

FILED
Court of Appeals
Division II
State of Washington
10/11/2019 4:16 PM

No. _____

IN THE COURT OF APPEALS
FOR THE STATE OF WASHINGTON
DIVISION TWO

IN THE MATTER OF THE PERSONAL RESTRAINT OF

GREG SCHIRATO,

Petitioner.

PERSONAL RESTRAINT PETITION

ALLEN, HANSEN, MAYBROWN & OFFENBECHER, P.S.
Attorneys for Petitioner

David Allen
Todd Maybrown
Cooper Offenbecher
600 University Street
Suite 3020
Seattle, WA 98101
(206) 447-9681

1. STATUS OF PETITIONER

Petitioner Greg Schirato, through his attorneys David Allen, Todd Maybrown, and Cooper Offenbecher, hereby applies for relief from restraint.

1. On April 14, 2015, the Thurston County Prosecuting Attorney filed a two-count Information charging Petitioner with one count of second-degree rape (Count 1) and one count of first-degree burglary (Count 2) based upon the allegations of former co-worker who was identified as "AL." *See State v. Schirato*, Thurston County Superior Court Cause No. 15-1-00520-4.

2. Petitioner hired attorney Richard Woodrow to represent him on these matters.

3. Petitioner's case proceeded to a jury trial before Thurston County Superior Court Judge James Dixon during January 2018. On January 24, 2018, a jury found Petitioner guilty of both counts. He received an indeterminate sentence of 125 months to life in prison.

4. Petitioner then filed an appeal. *See State v. Schirato*, Court of Appeals No. 51665-9-II. Pursuant to a motion filed by the Petitioner, on October 30, 2018 the Court dismissed the appeal. The decision became final on November 30, 2018 and the Court issued its mandate on December 6, 2018.

6. Mr. Schirato is restrained, currently in the custody of the Washington Department of Corrections.

2. GROUNDS FOR RELIEF

Petitioner received deficient legal representation during his trial, in violation of his right to effective assistance of counsel in violation of the Sixth and Fourteenth Amendments to the United States Constitution and Article I, Section 22 of the Washington Constitution. In addition, he was denied his constitutional rights under Article 1, § 7 of the Washington Constitution, and under the Fourth Amendment, to be free from unlawful searches and seizures. This Court has jurisdiction under RAP 16.3(c) and RAP 16.5(a).

Petitioner's restraint is unlawful, and relief is appropriate pursuant to RAP 16.4(c)(2), (3), (5), (6), and (7). The factual and legal support for this petition is set forth in Petitioner's Opening Brief which is incorporated by reference herein.

This personal restraint petition is supported by the Declarations of David Allen, Greg Schirato, Clifford Spiegelman, and Wayne Fricke.

3. CITATIONS TO COURT DOCUMENTS

Petitioner requests transfer of the Clerk's Papers and Report of Proceedings from *State v. Schirato*, Court of Appeals No. 51665-9-II.

4. STATEMENT OF FINANCES

Petitioner is proceeding at his own expense.

5. REQUEST FOR RELIEF

Petitioner asks this Court to reverse his conviction and sentence and to remand the case to the Thurston County Superior Court for a new trial.

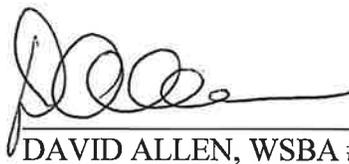
Petitioner requests a reference hearing and discovery proceedings to facilitate presentation of the factual claims stated herein, as necessary.

Petitioner requests such further relief as the evidence may support and the Court feels is appropriate.

6. OATH

I, declare under penalty of perjury under the laws of the State of Washington that I am the attorney for petitioner, that I have read the petition, know its contents, and I believe the petition is true.

DATED this 11th day of October, 2019 at Seattle, Washington.

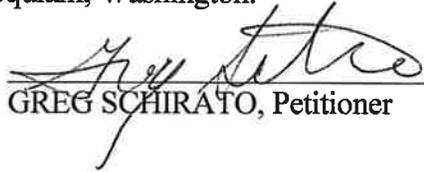


DAVID ALLEN, WSBA #500

G. VERIFICATION

I, GREG SCHIRATO, declare that I have received a copy of the petition prepared by my attorney and that I consent to the petition being filed on my behalf.

DATED this 30th day of SEPTEMBER, 2019 at Stafford Creek Correctional Center, Hoquiam, Washington.



GREG SCHIRATO, Petitioner

PROOF OF SERVICE

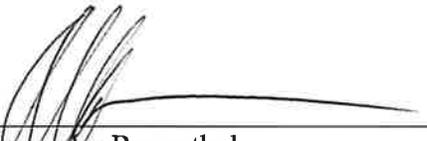
Alexandra Rosenthal swears the following is true under penalty of perjury under the laws of the State of Washington:

On the 11th day of October, 2019, I sent by U.S. Mail, postage prepaid, one true copy of Personal Restraint Petition directed to attorney for Respondent:

Joe Jackson
Deputy Prosecuting Attorney
Thurston County Prosecutor's Office
2000 Lakeridge Dr S.W. Building 2
Olympia, WA 98502

One true copy of Personal Restraint Petition was delivered to Petitioner.

DATED at Seattle, Washington this 11th day of October, 2019.



Alexandra Rosenthal
Legal Assistant

FILED
Court of Appeals
Division II
State of Washington
10/11/2019 4:16 PM

IN THE COURT OF APPEALS FOR THE STATE OF WASHINGTON
DIVISION TWO

In re the Personal Restraint Petition of

GREGORY SCHIRATO,

Petitioner.

NO.

DECLARATION OF PETITIONER
GREGORY SCHIRATO IN SUPPORT OF
PRP

Gregory Schirato swears the following is true under penalty and perjury under the State of Washinton:

1. I was the defendant in the case of State of Washington v. Gregory Schirato, Thurston County Superior Court Cause No. 15-1-00520-4. I was convicted of one count of second degree rape and one count of first degree burglary on January 24, 2018. On March 14, 2018, the court imposed an indeterminate sentence of 125 months to life. I am incarcerated at the Stafford Creek Corrections Center.
2. I retained attorney Richard Woodrow to represent me at my trial.
3. During trial preparation, I learned that a scientist with the FBI lab in Quantico, VA prepared a laboratory report dated February 17, 2016 which I read when I was reviewing the criminal discovery at my attorney's office. The FBI report is attached hereto as Appendix A.
4. This report stated that four very small glass fragments obtained from my suit and shirt were sent to the FBI for comparison with known fragments from the broken window at AL's residence.

- 1 5. The FBI report stated that the glass fragments were not of suitable size “such that
2 it can be used to generate repeatable, reproducible measurements using the GRIM
3 3 instrument,” and were therefore not tested or examined.
4
5 6. On several occasions prior to trial I urged Mr. Woodrow to contact the FBI scientist
6 in order to discuss her findings and also to call her as a witness at trial. It is my
7 understanding from speaking with Mr. Woodrow that he never tried to contact her.
8
9 7. Mr. Woodrow retained Skip Palenik of Chicago as an expert witness on glass
10 particles.
11
12 8. I had never met Mr. Palenik or spoken with him prior to his testimony at my trial.
13
14 9. I was not aware until I heard his testimony at trial that he did not test the disputed
15 glass fragments nor did he inspect them.
16
17 10. Mr. Woodrow never told me that we should have Mr. Palenik test the disputed
18 glass fragments. If he had, I would have agreed and paid Mr. Palenik an additional
19 fee for doing so.
20
21 11. One of the questions the Prosecutor asked Mr. Palenik at trial was why would I
22 have glass fragments on my suit and shirt. He testified he did not know why.
23
24 12. The only logical explanation to draw from this was that I must have therefore
25 broken the window at AL’s home to gain entrance.
26
27 13. I was aware from reading the discovery that this might be an issue at trial.
28
29 14. I have a Bachelor of Science degree in Wildlife Biology that I received from the
30 University of Washington in 1985. I am familiar with the scientific method and
31 have had experience doing scientific research.

- 1 15. I reviewed journal articles on the internet relating to glass found on clothes and
2 located an article in the July 1971 edition of The Journal of Forensic Sciences
3 entitled "Glass and Paint Fragments Found in Men's Outer Clothing – Report of a
4 Survey." A copy of this article is attached as Appendix B.
5
6 16. I downloaded and printed this article and provided it to Mr. Woodrow and asked
7 him several times to use it at trial.
8
9 17. The search warrant affidavit states at page 9 that I told Detective Johnson when I
10 met with him a few days after the alleged incident that I owned a Mazda "SUV".
11 This is not true.
12
13 18. I never told the detective that I owned an SUV. In fact, when asked I told him that
14 I owned and drove a Mazda 3.
15
16 19. My Mazda 3 was a small sedan with a trunk as opposed to a hatch back. It cannot
17 be confused with an SUV. Attached hereto as Appendix C is a photograph of my
18 Mazda 3.
19
20 20. I drove this vehicle to the police station on or about December 19, 2014, for my
21 interview with Detective Johnson. The vehicle was parked outside the station
22 where he would have been able to view it and ascertain it was a small sedan as
23 opposed to an SUV. He also would have seen my Mazda 3 when he executed the
24 search warrant at my home on January 13, 2015.
25
26 21. Attached hereto as Appendix D which is a true copy of a DOL record relating to
this vehicle. The DOL record clearly states that this vehicle is a sedan.
22. The only other vehicle that I had the use of during 2014 was a Toyota pick- up
truck that my wife and I owned.

1 23. After reading the search warrant and learning the Mr. Kirkpatrick described a
2 small, suspicious, silver SUV at AL's house near the time of the incident, I
3 informed Mr. Woodrow that I had a Mazda 3 sedan.

4
5 24. At the time of my interview with Detective Johnson on or about December 19,
6 2014, I did not know Mr. Kirkpatrick, AL's next door neighbor, nor was I aware
7 of the statement he gave to the police describing suspicious vehicles he claims he
8 saw at AL's house near the time of the December 18, 2014 incident.

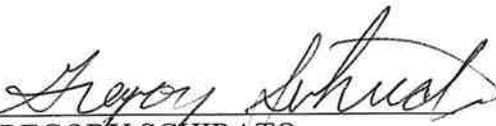
9 25. I told Mr. Woodrow that I never told the detective that I owned or drove an SUV
10 near the date of the incident but instead I told the detective I owned a Mazda 3 and
11 a pick up truck.

12
13 26. There would be absolutely no reason or incentive for me to falsely claim to the
14 detectives that I owned a small SUV, when I didn't.

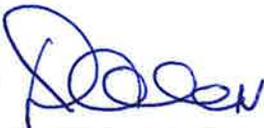
15 27. At the time of this incident in December of 2014, I was the Deputy Assistant
16 Director in charge of wildlife programs at the Washington State Department of
17 Fish and Wildlife (WDFW). AL was the Legislative Director for the WDFW.
18 While she was not in my department nor was I in any way her supervisor, we had
19 offices two doors away from each other in the Natural Resource Building. Because
20 of the layout of the floor of the building, I could see the door of her office from
21 mine. If I cared, I would have been able to check to see if she was in her office
22 during the working hours, and did not have to drive by her house, as the warrant
23 suggests.
24
25
26

1 28. I was invited to AL's house on three or four occasions, the latest in fall of 2014
2 when she invited me for lunch to view vacations photos of her in a bikini. She
3 never complained about any unwelcome behavior during these visits.
4
5
6
7
8
9
10
11
12
13

14 DATED this 30th day of ~~SEPTEMBER~~ 2019 at Stafford Creek Corrections Center, Aberdeen, WA.

15
16 
17 GREGORY SCHIRATO
18 Petitioner
19

20 Witnessed by:

21 
22

23 DAVID ALLEN, WSBA #500
24 Attorney at Law
25
26

PROOF OF SERVICE

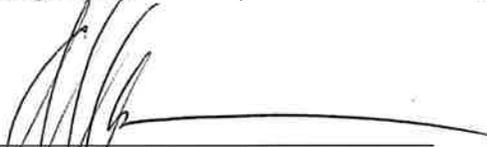
Alexandra Rosenthal swears the following is true under penalty of perjury under the laws of the State of Washington:

On the 11th day of October, 2019, I sent by U.S. Mail, postage prepaid, one true copy of Declaration of Petitioner Gregory Schirato in Support of PRP directed to attorney for Respondent:

Joe Jackson
Deputy Prosecuting Attorney
Thurston County Prosecutor's Office
2000 Lakeridge Dr S.W. Building 2
Olympia, WA 98502

One true copy of Declaration of Petitioner Gregory Schirato in Support of PRP was delivered to Petitioner.

DATED at Seattle, Washington this 11th day of October, 2019.



Alexandra Rosenthal
Legal Assistant

APPENDIX A

UNCLASSIFIED



FBI Laboratory

2501 Investigation Parkway
Quantico, Virginia 22135

LABORATORY REPORT

To: Kristy Jack - Evidence
Olympia, WA Police Department
601 4th Ave E
Olympia, WA 98501

Date: February 17, 2016

Case ID No.: 95A-HQ-6806430

Lab No.: 2016-00132-3

Communication(s): January 11, 2016

Agency Reference(s): 2014-8123

Subject(s): Gregory A. Schirato

Victim(s): Ann L. Larson

Discipline(s): Trace - Mineralogy

FBI Laboratory Evidence Designator(s):

- Item 1 Shirt from master bedroom closet of Gregory A. Schirato's residence (Property #44025851) (Item 34)
- Item 1-1 Debris received with Item 1 (Item 34)
- Item 2 Jacket from master bedroom closet of Gregory A. Schirato's residence (Property #44025852) (Item 35)
- Item 3 Pants from master bedroom closet of Gregory A. Schirato's residence (Property #44025852) (Item 35)
- Item 3-1 Debris received with Item 2 through Item 3 (Item 35)
- Item 4 Debris from inside residence at 3124 Hoadly Street SE (Property #44026551) (Item 37)
- Item 5 Debris from inside residence at 3124 Hoadly Street SE (Property #44026551) (Item 37)
- Item 6 Debris from inside residence at 3124 Hoadly Street SE (Property #44026551) (Item 37)
- Item 7 Debris from inside residence at 3124 Hoadly Street SE (Property #44026551) (Item 37)
- Item 8 Debris from inside residence at 3124 Hoadly Street SE (Property #44026551) (Item 37)
- Item 9 Washington State Patrol Crime Laboratory Secondary Evidence (two paper

UNCLASSIFIED

UNCLASSIFIED

- folds, nine slides)
- Item 10 Glass sample from window pane of door at 3124 Hoadly Street SE (Property #44026552) (Item 38)
- Item 11 Glass sample from window pane of door at 3124 Hoadly Street SE (Property #44026552) (Item 38)
- Item 12 Glass sample from window pane of door at 3124 Hoadly Street SE (Property #44026552) (Item 38)
- Item 13 Glass sample from window pane of door at 3124 Hoadly Street SE (Property #44026552) (Item 38)
- Item 14 Glass sample from window pane of door at 3124 Hoadly Street SE (Property #44026552) (Item 38)
- Item 15 Glass sample from window pane of door at 3124 Hoadly Street SE (Property #44026552) (Item 38)
- Item 16 Washington State Patrol Crime Laboratory Secondary Evidence (one slide)

The results of the trace evidence (glass) examinations are included in this report.

Methods:

Comparison of glass items for the purposes of determining the possibility of a common origin is accomplished by using one or more analytical techniques. These techniques include:

- Examinations of fracture surfaces for fractography using stereobinocular and/or compound microscopes.
- Determination of physical properties such as glass type, glass color, and thickness. The physical properties of the glass are determined using stereobinocular and petrographic microscopes, micrometers, and ultraviolet lights.
- Measurement of the refractive index at up to three wavelengths, 488 nm, 589 nm, and 656 nm. Refractive index of the glass is measured using the Foster + Freeman, Ltd. Glass Refractive Index Measuring system (GRIM3).
- Determination of the concentrations of aluminum, barium, calcium, iron, magnesium, manganese, sodium, strontium, titanium, and zirconium. The elemental concentrations are determined using a ThermoFisher iCAP 6500 Duo inductively coupled plasma - optical emission spectrometer (ICP-OES).
- Additional methods as needed.

The actual tests performed are dependent on the size and shape of the glass fragments, and analytical requirements. When a difference is found between compared items, the examination may be immediately discontinued. For this case, the items were examined using a stereobinocular microscope.

UNCLASSIFIED

Items 1, 2 and 3, the shirt, jacket, and pants, respectively from the master bedroom closet of Gregory A. Schirato's residence have been previously examined by the Washington State Patrol Crime Laboratory. Therefore, no additional processing for trace evidence was performed on these items.

Results of Examinations:

No glass suitable for refractive index analysis and comparison by GRIM3 was detected in Item 1-1, the debris received with Item 1, or Item 3-1, the debris received with Items 2 and 3. Therefore, no comparisons were conducted between Items 1-1 and 3-1 and Items 10 through 15, glass samples from window pane of door at 3124 Hoadly Street SE or glass recovered from the debris from Items 4 through 8, debris from inside the residence of 3124 Hoadly Street SE and the possible source of the debris from Items 1-1 and 3-1 cannot be determined.

A suitable glass fragment is one that is of sufficient size and condition such that it can be used to generate repeatable, reproducible measurements using the GRIM3 instrument.

No glass examinations were conducted on Items 9 and 16, Washington State Patrol Crime Laboratory Secondary Evidence.

Interpretation:

If items do not physically fit together, they are compared based on their observed and measured properties. The possibility of a common origin is eliminated when any of the following criteria are met:

- The observed physical properties are different.
- The thickness of the recovered glass fragment falls outside the range of values measured in the exemplar glass.
- The average refractive index for a recovered glass fragment falls outside the range of values measured in the exemplar glass. This comparison is performed separately for each wavelength measured.

When the physical properties assessed are the same, and the average refractive index measurement of the recovered glass falls within the range of refractive index values of exemplar glass, the glasses are said to be indistinguishable.

The variations in the observed and measured properties within a glass object are typically smaller than the variations among objects. Studies have shown that refractive index measured at 589nm and chemical composition of glass used in conjunction are highly discriminating¹, differentiating most glass that is not the actual source. This finding strongly supports the supposition that a recovered glass fragment and a broken object with indistinguishable refractive index at 589 nm and elemental composition are unlikely to be from another source. While this finding is not a

¹Koons, R. D. and Buscaglia, J. The forensic significance of glass composition and refractive index measurements, *Journal of Forensic Sciences* (1999) 44:496B503.

UNCLASSIFIED

direct indicator of the rarity of a particular glass in any specific case, it can be used to show that the occurrence of coincidentally indistinguishable glass is rare. In glass items where only refractive index data can be measured, the chance of finding coincidentally indistinguishable glass is significantly higher.

There are five possible conclusions when comparing glass fragments:

- The glass fragments were once part of the same broken object. This conclusion is reached when two or more pieces of broken glass physically fit together.
- The glass fragments either originated from the same broken glass source or from another source(s) of broken glass indistinguishable in all of the measured or observed physical properties, refractive index, and elemental composition. This conclusion is reached when two or more broken glass fragments exhibit the same physical characteristics, average of multiple refractive index measurements of the questioned items falls within the range of refractive index values of the items from known sources, and averages of the chemical concentrations of the elements measured falls within the modified 4σ interval.
- The possibility that the glass fragments originated from the same source of broken glass cannot be eliminated. This conclusion is reached when two or more fragments of glass are indistinguishable in their physical characteristics and the average of multiple refractive index measurements of the questioned items falls within the range of refractive index values of the items from known sources, but are of insufficient size or quality for chemical analysis.
- The glass fragments are eliminated as originating from the same source(s). This can be concluded when two or more fragments of glass are different in their physical properties, refractive indices or chemical composition.
- The possible source(s) of broken glass cannot be determined. This conclusion is reached when a glass particle recovered from an unknown source is too limited in size or quality.

For additional information on forensic glass analysis and results interpretation, please see Bottrell, Maureen, "Forensic Glass Comparison: Background Information Used in Data Interpretation," Forensic Science Communications, April 2009, http://www.fbi.gov/about-us/lab/forensic-science-communications/fsc/april2009/review/2009_04_review01.htm.

Limitations:

A forensic glass analysis is typically a comparison of two or more glass fragments in an attempt to determine if they originated from different sources. These analyses require the determination of class characteristics that may associate objects with a group of similar objects such as containers, but never to a single object. It is important to note, however, that although there may be several objects with identical properties, glass fragments can originate only from broken and not intact objects. Only when two or more broken glass fragments physically fit together can it be said that they were once part of the same object.

UNCLASSIFIED

Remarks:

For questions about the content of this report, please contact Geologist/Forensic Examiner Jodi Blakely Webb at 703-632-7700. For questions about the status of your submission, including any remaining forensic examinations, please contact Request Coordinator Heather E. Busch at 703-632-8221. The evidence will be returned to the contributor under separate cover. This report contains the opinions and interpretations of the examiner(s) who issued the report. The supporting records for the opinions and interpretations expressed in this report are retained in the FBI files.

Jodi Blakely Webb
Trace Evidence Unit

APPENDIX B

JOURNAL OF

Forensic Sciences

REFERENCE COPY
Archive - Library Dept.
American Medical Association

THE OFFICIAL
PUBLICATION
OF THE
AMERICAN
ACADEMY OF
FORENSIC
SCIENCES

VOL. 16 · NO. 3

JULY

1971

Polluted Water—A Challenge to Forensic Biology

Charles G. Wilber

Obliterations, Alterations, and Related Document Problems

Lyndal L. Shaneyfelt

Comparison of Bullet Lead Specimens by Nondestructive Neutron Activation Analysis

H. R. Lukens and V. P. Guinn

Serum Changes in Drowning

Ezatollah Foroughi

Comments on the Determination of Nationality from Handwriting

Gordon R. Stangohr

Differentiation of Microgram Quantities of Acrylic and Modacrylic Fibers Using Pyrolysis Gas-Liquid Chromatography

*J. P. Bortniak, S. E. Brown,
and E. H. Sild*

Glass and Paint Fragments Found in Men's Outer Clothing—Report of a Survey

*E. F. Pearson, R. W. May,
and M. D. G. Dabbs*

(Complete Contents Inside)

JOURNAL OF

Forensic Sciences

THE OFFICIAL PUBLICATION
OF THE
AMERICAN ACADEMY OF
FORENSIC SCIENCES

Callaghan & Company

165 N. Archer Ave.

Mundelein, Illinois 60060

Table of Contents

	PAGE
Polluted Water—A Challenge to Forensic Biology.....	251
<i>Charles G. Wilber, Ph.D.</i>	
Serum Changes in Drowning.....	269
<i>Ezatollah Foroughi, M.D.</i>	
Glass and Paint Fragments Found in Men's Outer Clothing —Report of a Survey.....	283
<i>E. F. Pearson, B.Sc., Ph.D., R. W. May, B.Sc., Ph.D., and M. D. G. Dabbs, B.Sc.</i>	
Comparison of Bullet Lead Specimens by Nondestructive Neutron Activation Analysis.....	301
<i>H. R. Lukens, B.S., and V. P. Guinn, Ph.D.</i>	
A Large-Scale Study of Paper by Neutron Activation Analysis.....	309
<i>H. L. Schlesinger and D. M. Settle</i>	
Obliterations, Alterations, and Related Document Problems	331
<i>Lynadal L. Shameyfelt, B.C.S.</i>	
Comments on the Determination of Nationality from Hand- writing.....	343
<i>Gordon R. Stangor</i>	
An Approach to Automated Drug Identification.....	359
<i>Donna L. Shirley, B.A., B.S., M.S.</i>	
Case Report	
Pulmonary Obliterative Alveolitis Due to Posttrau- matic Fat Emboli.....	376
<i>L. D. Henry, M.D. and J. F. Edland, M.D.</i>	

Volume 16, Number 3, July 1971. JOURNAL OF FORENSIC SCIENCES is published in January, April, July and October by Callaghan & Company at 165 North Archer Avenue, Mundelein, Illinois 60060. Subscription price \$15.00 a year. Second-class postage paid at Mundelein, Illinois. Copyright © 1971 by Callaghan & Company. All rights reserved.

	PAGE
Technical Section	
Differentiation of Microgram Quantities of Acrylic and Modacrylic Fibers Using Pyrolysis Gas-Liquid Chromatography	380
<i>J. P. Bortniak, B.Sc., S. E. Brown, B.S.A., and E. H. Sild, B.S.A.</i>	
Distinction Between Antemortem and Postmortem Wounds: A Study of Elastic Fibers in Human Skin	393
<i>Abdullah Fattah, M.B., B.S., Ph.D., LL.B., D.M.J.</i>	
Book Reviews	397

JOURNAL OF FORENSIC SCIENCES

Official Publication of the American Academy of Forensic Sciences

MORTON F. MASON, Ph.D., Editor and Chairman
of Publications Committee
Dallas, Texas

DAVID A. CROWN, D.Crim., Book Review Editor
Fairfax, Virginia

OFFICERS

DON HARPER MILLS, M.D., J.D.
Los Angeles, California

President

JOSEPH D. NICOL, M.S.
Naperville, Illinois

CYRIL H. WECHT, M.D., LL.B.
Pittsburgh, Pennsylvania

SEYMOUR POLLACK, M.D.
Los Angeles, California

President-Elect

ABRAHAM STOLMAN, Ph.D.
Hartford, Connecticut

DOUGLAS M. LUCAS, M.S.
Toronto, Canada

Secretary-Treasurer

JAMES T. WESTON, M.D.
Salt Lake City, Utah

PUBLICATIONS COMMITTEE

MARVIN E. ARONSON
Philadelphia, Pennsylvania

LOWELL BRADFORD, B.S.
San Jose, California

DONALD DOUD
Milwaukee, Wisconsin

KURT M. DUBOWSKI, Ph.D.
Oklahoma City, Oklahoma

ROBERT B. FORNEY, Ph.D.
Indianapolis, Indiana

GEORGE E. HALL, J.D.
Chicago, Illinois

DON HARPER MILLS, M.D., LL.B.
Los Angeles, California

DESIGNATED MEMBERS OF EXECUTIVE COMMITTEE

EDWIN C. CONRAD, J.D., M.A.
Madison, Wisconsin

JOSEPH H. DAVIS, M.D.
Miami, Florida

JOHN B. HUNT, M.D.
Lakewood, Colorado

LESTER L. LUNTZ, D.D.S.
Hartford, Connecticut

11. Modell, J. H., Gaub, M., Moya, F., Vestal, B., and H. Smarz, Physiologic Effects of Near Drowning with Chlorinated Fresh Water, Dis-tilled Water, and Isotonic Saline. *Anesthesiology* 27, 33-41 (1966).
12. Modell, J. H. Resuscitation Following Aspiration of Chlorinated Fresh Water. *JAMA* 185, 651-655 (1963).
13. Spitz, W. U. and R. V. Blanke. Mechanism of Death in Fresh-Water Drowning. *Arch. Path.* 71, 661-668 (1961).
14. Chiaraviglio, E. D. C. and A. V. Wolf. Diagnosis of Drowning. *Arch. Path.* 75, 337-341 (1963).

