursing.” *Forensic Fridays* professional education seminar series, May 1, 2015.
- Fall 2015 “Should Pennsylvania be Next? Scientific and Legal Considerations in the Medical Marijuana Debate.” (Panel Discussion – “Scientific, Legal and Policy Considerations in the Medical Marijuana Debate”), *Forensic Fridays* professional education seminar series, September 11, 2015.
- “What’s in a ‘Match’? How to Read a Forensic DNA Report.” *Forensic Fridays* professional education seminar series, October 16, 2015.
- “Ethics and Experts: Ethical Considerations in Working with Forensic Experts.” (Two Hour Round Table Discussion), *Ethics and Eats: Forensic Fridays* professional education seminar series, December 18, 2015.
- Spring 2016 “Human Trafficking: Investigation, Prosecution and Victim Services.” *Forensic Fridays* professional education seminar series, January 15, 2016.
- “What’s in Your Mobile Device? Forensics in the Portable Digital Age.” *Forensic Fridays* professional education seminar series, March 11, 2016.
- “So You Have an Invention? The Patent Process from Conception to Commercialization.” *Forensic Fridays* professional education seminar series, May 20, 2016.

**INTERNATIONAL MEDICAL-LEGAL SEMINARS
ORGANIZED AND SPONSORED BY
PITTSBURGH INSTITUTE OF LEGAL MEDICINE**

Countries/Governmental, Academic and Professional Co-Sponsors

- 1965 Italy
- Institute of Legal Medicine, University of Rome
- 1966 Mexico
- Institute of Legal Medicine and Forensic Sciences
- 1967 England, Scotland, Ireland
- Institute of Legal Medicine and Forensic Sciences
- 1968 Japan, Thailand, Philippines, Singapore, Hawaii
- Medical-Legal Society of Japan
 - Tokyo Medical Examiner’s Office
 - Honolulu Medical Examiner’s Office
 - Police Forensic Science Lab, Hong Kong
 - Yokohama City University School of Medicine
 - Kyoto University School of Medicine
 - University of Santo Tomas Manila
 - University of Medical Sciences, Bangkok
- 1969 Israel and Greece
- Institutes of Legal Medicine and Forensic Sciences
- 1970 Spain and Portugal

- Spanish Association of Forensic Medicine
 - Institute of Legal Medicine, Lishon
 - Institute of High Culture, Ministry of National Education, Portugal
- 1971 Sweden, Norway, Denmark
- Scandanavian Medical-Legal Society
 - Ministries of Health and Justice, Sweden, Norway, Denmark
 - Institute of Legal Medicine, Stockholm
 - Institute of Legal Medicine, Oslo
 - Institute of Legal Medicine, Copenhagen
- 1972 Italy and Austria
- Italian Medical-Legal Society
 - Institute of Legal Medicine, University of Rome
 - Institute of Legal Medicine, University of Florence
 - Institute of Legal Medicine, University of Venice
 - Institute of Legal Medicine, University of Vienna
- 1973 Egypt and Israel
- Israel Society of Medicine and Law
 - Hebrew University – Hadassah Medical School
 - Legal and Legislative Department, Kupat Holim
- 1974 Africa
- Ivory Coast, Ghana, Kenya, Tanzania, Ethiopia
 - African Society of Forensic Sciences
 - University of Ghana Medical School, Ghana Ministry of Health
 - Institute of Criminology, University of Abidjan
 - National Public Health Laboratory Service, Kenya
 - Ethiopian Medical Association
- 1975 Brazil, Argentina, and Peru
- Institute of Legal Medicine, Rio de Janiero
 - Faculty of Medicine, University of Buenos Aires
 - San Marcos University, Lima
- 1976 France, Belgium, and Holland
- Institute of Legal Medicine and Forensic Sciences
- 1977 Romania, Yugoslavia, and Hungary
- Institute of Legal Medicine and Forensic Sciences
- 1978 Institute of Legal Medicine and Forensic Sciences
- Institute of Legal Medicine and Forensic Sciences
- 1979 Turkey and Iran
- Institute of Legal Medicine and Forensic Sciences
- 1980 China and Hong Kong
- Institute of Legal Medicine, Hong Kong and
 - Various Academic and Governmental Medical and Legal Institutions and Agencies in the People’s Republic of China
- 1981 Greece and Italy
- Institute of Legal Medicine and Forensic Sciences
- 1988 Israel and Egypt
- Israel Society of Medicine and Law
 - Egyptian Society of Forensic Medical Sciences

NATIONAL PROFESSIONAL ADVISORY BOARDS

- 1962-1968 The National Center for Professional Seminars
 - Member, Board of Advisors
- 1965-1967 The Milton Helpern International Center for the Forensic Sciences
 - Member, Advisory Board
- 1966-1990 The Western Conference on Criminal & Civil Problems
 - Member, Scientific Advisory Committee on Legal Medicine
- 1967-1983 Touro Law School
 - Member, National Advisory Board
- 1969-1975 Pennsylvania Commission on Crime and Delinquency
 - Member, Allegheny Regional Advisory Committee
- 1975-1980 Amnesty International USA
 - Member, Advisory Committee
- 1975-1980 Assassination Archives and Research Center
 - Member, Board of Advisors
- 1975-1988 Odyssey House Institute for Law & Medicine
 - Member, Advisory Board
- 1976 American Legionnaires' Disease
 - Ad Hoc Member, National Scientific Advisory Committee
- 1981 Secretary's Commission on Medical Malpractice
 - Member, Health Advisory Panel
(U.S. Department of Health, Education and Welfare)
- 1990-2000 Citizens for Truth about the Kennedy Assassination
 - Member, Board of Directors
- 1994-2015 Coalition on Political Assassinations (COPA)
 - Chairman, Executive Committee, 1994-2000
- 1995-2001 The Center for the Preservation of Modern History
 - Member, Advisory Board
- 2003-present Nebraska Institute of Forensic Sciences
 - Founding Member, Board of Directors
 - Board Vice Chair, Advisory Board Member
- 2006-present American Board of Disaster Medicine
 - Board Vice Chair, 2006
- 2016-present Citizens Against Political Assassinations (CAPA)
 - Chairman, Board of Directors

COMMUNITY ACTIVITIES

- 1963-1990 American Jewish Committee
 - Member, Board of Trustees, Pittsburgh Chapter, 1963-1967, 1969-1971
- 1964-1965 American Jewish Congress
- 1965-present Young Men & Women's Hebrew Association, Jewish Community Center
 - Member, Board of Directors, 1969-1972
- 1965-present National Association for the Advancement of Colored People (NAACP)
 - Lifetime Member
- 1967-1985 Health and Welfare Association of Allegheny County
 - Member, Suicide Prevention Committee
- 1970-1980 United Cerebral Palsy Association of the Pittsburgh District
 - Member, Board of Directors

- 1971-1976 Pennsylvania Guild for Infant Survival, Inc., Pittsburgh Chapter
 - Co-Founder and Honorary Chairman
- 1972-1980 Jewish Community Relations Council of Pittsburgh
 - Board Member and President, 1978
- 1976-1977 Chairman, Pittsburgh Conference on Soviet Jewry
 - Member, National Lawyers Committee
- 1976-present Zionist Organization of America, Pittsburgh Chapter
 - Member, Board of Directors
 - Vice President, 1983-1991 and 1996-2012
 - Honorary Board Member, 1994-1995
- 1977-1979 Chairman, Allegheny County Council on Alcohol and Drug Abuse
- 1977-1982 American Red Cross, Pittsburgh-Allegheny County Chapter
 - Medical-Legal Consultant, Executive Water Safety Committee
- 1977-2000 United Jewish Federation
 - Member, Community Relations Committee, 1985-1988
- 1978-1992 Allegheny Regional Planning Council of the Governor's Justice Commission
- 1978-1998 Kollel Bais Yitzchok Institute for Advanced Torah Studies
 - Member, Board of Directors
- 1981-1991 Urban League
- 1981-1991 National Foundation for Ileitis & Colitis, Inc.
 - Member, Board of Directors
- 1986-present Anti-Defamation League of B'Nai B'rith
 - Member, Board of Directors, 1988-1992
- 1989-1992 Intestinal Disease Foundation, Inc.
 - Member, Board of Directors
 - Honorary Board Member, 1992-2000
- 1992-1994 Jewish Family and Children's Service of Pittsburgh
 - Member, Board of Directors
- 1992-1994 Patrons for a Drug Free Community
 - Member, Board of Advisors
- 1996-present Sudden Infant Death Syndrome Alliance
 - Member, Advisory Committee
- 1997-2001 Childhood Leukemia Foundation
 - Celebrity Advisory Board
- 2002-2003 Violence Prevention Task Force
 - Chairman, Allegheny County
- 2003 Jewish National Fund "Tree of Life Award"
 - Program Committee Vice-Chair
- 2003-2009 Jewish Family Assistance Fund
 - Member, Board of Directors
- 2003-2008 Amen Corner
 - Advisory Board
- 2007-2012 Academy of Court Reporting
 - Member, Advisory Board
- 2008-2011 Sexual Assault Response Team of Allegheny County (SARTAC)
 - Member, Board of Directors
- 2011-present Three Rivers Young Peoples Orchestras
 - Member, Executive Board
- 2016 Holocaust Education Center, Pittsburgh, Pennsylvania
 - Honorary Chairman

TESTIMONY IN FOREIGN COUNTRIES

Australia, Bahamas, Canada, China, Israel, Philippines, Singapore, Taiwan, Virgin Islands

POSTMORTEM EXAMINATIONS CONDUCTED IN FOREIGN COUNTRIES

Bahamas, Israel, Pakistan, Philippines, St. Lucia, Taiwan

GOVERNMENTAL POSITIONS

- 1964-1965 Assistant District Attorney and Medical-Legal Advisor to the District Attorney, Allegheny County, Pennsylvania
- 1966-1970 Chief Forensic Pathologist,
Allegheny County Coroner's Office, Pittsburgh, Pennsylvania
- 1970-1980 Coroner, Allegheny County, Pennsylvania
- Co-Director of Education, Forensic Pathology Fellowship
- 1971-1980 Director, Residency Training Program
(Officially approved by the American Board of Pathology and the American Medical Association)
- Co-Director, 1996-2005
- 1980-1994 Member, Board of Health, Allegheny County, Pennsylvania
- Member, Pesticide Advisory Subcommittee
 - Member Ad Hoc Committee to Study Health Effects of Air Pollution
- 1980-1984 Member, Allegheny County Board of Commissioners
- 1980-1984 Chairman, Allegheny County Prison Board
- 1996-2006 Coroner, Allegheny County, Pennsylvania
- 2000 Chair, Allegheny County Violence Prevention Task Force
- 2003-2005 Forensic Pathology Consultant and Lecturer, C.I.A., Medical Division
- 2006 Chief Medical Examiner, Allegheny County

GOVERNMENTAL AND POLITICAL POSITIONS

- 1972-1984 Elected Member, Allegheny County Democratic Committee, 14th Ward
- 1976-1984 Elected Member, PA State Democratic Committee
- Elected Chairman, Allegheny County Delegation, 1978-1984
- 1978-1984 Elected Chairman, Allegheny County Democratic Committee
- 1978-1984 Elected Member, National Democratic Committee
- 1980, '82, '84 Elected Delegate, National Democratic Conventions
- 1982 Primary and General Elections - Democratic Party Nominee,
U.S. Senate Campaign

PROFESSIONAL CONSULTANT POSITIONS

- 1968-1990 Consultant, Los Angeles County Medical Examiner-Coroner's Office:
- 1968 Robert F. Kennedy Assassination
 - 1969 Sharon Tate/LaBianca Cases
 - 1974 Symbionese Liberation Army Deaths (Patty Hearst Case)
- 1969-1988 Pathology Consultant, MDS Health Group, Ltd.
- Medical Director, Latrobe and Oakland Laboratories

- 1972 Consultant to Cook County Illinois Special Committee, Transition from Coroner to Medical Examiner System
- 1972 Member, Medical Panel, Medical Malpractice Review Commission – Department of Health, Education and Welfare
- 1972-1980 Consultant in Pathology, and Member, Consulting Medical Staff, Woodville State Hospital
- 1972-present Forensic Pathologist, Westmoreland County Coroner’s Office
- 1973 Consultant to New York City Special Committee, Selection of New Medical Examiner
- 1973-1977 Western School of Health Business Careers, Inc.
- 1976-1979 ABC National Network, “20/20 Show”
- 1976 John F. Kennedy Assassination
 - 1979 Elvis Presley Death
- 1977-1978 Firefighter Autopsy Advisory Panel, Federal Emergency Management Agency, United State Fire Administration
- 1977-1979 U.S. House of Representatives Select Committee on Assassinations, Forensic Pathology Panel
- 1978 Member, Special Expert Pathology Panel on American Legionnaires’ Disease (Department of Health, Education and Welfare, Centers for Disease Control)
- 1982 Consultant and Guest Lecturer, U.S. Public Health Hospital, Panama Canal Zone
- 1985-1992 Consultant in Legal Medicine, Armed Forces Institute of Pathology
- 1985-2003 Forensic Science Consultants International
- 1988-present Forensic Pathologist, Armstrong County Coroner’s Office
- 1989-1991 Consultant in Forensic Pathology and Legal Medicine to the Chief Medical Examiner for the District of Columbia
- 1989-present Forensic Pathologist, Fayette County Coroner’s Office
- 1991 Technical Consultant/Advisor, Camelot Productions – “JFK”, directed by Oliver Stone; Oliver Stone/Alexander Kitman Ho, Producers
- 1993-present Forensic Pathologist, Greene County Coroner’s Office
- 1996 NBC and ABC, National Networks: Consultant, Commentator
- O.J. Simpson Case
- 1997-2005 Forensic Pathologist, Clarion County Coroner’s Office
- 1998 Honorary Visiting Consultant to the Ministry of Health, The Bahamas
- 2005-2007 & Forensic Pathologist, Indiana County Coroner’s Office
- 2012-2013
- 2015 Technical Consultant, Columbia Pictures - “Concussion”, directed by Peter Landesman; R. Scott, G. Scott, D. Woltroff,, L. Shuman, and E. Cantillon, Producers

BOOK AUTHORSHIP - (GENERAL PUBLIC)

- 1993 Wecht, Cyril H., with Mark Curriden, and Benjamin Wecht. *Cause of Death: The Shocking True Stories Behind the Headlines – A Forensic Expert Speaks Out on JFK, RFK, Elvis, Chappaquiddick, and Other Controversial Cases.* New York: Dutton Publishing Co., 1993.
- 1995 Groden, Robert J., with Cyril H. Wecht. *The Search for Lee Harvey Oswald: A Comprehensive Photographic Record.* New York: Penguin Studio, 1995.

- 1996 Wecht, Cyril H., with Mark Curriden, and Benjamin Wecht. *Grave Secrets: A Leading Forensic Expert Reveals the Startling Truth about O.J. Simpson, David Koresh, Vincent Foster, and Other Sensational Cases*. New York: Dutton Publishing Co., 1996.
- 1998 Wecht, Cyril H., with Charles Bosworth, Jr. *Who Killed JonBenet Ramsey?: A Leading Forensic Expert Uncovers the Shocking Facts*. New York: Penguin Putnam, Inc., 1998. (Republished: David Zinel, 2006)
- 2003 Wecht, Cyril H., with Greg Saitz, and Mark Curriden. *Mortal Evidence: The Forensics Behind Nine Shocking Cases*. New York: Prometheus Publishing Co., 2003.
- 2005 Wecht, Cyril H., with Mark Curriden, and Angela Powell. *Tales from the Morgue: Forensic Answers to Nine Famous Cases Including the Scott Peterson & Chandra Levy Cases*. New York: Prometheus Publishing Co., 2005.
- 2008 Wecht, Cyril H., with Dawna Kaufmann. *A Question of Murder: Compelling Cases from a Famed Forensic Pathologist Including Anna Nicole Smith, Daniel Smith, and More*. New York: Prometheus Books, 2008.
- 2011 Wecht, Cyril H., with Dawna Kaufmann. *From Crime Scene to Courtroom: Examining the Mysteries behind Famous Cases*. New York: Prometheus Books, 2011.
- 2013 Wecht, Cyril H., with Dawna Kaufmann. *Final Exams: True Crime Cases from Cyril Wecht*. Ebook format. Planet Ann Rule Publisher, 2013.
- 2014 Wecht, Cyril H., with Dawna Kaufmann. *Final Exams: True Crime Cases from Cyril Wecht*. Published Book. Planet Ann Rule Publisher, 2014.
- 2016 Wecht, Cyril H., with Randy L. Hanzlick and Michael A. Graham. *Forensic Pathology in Civil and Criminal Cases (Fourth Edition)*. New York: Juris Publishing, 2016.

PROFESSIONAL BOOKS - AUTHORSHIP AND EDITORIAL POSITIONS

- 1965 Wecht, C.H., Turshen, A., and Rule, W.R. *The Medico-Legal Autopsy Laws of the Fifty States and the District of Columbia* (Published by the Armed Forces Institute of Pathology)
- 1968-1982 Series Editor, *Legal Medicine Annual* (Published by Appleton-Century-Crofts Publishing Co.)
- 1971&1977 Wecht, C.H. Rev. ed. *The Medico-Legal Autopsy Laws of the Fifty States, the District of Columbia, American Samoa, the Canal Zone, Guam, Puerto Rico, and the Virgin Islands* (Published by the Armed Forces Institute of Pathology)
- 1972 Editor, *Exploring the Medical Malpractice Dilemma* (Published by Futura Publishing Co.)
- 1978-1998 Series Editor, *Legal Medicine* (Published by W.B. Saunders Co. to 1984; from 1985 Published by Praeger Publishing Co.; from 1989 Published by Butterworth Legal Publishers; from 1994 Published by The Michie Company)
- 1980 Co-Editor, *Microscopic Diagnosis in Forensic Pathology* (Published by Charles C. Thomas Co.)
- 1982-present Editor, *Forensic Sciences - Five Volumes* (Published by Matthew Bender & Co., Inc.)
- 1987-2008 Associate Editor, *Trauma*

- (Published by Matthew Bender & Co., Inc.)
- 1987 Co-Editor, *Handling Soft Tissue Injury Cases: Medical Aspects* - Three Volumes (Published by The Michie Company)
- 1989 Wecht, C.H., *United States Medicolegal Autopsy Laws* (3rd Edition) (Published by Information Resources Press)
- 1989 Co-Editor, *Preparing and Winning Medical Negligence Cases* - Three Volumes (Published by The Michie Company)
- 1991 Co-Editor, *Medicolegal Primer* (Published by American College of Legal Medicine Foundation)
- 2000-present Member, Board of Editors, *Legal Medicine* American College of Legal Medicine
- 2003 Wecht, C.H., Berman, D.A., Wecht, D.N., Adler, B.H. “*So You Are Involved in a Lawsuit - What Happens Now? A Handbook for Plaintiffs, Defendants and Witnesses.*” (Published by Lawyers & Judges Publishing Company, Inc., Tucson, Arizona)
- 2004 Editor, *Forensic Aspects of Chemical and Biological Terrorism*; Package ed. (Published by Lawyers & Judges Publishing Company)
- 2004-present Associate Editor, *Legal Medicine* (7th Edition) American College of Legal Medicine
- 2005 Editor, *Crime Scene Investigation*. The Reader’s Digest Association
- 2006 Koehler, Steven A., and Cyril H. Wecht. *Postmortem: Establishing the Cause of Death*. London: The Reader’s Digest Association with Elwin Street Limited
- 2006 Co-Editor, *Forensic Science and Law: Investigative Applications in Criminal, Civil, and Family Justice* (Published by CRC Press, Taylor and Francis Group, Boca Raton, Florida)
- 2007 Associate Editor, *The Medical Malpractice Survival Handbook* American College of Legal Medicine (Published by Elsevier Inc.)
- 2008 Co-Editor with Matthias I. Okoye, *Forensic Investigation and Management of Mass Disasters* (Published by Lawyers & Judges Publishing Company)
- 2009 Editor, *Preparing and Winning Medical Negligence Cases* - New Expanded Single Volume (3rd Edition) (Published by Juris Publishing, Inc.)
- 2010 Wecht, C.H., Lee, H.C., Van Blaricom, D.P., Tucker, M. *Investigation and Prevention of Officer-Involved Deaths* (Published by CRC Press, Taylor and Francis Group, Boca Raton, Florida)
- 2016 Contributor, “Forensic Pathology Analysis,” In *Willful Blindness, A Diligent Pursuit of Justice*, James Ramsey, author, edited by David Bear, (Published by Booklocker.com, Inc., St. Petersburg, Florida)
- 2016 Contributor, “The Role of the Forensic Pathologist in Criminal Cases,” In *Solving the Unsolved*, Kenneth L. Mains and Members of the AISOCC, authors, (Published by American Investigative Society of Cold Cases (AISOCC), Williamsport, Pennsylvania)
- 2016 Williams, Randy, with Michael M. Baden, Henry C. Lee and Cyril H. Wecht. *Sherlock Holmes and the Autumn of Terror* (Published by Rukia Company, London)