Pathology Department
 Veterans Administration Center
 Jackson, Mississippi 39216

Glass and Paint Fragments Found in Men's Outer Clothing—Report of a Survey*

E. F. Pearson, B.Sc., Ph.D.,** R. W. May, B.Sc., Ph.D.,**
 and M. D. C. Dabbs, B.Sc.**

Introduction

In the investigation of many crimes fragments of glass and paint are removed from clothing and after comparison with control samples evidence is presented in court. There is, how-ever, a complete absence of data relating to the relative fre-quency of occurrence of glass and paint on clothing not known to be related to crime. It is this lack of information which prompted the work described in this paper.

A complete survey of glass and paint in clothing would in-volve sweeping down a wide variety of garments from many peo-ple with consideration given to a number of variables such as the age, sex, occupation, and geographical location of the people concerned. However, because garments most frequently ex-aminated for glass and paint in forensic science laboratories are men's outer garments and in particular men's jackets and trou-sers the survey described in this paper was limited to these items.

One large dry cleaning establishment with a radius of collec-tion of approximately 20 miles was chosen as the most suitable place from which to obtain the clothing. A proposal to use a postal survey to private individuals or to many dry cleaning establishments was rejected because of the difficulty of ensuring a uniform sweeping and collection procedure.

Experimental

The collection of jackets and trousers: Over a period of about three months the chosen dry cleaning establishment was visited almost daily

* Received for publication July 13, 1970. Accepted for publication April 29, 1971.

** Home Office Central Research Establishment, Aldermaston, Reading, Berkshire, England.

and men's jackets and trousers which occurred together as a pair (but not necessarily matching) were chosen at random from the garments as they were delivered into the laundry for dry cleaning. Altogether 100 pairs of jackets and trousers were examined averaging about 2 pairs daily.

Removal of debris from the clothing: Each garment chosen for investigation was held over large clean brown paper sheets and the contents of the turn-ups and pockets brushed onto separate sheets using a tooth brush. The debris from each pair of jacket and trousers was collected separately in three fractions: (1) turn-ups, (2) trouser pockets and (3) jacket pockets. After collection each fraction was emptied into a labeled, previously inspected clean polythene container having a tight fitting snap-on lid.

Inspection of the debris: Each of the three fractions of debris taken from a jacket-trouser pair was emptied into a clean petri dish and examined separately under a microscope. The microscopic examination was carried out under incident light using a Nikon Zoom microscope X16 to X80 magnifications. Fragments of interest were examined under the higher magnifications and then placed on a labeled microscope slide for further examination. Glass and paint were stored separately.

The lower limit of size of material taken from each debris fraction for further identification as glass or paint was somewhat subjective but fragments having no dimension greater than 100 μ were not considered. Material above their lower limit which was considered to be glass or paint was removed from each debris fraction for further identification. When the microscope slides containing glass or paint for identification were not being examined they were covered with a microscope cover-slip and sealed with cello tape.

Terminology for the purposes of the survey: Glass is considered to be transparent material which is isotropic in polarized light, is not indented by a dissecting needle, and which is insoluble in acetone, concentrated nitric acid, and water. Each fragment of glasslike material was examined separately.

Paint was considered to be opaque colored material. Each fragment of paintlike material from the survey was examined separately but features which are difficult to include under a general definition such as texture, hardness, surface appearance, and malleability were also taken into consideration. In this way fibrous materials, substances which fell apart easily and very soft materials were excluded.

Other. A pair of jacket and trousers is referred to as a source and fragments of paint from any one site on a suit of clothing which agree in color and layer structure are considered as one sample.

Analysis

Glass:

Refractive index. The refractive index of each fragment of glass was determined using the Becke line technique. Each fragment was mounted on a microscope slide in silicone fluid type MS710 and the slide placed on

a Mettler FP2 hot-stage. The Becke line was viewed and the refractive index was calculated from the mean temperature of disappearance and reappearance of the Becke line and the known temperature-refractive index relationship for the silicone oil used. A complete description of the technique has been given elsewhere (1).

Size. The largest dimension of each fragment was measured using a Projectina projection microscope at X10 magnification. A stage graticule was used to calibrate the screen.

Color. The color of the glass fragments was determined subjectively under a microscope using a tungsten filament lamp as the source of illumination.

Paint:

Color. The paint fragments were separated into eight color groups under a Nikon stereoscopic microscope at magnifications of X16 to X80 with a tungsten filament lamp as the source of illumination. The boundary between each color group was marked by samples chosen subjectively from the bulk of the samples in the survey. The color groups; blue, black, brown, cream, green, grey, red, and yellow are those used by Tippett and his coworkers in a survey of paint on buildings (2).

Size. The largest dimension of each fragment was measured using a stage graticule on a Gillett & Sibert conference microscope at X100 magnification.

Pyrolysis gas chromatography. Fragments of paint weighing between 10 and 20 μ g were pyrolyzed using a Pye Unicam Curie Point pyrolyser at a pyrolysis temperature of 610°C. The pyrolysis products were separated using a Pye 104 model 64 gas chromatograph.

Two standard Pye glass columns (5 feet long, 4 mm internal diameter) were packed with 80-100 mesh Porapak Q and the products of pyrolysis were fed directly from the pyrolysing unit to the top of one of the two packed columns. The oven temperature was programmed from 100-200°C at 8°/min and this was followed by an isothermal period at 200°C until the chromatogram was complete. The carrier gas was oxygen-free nitrogen flowing at 60 ml/min. Twin flame ionisation detectors fed with hydrogen at 60 ml/min and air at 600 ml/min were operated at 250°C. The recorder was a 2-pen Rikadenki B241.

Solvent tests. The action of solvents on paint specimens was studied using a Nikon stereoscopic microscope. The solvents, which were added dropwise were acetone, methylene chloride, and concentrated sulphuric acid (2).

Results

Glass:

Number of fragments. A total of 551 fragments of glass were found in the debris from 63 of the 100 suits examined. The remaining 37 suits did not contain glass fragments. Seventy of the suits possessed trouser turn-ups and in 28 of these 78 glass fragments were found. All the suits examined possessed trouser pockets and 291 glass fragments were found

in 32 trouser pockets. Every suit had jacket pockets and 28 jacket pockets contained 182 pieces of glass.

Two suits contained 46% of all the glass found, one of them containing 166 fragments. The distribution of glass among the 100 suits examined is shown in Fig. 1.

Size of fragments. The largest glass fragment found had a length of 7.1 mm. Eighteen fragments were longer than 1.0 mm and 128 longer than 0.5 mm. Figure 2 shows the size distribution of the 551 glass fragments.

Refractive index. The refractive index of 494 glass fragments was measured. The remaining 57 samples either gave poor Becke lines or proved too small for analysis. The refractive index distribution of glass found in the 100 suits of clothing examined is shown in Fig. 3. The refractive index distribution of glass found in the suit containing the largest amount of glass is shown in Fig. 4.

Color. The clothing examined contained 13 colored fragments of glass of which there were 8 brown (7 in one suit), 2 blue, 2 yellow, and 1 green fragment.

Paint:

Number of fragments. A total of 3358 fragments of paint were collected. When fragments of identical color and layer structure and from the same site on a suit were grouped together there were 1077 samples of paint.

Tables I, II, and III show the color distribution of the 1077 paint samples from the trouser turn-ups, trouser pockets and jacket pockets. Table IV combines the information given in Tables I-III.

Figure 5 shows the layer structure of the paint taken from the clothing while Fig. 6 shows the distribution of paint among the 100 suits of clothing. Three suits contained no paint at all and the largest number of samples collected from one suit was 47.

Size of fragments. The size distribution of a random, representative chosen group of paint fragments from each of the eight color groups is shown in Table V. A total of 1068 fragments were examined. The largest paint fragment found was 4.0 mm long. Forty-one fragments were longer than 1.0 mm and 232 longer than 0.5 mm.

Sample comparisons. Ninety-one single-layer blue paints were compared microscopically. Sixty-eight of these were differentiated by color alone. The remaining 23 samples fell into 3 groups of 3 and 7 pairs, each of which were identical in color. After solvent tests 6 pairs were still not differentiated, however, 3 of these pairs came from different parts of 3 suits, so that the remaining 3 pairs were random matches.

Thirty-five single-layer yellow paints were compared. Nineteen were differentiated by color alone and of the remaining 16 only 2 pairs remained indistinguishable after solvent tests. These were from different suits and were, therefore, random matches.

Comparison of the multilayer samples, which numbered 318 in all, produced no matches of samples of 4 or more layers. Two three-layer (red-blue-red) samples matched but were from different parts of the same suit.

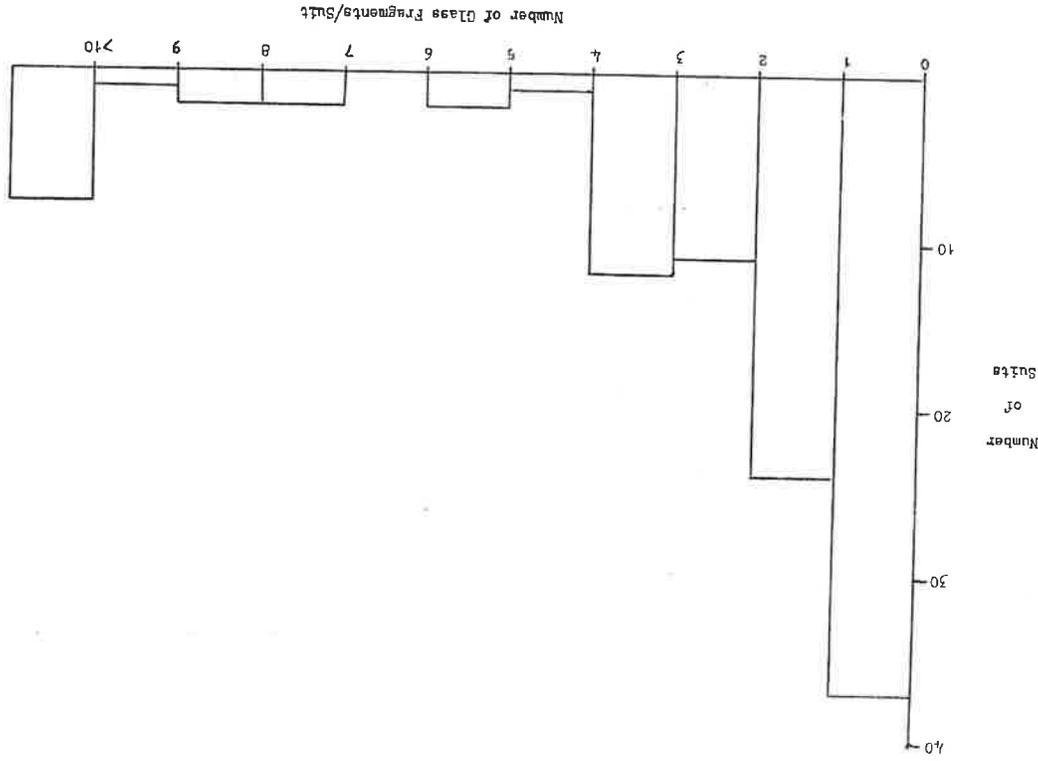


Fig. 1—Distribution of glass among 100 suits of clothing.

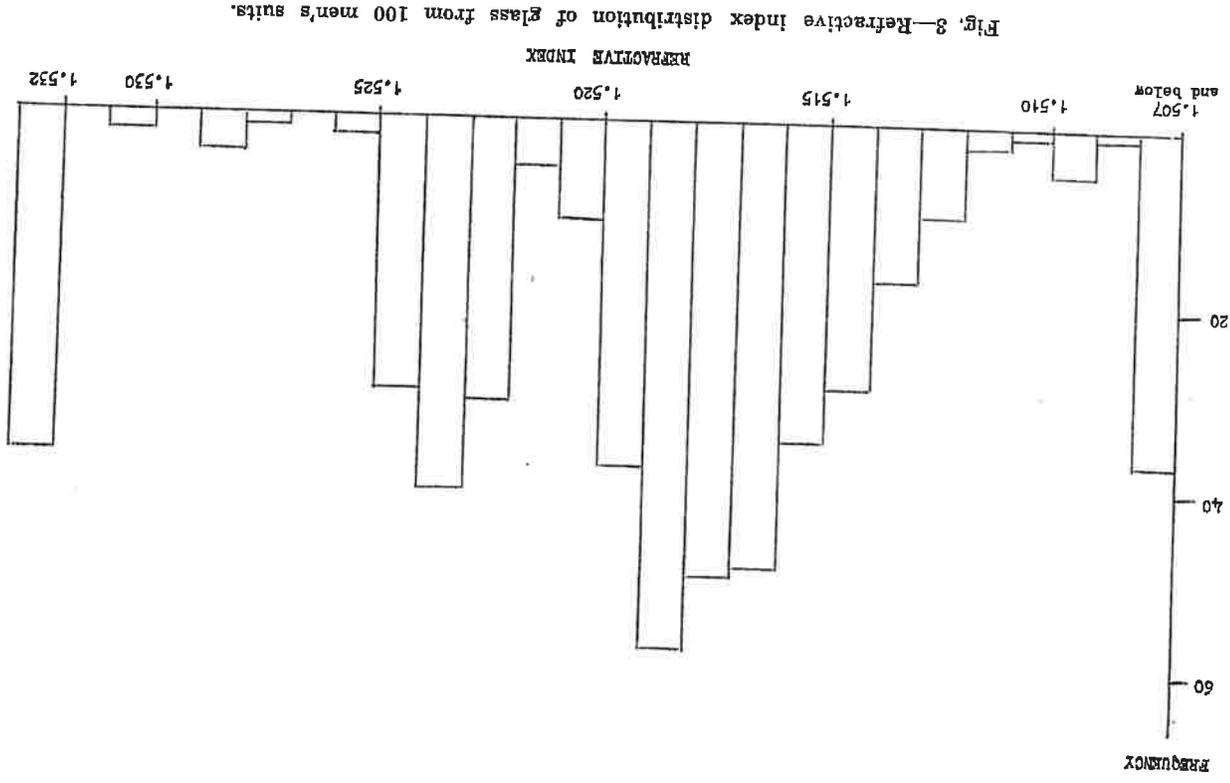
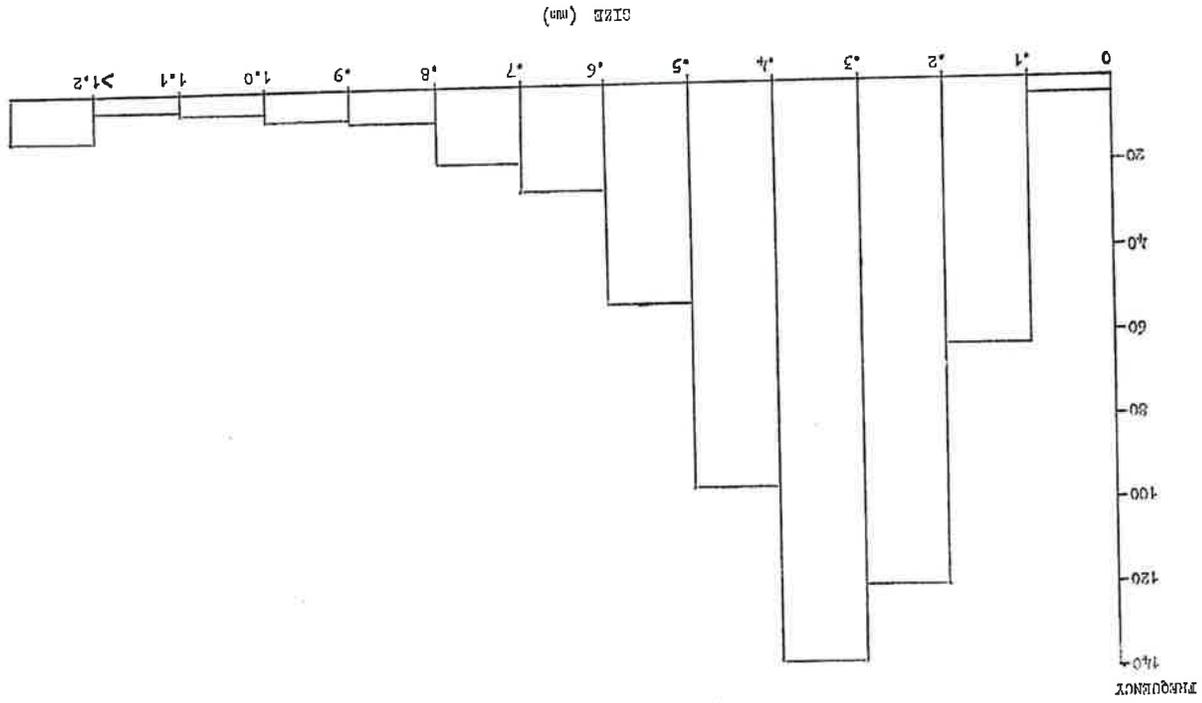


Fig. 2—Size distribution of glass removed from 100 men's suits.



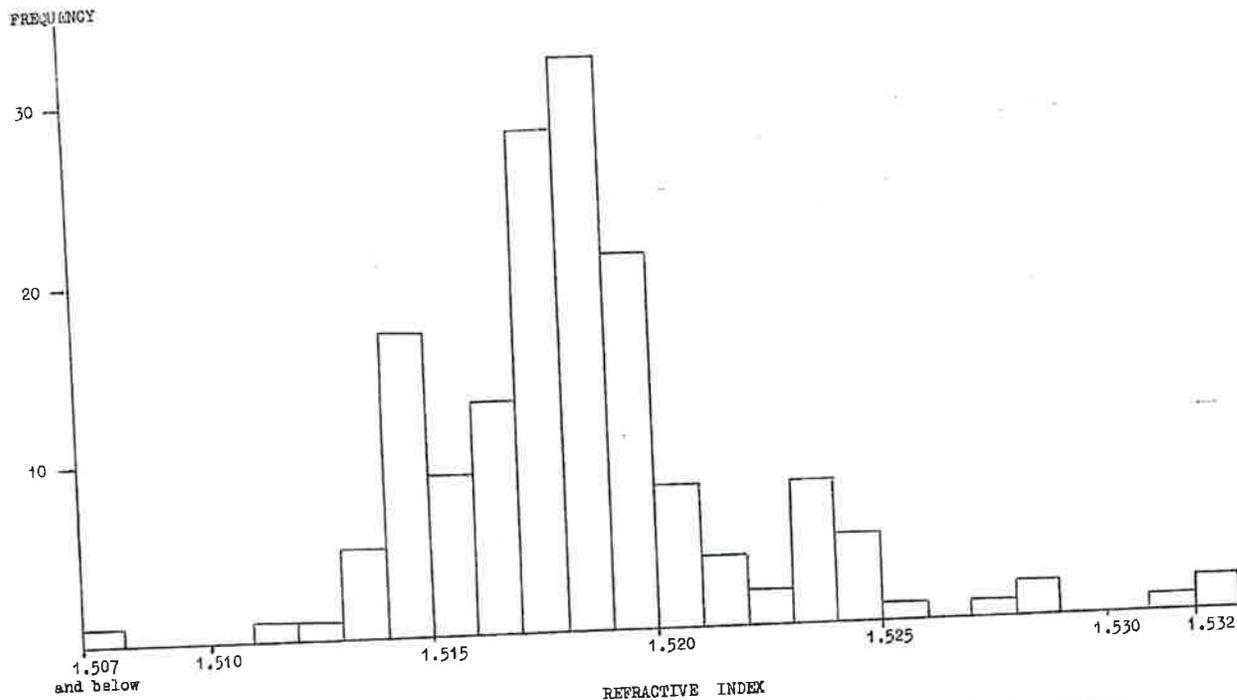


Fig. 4—Refractive index distribution of glass from one suit of men's clothing.

July 1971

TABLE I

Samples of Paint in Turn-ups

(70 Turn-ups Examined,* Paint Found in 59 [85%])

	Blue	Black	Brown	Cream	Green	Grey	Red	Yellow	Sub Total	% Total
Single Layers	26	7	20	41	50	21	79	11	255	73.9
Two	12	1	2	4	27	10	18	2	76	22.0
Three	1	1	1	1	1	1	2	1	9	2.6
Four	1	0	0	2	0	0	0	0	3	0.9
Five +	0	0	0	1	0	0	1	0	2	0.6
Sub Total	40	9	23	49	38	32	100	14	345	
No. of Each Color as % of Total Colors	11.6	2.6	6.7	14.2	22.6	9.3	29.0	4.1		
Single Layers as % of Total per Color	65	78	87	84	64	66	79	78		

* The remaining suits did not have turn-ups.

Vol. 16 • No. 3

TABLE II
 Samples of Paint in Trouser Pockets
 (100 Trousers Examined, Paint Found in 76)

	Blue	Black	Brown	Cream	Green	Grey	Red	Yellow	Sub Total	% Total
Single Layers	44	13	13	56	62	27	70	14	299	67.5
Two	22	3	10	18	22	7	34	6	122	27.5
Three	6	0	4	4	1	0	3	0	18	4.1
Four	1	1	0	2	0	0	0	0	4	0.9
Five +	0	0	0	0	0	0	0	0	0	0
Sub Total	73	17	27	80	85	34	107	20	443	
No. of Each Color as % of Total Colors	16.5	3.8	6.1	18.1	19.2	7.7	24.1	4.5		
Single Layers as % of Total per Color	60	76	48	70	73	79	65	70		

TABLE III
 Samples of Paint in Jacket Pockets
 (100 Jackets Examined, Paint Found in 76)

	Blue	Black	Brown	Cream	Green	Grey	Red	Yellow	Sub Total	% Total
Single Layers	21	4	13	46	37	20	54	10	205	70.9
Two	10	2	4	9	13	10	17	7	72	24.9
Three	1	0	0	4	0	1	1	0	7	2.4
Four	0	0	0	1	1	0	1	0	3	1.0
Five +	1	0	0	0	0	0	1	0	2	0.8
Sub Total	33	6	17	60	51	31	74	17	289	
No. of Each Color as % of Total Colors	11.1	2.1	5.9	20.7	17.6	10.7	25.6	5.9		
Single Layers as % of Total per Color	66	67	76	76	72	64	73	59		

TABLE IV
 Samples of Total Paint in Suits
 (100 Suits Examined, Paint Found in 97)

	Blue	Black	Brown	Cream	Green	Grey	Red	Yellow	Sub Total	% Total
Single Layers	91	24	46	143	149	68	203	35	759	70.5
Two	44	6	16	31	62	27	69	15	270	25.1
Three	8	1	5	9	2	2	6	1	34	3.2
Four	2	1	0	5	1	0	1	0	10	0.8
Five +	1	0	0	1	0	0	2	0	4	0.3
Sub Total	146	32	67	189	214	97	281	51	1077	
No. of Each Color as % of Total Colors	13.6	3.0	6.2	17.5	19.9	9.0	26.1	4.7		
Single Layers as % of Total per Color	75	62	69	76	70	70	72	69		

TABLE V
 Size Distribution of 1068 Random but Representative Fragments from All Color Groups

Length (mm)	Black	Blue	Brown	Cream	Green	Grey	Red	Yellow	Sub Total	%
>2.0	-	-	-	4	-	-	2	-	6	0.6
>1.5-2.0	-	-	-	4	1	1	1	-	7	0.7
>1.0-1.4	1	2	1	9	3	4	7	1	28	2.6
>0.9-1.0	1	2	1	4	3	2	3	1	17	1.6
>0.8-0.9	2	3	-	3	4	2	4	2	20	1.8
>0.7-0.8	4	4	1	5	7	1	2	3	27	2.5
>0.6-0.7	6	7	3	11	9	5	14	1	56	5.2
>0.5-0.6	5	10	8	17	6	6	17	2	71	6.7
>0.4-0.5	5	14	3	13	13	13	20	4	85	8.0
>0.3-0.4	10	29	10	39	43	11	46	6	194	18.2
>0.2-0.3	6	35	16	45	59	19	69	12	261	24.4
0.1-0.2	3	36	22	42	46	36	96	15	296	27.7
Sub Total	43	142	65	196	194	100	281	47	Total 1068	
%	4.0	13.3	6.1	18.3	18.2	9.4	26.3	4.4		

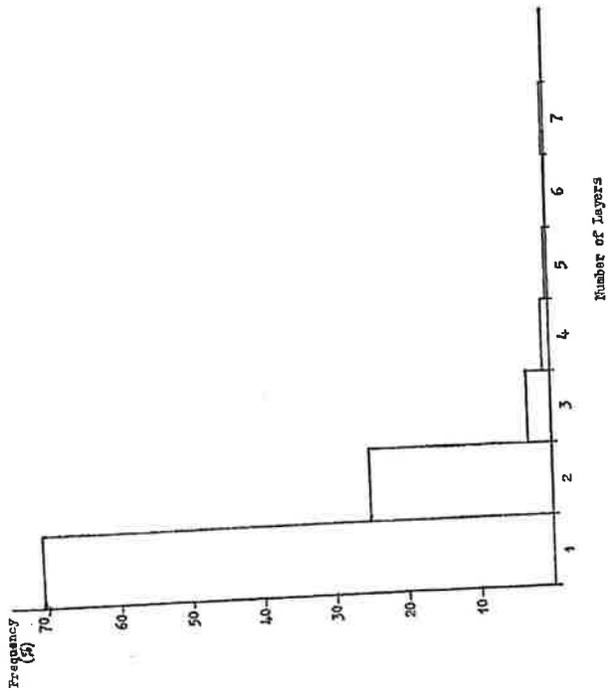


Fig. 5—Layer structure distribution of samples of paint.

Four pairs of two-layer paints matched on color alone, two of these pairs were distinguished by solvent tests. One of the two remaining pairs consisted of samples from the same suit leaving one matching pair of two-layer samples, a green white pair.

Pyrolysis gas chromatography. Sixty-one fragments of paint representative of the survey in terms of top coat color and layer structure were analyzed using pyrolysis gas chromatography. The pyrograms obtained were compared with a library of 20 pyrograms obtained from the main paint types.

Fifteen of the 61 pyrograms, all from single-layer paint fragments, were not recognizable as having come from paint. The samples which failed to show a recognizable paint type pyrogram were mostly samples which were below 0.2 mm in length when originally identified as paint.

Discussion

Glass: The results show that on average approximately two men's suits out of every three received for dry cleaning contain one or more glass fragments. In the case of suits in use the proportion might be somewhat lower since suits sent for dry cleaning probably contain a maximum amount of debris.

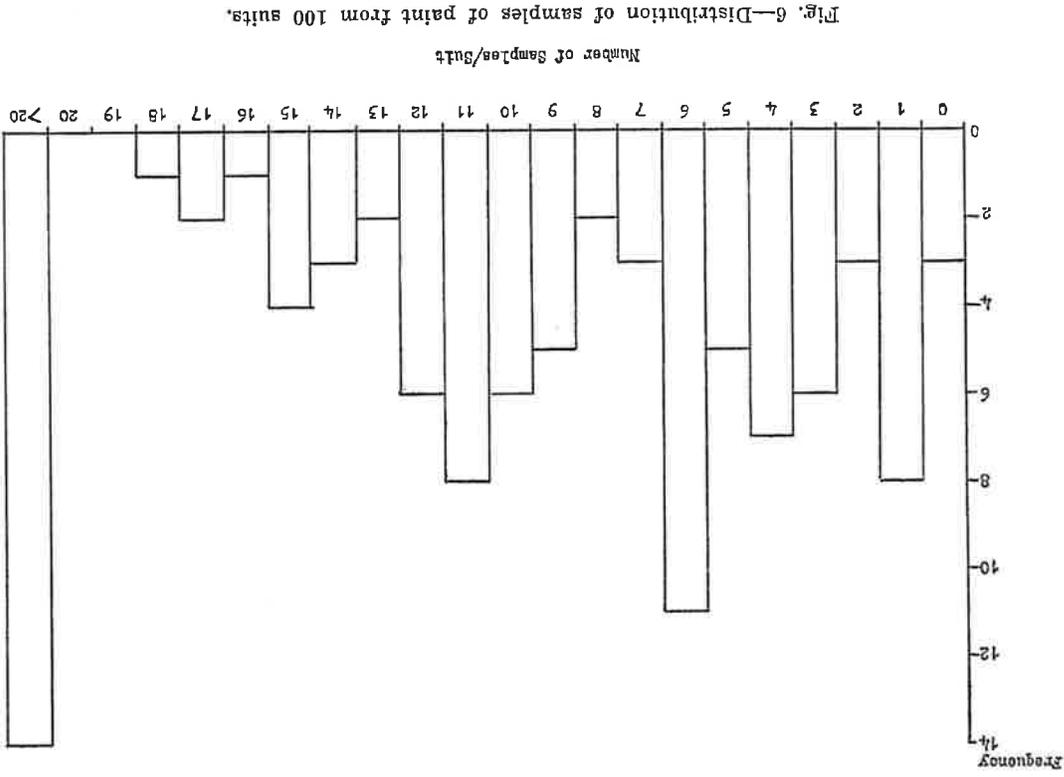


Fig. 6—Distribution of samples of paint from 100 suits.

In respect to the size distribution of the fragments identified as glass it is worthy of emphasis that of the 551 fragments of glass identified only eighteen fragments originating from twelve suits had a dimension greater than 1.0 mm.

The refractive index distribution of the fragments is interesting in that it is not similar to the published information on the refractive index distribution of window glass (3, 4). If it is assumed that all of the glass having a refractive index between 1.516 and 1.517 in Fig. 3 is window glass then reference to these other surveys shows that approximately 30% of the glass in this survey is probably window glass. This estimate is likely to be somewhat in excess of the true figure since it is unlikely that all the glass in the range 1.516 to 1.517 is window glass.

There is relatively little information available regarding refractive indices of container glass and other types of glass and conclusions cannot readily be drawn about their incidence in the clothing studied.

Thirteen fragments of glass were subjectively identified as colored but in trial experiments it was found impossible to identify many fragments known to be coloured particularly when the fragments were small.

Paint: About one-quarter of the material representatively chosen for further analysis and originally identified as paint from its microscopic characteristics did not give a pyrolysis pattern similar to that of any known paint type. No multilayer fragments amongst those chosen for destructive analysis had been mistakenly identified as paint.

Only three suits from the one hundred searched did not contain paint but, again, suits sent for cleaning would be expected to contain more debris than the average suit in use. It is not necessarily true that suits contain little or no debris inside pockets and turn-ups immediately after dry cleaning since not all dry cleaning establishments brush out pockets and turn-ups as part of the cleaning process. In the cleaning establishment visited during this survey the practice of brushing out pockets and turn-ups was not part of the normal cleaning process.

Based on microscopic and solvent tests no random matches that were not from the same source were found in paint fragments of three or more layers. Random matches formed 0.7% of the two-layer samples, 7% of the blue single layers and 11%

GLASS AND PAINT IN CLOTHING

of the yellow single layers. Other colors of single layer paint fragments were not examined for random matches.

Solvent tests reduced the number of matching single layer blue paints by a factor of about three, the number of matching single-layer yellow paints by a factor of four and the number of matching two-layer samples by a factor of two. Solvent tests were particularly effective in distinguishing the small paint fragments which reflects the fact that the eye cannot easily assess the color of very small areas.

Summary

One hundred suits of clothes received for cleaning at a dry cleaning establishment were examined for traces of glass and paint.

A total of 551 glass fragments, much of which came from two suits, were found and the refractive index, size and color of the glass fragments were recorded.

A large number of paint fragments were collected and when fragments of identical color and layer structure and from the same site on a suit were grouped together there were 1077 samples of paint. The color and layer structure of each paint fragment were recorded and the size distribution of a random, representatively chosen group was determined.

Acknowledgments: We are indebted to Dr. A. S. Curry, Director of the Home Office Central Research Establishment for Forensic Science, from whom the original idea for this study came.

We owe a great debt of gratitude to Mr. J. Porter and Miss D. Rex who have done much of the experimental work described in this report. We also thank Mrs. J. Kimber and Mrs. R. Clevely for their help.

The dry cleaning establishment referred to in this report is the Reading and Caversham District Laundry and we would like to thank the directors of this laundry for allowing us to carry out the study at their premises.

REFERENCES

1. Dabbs, M. D. G., and E. F. Pearson. Heterogeneity in Glass. Central Research Establishment Report No. 22 (1969). J. Forensic Sci. Soc. 10, 139-148 (1970).
2. Tippett, C. F., Emerson, V. J., Fereday, M. J., Lawton, F., Richardson, A., Jones, L. T., and S. M. Lampert. The Evidential Value of the

- Comparison of Paint Flakes from Sources Other Than Vehicles. *J. Forensic Sci. Soc.* 8, 61-65 (1968).
3. Cobb, P. G. W. A Survey of the Variations of the Physical Properties of Glass. *J. Forensic Sci. Soc.* 8, 29-31 (1968).
 4. Dabbs, M. D. G., and E. F. Pearson. The Physical Properties of a Large Number of Glass Samples—Report of a Survey. Central Research Establishment Reports. (In press.)

Home Office Central Research Establishment
Aldermaston

Reading
Berkshire, England
RG7 4PN

Comparison of Bullet Lead Specimens by Nondestructive Neutron Activation Analysis *

*H. R. Luken, B.S.** and V. P. Guinn, Ph.D.****

It has been shown that neutron activation analysis (NAA) can be used to determine a number of impurity and alloying elements—especially antimony—in bullet lead with very good accuracy, precision, and ease (1). The present work explores the significance of bullet lead analysis by NAA. In particular, the composition variability among bullets from a given box of bullets, and among bullets known to be different on the basis of manufacturer, caliber, etc., has been examined. Also, the degree of variability among portions of a single bullet has been examined. Progress has been made toward the establishment of probabilities that, within the bounds of analytical precision, (1) bullets of common origin will have the same composition, and (2) bullets of different origin will have different compositions.

Experimental

Bullets were cleaned with reagent grade toluene to remove lubricant. Jackets or metallic coatings were removed with dilute nitric acid, and

* Presented at the Twentieth Annual Meeting of the American Academy of Forensic Sciences, Chicago, Illinois, February 23, 1968. Received for publication March 18, 1968. Accepted for publication July 15, 1968.

** Gulf General Atomic Incorporated, San Diego, California.

The work described in this paper is part of a continuing investigation of forensic activation analysis being conducted under a research contract with the Division of Isotopes Development of the United States Atomic Energy Commission (Contract AT (04-8)-167, Project Agreement No. 15) and the Office of Law Enforcement Assistance of the United States Department of Justice.

*** Department of Chemistry, University of California, Irvine, California.

APPENDIX C



APPENDIX D



Kathy Peterson
Kathy Peterson, Custodian of Records
Place: Tumwater, Washington

The vehicle information displayed below is from the current vehicle record as of 06-Mar-2019. For titling questions, please call Customer Service at (360)-902-3770, option 5.

Vehicle information

VIN JM1BK12F681131689	Model year 2008	Make MAZD	Model 3
Use type Passenger Vehicle	Body style Sedan	Value Year 2008	Value Code \$14,350
Odometer 22	Previous Odometer 0	Color 1	Color 2
Scale weight 2634	GVWR	Gross weight 0	Equipment # 0
Fleet # 0			

Registered owner

Registered : GREGORY SCHIRATO	Mailing address 281 W LAKE ISABELLA LOOP SHELTON WA 98584-8730 Location Code: 2300	Residential address 281 W LAKE ISABELLA LOOP SHELTON WA 98584-8730 Location Code: 2300
Additional Registered : JULIE HENNING		

Legal owner

Legal address
Same as Registered Owner

Registration

Type	Transaction	From	Expiration	Cancelled	Registration	Plate/decals type	Plate/Decal number	Tab type	Tab/Decal
On-Road	Converted	06-May-2015	08-Jun-2016	19-Nov-2015	ZS27146895	Standard Passenger	948XYR	R16	Y814585

Title information

Last transaction Legacy Vhc Information	Last tran date 10-Dec-2016	Title # 1312157748	County
Previous transaction Report of Sale	Previous tran date 13-Nov-2015	Title issued 01-May-2013	Renewal Remit Date
Total fees paid 0.00	Months of reg 13	Ownership Commence Date 17-Jun-2008	

Comments

Account Transferred

Title Transferred

Privacy Act Disclaimer

Access to Contracted Plate Search is restricted to authorized persons or organizations. Unauthorized use or disclosure of vehicle and vessel information is a crime punishable by fine or imprisonment and may result in civil damages

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

IN THE COURT OF APPEALS FOR THE STATE OF WASHINGTON
DIVISION TWO

In re the Personal Restraint Petition of
GREGORY SCHIRATO,
Petitioner.

NO.
DECLARATION OF DAVID ALLEN

I, David Allen swear the following is true under penalty of perjury of the State of Washington code:

1. I am an attorney licensed to practice law in the state of Washington.
2. I have been retained, along with attorneys Todd Maybrown and Cooper Offenbecher, to represent Petitioner in this matter.
3. I am familiar with the record from the trial in this matter.
4. Attached hereto as Appendix A is a true and accurate copy of the search warrant which was served on Petitioner at his home on January 13, 2015.
5. Attached hereto is Appendix B, is a true and accurate copy of the affidavit of Detective Corey Johnson in support of the search warrant, which was signed and sworn to on January 12, 2015.
6. Attached as Appendix C is a true and accurate copy of the transcript of the December 18, 2014 recorded police interview of witness Wesley Kirkpatrick by Detective Lindros and Officer Glenn, provided to trial counsel in discovery.

1 7. Attached hereto as Appendix D is a true and accurate copy of the written report of
2 Detective Lindros which documents his and Officer Glenn's interview of Mr. Kirkpatrick on
3 December 18, 2014, which was provided to trial counsel as discovery.

4 8. Attached hereto as Appendix E is a true and accurate copy of the FBI's February
5 17, 2016 laboratory report regarding glass fragments provided by the WSP lab, which was
6 provided to trial counsel as discovery.

7 9. After I appeared as counsel for Mr. Schirato I spoke over the phone with Mr. Rich
8 Woodrow, trial counsel, on July 31, 2018.

9 10. Mr. Woodrow Stated that he never tried to contact Ms. Webb, the FBI glass expert,
10 nor did he ever attempt to subpoena her as a witness at the trial.

11 11. I reviewed the discovery provided by the State to trial counsel in the underlying
12 criminal case. I could only find one entry on January 12, 2015 (the same day the detective signed
13 the affidavit) where Detective Johnson wrote that he spoke by phone to each of the men with whom
14 AL stated she had had recent sexual relations. Each of the men denied over the phone that they
15 were at AL's home on the night of the incident. There was no mention of any investigation or
16 follow-up on any of these individuals.

17
18
19
20 DATED this 11th day of October, 2019.

21
22 

23 DAVID ALLEN, WSBA #500
24 Attorney for Appellant

PROOF OF SERVICE

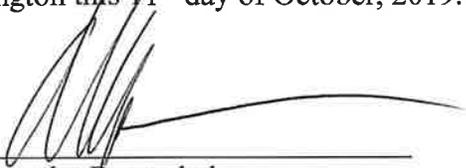
Alexandra Rosenthal swears the following is true under penalty of perjury under the laws of the State of Washington:

On the 11th day of October, 2019, I sent by U.S. Mail, postage prepaid, one true copy of Declaration of David Allen directed to attorney for Respondent:

Joe Jackson
Deputy Prosecuting Attorney
Thurston County Prosecutor's Office
2000 Lakeridge Dr S.W. Building 2
Olympia, WA 98502

One true copy of Declaration of David Allen was delivered to Petitioner.

DATED at Seattle, Washington this 11th day of October, 2019.



Alexandra Rosenthal
Legal Assistant

APPENDIX A

FILED

JAN 14 2015

Superior Court
Linda Myhre Enlow
Thurston County Clerk

THURSTON COUNTY SUPERIOR COURT
BEFORE JAMES DIXON, JUDGE

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

SEARCH WARRANT
(NO. 15-034)

TO ANY PEACE OFFICER IN THE STATE OF WASHINGTON:

Upon the sworn affidavit of Detective Corey Johnson of the Olympia Police Department made before me it appears that there is probable cause to believe that;

- 1. Evidence of the crime of :
 - Rape 2nd Degree (RCW 9A.44.050)
 - Burglary 1st Degree (RCW 9A.52.020)

YOU ARE COMMANDED to:

- 2. Search said premises, vehicle or person within 10 days (3 days for controlled substances) specifically described as follows:

Certain premises (describe):

281 W Lake Isabella Loop
Shelton, WA 98584
A stick built residence, light green with off white trim in color. The residence has the number "281" attached to the front of it (north wall).

Person(s) [description(s)]

Schirato, Gregory A. (DOB 2-02-62)
W M BLU BRN 600 200
SOC: 350-64-2125 WA OLN: SCHIRGA385CB

- 2. Seize the following items:

Any and all male dress shoes, brown in color, to include Magnannu brown male dress shoes with two securing metal buckles on the top.

Any and all male dress suits, gray to blue in color, to include slacks and jackets.

Any and all male dress shirts, off white to pink in color.

DNA from Greg Schirato's person to be collected by three (3) buccal swabs from Greg Schirato's inner cheek.

3. Safely keep the items seized.

4. Return this warrant to the undersigned judge within 3 judicial days following issuance for controlled substances, or promptly following execution for all others. The return must include an inventory of all property seized.

It is further ordered that this search warrant and the affidavit in support thereof be sealed by the clerk for a period of ninety (90) days to protect the safety of the officers and/or informants and the integrity of an ongoing police investigation.

A copy of the warrant and a receipt for the property taken shall be given to the person from whom or from whose premises property was taken. If no person is found in possession, a copy and receipt shall be conspicuously posted at the place where the property is found.

Search Warrant Issued:

Date: 1-12-15

Time: 4:02 PM



JUDGE

JAMES J. DIXON

Search Warrant Served:

Date: 1-13-15

Time: 0650 HRS

APPENDIX B

FILED

JAN 14 2015

THURSTON COUNTY SUPERIOR COURT
BEFORE JAMES DEXON, JUDGE

Superior Court
Linda Myhre Enlow
Thurston County Clerk

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

AFFIDAVIT FOR SEARCH WARRANT
(NO. 15-034)

The undersigned on oath states:

1. That affiant, Detective Corey Johnson of the Olympia Police Department, believes that:

Evidence of the crime of, (title of crime and RCW):

Rape 2nd Degree (RCW 9A.44.050)
Burglary 1st Degree (RCW 9A.52.020)

Evidence:

Any and all male dress shoes, brown in color, to include Magnanni brown male dress shoes with two securing metal buckles on the top.

Any and all male dress suits, gray to blue in color, to include slacks and jackets.

Any and all male dress shirts, off white to pink in color.

DNA from Greg Schirato's person to be collected by three (3) buccal swabs from Greg Schirato's inner cheek.

Any and all items evidencing dominion and control of the residence.

are kept or concealed in Mason County in, or about:

Certain premises (describe):

281 W Lake Isabella Loop
Shelton, WA 98584

A stick built residence, light green with off white trim in color. The residence has the number "281" attached to the front of it (north wall).

Person(s) [description(s)]

Schirato, Gregory A. (DOB 2-02-62)
W M BLU BRN 600 200
SOC: 350-64-2125 WA OLN: SCHIRGA385CB

That affiant's belief is based upon the following facts and circumstances:

Training and Experience

In August of 2004, I was hired as a professional Police Officer for the City of Lacey Police Department. I attended a 720 hour Washington State Criminal Justice Training Commission Basic Law Enforcement Academy. This training included criminal investigations, crime scene and evidence processing, criminal law, search and seizure, patrol procedures, as well as other topics. After graduation, I was assigned to the Patrol Division. My duties consisted of responding to a wide variety of crimes and incidents, enforcing local and state laws. As a secondary duty I was assigned as an operator on the SWAT team. I attended a 66 hours SWAT basic course sponsored by the Washington State Criminal Justice Training Commission. I attended training with the Drug Enforcement Administration (DEA) in the identification of concealed compartments in residences and vehicles. I attended training with the Federal Bureau of Investigation (FBI) in surveillance techniques.

In October of 2007, I was hired by the Olympia Police Department as a Police Officer. I was assigned to the patrol division. My duties consisted of responding to a variety of crimes and incidents, enforcing local and state laws. I am currently assigned to the Detective Division where I was assigned as the primary investigation in both property and persons cases. These cases have included felony level assault involving knives and firearms and other weapons capable of great bodily harm. While in the detective division, I have attended and I am certified in Reid Interview and Interrogation Techniques. I have also attended training in homicide investigation, crime scene management, and informant management.

Based on my training and experience as well as information gained from other experienced Detectives investigations, I know the following to be true.

It is common for sexual predators, especially ones previously investigated for crimes involving sexual gratification, to plan their crimes rather than conduct a random contact of opportunity, in an attempt to avoid arrest.

It is common for sexual predators especially those who plan, to frequent the area of abduction and sexual assault sometimes days previous to the event to days after.

It is common for subjects who wear clothing that is commonly dry cleaned, to not have clothing cleaned for several days to weeks.

It is common for subjects who purchase expensive dress shoes to maintain ownership of the shoes.

It is common for subjects to keep their formal wear clothing in a closet of their residence.

It is possible once broken glass makes contact with clothing that it becomes intertwined with thread it will maintain its position for several days to weeks.

Probable Cause

On December 18, 2014 at approximately 0723 hours, Olympia Patrol Officers were dispatched to a burglary and sexual assault complaint at 3124 Hoadly St. SE. Officer Nicole Glenn arrived on scene and contacted the victim, Ann Larson, at the front door of the residence.

Officer Glenn conducted an interview with Larson. Larson stated she arrived home late last night intoxicated. Larson said she got into her pajamas, fed her cats, and went to bed. Larson said she went to sleep on her bed with her back to the open bedroom door. Larson stated sometime during the night she felt like unknown subject was touching her back underneath her shirt and slid their hand down into the back side of her pants. Larson felt the subject penetrate her vagina with what she believed was a finger. Larson stated it was possible that her vagina was penetrated with an object.

Larson stated she awoke this morning to find her pants were half way down her buttock and her bra was unclasped. Larson said she began to panic. Larson contacted her boyfriend, Steve Anderson, by phone, and confirmed Anderson had not entered her residence during the night. Larson checked the inside of the residence and found the basement door ajar. Larson stated she observed the bottom left corner of the window in the door was broken out and there was glass on the floor. Larson said it was at this point that she called the police. Officer Glenn found there was a trail of broken glass from the window in the door that led up the stairwell. Officer Glenn advised the trail of broken glass stopped at a floor vent just prior to Larson's room. Officer Glenn asked Larson about her activities earlier in the evening. Larson stated at approximately 1730 hours, she went to Mercato's Restaurant, 111 Market St. NE, for a work Christmas party. Larson said at approximately 2030 hours, she and three of her co-workers left Mercato's and went to the Brotherhood Tavern, 119 Capitol Way NE. Larson identified her co-workers as Greg Schirato, Kelly Cunningham, and Jennifer Quan. Larson stated at approximately 2340 hours, she drove home from the Brotherhood, intoxicated. Larson said due to her intoxication level, it took her several times to back her car into the garage.

Larson stated she did not remember anyone at the tavern taking an interest in her or attempt to follow her. Larson said her friend, Schirato, was the only person buying her drinks. Larson stated due to her intoxication, she wasn't paying attention to anyone, but her friends.

Larson described two suspicious circumstances that occurred at her residence in the last couple months. Larson stated her back yard gate was pulled off the hinges and left open. The welcome mat in front of her front door was flipped up, as though someone was looking for a key.

Officer Michael checked the exterior of the residence and found multiple foot prints in the flower bed in the front yard. The footprints appeared to lead into the back yard. In the backyard there was a footprint in the flower bed outside Larson's bedroom window.

Officer Peters checked the exterior of the residence. Officer Peters found the gate on the south side of Larson's residence was secured with a padlock, but one panel of the gate was pulled from its hinges, and the gate was open.

At approximately 0934 hours, Officer Michael started a major incident log and Officer Glenn secured the scene with crime scene tape. Evidence placards were placed to mark the foot prints. Officer Peters began a neighborhood canvas.

At approximately 0900 hours, I was briefed on the incident by Detective Sergeant Jelcick. Sgt. Jelcick advised I was assigned as the lead investigator. Detective Lindros, Detective Houser, Crime Scene Investigator (CSI) Detective Fayette, and I responded to the scene. I found Larson was still in the residence speaking with Officer Anderson in the living room area. I conducted a walkthrough of the interior and exterior of the residence. I observed the broken window to the rear basement (east side) door. The window was broken just above the handle and locking mechanism. There was a trail of glass shards that led from the basement door, up the stairwell, and into the kitchen area. I observed the several shoe prints, starting in the front yard flower bed, south side of the residence flower bed, and the flower bed on the east side of the residence in front of Larson's bedroom window. The shoe prints appeared to have been caused by a male dress shoe. The better quality prints appeared to have a smooth wide sole and short wide heel. I was unable to see any tread in the shoe print.

I requested CSI Detective Fayette to process the crime scene with the assistance of Detective Houser and Detective Lindros.

I contacted Larson in the living room of her residence. I requested that Officer Anderson assist with my interview. The interview was recorded with Larson's consent.

Larson stated on the evening of December 17, 2014 at approximately 1715 hours, she arrived at Mercato's for a work Christmas party. Larson explained that she worked for the Washington Department of Fish and Wildlife as a legal liaison. Larson said there were approximately 30 co-workers, who all worked at an executive level for Washington Department of Fish and Wildlife at the party. Larson stated she had one mixed drink and two glasses of wine while at Mercato's. Larson said at approximately 1930 to 2000 hours, Quan, Cunningham, Schirato, and she decided to go to the Brotherhood Tavern. Larson told me that the group drove separately. Larson stated she

parked her vehicle in the parking lot on the north side of the tavern. Larson said she ordered a Crown Royal on ice at the tavern. Larson told me that Schirato bought her at least two more Crown Royal shots that she poured into her glass. Larson told me that they played shuffle board while they were at the tavern. Larson made a comment that Schirato is always the person at social functions that pushes her to drink until intoxication. Larson said she was unsure of the time she left the tavern. Larson told me that she texted Quan and asked what time she (Larson) left the tavern. Larson stated Quan texted advising Larson that she (Larson) left at 2340 hours and the rest of the group left 20 minutes later at around 0000 hours. Larson told me that she left because she was feeling intoxicated. Larson stated she drove home intoxicated. Larson stated she arrived home at approximately 2340 hours. Larson said due to her intoxication level, it took her a few tries to back her vehicle into the garage. Larson told me that once she was in the residence, she fed her two cats, put on her pajamas, and went to bed. It should be noted Larson was currently wearing the same pajamas she went to sleep in. Larson stated she didn't go through her usual routine before bed, such as removing make up and washing her face. Larson said she skipped her routine, because she was intoxicated and tired. Larson told me that she "passed out" as soon as she got into bed. Larson said she was sleeping on her right side, with back to her bedroom door, and facing out the east window to her bedroom. Larson stated some time during the night she was in a dream state. Larson described a dream state as not fully awake, but not fully asleep. Larson described feeling a familiar touch and caressing on her back. Larson stated the caressing moved to her breasts and she noticed that her bra was unclasped in the middle of her back. Larson said the caressing moved down her lower back and entered the area under her pajama bottoms. Larson told me that her buttocks and vagina were caressed. Larson stated she believed she was "fingered." Larson said she could feel that her vagina was penetrated and believed it was with fingers (Digital). Larson described the caressing as sexually arousing to her and thought that her boyfriend, Steve Anderson, had entered her residence and got into bed with her. Larson stated Anderson doesn't live with her, but has a key to her residence, and stays overnight sometimes. Larson added that Anderson lives in Kelso, WA, which is a good distance away. Larson explained to me that she is a very sexual person and she often has sexual dreams that include her having orgasms. Larson stated this incident began as though she was having a sexual dream, which transferred into a belief that Anderson was with her in bed. Larson stated she went along with the activity, because she believed Anderson was the individual with her. Larson said she fell back asleep after the digital penetration. Larson told me that she awoke later in the night and found her bra unclasped and her pajama bottoms with underwear pulled down below her buttocks. Larson also observed her bedroom light was on. Larson stated she pulled her underwear up and took her pajama bottoms off. Larson said she took her pajama bottoms off because she was too warm in bed with them on. Larson told me that she can reach her bedroom light switch from bed, so when she found the light on, she reached over and turned the light switch to off. Larson believed Anderson was at her residence and had stepped out of the bedroom and left the light on. Larson also gave another explanation of the light being on as she often falls asleep with the television in the bedroom on and the light on. Larson stated she awoke to her alarm at 0630 hours. Larson said she had a feeling of panic when she didn't see Anderson there. Larson told me that she texted Anderson asking if he had been at her residence. Larson showed me three texts on her phone which were sent to Anderson.

1. Text 0651 hours: Morning I drank way too much and passed out. I really should not have drove. I had a dream about you and woke up freaked out that you weren't here.
2. Text 0652 hours: I'm still feeling pretty panicked that you aren't here.
3. Text 0702 hours: Can you call me when you get up? I feel like someone was in the house. I'm really feeling freaked.

Larson stated Anderson didn't reply to the texts, so she called him on his residential phone. Larson said she obviously woke Anderson up. Larson told me that Anderson said he hadn't been to her residence. Larson stated Anderson told her to check her residence. Larson said she checked her residence and found the basement door slightly open with upper window broken. I later confirmed with Larson that she immediately shut and locked the door, upon finding it slightly open. Larson told me that she called Anderson back and quickly told him that someone had broken in and she was calling the police. Upon ending the call with Anderson, Larson called the police.