PROFESSIONAL PUBLICATIONS - EDITORIAL POSITIONS

- 1966-2006 Editor, *Scalpel and Quill* (Official Publication of the Pittsburgh Institute of Legal Medicine)
- 1971-1976 Editorial Board, *Medical Malpractice Prevention* (Published by World Medical Communications)
- 1971-1976 Editorial Advisory Board, *Current Prescribing* (Published by Medical Economics Company)
- 1971-1976 Editorial Advisory Board, *The Medical Cost Containment Journal* (Published by Panel Publishers, Greenvale, New York)
- 1971-1976 Editorial Board, *News and Views in Forensic Pathology* (Published by American Academy of Forensic Sciences and Forensic Sciences Foundation)
- 1971-1976 Editorial Board, *Iatrogenics* (Journal of the International Society for the Prevention of Iatrogenic Complications)
- 1971-1977 CME Board of Advisors and Councilors, American Medical Education Network
- 1971-2003 Editorial Advisor for the Americas, *International Forensic Sciences Journal* (Published by Elsevier Publishing Co., Amsterdam, The Netherlands)
- 1972-present Editorial Board, *Journal of Legal Medicine* (Official Publication of the American College of Legal Medicine)
- 1973-1996 Medical-Legal Reviewer, *Health Com* (Health Communications, Inc.)
- 1973-1997 Editorial Board, *INCL Brief* (Published by the Section of Insurance, Negligence, and Compensation Law, American Bar Association)
- 1974-2000 International Editorial Board, Forensic Science Section, *Excerpta Medica* (Published by Excerpta Medica, Amsterdam, The Netherlands)
- 1974-2006 Editorial Board, *Journal of the American Society of Law & Medicine, Inc.*
- 1977-1997 Editor, *MXR* (Malpractice X-posure Reports) (Published by Didactic, Inc.)
- 1978-1980 Editorial Board, Milton Helpern International Microfilm Journal of Legal Medicine
- 1978-1990 Associate Editor, *Legal Aspects of Medical Practice* (Official Publication of the American College of Legal Medicine)
- 1978-2000 International Board of Editors, *International Journal for Medicine and Law* (Published by The Society for Medicine and Law in Israel)
- 1979-present Editorial Board, *The American Journal of Forensic Medicine and Pathology* (Official Publication of the National Association of Medical Examiners) Feature Editor, 1979-1992
- 1980-1984 Editor, *Legal Aspects of Medical Practice*
- 1984-1990 Editorial Board, International Reference Organization in Forensic Medicine (INFORM)
- 1984-2006 Editor/Contributor, Forensic Medicine Section, *Law, Medicine & Health Care* (Official Publication of the American Society of Law & Medicine)
- 1984-2002 Editorial Board, *Journal of Forensic Sciences*
- 1985-1996 Editorial Board, *The Barrister* (Official Publication of the Pennsylvania Trial Lawyers Association)
- 1989-1999 Editorial Committee, *Medicine and Law* (Official Publication of the International Centre of Medicine and Law of South Africa)
- 1990-1993 Editorial Consultant, *Medical Economics*
- 1990-1999 Editorial Board, *IM-Internal Medicine for the Specialist*
- 1990-2000 Manuscript Reviewer, *American Journal of Obstetrics & Gynecology*

- 1991-2001 Book and Article Reviewer, *Journal of the American Medical Association*
- 1991-present Editorial Board, *Legal Medicine Perspectives* (Official Publication of the American College of Legal Medicine)
- 1991-2006 Editorial Board, *Medical-Legal Lessons* (Official Publication of the American College of Legal Medicine)
- 1998-2005 Editorial Board, *The Forensic Echo* (Monthly Newsmagazine of Psychiatry, Law & Public Policy)
- 2010 Editorial Advisory Board, *Medical/Legal Studies*, (Electronic Journal of the Social Science Research Network)
- 2010 Editorial Board, *American Journal of Clinical Medicine* (Official Publication of American Association of Physician Specialists, Inc.)
- 2011-2012 Reviewer, *The New England Journal of Medicine*
- 2011-2015 Editorial Board, *Journal of South India Medicolegal Association* (Official Publication of the South India Medicolegal Association)

Exhibit C

ember 10, 1984

Richardson

Audiotape A7598

y ADA FRANK

MR. FRANK: I am Assistant District Attorney Jonathan Frank. We're at the 77th Precinct. The time is now 5:50 p.m., November 10th, 1984. I'm investigating an incident which occurred last night, November 10th, 1984 at approximately 12:01 a.m. at the corner of Buffalo Avenue and Bergen Street.

Q. I would like to speak to you concerning this incident, but before I do, first let me inquire, what is your name please?

A. Vernon Richardson.

Q. Okay. And Mr. Richardson, are you speaking to me voluntarily and of your own free will?

A. Yes.

Q. Can you tell me where you were last night, I guess that was November 9th, 1984 at approximately 11 p.m.?

A. I was on the corner of Ralph Avenue between Pacific and Dean at the Puerto Rican store, going shopping for my mother.

Q. And who were you with?

A. My cousin Gary and Frederick Douglas, I mean Shaw, Jabbo.

Q. Frederick Shaw?

A. Shaw.

NEVER TURNED OVER TO Δ

Q. And his nickname is Jabbo?

A. Nickname is Jabbo.

Q. What, if anything, happened at that time?

A. Him and Kevin, and he went up to the restaurant 'cause he seen Kevin. And he was towards the store with us.

Q. When you say he, is that Jabbo or Frederick?

A. Jabbo. Jabbo. And he went up to the Chinese restaurant. And my cousin went in the store, you know, to get what we had to get. And him and Jabbo was talking. Jabbo told him to take off his vest that, you know, they all had nothing to do with each other no more being that they had that incident (inaudible)--

Q. Okay. When you say Jabbo took back his sweatshirt? Was that--

A. It was his. Yeah.

Q. And did Kevin leave at that time?

A. No. They was still talking, you know, for a few minutes. Kevin got his food and then a kid called Chickenhead, his real name is Kevin, they walked before us. My cousin came out the store. And me and Jabbo and my cousin walked like a half a block, little past the church, stopped on the fence and talked for a little while. And we recognized we had to go to the church, I mean to the liquor store. And we went and got a half a pint. Jabbo walked up the block.

Q. Okay. When you say you walked to the liquor store, who was

it who went to the liquor store?

A. Me and Gary.

Q. And where was Jabbo when you went to the liquor store?

A. He was like in the sixth walk, like almost to the corner of Ralph Avenue and Bergen. Like (inaudible) almost.

Q. And what was he doing when you left him?

A. He was talking to a female named Tinkerbelle.

Q. What happened after you went to the store, to the liquor store?

A. We came back. I was, I was like ten steps in front of my cousin, 'cause he's, he's talking to some dude at the store. And he was, he was following me. And Rennie and Little Divine was robbing Jabbo.

Q. How long were you in the liquor store?

A. Two or three minutes.

Q. Now, you say Rennie and Divine--

A. Right.

Q. Do you know these people from the area?

A. (Inaudible), yes.

Q. Have you seen them before?

A. Huh?

Q. Have you seen them before?

A. Yes.

Q. When you say they were robbing Jabbo, what were they doing?

A. Searching him and asking him for money.

Q. What happened after that?

A. I walked over there and asked them why was they doing this when I came from the liquor store, they told me to mind my business, "Step off," they gonna do so and so. Like they had something. So he had his hand in his pocket (inaudible)--

Q. Who had his hand in his pocket?

A. Rennie.

Q. What happened after that?

A. I stepped off about five steps. Right? And (inaudible) trying to do what they wanted to do. Then they snuffed him for not walking (inaudible).

Q. When you say they snuffed him, what did they do?

A. Punched him.

Q. Who punched him?

A. Rennie.

Q. Where?

A. In the face. And the short guy, Divine. They both were like going at him. And then, then I rushed over there where, from where I was at and separated them and then they hit me in the mouth.

Q. Then what happened?

A. I hit them back.

Q. Did--?

A. (Inaudible) for a few minutes and they was, you know, just trying to get out of it. You know, 'cause I was swinging

hard at both of them.

Q. After, after you fought, what, if anything, did they do?

A. They ran across the street.

Q. Did you see where they ran to?

A. Yeah. They ran to the corner of Ralph and Bergen and went to the right, past St. Mark's to Prospect. And that's as far as I seen them and they just turned. And they go down--

Q. Did you hear them--?

A. (Inaudible)

Q. Did you hear them say anything as they were leaving?

A. Yeah. They said, "We're gonna get the motherfuckers. We're gonna kill 'em. We're gonna kill 'em."

Q. What, if anything, did you do after that?

A. I was looking for my keys. My keys had fell out my pocket when they was swinging at me. You know, everything was getting loose. So I was looking for my keys. And that took about two or three minutes. And somebody else found them and picked them up and gave them to me. So we started walking back towards home and we was talking about it. I said, "Yo, you shouldn't let them treat you like that, you know. You growing up. You know, they should leave you alone by now."

Q. What happened at that time?

A. They was walking ahead of me.

Q. Did you stop?

A. Huh? Yeah. When this girl called me out the

(inaudible). I can't tell you her name (inaudible), something like that. She called me out the building, so I stopped. I was running to catch up with them 'cause I was looking for my keys and I told them to walk, I'd get the keys. They was walking ahead of me. So somebody called me, I stopped instantly. So Jabbo and Gary was walking and they came around the block. And all I seen-- ^④ I just heard a pop, 'cause I was, you know, talking to her, 'cause I was in a rush all the time. So I just kept on running after I heard the shot. And I just seen them shooting at Jabbo. ^{② multiple shots}

Q. Okay. You say you saw them. Who, who do you mean?

A. Divine. He had the gun.

Q. And you saw the gun?

A. Yeah. I saw the gun.

Q. And was there anyone with him?

A. Yes. It was Rennie and another dude. I don't know what's his name or how he looked 'cause I wasn't really paying him no attention, 'cause he wasn't there at the beginning.

Q. What, if anything, did you see when you turned around?

A. I saw the shot.

Q. After you heard the shot?

A. I turned around and I seen them shooting at Jabbo. And Jabbo he was like running so fast that they just turned around. They couldn't catch him. And that's the person that they wanted. You know, even though my cousin wasn't involved--

)

Q. What, if anything, did you see them do after Jabbo ran?

A. My cousin was the closest. 'Cause I was coming about twenty feet, fifteen feet away. ⁽³⁾ And they shot at him. Then they seen me coming. Then they turned around and ⁽⁴⁾ shot at me.

Q. When you say they, who had the gun?

A. Divine.

Q. Was there only one gun?

A. Yes.

Q. That you saw?

A. Yes.

Q. What, if anything, happened after they shot at you?

A. They turned around and (inaudible) they was crossing the street. They was in the middle of the street at the time they was shooting. And when they got on the sidewalk, he was the closest to them after they shot at-- ⁽⁵⁾ They shot at me after they got on the sidewalk too. Then they shot at him.

Q. At him, you mean--

A. They shot him twice. ⁽⁶⁾

Q. Who do you mean?

A. (Inaudible). My cousin Gary.

Q. What, if anything, did you see Gary do?

A. Gary? He's, I was telling him to duck. And he was trying to duck. He was running. I was saying, "Get out the way. Get out the way." And he was running. And there was nothing he could do and I seen him fell.

Q. You saw him fell?

A. Yes.

Q. You saw him fall?

A. Yes.

Q. And did you see him fall after you heard a shot?

A. Yes.

Q. Who had the gun at that time?

A. When he fall?

Q. When he fell, who--?

A. The short guy, Divine.

Q. Was that, what happened after that?

A. Well, the other dude said, "Pass me the gun, I'm gonna kill him." Named Rennie. And he came on top of him and shot again.

Q. When you say he came on top of him, he was standing over him?

A. Over him. And I was running towards him.

Q. What happened after that?

A. When I was running towards him, I just seen 'em and they kept busting off, I guess, 'cause I heard a click. And that even made me madder. And I was running towards them. There was no more firing. They were just running. And I was just-- I looked at my cousin and I just kept running trying to catch one of them.

Q. You were-- Did there come a time when you came back?

A. Huh?

Q. Did you come back to your cousin?

A. Yes.

Q. And did you take him to the hospital after that?

A. Yes.

Q. Did you go into someone's car to take him to the hospital?

A. Yes. They stopped like on the corner of Bergen and Buffalo, 'cause I was in the middle of the street at first. And he backed up--

Q. Who, whose car did you get into?

A. A dude named Kenny that I know.

Q. Thank you. I have no further questions.

A. Thank you.

Exhibit D

Dr. Richard A. Leo, Ph.D., J.D.
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July 19, 2018

Lonnie Soury
Soury Communications, Inc.
286 Madison Ave, Suite 907
New York, NY 10017

Re: Kevin Smith

Dear Mr. Soury:

This report is per your request in the above-referenced case.

I. Qualifications

I am the Hamill Family Professor of Law and Psychology at the University of San Francisco, and formerly an Associate Professor of Psychology and an Associate Professor of Criminology at the University of California, Irvine. My areas of research, training, and specialization include social psychology, criminology, sociology, and law. For more than two decades, I have conducted extensive empirical research on police interrogation practices, the psychology of interrogation and confessions, psychological coercion, police-induced false confessions, and erroneous convictions. In 1992 and 1993, I spent nine months doing field research inside the Oakland Police Department, which included sitting in on and contemporaneously observing one-hundred twenty-two (122) felony interrogations; in 1993, I also observed sixty (60) fully videotaped interrogations in the Vallejo and Hayward Police Departments in northern California. Since then, I have analyzed thousands of cases involving interrogations and confessions; I have researched, written, and published numerous peer-reviewed articles on these subjects in scientific and legal journals; and I have written several books on these subjects, including *Police Interrogation and American Justice* (Harvard University Press, 2008) and *Confessions of Guilt: From Torture to Miranda and Beyond* (Oxford University Press, 2012).

I am regarded as a national and leading expert on these topics, and I have won numerous individual and career achievement awards for my scholarship and publications. My scholarship has often been featured in the news media and cited by appellate courts, including the United

States Supreme Court, on multiple occasions. To date, I have consulted with criminal and civil attorneys on more than nineteen hundred (1,900) cases involving disputed interrogations and/or confessions, and I have been qualified and testified as an expert witness three-hundred and fifty (350) times in state, federal and military courts in thirty-six (36) states (including in the State of New York) and the District of Columbia. I have given many lectures to judges, defense attorneys, prosecutors, and other criminal justice professionals, and I have taught interrogation training courses and/or given lectures to police departments in the United States, China, and the Republic of Cyprus. My qualifications are summarized in greater detail in my curriculum vitae, which is attached to this report.

II. Materials Reviewed

In conjunction with my preparation of this report, I have reviewed the following materials:

- Trial Transcript, State of New York v. Calvin Lee and Kevin Smith (September, 1987)
- Letter from Scott Brettschneider to Independent Review Panel (July 31, 2015)
- Affidavit of Kevin Bazemore (November 9, 1984)
- Affidavit of Joseph Giannini (April 4, 2015)
- Affidavit of Frank Paone (July 21, 2015)
- District Attorney Notes and Line Up Sheet
- Complaint Reports (DD5's)
- Affidavit of Ronald Moore (June 5, 1992)
- Statement of Trent Richardson (September 2, 1987)
- Letter from Laurie Kumbo to Kenneth Thompson (September 5, 2015)
- Letter from David Barrett Investigations to Phillip Russotti (April 6, 2015)
- Police Officer Memo Book and Notes
- Partially Recorded Interview of Trent Richardson (November 10, 1984)
- Rap Sheet of Trent Richardson (23 Pages)
- Unsealing Order

III. Overview

In this report, I will first provide an overview of the relevant social science research on the psychology of police interrogation practices and techniques, police-induced false confessions, risk factors for false confession, psychological coercion, police interrogation

contamination, and indicia of unreliability. I will then discuss these issues as they relate to the interrogation of Trent Richardson and the reliability of his subsequent statements.¹

More specifically, in my professional opinion:

1) It has been well-documented in the empirical social science research literature that a substantial number of innocent suspects have confessed during police interrogation to crimes (often very serious crimes such as murder and rape) that it was later objectively proven they did not commit. Many witnesses have also been coerced into providing false accusations and/or false testimony. The same principles apply to the interrogation of suspects as to the interrogation of witnesses: psychological coercion by police and/or prosecutorial authorities can and sometimes does lead to false statements, admissions and/or confessions.²

2) The conditions of Trent Richardson's interrogation were psychologically coercive and contained interrogation techniques that are known to cause a person to perceive he or she has no choice but to comply with the demands and/or requests of his or her interrogators, and that are known to increase the risk of eliciting involuntary and/or unreliable statements, admissions and/or confessions.

IV. The Scientific Study of Police Interrogation, Psychological Coerion and False Statements, Admissions and/or Confessions

There is a well-established empirical field of research in the academic disciplines of psychology, criminology, and sociology on the subjects of police interrogation practices, psychological coercion, and false confessions. This research dates back to 1908; has been the subject of extensive publication (hundreds of academic journal articles, stand-alone books, and book chapters in edited volumes); has been subjected to peer review and testing; is based on recognized scientific principles, methods, and findings; and is generally accepted in the social scientific community. Significantly, numerous courts have held repeatedly that these principles, methods, and findings are generally accepted in the social science community and therefore accepted expert testimony in criminal and civil rights litigation.³

¹ Because police investigators failed to electronically record the actual interrogations of Trent Richardson, we are forever deprived of an objective record of what occurred during these interrogations.

² National Registry of Exonerations. <http://www.law.umich.edu/special/exoneration/Pages/about.aspx>

³ Saul M. Kassin et al., *Police-Induced Confessions: Risk Factors and Recommendations*, 34 L. & Hum. Behav. 3, 16 (2010) (noting that "false confessions tend to occur after long periods of time" and "sleep deprivation is historically one of the most potent methods used to ... extract confessions"); Gisli H. Gudjonsson et al., *Custodial Interrogation, False Confession and Individual Differences: A National Study Among Icelandic Youth*, 41 Personality & Individual Differences 49, 56 (2006) (finding that depressed mood is linked to a susceptibility to provide false confession to police); Brandon L. Garrett, *The Substance of False Confessions*, 62 Stan. L.Rev. 1051, 1087 (2010) ("The vast majority of these exonerees made statements in their interrogations that were contradicted by crime scene evidence, victim accounts, or other evidence known to police during their investigation."); Richard A. Leo, *False Confessions: Causes, Consequences, and Implications*, 37 J. Am. Acad.

This research has analyzed numerous police-induced false confessions and identified the personal and situational factors associated with, and believed to cause, false confessions.⁴ The fact that police-induced false confessions can and do occur has been well-documented and is not disputed by anyone in the law enforcement or academic community. Indeed, leading police interrogation training manuals have, at least since 2001, contained entire chapters and sections on the problem of police-induced false confessions and what investigators need to know to better understand and avoid eliciting false confessions from innocent suspects.⁵ Social scientists have documented approximately four-hundred and fifty to five-hundred proven false confessions in America since the early 1970s,⁶ but this is surely an underestimate and thus the tip of a much larger iceberg for several reasons. First, false confessions are difficult for researchers to discover because neither the state nor any organization keeps records of the interrogations producing them. Second, even when they are discovered, false confessions are notoriously hard to establish because of the factual and logical difficulties of proving the confessor's *absolute* innocence. As a result, Richard Ofshe and I coined the term "proven false confession" in 1998,⁷ showing that there are only four ways in which a disputed confession can be classified as proven beyond any doubt to be false:

Psychiatry & L. 332, 337 (2009) ("Interrogators help create the false confession by pressuring the suspect to accept a particular account and by suggesting facts of the crime to him, thereby contaminating the suspect's postadmission narrative.... If the entire interrogation is captured on audio or video recording, then it may be possible to trace, step by step, how and when the interrogator implied or suggested the correct answers for the suspect to incorporate into his postadmission narrative."); Steven A. Drizin & Beth A. Colgan, *Let the Cameras Roll: Mandatory Videotaping of Interrogations Is the Solution to Illinois' Problem of False Confessions*, 32 Loy. U. Chi. L.J. 337, 339-41 (2001) (*accord*).