I asked Larson about her past relationships. Larson said she has had three boyfriends in the last six months. Larson stated she was very active on the dating website Match.com and had been on many dates with many different men. Larson said her Match.com activity ended three months ago when she started dating Anderson.

Larson told me that she has had relationships with several men over the last year. I requested that Larson develop a list of men she had a sexual relationship with and had been to her residence in the last two years. Larson stated her most recent boyfriend was Ricci Woody and the one before that was a co-worker, Owen Roe. Larson said she would not suspect them in this incident. Larson told me that she did have a bad break up with a boyfriend, Nathan Hokenson a couple years ago. Larson stated Hokenson had showed up at her residence after the breakup. Larson said after Hokenson showed up she had her residential locks changed. Larson told me that she hasn't talked with Hokenson for a year and half. Larson stated Hokenson lives up north, is in a relationship, and has a baby on the way. Larson said she doesn't suspect Hokenson, but the relationship did end badly. Larson described a couple suspicious circumstances at her residence in the past two months. The gate on the south side of her residence has a pad lock on it, but Larson found it open. Larson stated someone had pulled it off the hinges. In another instance she found her front door mat flipped up, as if someone flipped it up searching for a key to her residence.

I requested Officer Anderson transport Larson to St. Peters Hospital for a sexual assault examination. CSI Detective Fayette accompanied Larson into her bedroom to retrieve clothing to change into at the hospital. At approximately 1012 hours, Officer Anderson transported Larson to the hospital.

I requested Detective Lindros contact and interview Larson's neighbor directly to north of her residence. The neighbor was previously identified by patrol as Wesley O. Kirkpatrick at 3120 Hoadly St. SE. I requested Detective Lindros, once the interview was completed, to finish the neighborhood canvas started by patrol. Detective Houser stayed on scene to assist CSI Detective Fayette with evidence processing.

At approximately 1300 hours, I contacted Anderson by phone. Anderson stated he was at St. Peters Hospital in the waiting room. I responded to the location. I contacted Anderson in the waiting area of the hospital. Anderson stated he received some text messages from Larson at approximately 0730 hours this morning. Anderson said the text consisted of Larson saying she drank too much the night before, drove home intoxicated, and wanted to know if Anderson was at her residence last night. Anderson told me that before he could respond to the texts, Larson called him. Anderson stated Larson asked him if he had been at her residence last night. Anderson said he hadn't been at Larson's residence. Anderson told me that Larson was very panicked on the phone. Anderson stated Larson said someone had been in her residence last night. Anderson said he told Larson to check the inside of her residence. Anderson told me that he couldn't remember exactly what Larson said, but it was obvious that someone had broken into her residence. Larson ended the call to call the police. Anderson stated he knew that Larson was attending a work Christmas party last night. Anderson said he sent Larson two text messages last night and didn't receive a response on either of them. Anderson stated he sent the first text at approximately 2200 hours last night and he was telling Larson good night. The second text Anderson sent was at approximately 0100 hours this morning and he said wishing I would have heard from you. Anderson said he met Larson on Match.com and they started dating approximately two months ago. Anderson told me that he and Larson were exclusive and did not date other people. Anderson stated he lives in Kelso, WA and stays the night at Larson's residence once a week. Anderson asked where the damage to Larson's residence was located. I explained the location of the basement door with the broken window to Anderson. Anderson stated he had only been to Larson's residence a few times and wasn't clear what door I was talking about. Anderson described Larson as somebody who doesn't drink to the point of intoxication often.

I asked Anderson if Larson had talked with him about anyone in her life that she was worried about hurting her. Anderson stated he hadn't been dating Larson that long, and they hadn't talk too much about her past. Anderson said there was one person named Greg who Larson worked with that made passes at her and hit on her often. I asked Anderson if Greg's last name was Schirato. Anderson stated that sounded right, but he wasn't positive. I later confirmed with Larson that the Greg Anderson was referring to was Schirato. Anderson stated that Larson told him about an incident with Schirato, which occurred approximately two weeks ago. Anderson said Larson was at a bar with Greg and other co-workers. Anderson stated that Schirato told Larson that he was too drunk to drive and wanted to go home with Larson. Anderson said Larson told Schirato no and offered to pay for a hotel room. Anderson told me that Schirato turned down the hotel room offer. Anderson asked that I ask Larson about the incident, because he couldn't remember any other details.

Once I cleared my contact with Anderson, I met with Officer Anderson near the nurse station in the emergency room. Officer Anderson stated SANE Nurse Laurie BigMedicine was just finishing the sexual assault examination with Anderson. Officer Anderson said during the examination she secured Anderson's clothing, two

vials of blood, and a urine sample as evidence. Officer Anderson told me that she would return to the hospital to pick up the sexual assault kit, once it was completed.

At approximately 1415 hours, I contacted Larson in her hospital room. I asked Larson for consent to have her cell phone processed by a digital forensic examiner. I explained to Larson I would return the phone to her the following day. Larson told me earlier, that every man that she went on a date with from Match.com contact information was stored on her phone. Larson showed me that she had the word "match" written next each male's name in her contact list, to show she met them on Match.com. Larson consented to having her phone digitally examined. I secured Larson's phone.

I asked Larson if at any time in the past she had a dating relationship with any co-workers who were at Mercato's last night. Larson replied no. I asked Larson if she ever had any sexual contact with group of people she was with at the Brotherhood. Larson stated yes, she had sexual contact with Schirato in the past. Larson explained that Schirato and his wife Julie Henning are "swingers." Larson stated Schirato, Henning, Larson's boyfriend, and she got into a "foursome" at Schirato and Henning's residence in Shelton approximately one year ago. Larson identified her boyfriend at the time of the foursome as Josh Mendosa. Larson described the sexual activity as not a true foursome. Larson stated after a lot of drinking the four took off their clothes. Larson said Henning gave her oral sex in front of Schirato and Mendosa. Larson told me that she then gave Mendosa oral sex in front of Schirato and Henning. Larson stated she and Schirato never had any sexual contact during the foursome. I asked Larson about the incident where Schirato attempted to go home with her. Larson stated the incident occurred about two weeks ago. Larson told me that she was out with friends from work, which included Schirato, at a bar. Larson stated Schirato was buying drinks. Larson said at the end of the evening Schirato asked to go home with her and sleep on her couch. Larson told me that Schirato said he was too drunk to drive home. Larson stated she didn't trust Schirato and didn't want him at her house when he was drunk. Larson said Schirato didn't appear too drunk to drive home. Larson stated she told Schirato no several times and eventually offered to pay for a hotel room that he could stay in. Larson said Schirato declined the hotel offer and drove himself home. Larson stated Schirato often tells her that she is the perfect woman. Larson said Schirato has told her that he is jealous of her current boyfriend, Anderson. Larson told me that when she and Schirato are at work behind closed doors, he is usually verbally inappropriate. Larson described Schirato as a "creep."

I asked Larson what Schirato was wearing last night. Larson stated Schirato was wearing a suit with dress shoes. Larson stated the Christmas party was not formal. Some people dressed up others didn't.

Larson stated she had developed the list of past males that she had sexual contact with and who had also been to her residence. Listed starting with most recent:

Ricci Woody
Owen Roe
Josh Mendosa
David Pusey
Jason Gerard
Eric Belshaw
Nathan Hokenson.

Once at the Olympia Police Department, I transferred Larson's phone to CSI Detective Fayette for processing.

On December 19, 2014 at approximately 0830 hours, CSI Detective Fayette provided me with Larson's phone and a compact disc containing content from Larson's phone.

At approximately 0900 hours, I contacted Larson by phone. I advised Larson I could drop her phone off at her residence at around 1000 hours. Larson brought up the fact I had asked about Schirato's shoes the day before and told me that there was a photo on her phone that she took of Schirato's shoes on the night of the Christmas party. Larson stated Schirato was very proud of the new dress shoes he was wearing at the Christmas party. I later located the photo of the shoes in the digital data of Larson's phone, which was provided to me by CSI Detective Fayette.

At approximately 1000 hours, I met Larson at her residence and returned her phone. Larson stated she had

thought a lot about the incident and believes Schirato was the subject that forced entry to her residence and sexually assaulted her. Larson said she has known Schirato for four years and there was another incident with Schirato that was sexual in nature.

Larson stated on July 4, 2014 during the evening hours, she was at Schirato and Henning's residence for a fourth of July gathering. Larson stated at the end of the evening she was intoxicated and decided to sleep on the couch rather than drive home. Larson said she was wearing a "sun dress" without a bra. Larson told me that she awoke to Schirato fondling her under her dress. Larson stated Schirato was caressing her breasts and eventually moved to caressing her vagina and clitoris. Larson said when Henning entered the room, Schirato stopped the activity. It should be noted in a later conversation with Larson, Larson told me that Schirato put his mouth on her vagina and gave her oral sex prior to Henning entering the room. Larson stated she never told Schirato to stop during the incident. Larson said the following morning she told Schirato that she was embarrassed about the sexual contact and Schirato thanked her. Larson stated that when she drinks too much she blacks out and Schirato is well aware of that. Larson said whenever she is at a social event with Schirato present, he always pushes her drink in excess. Prior to leaving Larson's residence, Larson told me that last night she found the light bulb in her bedroom lamp was loose. Larson stated it was possible that the subject who entered her residence unscrewed the light bulb to turn the light off in her room. Larson said she did screw the light bulb back in, but it was still in the lamp. Using a pair of new latex gloves, I removed the light bulb and secured it as evidence. Once at the Olympia Police Department, I provided CSI Detective Fayette with the light bulb to be logged into evidence.

At approximately 1350 hours, Detective Lindros and I contacted Cunningham at his office. I explained to Cunningham that I was investigating an incident where an unknown subject entered Larson's residence and had sexual contact with her. I advised Cunningham that I was developing a timeline of the evening starting with the executive Christmas party at Mercato's.

Cunningham stated he arrived at Mercato's at approximately 1730 hours. Cunningham stated there was no dress code for the party. Cunningham told me that most of his co-workers at the party were wearing whatever they had worn for work. Cunningham said Schirato was wearing a suit with dress shoes. Cunningham stated after he was finished eating he heard Quan, Larson, and Schirato talking about getting drinks. Cunningham said he decided to go with the group to the Brotherhood Tavern. Cunningham stated he arrived at the Brotherhood between 2030 and 2045 hours. Cunningham told me that he played shuffle board with the group. Cunningham stated he had two drinks and left the Brotherhood at approximately 2200 hours. Cunningham said he drove to his residence after leaving the Brotherhood. Cunningham stated it didn't appear to him that anyone in the group was intoxicated. Cunningham told me that he left the Brotherhood prior to Larson, Quan, and Schirato. Cunningham stated he did not remember anyone from the Brotherhood, other than their group, having any contact with Larson.

Cunningham admitted he didn't know Larson that well and didn't often socialize with her or the others from the group. Cunningham stated it did appear to him that Larson seemed to have a new boyfriend every month. Cunningham said he had never been to Larson's residence and didn't know where it was located. Cunningham told me that he has never had any sexual contact with Larson.

At approximately 1430 hours, Schirato returned my phone call. Schirato and I arranged to meet at the Olympia Police Department. Schirato stated he was driving from Montesano. Earlier in the day, I contacted Quan by phone and arranged to meet her at the Olympia Police Department at 1530 hours.

Both Schirato and Quan arrived at approximately 1530 hours. Schirato and Quan agreed that Schirato would speak with me first. Schirato accompanied Detective Lindros and I to a conference room. As we were sitting down, Schirato asked what happened to Larson. Before I could answer, Schirato stated he just spoke with Quan, who told him that Larson was so intoxicated leaving the Brotherhood that Larson was blacking out. I explained to Schirato that I was investigating an incident where an unknown subject entered Larson's residence and had sexual contact with her. I advised Schirato that I was developing a timeline of the evening starting with the executive Christmas party at Mercato's.

Schirato stated he arrived at Mercato's at approximately 1730 hours. Schirato estimated there were approximately twenty executives from Washington Fish and wildlife at the party. Schirato said there was not a dress code for the party. Schirato stated he was wearing a suit and a nice pair of dress shoes that he recently purchased. Schirato told me that he was showing his new shoes off to a couple female co-workers during the

party. Schirato stated after eating he, Larson, Quan, and Cunningham decided to get drinks at the Brotherhood Tavern. Schirato said the group drove to the Brotherhood separately and arrived at approximately 2130 hours. Schirato told me that while at the Brotherhood the group played shuffleboard. Schirato stated he bought Larson at least two Crown Royal Maple drinks on ice. Schirato said he ordered and picked up the drinks directly from the bar. Schirato told me that Cunningham was the first to leave, but didn't recall the time. Schirato stated he, Quan, and Larson all left together between 0030 and 0130 hours. Schirato said he arrived home between 0130 and 0200 hours. Schirato told me that when he arrived home he had to wake his wife, Henning, and ask her to let him in, because the deadbolt on the entry door was locked, and he didn't have a key.

Schirato stated he considered himself close friends with Larson. Schirato said his wife, Henning, is closer with Larson than he is. I asked Schirato if he knew much about Larson's dating life. Schirato told me that Larson is active on a dating website. Schirato stated Larson has had a lot of boyfriends. Schirato said he didn't know all their names. Schirato named off Josh, Steve, and Nathan Hockenson. Schirato told me that he wasn't comfortable talking about Larson's dating life. Schirato stated if I had questions about Larson's dating life, I should be asking her. I asked Schirato if he or anyone he knew had sexual contact with Larson in the last year. Schirato became fidgety and leaned back in his chair. Schirato said I would need to talk with Larson about that. I explained to Schirato I am asking everyone the same questions. Schirato told me that he was uncomfortable talking about Larson's sex life. I asked Schirato the same question again. Schirato eventually stated yes he had sexual contact with Larson. I asked Schirato when the sexual contact occurred. Schirato smiled and said "we play together regularly and I'll leave it at that."

I asked Schirato when was the last time he was at Larson's residence. Schirato stated he had lunch with Larson at her residence awhile back. I asked Schirato to estimate when the lunch occurred. Schirato told me couple times that he couldn't remember. I asked Schirato if it was before Thanksgiving and he replied yes, but he really didn't recall. Detective Lindros escorted Schirato out of the building.

At approximately 1600 hours, Detective Lindros brought Quan into the conference room. I explained to Quan that I was investigating an incident where an unknown subject entered Larson's residence and had sexual contact with her. I advised Quan that I was developing a timeline of the evening starting with the executive Christmas party at Mercato's.

Quan stated she arrived at Mercato's at approximately 1730 hours. Quan said between 2000 hours and 2100 hours, she, Schirato, Larson, and Cunningham left to get drinks at the Brotherhood Tavern. Quan said she and the group were playing shuffle board and talking about work. Quan told me that she did not observe any strangers have contact with Larson. Quan stated Schirato was purchasing Larson some type whisky on ice. Quan said Cunningham left first, but didn't recall the time. Quan told me that Larson left alone. Quan described Larson as leaving abruptly. Quan stated that Larson said good bye to everyone, but felt Larson left quickly. Quan said Larson did not appear intoxicated. Quan told me that Larson had been drinking, but she didn't observe any signs of intoxication. Quan stated she and Schirato left about twenty minutes after Larson. Quan said she called her husband when she left the tavern. Quan checked her phone and found she called her husband at 2357 hours. Quan went home after leaving the Brotherhood.

I asked Quan about Larson's dating life. Quan stated Larson had a relationship with a co-worker, Owen Roe. Quan said Larson ended the relationship in July of 2014. Quan told me that Larson had dated a male named Nate in the past. Quan described Larson as wild. Quan was familiar with Larson being involved in a foursome with Schirato. Quan stated Larson provided her boyfriend at the time with oral sex in front of Schirato and Henning. I asked Quan about Schirato. Quan stated Schirato is inappropriate at work and has no "filter." Quan said Schirato often makes sexual jokes or talks about things that are sexual in nature at work. Quan told me that she had been to Schirato's residence in the past for a retirement party. Quan stated it is well known that Schirato and Henning are in somewhat of a "swinger" relationship and they like to watch other people have sex. Quan said she has heard stories of how people go to Schirato's residence, get very intoxicated, and end up naked.

Quan stated she has never had any sexual contact with Larson. Quan said she has been to Larson's residence several times in the past, usually to pick up or drop off Larson after a dinner out. Detective Lindros and I escorted Quan out of the building.

I reviewed the list of evidence removed from Larson's residence. I found CSI Detective Fayette secured 16 items

from the residence that were sent to the Washington State Crime Laboratory for DNA testing.

On December 20, 2014 at approximately 1018 hours, Larson sent four photos of a male dress shoe at Nordstrom in Seattle. Larson texted me that the shoe was the same that Schirato was wearing the night of the Christmas party. The shoe at Nordstrom was Magnanni and retailed for \$325.00.

I compared the photo of the sole of Magnanni shoe at Nordstrom to the photos of the shoe prints CSI Detective Fayette took at the scene. The Magnanni shoe could make the shoe imprint located at the scene. One of the shoe prints (Evidence item #5) shows more detail of the heel area. The front of the heel is curved in. The heel on the Magnanni shoe is also curved in on the front.

Over the course of the following few weeks, I had several phone conversation with Larson. I asked Larson to develop a time line of incidents with Schirato. Larson contacted me by phone later and provided the following information:

December 22, 2012 Larson and Hokenson attend a sushi party at Schirato and Henning's residence. Larson drank to intoxication. Larson provided Hokenson oral sex in front of Schirato and Henning.

October 2013 Larson and Mendosa attend a party at Schirato and Henning's residence. Larson drank to intoxication. Larson received oral sex from Henning, while Schirato and Mendosa watched. Larson provided Mendosa oral sex in front of Schirato and Henning. Larson said she and Medosa stayed the night at Schirato and Henning's residence. Larson stated during the night she was asleep in bed with Mendosa. Larson said she awoke to Schirato fondling her. Larson told me that caressed her vaginal area and inserted his finger into her vagina (digital penetration). Larson stated Medosa didn't wake up and Schirato eventually left the room.

July 4, 2014 Larson attends fourth of July party at Schirato and Henning's residence. Larson drank to intoxication. Larson decided to the stay night and sleep on a couch. Larson stated she awoke to Schirato fondling her body underneath her sun dress. Larson said Schirato gave her oral sex, until he heard Henning entering the room.

September 14, 2014 Schirato asked Larson if he can accompany her to her residence for lunch, so he can see her vacation photos. Larson complies and shows him the photos at her residence. Larson stated the photos were from a Hawaii trip. Larson said there were a lot of photos of her in a bikini. Larson told me that Schirato made more comments about her body, Larson is the perfect woman, and I'm sure jealous of Steve (Anderson). Larson stated the listed date was the last time Schirato was at her residence.

November 19, 2014 Larson was at Swings bar with Schirato and other co-workers. Larson said she was sitting at the bar and a construction worker was hitting on her. Schirato was preparing to leave and noticed the male hitting on Larson. Larson stated Schirato told her that he would stay until Larson was ready to leave. Larson explained to Schirato that he staying wasn't necessary. Schirato stayed until Larson was ready to leave. Larson stated Schirato told her that he was too intoxicated to drive home and asked if he could sleep on her couch. Larson told Schirato no and offered to pay for a hotel room. Schirato turned down the offer and drove home.

I checked Schirato through several law enforcement databases. I found in October of 2003 Schirato was accused of fondling a 16 years of age female, who he had hired to provide childcare for his two children. This incident is similar in the fact the victim awoke to Schirato touching her right breast and right hip. The incident was documented under Mason County Case 2003-15184. DPA Rebecca Garcia of the Mason County Prosecutor's Office declined to prosecute the case.

During Detective Lindros' interview with Kirkpatrick, Kirkpatrick described a suspicious vehicle had been in the area of Larson's residence three times in the two weeks prior to the sexual assault. Kirkpatrick stated the vehicle would pull into Larson's driveway, turn around, and leave the area. Kirkpatrick described the vehicle as a silver small SUV style. During the interview with Schirato he stated he drove a small silver Mazda SUV. I checked Schirato's name through the Department of Licensing (DOL) and found he was the registered owner of a 2008 Mazda M3S bearing Washington license 948-XYR.

On January 7, 2015 at approximately 1522 hours, Quan contacted me by phone. Quan stated after her interview

with me, she remembered something that was likely important to the investigation. Quan said while she, Schirato, Larson, and Cunningham were at the Brotherhood Tavern the evening of December 17, 2014, Schirato told Quan that he wanted to see her in a bikini. Quan stated shortly after the bikini comment, Schirato asked Quan to put her hand between Larson's legs. Quan stated Schirato was sitting next to her with Cunningham and Larson sitting at the other side of the table. Quan said Larson was wearing a short dress, so her legs were exposed. Quan told me that Larson was sitting with her legs crossed. Quan stated it appeared Schirato was staring at Larson legs in the area that they were crossed, lower in the inner thigh area. Quan said Schirato told her look at that, put your hand in between her (Larson) legs. Quan told Schirato "do it your fucking self." Quan stated once Cunningham left, Schirato took Cunningham's chair, which was closer to Larson. Quan didn't believe Schirato put his hand between Larson's legs.

Through my investigation, I have determined Schirato was within the group to last have contact with Larson prior to Larson driving home. Schirato was wearing male dress shoes the evening the assault occurred. It is possible that Schirato's dress shoes left the shoe prints around Larson's residence. Schirato knew that Larson was intoxicated prior to Larson driving home and Larson may provide an easy target. Larson had two prior incidents that occurred with Schirato, where Larson went to sleep intoxicated and awoke to Schirato caressing her vagina and in one instance providing her oral sex. Schirato has made many comments to Larson calling her the perfect woman, you're such a tease, and I am jealous of your current boyfriend, Anderson. Schirato attempted to go home with Larson two weeks prior to the incident. Schirato was investigated by the Mason County Sheriff's Office for a similar sex offense involving a 16 years of age female. Schirato drives a similar vehicle to the suspicious vehicle seen in Larson's driveway two weeks prior to the assault.

At this point in the investigation, I have contacted each subject Larson listed as having sexual contact with, who had also been to her residence in the last two years. Each subject explained the timeline of their relationship with Larson. Each subject stated the last time they were inside Larson's residence. The most recent being Mendosa, who advised he was at Larson's residence the first week of November 2014. Mendosa stated he met Larson at her residence, they talked about the relationship, and ended the relationship. Mendosa said he hasn't talked to Larson since.

During my interview with Schirato, he provided the listed address as his residence. I checked Schirato's name through the Department of Licensing (DOL) and found the listed address attached to his driver's license as his residence.

Due to Schirato's work schedule and vacation schedule, Schirato has only been in the area one business day since the date of the assault. It is likely that Schirato would have taken the listed clothing as he was traveling. Schirato is scheduled to be back in the area January 12, 2015.

Based on the above circumstances, I am requesting judicial authority to search the listed residence, to include any and all locked containers that the listed evidence could be stored in. I believe that evidence of the crime of Rape 2nd degree (RCW 9A.44.050) and Burglary 1st degree (RCW 9A.52.020) may be located in or about the described residence and are pertinent to an ongoing investigation.

It is further ordered that this search warrant and the affidavit in support thereof be sealed by the clerk for a period of ninety (90) days to protect the safety of the officers and/or informants and the integrity of an ongoing police investigation.



Detective Corey Johnson
Olympia Police Department

Sworn and Subscribed on:

Date: _____

1.12.15



JUDGE

James J. Dixon

APPENDIX C

Olympia Police Department

Name of Person Being Interviewed:	Wesley O Kirkpatrick	Case #	
Date of Birth:	11-6-42	Date:	12-18-14
Address:	3120 Hoadly St SE Olympia WA 98501 360-754-3925	Time	1339
Interviewing Officer/Detective:	Detective Sean Lindros Officer Nicole Glenn		
Location of Interview:	Same as above		

1 Q This will be the taped statement of Wesley Kirkpatrick. The...time is now 1339 hours on
2 Thursday, December 18th, 2014. I'm Detective Lindros. Also present is...is Officer
3 Glenn. And this statement's being recorded at...address?
4 A 3120 Hoadly Street.

5 Q 31...
6 A Southeast.

7 Q 3120 Hoadly Street Southeast. Uh, Wesley, do you understand this statement's being
8 recorded?
9 A Yes.

10 Q Is this with your consent?
11 A Yes.

12 Q Will you state and spell your full name for me?
A Wesley Kirkpatrick WESLEYO middle initial is...KIRKPATRICK.

14 Q And date of birth?
15 A November 6, '42.

16 Q And then an address and a phone number?
17 A 3120 Hoadly Street Southeast, Olympia 98501. Telephone 360-754-3925. You want a
18 cell phone?

19 Q Yeah, that's fine.
20 A Uh,...

21 Q Yeah.
22 A Cell phone is 360-790-1225.

23 Q Okay. And we spoke obviously for a while before I turned on the tape recorder. Um, and
24 we spoke about an incident that occurred next door at your neighbor's house. Um,...can
25 you, do you know her address? Do you know...
26 A 3124...

27 Q Okay.
28 A ...Hoadly Street.

29 Q Okay. And then do you know what her name is?
30 A Ann Larson.

1 Q Okay. So we get, went over a little bit of details about an incident that occurred last
2 night or early hours of this morning over at her residence. Can you just give me a brief
3 description on, on how you know her and, and what you do to help her out, like we
4 talked about?

5 A Ann's been my neighbor for...four or five years. Um, I've known her and gotten to know
6 her fairly well. When she is out of town on vacation with...for whatever reason,...she
7 has given me a key and I will go in and, and, um, care for her cats, feed them and...take
8 care of the litter and then, uh, I'll look around the house to make sure everything's
9 looking okay.

10 Q Okay. Um, and then you described some of the light stuff that she does with the, her
11 lights to let you know that when she's gone or when she's home. Can you describe that
12 for me?

13 A When, when she's gone for an, uh, more than, if she's out of town or if she's gone for a
14 length of time, she'll leave her porch light on.

15 Q Mm hmm.

16 A And also a kitchen light. And, uh, so that I can tell that way that she is gone and I will
17 kinda look, uh, keep watch on her house at that way. And, uh,...

18 Q Okay. And you indicated that her kitchen light's almost always on.

19 A Almost always on. It's, yeah. Um,...I can't tell if it's gone on when I go to bed at night.

20 Q Uh huh.

21 A Because sometimes it's on when I...you know...

22 Q Get up?

23 A ...get up.

24 Q Okay.

25 A Yeah. And, uh,...

26 Q Okay. And how often do you think you go over there and take care of her house for her?

27 A Only when she's gone for...on vacations or on business.

28 Q Okay. So not often, often. But,...

29 A Mm...

30 Q In, in a span of a few months...

31 A Well, she's been gone for...two extended vacations in the last couple months to Hawaii.

32 Q Okay.

33 A And I was over there. And she was gone for...I think five or six days both times.

34 Q Okay.

35 A And I would go over there. I usually go over there when I get back from taking my wife
36 to work, which is around...I take her to work at 7 and I'll go over and I'll feed her cats.

37 And, uh,...then I will come home, that's about 7:30. Then I'll come home and then

38 sometimes I'll go back around 3:00. Because I pick my wife up at five.

- 1 Q Okay.
2 A And, uh,...so I'm in and out couple times a day while she's gone maybe. Maybe only
3 once.
- 4 Q Okay. And we, and we, uh,...we talked earlier about...um,...what you knew about her
5 and relationship wise and stuff like that. Can you just kinda describe to me what you
6 know about her relationships, her boyfriends or anything like that?
- 7 A I know, I've personally met...one boyfriend Eli, who lives up on Friday Harbor. Another
8 boyfriend Nate who lives in Tacoma. Or Josh who lives down at the end of Hoadly
9 Street. And the house number, I'm not sure of. And, uh,...then Steve...is the one she's
10 currently with. And I, there was another couple in there that I don't, uh, know.
- 11 Q Okay.
12 A But, I know, I, and I've seen most of them.
- 13 Q Okay. And you, you, you, so you've seen most of them. You probably seen their cars
14 every once in a while when they're here?
- 15 A I do.
- 16 Q Okay. Okay. Um,...so let's talk about last night. Last night you said you...came home
17 about what time was that?
- 18 A 9:30.
- 19 Q About 9:30. And then can you describe to me what happened with the lights over there
20 that was kinda odd to you?
- 21 A Well, I came home last night about 9:30. I noticed her kitchen light was on and
22 those...the curtain was, I could see a little light glow in there. So I assumed that she
23 was home. And, uh, so I texted her at that time, around that time, and told her
24 that...today was garbage day and that...you know, if she remembered. Because
25 normally what she'll do is just pull her garbage can outside the garage door and then I
26 will take it across. But, she never responded to me last night.
- 27 Q Okay.
28 A And so I took the garba-, my garbage can across. And...I waited out there for a few
29 minutes to see if she got it and if she was gonna bring her can out. But, it never did. So I
30 came in the house. And I went in my bedroom...or not my bedroom, but my office.
- 31 Q Mm hmm.
32 A And I worked on my computer for probably about a half hour. Then I went to bed. And
33 our...our bedroom's also in the back.
- 34 Q Okay.
35 A And we can hear...any noise. But, I did not hear any noise or anything.
- 36 Q Okay.
37 A Um,...
- 38 Q Did you hear any...
A About...

1 Q ...noise last night at all?
2 A No, I didn't.

3 Q Okay.
4 A And, you know, I guess it's because I just wasn't expecting to hear anything in the back.
5 Because I know her.

6 Q Yeah.
7 A Her back yard's locked. So I went to bed and then I got up at six this morning. And I
8 went out and I went out to check to see if the garbage man had been here, because I
9 always like, I don't like to leave them on the street. So I was, went to pull it back. Hers
10 wasn't out, which I thought was kinda weird.

11 Q Okay.
12 A Because normally she would pull it out. But, it was still out, so she may have stayed out
13 all night. And, uh, but I noticed her, all of her lights...everything was dark, which...I
14 thought was kind of unusual. Because normally I see lights on.

15 Q Okay.
16 A Um, so I came in and took my wife to work. And when I come home, there was still no
17 lights on. So...

18 Q Okay.
19 A I don't know what to read about that.

20 Q Okay. So when you came home last night, it was odd because all the lights were on.
21 And maybe she was home, but you couldn't tell. It was just different...
22 A Well, some of it...

23 Q ...that all the lights...
24 A What made me...
25 Q ...were on?
26 A ...think it was odd is because all the lights were on and I texted her...

27 Q And she didn't respond?
28 A And there was no response.

29 Q Mm hmm.
30 A But, then about...five, ten minutes later, I got this...generated thing that it did not go
31 through.

32 Q Okay.
33 A Um, but I thought it was kinda weird. Because she didn't, normally she'll respond and
34 say oh, I forgot and then pull them out. There was no response.

35 Q Okay.
36 A And then it was kinda odd this morning, because I...didn't see any lights. And I didn't
37 see her garbage can out there.

1 Q And usually there would be something that you saw (sounds like).
2 A Always.

3 Q The light, yeah (sounds like). Okay. All right. We talked a little bit about some things
4 about suspicious stuff in the neighborhood or suspicious stuff that she talked about.
5 Um,...other neighbors described this. So I'll have you describe it, too. Um, you can be
6 pretty brief about it. They, they indicated there were some Kirby salesmen and some
7 break-ins in the area.

8 A Yes.

9 Q Um, pretty recently?
10 A Yes.

11 Q Okay.
12 A Within the past...six months.

13 Q Six months?
14 A Maybe.

15 Q Okay. And, uh,...obviously they're coming here to sell stuff. Do you remember what
16 those people look like at all?
17 A Yes.

18 Q Can you just give me a...I,...
19 A The first...

20 Q I heard one of them was possibly arrested or something?
21 A Yeah, I read that in the neighborhood association...

22 Q Okay.
23 A ...newsletter. And then the fella who lives a couple, three houses down was telling me
24 this morning that he saw them, he said they were arrested.

25 Q Okay.
26 A But, I didn't see the man. I saw this young lady...

27 Q Okay.
28 A ...who was very...very finely dressed and not a, not...a Kirby salesman.

29 Q Okay. Um, somebody was telling me that they, they would sometimes knock and then
30 go in backyards. Have you ever seen anybody do that?
31 A No.

32 Q Okay.
33 A They knocked, she was persistent about knocking. And I have a no solicitor sign.

34 Q Yeah.
35 A She knocked. She rang the doorbell. And then she opened the screen door, because I
36 heard it open. And then she knocked again on the knocker. And that's when I went to
37 the door.

Q Okay.

- 1 A And then she left. And then the next day I had two girls come up to the door. They
knocked, but they left.
- 3 Q Okay.
- 4 A No-, oh,...I meant, remembering all this stuff, (unintelligible)
- 5 Q Well, that happens.
- 6 A It was last week, maybe the week...last week...there was a older gentleman came here.
7 And he wanted to know...who did my roof. And I says well, I can't remember. And he
8 says, well, how much was it, and I said well,...my wife pays all the bills and I don't...and
9 this was an older gentleman, tall, skinny gentleman. But, he had a...one of the big
10 heavy raincoats. And he had a hat on.
- 11 Q Okay.
- 12 A And I says why? And he says well, I li-, my girlfriend across the street is wanting to have
13 her roof replaced. And I says where? He says oh, across the street. Well, I know that
14 peo-, those people across the street, and it's not a woman and she doesn't...have a...
- 15 Q Yeah.
- 16 A ...girlfriend.
- 17 Q Yeah.
- 18 A And so I says, you know, I'm busy right now, so I, you know, so he left. So I walked out
19 on the street and he walked down. Well, I ran back in to get my camera, because I was
gonna take a picture of the guy.
- 21 Q Mm hmm.
- 22 A And I didn't see him. So I got in my car and I drove around, I don't know. But, that was
23 suspicious.
- 24 Q Okay.
- 25 A But, I didn't see any other thing on the neighborhood association about it. So, but that
26 was suspicious.
- 27 Q Yeah. Something different.
- 28 A Yes.
- 29 Q Okay. And when we were talking before, uh, we went over a couple suspicious things,
30 or a couple things that, uh, she had indicated to you that were suspicious also. So I'm
31 just gonna kinda, kinda go down one by one of what I, the notes that I took so we can
32 confirm we got everything. Um, you said two days ago you saw a gray Prius style car
33 parked on the corner by some...
- 34 A Oh,...
- 35 Q ...hedges over here?
- 36 A What was the kind of car you mentioned, a Subaru?
- 37 Q (Glenn): Outback?
- 38 A Outback, yes.

1 Q (Lindros): Okay. And it was parked over here by the...
A No.

3 Q ...by the...
4 A No. He drove down the street, or...

5 Q Yeah, but earlier...
6 A ...or they...

7 Q Ear-, earlier you told me...
8 A Oh, that car.

9 Q ...just (unintelligible)
10 A Yes.

11 Q ...parked over here that was not normal for the neighborhood?
12 A No, it was like a Nova or something over there.

13 Q Okay. And it was parked at the end over here by the bushes?
14 A Yes. Just, just in front of the...if you, as you're going off of Hoadly, it was parked just in
15 front of the garage.

16 Q Okay.
17 A Because there's a garage and then the big laurel. And he was...

18 Q And was that a newer or older car?
19 A It was an older car.

20 Q Older car?
21 A Yeah.

22 Q And you think it was a Nova style?
23 A Yeah. And the reason I know this is because...I always worry, because nobody can see
24 coming around that corner.

25 Q Yeah.
26 A And they can definitely have an accident.

27 Q Okay. And then the other car that we talked about you said was a silver car, like an
28 Outback style.
29 A Yes.

30 Q And you said...
31 A Right.

32 Q ...three times within the last two weeks it had came in the neighborhood and...
33 A Came, came...

34 Q ...turned around?
35 A ...down the street, pulled into hers twice, and then...left. And the other time...it just
36 pulled alongside the curb over there. And then went on. And then a little bit later, I saw it
come back.

1 Q Okay.
2 A But, it was about lunch time, because I'm, because I eat my lunch here and then I read
3 the paper or whatever.
4 Q Yep. And do you, do you remember if it was a male driver or a female driver or...
5 A I couldn't tell.
6 Q Okay. Well, but, but you remember is silver car, Outback style...
7 A (unintelligible)
8 Q ...kinda rounded back or something...
9 A Yes.
10 Q ...a little bit longer (sounds like).
11 A And then the one time I did (unintelligible) the Outlook, he went, that went around and
12 went down that other street over there.
13 Q Okay.
14 A Excuse me.
15 Q Yep. And then we went over real quick, uh, also, uh, while we were chatting, where
16 some of the boyfriends that she had and some of the issues that she had talked to you
17 about. So the first boyfriend I want to talk to you about, uh, was Josh. Can you tell me a
18 little about Josh?
19 A I met Josh...oh, I tell you when it was I met him. It was just before the 49ers game last
20 year.
21 Q Mm hmm.
22 A Because he's a big 49ers fan.
23 Q Mm hmm.
24 A And he was saying well, if you can't go to the 49ers games, he says let me know,
25 because I'll take your tickets.
26 Q Well, (unintelligible) not like him because he's a 49er fan.
27 A Yeah. Yeah, really. And...I wasn't comfortable with it. He was out back with his mother,
28 uh, with Ann's mother and Ann. And they were sitting on the patio.
29 Q Mm hmm.
30 A And, uh,...and I don't know why I didn't like him. I just didn't, I did, wasn't comfortable
31 with him.
32 Q Yeah.
33 A And I don't, you know, I don't know if it's because I'm protective of her. But, uh,...
34 Q Yeah.
35 A But, anyway...
36 Q Sometimes...
37 A ...I just, I just...

1 Q ...(unintelligible) stands up and...
A Some...

3 Q ...(unintelligible)
4 A Couple of her boyfriends I've liked, you know. We've gotten along good.

5 Q Mm hmm.
6 A And so, uh,...I had a little conversation with him and then I come home. And we, my
7 wife and I found out we could not go to the game. So...I gave them to him. But, it took
8 him some time to pay me.

9 Q Mm hmm.
10 A Which kinda irritated me, too.

11 Q Mm hmm.
12 A And, uh, then I saw him come by...to visit her.

13 Q Mm hmm.
14 A Um, all I know other than that is where he lives. He, he lived down the street. He lived
15 with another...a guy, you know, I don't know whether it was a, um, another military. He
16 was in the army. And he flew helicopters.

17 Q Okay.
18 A Um,...other than that, I really don't know. None of her boyfriends, one of the things,
19 none of her boyfriends, uh, because I always asked them if they, if they're good to her.

Q Yeah
21 A None of them have been abusive.

22 Q Okay.
23 A Except for, or mentally. This one, one...that lived in Tacoma was mentally. And he was
24 stalked her for a long time.

25 Q And that was the one I was asked you about next. And...
26 A Nate.

27 Q You, you indicated his name was Nate.
28 A Nate.

29 Q So tell me a little about that.
30 A He's, uh, he was probably around 5'10 or so. He was just about my height and slender
31 and...he was kind of a...a...a...oh, I don't know if I want to say sneaky. But, he just, he
32 didn't sit right with me either. But, then I found out that he was pretty domineering with
33 her.

34 Q Mm hmm.
35 A And that he, then when they broke up, he sent her several, uh,...nasty texts and called
36 her. And he did come by and kinda stalk her.

37 Q Mm hmm.

- 1 A Um, she told me, because I was concerned about the keys. And he, she said that he did
have a key to her house, too.
- 3 Q So she had, she had come to you and said that she was concerned about this guy.
4 A She didn't come to me. Well, we were out there talking.
- 5 Q Yeah.
6 A We, we see each other quite often. And I, she mentioned that...
- 7 Q Okay. So she mentioned...
8 A ...so she was con-...
- 9 Q ...that she was concerned and...
10 A She was concer-...
- 11 Q You, you said something earlier about you wanted, she asked you to watch for his
12 truck?
13 A Yeah, she asked me if I would, you know, see his truck come by when she was at work.
- 14 Q Okay.
15 A And to let her know. But, I never did see it while she was at work. So...
- 16 Q Okay. But, you did indicate that you thought you saw, um,...
17 A Yeah. I thought I saw it a couple...
- 18 Q ...beginning of last year or something.
19 A Yeah. And uh,...it wasn't in her driveway. It was always on the par-, um, on the
curbside.
- 21 Q Okay. Okay. And then, uh, there was two other things that you had indicated that she
22 was talking to, or talked to you about that, that was bothering her or she was worried
23 about. The first one was a dog walker. Can you just...
24 A Yes.
- 25 Q ...tell me a little bit about that?
26 A It was last week. We were talking, when she came back from Hawaii, she was talking
27 about she would work, uh, at her dining room table, or she would be having her lunch
28 or something. And this...person would walk, be walking, uh, by. And he would...make a
29 con-, concerted effort to look in. And...at one point, he actually waved at her. And I don't
30 know whether she waved back at him. But, she got concerned about that. And, uh, so
31 we talked about, and I, and I think at that time is when she started closing the blinds a
32 little bit more.
- 33 Q Okay. And that was back from her just recent trip to Hawaii?
34 A Yeah.
- 35 Q Which was how long did you say?
36 A (No verbal response)
- 37 Q A little while, couple weeks? Or so?
A Couple weeks ago.

1 Q Okay.
A Went there, yeah, a couple weeks ago.

3 Q Okay. And we talked quickly about a dog walker in the area, you said there was a dog
4 walker in the area that some people have had problems with. You described him as like
5 a taller more muscular build guy that lives at the end of the street. Right?
6 A Believe he lives down and around the corner. One...first or second house on the North
7 Street.

8 Q Okay. And that's just a possibility at this time of somebody that...
9 A He's just...

10 Q ...sticks out.
11 A He's just somebody that...he, he's not sociable.

12 Q Okay. And then we talked about a neighbor. She indicated something about a back,
13 back yard neighbor.
14 A The one...

15 Q That is...
16 A ...directly in back of her, yes.

17 Q Okay. What does she say about that?
18 A She was worried, well, she was concerned beca- (dinging alarm).

19 Q That's fine.
A Oh. She was concerned because he can sit on his back porch and he can look straight
21 into her bedroom or into the back of her house.

22 Q Okay.
23 A And he, she said that he smokes or whatever. And, uh,...

24 Q She had seen him smoking back there?
25 A But, she was concerned about, you know,...him. And we, we actually talked about
26 replacing the fence and putting in...a higher fence maybe.

27 Q Okay. Okay.
28 A I was gonna say, mention that, too. A good, any of you, when you're investigating, did
29 you look at the fence back there at all?

30 Q I think so. I, I've been kind of doing the side work. So...
31 A Because...

32 Q I'll go look again after this.
33 A Because...did they?

34 Q (Glenn): Yes.
35 A Oh. Because see, the houses down there, a couple houses down were broken in by the
36 people coming from the other side of the street over the fence back there.

1 Q (Lindros): Gotcha. Okay. All right. I think that's it for my questions, Wes. Is there
2 anything that you can think of that you want to add to this statement that maybe I didn't
3 ask or anything that sticks out to you or that you want to add to the...

4 A Can't think of anything.

5 Q (unintelligible)

6 A If you'll leave me your card, and if I think of something.

7 Q Yep. All right.

8 A Sorry, a lot of that's kinda sketchy. But,...

9 Q This'll be the competed the taped statement. The time is now 1315 hours on Thursday,
10 December 18.

11

12

13 [End of Transcript]

14 SRL LTS/LP

15 REVIEWED BY: S Lindros 38

16

APPENDIX D

CASE SUPPLEMENTAL REPORT

Printed: 05/07/2015 09:40

Olympia Police Department

OCA: 201408123

THE INFORMATION BELOW IS CONFIDENTIAL - FOR USE BY AUTHORIZED PERSONNEL ONLY

Case Status: CLEARED BY ARREST

Case Mng Status: CLEARED BY ARREST

Occurred: 12/18/2014

Offense: RAPE

Investigator: LINDROS, S. (2885)

Date / Time: 12/31/2014 11:46:01, Wednesday

Supervisor: HOUSER, B. (2233)

Supervisor Review Date / Time: 01/05/2015 16:01:43, Monday

Contact:

Reference: Follow Up

On December 18, 2014 at 0900 hours I responded to assist OPD Detective Johnson with a possible Burglary and Rape investigation located at 3124 Hoadly Street in Olympia.

Upon arrival, I assisted with setting up the crime scene perimeter which enclosed the entire property. While identifying the areas which needed to be enclosed in the crime scene, I observed what appeared to be shoeprint indentations in the dirt located near the sidewalk/driveway, front entry door, side yard (South) and in the rear of the residence near the victims bedroom window. After observing the shoe prints which appeared to have been made by a dress shoe, I assisted OPD Detective Fayette with placing coverings on each in an attempt to prevent any rain damage prior to casting. (See Report by Detective Fayette)

After assisting on the exterior of the residence, I entered the residence and assist with the collection of evidence which had been earlier identified as being of value by Detective Fayette and Houser. While inside the residence, I assisted Detective Houser with the collection of items from the master bedroom, hallway and kitchen areas. (See Report by Detective Houser for Collection Details)

Prior to completing the evidence collection inside the residence, Detective Johnson asked me to allow Detective Houser and Fayette to complete the evidence processing while I canvased the neighborhood for any additional witnesses.

During the canvas, I attempted to contact 18 residences in the vicinity but only successfully spoke with 4 neighbors. Those neighbors were identified as Chad Talcott (3142 Hoadly St), JR Rogers (3145 Hoadly St), William Garrett (3147 Hoadly St) and Wesley Kirkpatrick (3120 Hoadly St).

While speaking with Talcott it was determined that he knew the victim to be a single woman who was not frequently at her residence. Talcott had no further information pertaining to the victim. While no information regarding the victim was identified, Talcott provided information about some recent vacuum salesman in the area who were contacted after numerous complaints about being aggressive. Talcott identified those subjects by the first names of Misty, Chyanne and Travis.

While speaking with Rogers it was determined that she had no information pertaining to victim but provided the same information about the aggressive salesman in the area.

While speaking with Garrett, it was determine that he had some information pertaining to the victim's personal life. Garrett informed me that the victim lives alone and appears to have numerous male visitors. Garrett indicated that he knew of at least three boyfriends but only one of which he remembered personal information. Garret informed me that one of the victim's boyfriends was a male subject named Josh who currently resided at 3220 Hoadly St but was believed to be deployed at the time as he works for the US Army. Garrett also informed me that the victim's neighbor to the north identified as Wesley Kirkpatrick commonly watched the victim's residence as she was out of town frequently.

While speaking with Kirkpatrick he informed me that he and his wife were friends with the victim. Kirkpatrick indicated that they watched out for the victim, her residence and her cats as she was a single female living alone and

Investigator Signature

Supervisor Signature

Olympia Police Department

OCA: 201408123

THE INFORMATION BELOW IS CONFIDENTIAL - FOR USE BY AUTHORIZED PERSONNEL ONLY

Case Status: *CLEARED BY ARREST*

Case Mng Status: *CLEARED BY ARREST*

Occurred: 12/18/2014

Offense: *RAPE*

commonly away on vacations. Kirkpatrick stated that after the victim became close with him and his wife, she provided them with a key to her residence in case of emergency or for when she was away. Kirkpatrick indicated that he also took out her garbage can on garbage day and commonly spoke with the victim by phone or text message reference her house or upcoming schedule. Kirkpatrick said on the night of the incident he came home around 2030 hours and noticed that all the lights in the victim's house were on. Kirkpatrick found that odd and indicated that he texted the victim to confirm she was home. Kirkpatrick indicated that he never got a response from the victim and received a denial indicator on his phone as if the message failed to send. With no response, Kirkpatrick said he went to his office located on the south side of his residence and worked on his Photoshop program with the window slightly cracked. Kirkpatrick said while the lights in the house remained on he didn't hear or see anything before he went to bed around 2300 hours. When he awoke, Kirkpatrick stated that he took his trash cans out and noticed all the lights in the victim's residence were now off and struck him as different as he knew her to always keep her kitchen light on. Kirkpatrick said he texted the victim again to let her know he was going to put her trash can on the street but again received no response. Kirkpatrick indicated that the next thing he knew the police arrived at the victims residence.

During a taped statement with Kirkpatrick he provided all of the above listed information along with additional information pertaining to the victim's personal life. Kirkpatrick indicated that he had met a few of the victim's boyfriends and had also been told about two people who made the victim feel uncomfortable in the neighborhood. Kirkpatrick stated that he had met three boyfriends who he identified as Steve (Current), Nate and Josh. While Kirkpatrick stated the new boyfriend seemed "ok" he remembered that Josh who lived at the end of the street and worked for the US Army struck him as odd. Kirkpatrick indicated that while he didn't have specific instances, he got the feeling that Josh was only in the relationship for the wrong reasons and appeared extremely selfish or in it for himself. While Josh struck Kirkpatrick as odd, he remembered the victim having an extremely volatile relationship with the male he knew as Nate. It got so bad at one point that Kirkpatrick said the victim changed the locks on her residence and asked that he be on the lookout for Nate and his vehicle. Kirkpatrick believed that Nate was controlling and possibly violent was unsure what triggered the incident with the victim.

After speaking with Kirkpatrick about his personal knowledge of the victim, I asked if he had any information on the neighborhood or any suspicious activity which he could remember. Kirkpatrick indicated that he remembered the victim expressing that she was uncomfortable with a male subject who lived directly behind her and a male subject who walked his dog in the area. Kirkpatrick stated that the victim had told him about the male subject who lived behind her and complained that he was always on his porch smoking and looking into her bedroom window. When asked about the dog walker, Kirkpatrick said the victim just felt uncomfortable due to the fact that the male would specifically stop in front of her residence and has attempted to get her attention by waiving. Kirkpatrick had no further information regarding specific subjects but indicated that he had noticed a suspicious vehicle in the area approximately three times within two weeks of the incident. Kirkpatrick identified the vehicle as a newer silver small SUV style vehicle. Kirkpatrick stated that the vehicle struck him as suspicious as it entered the neighborhood in the afternoons and specifically pulled into the victims address prior to turning around and leaving the area. While Kirkpatrick was unable to see the driver of the vehicle, he thought it was odd that the vehicle continued to turn around in the victim's driveway as if the driver was checking on the residence or the victim.

On December 19, 2014 I assisted Detective Johnson with the initial interviews with the last three subjects who had seen the victim the night of the incident. Those three subjects were found to be co-workers and identified as Kelly Cunningham, Jennifer Quan and Greg Schirato.

While speaking with Cunningham, he indicated that he had little knowledge of the victim or the other two subjects as he

Investigator Signature

Supervisor Signature

Olympia Police Department

OCA: 201408123

THE INFORMATION BELOW IS CONFIDENTIAL - FOR USE BY AUTHORIZED PERSONNEL ONLY

Case Status: CLEARED BY ARREST

Case Mng Status: CLEARED BY ARREST

Occurred: 12/18/2014

Offense: RAPE

doesn't commonly associate with the three. Cunningham said the group had earlier attended a company holiday party. Cunningham stated that he had arrived at the party after work and had left with the victim, Quan and Schirato after the suggestion that an after party get together was happening at the Brotherhood Tavern. Cunningham indicated that once at the tavern he found that only Schirato, Quan, the victim and he had shown up. Cunningham said the four had some drinks, talked about work and played shuffle board prior to his departure around 2200 hours. Cunningham said when he left, Quan, Schirato and the victim didn't appear overly intoxicated and everything seemed to be normal. While Cunningham indicated that everything appeared normal when he left, he had noticed throughout the night there were a lot of inside jokes and there appeared to be a sexual undertone which he didn't understand.

While speaking with Quan indicated that after the company party, she had met Cunningham, Schirato and the victim at the Brotherhood Tavern for a drink. During the interview with Quan I had to step out of the room briefly and only returned to hear some brief information regarding Schirato, being a very sexual person. Quan described him as commonly speaking about or joking about sexual activities in the workplace and noticed that a majority were either directed at or involved the victim.

While speaking with Schirato, he also indicated that he had been at the company party and had accompanied Cunningham, Quan and the victim to the Brotherhood Tavern for drinks. Schirato indicated that after drinking and playing shuffle board, all four left the bar at the same time and he drove directly home. Schirato estimated his time of arrival at his residence in Shelton at approximately 0130-2000 hours. Schirato stated that nobody approached the group while they were at the bar and at no time did anyone outside the group purchase or provide drinks. When asked about his knowledge of the victim, Schirato indicated that he was a close friend and she commonly visited his house in Shelton. When asked about relationship information Schirato stated he was uncomfortable talking about her personal life. When asked about a possible sexual relationship between the two, Schirato admitted to multiple sexual encounters but refused to elaborate. Schirato admitted that he knew where the victim lived and had commonly visited her for "lunch" at her residence.

During the interview with Schirato I noted the following observations:

- Admitted to wearing a suit and nice dress shoes on the night of the incident.
- Admitted to knowing the location of the victim residence.
- Admitted to having sexual encounters with the victim previously.
- Admitted to driving a small silver Mazda SUV (Similar Description of Suspicious Vehicle)
- Unable to provide an estimated time frame for any event other than his return time home which he immediately provided as an alibi without being questioned.
- Attempted to discredit victim by implying that she is promiscuous and blacks out when she drinks
- Appeared extremely nervous (Changing seated positions, shaking, smiling at odd times and playing with wedding ring) when asked questions concerning the victim, residence and their relationship or sexual contact.