⁴ See Saul Kassin, Steven Drizin, Thomas Grisso, Gisli Gudjonsson, Richard A. Leo and Allison Redlich (2010). "Police-Induced Confessions: Risk Factors and Recommendations" in *Law and Human Behavior*, 34, 3-38; Richard A. Leo (2008), *POLICE INTERROGATION AND AMERICAN JUSTICE* (Harvard University Press); and Gisli Gudjonsson (2003), *THE PSYCHOLOGY OF INTERROGATIONS AND CONFESSIONS: A HANDBOOK* (John Wiley & Sons Inc).

⁵ See, for example, See Fred Inbau, John Reid, Joseph Buckley and Brian Jayne (2001). *CRIMINAL INTERROGATION AND CONFESSIONS*, 4th Edition (Aspen Publishers, Inc.) at 411-448; and David Zulawski and Douglas Wicklander (2002). *PRACTICAL ASPECTS OF INTERVIEWING AND INTERROGATION*, 2nd Edition (CRC Press) at 73-104.

⁶ The largest published study of proven false confessions to date is Steven Drizin and Richard A. Leo (2004). "The Problem of False Confessions in the Post-DNA World. *North Carolina Law Review*, 82, 891-1007. For a review of the literature documenting proven false confessions, see Richard A. Leo (2008), *POLICE INTERROGATION AND AMERICAN JUSTICE*. At that time, there were approximately two-hundred and fifty to three-hundred proven false confessions in the documented literature. Since 2004, Steve Drizin, Gillian Emmerich and I have collected an additional two-hundred proven false confessions that are the subject of an academic article we are currently drafting but have not yet submitted for publication.

⁷ Richard A. Leo and Richard Ofshe (1998). "The Consequences of False Confessions: Deprivations of Liberty and Miscarriages of Justice in the Age of Psychological Interrogation." *The Journal of Criminal Law and Criminology*. Vol. 88, No. 2. Pp. 429-496.

- 1) when it can be objectively established that the suspect confessed to a crime that did not happen;
- 2) when it can be objectively established that it would have been physically impossible for the confessor to have committed the crime;
- 3) when the true perpetrator is identified and his guilt is objectively established; and/or
- 4) when scientific evidence dispositively establishes the confessor's innocence.

However, only a small number of cases involving a disputed confession will ever come with independent case evidence that allows the suspect to prove his innocence beyond dispute because doing so is akin to proving the negative. The documented number of proven false confessions in the scientific research literature is, therefore, a dramatic undercount of the actual false confessions that police have elicited in the United States in recent decades. There have almost certainly been thousands (if not tens or hundreds of thousands) more police-induced false confessions than researchers have been able to discover and classify as proven false. Indeed, in a survey of police that my colleagues and I published in 2007, police investigators themselves estimated that they elicited false confessions in 4.78% of their interrogations.⁸

The subject of police interrogation and false confessions is beyond common knowledge and highly counter-intuitive.⁹ Police detectives receive specialized training in psychological interrogation techniques; most people do not know what these techniques are or how the techniques are designed to work (*i.e.*, move a suspect from denial to admission). In addition, most people also do not know what psychological coercion is, why some techniques are regarded as psychologically coercive, and what their likely effects are. Moreover, most people do not know which interrogation techniques create a risk of eliciting false confessions or how and why the psychological process of police interrogation can, and sometimes does, lead suspects to falsely confess. This unfamiliarity causes most people to assume that virtually all confessions are true.

⁸ Saul Kassin, Richard Leo, Christian Meissner, Kimberly Richman, Lori Colwell, Amy-May Leach, and Dana La Fon (2007). "Police Interviewing and Interrogation: A Self-Report Survey of Police Practices and Beliefs," *Law and Human Behavior*, 31, 381-400.

⁹ See Danielle Chojnacki, Michael Cicchini and Lawrence White (2008), "An Empirical Basis for the Admission of Expert Testimony on False Confessions," *Arizona State Law Journal*, 40, 1-45; Richard A. Leo and Brittany Liu (2009). "What Do Potential Jurors Know About Police Interrogation and False Confessions?" *Behavioral Sciences and the Law*, 27, 381-399; Linda Henkel, Kimberly Coffman, and Elizabeth Dailey (2008). "A Survey of People's Attitudes and Beliefs About False Confessions," *Behavioral Sciences and the Law*, 26, 555-584; Iris Blandon-Gitlin, Kathryn Sperry, and Richard A. Leo (2011) "Jurors Believe Interrogation Tactics Are Not Likely to Elicit False Confessions: Will Expert Witness Testimony Inform Them Otherwise?" in *Psychology, Crime and Law*, 17, 239-260; and Mark Costanzo, Netta Shaked-Schroer and Katherine Vinson (2010), "Juror Beliefs About Police Interrogation, False Confession and Expert Testimony" in *The Journal of Legal Empirical Studies*, 7, 231-247.

V. The Social Psychology of Police Interrogation¹⁰

Police interrogation is a cumulative, structured, and time-sequenced process in which detectives draw on an arsenal of psychological techniques in order to overcome a suspect's denials and elicit incriminating statements, admissions, and/or confessions. This is the sole purpose of custodial interrogation. To achieve this purpose, interrogators use techniques that seek to influence, persuade, manipulate, and deceive suspects into believing that their situation is hopeless and that their best interest lies in confessing.¹¹ Sometimes, however, interrogators cross the line and employ techniques and methods of interrogation that are coercive and increase the likelihood of eliciting unreliable confessions or statements.

Contemporary American interrogation methods are structured to persuade a rational guilty person who knows he is guilty to rethink his initial decision to deny culpability and choose instead to confess. Police interrogators know that it is not in any suspect's rational self-interest to confess. They expect to encounter resistance and denials to their allegations, and they know that they must apply a certain amount of interpersonal pressure and persuasion to convince a reluctant suspect to confess. As a result, interrogators have, over the years, developed a set of subtle and sophisticated interrogation techniques whose purpose is to alter a guilty suspect's perceptions so that he will see the act of confessing as being in his self-interest.

These interrogation techniques were developed for the purpose of inducing guilty individuals to confess to their crimes, and police are admonished in their training to use them only on suspects believed to be guilty.¹² When these same techniques are used on innocent suspects, they carry a heightened risk that they will elicit false statements, admissions and/or confessions.

The goal of an interrogator is to persuade a suspect to view his immediate situation differently by focusing the suspect's attention on a limited set of choices and alternatives, and by convincing him of the likely consequences that attach to each of these choices. The process often unfolds in two steps: first, the interrogator causes the suspect to view his situation as hopeless; and, second, the interrogator persuades the suspect that only by confessing will the suspect be able to improve his otherwise hopeless situation. The interrogator makes it clear what

¹⁰ See Richard A. Leo (2009). "False Confessions: Causes, Consequences and Implications." *Journal of the American Academy of Psychiatry and Law*, 37, 332-343.

¹¹ Deborah Davis and William O'Donohue (2004). "The road to perdition: Extreme influence tactics in the interrogation room," In William O'Donohue, ED (2004), *Handbook of Forensic Psychology* (San Diego: Academic Press). Pp. 897-996.

¹² See Fred Inbau, John Reid, Joseph Buckley and Brian Jayne (2013). CRIMINAL INTERROGATION AND CONFESSIONS, 5th Edition (Burlington, MA: Jones & Bartlett Learning) at 187 ("These nine steps are presented in the context of the interrogation of suspects whose guilt seems definite or reasonably certain"). For empirical support for this observation, see Richard A. Leo (2008). POLICE INTERROGATION AND AMERICAN JUSTICE (Harvard University Press).

information he is seeking and attempts to convince the suspect that his only rational option is to confirm the information the interrogator purports to already know.

The first step or stage of an interrogation consists of causing a suspect to view his situation as hopeless. If the interrogator is successful at this stage, he will undermine the suspect's self-confidence and cause the suspect to reason that there is no way to escape the interrogation without incriminating himself. To accomplish this, interrogators accuse the suspect of having committed the crime; they attack and try to undermine a suspect's assertion of an alibi, alternate sequence of events, or verbalization of innocence (pointing out or inventing logical and factual inconsistencies, implausibilities, and/or impossibilities); they exude unwavering confidence in their assertions of the suspect's and his accomplices' guilt; they refuse to accept the possibility of the suspect's denials; and, most importantly, they confront the suspect with incontrovertible evidence of his guilt, whether real or non-existent. Because interrogation is a cumulative and time-sequenced process, interrogators often draw on these techniques repeatedly and/or in succession, building on their earlier accusations, challenges and representations at each step in the interrogation process.

Through the use of these techniques, the interrogator communicates to the suspect that he has been caught, that there is no way he will escape the interrogation without incriminating himself and other suspects, and that his future is determined—that regardless of the suspect's denials or protestations of innocence, he is going to be arrested, prosecuted, convicted, and punished. The interrogator seeks to convince the suspect that this is a fact that has been established beyond any doubt, and thus that any objective person must necessarily reason to this conclusion. By persuading the suspect that he has been caught, that the existing evidence or case facts objectively prove his guilt, and that it is only a matter of time before he will be prosecuted and convicted, the interrogator seeks to alter the suspect's perceptions, such that he comes to view his situation as hopeless and to perceive that resisting the interrogator's demands is futile.

Once the interrogator has caused the suspect to understand that he has been caught and that there is no way out of this predicament, the interrogator seeks to convince the suspect that the only way to improve his otherwise hopeless situation is by confessing to the offense(s) of which he is accused and confirming the information the interrogator is seeking to extract from the suspect. The second step of the interrogation thus consists of offering the suspect inducements to confess—reasons or scenarios that suggest the suspect will receive some personal, moral, communal, procedural, material, legal or other benefit if he confesses to the interrogator's version of the offense. One goal of these scenarios or inducements is to downplay both the seriousness of the alleged crime as well as the consequences of confessing, leading the suspect to perceive that the consequences of continuing to deny the accusations will be worse than the consequences of admitting to participation in the crime. The interrogator's attempt to diminish the suspect's perception of the consequences of confessing is combined with techniques that are designed to increase the suspect's anxiety in order to create the perceived need for

release from the stress of prolonged interrogation.¹³ Investigators also use scenarios to plant ideas or suggestions about how or why the suspect may have committed the crime which they may later pressure the suspect to accept and repeat.

Researchers have classified the types of inducements investigators use during the second step of interrogation into three categories: *low-end* inducements, *systemic* inducements, and *high-end* inducements.

Low-end inducements refer to interpersonal or moral appeals the interrogator uses to convince a suspect that he will feel better if he confesses. For example, an interrogator may tell a suspect that the truth will set him free if he confesses, that confessing will relieve his anxiety or guilt, that confessing is the moral or Christian thing to do, or that confessing will improve his standing in the eyes of the victim or the eyes of the community.

Systemic inducements refer to appeals that the interrogator uses to focus the suspect's attention on the processes and outcomes of the criminal justice system in order to get the suspect to come to the conclusion that his case is likely to be processed more favorably by all actors in the criminal justice system if he confesses. For example, an interrogator may tell a suspect that he is the suspect's ally and will try to help him out—both in his discussions with the prosecutor as well as in his role as a professional witness at trial—but can only do so if the suspect first admits his guilt. Or the interrogator may ask the suspect how he expects the prosecutor to look favorably on the suspect's case if the suspect does not cooperate with authorities. Or the interrogator may ask the suspect what a judge and jury are really going to think, and how they are likely to react, if he does not demonstrate remorse and admit his guilt to authorities. Interrogators often couple the use of *systemic* incentives with the assertion that this is the suspect's one and only chance—now or never—to tell his side of the story; if he passes up this opportunity, all the relevant actors in the system (police, prosecutor, judge and jury) will no longer be open to the possibility of viewing his actions in their most favorable light. This tactic may incentivize a suspect to either falsely confess or confirm an incorrect story for the interrogator based on the belief that the suspect will not have the same opportunity to help himself again in the future. Interrogators rely on *systemic* inducements to persuade the suspect to reason to the conclusion that the justice system naturally confers rewards for those who admit guilt, demonstrate remorse, and cooperate with authorities, whereas it inevitably metes out punishment for those who do not.

¹³ See Brian Jayne (1986). "The Psychological Principles of Criminal Interrogation," in Fred Inbau, John Reid and Joseph Buckley (1986). CRIMINAL INTERROGATION AND CONFESSIONS, Third Edition (Baltimore, MD: Williams & Wilkins) at 332. ("The goal of interrogation is therefore to decrease the suspect's perception of the consequences of confessing, while at the same time increasing the suspect's internal anxiety associated with his deception.").

Finally, *high-end* inducements refer to appeals that directly communicate the message that the suspect will receive less punishment, a lower prison sentence and/or some form of police, prosecutorial, judicial or juror leniency and/or immunity if he complies with the interrogator's demand that he confess, but that the suspect will receive a higher sentence or greater punishment if he does not comply with the interrogator's demand that he confess. High-end inducements may either be implicit or explicit: the important question is whether the interrogation technique communicates the message, or is understood to communicate the message, that the suspect will receive a lower (or no) criminal charge and/or lesser (or no) punishment if he confesses as opposed to a higher criminal charge and/or greater amount of punishment if he does not. For example, if police interrogators lead a suspect to believe he will be able to go home and not be charged with a homicide if he confesses to witnessing the crime and fingering someone else as the triggerman, this would be a *high-end* inducement because it communicates immunity in exchange for making such a statement.

Explicit *high-end* incentives can include telling a suspect that there are several degrees of the alleged offense, each of which carry different amounts of punishment, and asking the suspect which version he would like to confess to. Or the interrogator may explicitly tell the suspect that he will receive a long prison sentence—or perhaps even the death penalty—if he does not confess to the interrogator's version of events. The interrogator may also point out what happens to men of the suspect's age, or men accused of crime, in prison if the suspect does not confess to the interrogator's minimized account. Sometimes interrogators who rely on *high-end* inducements will present the suspect with a simple two-choice situation (good vs. bad): if the suspect agrees to the good choice (a minimized version of the offense, such as involuntary manslaughter or self-defense, or the implication of another person), he will receive a lower amount of punishment or no punishment at all; but if he does not confess right then, criminal justice officials will impute to him the bad choice (a maximized version of the offense, such as pre-meditated first degree murder, or that the suspect was acting alone), and he will receive a higher level of punishment, or perhaps the harshest possible punishment.¹⁴ The purpose of *high-end* inducements is to communicate to a suspect that it is in his rational self-interest to confess to the minimized or less-incriminating version of events that the interrogator is suggesting because if the suspect does so, he will receive a lower charge, a lesser amount of punishment and/or no time in prison, but if he fails to do so, he will receive a higher charge, a greater amount of punishment and more time in prison, perhaps even the death penalty.

To evaluate whether a particular interrogation was psychologically coercive, an expert must evaluate the interrogator's techniques, methods, and strategies in the light of the generally

¹⁴ This technique is sometimes referred to in the academic literature as the maximization/minimization technique. See Saul Kassin, Steven Drizin, Thomas Grisso, Gisli Gudjonsson, Richard A. Leo and Allison Redlich (2010). "Police-Induced Confessions: Risk Factors and Recommendations" in *Law and Human Behavior*, 34, 3-38; Richard A. Leo (2008), *POLICE INTERROGATION AND AMERICAN JUSTICE* (Harvard University Press).

accepted findings of the social science research literature on the subjects of interrogation, coercive influence techniques, and confessions.

Social science research has repeatedly demonstrated that some *systemic* inducements (depending on the content of the inducement, how explicitly or vaguely it is stated, and the message that it communicates) and all *high-end* inducements are coercive because they rely on implicit and/or explicit promises of leniency and threats of harm to induce compliance. *Systemic* and *high-end* inducements increase the likelihood of eliciting false confessions and false statements from suspects because of the *quid pro quo* arrangement and the benefit a suspect expects to receive in exchange for the information the interrogator is seeking, regardless of whether the suspect knows that information to be true or not. Such promises of leniency and threats of harm are regarded as coercive in the social science literature because of the messages they convey and their demonstrated impact on the decision-making of individuals. The expert may also evaluate whether the interrogation techniques, either individually or cumulatively, had the effect of causing a suspect to perceive that he had no choice but to comply with the demands of the interrogator, and thus, the interrogation, in effect, overbore the suspect's will.

VI. The Three Types of False Confessions

False confessions and false statements, of course, will occur in response to traditionally-coercive methods of interrogation such as the use of physical violence, threats of immediate physical harm, excessively long or incommunicado interrogation, or deprivation of essential necessities such as food, water, and/or sleep. However, these types of traditionally coercive techniques no longer appear to be common in the United States. The psychological techniques of interrogation that cross the line and sometimes cause false confessions typically involve one of two patterns: (1) the interrogator communicates to the suspect, implicitly or explicitly, that he will receive a higher charge and harsher sentence or punishment if he does not provide a satisfactory statement, but that he will receive a lesser charge or sentence, or perhaps no charge or punishment at all, if he does; or (2) the interrogator wears down and distresses the suspect to the point that the suspect subjectively feels that he has no choice but to comply with the interrogator's demands if he is to put an end to the intolerable stress of continued interrogation and/or escape the oppressive interrogation environment. As will be discussed below, some individuals have a greater vulnerability to making false confessions both because of their individual characteristics (e.g., juveniles, the mentally handicapped, etc) or because of certain interrogation techniques (e.g., being promised freedom and immunity in exchange for admitting to witnessing a crime).

Whether a police-induced false confession or statement is caused primarily by coercive interrogation techniques or by a suspect's pre-existing vulnerabilities to interrogation, or some combination of both, there are three fundamental types of false confessions and statements: a *voluntary* false confession or statement (*i.e.*, a false confession knowingly given in response to little or no police pressure); a *coerced-* or *stress-compliant* false confession or statement (*i.e.*, a false confession knowingly given to put an end to the interrogation or to receive an anticipated

benefit or reward in exchange for confession); and a *coerced-* or *non-coerced-persuaded* false confession or statement (*i.e.*, a confession given by a suspect who comes to doubt the reliability of his memory and thus comes to believe that he may have committed the crime, despite no actual memory of having done so).¹⁵ These different types of false confession typically involve different levels of police pressure, a different psychology of influence and decision-making, and different beliefs about the likelihood of one's guilt. Regardless of type, false confessors typically recant their confessions shortly after they are removed from the pressures and reinforcements of the interrogation environment.

VII. The Three Sequential Police Errors That Can Lead to False (But Sometimes Detailed) Confessions

There are three important decision points in the interrogation process that are known to be linked to false confessions or statements. The first decision point is the police decision to classify someone as a suspect. This is important because police only *interrogate* individuals whom they first classify as suspects; police *interview* witnesses and victims. There is a big difference between interrogation and interviewing: unlike interviewing, an interrogation is accusatory, involves the application of specialized psychological interrogation techniques, and the ultimate purpose of an interrogation is to get an incriminating statement from someone whom police believe to be guilty of the crime. False confessions or statements occur when police misclassify an innocent suspect as guilty and then subject him to a custodial interrogation, and are satisfied with elicitation of a version of events that, in fact, is not true. This is one reason why interrogation training manuals implore detectives to investigate their cases before subjecting any potential suspect to an accusatorial interrogation.¹⁶

The second important decision point in the process occurs when the police interrogate the suspect. Again, the goal of police interrogation is to elicit an incriminating statement from the suspect by moving him from denial to admission. To accomplish this, police use psychologically-persuasive, manipulative, and deceptive interrogation techniques. As described in detail in the previous sections, police interrogators use these techniques to accuse the suspect of committing the crime, to persuade him that he is caught and that the case evidence

¹⁵ See Richard Ofshe and Richard A. Leo (1997) "The Social Psychology of Police Interrogation: The Theory and Classification of True and False Confessions." *Studies in Law, Politics & Society*, Vol. 16. Pp. 189-251.

¹⁶ Fred Inbau, John Reid and Joseph Buckley (1986). *CRIMINAL INTERROGATION AND CONFESSIONS*, Third Edition (Baltimore, MD: Williams & Wilkins) at 3 ("Prior to the interrogation, and preferably before any contact with the suspect, become thoroughly familiar with all the known facts and circumstances of the case."). See also Fred Inbau, John Reid, Joseph Buckley and Brian Jayne (2013). *CRIMINAL INTERROGATION AND CONFESSIONS*, 5th Edition (Burlington, MA: Jones & Bartlett Learning) at 18 ("One basic principle to which there must be full adherence is that the interrogation of suspects should follow, and not precede, an investigation conducted to the full extent permissible by the allowable time and circumstances of the particular case. The authors suggest, therefore, that a good guideline to follow is "investigate before you interrogate").

overwhelmingly establishes his guilt, and then to induce him to confess by suggesting it is the best course of action for him. However, properly trained police interrogators do not use physically- or psychologically-coercive techniques because they may result in involuntary and/or unreliable incriminating statements, admissions, and/or confessions.

The third important decision point in the interrogation process occurs after the police have elicited an admission—an “I did it” statement—from the suspect. This is referred to as the post-admission phase of the interrogation. The post-admission phase of the interrogation is important because it is here that the police can acquire information and evidence that will either support or not support the accuracy of the suspect’s admission. Properly-trained police interrogators should know that innocent people sometimes falsely confess to crimes they did not commit.¹⁷ Properly-trained police interrogators also know that guilty suspects sometimes implicate others for crimes they themselves committed in order to diminish their role in the crime. Interrogators therefore will seek to elicit information (that is not generally known and cannot likely be guessed by chance) from the suspect that either demonstrates, or fails to demonstrate, independent knowledge of the crime scene details and case facts. Properly-trained police interrogators, therefore, will not ask leading or suggestive questions and will not educate the suspect about details of the victim’s allegations or of the alleged crime. Instead, they will let the suspect supply the details of the case independently. Properly-trained police interrogators will also seek to test the suspect’s post-admission account against the physical and other credible evidence. Truthful confessions and statements are typically corroborated by solid physical evidence and independent knowledge of underlying case facts that have not been suggested to the suspect; false confessions and false statements are not.¹⁸

VIII. Populations with Particular Vulnerability in the Interrogation Room

While coercive and/or improper interrogation techniques are often the primary cause of false confessions, certain types or groups of individuals are far more vulnerable to the pressures of interrogation, having their will overborne and/or making a false confession. This includes

¹⁷ Although the “Reid” Manual (CRIMINAL INTERROGATION AND CONFESSIONS by Fred Inbau et al.) did not include a full chapter on false confessions until the Fourth Edition in 2001, the need for police interrogators to be diligent to avoid false confessions has been present for decades. From the very first manual in 1942 and in all subsequent editions (1948, 1953, 1962, 1967, 1986, 2001 and 2013), it has repeatedly implored interrogators not to use any methods that are “apt to make an innocent person confess to a crime he did not commit,” implicitly, if not explicitly, suggesting that police interrogator do know that suspects can be made to falsely confess to crimes they did not commit.

¹⁸ Richard A. Leo and Richard Ofshe (1998). “The Consequences of False Confessions: Deprivations of Liberty and Miscarriages of Justice in the Age of Psychological Interrogation” *The Journal of Criminal Law and Criminology*. Vol. 88, No. 2. Pp. 429-496. This observation has been made in the police interrogation training literature as well. See also Fred Inbau, John Reid, Joseph Buckley and Brian Jayne (2013). CRIMINAL INTERROGATION AND CONFESSIONS, 5th Edition (Burlington, MA: Jones & Bartlett Learning) at 354-360.

individuals who are mentally ill, and therefore may confess falsely because they are easily confused, disoriented, delusional or experiencing a non-rational emotional or mental state. This also includes juveniles and individuals with a low IQ or low-level cognitive functioning, who may be more vulnerable to interrogators because of their inability to understand the nature or gravity of their situation, their inability to foresee the consequences of their actions, their inability to cope with stressful situations and/or their eagerness to please others, especially authority figures. Juveniles may also be more easily intimidated than adults and may lack the maturity, knowledge, or sense of authority needed to resist simple police pressures and manipulations. Finally, this also includes individuals who, by their nature and personality, are naive, excessively trusting of authority, highly suggestible and/or highly compliant and who are therefore predisposed to believe that they have no choice but to comply with the demands of authorities or who simply lack the psychological resources to resist the escalating pressures of accusatorial interrogation.¹⁹

IX. Evaluating the Reliability of Incriminating Statements, Admissions and Confessions

In addition to studying the psychology of police interrogation and the correlates and causes of false confessions from the innocent, scientific researchers have also analyzed the patterns, characteristics and indicia of reliability in true and false confession cases. To evaluate the likely reliability or unreliability of an incriminating statement, admission or full confession from a suspect, scientific researchers analyze the fit between the suspect's post-admission narrative and the crime facts and/or corroborating evidence derived from the confession (*e.g.*, location of the missing murder weapon, loot from a robbery, the victim's missing clothing, etc.).²⁰

The purpose of evaluating the fit between a suspect's post-admission narrative and the underlying crime facts and derivative crime evidence is to test the suspect's actual knowledge of the crime. If the suspect's post-admission narrative corroborates details only the police know, leads to new or previously undiscovered evidence of guilt, explains apparent crime fact anomalies and is corroborated by independent facts and evidence, then the suspect's post-admission narrative objectively demonstrates that he possesses the actual knowledge that would be known only by the true perpetrator and therefore is strong evidence of guilt. If the suspect cannot provide police with the actual details of the crime, fails to accurately describe the crime

¹⁹ See Saul Kassin, Steven Drizin, Thomas Grisso, Gisli Gudjonsson, Richard A. Leo and Allison Redlich (2010). "Police-Induced Confessions: Risk Factors and Recommendations" in *Law and Human Behavior*, 34, 3-38; Richard A. Leo (2008), *POLICE INTERROGATION AND AMERICAN JUSTICE* (Harvard University Press).

²⁰ See Richard Ofshe and Richard A. Leo (1997) "The Social Psychology of Police Interrogation: The Theory and Classification of True and False Confessions." *Studies in Law, Politics & Society*, Vol. 16. Pp. 189-251; and Richard A. Leo and Richard Ofshe (1998). "The Consequences of False Confessions: Deprivations of Liberty and Miscarriages of Justice in the Age of Psychological Interrogation" *The Journal of Criminal Law and Criminology*. Vol. 88, No. 2. Pp. 429-496.

scene facts, cannot lead the police to new or derivative crime evidence, and/or provides an account that is full of gross errors and disconfirmed by the independent case evidence, then the suspect's post-admission narrative demonstrates that he fails to possess the actual knowledge that would be known only by the true perpetrator and is therefore strongly consistent with innocence. Indeed, absent contamination, the fit between the suspect's post-admission narrative and both the crime scene facts and the derivative crime evidence therefore provides an objective basis for evaluating the likely reliability of the suspect's incriminating statements.

The well-established and widely accepted social science research principle of using the fit standard to evaluate the validity of a confession statement is also a bedrock principle of criminal investigation within law enforcement. Properly trained police detectives realize that an "I did it" statement is not necessarily evidence of guilt and may, instead, turn out to be evidence of innocence. For example, in high-profile murder cases, police regularly screen out volunteered confessions by seeing whether or not the person can tell the police details known only to the perpetrator or lead the police to derivative crime evidence that either corroborates, or fails to demonstrate, the person's guilty knowledge. Police often keep particularly heinous or novel aspects of the crime from the press so that they can be used to demonstrate a confessor's guilty knowledge. Police sometimes deliberately include an error in media releases or allow incorrect statements to go uncorrected so that a true perpetrator will be able to demonstrate his personal knowledge of the crime. In other types of cases, police detectives regularly rely upon the fit standard to identify a true admission that might be mixed in with a collection of volunteered statements.

Using the fit standard to evaluate the validity of a suspect's incriminating statements, admissions or confessions is a bedrock principle of law enforcement because police detectives realize that seeking corroboration during the post-admission phase of interrogation is essential to proper investigative work.²¹ This is because it is a fundamental principle of police investigation that true explanations can be supported and false explanations cannot be supported (assuming no contamination has occurred), and because false explanations will not fit the facts of the crime, lead to derivative evidence or be corroborated by independent evidence.

Moreover, post-admission narrative analysis and the fit standard are central to proper criminal investigation because properly-trained detectives should realize that the purpose of detective work is not to clear a crime or get a conviction, but to carefully collect evidence in a way that will lead to the arrest, prosecution and conviction of the guilty while at the same time ensuring that no innocent individual is wrongly arrested, prosecuted or convicted.

A suspect's post-admission narrative therefore provides a gold mine of potential evidence to the unbiased, properly-trained detective who is seeking to ferret out the truth. If the suspect is

²¹ Fred Inbau, John Reid, Joseph Buckley and Brian Jayne (2013). CRIMINAL INTERROGATION AND CONFESSIONS, 5th Edition (Burlington, MA: Jones & Bartlett Learning) at 354-360.

guilty, the collection of a detailed post-admission narrative will allow the detective to establish the suspect's guilt beyond question, both by demonstrating the suspect's actual knowledge and by corroborating the suspect's statements with derivative evidence. Properly-trained detectives realize that the strongest form of corroboration comes through the development of new evidence using a suspect's post-admission narrative. While it is not possible to verify every post-admission narrative with the crime facts, a skillful interrogator will seek as much verifiable information about the crime as he can elicit. The more verifiable information elicited from a suspect during the post-admission period and the better it fits with the crime facts, the more clearly the suspect demonstrates his responsibility for the crime.

If the suspect is innocent, the detective can use the suspect's post-admission narrative to establish his lack of knowledge and thus demonstrate his likely or certain innocence. Whereas a guilty suspect can corroborate his admission because of his actual knowledge of the crime, the innocent suspect cannot. The more information the interrogator seeks, the more frequently and clearly an innocent suspect will demonstrate his ignorance of the crime. His answers will turn out either to be wrong, to defy evaluation, or to be of no value for discriminating between guilt and innocence. Assuming that neither the investigator nor the media have contaminated the suspect by transferring information about the crime facts, or that the extent of contamination is known, the likelihood that his answers will be correct should be no better than chance. Absent contamination, the only time an innocent person will contribute correct information is when he makes an unlucky guess. The likelihood of an unlucky guess diminishes as the number of possible answers to an investigator's questions grows large. If, however, his answers about missing evidence are proven wrong, he cannot supply verifiable information that should be known to the perpetrator, and he inaccurately describes verifiable crime facts, then the post-admission narrative provides evidence of innocence.

This, of course, assumes that the suspect's knowledge of the crime has not been contaminated by the media, community gossip, the police or some other source with inside knowledge about crime details. If a suspect has learned unique or non-public crime facts from one of these sources, then the fact that his confession contains these details is, of course, not indicative of pre-existing knowledge or probative of guilt. This problem is discussed in detail in the following section. Finally, it is worth mentioning that in some cases police interrogators contaminate a suspect with a perceived fact that they believe to be true at the time of the interrogation but which subsequently turns out to be provably false. Such provably false fed facts are also regarded as an indicia of the confession's falsity.

X. The Problem of Contamination

The post-admission narrative process is about more than merely eliciting information from the suspect. Investigators in practice have been observed to shape the suspect's narrative to

make the confession as persuasive as possible and to enhance the chances of conviction.²² In this way, confessions are scripted or constructed by interrogators. A persuasive crime narrative requires an explanation of why the crime happened—the motives and explanations of the suspect for committing the crime. It also should contain a statement of the suspect’s emotions, not only his or her emotions at the time of committing the crime, but also the shame, regret, or remorse the suspect now feels for having committed the crime. Interrogators are also trained to get the suspect to cleanse the interrogation process, usually by providing statements to the effect that the confession was voluntary. Interrogators will ask the suspect, usually after the suspect’s resistance has been broken down and he has been made to believe that it is in his best interests to confess, whether the suspect was treated well, given food and drink, bathroom breaks, and other comforts, and whether any promises or threats were made to the suspect. Finally, and perhaps most importantly, interrogators seek to ensure that the confession contains both general and specific crime knowledge—the details of the crime that only the true perpetrator should know.

The problem of contamination in false confession cases arises when the interrogator pressures a suspect during the post-admission narrative phase to accept a particular account of the crime story—one that usually squares with the interrogator’s theory of how the crime occurred—and then suggests crime facts to the suspect, leads or directs the suspect to infer correct answers, and sometimes even suggests plausible motives for committing the crime.²³ Because they are trained to presume the guilt of those whom they interrogate, American police assume that they are interrogating suspects who already know the correct crime facts. But this is not true when they are mistakenly interrogating an innocent person.

Instead, the innocent suspect is pressured to use facts disclosed to him by his interrogators in order to construct a plausible-sounding confession and post-admission narrative. Indeed, the presence of these details in the suspect’s confession falsely gives the suspect’s narrative credibility and the appearance of corroboration. Moreover, suspects who have been pressured and coerced into falsely confessing are motivated to please their interrogator(s) in order to put an end to the interrogation, and, as a result, often will make up and/or embellish known or suggested facts in order to make their confession seem more plausible and pleasing to the interrogators who, at that moment, control their fate in the interrogation room. After police interrogators have contaminated the suspect with non-public crime facts, they often attribute “guilty knowledge” to the suspect when he repeats back and incorporates into his confession the very facts that they first educated him about. One researcher has called these contaminated details “misleading specialized knowledge.”²⁴ In many false confession cases, police and prosecutors argue that the suspect’s confession corroborates his guilt because he “knows facts only the true perpetrator would know,” even though the suspect first learned these facts from his

²² Richard A. Leo (2008). POLICE INTERROGATION AND AMERICAN JUSTICE (Harvard University Press) at 165-194.

²³ Richard A. Leo (2008), POLICE INTERROGATION AND AMERICAN JUSTICE (Harvard University Press).

²⁴ Gisli Gudjonsson (2003), THE PSYCHOLOGY OF INTERROGATIONS AND CONFESSIONS: A HANDBOOK (John Wiley & Sons Inc).

interrogators. Police contamination and scripting therefore. increase the risk that false confessions, once given, will cause third parties to erroneously believe that they contain indicia of reliability and thus increase the risk that the (contaminated) false confession will lead to a wrongful conviction.

Of course, if the interrogation process is not electronically recorded, the interrogator is free to assert that these crime facts were volunteered by the suspect and the trial may devolve into a swearing contest between the suspect and the interrogators over who was the source of the details in the confession. If the entire process is recorded, however, then it may be possible to trace the contamination.

Researchers have found that contamination by police regularly occurs in interrogation-induced false confession cases. In a study of the first two-hundred and fifty (250) post-conviction DNA exonerations of innocent prisoners in the American criminal justice system, Professor Brandon Garrett of the University of Virginia Law School showed that this pattern was present in 95% of the false confession cases in this data set (38 of 40 cases). In other words, in the overwhelming majority of these proven false confession cases, police interrogators fed the suspect unique non-public facts that “only the true perpetrator would know,” but the prosecutor erroneously alleged that the suspect volunteered these facts and that the suspect thereby corroborated the reliability of his confession. But because the jury in each case mistakenly believed the prosecutor rather than the defense, each of the confessors was convicted, and in each of these cases the defendant’s innocence (and the falsity of the confession) was only proven many years later by DNA.²⁵ In a recent follow-up study more recent false confession DNA exonerations, Garrett found that another 21 of 23 (91%) were contaminated.²⁶

In sum, the problem of contamination means that when applying the fit test to assess the reliability of the confession, it is essential to separate out the contaminated facts from the facts that unquestionably were provided by the defendant.

XI. The Interrogation and Statements of Trent Richardson

According to Trent Richardson, the Kings County District Attorney’s Office literally kidnapped him from the judge’s chambers during the Kevin Smith trial. During this time, according to Mr. Richardson, the Kings County District Attorney’s Office lied to him, as well as to the judge, defense attorneys and family members. The Kings County District Attorney’s Office then charged Mr. Richardson with perjury in the first degree, and subsequently kept him hidden and locked up in a cold and damp police precinct cell for four days without allowing him to contact an attorney or family members, without providing him with hot food, and without allowing him to make a phone call, bathe or change his clothes. The Kings County District

²⁵ Brandon Garrett (2011). *CONVICTING THE INNOCENT* (Harvard University Press)

²⁶ Brandon Garrett (2015). “Contaminated Confessions Revisited,” *University of Virginia Law Review*, 101, 395-454.

Attorney's Office offered to drop perjury charges if Mr. Richardson agreed to testify against Kevin Smith at his trial, even though Mr. Richardson had previously stated that he did not witness Kevin Smith shoot Gary Van Dorn nor did he witness the crime, and that his grand jury testimony used to indict Kevin Smith had been false. After four days of this treatment, Mr. Richardson agreed to testify against Kevin Smith, and was the only witness against Mr. Smith, who was ultimately convicted of murder.

The conditions of Mr. Richardson's confinement and interrogation were highly coercive and involved the use of two sets of situational risk factors for interrogation-induced false statements, admissions and/or confessions according to the psychological science.

1) *Lengthy Interrogation*. Lengthy interrogation/custody is a *situational* risk factors for making or agreeing to a false statements, admissions and/or confessions during police interrogation.²⁷ Empirical studies indicate that the overwhelming majority of routine custodial interrogations last less than one hour,²⁸ whereas the combined time period of custody and interrogation in most interrogations leading to a false confession is more than six hours.²⁹ The Reid and Associates police interrogation training manual specifically recommends that police interrogate for no longer than four (4) hours absent "exceptional situations" and that "most cases require considerably fewer than four hours."³⁰ Lengthy detention and interrogation is a significant risk factor for false statements, admissions and/or confessions because the longer an interrogation lasts, the more likely the suspect is to become fatigued and depleted of the physical and psychological resources necessary to resist the pressures and stresses of accusatory interrogation,³¹ especially where investigators use physically or psychologically coercive methods.³² It can also lead to sleep deprivation, which, as mentioned earlier, heightens interrogative suggestibility by impairing decision-making abilities, such as the ability to anticipate risks and consequences, inhibit behavioral impulses and resist suggestive questioning.³³ The longer an interrogation lasts, the more pressure investigators bring to bear on

²⁷ See Saul Kassin, Steven Drizin, Thomas Grisso, Gisli Gudjonsson, Richard A. Leo and Allison Redlich (2010). "Police-Induced Confessions: Risk Factors and Recommendations" in *Law and Human Behavior*, 34, 3-38.

²⁸ Richard A. Leo (1996). "Inside the Interrogation Room," *Journal of Criminal Law and Criminology*, 86, 266-303. See also Barry Feld (2013). *Kids, Cops and Confessions: Inside the Interrogation Room* (New York, NY: New York University Press).

²⁹ Steven Drizin and Richard A. Leo (2004). "The Problem of False Confessions in the Post-DNA World. *North Carolina Law Review*, 82, 891-1007.

³⁰ Fred Inbau, John Reid, Joseph Buckley and Brian Jayne (2001). CRIMINAL INTERROGATION AND CONFESSIONS, 4th Edition (Gaithersburg, Maryland: Aspen Publishers, Inc) at 597.

³¹ Deborah Davis and Richard A. Leo (2012). "Interrogation Related Regulatory Decline: Ego-Depletion, Failures of Self-Regulation and the Decision to Confess" *Psychology, Public Policy and Law*, Vol 18. Pp. 673-704.

³² Saul Kassin, Steven Drizin, Thomas Grisso, Gisli Gudjonsson, Richard A. Leo and Allison Redlich (2010). "Police-Induced Confessions: Risk Factors and Recommendations" in *Law and Human Behavior*, 34, 3-38.

³³ Mark Blagrove (1996). "Effects of length of sleep deprivation on interrogative suggestibility. *Journal of Experimental Psychology: Applied*, 2, 48-59. See also Stephen Frenda, Shari R. Berkowitz, Elizabeth F. Loftus, and Kimberly M. Fenn (2016). "Sleep Deprivation and False Confessions." *Proceedings of the National Academy of Sciences*, 113, 2047-2050.

the suspect and the more techniques and strategies they may use to move the suspect from denial to admission. Researchers consider the length of an interrogation to include both the time that a suspect is being questioned and/or accused as well as any breaks between questioning/accusation sessions because breaks between accusation and questioning add to the stress and fatigue of the interrogation and sometimes is used as an interrogation technique itself. Mr. Richardson was isolated, held in custody, and interrogated for an extraordinarily long period of time (4 days) before changing his account to fit the Kings County District Attorney's Office's demands.

2) *Explicit Threats and Promises*. Mr. Richardson was threatened with a 7 year prison sentence for perjury if he did not cooperate with the prosecution and testify against Kevin Smith, but promised with leniency if he recanted his account he had not seen Kevin Smith shoot Gary Van Dorn nor did he witness the crime nor did he know who killed Gary Van Dorn. Mr. Richardson understood that if he changed his account in response to the Kings County District Attorney's Office's threats, he would receive leniency and freedom. Once Mr. Richardson yielded to the coercion, the Kings County District Attorney's Office dropped charges against him and Mr. Richardson was released.

As discussed earlier, the use of explicit promises of leniency, immunity and/or a tangible benefit, as well as the use of explicit threats of harm, significantly increases the risk of eliciting an involuntary false statement, admission, and/or confession when applied to the innocent. Indeed, as empirical social science research has repeatedly demonstrated, promises of leniency—like threats of harm or harsher punishment and whether explicit or implicit—are widely associated with police-induced false confession in the modern era and are believed to be among the leading causes. Promises and threats (whether implied or express) are inherently coercive because they exert substantial pressure on a suspect to comply and thus can easily overbear the will or ability of a suspect to resist an interrogator's demands or requests. Like other *high-end* inducements, promises and threats contribute to creating a sense of despair and hopelessness about a suspect's perceptions of his available options during interrogation. This may be especially the case when one is not merely being promised leniency, but being promised complete freedom (i.e., immunity) in exchange for making a statement while being threatened with a harsh outcome if one refuses. There may be no psychological interrogation technique more potent than the use of threats and promises. As discussed earlier, it is well-established that psychologically coercive interrogation techniques increase the risk of eliciting false and/or involuntary incriminating statements, admissions and/or confessions.