(See Report by Detective Johnson for Additional Information)
S Lindros 38

I certify (declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and

Investigator Signature

Supervisor Signature

CASE SUPPLEMENTAL REPORT

Printed: 05/07/2015 09:40

Olympia Police Department

OCA: **201408123**

THE INFORMATION BELOW IS CONFIDENTIAL - FOR USE BY AUTHORIZED PERSONNEL ONLY

Case Status: *CLEARED BY ARREST*

Case Mng Status: *CLEARED BY ARREST*

Occurred: *12/18/2014*

Offense: *RAPE*

correct (RCW 9A.72.085). I am entering my authorized user ID and password to authenticate it.

Investigator Signature

Supervisor Signature

APPENDIX E

UNCLASSIFIED



FBI Laboratory

2501 Investigation Parkway
Quantico, Virginia 22135

LABORATORY REPORT

To: Kristy Jack - Evidence
Olympia, WA Police Department
601 4th Ave E
Olympia, WA 98501

Date: February 17, 2016

Case ID No.: 95A-HQ-6806430

Lab No.: 2016-00132-3

Communication(s): January 11, 2016

Agency Reference(s): 2014-8123

Subject(s): Gregory A. Schirato

Victim(s): Ann L. Larson

Discipline(s): Trace - Mineralogy

FBI Laboratory Evidence Designator(s):

- Item 1 Shirt from master bedroom closet of Gregory A. Schirato's residence (Property #44025851) (Item 34)
- Item 1-1 Debris received with Item 1 (Item 34)
- Item 2 Jacket from master bedroom closet of Gregory A. Schirato's residence (Property #44025852) (Item 35)
- Item 3 Pants from master bedroom closet of Gregory A. Schirato's residence (Property #44025852) (Item 35)
- Item 3-1 Debris received with Item 2 through Item 3 (Item 35)
- Item 4 Debris from inside residence at 3124 Hoadly Street SE (Property #44026551) (Item 37)
- Item 5 Debris from inside residence at 3124 Hoadly Street SE (Property #44026551) (Item 37)
- Item 6 Debris from inside residence at 3124 Hoadly Street SE (Property #44026551) (Item 37)
- Item 7 Debris from inside residence at 3124 Hoadly Street SE (Property #44026551) (Item 37)
- Item 8 Debris from inside residence at 3124 Hoadly Street SE (Property #44026551) (Item 37)
- Item 9 Washington State Patrol Crime Laboratory Secondary Evidence (two paper

UNCLASSIFIED

UNCLASSIFIED

- folds, nine slides)
- Item 10 Glass sample from window pane of door at 3124 Hoadly Street SE (Property #44026552) (Item 38)
- Item 11 Glass sample from window pane of door at 3124 Hoadly Street SE (Property #44026552) (Item 38)
- Item 12 Glass sample from window pane of door at 3124 Hoadly Street SE (Property #44026552) (Item 38)
- Item 13 Glass sample from window pane of door at 3124 Hoadly Street SE (Property #44026552) (Item 38)
- Item 14 Glass sample from window pane of door at 3124 Hoadly Street SE (Property #44026552) (Item 38)
- Item 15 Glass sample from window pane of door at 3124 Hoadly Street SE (Property #44026552) (Item 38)
- Item 16 Washington State Patrol Crime Laboratory Secondary Evidence (one slide)

The results of the trace evidence (glass) examinations are included in this report.

Methods:

Comparison of glass items for the purposes of determining the possibility of a common origin is accomplished by using one or more analytical techniques. These techniques include:

- Examinations of fracture surfaces for fractography using stereobinocular and/or compound microscopes.
- Determination of physical properties such as glass type, glass color, and thickness. The physical properties of the glass are determined using stereobinocular and petrographic microscopes, micrometers, and ultraviolet lights.
- Measurement of the refractive index at up to three wavelengths, 488 nm, 589 nm, and 656 nm. Refractive index of the glass is measured using the Foster + Freeman, Ltd. Glass Refractive Index Measuring system (GRIM3).
- Determination of the concentrations of aluminum, barium, calcium, iron, magnesium, manganese, sodium, strontium, titanium, and zirconium. The elemental concentrations are determined using a ThermoFisher iCAP 6500 Duo inductively coupled plasma - optical emission spectrometer (ICP-OES).
- Additional methods as needed.

The actual tests performed are dependent on the size and shape of the glass fragments, and analytical requirements. When a difference is found between compared items, the examination may be immediately discontinued. For this case, the items were examined using a stereobinocular microscope.

UNCLASSIFIED

Items 1, 2 and 3, the shirt, jacket, and pants, respectively from the master bedroom closet of Gregory A. Schirato's residence have been previously examined by the Washington State Patrol Crime Laboratory. Therefore, no additional processing for trace evidence was performed on these items.

Results of Examinations:

No glass suitable for refractive index analysis and comparison by GRIM3 was detected in Item 1-1, the debris received with Item 1, or Item 3-1, the debris received with Items 2 and 3. Therefore, no comparisons were conducted between Items 1-1 and 3-1 and Items 10 through 15, glass samples from window pane of door at 3124 Hoadly Street SE or glass recovered from the debris from Items 4 through 8, debris from inside the residence of 3124 Hoadly Street SE and the possible source of the debris from Items 1-1 and 3-1 cannot be determined.

A suitable glass fragment is one that is of sufficient size and condition such that it can be used to generate repeatable, reproducible measurements using the GRIM3 instrument.

No glass examinations were conducted on Items 9 and 16, Washington State Patrol Crime Laboratory Secondary Evidence.

Interpretation:

If items do not physically fit together, they are compared based on their observed and measured properties. The possibility of a common origin is eliminated when any of the following criteria are met:

- The observed physical properties are different.
- The thickness of the recovered glass fragment falls outside the range of values measured in the exemplar glass.
- The average refractive index for a recovered glass fragment falls outside the range of values measured in the exemplar glass. This comparison is performed separately for each wavelength measured.

When the physical properties assessed are the same, and the average refractive index measurement of the recovered glass falls within the range of refractive index values of exemplar glass, the glasses are said to be indistinguishable.

The variations in the observed and measured properties within a glass object are typically smaller than the variations among objects. Studies have shown that refractive index measured at 589nm and chemical composition of glass used in conjunction are highly discriminating¹, differentiating most glass that is not the actual source. This finding strongly supports the supposition that a recovered glass fragment and a broken object with indistinguishable refractive index at 589 nm and elemental composition are unlikely to be from another source. While this finding is not a

¹Koons, R. D. and Buscaglia, J. The forensic significance of glass composition and refractive index measurements, *Journal of Forensic Sciences* (1999) 44:496B503.

UNCLASSIFIED

direct indicator of the rarity of a particular glass in any specific case, it can be used to show that the occurrence of coincidentally indistinguishable glass is rare. In glass items where only refractive index data can be measured, the chance of finding coincidentally indistinguishable glass is significantly higher.

There are five possible conclusions when comparing glass fragments:

- The glass fragments were once part of the same broken object. This conclusion is reached when two or more pieces of broken glass physically fit together.
- The glass fragments either originated from the same broken glass source or from another source(s) of broken glass indistinguishable in all of the measured or observed physical properties, refractive index, and elemental composition. This conclusion is reached when two or more broken glass fragments exhibit the same physical characteristics, average of multiple refractive index measurements of the questioned items falls within the range of refractive index values of the items from known sources, and averages of the chemical concentrations of the elements measured falls within the modified 4σ interval.
- The possibility that the glass fragments originated from the same source of broken glass cannot be eliminated. This conclusion is reached when two or more fragments of glass are indistinguishable in their physical characteristics and the average of multiple refractive index measurements of the questioned items falls within the range of refractive index values of the items from known sources, but are of insufficient size or quality for chemical analysis.
- The glass fragments are eliminated as originating from the same source(s). This can be concluded when two or more fragments of glass are different in their physical properties, refractive indices or chemical composition.
- The possible source(s) of broken glass cannot be determined. This conclusion is reached when a glass particle recovered from an unknown source is too limited in size or quality.

For additional information on forensic glass analysis and results interpretation, please see Bottrell, Maureen, "Forensic Glass Comparison: Background Information Used in Data Interpretation," Forensic Science Communications, April 2009, http://www.fbi.gov/about-us/lab/forensic-science-communications/fsc/april2009/review/2009_04_review01.htm.

Limitations:

A forensic glass analysis is typically a comparison of two or more glass fragments in an attempt to determine if they originated from different sources. These analyses require the determination of class characteristics that may associate objects with a group of similar objects such as containers, but never to a single object. It is important to note, however, that although there may be several objects with identical properties, glass fragments can originate only from broken and not intact objects. Only when two or more broken glass fragments physically fit together can it be said that they were once part of the same object.

UNCLASSIFIED

Remarks:

For questions about the content of this report, please contact Geologist/Forensic Examiner Jodi Blakely Webb at 703-632-7700. For questions about the status of your submission, including any remaining forensic examinations, please contact Request Coordinator Heather E. Busch at 703-632-8221. The evidence will be returned to the contributor under separate cover. This report contains the opinions and interpretations of the examiner(s) who issued the report. The supporting records for the opinions and interpretations expressed in this report are retained in the FBI files.

Jodi Blakely Webb
Trace Evidence Unit

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

IN THE COURT OF APPEALS FOR THE STATE OF WASHINGTON
DIVISION TWO

In re the Personal Restraint Petition of
GREGORY SCHIRATO,
Petitioner.

NO.
DECLARATION OF CLIFFORD
SPIEGELMAN

I, Clifford Spiegelman, do hereby declare:

1. I am a Distinguished Professor of Statistics at Texas A&M University in College Station, Texas. I have attached a curriculum copy of vitae at *Appendix A*. To assist this Court, I will provide a brief summary of my background, training and professional experience.

Background, Training and Professional Experience

2. I received an undergraduate degree in 1970 in Economics, Math, and Statistics from the State University of State University of New York in Buffalo. In 1973, I received a Master of Science degree in Managerial Economics from Northwestern University. In 1976 I was awarded a PhD. degree in Applied Mathematics /Statistics from Northwestern University. After obtaining my PhD, I served as an Assistant Professor of Statistics at Florida State University. Since 1990, I have been a Professor in the Department of Statistics, and currently a Distinguished Professor at Texas A&M University.

3. I am a member of the American Statistical Association (“ASA”), the world’s largest community of statisticians; collectively, ASA’s members “serve in industry, government, and academia in more than 90 countries, advancing research and promoting

1 sound statistical practice to inform public policy and improve human welfare.” About the
2 American Statistical Association, available at <http://www.amstat.org/about/index.cfm>. I
3 have served on the Executive Committee of the ASA’s Section on Physical and
4 Engineering Sciences. I have also served twice as President for the South-East Texas
5 Chapter of the ASA.
6

7 4. I served for six years on the Board of Trustees for The National Institute of
8 Statistical Science. I am currently a member of the Technical Advisory Group for the
9 Houston Forensic Science Center – which is often referred to as the Houston Crime Lab. I
10 was lead chair for the Statistical and Mathematical Sciences Institute (“SAMSI”) 2015-
11 2016 program on forensic science. SAMSI is an NSF funded Mathematical Sciences
12 Institute and the program I chaired focused on pattern evidence and bias. I have been
13 selected for honors and awards including Fellow of the Institute of Mathematical Statistics
14 (1990), Fellow of the American Statistical Association (1992), elected member of the
15 International Statistical Institute (1993), Statistics in Chemistry Award for best paper (2002
16 and again in 2008) the Jerome Sacks Award for Outstanding Cross-Disciplinary Research
17 (2007), and the ASA Don Owen Award (2016).
18

19 5. In 2003-2004, I was a member of a National Research Council (“NRC”)
20 Committee that evaluated and issued a report on Forensic Comparative Bullet Lead Analysis.
21

22 6. I have published in journals on both theoretical and applied statistical sciences
23 on theories of error, statistical significance, engineering standards, calibration, forensic science
24 and many other topics.
25
26

1 Laboratory, which trainings were completed in 2016. It is unclear whether he had ever
2 previously qualified as an expert regarding glass comparisons before he testified in the *Schirato*
3 case.

4 11. During October 2016, Mr. Van Wyk was asked to review evidence items to
5 conduct a “glass comparison” in this case. Mr. Van Wyk was initially confused by the request:
6

7 The glass evidence in this case has been transferred to me, as Susan Wilson will
8 not be able to get to it soon. I want to make sure there I understand what is
9 wanted.

10 The note on the RFLE says to compare glass collected from the suspect's suit
11 with glass from the broken basement window. I have four items:

- 12 Item 34 “men's pink dress shirt”
- 13 Item 35 “men's grey suit”
- 14 Item 37 “(RF38) big pieces of glass from inside”
- 15 Item 38 “glass from door (still in pane)”

16 Is item 38 the glass from the basement window? Do you know if this
17 window/door is a single pane, or double pane? What is item 37, and what do you
18 want done with it?

19 *Appendix B* (Email correspondence).

20 12. In response, an Evidence Custodian with the Olympia Police Department sent
21 an email to Mr. Van Wyk with very specific directions:

22 On a previous trip to the lab, Susan Wilson recovered small pieces of glass from
23 the bottom cuff of the pants of the grey suit and some small fragments from the
24 dress shirt. The glass pieces were put into a small envelope and then placed back
25 in with the respective item they were recovered from.

26 Item 38 is glass from the basement window. It is a single pane window believed
to be original to the house that was built in 1941. Item 37 contains larger sized
pieces of glass collected from the floor just inside the basement door that fell
from the window when it was broken. I wasn't sure what sized pieces of glass
you would need to perform your analysis, so I sent both items to provide options
of what would work best.

1 We need the glass fragments collected from the suit and/or shirt compared to the
2 glass from the basement window to see if they originated from the window. Our
3 suspect has had access to the victim's home previous to the incident. Matching
4 the glass in his suit to the broken basement window proves he was there on the
night of the crime and was most likely responsible for breaking the window to
gain entry into the victim's home.

5 *Id.*

6 13. Thus, Mr. Van Wyk was asked to "match" glass particles that had been located
7 on items of clothing at Mr. Schirato's home (Items 34 and 35) with glass samples that taken
8 from the door at the complaining witness' home (Item 38). The evidence items were identified
9 by the Washington State Patrol Crime lab as follows:
10

11 Item 34 – three colorless glass fragments (.3 millimeter [approx. 1/80th of an
12 inch] and .2 millimeter [approx.. 1/125th of an inch] in their largest dimensions)
located on a shirt;

13 Item 35 – two colorless glass fragments; (.5 millimeter [approx. 1/50th of an
14 inch] in their largest dimensions) located on a suit; and

15 Item 38 – six samples of flat glass (varying in size from 1 x 3 centimeters to 22
16 x 27 centimeters).

17 In particular, Mr. Van Wyk was asked to compare the glass particles located on clothing that
18 was located at Mr. Schirato's home (Items 34 and 35) with glass samples taken from the door
19 at the complaining witness' home (Item 38).

20 14. Thereafter, using an instrument called the GRIM3, Mr. Van Wyk claimed to
21 have obtained a refractive index measurement of all of these items and to have thus concluded
22 that they could have come from the same source.

23 15. Mr. Van Wyk testified regarding his findings and conclusions during the
24 *Schirato* trial. As he ultimately claimed: "My conclusion is that the glass found on the clothing
25 could have come from the same broken object as the glass from the door." VRP at 692.
26

1 16. I question the validity and reliability of Mr. Van Wyk's findings and trial
2 testimony for several reasons.

3 17. First, the glass particles referred to as Items 34 and 35 are extremely small – all
4 measuring less than .5 millimeters in size. To put this in context, the largest of these particles
5 is about 1/50th of an inch in their largest dimensions. I can find no evidence in the scientific
6 literature that glass particles of this size are suitable for the type of comparison testing that Mr.
7 Van Wyk claims to have completed in the *Schirato* case.

8 18. These very same glass particles were previously submitted for examination at
9 the FBI Laboratory in Quantico, Virginia in February of 2016. Following a thorough analysis
10 of this evidence, the FBI scientist concluded as follows:
11

12 No glass suitable for refractive index analysis and comparison by
13 GRIM3 was detected in Item 1-1, the debris received with Item 1, or Item 3-1,
14 the debris received with Items 2 and 3. Therefore, no comparisons were
15 conducted between Items 1-1 and 3-1 and Items 10 through 15, glass samples
16 from window pane of door at 3124 Hoadly Street SE or glass recovered from
17 the debris from Items 4 through 8, debris from inside the residence of 3124
Hoadly Street SE and the possible source of the debris from Items 1-1 and 3-1
cannot be determined.

18 A suitable glass fragment is one that is of sufficient size and condition
19 such that it can be used to generate repeatable, reproducible, and representative
measurements using the the FBI's instrumentation instrument.

20 No glass examinations were conducted on Items 9 and 16, Washington
21 State Patrol Crime Laboratory Secondary Evidence.

22 *See Declaration of David Allen, Appendix E*

23 19. The scientific method, which is the only method of hypothesis testing that is
24 generally accepted by scientists, imparts reliability on a scientific process by allowing for
25 results that are repeatable and reproducible. For forensics examinations, repeatable results
26 mean that the same examiner on different days would reach the same conclusion.

1 Reproducible results mean that different examiners would reach the same conclusions
2 using similar instrumentation in different locations (such as the FBI crime lab and the
3 Washington State Police Crime Lab.) If a methodology does not have these features, the
4 methodology cannot be relied on to reach accurate results. Here, the FBI Laboratory
5 examiner concluded that the glass particles were not suitable for refractive index analysis
6 and comparison by GRIM3 since they were not of “sufficient size and condition such that
7 [they] can be used to generate repeatable, reproducible measurement using the GRIM3
8 instrument.” *Id.* This should have ended the forensics analysis in this case.
9

10 20. The FBI Laboratory is a division within the United States Federal Bureau of
11 Investigation that provides forensic analysis support services to the FBI, as well as to state and
12 local law enforcement agencies. The federal forensics division has been in service since 1932,
13 and the FBI opened a new facility on the grounds of Quantico Marine Corps Base in 2003. As
14 noted in the 2009 NRC report “Strengthening Forensic Science in the United States: A Path
15 Forward,” it is the largest publicly funded forensic laboratory in the country. NAS Report at
16 65-66. The FBI Laboratory currently staffs more than 600 scientific experts and special agents.
17 While I have challenged some aspects of the FBI Laboratory’s protocols in the past, the lab
18 generally enjoys the reputation as the premier crime laboratory in the United States.
19

20 21. In reviewing the evidence presented during the *Schirato* trial, I have seen no
21 reasonable explanation why an examiner with the Washington State Patrol Crime Lab would
22 be able to complete a reliable glass comparison with a GRIM3 when an examiner with the FBI
23 Laboratory had concluded that the glass particles were not suitable for refractive index analysis
24 and comparison by GRIM3.
25
26

1 22. It is particularly troubling that the examination was ultimately completed by Mr.
2 Van Wyk, who by his own admission was a novice in this field, this being his “second actual
3 glass case.” VRP 673.

4 23. Like other scientists, statisticians such as myself are experts in the scientific
5 method and its application. As a statistician, I am also an expert in experimental design,
6 i.e. how a study must be constructed to answer a given question. The relevant question here
7 is what is the degree of probability for the claimed glass identification (or absence of
8 exclusion) in this case. Put another way, how common are these sorts of matches?
9

10 24. Glass is ubiquitous in our society – and window glass is found in virtually every
11 home in the United States. In fact, common window glass has been mass produced in the United
12 States for more than a century. At trial, the State’s witness presented no evidence regarding the
13 uniqueness of the particular glass evidence that was identified in this case. Thus, the jury had
14 no way to know whether glass with these same supposed properties would be found in large
15 percentage of the glass particles that might be discovered in any region of the country.
16

17 25. At one point in his trial testimony, Mr. Van Wyk emphasized that his testing did
18 not detect any zirconium in the glass evidence in this case. *See* VRP 683. From this, Mr. Van
19 Wyk opined that this glass may have been of manufactured using an older technology – thus
20 suggesting that the glass was consistent with the given age of the complaining witness’s house.
21 *See id.* But this conclusion was unwarranted since Mr. Van Wyk also acknowledged that his
22 examination might not have detected zirconium because the “pieces were too small.” *Id.*¹
23

24
25
26

¹ Moreover, based upon my own research, scientific articles do not support Mr. Van Wyk’s contention that Zirconium is present only in older glass products.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Again, this raises questions about the suitability of the glass particles for forensic testing – and the conclusions of Mr. Van Wyk in this case.

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE.

DATED at Washington, DC, this 9th day of July, 2019.

Clifford Spiegelman
CLIFFORD SPIEGELMAN

PROOF OF SERVICE

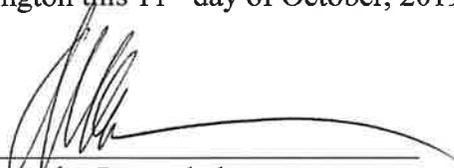
Alexandra Rosenthal swears the following is true under penalty of perjury under the laws of the State of Washington:

On the 11th day of October, 2019, I sent by U.S. Mail, postage prepaid, one true copy of Declaration of Clifford Spiegelman directed to attorney for Respondent:

Joe Jackson
Deputy Prosecuting Attorney
Thurston County Prosecutor's Office
2000 Lakeridge Dr S W. Building 2
Olympia, WA 98502

One true copy of Declaration of Clifford Spiegelman was delivered to Petitioner.

DATED at Seattle, Washington this 11th day of October, 2019.



Alexandra Rosenthal
Legal Assistant

APPENDIX A

August 11, 2019

CURRICULUM VITA

CLIFFORD SPIEGELMAN

Department of Statistics
Blocker 459A
TAMU 3143
Texas A&M University
College Station, TX 77843-3143
Phone: 979-845-8887
Fax: 979-845-3144

EDUCATION:

1970	B.A., Economics, Math, Statistics, SUNY/ Buffalo.
1973	M.S., Managerial Economics, Northwestern University.
1976	Ph.D., Statistics/Applied Mathematics, Northwestern University.

ACADEMIC APPOINTMENTS:

1976 - 1977	Assistant Professor of Statistics, Florida State University.
1978 - 1987	Statistical Engineering Division, National Bureau of Standards, Gaithersburg, MD.
1982 - 1983	Visiting Faculty Member, Department of Mathematics, Northwestern University.
1986	Visiting Faculty Member, Department of Math Sciences, Johns Hopkins University.
1987 - 1990	Associate Professor, Department of Statistics, Texas A&M University.
1990 - 2009	Professor, Department of Statistics, Texas A&M University.
1993 - 1996	Adjunct Professor of Chemistry, Lamar University.
2004 -	Senior Research Scientist, TTI.
2005 - 2008	Adjunct Investigator, Biostatistics Branch, Division of Cancer Epidemiology and Genetics National Cancer Institute.
2005-2009	NCI Proteomics Program Consultant.
2009-	Distinguished Professor of Statistics, Texas A&M University.
2017-	Official Statistician of the Texas Holocaust and Genocide Commission
2017-	Statistics Advisor to the Texas Forensic Science Commission

MAJOR RESEARCH INTERESTS:

Receptor modeling, calibration curves, nonparametric curve fitting, high dimensional methods, applications of statistics particularly to forensics, chemistry, proteomics, the environment, transportation, and agriculture.

RESEARCH FUNDING:

(PI) NSF, "Renewal of Development of Calibration Curve Methods and an Investigation of their Properties", August 1991, \$45,000.00.
(PI) NSF, "Mathematical Sciences: Renewal of Development of Calibration Curve Methods and an Investigation of their Properties", August 1992 – July 1995, \$45,000.00.
(PI) TNRCC, "Texas National Resources Conservation Commission", October 1, 1993 – August 15, 1994, \$90,000.00.
(PI) DOC-NIST, "Support for the Conference on Environmental Chemometrics and Chemometrics", September 27, 1994 – September 13, 1995, \$4,000.00.
(PI) Texas A&M Research Foundation, "Further Source Profile Development Using Multivariate Techniques, Transfer of the Technology to the TNRCC", January 27, 1995 – August 31, 1996, \$120,000.00.
(PI) NSF, "Establishing Chemometric and Statistical Foundations of Receptor Models", May 1, 1996 – April 30, 2000, \$140,000.00.
(PI) NSF, "Robust Receptor Modeling", 1997 -2001, \$80,000.00.
(PI) Amarillo National Resource Center for Plutonium, "Improving Spectroscopy Calibration and Limit of Detection", January 16, 1998 – January 15, 1999, \$119,796.00.
(PI) Bureau of Transportation Statistics, "System-Level Quality Control for the Data Collections and Archiving", May 17, 2001 – December 31, 2002, \$95,000.00.
(Co-PI) Texas Department of Transportation, "Asphalt Quality Assurance", September 1, 2001 – August 31, 2002, \$115,656.00.
(Co-PI) Texas Department of Transportation, "Stat Services for Materials and Pavements", January 7, 2002 – August 31, 2002, \$225,000.00.
(PI) Texas Department of Transportation, "Statistical Support", January 27, 2003 – August 31, 2003, \$45,000.00.
(PI) Texas Commission on Environmental Quality, "TCEQ Notice to Proceed work order 582-03-58881-05", July 1, 2004 – August 31, 2004, \$19,517.00.
(PI) Texas Commission on Environmental Quality, "Estimation of Nox Emissions from Compressor Engines", June 10, 2005 – August 31, 2005, \$140,000.00.
(PI) State of Texas, "Writing a Statistics Text for Transportation Students", September 1, 2005 – August 31,

2006, \$45,000.00.
(PI) Capital Consulting Corporation, “CCC-NCI-Clinical Proteomic Technical INI”, September 1, 2005 – November 30, 2006, \$244,346.00.
(PI) NCI, “NCI-IPA-Spiegelman”, January 1, 2006 – December 31, 2009, \$119,421.54.
(PI) SAIC-Frederick, Inc., “SAIC-Frederick-NCI-Proteomic Technology”, April 3, 2006 – December 31, 2008, \$1,806,780.68.
(PI) Southwest Region University Transportation Center, January 1 – August 31, 2008, for textbook, \$62,437.00.
(PI) TAMU-Weizmann Grant <i>A non-parametric Markov approach to classification and regression</i> September 2012- September 2014, \$88,000.
(PI) Distance Learning Grant July 2013-July 2014. \$36,053 (SWUTC)
1997 – 2013, Texas Transportation Institute guarantees five months support each calendar year.
May 2014-May 2017 National Agricultural Statistical Services (USDA/NASS) 3.5 months support/year + a graduate student (1.5 years) ~\$527,000.
May 2017-May 2018 National Agricultural Statistical Services (USDA/NASS) 3.5 months support/year, ~\$160,000
May 2018-May 2019 National Agricultural Statistical Services (USDA/NASS) 3.5 months support/year, ~\$160,000 (<i>anticipated</i>)

PROFESSIONAL ACTIVITIES:

Selected National Committees:

1987	International Chemometric Society Representative to the ASA.
1987 - 1991	Head ASA Committee on Statistics in Chemistry.
1987 - 1991	Executive board ASA Section on Physical and Engineering Sciences.
1987 - 1991	Head of Conference on Mathematics in Chemistry.
1990 - 1991	President, South East Texas Chapter of the American Statistical Association.
1991 - 1992	Past President, South East Texas Chapter of the American Statistical Association.
1994	Member, Federal Advisory Committee ACT Committee to EPA.
1994 – 1996	Member ASA Committee on International standards, Head of Committee, 1996.
2002-2003	Head and Co-organizer of Transportation Interest Group with the ASA Editorial.
2003	NRC committee for the FBI Bullet Lead Analysis.