XII. Conclusion

In conclusion, based on my analysis above, it is my professional opinion that:

1) It has been well-documented in the empirical social science research literature that a substantial number of innocent suspects have confessed during police interrogation to crimes (often very serious crimes such as murder and rape) that it was later objectively proven they did not commit. Many witnesses have also been coerced into providing false accusations and/or

false testimony. The same principles apply to the interrogation of suspects as to the interrogation of witnesses: psychological coercion by police and/or prosecutorial authorities can and sometimes does lead to false statements, admissions and/or confessions.³⁴

2) The conditions of Trent Richardson's interrogation were psychologically coercive. and contained interrogation techniques that are known to cause a person to perceive he or she has no choice but to comply with the demands and/or requests of his or her interrogators, and that are known to increase the risk of eliciting involuntary and/or unreliable statements, admissions and/or confessions.

The opinions I express in this report are based on my own knowledge, research, and publications; research and publications in the field; and the case-specific information and evidence that has been provided to me. Should any additional information or testimony come to my attention, I reserve the right to modify any opinions expressed herein accordingly.

If you have any questions, please do not hesitate to contact me.

Sincerely yours,

A handwritten signature in black ink that reads "Richard A. Leo". The signature is written in a cursive, flowing style.

Richard A. Leo, Ph.D., J.D.
Hamill Family Professor of Law and
Social Psychology
University of San Francisco

³⁴ National Registry of Exonerations. <http://www.law.umich.edu/special/exoneration/Pages/about.aspx>

Exhibit E

Professional Background

I am Brian L. Cutler, Ph.D., Professor in the Faculty of Social Science and Humanities at the University of Ontario Institute of Technology (UOIT). Prior to joining the faculty at UOIT, I was Assistant, Associate, and Full Professor and Associate Dean at Florida International University and Professor and Chair of the Department of Psychology at the University of North Carolina at Charlotte. I have been conducting research on Forensic Psychology since 1984.

I am past President of the American Psychology-Law Society, Division 41 of the American Psychological Association. I am the past Editor-in-Chief of the peer-reviewed journal *Law and Human Behavior*. I have authored or edited the following books:

The APA Handbook of Forensic Psychology
Conviction of the Innocent: Lessons from Psychological Research
Reform of Eyewitness Identification Procedures
Evaluating Eyewitness Identification
Expert Testimony on the Psychology of Eyewitness Identification
Encyclopedia of Psychology and Law

In addition, I have authored about 30 book chapters and about 70 peer-reviewed journal articles about forensic and social psychology in peer-reviewed psychology journals, forensic psychology journals, or law journals (see my appended CV for details). I have testified as an expert witness in various federal courts and 13 state courts (including New York) since 1989. I continue to conduct research on eyewitness identification, false accusations, interrogations, and confessions.

Opinions Sought

Mr. Lonnie Soury of Soury Communications, Inc., contacted me concerning the case of Mr. Kevin Smith. Mr. Soury, a member of Mr. Smith's defense team, requested from me an affidavit addressing the psychological basis behind false witness testimony. More specifically, Mr. Soury asked that I comment upon the conditions to which Mr. Vernon Richardson was exposed, the likely effects that such conditions would have, and whether these conditions would increase the risk that Mr. Smith would falsely implicate Mr. Smith as the man who shot Gary Van Dorn on November 10, 1984.

Tepfer, Nirider, and Tricarico (2010) provided evidence of the role of false witness testimony in cases of wrongful conviction of youth, in general. Tepfer et al. compiled a set of 103 cases in which youth (under the age of 20) were wrongfully convicted. The youth were, on average, 16.6 years old when the crimes occurred, 16.8 when they were accused, 18.0 when convicted, and 31.7 when exonerated. According to the study:

“a young witness's unreliable statement contributed to another youth's wrongful conviction in a full thirty-six of the 103 cases (34.9%). After cases in which youthful defendants themselves confessed are added into the calculus, it becomes clear that a factually incorrect statement made by a youth—whether that statement implicated himself or another person—contributed to the conviction of fifty-seven of the 103

exonerees studied, or an overwhelming 55.3% of the cases. This figure strongly indicates that children and teens—whether victim, witness, or suspect—are uniquely susceptible to making factually incorrect statements, especially when the statements are extracted by the police. Every child, after all, shares the same psychological vulnerabilities that make them, as a class, more likely to respond to intense police questioning by offering up false information. Too often, however, police use the same overbearing and manipulative interrogation tactics described above not only while questioning youthful suspects, but also while questioning youthful witnesses. The result is plain: unreliable statements given by children who feel that they must say what the police want to hear in order to escape the pressures of the interrogation or interview room” (pp. 909-910).

Tepfer et al. also noted that in thirty cases they studied the suspect was incentivized (led to believe they would receive more lenient treatment) to give a false confession. In another nine cases, the witness was incentivized to give a false statement that led to a wrongful conviction. The authors concluded: “This result vividly illustrates the risks that emerge when a youth is made to believe that he will get in trouble if he fails to ‘cooperate’ with authorities – in other words, if he fails to tell his questioners what he wants to hear.”

Instances of false testimony are not limited to youth. One experiment demonstrated that coercive interrogation increased the risk of false accusations among university students (Loney & Cutler, 2016). A case study demonstrated the powerful influence of coercive influence on the testimony of adult non-custodial witnesses – an eyewitness and alibi witnesses (Moore, Cutler, & Shulman, 2014). The conditions under which the adult witnesses in Loney and Cutler’s (2016) experiment and in the Moore et al. case study pale in comparison to the conditions to which Mr. Richardson was exposed, as summarized below.

Mr. Richardson was 20 years old at the time of the shooting. Juvenile status and mental impairment are commonly cited risk factors for susceptibility to influence in criminal investigations (Kassin et al., 2010). Youth are noted to be more suggestible, more obedient to authority, and less mature in their decision-making capacities than adults. Youth are cognitively and socially less mature than adults, and the lower levels of maturity are manifested in impulsive decision-making, decreased ability to consider long-term consequences, increased engagement in risky behavior, and susceptibility to social influence (Kassin et al., 2010). The vulnerability of juveniles in criminal investigation contexts has been recognized in law (*Roper v. Simmons*, 2005), by trainers of police interrogation (Inbau et al., 2011), and in the forensic psychological literature (Kassin et al, 2010).

If Mr. Richardson’s age rendered him vulnerable to social influence at the outset, the situational pressures to which he was exposed would have greatly increased the risk of eliciting false testimony. According to the July 31, 2015 Independent Review Panel report, Mr. Richardson was held in a cell in the 81st precinct for four days, isolated from a lawyer, family or friends, without a phone call, and without a hot meal and the opportunity to bathe and brush his teeth. Further, Mr. Richardson, prior to being jailed, was told that he was charged with perjury and was facing a seven-year sentence. According to the report, Mr. Richardson testified at the

trial that his perjury charges would be dropped if he testified in accordance with the prosecution's wishes.

The combination of prolonged isolation, the lack of representation and social support, and the threat of a perjury conviction each has a powerful impact on susceptibility to social influence and increases the risk of compliance to authority by giving false statements (Kassin et al., 2010). In combination, these forces would only magnify the risk of giving false statements. Prolonged deprivation and isolation are known to be highly stressful, impair decision-making, and enhance susceptibility to social influence (Kassin et al., 2010). Further, offering an incentive for testimony (i.e., dropping the perjury charges) is a form of behavioral conditioning that is known to have powerful influences on behavior (Kassin et al., 2010). The conditions to which Mr. Richardson were subjected would increase the risk of his giving a false statement in order to escape the deprivation and isolation and obtain the highly desired outcome of having the perjury charges and the associated seven-year sentence dropped.

Respectfully Submitted,

A handwritten signature in blue ink that reads "Brian L. Cutler". The signature is written in a cursive, flowing style.

Brian L. Cutler, Ph.D.

Works Cited

Inbau, F. E., Reid, J. E., Buckley, J. P., & Jayne, B. C. (2013). *Criminal interrogation and confessions* (5th ed.). Burlington, MA: Jones & Bartlett Learning.

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Roper v. Simmons, 543 U.S. 551 (2005).

Tepfer, J. A., Nirider, L. H., & Tricarico, L. M. (2009). Arresting development: Convictions of innocent youth. *Rutgers Law Review, 62*, 887-941.

Exhibit F

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

-----X
THE PEOPLE OF THE STATE OF NEW YORK

-against-

AFFIDAVIT
IND. # 2183/86

CALVIN LEE,

Defendant.

-----X
STATE OF NEW YORK)
(ss.:
COUNTY OF KINGS)

KEVIN BAZEMORE, being duly sworn, deposes and says:

1. I am making this affidavit at the request of Peter Bark, the attorney for Calvin Lee.
2. On or about November 9, 1984 I was a witness to the shooting of Gary Van Dorn at the corner of Bergen Street and Buffalo Avenue, in Brooklyn, New York.
3. It was a clear, dry Friday night, near midnight. I was standing on Bergen Street near Kingsborough 6th Walk. I was in the neighborhood that evening, visiting a friend, Valerie Armor, who lived at 654 Kingsborough 6th Walk. I noticed a commotion to my right at the corner of Bergen and Buffalo. I saw a man with a gun shoot Gary Van Dorn in the back. Just before the shooting I saw a crowd of people running away. One of the people I saw running was a man I knew as Devine.
4. At that time in 1984, as I do now, I lived at 430 Saratoga Avenue,

Brooklyn, New York. I was 19 years old at the time and a frequent visitor to the neighborhood where the shooting occurred. I knew the street names of such people as Devine and Rennie, although I did not know them personally and I do not believe they knew me, because I was considerably younger than them. I had the street name of Chickenhead.

5. The man I saw shoot Gary Van Dorn was neither Devine or Rennie. I had never seen the shooter before that night. Since I did not know who the shooter was, I did not go to the police to tell what I saw. I did not know that Devine or Rennie had been accused of the shooting. Eventually, after the shooting, I stopped going to that neighborhood and forgot about the shooting.

6. In the summer of 1999, I met a woman I had known years before, Valerie Walker. She was with a woman I had never met before, Pamela Lee, who, it turned out is the wife of Devine. When she was told by Valerie that my street name was Chicken, she asked if I knew of a Chickenhead. When I told her that was my actual street name, she asked about the shooting and I told her everything I knew about the events of November 9, 1984.

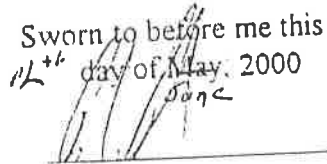
7. She told me her husband and Rennie had been convicted of murder. This was the first time I learned that Devine and Rennie had been accused. She eventually put me in touch with Devine's lawyer, Peter Bark and I agreed to make this affidavit at his request.

8. I am currently employed by the New York City Board of Education as a

custodian at Boys and Girls High School in Brooklyn as a custodian and have
been for ten years.

9. I am willing to testify in court about what I saw on the evening of
November 9, 1984.


KEVIN BAZEMORE

Sworn to before me this
12th day of May, 2000


PETER BARK, NOTARY PUBLIC, STATE OF NY
QUALIFIED IN NEW YORK COUNTY
02BA0160474
EXPIRES 4/30/2001

W0017

Exhibit G

I Ronald Moore, swear that everything in this affidavit is true, and I make this affidavit upon my own free will. I have not been paid or threatened to make this affidavit, nor have I've been coerced into making this affidavit.

On November 9, 1984, at approximately 11:45 P.M. I was returning from my grandmother's house. I got off the A train at Utica avenue and Fulton st. in Brooklyn. I was walking through the Kingsboro projects to get to my house on Prospect place. As I approach the corner of Bergern st. and Buffalo avenue I heard gunshots and saw a person pass me. Standing in the streets was a light skin male black holding a hand gun in his hand shooting at a person I seen fall to the ground. I ducked for cover to see all of this, and the light skin male person ran up Buffalo avenue once the person he was shooting fall to the ground. I didn't see Kevin Smith (A.K.A., Rennie), or any one else anywhere in the area at the time I witness the shooting. After the person I seen do the shooting run up Buffalo avenue I ran over to the person on ground who I notice was Gary, but known to me as Light. A crowd started to gather around light who wasn't moving on the ground. I then left the area and went home.

I have recently learnt that Rennie, had been convicted of shooting and killing Light. I learnt this while I was ^{at} Sing Sing Correctional Facility. I told Ronald that I had seen what happened that night, and that I was scared to go to the police because I felt the man I seen do the shooting would come after me. Rennie, ask me if I would make a affidavit stating what I had seen. I informed Rennie, that I did not want to write a affidavit while I was in prison and that he had to wait until I went home because I felt that if I wrote the affidavit while in jail no one would believe what I had to say.

It is by this affidavit that I state that I am one hundred percent sure that Rennie, did not shoot and kill Gary Van Dorn (A.K.A., Light), and I am willing to testify to such in a court of law.

Sincerely Yours,

Ronald Moore
Ronald Moore

1 TAPSCOTT ST.
BKLYN NY 11212

born to before me this
5 day of June, 1992
Mattie Bryant

MATTIE BRYANT
NOTARY PUBLIC, State of New York,
No. 24-461868
Qualified in Kings County
Commission Expires Sept. 30, 1993

Exhibit H

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS: CRIMINAL DIVISION

-----X
THE PEOPLE OF THE STATE OF NEW YORK

Indictment No. 2183/1986

-against-

AFFIDAVIT

Kevin Smith a/k/a "Renny"

Defendant.

-----X
STATE OF NEW YORK

COUNTY OF KINGS

)
) ss:
)

Elpidio DeLeon, being duly sworn, deposes and says:

1. I am a witness to the events in the above-captioned indictment. I am over 18 years of age.
2. I am a Private Investigator licensed by the State of N.Y.
3. I was hired to investigate the above-mentioned case involving Kevin Smith.
4. Trent Richardson was the lone witness against Kevin Smith.
5. In an attempt to interview Mr. Richardson, I went to Part 77 in the Bronx County Supreme Court, where Mr. Richardson was scheduled to appear on a felony assault case.
6. I spoke with Mr. Richardson on October 24, 2017 and November 3, 2017, outside of the courtroom.
7. Mr. Richardson informed me that the police and District Attorney's Office violated his rights due to his involvement as a witness in Mr. Smith's case in 1987.
8. Mr. Richardson indicated to me that the People did things to him, and he was forced to testify against Mr. Smith.

9. Mr. Richardson indicated that he was forced to testify to the story that the District Attorney's Office gave him. He believed that if he did not testify to what the District Attorney's Office wanted him to testify to, he would have not been released from jail.

10. Mr. Richardson indicated to me that he would be willing to change his statements if Mr. Smith would be willing to "help" him out. Richardson continually mentioned that Mr. Smith has a large potential civil settlement based upon Mr. Smith's conviction.

11. On November 3, 2017, when I spoke with Mr. Richardson, he appeared under the influence of a controlled substance.

12. Overall, my assessment of Mr. Richardson is that he is wholly unreliable and is willing to say anything to please the person that he is speaking with.

13. I am making this affidavit of my own free will.

Dated:



Elpidio DeLeon

State of New York
County of NEW YORK

Sworn before me this day: 3/5/18

Notary



Exhibit I

SUPREME COURT OF THE STATE OF NEW YORK
KINGS COUNTY: CRIMINAL TERM: PART 39

*More
Substantive*

THE PEOPLE OF THE STATE OF NEW YORK

1987 MAY -1 PM 3 50

Respondants

A F F I D A V I T

- against -

PURSUANT TO CPL 210.45 subd. 1

KEVIN SMITH

Defendant.

Indictment no. Supercedding
1685 - 86

STATE OF NEW YORK
COUNTY OF KINGS

[Signature]

2183/86

1. I, Fredrick Shaw [120 - 86 - 0746], being duly sworn deposes and says that I speak on behalf above - named defendant, an am personally familiar with the facts and statements hereinafter stated.

2. That, I [Fredrick Shaw, deponent hereinafter], have made statements concerning a incident involving a crime, and further involving Kevin Smith (Rennie [147 - 86 - 128]) to Police Officials on or about the 13th day of November, 1984, involving the investigation of the homicide of Gary Vandorn on the 10th day of November, 1984.

The dponent states that on the 13th day of November, 1984, I was picked up by Police Officials the day following the incident for questioning. On the forementioned date the deponent was at his father's residences in Brooklyn, East New York. The Police Officials had escorted me to the precent and requested that I make a statement. However, everything that the deponent stated to the Police Officials was the product of fabrication, by virtue of the fact, n.b., that I did not observe the actual shooting because I fled from the scene. Moreover, the police officials have asked me a great many questions; such questions as, if I had any enemies, if I had any fights with anyone. I did inform the Police Officials that I did have a fight with two individuals; namely, Calvin Lee (Devine) and Kevin Smith (Rennie)

but it was two weeks prior to the incident itself. The Police Officials then insisted that I prepare a statement stating that the deponent, Gary [the deceased] Vandorn, and Trent V. Richardson had a fight with Rennie [Kevin Smith] the night of the shooting, and state that Kevin [Rennie] Smith had something to do with it. However, as I have stated to the Police Officials that on the night of the incident I did hear some shots and did not see who did the shooting, I fled to Trent's [Richardson] house being that it was so close. Shortly after that Trent [Richardson] came to his premises and stated that Gary Vandorn had been shot, but he [Trent], too, didn't know who did the shooting because he fled the scene too. Thereafter the Police Officials harassed and coerced us into making statements in the manner that I have done, and implicating Kevin [Rennie] Smith was nothing but a fabrication, because we really don't know who did it or who was actually involved.

WHEREFORE, the deponent would like to state that what I have stated herein in this affidavit is the truth, and that the deponent makes these statements upon my own free will, and that I have not been threatened, forced, coerced, or promised anything whatsoever in exchange for this statement, and, this affidavit of sworn statements and facts is respectfully being submitted in behalf of Kevin Smith, because it's not right to send an innocent man to PRISON. I remain,

DATED: April 21, 1987
Kings County, New York

Sincerely Your's

Fredrick Shaw

Deponent: Fredrick Shaw [120-86-0746]
Department of Corrections
11 - 11 Hazen Street
East Elmhurst, New York 11370

Sworn to before me on this

21st day of April, 1987

Nancy J. Triplett
Commissioner of Records - Notary Public

- Nancy J. Triplett
Notary Public, State of New York
No. 21 4746750
Qualified in Queens County
Certificate Filed in New York County
Commission Expires March 30, 1987

Exhibit J

David Barrett Investigations

Investigations & Case Preparation

133 Clinton Street, Top Floor

Brooklyn, N.Y. 11201

Phones: 718-254-8025; Fax: 718-522-3005

Date: 4/10/2015

STATEMENT PAGE 1

I, NORMAN RICHARDSON of 1755 PACIFIC ST., BROOKLYN, NY ^(EMPLOYMENT) _{make}

The following statement voluntarily without benefit or promise of benefit nor under threat or use of force and so state as follows: NR

I AM THE COUSIN OF TREAT VERNON RICHARDSON WHOM
I CALL "CHILL", AROUND THE TIME OF DECEMBER, 2013
THERE WAS A LOT OF NEWS ABOUT WROGEPFUL CONVICTIONS
OF SEVERAL PEOPLE IN BROOKLYN AND ESPECIALLY
ABOUT CASES HANDLED BY DETECTIVE SCARCELLA.
I WAS A CHILDHOOD FRIEND OF KEVIN SMITH WHOM
I HAVE ALWAYS KNOWN AS RAINY AND I KNOW
THAT CHILL HAD TESTIFIED IN THE CASE AGAINST
RONNY BACK IN THE 70S. SO WHEN THE NEWS STORIES
CAME OUT ABOUT SCARCELLA I ASKED CHILL
WHETHER DETECTIVE SCARCELLA HAD ANY
INVOLVEMENT WITH HIM CONCERNING RONNY'S
CASE, AND CHILL TOLD ME THAT WHEN CHILL
REFUSED TO TESTIFY DETECTIVES HAD MADE IT
CLEAR THAT IF CHILL WOULD NOT TESTIFY ON
RONNY'S CASE HE OR HIS FAMILY WOULD BE
KILLED BY THE DEFENDANTS.

Phones: 718-254-9025; Fax: 718-522-3005

Date:

STATEMENT PAGE 2

I, _____ of _____ make

The following statement voluntarily without benefit or promise of benefit nor under threat or use of force and so state as follows:

IN FACT, YEARS BEFORE, CHILL HAD TOLD ME THAT HE HADNOT ACTUALLY SEEN THE SHOOTING BUT HE WAS THREATENED BY THE POLICE AT THE TIME TO SAY HE DID SEE IT.

I HAVE READ THE FOREGOING STATEMENT AND I SWEAR IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

NORMAN RICHARDSON

STATE OF NEW YORK

COUNTY OF KINGS

SIGNED BEFORE ME ON 4/10/2015
NORMAN RICHARDSON

~~Signature~~
KAMAL P. SONI
Notary Public, State of New York
No. 01506089949
Qualified in Kings County
Commission Expires March 31, 2019

Exhibit K

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS : CRIMINAL TERM : PART 39

-----X
THE PEOPLE OF THE STATE OF NEW YORK,

AFFIRMATION OF
FRANK PAONE

Indictment No. 2183/86

-against-

CALVIN LEE a/k/a DEVINE and KEVIN SMITH
a/k/a RENNY,

Defendants.

-----X

FRANK PAONE, an attorney duly admitted to practice law in the State of New York, affirms under penalty and perjury as follows:

1. I was the attorney for one Vernon "Trent" Richardson, having been assigned to represent him pursuant 18 B of the County Law 1987 on September 2, 1987. I have read the transcript of the proceedings in which I was involved, a copy of which is attached hereto as Exhibit A.

2. The transcript reveals that I was present at a hearing which was conducted by Judge Francis Egito, on Friday, September 4, 1987. wherein Mr. Richardson disavowed any knowledge of the perpetrators of the murder of Gary Van Dorn, disavowed his grand jury testimony that he knew who the shooters were and stated that he was not going to testify at the trial of Mr. Smith and Mr. Lee, the individuals he identified in the grand jury. Following that hearing, the transcript reveals that Assistant District Attorney Paul Burns said that he was not going to hold the witness on a material witness order, but that the District Attorney's office would deliver him to a criminal court part to deal with an old summons for which a fine needed to be paid. At the conclusion of the court

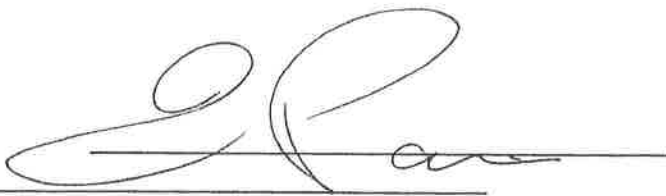
proceedings, I left for the day with nothing further to do.

3. I have learned that following my leaving court that Friday afternoon, Mr. Richardson was arrested by the Kings County District Attorney's Office and charged with perjury on the basis of inconsistent statements, i.e., the statements in the grand jury identifying Kevin Smith and Calvin Lee as the murderers on the one hand and his contrary statement at the hearing before Judge Egito that he did not know who shot Gary Van Dorn. I was not called to represent Mr. Richardson on the perjury arrest or notified of it. After reviewing the transcript, I can state that I was never told by Assistant District Attorney Burns or any police officer that Richardson was going to be arrested and charged with perjury. If there had been any indication that that was going to happen, I would not have left court, but would have proceeded to the Arraignment Part and filed a notice of appearance and waited to be called to represent Mr. Richardson at his arraignment.

4. Additionally and unequivocally, I would have instructed Mr. Richardson not to speak with anyone about this arrest on the perjury charge and would have warned the Assistant District Attorney and detectives not to discuss the case or speak to Mr. Richardson without me being present. This would have protected Mr. Richardson against unwanted interviews by the police or the District Attorney's Office. If the District Attorney wanted to speak with him, I would have conferred with Mr. Richardson about his willingness to do so and would have been present at any discussion to protect Mr. Richardson.

5. By not advising me about the anticipated arrest and arresting Mr. Richardson after I left court, Mr. Richardson would not have had an attorney on that arrest, encouraging the District

Attorney to circumvent the ethical prohibition of speaking to an individual, especially a Defendant, who had an attorney without their attorney present.



Frank Paone

Sworn to before me this

21 day of July, 2015

Darren S. Fields

Notary Public

DARREN S. FIELDS
Notary Public, State of New York
No. 02FI6039857
Qualified in Kings County
Commission Expires 04/10/16

Exhibit L

HP LaserJet 400 MFP M425dn

Fax Confirmation

Jun-3-2015 10:56AM

Job	Date	Time	Type	Identification	Duration	Pages	Result
338	6/ 3/2015	10:50:10AM	Receive	7185223005	6:16	22	OK

JUN-2-2015 22:19 FROM: DAVID+BARRETT 7185223005 TO: 16469299459 P. 1/22
Gmail - Criminal History Search Results <https://mail.google.com/mail/?ui=2&ik=3u34e1f1d0c&view=pt&search>



David Barrett <dbarrettpl@gmail.com>

Criminal History Search Results

2 messages

CHRS_Admin@courts.state.ny.us <CHRS_Admin@courts.state.ny.us> Tue, Jun 2, 2015 at 11:45 AM
To: dbarrettpl@gmail.com

NEW YORK STATE Unified Court System

OFFICE OF COURT ADMINISTRATION
25 Beaver Street
New York, New York 10004
(212) 426-2810

Division of Administrative Services
Criminal History Record Search (CHRS) Program

Job Status Report

Please reply to this email as a confirmation of receipt..

Bill To Information	Job No	Delivery Type	Order Date
David Barrell 133 Clinton St. Top Fl. Brooklyn, NY 11201 Attn: David Barrell	3275029	E-mail	06/02/2015
		Searches Requested	Searches Entered
		2	2

Name	Date of Birth	County	Status
RICHARDSON, TRENT	02/09/1964	Statewide	Results Found
RICHARDSON, VERNON	02/09/1964	Statewide	Results Found

SEARCH RESULTS ARE BASED ON FINDING AN EXACT MATCH OF THE NAME AND DATE OF BIRTH SUBMITTED.

AS OF JULY 20, 2007, THE NYS OFFICE OF COURT ADMINISTRATION'S CHRS REPORT WILL NO LONGER PROVIDE CASE DISPOSITION DATA FOR NONCRIMINAL OFFENSES (E.G., VIOLATIONS AND INFRACTIONS.)

NYS TOWN AND VILLAGE COURT DISPOSITION DATA IS NOT AVAILABLE FOR THE PERIOD MAY 1991 THROUGH 2002. AS OF MAY 2007 ALL TOWN AND VILLAGE COURTS REPORT TO OCA. TOWN AND VILLAGE DISPOSITION DATA FROM 2002 THROUGH MAY 2007 IS LIMITED. A LIST OF TOWN AND VILLAGE COURT REPORTING DATES IS

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https://mail.google.com/mail/?ui=2&ik=3u34effd0c&view=pt&search=



David Barrett <d Barrett@gmail.com>

Criminal History Search Results

2 messages

CHRS_Admin@courts.state.ny.us <CHRS_Admin@courts.state.ny.us>
To: dbarrett@gmail.com

Tue, Jun 2, 2015 at 11:45 AM



OFFICE OF COURT ADMINISTRATION
25 Beaver Street
New York, New York 10004
(212) 428-2810

**Division of Administrative Services
Criminal History Record Search (CHRS) Program**

Job Status Report

Please reply to this email as a confirmation of receipt...

Bill To Information	Job No	Delivery Type	Order Date
David Barrett 133 Clinton St. Top Fl. Brooklyn, NY 11201 Attn: David Barrett	3275029	E-mail	06/02/2015
	Searches Requested	Searches Entered	
	2	2	

Name	Date of Birth	County	Status
RICHARDSON, TRENT	02/09/1964	Statewide	Results Found
RICHARDSON, VERNON	02/09/1964	Statewide	Results Found

SEARCH RESULTS ARE BASED ON FINDING AN EXACT MATCH OF THE NAME AND DATE OF BIRTH SUBMITTED.

AS OF JULY 20, 2007, THE NYS OFFICE OF COURT ADMINISTRATION'S CHRS REPORT WILL NO LONGER PROVIDE CASE DISPOSITION DATA FOR NONCRIMINAL OFFENSES (E.G., VIOLATIONS AND INFRACTIONS.)

NYS TOWN AND VILLAGE COURT DISPOSITION DATA IS NOT AVAILABLE FOR THE PERIOD MAY 1991 THROUGH 2002. AS OF MAY 2007 ALL TOWN AND VILLAGE COURTS REPORT TO OCA. TOWN AND VILLAGE DISPOSITION DATA FROM 2002 THROUGH MAY 2007 IS LIMITED. A LIST OF TOWN AND VILLAGE COURT REPORTING DATES IS

Criminal History Search Results

https://mail.google.com/mail/?ui=2&ik=3a34ef1d0c&view=pt&search=

AVAILABLE ON OUR WEBSITE: www.nycourts.gov/apps/chrs

AS OF MAY 2009 AND IN ACCORDANCE WITH THE RECENT YOUTHFUL OFFENDER LEGISLATION CPL 720.15(1), THE NYS CRIMINAL HISTORY RECORD SEARCH REPORT WILL NOT REPORT PENDING CRIMINAL CASES CATEGORIZED AS YOUTHFUL OFFENDER ELIGIBLE.

AS OF APRIL 1, 2014, AND IN ACCORDANCE WITH THE MISDEMEANOR REDEMPTION POLICY, THE NYS OCA'S CRIMINAL HISTORY RECORD SEARCH (CHRS) REPORT WILL NO LONGER DISPLAY A CRIMINAL HISTORY FOR ANY INDIVIDUAL WHOSE ONLY CONVICTION WAS A SINGLE MISDEMEANOR MORE THAN TEN YEARS PRIOR TO THE DATE OF THE REQUEST. ADDITIONAL INFORMATION REGARDING THIS POLICY CAN BE FOUND ON OUR WEBSITE AT: www.nycourts.gov/apps/chrs

CHRS_Admin@courts.state.ny.us <CHRS_Admin@courts.state.ny.us>
To: dbarrettpi@gmail.com

Tue, Jun 2, 2015 at 11:45 AM

NEW YORK STATE
Unified Court System

OFFICE OF COURT ADMINISTRATION
25 Beaver Street
New York, New York 10004
(212) 428-2810

Division of Administrative Services
Criminal History Record Search (CHRS) Program

Criminal Disposition Information

Bill To Information	Job No	Delivery Type	Order Date	Order Time
David Barrett 133 Clinton St. Top Fl. Brooklyn, NY 11201 Attn: David Barrett	3275029	E-mail	06/02/2015	09:14 AM

Name (A.K.A.)		Arrest Date	Adjourn/Disposition Date, Charge, Disposition, and Sentence Information	OCA Remarks
County	D.O.B.			
RICHARDSON, TRENT	01/26/1994	Criminal Court	Docket/Case/Serial Number: 94X003666 Court Control Number: 18686866Y Case Disposition Date: 01/31/1994 Last Disposition Date: 01/31/1994 Charge: PL 155.25 00 AM - PETIT	

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		LARCENY Disposition/Status: PLED GUILTY Sentenced to: IMPRISONMENT 1 YEARS,
BRONX	02/09/1964	Charge: PL 165.40 00 AM 5TH DEGREE - CRIMINAL POSSESSION OF STOLEN PROPERTY Disposition/Status: COVERED BY THE PLED TO CHARGE Charge: PL 120.00 00 AM 3RD DEGREE - ASSAULT Disposition/Status: COVERED BY THE PLED TO CHARGE Charge: PL 160.10 2A CF 2ND DEGREE - ROBBERY Disposition/Status: DISMISSED Charge: PL 160.10 01 CF 2ND DEGREE - ROBBERY Disposition/Status: REDUCED Charge: PL 120.05 06 DF 2ND DEGREE - ASSAULT Disposition/Status: REDUCED

Name (A.K.A.)		Arrest Date	Adjourn/Disposition Date, Charge, Disposition, and Sentence Information	OCA Remarks
County	D.O.B.			
RICHARDSON, TRENT		04/25/2001	Criminal Court Docket/Case/Serial Number: 2001BX026304 Court Control Number: 55726622P Case Disposition Date: 04/26/2001 Adjourned To: 10/02/2001	
BRONX	02/09/1964		Charge: PL 220.03 00 AM 7TH DEGREE - CRIM POSS CONTRL SUBST-7TH DEGREE Disposition/Status: PLED GUILTY Sentenced to: CONDITIONAL DISCHARGE 1 YEARS, COMMUNITY SERVICE 5 DAYS,	

Name (A.K.A.)		Arrest Date	Adjourn/Disposition Date, Charge, Disposition, and Sentence Information	OCA Remarks
County	D.O.B.			

Criminal History Search Results

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RICHARDSON, TRENT		08/27/2010	Criminal Court Docket/Case/Serial Number: 2010BX054772 Court Control Number: 64378483H Case Disposition Date: 08/29/2010 Adjourned To: 10/29/2010 Charge: PL 220.03 00 AM 7TH DEGREE - CRIM POSS CONTRL SUBST-7TH DEGREE Disposition/Status: PLED GUILTY Sentenced to: CONDITIONAL DISCHARGE 1 YEARS, COMMUNITY SERVICE 1 DAYS, Charge: PL 220.03 00 AM 7TH DEGREE - CRIM POSS CONTRL SUBST-7TH DEGREE Disposition/Status: COVERED BY THE PLED TO CHARGE Charge: PL 140.05 00 V - TRESPASS Disposition/Status: COVERED BY THE PLED TO CHARGE Charge: PL 140.15 00 AM 2ND DEGREE - CRIMINAL TRESPASS Disposition/Status: COVERED BY THE PLED TO CHARGE Charge: PL 140.10 00 BM 3RD DEGREE - CRIMINAL TRESPASS Disposition/Status: COVERED BY THE PLED TO CHARGE
BRONX	02/09/1964		

3

Name (A.K.A.)		Arrest Date	Adjourn/Disposition Date, Charge, Disposition, and Sentence Information	OCA Remarks
County	D.O.B.			
RICHARDSON, TRENT		09/28/1999	Criminal Court Docket/Case/Serial Number: 99X057473 Court Control Number: 55098283P Case Disposition Date: 09/28/1999 Last Disposition Date: 11/30/1999 Charge: PL 221.10 01 BM 5TH DEGREE -	
BRONX	02/09/1964			

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<https://mail.google.com/mail/?ui=2&ik=3a34cfd0c&view=pt&search=>

CRIMINAL POSSESSION OF MARIJUANA
Disposition/Status: PLED GUILTY
Sentenced to: IMPRISONMENT TS ,
LICENSE SUSPENDED 6 MONTHS.

4

Name (A.K.A.)		Arrest Date	Adjourn/Disposition Date, Charge, Disposition, and Sentence Information	OCA Remarks
County	D.O.B.			
RICHARDSON, TRENT		10/15/1997	Criminal Court Docket/Case/Serial Number: 97X059777 Court Control Number: 50243615L Case Disposition Date: 10/16/1997 Last Disposition Date: 10/16/1997 Charge: PL 220.03 00 AM 7TH DEGREE - CRIM POSS CONTRL SUBST-7TH DEGREE Disposition/Status: PLED GUILTY Sentenced to: CONDITIONAL DISCHARGE 1 YEARS, COMMUNITY SERVICE 2 DAYS,	
BRONX	02/09/1964			

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Name (A.K.A.)		Arrest Date	Adjourn/Disposition Date, Charge, Disposition, and Sentence Information	OCA Remarks
County	D.O.B.			
RICHARDSON, TRENT		07/09/1995	Criminal Court Docket/Case/Serial Number: 95X032623 Court Control Number: 18582621Z Case Disposition Date: 11/11/1995 Last Disposition Date: 05/14/1998 Charge: PL 140.10 00 BM 3RD DEGREE - CRIMINAL TRESPASS Disposition/Status: PLED GUILTY Sentenced to: IMPRISONMENT 20 DAYS, Charge: PL 140.35 00 AM - POSSESSION OF BURGLAR TOOLS Disposition/Status: COVERED BY THE PLED TO CHARGE Charge: PL 145.00 00 AM 4TH DEGREE - CRIMINAL MISCHIEF Disposition/Status: COVERED BY THE PLED TO CHARGE Charge: PL 140.20 00 DF 3RD DEGREE - BURGLARY	
BRONX	02/09/1964			

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Disposition/Status: REDUCED

Charge: PL 145.05 00 EF 3RD DEGREE - CRIMINAL MISCHIEF

Disposition/Status: REDUCED

6

Name (A.K.A.)		Arrest Date	Adjourn/Disposition Date, Charge, Disposition, and Sentence Information	OCA Remarks
County	D.O.B.			
RICHARDSON, TRENT		07/08/1999	<p>Criminal Court</p> <p>Docket/Case/Serial Number: 99X040208 Court Control Number: 55017700K Case Disposition Date: 07/09/1999 Last Disposition Date: 07/09/1999</p> <p>Charge: PL 120.14 01 AM 2ND DEGREE - MENACING Disposition/Status: PLED GUILTY Sentenced to: IMPRISONMENT 60 DAYS, FINAL ORDER OF PROTECTION, 1 YEARS,</p> <p>Charge: PL 120.00 01 AM 3RD DEGREE - ASSAULT Disposition/Status: COVERED BY THE PLED TO CHARGE</p> <p>Charge: PL 240.26 01 V 2ND DEGREE - HARASSMENT Disposition/Status: COVERED BY THE PLED TO CHARGE</p> <p>Charge: PL 155.25 00 AM - PETIT LARCENY Disposition/Status: COVERED BY THE PLED TO CHARGE</p> <p>Charge: PL 165.40 00 AM 5TH DEGREE - CRIMINAL POSSESSION OF STOLEN PROPERTY Disposition/Status: COVERED BY THE PLED TO CHARGE</p> <p>Charge: PL 205.30 00 AM - RESISTING ARREST Disposition/Status: COVERED BY THE PLED TO CHARGE</p> <p>Charge: PL 145.00 01 AM 4TH DEGREE - CRIMINAL MISCHIEF Disposition/Status: COVERED BY THE PLED TO CHARGE</p>	
BRONX	02/09/1964			

7

Name (A.K.A.)		Arrest Date	Adjourn/Disposition Date, Charge, Disposition, and Sentence Information	OCA Remarks
County	D.O.B.			
RICHARDSON, TRENT		03/01/2010	Criminal Court Docket/Case/Serial Number: 2010BX013335 Court Control Number: 64056234K Case Disposition Date: 03/02/2010 Last Disposition Date: 03/02/2010	CONTACT BX CRIMINAL COURT FOR ADDITIONAL INFORMATION ON CHARGE NOT DISPOSED.
BRONX	02/09/1964		Charge: PL 221.10 01 BM 5TH DEGREE - CRIMINAL POSSESSION OF MARIJUANA Disposition/Status: PLED GUILTY Sentenced to: IMPRISONMENT TS , LICENSE SUSPENDED 6 MONTHS, Charge: PL 221.05 00 V - UNLAWFUL POSSESSION OF MARIJUANA Disposition/Status: NOT DISPOSED YET	

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Name (A.K.A.)		Arrest Date	Adjourn/Disposition Date, Charge, Disposition, and Sentence Information	OCA Remarks
County	D.O.B.			
RICHARDSON, TRENT (RICHARDSON, TRENT V)		08/10/1987	Criminal Court Docket/Case/Serial Number: 7K035081 Court Control Number: 10190310J Case Disposition Date: 06/12/1987 Last Disposition Date: 06/12/1987	
KINGS	02/09/1964		Charge: PL 165.15 03 AM - THEFT OF SERVICES Disposition/Status: PLED GUILTY Sentenced to: IMPRISONMENT 30 DAYS,	

9

Name (A.K.A.)		Arrest Date	Adjourn/Disposition Date, Charge, Disposition, and Sentence Information	OCA Remarks
County	D.O.B.			
RICHARDSON, TRENT		05/12/1987	Criminal Court Docket/Case/Serial Number: 7K028666 Court Control Number: 10190160Q Case Disposition Date: 05/12/1987	

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		Last Disposition Date: 05/12/1987	
KINGS	02/09/1964	Charge: PL 110-155.25 00 BM - ATTEMPTED PETIT LARCENY Disposition/Status: PLED GUILTY Sentenced to: IMPRISONMENT 10 DAYS, Charge: PL 145.15 00 AM 2ND DEGREE - CRIMINAL TAMPERING Disposition/Status: COVERED BY THE PLED TO CHARGE Charge: PL 155.25 00 AM - PETIT LARCENY Disposition/Status: COVERED BY THE PLED TO CHARGE Charge: PL 165.40 00 AM 5TH DEGREE - CRIMINAL POSSESSION OF STOLEN PROPERTY Disposition/Status: COVERED BY THE PLED TO CHARGE	

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Name (A.K.A.)		Arrest Date	Adjourn/Disposition Date, Charge, Disposition, and Sentence Information	OCA Remarks
County	D.O.B.			
		01/24/1987	Criminal Court Docket/Case/Serial Number: 7K004478 Last Disposition Date: 01/24/1987	CONTACT QUEENS CRIMINAL COURT FOR ADDITIONAL INFORMATION.
KINGS	02/09/1964		CRIMINAL COURT WARRANT ----- CCW Case Supplement Data: (Docket Number 2Q020458, Queens County) Case reflects different name and/or DOB. - CUEVAS, MARIO 10/10/1965 ----- No Charge Information Available	

Name (A.K.A.)		Arrest Date	Adjourn/Disposition Date, Charge, Disposition, and Sentence Information	OCA Remarks
County	D.O.B.			