2008-2014	Board of Trustees, National Institute of Statistical Sciences
2002-2012	Member, Committee on Statistical Methodology and Statistical Computer Software in Transportation Research, Transportation Research Board, Division of NRC.
2014-2016	Chair 2015-2016 SAMSI program on forensic science (the NSF/DMS Statistics and Applied Mathematical Sciences Institute)
2016-2018	OSAC sub-committee appointment for gun-shot residue (GSR).
2017	NRC Review Committee for the National Material Measurement Laboratory at NIST
2017	GAO Advisory Committee for NIST's Standard Reference Materials program
2017	OSAC member Technical Issues Group, NIST forensic subcommittee

Selected Department of Statistics Committees:

1987 -	Director of the Laboratory for Statistical Science in Chemistry
1987 - 1988	Library Committee
1988 - 1990	Colloquium Chair
2004 -	TAMU Representative to NISS, (National Institute of Statistical Sciences)
2012-2013	Promotion and Tenure Committee
2006-2018	Departmental outside funding committee (chair)
2016-	College of Science Promotion and Tenure Committee
2018	College of Science Distinguished Professor Committee

Selected Editorial:

1985	Guest Editor of the <i>NBS Journal of Research</i> , November-December 1985 issue containing the Chemometrics Research Conference Proceedings.
1986 - 2016	Editor of <i>Chemometrics and Intelligent Laboratory Systems</i> .
2016-	Editor emeritus <i>Chemometrics and Intelligent Laboratory Systems</i> .
1986 - 1999	Editorial Board <i>The Journal of Chemometrics</i> .
1988 - 1994	Associate Editor of <i>Journal of the American Statistical Association</i> .
1988	Acting Editor of <i>Journal of the American Statistical Association</i> , Theory and Methods Section, July.
1988	Invited Contributing Scholar for <i>Chemtracts-Analytical and Physical Chemistry</i> .
2002 -	Associate Editor for <i>Journal of Environmetrics</i> .
2001 - 2006	Editorial Board of the <i>Journal of Transportation and Statistics</i> .

2006 -2008	Member, Editorial Advisory Board for the <i>Journal of Proteome Research</i> .
------------	--

HONORS AND AWARDS:

1990	<i>Fellow, Institute of Mathematical Statistics</i> . This award recognizes candidates who have demonstrated distinction in research in statistics probability, by publication of independent work of merit.
1991	<i>W. J. Youden Award given by the American Statistical Association for the best paper on Interlaboratory Comparisons</i> . Selection Criteria: Interlaboratory tests constitute a broad field of statistical activity in commercial, regulatory, and industrial practice. They are used in many disciplines for comparing results produced in different laboratories, for determining consensus values, and for assessing and developing test methods. Such studies are often interactive, with the goal to reduce discrepancies among results obtained in the participating laboratories.
1992	<i>Fellow, American Statistical Association</i> . This award recognizes full members of established reputation who have made outstanding contributions in some aspect of statistical work. This award is of great honor as it is limited to no more than 1/3 of 1% of the ASA membership
1993	<i>Ordinary Member, International Statistical Institute</i> . This membership is elected by virtue of his distinguished contributions to the development or application of statistical methods, or to the administration of statistical services, or the development and improvement of statistical education.
1994	<i>Distinguished Achievement Award, ASA Section on the Environment</i> . Received award in recognition of the outstanding contributions to the development of methods, issues, concepts, and applications of environmental statistics.
2002 & 2008	<i>Statistics in Chemistry Award for Best Paper</i> . Criteria to receive this award includes: the innovative use of statistics to solve a problem in chemistry, and the impact of the solution on the problem. Only work published in refereed statistics, chemistry or chemometrics journals are considered.
2005	ASA Invited <i>Chance</i> Lecturer.
2007	<i>Jerome Sacks Award for Cross-Disciplinary Research</i> . This award is given to an individual whose work is cross-disciplinary and encompasses innovation in the statistical sciences. Preference will be given to work that creates new research relationships or substantially buttresses extant relationships.
2007	Honor- Interviewed by NBC Nightly News, CNN Situation Room, Geraldo at Large, The Washington Post, and may other national radio and newspapers about the JFK paper. It was a worldwide story and the lead story on Fox News for 2 days
2008	<i>The 2008 JSM Statistics in Chemistry Award</i> . This award is for or the innovative use of statistics to solve a problem in chemistry and the impact of the solution on the problem. "Chemical and forensic analysis of JFK assassination bullet lots: Is a second shooter possible?" <i>The Annals of Applied Statistics</i> , (2007), Vol. 1, No. 2, 287-301.

2008	<i>The 2008 RFK Memorial Journalism Award for domestic television.</i> This award was given to 60 Minutes for the segment, "Evidence of Injustice" where I was a contributor of background information regarding CBLA misuse.
2009	Paper on Stradivarius violins with Nagyvary covered by international print media including Time Magazine and the Christian Science Monitor
2012-2013	Invited to write a series of editorials for the Austin American Statesman on the state of forensic science in this country. Three were written and featured on the first page of the editorial section and 2 were above the fold.
2013	Honor University wide lecture on the forensic aspects of the JFK assassination 50-year anniversary lecture. All of the networks ABC, NBC, and CBS covered the talk. The work was also cited extensively in word wide media
2013-	Member technical advisory group (TAG, and a statutory position.) Houston Forensic Science Local Government Corporation (Houston Crime Lab)
2014	Fellow of the American Association for the Advancement of Science (AAAS)
2014-2016	Chair 2015-2016 SAMSI program on forensic science (the NSF/DMS Statistics and Applied Mathematical Sciences Institute)
2016-	Editor emeritus <i>Chemometrics and Intelligent Laboratory Systems</i> .
2016	ASA Don Owen Award
2017	Virtual Issue of <i>Chemometrics and Intelligent Laboratory System in my honor</i> https://www.journals.elsevier.com/chemometrics-and-intelligent-laboratory-systems/virtual-special-issues/virtual-special-issue-in-honor-of-prof-clifford-spiegelman
2017-	Appointed as Official Statistician of the Texas Holocaust and Genocide Commission
2017-	Appointed as statistical advisor to the Texas Forensic Science Commission
2017	SPOT Award USDA/NASS for methodology development for the 2017 Census of Agriculture.
2019	Outstanding Communicator Award from Texas A&M Chapter of Sigma Xi

SUPERVISORY DUTIES:

1978 - 1986	Supervised three Statistical Engineering Division Research Contracts.
1978 - 1987	Supervised junior level statisticians on consulting projects.
1980 - 1985	Head of the National Bureau of Standards, Center for Applied Mathematics, Expository Seminar Series.
2000-2003	Chair and cofounder Transportation Statistics Interest Group ASA
1998-	Organized and help manage statistical help desk at TTI
2014-2016	Chair SAMSI 2015-2016 forensic program

CONFERENCES ORGANIZED:

1985	A Principal co-organizer of Chemometrics Research Conference, Gaithersburg, MD.
1989	A Principal co-organizer of Mathematics in Chemistry Conference, College Station, TX.
1995	A Principal co-organizer of Third International Conference on Environmetrics and Chemometrics Conference, Las Vegas, NV.
2000	A Principal co-organizer of the Fourth International Conference on Environmetrics and Chemometrics, Las Vegas, NV.
2008	A Principal co-organizer of the AAAS Data Exploration Workshop, Washington, DC.
2015	Organizer conference om chemometrics in analytical chemistry, Changsha, China
2015	Tutorial workshop SAMSI 2015-2016 program on forensic science
2015	Opening workshop SAMSI 2015-2016 program on forensic science

PH. D. STUDENTS (Chaired):

1991	Chyon-Hwa Yeh (Chair)
1997	Eun Sug Park (Chair)
2000	Byron Gajewski (Chair)
2001	Jacqueline Kiffe (Co-Chair)
2002	Naijun Sha (Co-Chair)
2017	Mary Frances Dorn (Chair)

Course Taught

Stat 211 Principles of Statistics I
 Stat 406 Design and Analysis of Experiments
 Stat 408 Introduction to Linear Models
 stat 618 (Current number for the course is 616) Multivariate Analysis
 Stat 623 (Statistical Methods for Chemistry, created the course)
 stat 636 Methods in Multivariate Analysis
 Stat 642 The Methods of Statistics II
 Stat 651 Statistics in Research I (Taught over 60 times)
 Stat 658 (Transportation Statistics , created the course)
 Stat 689 Special Topics (Chemometrics, Transportation Statistics, Environmetrics)

PUBLICATIONS:

Refereed Publications

1979	Spiegelman, C.H. (1979). On Estimating The Slope Of A Straight Line When Both Variables Are Subject To Error. <i>Annals of Statistics</i> , 7, 201-206.
------	--

1980	Spiegelman, C.H. & Studden, W.J. (1980). Design Aspects Of Scheffe's Calibration Theory Using Linear Splines. <i>Journal of Research of the National Bureau of Standards</i> , 85(4), 295-304.
1980	Spiegelman, C.H. (1980). A Univariate Extension of Jensen's Inequality. <i>Journal of Research of the National Bureau of Standards</i> , 85, 363-365.
1980	Spiegelman, C.H. & Sacks, J. (1980). Consistent Window Estimation of a Regression Function. <i>Annals of Statistics</i> , 8, 240-246.
1981	Rosenblatt, J.R. & Spiegelman, C.H. (1981) Discussion of: A Bayesian Analysis of the Linear Calibration Problem, by W.G. Hunter and W.F. Lamboy. <i>Technometrics</i> , 23, 329-333.
1982	Spiegelman, C.H. (1982). A Note on the Behavior of Least Squares Regression Estimates When Both Variables Have Error. <i>Journal of Research of the National Bureau of Standards</i> , 87, 67-70.
1982	Spiegelman, C.H. (1982). A Univariate Inequality for Medians. <i>Journal of Research of the National Bureau of Standards</i> , 87, 71-74.
1982	Lechner, J.A., Reeve, C.P., & Spiegelman, C.H. (1982). An Implementation Of The Scheffe Approach To Calibration Using Spline Functions, Illustrated By A Pressure-Volume Calibration. <i>Technometrics</i> , 24, 229-234.
1982	Billick, I.H., Shier, D.R. & Spiegelman, C.H. (1982). Sensitivity Of Trends In Geometric Mean Blood Lead Levels To Random Measurement Errors. <i>Science of the Total Environment</i> , 24(3), 233-248.
1983	Kafadar, K., Rice, J. & Spiegelman, C.H. (1983). One-Sided Trimming In Small Samples With Asymmetric Contamination. <i>Communications in Statistics</i> , 12, 477-496.
1984	Carroll, R.J., Spiegelman, C.H. , Lan, K.K., Bailey, K.T., & Abbott, R.D. (1984). On Errors-In-Variables For Binary Regression Models. <i>Biometrika</i> , 71, 19-25.
1984	Spiegelman, C.H. (1984). An Iterative Calibration Curve Procedure. <i>Journal of Research of the National Bureau of Standards</i> , 89, 187-192.
1984	Knafl, G. Sacks, J, Spiegelman, C.H. , & Ylvisaker, D. (1984). Nonparametric Calibration. <i>Technometrics</i> , 26(3), 233-241.
1984	Simiu, E., Hendrickson, E.M., Nolan, W.A. Olkin, I., & Spiegelman, C.H. (1984). Multidirectional Analysis Of Extreme Wind Speed Data. In A.P. Boresi & K.P. Chong (Eds.), <i>Engineering Mechanics in Civil Engineering</i> , American Society of Civil Engineers, 1196-1199. New York.
1984	Spiegelman, C.H. (1984). A New Statistics For Detecting Influential Observations In A Scheff's Type Calibration Curve. <i>The Australian Journal of Statistics</i> , 26, 290-297.
1985	Spiegelman, C.H. (1985). Jensen's Inequality For General Location Parameter. <i>The American Statistician</i> , 39(1), 54.
1985	Marshak, H. & Spiegelman, C.H. (1985). Determining Multipole Mixing Ratios From Nuclear Orientation Experiments. <i>Nuclear Instruments and Methods In Physics Research</i> , A234, 455-467.
1985	Simiu, E. Henrickson, E.M., Nolan, W.A., Olkin, I., & Spiegelman, C.H. (1985). Multivariate Distributions Of Directional Wind Speeds. <i>Journal of Structural Engineering</i> , 111(4), 939-943.
1986	Spiegelman, C.H. (1986). Two Pitfalls Of Data Drive Modeling When Both X And Y Have

	Measurement Error. <i>The American Statistician</i> , 40, 245-248.
1986	Lwin, T. & Spiegelman, C.H. (1986). Calibration With Working Standards. <i>Journal of the Royal Statistical Society, Series C: Applied Statistics</i> , 35, 256-261.
1986	Kafadar, K. & Spiegelman, C.H. (1986). An Alternative To Ordinary Q-Q Plots: Conditional Q-Q Plots. <i>Computational Statistics and Data Analysis</i> , 4, 167-184.
1986	Carroll, R.J. & Spiegelman, C.H. (1986). The Effect Of Ignoring Small Measurement Errors In Precision Instrument Calibration. <i>Journal of Quality Technology</i> , 18(3) 170-173.
1987	Olkin, I. & Spiegelman, C.H. (1987). A Semiparametric Approach To Density Estimation. <i>Journal of the American Statistical Association, Theory and Methods</i> , 82, 858-865.
1987	Watters, R. L., Jr., Carroll, R.J., & Spiegelman, C.H. (1987). Error Modeling And Confidence Interval Estimation For ICP Calibration Curves. <i>Analytical Chemistry</i> , 59, 1639-1643.
1988	Carroll, R.J., Spiegelman, C.H. , & Sacks, J. (1988). A Quick And Easy Calibration Curve Procedure. <i>Technometrics</i> , 30 (2), 137-141.
1988	Boggs, P.T., Spiegelman, C.H. , Donaldson, J. R., & Schnabel, R.B. (1988). A Computational Examination Of Orthogonal Distance Regression. <i>Journal of Econometrics</i> , 38, 169-201.
1988	Watters, R.L., Jr., Carroll, R.J., & Spiegelman, C.H. (1988). Heteroscedastic Calibration Using Analyzed Reference Materials as Calibration Standards. <i>Journal of the National Bureau of Standards</i> 93(3), 264-265.
1989	Eberhardt, K.R., Reeve, C.P. & Spiegelman, C.H. (1989). A Minimax Approach To Combining Means With Practical Examples. <i>Chemometrics and Intelligent Laboratory Systems</i> , 5, 129-148. (Won the Youden Award).
1989	Eberhardt, K.R., Reeve, C.P. & Spiegelman, C.H. (1989). A Minimax Approach To Combining Means With Practical Examples: Response To Comments. <i>Chemometrics and Intelligent Laboratory Systems</i> , 5(2), 153-154.
1989	Knafl, G., Sacks, K. & Spiegelman, C.H. (1989). Calibrating For Differences. In L.J Gleser, M.D. Perlman, S.J. Press, & A.R. Sampson (Eds.), <i>Essays in Honor of Ingram Olkin</i> (224-348).
1990	Eubank, R.L. & Spiegelman, C.H. (1990). Testing The Goodness-Of-Fit Of A Linear Model Via Nonparametric Regression Techniques. <i>Journal of the American Statistical Association</i> , 85, No. 410, 387-392.
1990	Spiegelman, C.H. (1990). Plotting Techniques For Errors-In-Variables Problems. <i>Contemporary Mathematics</i> , 112, 167-168.
1991	Brown, P.J., Spiegelman, C.H. , & Denham, M.C. (1991). Chemometrics And Spectral Frequency Selection. <i>Phil. Trans. Royal Society London, Series A, Math and Physical Science</i> , 337, 311-322.
1991	Spiegelman, C.H. , Watters, R.L., & Hungwu, L. (1991). A Statistical Method For Calibrating Flame Emission Spectrometry Which Takes Account Of Errors In The Calibration Standards. <i>Chemometrics and Intelligent Laboratory Systems</i> , 11(2), 121-130.
1991	Brown, J.P. & Spiegelman, C.H. (1991). Mean Squared Error And Selection In Multivariate Calibration. <i>Statistics and Probability Letters</i> , 12, 157-159.
1991	Cline, D.B. & Spiegelman, C.H. (1991). Bias Correcting Confidence Intervals For A Nearly

	Common Property. <i>Chemometrics and Intelligent Laboratory Systems</i> , 11(2), 131-136.
1992	Carroll, R.J. & Spiegelman, C.H. (1992). Diagnostics For Nonlinearity And Heteroscedasticity In Errors-In-Variables Regression. <i>Technometrics</i> , 34 (2), 186-196.
1992	Spiegelman, C.H. (1992). Plotting Aids For Multivariate Calibration And Chemostatistics. <i>Chemometrics and Intelligent Laboratory Systems</i> , 15 (1), 29-38.
1992	Prince, E. & Spiegelman, C.H. (1992). Statistical Significance Test. In A.J.C. Wilson & E. Prince (Eds.), <i>International Tables for Crystallography</i> (pp. 618-621). Netherlands: Kluwer.
1992	Prince, E. & Spiegelman, C.H. (1992). Detection and Treatment of Systematic Error. In A.J.C. Wilson & E. Prince (Eds.), <i>International Tables for Crystallography</i> (pp. 622-623). Netherlands: Kluwer.
1993	Spiegelman, C.H. & Dattner, S. (1993). Applying And Developing Receptor Models To The 1990 El Paso Air Data: A Look At Receptor Modeling With Uncharacterized Sources And Graphical Diagnostics. <i>Analytica Chimica Acta</i> , 277, 347-356.
1993	Spiegelman, C.H. & Dattner, S. (1993). Multivariate Chemometrics A Case Study: Applying And Developing Receptor Models For The 1990 El Paso Winter PM10 Receptor Modeling Scoping Study. In G. P. Patil and C. R. Rao (Eds.), <i>Multivariate Environmental Statistics</i> (509-524). New York: Elsevier/North Holland.
1994	Spiegelman, C.H. & Wang, C.Y. (1994). Detecting Interactions Using Low Dimensional Searches In High Dimensional Data. <i>Chemometrics and Intelligent Laboratory Systems</i> , 23(2), 293-299.
1994	Johnson, R.L., Lattimer, G.W., Jr., & Spiegelman, C.H. (1994). Use Of Trimmed Duplicates Derived From Laboratory Data To Estimate Standard Deviation. <i>Journal of the AOAC International</i> , 77(6), 1660-1663.
1994	Yeh, C.H. & Spiegelman, C.H. (1994). Partial Least Squares and Classification and Regression Trees. <i>Chemometrics and Intelligent Laboratory Systems</i> 22(1), 17-23.
1996	Spiegelman, C.H., Wang, S., & Denham, M. (1996). Asymptotic Minimax Calibration Estimates. <i>Chemometrics and Intelligent Laboratory Systems</i> , 32(2), 257-263.
1997	Henry, R.C., Spiegelman, C.H., Collins, J.F., & Park, E. (1997). Reported Emissions of Organic Gases Are Not Consistent With Observations. <i>Proceedings of the National Academy of Sciences (PNAS)</i> , 94 (13), 6596-6599.
1997	Spiegelman, C.H. (1997). A Discussion Of Issues Raised By Lloyd Currie And A Cross Disciplinary View Of Detection Limits And Estimating Parameters That Are Often At Or Near Zero. <i>Chemometrics and Intelligent Laboratory Systems</i> , 37(1), 182-188.
1997	Spiegelman, C.H. (1997). Discussion Of 'Formation Of Hcl-6H ₂ O From Ice And Hcl Under Ultrahigh Vacuum By James D. Graham And Jeffery T. Roberts. <i>Chemometrics and Intelligent Laboratory Systems</i> , 37, 149.
1997	Spiegelman, C.H. & Tarlow, P. (1997). A Mock Trial For Critical Values. <i>Stats</i> , 20, 13-16.
1997	McShane, M.J., Coté, G.L., & Spiegelman, C.H. (1997). Variable Selection In Multivariate Calibration Of A Spectroscopic Glucose Sensor. <i>Applied Spectroscopy</i> , 51 (10), 1559-1654.
1997	McShane, M.J., Coté, G.L., & Spiegelman, C.H. (1997). Variable Selection for Quantitative Determination of Glucose Concentration with Near Infrared Spectroscopy, Presented at SPIE

	International Biomedical Optics Conference, San Jose, CA.: SPIE V2982; pp 189-197; Feb. 8-14, 1997.
1998	Spiegelman, C.H. , McShane, M.J., Goetz, M.J., Motamedi, M., Yue, Q.L., & Coté, G.L.. (1998). Theoretical Justification of Wavelength Selection in PLS Calibration: Development of a New Algorithm. <i>Analytical Chemistry</i> 70, 35-44.
1998	Speed, F.M. & Spiegelman, C.H. (1998). Evaluating Black Boxes: An Ad-Hoc Method For Assessing Nonparametric And Nonlinear Curve-Fitting Estimators. <i>Communications in Statistics – Simulation and Computation</i> , 27 (3), 699-710.
1998	McShane, M.J., Coté, G.L., & Spiegelman, C.H. (1998). Assessment Of Partial Least-Squares Calibration And Wavelength Selection For Complex Near-Infrared Spectra. <i>Applied Spectroscopy</i> , 52(6), 878-884.
1998	Schechtman, E. & Spiegelman, C.H. (1998). Interval Estimate For The <i>X</i> -Intercept Of A Straight Line: A Nonlinear Approach. <i>Communications in Statistics—Simulation and Computation</i> , 27(4), 1093-1115.
1999	McShane, M.J., Cameron, B.D., Coté, G.L., Motamedi, M. & Spiegelman, C.H. (1999). A Novel Peak-Hopping Stepwise Feature Selection Method With Application To Raman Spectroscopy. <i>Analytical Chemica Acta</i> . 388(3), 251-264..
1999	Henry, R.C., Park, E.S., & Spiegelman, C.H. (1999). Comparing A New Algorithm With The Classic Methods For Estimating The Number Of Factors. <i>Chemometrics and Intelligent Laboratory Systems</i> , 48(1), 91-97.
1999	McShane, M.J., Cameron, B.D., Coté, G.L., & Spiegelman C.H. (1999). Improving Complex Near-IR Calibrations Using A New Wavelength Selection Algorithm. <i>Applied Spectroscopy</i> , 53(12), 1575-1581.
1999	Prince, E. & Spiegelman, C.H. (1999). Statistical Significance Test. In A.J.C. Wilson & E. Prince (Eds.) (Vol. C), <i>International Tables for Crystallography</i> (2nd ed.), (pp. 696-700). Netherlands: Kluwer.
1999	Prince, E. & Spiegelman, C.H. (1999). Detection and Treatment of Systematic Error. In A.J.C. Wilson & E. Prince (Eds.) (Vol. C), <i>International Tables for Crystallography</i> (2nd ed.), (pp. 701-703). Netherlands: Kluwer.
1999	McShane, M.J., Cameron, B.D., Coté, G.L., & Spiegelman C.H. (1999). Peak-Hopping Stepwise Wavelength Selection Algorithm For Spectroscopic Applications. Proceedings of the SPIE International Symposium on Biomedical Optics, San Jose, CA.: <i>Optical Diagnostics of Biological Fluids V3599</i> ; pp. 101-109, January 23-29, 1999.
2000	Spiegelman C.H. , Bennett, J.F., Vannucci, M., McShane, M.J., & Coté, G.L. (2000). A Transparent Tool For Seemingly Difficult Calibrations: The Parallel Calibration Method. <i>Analytical Chemistry</i> , 72(1), 135-140.
2000	Spiegelman C.H. , Bennett, J.F., Vannucci, M., McShane, M.J., & Coté, G.L. (2000). Erratum: A Transparent Tool For Seemingly Difficult Calibrations: The Parallel Calibration Method. <i>Analytical Chemistry</i> , 72(8), 1944.
2000	Park, E.S., Henry, R.C., & Spiegelman C.H. (2000). Estimating The Number Of Factors To Include In A High Dimensional Multivariate Bilinear Model. <i>Communications in Statistics-Theory and Methods</i> , 29(3), 723-746.