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RICHARDSON, TRENT		02/21/1991	<p>Criminal Court</p> <p>Docket/Case/Serial Number: 91K009892 Court Control Number: 13321658M Case Disposition Date: 06/22/1992 Last Disposition Date: 09/24/1996</p> <p>Charge: PL 205.30 00 AM - RESISTING ARREST Disposition/Status: DISMISSED</p> <p>Charge: AC 10-133 B 1 - - NO DESCRIPTION AVAILABLE Disposition/Status: DISMISSED</p>
KINGS	02/09/1964	<p>Charge: PL 195.05 00 AM 2ND DEGREE - OBSTRUCTING GOVERNMENTAL ADMINISTRATION Disposition/Status: DISMISSED</p> <p>Charge: PL 110-120.00 00 BM 3RD DEGREE - ATTEMPTED ASSAULT Disposition/Status: VIOLATION OF CONDITIONAL DISCHARGE Original Sentence: CONDITIONAL DISCHARGE 1 YEARS, COMMUNITY SERVICE 35 HOURS - Resentenced to: IMPRISONMENT 10 DAYS,</p> <p>Charge: PL 240.25 01 V - HARASSMENT Disposition/Status: DISMISSED</p> <p>Charge: PL 120.00 01 AM 3RD DEGREE - ASSAULT Disposition/Status: REDUCED</p>	

Name (A.K.A.)		Arrest Date	Adjourn/Disposition Date, Charge, Disposition, and Sentence Information	OCA Remarks
County	D.O.B.			
11	RICHARDSON, TRENT (RICHARDSON, TRENT V)	10/22/2003	Criminal Court Docket/Case/Serial Number: 2003KN063635 Court Control Number: 56709728P Case Disposition Date: 10/23/2003	

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		Last Disposition Date: 10/23/2003	
KINGS	02/09/1964	Charge: PL 221.10 01 BM 5TH DEGREE - CRIMINAL POSSESSION OF MARIJUANA Disposition/Status: PLED GUILTY Sentenced to: IMPRISONMENT TS , LICENSE SUSPENDED 6 MONTHS, Charge: PL 221.05 00 V - UNLAWFUL POSSESSION OF MARIJUANA Disposition/Status: COVERED BY THE PLED TO CHARGE	

12

Name (A.K.A.)		Arrest Date	Adjourn/Disposition Date, Charge, Disposition, and Sentence Information	OCA Remarks
County	D.O.B.			
RICHARDSON, TRENT		01/24/1997	Criminal Court Docket/Case/Serial Number: 97N008999 Court Control Number: 50035666H Case Disposition Date: 01/25/1997 Last Disposition Date: 01/25/1997	
NEW YORK	02/09/1964		Charge: PL 165.15 03 AM - THEFT OF SERVICES Disposition/Status: PLED GUILTY Sentenced to: IMPRISONMENT TS , Charge: PL 140.10 00 BM 3RD DEGREE - CRIMINAL TRESPASS Disposition/Status: COVERED BY THE PLED TO CHARGE	

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Name (A.K.A.)		Arrest Date	Adjourn/Disposition Date, Charge, Disposition, and Sentence Information	OCA Remarks
County	D.O.B.			
RICHARDSON, TRENT		05/03/1995	Criminal Court Docket/Case/Serial Number: 95N043039 Court Control Number: 20234179L Case Disposition Date: 08/06/1995 Last Disposition Date: 03/19/1996	
NEW YORK	02/09/1964		Charge: PL 220.03 00 AM 7TH DEGREE - CRIM POSS CONTRL SUBST-7TH DEGREE Disposition/Status: VIOLATION OF	

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		CONDITIONAL DISCHARGE Original Sentence: CONDITIONAL DISCHARGE 1 YEARS, COMMUNITY SERVICE 1 DAYS, Resentenced to: IMPRISONMENT 20 DAYS,		
Name (A.K.A.)		Arrest Date	Adjourn/Disposition Date, Charge, Disposition, and Sentence Information	OCA Remarks
County	D.O.B.			
NEW YORK	RICHARDSON, TRENT	08/06/1991	Criminal Court Docket/Case/Serial Number: 91N076258 Court Control Number: 15179568H Case Disposition Date: 08/28/1991 Last Disposition Date: 08/28/1991	
	02/09/1964		Charge: PL 155.25 00 AM - PETIT LARCENY Disposition/Status: PLED GUILTY Sentenced to: CONDITIONAL DISCHARGE 1 YEARS, Charge: PL 165.40 00 AM 5TH DEGREE - CRIMINAL POSSESSION OF STOLEN PROPERTY Disposition/Status: COVERED BY THE PLED TO CHARGE	

14

Name (A.K.A.)		Arrest Date	Adjourn/Disposition Date, Charge, Disposition, and Sentence Information	OCA Remarks
County	D.O.B.			
NEW YORK	RICHARDSON, TRENT	12/08/2011	Criminal Court Docket/Case/Serial Number: 2011NY089661 Court Control Number: 65181472Q Case Disposition Date: 12/09/2011 Last Disposition Date: 12/09/2011	
	02/09/1964		Charge: PL 155.25 00 AM - PETIT LARCENY Disposition/Status: PLED GUILTY Sentenced to: IMPRISONMENT 20 DAYS,	

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			<p>Charge: PL 140.35 00 AM - POSSESSION OF BURGLAR TOOLS Disposition/Status: COVERED BY THE PLED TO CHARGE</p> <p>Charge: PL 165.40 00 AM 5TH DEGREE - CRIMINAL POSSESSION OF STOLEN PROPERTY Disposition/Status: COVERED BY THE PLED TO CHARGE</p>
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Name (A.K.A.)		Arrest Date	Adjourn/Disposition Date, Charge, Disposition, and Sentence Information	OCA Remarks
County	D.O.B.			
	RICHARDSON, TRENT	06/24/2008	<p>Criminal Court</p> <p>Docket/Case/Serial Number: 2008NY047497</p> <p>Court Control Number: 63045234K Case Disposition Date: 06/25/2008 Last Disposition Date: 06/25/2008</p>	
NEW YORK	02/09/1964		<p>Charge: PL 155.25 00 AM - PETIT LARCENY Disposition/Status: PLED GUILTY Sentenced to: IMPRISONMENT TS ,</p> <p>Charge: PL 140.35 00 AM - POSSESSION OF BURGLAR TOOLS Disposition/Status: COVERED BY THE PLED TO CHARGE</p> <p>Charge: PL 165.40 00 AM 5TH DEGREE - CRIMINAL POSSESSION OF STOLEN PROPERTY Disposition/Status: COVERED BY THE PLED TO CHARGE</p>	

Name (A.K.A.)		Arrest Date	Adjourn/Disposition Date, Charge, Disposition, and Sentence Information	OCA Remarks
County	D.O.B.			
	RICHARDSON, TRENT	05/11/2002	<p>Criminal Court</p> <p>Docket/Case/Serial Number: 2002NY032115</p> <p>Court Control Number: 56066692Y Case Disposition Date: 05/12/2002 Last Disposition Date: 05/12/2002</p>	

(16)

(17)

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		Charge: PL 155.25 00 AM - PETIT LARCENY Disposition/Status: PLED GUILTY Sentenced to: IMPRISONMENT 90 DAYS,
NEW YORK	02/09/1964	Charge: PL 155.25 00 AM - PETIT LARCENY Disposition/Status: PLED GUILTY Sentenced to: IMPRISONMENT 90 DAYS, Charge: PL 155.25 00 AM - PETIT LARCENY Disposition/Status: PLED GUILTY Sentenced to: IMPRISONMENT 90 DAYS, Charge: PL 165.40 00 AM 5TH DEGREE - CRIMINAL POSSESSION OF STOLEN PROPERTY Disposition/Status: COVERED BY THE PLED TO CHARGE Charge: PL 165.40 00 AM 5TH DEGREE - CRIMINAL POSSESSION OF STOLEN PROPERTY Disposition/Status: COVERED BY THE PLED TO CHARGE Charge: PL 140.35 00 AM - POSSESSION OF BURGLAR TOOLS Disposition/Status: COVERED BY THE PLED TO CHARGE Charge: PL 165.40 00 AM 5TH DEGREE - CRIMINAL POSSESSION OF STOLEN PROPERTY Disposition/Status: COVERED BY THE PLED TO CHARGE

Name (A.K.A.)		Arrest Date	Adjourn/Disposition Date, Charge, Disposition, and Sentence Information	OCA Remarks
County	D.O.B.			
NEW YORK	02/09/1964	02/26/2002	Criminal Court Docket/Case/Serial Number: 2002CN001495 Court Control Number: 55993461K Case Disposition Date: 07/16/2002 Last Disposition Date: 07/16/2002 Charge: PL 165.40 00 AM 5TH DEGREE - CRIMINAL POSSESSION OF STOLEN PROPERTY	

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NEW YORK	02/09/1964	Disposition/Status: PLED GUILTY Sentenced to: IMPRISONMENT TS , Charge: PL 140.35 00 AM - POSSESSION OF BURGLAR TOOLS Disposition/Status: COVERED BY THE PLED TO CHARGE Charge: PL 140.35 00 AM - POSSESSION OF BURGLAR TOOLS Disposition/Status: COVERED BY THE PLED TO CHARGE Charge: PL 155.25 00 AM - PETIT LARCENY Disposition/Status: COVERED BY THE PLED TO CHARGE
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19

Name (A.K.A.)		Arrest Date	Adjourn/Disposition Date, Charge, Disposition, and Sentence Information	OCA Remarks
County	D.O.B.			
RICHARDSON, TRENT		07/22/1998	Criminal Court Docket/Case/Serial Number: 98N066908 Court Control Number: 50501769J Case Disposition Date: 08/20/1998 Last Disposition Date: 10/22/1998	
NEW YORK	02/09/1964		Charge: PL 155.25 00 AM - PETIT LARCENY Disposition/Status: PLED GUILTY Sentenced to: IMPRISONMENT 60 DAYS, Charge: PL 160.10 01 CF 2ND DEGREE - ROBBERY Disposition/Status: REDUCED Charge: PL 165.40 00 AM 5TH DEGREE - CRIMINAL POSSESSION OF STOLEN PROPERTY Disposition/Status: COVERED BY THE PLED TO CHARGE	

20

Name (A.K.A.)		Arrest Date	Adjourn/Disposition Date, Charge, Disposition, and Sentence Information	OCA Remarks
County	D.O.B.			
RICHARDSON, TRENT		07/29/1997	Criminal Court Docket/Case/Serial Number: 97N072844 Court Control Number: 50178185J	

General - Criminal History Search Results

https://mail.google.com/mail/?ui=2&ik=3a34effd0c&view=pt&search=

		<p>Case Disposition Date: 07/30/1997 Last Disposition Date: 07/30/1997</p> <p>Charge: PL 165.40 00 AM 5TH DEGREE - CRIMINAL POSSESSION OF STOLEN PROPERTY Disposition/Status: PLED GUILTY Sentenced to: IMPRISONMENT 20 DAYS,</p> <p>Charge: PL 165.40 00 AM 5TH DEGREE - CRIMINAL POSSESSION OF STOLEN PROPERTY Disposition/Status: COVERED BY THE PLED TO CHARGE</p> <p>Charge: PL 165.40 00 AM 5TH DEGREE - CRIMINAL POSSESSION OF STOLEN PROPERTY Disposition/Status: COVERED BY THE PLED TO CHARGE</p> <p>Charge: PL 165.40 00 AM 5TH DEGREE - CRIMINAL POSSESSION OF STOLEN PROPERTY Disposition/Status: COVERED BY THE PLED TO CHARGE</p> <p>Charge: PL 165.40 00 AM 5TH DEGREE - CRIMINAL POSSESSION OF STOLEN PROPERTY Disposition/Status: COVERED BY THE PLED TO CHARGE</p> <p>Charge: PL 140.35 00 AM - POSSESSION OF BURGLAR TOOLS Disposition/Status: COVERED BY THE PLED TO CHARGE</p> <p>Charge: PL 140.35 00 AM - POSSESSION OF BURGLAR TOOLS Disposition/Status: COVERED BY THE PLED TO CHARGE</p> <p>Charge: PL 140.35 00 AM - POSSESSION OF BURGLAR TOOLS Disposition/Status: COVERED BY THE PLED TO CHARGE</p>
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Name (A.K.A.)		Arrest Date	Adjourn/Disposition Date, Charge, Disposition, and Sentence Information	OCA Remarks
County	D.O.B.			

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RICHARDSON, TRENT		05/12/1996	Criminal Court Docket/Case/Serial Number: 96N036778 Court Control Number: 16757323H Case Disposition Date: 05/13/1996 Last Disposition Date: 05/13/1996 Charge: PL 155.25 00 AM - PETIT LARCENY Disposition/Status: PLED GUILTY Sentenced to: IMPRISONMENT 30 DAYS, Charge: PL 165.40 00 AM 5TH DEGREE - CRIMINAL POSSESSION OF STOLEN PROPERTY Disposition/Status: COVERED BY THE PLED TO CHARGE Charge: PL 140.35 00 AM - POSSESSION OF BURGLAR TOOLS Disposition/Status: COVERED BY THE PLED TO CHARGE
NEW YORK	02/09/1964		

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Name (AKA)		Arrest Date	Adjourn/Disposition Date, Charge, Disposition, and Sentence Information	OCA Remarks
County	D.O.B.			
RICHARDSON, TRENT		07/20/1995	Criminal Court Docket/Case/Serial Number: 95N057453 Court Control Number: 20176913Z Case Disposition Date: 07/21/1995 Last Disposition Date: 03/19/1996 Charge: PL 155.25 00 AM - PETIT LARCENY Disposition/Status: PLED GUILTY Sentenced to: IMPRISONMENT 45 DAYS, Charge: PL 165.40 00 AM 5TH DEGREE - CRIMINAL POSSESSION OF STOLEN PROPERTY Disposition/Status: COVERED BY THE PLED TO CHARGE	
NEW YORK	02/09/1964			

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Name (A.K.A.)		Arrest Date	Adjourn/Disposition Date, Charge, Disposition, and Sentence Information	OCA Remarks
County	D.O.B.			
RICHARDSON, TRENT		02/14/1995	Criminal Court Docket/Case/Serial Number: 95N012810 Court Control Number: 20403328M Case Disposition Date: 06/06/1995 Last Disposition Date: 06/06/1995 Charge: PL 205.30 00 AM - RESISTING ARREST Disposition/Status: PLED GUILTY Sentenced to: IMPRISONMENT TS , Charge: AC 10-133B 00 UM - - NO DESCRIPTION AVAILABLE Disposition/Status: COVERED BY THE PLED TO CHARGE Charge: PL 140.15 00 AM 2ND DEGREE - CRIMINAL TRESPASS Disposition/Status: COVERED BY THE PLED TO CHARGE	
NEW YORK	02/09/1964			

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Name (A.K.A.)		Arrest Date	Adjourn/Disposition Date, Charge, Disposition, and Sentence Information	OCA Remarks
County	D.O.B.			
RICHARDSON, TRENT		07/03/1992	Criminal Court Docket/Case/Serial Number: 92N054006 Court Control Number: 14719932M Case Disposition Date: 07/04/1992 Last Disposition Date: 07/04/1992 Charge: PL 155.25 00 AM - PETIT LARCENY Disposition/Status: PLED GUILTY Sentenced to: IMPRISONMENT 45 DAYS, Charge: PL 165.40 00 AM 5TH DEGREE - CRIMINAL POSSESSION OF STOLEN PROPERTY Disposition/Status: COVERED BY THE PLED TO CHARGE	CONTACT BX CRIMINAL COURT FOR ADDITIONAL INFORMATION.

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NEW YORK	02/09/1964
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Criminal Court

Docket/Case/Serial Number: 92N054007

Court Control Number: 14719932M

Last Disposition Date: 07/04/1992

CRIMINAL COURT WARRANT

CCW Case Supplement Data:

(Docket Number 91X052280, Bronx County)

Case reflects different name and/or DOB. -

RICHARDSON, DONDI 09/02/1964

No Charge Information Available

Criminal Court

Docket/Case/Serial Number: 92N054008

Court Control Number: 14719932M

Last Disposition Date: 07/04/1992

CRIMINAL COURT WARRANT

CCW Case Supplement Data:

(Docket Number 92X022598, Bronx County)

Case reflects different name and/or DOB. -

RICHARDSON, CALVIN 01/03/1965

No Charge Information Available

Criminal Court

Docket/Case/Serial Number: 92N054009

Court Control Number: 14719932M

Last Disposition Date: 07/04/1992

CRIMINAL COURT WARRANT

CCW Case Supplement Data:

(Docket Number 91X033345, Bronx County)

Case reflects different name and/or DOB. -

RICHARDSON, VERNON 02/09/1964

No Charge Information Available

Criminal Court

Docket/Case/Serial Number: 92N054010

Court Control Number: 14719932M

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Last Disposition Date: 07/04/1992

CRIMINAL COURT WARRANT

CCW Case Supplement Data:
 (Docket Number 91X035076, Bronx County)
 Case reflects different name and/or DOB. -
 RICHARDSON, STEVEN 07/07/1964

No Charge Information Available

Name (A.K.A.)		Arrest Date	Adjourn/Disposition Date, Charge, Disposition, and Sentence Information	OCA Remarks
County	D.O.B.			
RICHARDSON, TRENT		10/31/2000	Criminal Court Docket/Case/Serial Number: 2000QN054866 Court Control Number: 55547483J Case Disposition Date: 02/08/2001 Last Disposition Date: 02/08/2001 Charge: PL 155.25 00 AM - PETIT LARCENY Disposition/Status: PLED GUILTY Sentenced to: IMPRISONMENT 6 MONTHS,	
QUEENS	02/09/1964			

Name (A.K.A.)		Arrest Date	Adjourn/Disposition Date, Charge, Disposition, and Sentence Information	OCA Remarks
County	D.O.B.			
RICHARDSON, TRENT		05/03/2014	Criminal Court Docket/Case/Serial Number: 2014QN025971 Court Control Number: 66598888Z Case Disposition Date: 05/05/2014 Last Disposition Date: 05/05/2014 Charge: PL 220.03 00 AM 7TH DEGREE - CRIM POSS CONTRL SUBST-7TH DEGREE Disposition/Status: PLED GUILTY Sentenced to: IMPRISONMENT 30 DAYS, LICENSE SUSPENDED 6 MONTHS, Charge: PL 165.40 00 AM 5TH DEGREE -	
QUEENS	02/09/1964			

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		<p>CRIMINAL POSSESSION OF STOLEN PROPERTY Disposition/Status: COVERED BY THE PLED TO CHARGE</p> <p>Charge: PL 165.40 00 AM 5TH DEGREE - CRIMINAL POSSESSION OF STOLEN PROPERTY Disposition/Status: COVERED BY THE PLED TO CHARGE</p> <p>Charge: VTL 1111.D1 D1 I - TRAFFIC DEVICE VIOL - RED Disposition/Status: COVERED BY THE PLED TO CHARGE</p>
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Name (A.K.A)		Arrest Date	Adjourn/Disposition Date, Charge, Disposition, and Sentence Information	OCA Remarks
County	D.O.B.			
RICHARDSON, VERNON		07/15/1991	<p>Criminal Court</p> <p>Docket/Case/Serial Number: 91X033345 Court Control Number: 14811709N Case Disposition Date: 07/06/1992 Last Disposition Date: 07/06/1992</p>	
BRONX	02/09/1964		<p>Charge: PL 165.40 00 AM 5TH DEGREE - CRIMINAL POSSESSION OF STOLEN PROPERTY Disposition/Status: PLED GUILTY Sentenced to: IMPRISONMENT 6 MONTHS,</p> <p>Charge: PL 155.25 00 AM - PETIT LARCENY Disposition/Status: PLED GUILTY Sentenced to: IMPRISONMENT 6 MONTHS,</p>	

Name (A.K.A)		Arrest Date	Adjourn/Disposition Date, Charge, Disposition, and Sentence Information	OCA Remarks
County	D.O.B.			
RICHARDSON, VERNON		05/20/1988	<p>Supreme Court</p> <p>Docket/Case/Serial Number: 05023-88</p>	

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KINGS	02/09/1984	Court Control Number: 11036762H Case Disposition Date: 03/17/1989 Last Disposition Date: 03/31/2009 Charge: PL 205.15 02 DF 1ST DEGREE - ESCAPE Disposition/Status: PLED GUILTY Sentenced to: IMPRISONMENT 1 YEARS.
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Law Codes:

AC Administrative Code	CPL Criminal Procedure Law	LOC Local Law	RP Real Property Law
ABC Alcoholic Beverage Control Law	ECL Environmental Conservation Law	MD Multiple Dwelling Law	RR Railroad Law
BL Banking Law	GB General Business Law	MHY Mental Hygiene Law	SW Social Services Law
CON Conservation Law	GML General Municipal Law	PHL Public Health Law	TL Transportation Law
COR Correction Law	LAB Labor Law	PL Penal Law	VTL Vehicle and Traffic Law

Charge Nomenclature:

Example: PL 220.03.00 AM

PL (Penal Law) = NYS Law 220.03 = Section 00 = Subsection AM = Severity 'A' Misdemeanor

Charge Severity:

I = Infraction V = Violation M = Misdemeanor F = Felony

Court Control Number:

This is preprinted on the NYS Fingerprint Card and used to match court dispositions to the arrest. This arrest specific numeric identifier can be used for contacting courts for case information when a docket (lower court) or case number (Supreme/Courty Court) is not available (e.g. case data reflects lower court dispositions as Grand Jury, Indicted, or Supreme Court Transfer but no related case number.)

Case Supplement Data:

Occasionally, current case disposition data cannot be displayed in the usual manner. We have provided this additional information under the heading of 'Case Supplement Data.' This information may not be complete and you should contact the court for complete case disposition.

UNDER NEW YORK STATE LAW VIOLATIONS AND INFRACTIONS ARE NOT CRIMES.

SEARCH RESULTS ARE BASED ON FINDING AN EXACT MATCH OF THE NAME AND DATE OF BIRTH SUBMITTED.

NYS TOWN AND VILLAGE COURT DISPOSITION DATA IS NOT AVAILABLE FOR THE PERIOD MAY 1991 THROUGH 2002. AS OF MAY 2007, ALL TOWN AND VILLAGE COURTS REPORT TO OCA.

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<https://mail.google.com/mail/?ui=2&ik=3a34effd0c&view=pt&search=..>

**DISCLAIMER: THIS RESPONSE IS BASED ON INFORMATION SUPPLIED BY THE CUSTOMER,
ALL ENTRIES ARE AS COMPLETE AND ACCURATE AS THE DATA FURNISHED TO THE OFFICE OF
COURT ADMINISTRATION BY THE NYS COURT OF CRIMINAL JURISDICTION.**

Exhibit M

ELPIDIO R. DE LEON

4768 Broadway #707
New York, N.Y. 10034

646-963-9032
bad.crimmes@aol.com

PRIVATE INVESTIGATOR

More than 23 years with the New York City Police Department as a police officer and a detective with experience as a criminal investigator, narcotics investigator, and intelligence officer. Excellent qualifications in case management, report writing, and digital technology. Advanced in investigative techniques, problem solving, management skills, data gathering and analysis. Involved with outer agencies and other law enforcement departments. Good presentation and communication skills.

Hardworking, reliable, and dependable. A team player and a positive motivator. Ability to work together with various personalities. Able to take control of a crisis in a professional, diplomatic, and tactful manner.

Trained with up to date technologies used in research, reporting / documentation, internet search methods and online data sources. Advanced in:

- Interviewing and Investigations
- Emergency planning and preparedness
- Rapid Response and crowd Control
- Intelligence gathering
- Tactical Field Operations
- Counter Surveillance and Observation
- Fraud Investigation and Documentation
- Interrogation

Maintains extreme professionalism while actively involved in the various phases of an investigation or crisis. Fluent in Spanish and English: reading, writing and speaking.

AWARDS

- Detective of the month August 2005
 - Letter of commendation from the Mexican Consulate 2003
 - Essex County New Jersey letter of commendation 2002
 - Police letter of commendation 2001
 - Manhattan District Attorney's letter of commendation 1995
 - Excellent Police Duty 1986, 1987
-

PROFESSIONAL EXPERIENCE

NEW YORK CITY POLICE DEPARTMENT, NY, NY 1985-2008

Detective 1 st Grade	(2006-2008)
Detective 2 nd Grade	(2002-2006)
Detective 3 rd Grade	(1991-2002)
Police Officer	(1985-1991)

ELPIDIO R. DE LEON -page-2

The ability to bring a positive attitude to an assignment or case while giving others the feeling of trust, and closure.

- New York City Police Department

(Continued)

- Detective Bureau:

06/93-05/08

- As a Detective, investigated crimes such as robberies, assaults, identity theft, fraud, and homicides. Interviewed complainants and victims on a daily basis. As the homicide coordinator, investigated many major media and high profiled murder cases. Worked with outside agencies and traveled the country to apprehend some of the cities most wanted criminals. Worked with America's Most Wanted.

- Organized Crime Complaint Bureau:

10/88-06/93

- Entered as an investigative narcotics agent for the NYPD. Worked closely with undercover narcotics officers to establish cases against street and upper level narcotics distributors. Gathered necessary intelligence on buy and bust operations and applied the information to effecting higher level arrests. An expert in the field of identification and surveillance techniques.

- Uniformed Police Officer

01/85-10/88

- Patrolled assigned geographical areas, enforced the penal code, made arrests, issued summonses for violations, protected property, and ensured the public safety.

PROFESSIONAL AFFILIATIONS

Member, Detectives Endowment Association 1991-present

Member, Minority Athletes networking Inc. 2010- present

EDUCATION and TRAINING

- Baruch College , psychology major
- Homicide Investigation Course
- Special Protective Security Training
- Criminal Investigation Course
- Sex Crimes Training
- Baruch College, Home Inspection
- Police Academy
- Interview & Interrogation
- Child Abuse Identification & Awareness
- Domestic Violence awareness training
- Anti Terrorist Training

Private Investigator
ID # 11000150998

09/2009

- Licensed by the New York State Department of State Division of Licensing Services. President and Principal Owner of C.R.I.M.M.E.S. Investigations & Security Consultants LLC. Company established November 2009. Company currently maintains an address at 4768 Broadway #707 New York, N.Y. 10034.
-Maintains the tradition of bringing the experience and training received from the NYPD to the public by offering the following services:

- Criminal/Civil investigations
- Identity/Fraud investigations
- Missing Persons searches
- Security/Surveillance (24 hours)
- Free consultation
- Risk management consultation
- Matrimonial/Infidelity investigations
- Executive/Dignitary protection
- Background checks

- Recognizes the interests of a client's needs, by maintaining the integrity of their information, and reaching their objectives by giving them direction.
- Provides free consultation to people, keeping them in control of their decisions, and eliminating the pay before you say theory.
- Responsible for the (10) employees. Supervising the finalization of cases, the distribution of field equipment, and maintaining logs.
- Responsible for accounts, invoices, payroll, supplies.

Experience

- Conducted investigations for attorney's assigned to homicide cases in New York and Long Island.
- Provided security for Mayor Bloomberg's election event.
- Conducted photo and video surveillance for clients on infidelity and matrimonial cases.
- Provided security for AIG executives and their families.
- Conducted electronic sweeps in apartment dwellings.
- Federal CJA interviews of witnesses.

Training and Licenses

- Licensed Private Investigator
- Certified Security Guard Instructor
- Home Inspection

Exhibit N



OFFICE OF THE
District Attorney
KINGS COUNTY

SYNOPSIS SHEET

'TCI'

GRAND JURY TERM# INDICTMENT# 2183/86 superseding
ADA: Silverstein 1685/86

TYPE OF INSTRUMENT	<input type="checkbox"/> INDICT.	<input type="checkbox"/> PROS. INFO.	<input type="checkbox"/> SUP. CT. INFO.	<input type="checkbox"/> FAM. CT.																
INFORMATION	DOCKET	STATUS			TYPE															
NAME		X	J	P	B	H	A	F	O	V	F	O	J	O	S	T	A	I	N	E
A) CALVIN LEE AKA DEVINE		X	X																	
B) KEVIN SMITH AKA BENNY		X	X																	
C)																				
D)																				

SYNOPSIS: ON 11-10-84 A LEE FIRED SHOTS AT 2 WITS AND
DECD. A LEE THEN HANDED GUN TO A SMITH - BOTH
APPROACH DECD WHO HAD SLIPPED AND FALLEN TO GROUND.
A SMITH THEN SHOTS DECD. - DECD SUSTAINED ONE BULLIT
WOUND-

STATEMENT: A LEE ADMITTED BEING PRESENT AT SCENE -
SAID SOMETHING HAPPENED THERE IN THE NATURE OF
PASSING A GUN TO A SMITH WHO THEN SHOT DECD.

CONFESION
GUNFESSION

PROPERTY STOLEN: BILL FOUN/A
PROPERTY RECOVERED: N

VFO
AFO
JO

VALUE OF STOLEN PROPERTY: \$250.00 OR LESS MORE THAN \$250.00 MORE THAN \$1,500.00

BURGLARY: DWELLING BUILDING

PROPERTY DAMAGED: VALUE OF PROPERTY DAMAGED: \$250.00 OR LESS MORE THAN \$250.00 MORE THAN \$1,500.00

DEADLY SINGULAR PLURAL
WEAPON: GUN OTHER (Specify)
GUN RECOVERED: YES NO TYPE OF GUN:
LOADED: YES NO PISTOL REVOLVER HANDGUN
OPERABLE: YES NO RIFLE SHOTGUN SAWED OFF

DANGEROUS INSTRUMENT: RECOVERED YES NO SINGULAR PLURAL
IF YES, TYPE:

TOP COUNT OF INDICTMENT: DECEASED GARY VANDORN DIED 11/10/84 ACCOMPLICES (OTHER THAN ABOVE)

DATE	CRIME	ELEMENT	COMPLAINANT'S NAME	N	S	P
11-10-84	MUR 2°	INTENTIONALLY SHOT + KILLED	GARY VANDORN		SDY	
	ATT MUR 2°	ATTEMPT TO KILL	VERNON RICHARDSON		SDY	
	ATT MUR 2°	" " "	FREDRICK SHAW		SDY	
	CPW 2°	INTENT TO USE UNLAWFULLY			44	
	CPW 3°	LOADED + OPERABLE -			910	

HOMICIDE BUREAU INFORMATION SHEET

GRAND JURY SUBPOENAS SERVED FOR: / /

D.A. HOM.# 7619

ORIGIN
OFFICE RIDING X TEL.

ORIGINAL X FOLLOW-UP

CRIME HOMICIDE

PCT. 77 U.F. 61# 1151

ORIGINAL
BY ADA M. CASEY DATE 11/10/84

OCCURRENCE
DATE 11/10/84 TIME 12:01am

FOLLOW-UP
BY ADA DATE / /

PLACE C/O BUFFALO AVE & BERGEN ST.

TAPE NST VIDEO

NICKNAMES
DEPT. (1) DIVINE - SHOOTER - UNAPPRE.

POLICE OFFICERS
SHD. COV.

ADD. (2) RENNY - UNAPPRE.

HOM. DET. STEVE NAKLICKI 707 77 PDU
1ST AT
SCENE

FORENSIC DET. NASOFF, SH#1785 RUN # 3929

ARREST AUTHORIZED YES X NO

M.E. AT SCENE Y/N NO X

 X UNAPPREHENDED X UNKNOWN

DR. WILLIAMS PRONOUNCED DECD DEAD IN ST. MARY'S
WEAPON RECOVERED YES NO X

 FELONY MURDER JUSTIFIABLE

TYPE OF WEAPON GUN

DECEASED AND/OR COMPLAINANTS

#1
NAME GARY HALL, DOB 3/6/60, M/B/24
ADD. 685 GATES AVE. TEL
CONDITION & HOSPITAL DOA/ST. MARYS HOSPITAL.

#2
NAME
ADD. TEL

I.D. MADE BY WITNESS(ES) # NONE

WITNESSES PHOTO LINE-UP SHOW-UP NONE

1. NAME
ADD. APT
TEL. DOB
WEL.# OFFICE
BUS. ADD. TEL
NEAREST REL.
ADD. TEL

4. NAME
ADD. APT
TEL. DOB
WEL.# OFFICE
BUS. ADD. TEL
NEAREST REL.
ADD. TEL

2. NAME
ADD. APT
TEL. DOB
WEL.# OFFICE
BUS. ADD. TEL
NEAREST REL.
ADD. TEL

5. NAME
ADD. APT
TEL. DOB
WEL.# OFFICE
BUS. ADD. TEL
NEAREST REL.
ADD. TEL

3. NAME
ADD. APT
TEL. DOB
WEL.# OFFICE

6. NAME
ADD. APT
TEL. DOB



OFFICE OF THE
District Attorney
KINGS COUNTY

HOMICIDE BUREAU INFORMATION SHEET

D. A. HOM. #7619

- 2 -

Facts:

Deceased and defendants are known to each other. On November 10, 1984, deceased had a dispute with defendants. Defendants left and returned with a handgun. Defendant Lee aka Devine shot a few times at deceased, but missed him. He then handed the gun to defendant Smith aka Renny, who shot deceased.

Deceased was pronounced dead at St. Mary's Hospital on November 10, 1984 at 12:25 A.M. Deceased died of a gunshot wound to the back, lungs and aorta.

No gun, nor any bullets have been recovered.

Defendant Smith has been indicted (Indictment #1685/86; ADA Silverstein).

ID:

E/w Vernon Richardson has known defendant Lee for at least two years.

On 11/10/84, Richardson identified both defendants from a photo array.

(On 3/15/86, Richardson identified defendant Smith in a lineup at the 77 PDU at 5:07 P.M.)

Statement of defendant Calvin Lee to Det. Scarcella at 77 PDU on 4/5/86 at 10:00 P.M.:

Defendant admitted his presence at the scene. He agreed with the Detective that something happened there similar to him handing a gun to co-defendant, who shot deceased.

Defendant did not speak to ADA Rooney. On his way to the 84th Pct., defendant requested an attorney.

Action taken:

Arrest authorized for 125.25(1). Grand Jury set for 4/8/86 at 11:00 a.m. Det. Scarcella and P.O. Crecca notified; Vernon Richardson, Fredrick Shaw (aka Jabo) and Kevin Wright subpoenaed.

J.J.
4/7/86

Exhibit O

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS : CRIMINAL TERM

-----X
THE PEOPLE OF THE STATE OF NEW YORK,

-against-

CALVIN LEE a/k/a DEVINE and
KEVIN SMITH a/k/a RENNY,

Defendants.
-----X

AFFIRMATION OF
JOSEPH GIANNINI

Indictment No. 2183/86

STATE OF NEW YORK)

COUNTY OF SUFFOLK) ss:

JOSEPH GIANNINI, an attorney duly admitted to practice of law in the State of New York affirms under penalty of perjury as follows:

1. I have been asked by the attorneys for Kevin Smith to review certain materials and submit an affirmation in connection therewith. I was the trial attorney for Calvin Lee in the above-captioned case which was tried in September 1987 and resulted in the conviction of both defendants of Murder in the 2nd Degree. I have not had any contact with Mr. Lee since his sentencing. Recently I was asked to review materials described below which I have done.

2. I reviewed the trial testimony of the only eyewitness to the shooting, one Vernon Richardson, who testified in the above trial, and identified the defendants as the murderers of Gary VanDorn, a transcript of an audiotape interview conducted by Assistant District Attorney Jonathan Frank of Mr. Richardson on November 10, 1984, the day following the murder and the police reports and District Attorney's Voluntary Disclosure form. Trial testimony is attached as *Exhibit "A,"* the transcript as *Exhibit "B,"* and the police reports and Voluntary Disclosure form as *Exhibit "C"*.

3. After reviewing the documents I can state categorically that neither the transcript of the November 10, 1984 interview, nor the audiotape, was turned over to the defense at any time

during the pretrial discovery or the trial of this action. Before and during the trial I conferred with counsel for Kevin Smith, the late Theodore Jones. I can state that he did not receive the transcript or audiotape either, or he would have shared that with me during our discussions of pretrial strategy.

4. Comparison of the transcript with the trial testimony reveals significant inconsistencies in the versions of events as described by Mr. Richardson. Specifically, in Mr. Richardson's trial testimony he testified that he saw the defendants, who he called Devine (Calvin Lee) and Renny (Kevin Smith), robbing Richardson's friend, "Jabbo." They were putting their hands in his pockets, and took money from his pockets. Richardson testified at trial that when he saw this he ran up to them, pushed them, and they started swinging as a fight broke out. After punches were exchanged Renny and Devine ran away. However, in the audiotape, he added facts that immediately prior to this, Jabbo was talking to a girl named Tinker Bell when he was approached by Devine and Renny. In the audiotape he also added that he approached them and Renny had his hand in his pocket suggesting that he had a gun and they told him to "step off " and he backed up about five steps when Renny punched Jabbo. Richardson then separated them, but got punched in the mouth and then the fight broke out. Whereas at trial, he merely testified that he was standing five feet away, asked "why you doing this," and he pushed them and the fight broke out. At trial there was mention of another possible witness, ie, the girl; no suggestion that Renny had a gun in his pocket, or that Richardson stood by and watched his friend get punched in the face or that he got hit first in the mouth.

5. At trial, Richardson testified that as Renny and Devine ran away, Devine said "we're going to get these mother fuckers." Whereas in the audiotape, he said that as they were

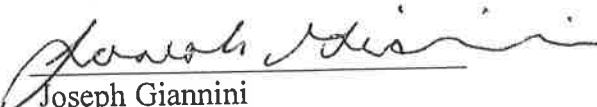
running away, both of them said, "we're going to get the mother fuckers. We're gonna kill em, we're gonna kill em." Two very inconsistent versions.

6. As to the events immediately preceding and including the shooting, at trial Richardson testified that he was talking to a girl, heard a shot, turned and saw Jabbo running away and Renny and Devine crossing the street and shooting as they were running across the street; that they were stopped in the middle of the street when the deceased (Gary VanDorn) was running and suddenly fell to the ground. Renny said to Devine, "pass the gun," and he went over to the deceased lying in the street, stood over him and shot him. Whereas in the audiotape Richardson said as Jabbo and Gary were walking ahead of him, Devine and Renny came around a corner, Richardson heard a pop and then he turned and he ran. He said he saw them shooting at Jabbo who was running away. Richardson said he was about 15 to 20 feet away when they shot at Gary, and then they turned and shot at him. At this time Renny and Devine were in the middle of the street and then they ran to the sidewalk, at which time they shot at Gary twice and shot at Richardson again after they were on the sidewalk. Gary was running and he saw him fall after he heard another shot. Then Renny said "pass me the gun; I'm gonna kill him," and he came on top of him and shot him again. Then he said they were "busting off, I guess cause I heard a click," suggesting they were out of bullets because there was no more firing and they ran away. Thus, the version given in the audiotape was significantly different in terms of number of shots fired, who was being shot at, what time and the sequence of shots and where the participants were. The audio transcript is very inconsistent with the trial testimony.

7. If I had been given the transcript I would have cross-examined Richardson about these inconsistencies because they so varied from his trial testimony and indicated to me evidence of fabrication of his story. Thus, the fact that I did not receive the transcript of the audiotape is further provided by my custom and practice after trying in excess of 60 criminal cases, that I would have used this material to cross-examine Richardson during the trial. There is no reference to this

audiotape in my cross-examination of this witness. Thus, I obviously did not have this tape which in my view is a violation of the Rosario and Brady rules, as it is sufficiently inconsistent to be exculpatory evidence.

Dated: *April 4,* , 2015


Joseph Giannini

Docket/Indictment # 2183/1986

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

THE PEOPLE OF THE STATE OF NEW YORK,

-against -

KEVIN SMITH,

Defendant.

NOTICE OF MOTION, AFFIRMATION

JUSTIN BONUS, ESQ.
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Pursuant to 22 NYCRR 130-1.1, the undersigned, an attorney admitted to practice in the courts of New York State, certifies that, upon information and belief and reasonable inquiry, the contentions contained in the annexed document are not frivolous.

Dated: _____ Signature: _____

Service of a copy of the within: _____ is hereby admitted.

Dated: _____ Signature: _____