2000	Gajewski, B.J., Turner, S.M., Eisele, W.L. & Spiegelman, C.H. (2000). Intelligent Transportation System Data Archiving – Statistical Techniques for Determining Optimal Aggregation Widths for Inductive Loop Detector Speed Data. <i>Transportation Data, Statistics, and Information Technology</i> (1719), 85-93.
2001	Greensill, C.V., Wolfs, P.J., Spiegelman, C.H. , & Walsh, K.B. (2001). Calibration Transfer Between PDA-Based Spectrometers In The NIR Assessment Of Melon Soluble Solids Content. <i>Applied Spectroscopy</i> , 55(5). 647-653.
2001	Fontaine, M.D., Qu, T.T., Zimmerman, K., & Spiegelman, C.H. (2001). Discussion Of Balkin And Ord, Assessing The Impact Of Speed Limit Increases On Fatal Interstate Crashes. <i>Journal of Transportation and Statistics</i> , 4(1), 16-21.
2001	Eisele, W.L., Rilett, L.R., Mhoon, K.B., & Spiegelman, C.H. (2001). Using Intelligent Transportation Systems (ITS) Travel Time Data For Multi-Modal-Analyses And System Monitoring. <i>Transportation Research Record</i> , 1768, 148-156.
2002	Rilett, L.R. & Spiegelman, C.H. (2002). A Discussion of Statistically Based Validation of Computer Simulation Models in Traffic Operations and Management by Sacks, Roupail, Park, and Thakuriah, <i>Journal of Transportation and Statistics</i> , 5(1), 16-17.
2002	Schechtman, E. & Spiegelman, C.H. (2002). A Nonlinear Approach To The Linear Calibration Intervals. <i>Journal of Quality Technology</i> , 34(1), 71-79.
2002	Park, E.S., Spiegelman, C. H. , & Henry, R.C. (2002). Bilinear Estimation Of Pollution Source Profiles And Amounts By Using Multivariate Receptor Models. <i>Environmetrics</i> , 13 (7), 775-798.
2002	Park, E.S., Spiegelman, C. H. , & Henry, R.C. (2002). Author’s Response: Bilinear Estimation Of Pollution Source Profiles And Amounts By Using Multivariate Receptor Models. <i>Environmetrics</i> , 13 (7), 807-809.
2002	Henry, R.C., Chang, Y.-S., & Spiegelman, C.H. (2002). Locating Nearby Sources Of Air Pollution By Nonparametric Regression Of Atmospheric Concentrations On Wind Directions. <i>Atmospheric Environment</i> 36(13), 2237-2244.
2002	Spiegelman, C.H. , Wikander, L., O’Neal, P., & Coté, G.L. (2002). A Simple Method For Linearizing Nonlinear Spectra For Calibration. <i>Chemometrics and Intelligent Laboratory Systems</i> , 60(1-2), 197-209.
2002	Gajewski, B.J., Rilett, L.R., Dixon, M.P., & Spiegelman, C.H. (2002). Robust Estimation Of Origin-Destination Matrices. <i>Journal of Transportation and Statistics</i> , 5(2/3), 37-55.
2002	Park, K.S. & Spiegelman, C.H. (2002). Chemometrics. In A.H. El-Shaarawi and W.W. Piegorsch (Eds.) <i>Encyclopedia of Environmetrics</i> . (pp. 334-338). England: Wiley.
2003	Spiegelman, C.H. & Park, E.S. (2003). Nearly Nonparametric Multivariate Density Estimates That Incorporate Marginal Parametric Density Information. <i>American Statistician</i> , 57(3), 183-188.
2003	Park, E.S., Rilett, L.R., & Spiegelman, C.H. (2003). A Robust MCMC-Based Origin-Destination Matrix Estimator. Preprint 03-6265 Transportation Research Board 82 nd Annual Meeting, Washington. DC, January 2003.
2003	Park, E.S., Turner, S., & Spiegelman, C.H. (2003). Empirical Approaches to Outlier Detection in Intelligent Transportation Systems Data. <i>Transportation Research Record</i> , 1840, 21-30.
2003	Hamada, M., Pohl, A., Wendelberger, J., & Spiegelman, C.H. (2003). A Bayesian Approach To

	Calibration Intervals And Properly Calibrated Tolerance Intervals. <i>Journal of Quality Technology</i> , 35(2), 194-205.
2003	Baldwin, A., Chung, J.R., Baba, J.S., Spiegelman, C.H. , Amoss, M.S., & Coté, G.L. (2003). Mueller Matrix Imaging For Cancer Detection. IEEE EMBS Meeting (pp. 1027-1030), Cancun, Mexico, September 17-21, 2003.
2003	Chung, J., DeLaughter, A.H., Baba, J., Spiegelman, C.H. , & Coté, G.L. (2003). Interpretation Of Mueller Matrix Images Based On Polar Decomposition And Statistical Discriminators To Distinguish Skin Cancer. SPIE BIOS, Session 4961 (pp. 147-152). San Jose, CA, Jan., 2003.
2004	McFadden, K.O, Castleman, A.W., Jr., DeForest, P.R., Denton, M.B., Evans, C.A., Jr., Finkelstein, M.O., Giannelli, P.C., Greenberg, R.R., Holcombe, J. A., Kafadar, K., McMahan, C.J, Jr., Prescott, S.R., Spiegelman, C.H. , & Voorhees, R.S. (2004). <i>Forensic Analysis: Weighing Bullet Lead Evidence</i> . Washington, D.C.: National Academies Press.
2004	Gajewski, B.J., & Spiegelman, C.H. (2004). Correspondence Estimation of the Source Profiles in Receptor Modeling. <i>Environmetrics</i> , 15(6), 613-634.
2005	Spiegelman, C.H., Lee, S.-J., Conny, J. M., & Ruymgaart, F.H. (2005). Some Aspects Of Multivariate Calibration With Incomplete Designs. <i>Chemometrics and Intelligent Laboratory Systems</i> , 77(1-2), 161-172.
2005	Spiegelman, C. H. , & Gates, T. J. (2005) Post Hoc Quantile Test For One-Way Analysis Of Variance Using A Double Bootstrap Method. <i>Transportation Research Record: Journal of the Transportation Research Board</i> , 1908, 19-25.
2005	Al-Rousan, T., Masad, E., Myers, L., & Spiegelman, C. H. (2005). A New Methodology for the Shape Classification of Aggregates. <i>Transportation Research Record: Journal of the Transportation Research Board</i> , 1913, 11-23.
2005	Mercado, E. A, Martin, A.E., Park, E. S., Spiegelman, C.H. , & Glover, C.J. (2005). Factors Affecting Binder Properties Between Production And Construction. <i>ASCE Journal of Materials in Civil Engineering</i> , 17(1), 89-98.
2005	Schultz, G.G., Rilett, L.R., & Spiegelman, C.H. (2005). Use of Weigh-In-Motion Data to Develop Commercial Motor Vehicle Weight and Length Distributions at Vehicle Classification Sites. Preprint 05-0976, Transportation Research Board 84 th Annual Meeting, Washington, DC, January, 2005.
2006	Spiegelman, C.H. & Kafadar, K. (2006). Data Integrity and the Scientific Method: The Case of Bullet Lead Data as Forensic Evidence, <i>Chance</i> (19)2, 17-25.
2007	Schechtman, E. & Spiegelman, C. (2007). Mitigating the Effect of Measurement Errors in Quantile Estimation. <i>Statistics and Probability Letters</i> . (77)5, 514-524.
2007	Masad, E., Al-Rousan, T., Bathina, M., McGahan, J., and Spiegelman, C. (2007). Analysis of Aggregate Shape Characteristics and its Relationship to Hot Mix Asphalt Performance, <i>International Journal of Road Materials and Pavement Design</i> . (8)2, 317-350.
2007	Spiegelman, C.H. & Park, E. S. (2007). A Computation Saving Jackknife Approach to Receptor Model Uncertainty Statements for Serially Correlated Data. <i>Chemometrics and Intelligent Laboratory Systems</i> . (88)2, 107-182.
2007	Spiegelman, C. , Tobin, W.A., James, W.D., Sheather, S., Wexler, S., & Roundhill, D.M. (2007). Chemical and Forensic Analysis of JFK Assassination Bullet Lots: Is a Second Shooter Possible,

	<i>Annals of Applied Statistics. (1)2, 287-301.</i>
2008	Park, E. S., Smith, R., Freeman, T., and Spiegelman, C. H. (2008), "A Bayesian Approach for Improved Pavement Performance Prediction," <i>Journal of Applied Statistics</i> , 35, 1219-1238..
2008	Park, E. S., Rilett, L. R., and Spiegelman, C. H. (2008), "A Markov Chain Monte Carlo-Based Origin Destination Matrix Estimator that is Robust to Imperfect Intelligent Transportation Systems Data ," <i>Journal of Intelligent Transportation Systems</i> , 12, 139-155.
2009	Nagyvary, Joseph, Guillemette, Ray, and Spiegelman, Clifford (2009). "Mineral Preservatives in the Wood of Stradivari and Guarneri", <i>PLoS ONE</i> , http://dx.plos.org/10.1371/journal.pone.0004245
2009	Paulovich, A., Billheimer D., Ham, A.L., Vega-Montoto, L., Rudnick, P., Tabb, D., Wang, P., Blackman, R., Bunk, D., Cardasis, H., Clauser, K., Kinsinger, C., Schilling, B., Tegeler, T., Variyath, A., Wang, M., Whiteaker, J., Zimmerman, L., Fenyo, D., Carr, S., Fisher, S., Gibson, B., Mesri, M., Neubert, T., Regnier, F., Rodriguez, H., Spiegelman, C. , Stein, S., Tempst, P., Liebler, D. (2009). "A CPTAC Inter-laboratory Study Characterizing a Yeast Performance Standard for Benchmarking LC-MS Platform Performance", <i>MCP Papers in Press</i> , http://www.mcponline.org/cgi/reprint/M900222-MCP200v1
2009	Rudnick, P., Clauser, K., Kilpatrick, L., Tchekhovskoi, D., Neta, P., Blonder, N., Billheimer, D., Blackman, R., Bunk, D., Cardasis, H., Ham, A.J., Jaffe, J., Kinsinger, C., Mesri, M., Neubert, T., Schilling, B., Tabb, D., Tegeler, T., Vega-Montoto, L., Variyath, A., Wan, M., Wang, P., Whiteaker, J., Zimmerman, L., Carr, S., Fisher, S., Gibson, B., Paulovich, A., Regnier, F., Rodriguez, H., Spiegelman, C., Tempst, P., Liebler, D., and Stein, S. (2009). "Performance Metrics for Liquid Chromatography-Tandem Mass Spectrometry Systems in Proteomic Analyses and Evaluation by the CPTAC Network", <i>MCP Papers in Press</i> , http://www.mcponline.org/cgi/reprint/M900223-MCP200v2
2009	Addona, T., Abbatiello, S., Schilling, B., Skates, S., Mani, D., Bunk, D., Spiegelman, C., Zimmerman, L., Ham, A.J., Keshishian, H., Hall, S., Allen, S., Blackman, R., Borchers, C., Buck, C., Cardasis, H., Cusack, M., Dodder, N., Gibson, B., Held, J., Hiltke, T., Jackson, A., Johansen, E., Kinsinger, C., Li, J., Mesri, M., Neubert, T., Niles, R., Pulsipher, T., Ransohoff, D., Rodriguez, H., Rudnick, P., Smith, D., Tabb, D., Tegeler, T., Variyath, A., Vega-Montoto, L., Wahlander, A., Waldemarson, S., Wang, M., Whiteaker, J., Zhao, L., Anderson, N., Fisher, S., Liebler, D., Paulovich, A., Regnier, F., Tempst, P., Carr, S. (2009). "Multi-site assessment of the precision and reproducibility of multiple reaction monitoring-based measurements of proteins in plasma", <i>Nature Biotechnology</i> , 27, 633 – 641.
2010	Tabb, D., Vega-Montoto, L., Rudnick, Paul., Variyath, A., Ham, A.J., Bunk, D., Kilpatrick, L., Billheimer, D., Blackman, R., Cardasis, H., Carr, S., Clauser, K., Jaffe, J., Kowalski., Neubert, T., Regnier, F., Schilling, B., Tegeler, T., Wang, M., Wand, P., Whiteaker, J., Zimmerman, L., Fisher, S., Gibson, B., Kinsinger, C., Mesri, M., Rodriguez, H., Stein, S., Tempst, P., Paulovich, A., Liebler, D., Spiegelman, C.H. (Communicating Author) "Repeatability and Reproducibility in Proteomic Identifications by Liquid Chromatography- Tandem Mass Spectrometry". <i>Journal of Proteome Research</i> ,9, 761-776
2010	Nell Sedransk, Linda J. Young, Katrina L. Kelner, Robert A. Moffitt, Ani Thakar, Jordan Raddick, Edward J. Ungvarsky, Richard W. Carlson, Rolf Apweiler, Lawrence H. Cox, Deborah Nolan, Keith Soper and Cliff Spiegelman "Make Research Data Public?-Not Always so Simple": A

	Dialogue for Statisticians and Science Editors; <i>Statist.</i> Volume 25, Number 1 (2010), 41-50.
2010	Rudnick, P.A., Clauser, K.R., Kilpatrick, L.E., Tchekhovskoi, D.V., Neta, P., Blonder, N., Billheimer, D.D., Blackman, R.K., Bunk, D.M., Cardasis, H.L., Ham, A.J., Jaffe, J.D., Kinsinger, C.R., Mesri, M., Neubert, T.A., Schilling, B., Tabb, D.L., Tegeler, T.J., Vega- Montoto, L., Variyath, A.M., Wang, M., Wang, P., Whiteaker, J.R., Zimmerman, L.J., Carr, S.A., Fisher, S.J., Gibson, B.W., Paulovich, A.G., Regnier, F.E., Rodriguez, H., Spiegelman, C., Tempst, P., Liebler, D.C., Stein, S.E., Performance Metrics for Liquid Chromatography-Tandem Mass Spectrometry Systems in Proteomics Analyses, <i>Mol. Cell Proteomics</i> , 2010 Feb., 9(2), pp. 225-241.
2011	Tarone, A. M.; Picard, C. J.; Spiegelman, C. ; et al. (2011). Population and Temperature Effects on <i>Lucilia sericata</i> (Diptera: Calliphoridae) Body Size and Minimum Development Time. <i>Journal Of Medical Entomology</i> (48) 5,1062-1068, DOI: 10.1603/ME11004
2011	A Nonparametric Approach Based on a Markov like Property for Classification- Review Article Chemometrics and Intelligent Laboratory Systems, Volume 108, Issue 2, 15 October 2011, Pages 87-92 Eun Sug Park, Clifford Spiegelman, Jeongyuon Ahn
2012	Lahiri, S. N., Spiegelman, C. , Appiah, J., and Rilett. L. Gap Bootstrap Methods For Massive Data Sets With An Application To Transportation Engineering. <i>The Annals of Applied Statistics</i> Vol. 6, No. 4, 1552–1587.
2013	Spiegelman C. , and Tobin W A. Analysis of experiments in forensic firearms/toolmarks practice offered as support for low rates of practice error and claims of inferential certainty. <i>Law, Probability and Risk</i> ;12:115-133.
2014	Park E.S., Hopke P. K., Oh M. S., Symanski E., Han D., Spiegelman C. H. Assessment of source-specific health effects associated with an unknown number of major sources of multiple air pollutants: a unified Bayesian approach., <i>Biostatistics</i> 15, 3, 484 -497.
2014	Owings Charity G., Spiegelman Cliff , Tarone Aaron M. and Tomberlin Jeffery K., Developmental variation among <i>Cochliomyia macellaria</i> Fabricius (Diptera: Calliphoridae) populations from three ecoregions of Texas, USA, <i>Int J Legal Med</i> , DOI 10.1007/s00414-014-1014-0.
2015	Incorporating On-Board Diagnostics into Fleet Preventive Maintenance Practices, by Tara Ramani, Michael Kader, Jeremy Johnson, Timothy Jacobs, Clifford Spiegelman, Josias Zietsman, <i>Transportation Research Record</i> (NAS, publication)
2015	Park, ES; Symanski, E; Han, D; Spiegelman, C ; Part 2. Development of Enhanced Statistical Methods for Assessing Health Effects Associated with an Unknown Number of Major Sources of Multiple Air Pollutants, by (HEI report)
2016	Moscovich, Amit, Nadler, Boaz, and Spiegelman, Clifford ; On the exact Berk-Jones statistics and their <i>p</i> -value calculation, 10, 2, 2329-2354.
2016	Kumar, Sunil, Nimchuk, Nick, Kumar, Rakesh, Zietsman, Josias, Ramani, Tara, Spiegelman, Clifford, - Kenney, Megan; Specific model for the estimation of methane emission from municipal solid waste landfills in India, <i>Bioresource Technology</i> , 216, 981-987
2016	Michael J Saks, Thomas Albright, Thomas L. Bohan, Barbara E. Bierer, C. Michael Bowers, Mary A. Bush, Peter J. Bush Arturo Casadevall, Simon A. Cole, M. Bonner Denton, Shari Seidman Diamond, Rachel Dioso-Villa, Jules Epstein, David Faigman, Lisa Faigman, Stephen E. Fienberg, Brandon L. Garrett, Paul C. Giannelli, Henry T. Greely, Edward Imwinkelried, Allan Jamieson, Karen Kafadar, Jerome P. Kassirer, Jonathan 'Jay' Koehler, David Korn, Jennifer Mnookin, Alan B. Morrison, Erin Murphy, Nizam Peerwani, Joseph L. Peterson, D. Michael Risinger, George F. Sensabaugh, Clifford

	Spiegelman , Hal Stern, William C. Thompson, James L. Wayman, Sandy Zabel, Ross E. Zumwalt; Forensic bitemark identification: weak foundations, exaggerated claims, J Law Biosci (2016) 3 (3): 538-575.
2017	William A. Tobin, H. David Sheets and Clifford Spiegelman ; Absence of Statistical and Scientific Ethos: The Common Denominator in Deficient Forensic Practices, Statistics and Public Policy, 4:1, 1-11, DOI: 10.1080/2330443X.2016.1270175
2017	AKM Abir, MW Burris, C Spiegelman. "The Value of Travel Time and Reliability: Empirical Evidence from Katy Freeway" https://doi.org/10.3141/2606-10
2017	An Assessment of the National Institute of Standards and Technology Material Measurement Laboratory: Fiscal Year 2017, see https://www.nap.edu/catalog/24975/an-assessment-of-the-national-institute-of-standards-and-technology-material-measurement-laboratory
2018	NK Damary, M Mandel, S Wiesner, Y Yekutieli, Y Shor, C Spiegelman. "Dependence among randomly acquired characteristics on shoeprints and their features"; Forensic science international 283, 173-179
2018	Park, E. S., Hopke, P. K., Kim, I., Tan, S., & Spiegelman, C. H. (2017). Bayesian spatial multivariate receptor modeling for multi-site multi-pollutant data. Technometrics, accepted for publication. https://doi.org/10.1080/00401706.2017.1366948 , print version to appear in 2018

Select Not Refereed Publications

Columns:

2010	Spiegelman, C. , Weak Forensic Science Has High Cost" and "Probability Statements Should Be Introduced into Scientific Testimony, AMSTATNEWS March Issue
2011	Spiegelman, C. , Schwartz, A., and Philpott, K., Putting the Science in Forensic Science, AMSTATNEWS, August Issue
2012	Spiegelman, C. , and Tobin W. A., Forensic evidence lacks science, Dec. 30 Austin American Statesman, cover of insight and book review section.
2013	Tobin W. A. and Spiegelman, C. Gun evidence often wide of scientific mark, March 3 Austin American Statesman, cover of insight and book review section.
2013	Tobin W. A. and Spiegelman, C. Crime labs stained by junk 'science, Oct 13, cover of insight and book review section'
2016	Lucas Mentch, Maria Cuellar, William C. Thompson and Clifford Spiegelman , 'Four experts explain why forensic analysis of crime scenes is not as reliable as you might think_In a popular TV show', academics Lucas Mentch, Maria Cuellar, William C. Thompson and Clifford Spiegelman see grave shortfalls with crime-solving science, Pittsburg Post-Gazette March 13
2016	Who should control Houston's crime lab? By William C. Thompson and Cliff Spiegelman (and Maria Cuellar and Lucas Mentch-not listed because Chronicle allows only 2 authors.) "Who should control Houston's crime lab?"; Houston Chronicle May 31
2017	Spiegelman, C. H. ; JFK Assassination: Modern Forensic Science Could Finally Solve Shooting Mysteries, Newsweek. http://www.newsweek.com/jfk-assassination-modern-forensic-science-could-finally-solve-shooting-741292

Select Books

1990	Massart, D.L., Brereton, R.G., Dessy, R.E., Hopke, P.K., Spiegelman, C.H. , & Wegscheider, W. (Eds.). (1990). <i>Chemometric Tutorials</i> . Elsevier, Amsterdam.
1992	Brereton, R.G., Scott, D.R., Massart, D.L., Dessy, R.E., Hopke, P.K., Spiegelman, C.H. , & Wegscheider, W. (Eds.). (1992). <i>Chemometric Tutorials II</i> . Elsevier, Amsterdam.
2002&2012	Advisory Board (functioned as chemometrics section editor until articles printed alphabetically) <i>Encyclopedia of Environmetrics</i> (first and second editions), Wiley SBN: 9780470057339
2008	Tauler, R., Paatero, P., Henry, R.C., Spiegelman, C., Park, E.S., Poirot, R.L., Viana, M., Querol, X., and Hopke, P.K. (2008). Identification, Resolution and Apportionment of Contamination Sources, Environmental Modeling, Software and Decision Support. 269-284. (Book chapter)
2011	Transportation Statistics and Microsimulation, by Spiegelman C. , Park E.S., and Rilett L., CRC

Conference Proceedings' Papers

1979	Spiegelman, C.H. (1979). Estimating the Effect of a Large Scale Pretest Posttest Social Program. (Summary of main results from Ph.D. Thesis). <i>ASA Proceedings of the Social Statistics Section</i> ; 370-373.
1980	Trochim, W.M.K. & Spiegelman, C.H. (1980). The Relative Assignment Variable Approach To Selection Bias In Pretest-Posttest Group Designs. <i>ASA Proceedings of the Section of Survey Research Methods</i> , 376-381.

Editorials

1986	Spiegelman, C.H. (1986), Editorial. <i>Chemometrics and Intelligent Laboratory Systems</i> 1(1), 3.
1988	Spiegelman, C.H. (1988). Collaborative Work. <i>Chemometrics and Intelligent Laboratory Systems</i> , 4, 265.
1991	Spiegelman, C.H. (1991). Organizer's Summary. <i>Chemometrics and Intelligent Laboratory Systems</i> 10(1-2), 11-12.
1997	Spiegelman, C.H. (1997). Erratum: Papers Presented at the Third International Conference On Environmetrics and Chemometrics in Las Vegas, NV, September 11-13, 1995. <i>Chemometrics and Intelligent Laboratory Systems</i> , 38(2), 245. 208-209.
2002	Nocerino, J., Singh, A., & Spiegelman, C.H. (2002). Special Issue: Fourth International Conference on Envirometrics and Chemometrics: Preface. <i>Chemometrics and Intelligent Laboratory Systems</i> 60 (1-2), pp. 1-3.
2005	Hopke, P.K. & Spiegelman, C.H. (2005). Editorial. <i>Chemometrics and Intelligent Laboratory Systems</i> , 77(1), 1-2.

2006	Spiegelman, C.H. , Pfeiffer, R., & Gail, M. (2006). Using Chemometrics and Statistics To Improve Proteomics Biomarker Discovery. <i>Journal of Proteome Research</i> , 5(3), 461-462.
2007	Spiegelman, C.H. Editorial. <i>Chemometrics and Intelligent Laboratory Systems</i> (85) 2, 157-158.
2010	Spiegelman, C.H. , Letter to Editor: Senior statisticians need to be involved, Accreditation and Quality Assurance (15) 8, 485-486.
2015	➤ Celebrating 30years of publishing chemometrics for chemometricians and others, by Hopke, Philip K; Spiegelman, Clifford;
2017	➤ http://www.newsweek.com/jfk-assassination-modern-forensic-science-could-finally-solve-shooting-741292

Reviews

1989	Spiegelman, C.H. (1987). Systat. <i>Chemometrics and Intelligent Laboratory Systems</i> , 6(2), 89.
1990	Spiegelman, C.H. (1990). Statistical Software Packages For The Macintosh. <i>Chemometrics and Intelligent Laboratory Systems</i> , 9(2), 115-117.
1991	Spiegelman, C.H. (1991). StatView II and superANOVA. <i>Chemometrics and Intelligent Laboratory Systems</i> , 11(2), 198-199.
1991	Hardin, J.W. & Spiegelman, C.H. (1991). Mathematica. <i>Chemometrics and Intelligent Laboratory Systems</i> , 11(2), 199-200.
1991	Spiegelman, C.H. (1991). JMP®, JMP IN®, and JMP Serve™. <i>Chemometrics and Intelligent Laboratory Systems</i> , 11(3), 255.
1992	Spiegelman, C.H. (1992). SYSTAT 5.0 and MINITAB release 8. <i>Chemometrics and Intelligent Laboratory Systems</i> , 12(3), 299-300.
1992	Spiegelman, C.H. (1992). BBN/Catalyst Version 1.4. <i>Chemometrics and Intelligent Laboratory Systems</i> , 14(1-3), 429-430.
1993	Spiegelman, C.H. (1993). MATLAB and the MATLAB Optimization Toolbok (MacIntosh Version). <i>Chemometrics and Intelligent Laboratory Systems</i> , 19(1), 128.
1994	Spiegelman, C. H. (1994). Review of MacIntosh Computer Products: Editor's Choices. <i>Chemometrics and Intelligent Laboratory Systems</i> , 22(2), 279-282.
1995	Spiegelman, C.H. (1995). Soft Windows, Mathematica and Data Desk for the Macintosh PC. <i>Chemometrics and Intelligent Laboratory Systems</i> , 28 (1), 208-209.

SELECTED INVITED PRESENTATIONS: 2015-2017

Plenary lecture at the CAC meeting in Changsha, China June 2015

Invited Lecture to Sigma XI, November 2015

Design of a Micro-Simulation for Mobility: A Case Study from Nebraska by Clifford

Spiegelman and Laurence Rilett and Bhaven Naik: Texas A&M University and University of Nebraska - Lincoln and Ohio University JSM 2015

Short Course on the science behind firearms/toolmarks for Cardozo Law School (Done at the Innocence Project's request) and will be given again to the Capital Defense Lawyers Annual meeting in San Diego in February 2016. (All for free of course)

Opening workshop for SAMSI forensic program. Lecture on firearm/toolmarks

Tutorial workshop for SAMSI forensic program. Lecture on firearm/toolmarks

The Houston Forensic Science Center is hosting a one-day symposium, *When the Gavel Falls...*, on Thursday, September 17th at University of St. Thomas University. Talk on firearm/toolmarks

August 2017 Presentation to the Texas Forensic Science Commission about the Norma Clark trial

December 2017 TCDLA: 15th Annual Forensics Seminar (Houston Texas)

Presentations at Universities

Ben-Gurion University of the Negev
Brigham Young University
Case Western Reserve University
Central Queensland University-Rockhampton
Clarkson University
Colorado State University
George Washington University
Harvard University/Dana Farber
Hebrew University-Jerusalem
Johns Hopkins University
McMaster University, Toronto, Canada
North Carolina State University
Northwestern University
Princeton University
Purdue University
Queens College – London
Rice University
Southern Methodist University
Stanford University
State University of New York at Albany
Texas Tech University, Lubbock, TX
University of California – Berkley
University of California – Los Angeles
University of California—San Diego
University of Central Florida
University of Colorado at Denver
University of Illinois – Champagne
University of Kent at Canterbury

University of Liverpool
University of Maryland
University of Missouri
University of North Carolina
University of South Carolina
University of Southern California
University of Texas
University of Washington
University of Waterloo
University of Wisconsin – Madison
Weizmann Institute of Science

APPENDIX B

315-65-10
plc

VanWyk, Daniel (WSP)

From: Megan Winder <Winderm@co.thurston.wa.us>
Sent: Monday, October 03, 2016 8:20 AM
To: VanWyk, Daniel (WSP)
Subject: RE: Gregory Schirato/Ann Larson case 2014-8123

Daniel – did Kristy get back to you? I am not sure what the answers to these questions are, as I don't have the list of items and numbers.

I appreciate you getting on this so quickly, as I do need the testing done ASAP, please.

Please let me know if you haven't gotten answers and I will check in with Kristy and with the Detective.

THANK YOU!!

Megan

From: VanWyk, Daniel (WSP) [<mailto:Daniel.VanWyk@wsp.wa.gov>]
Sent: Friday, September 30, 2016 9:17 AM
To: kjack@ci.olympia.wa.us
Cc: Megan Winder <Winderm@co.thurston.wa.us>
Subject: Gregory Schirato/Ann Larson case 2014-8123

Hello,

The glass evidence in this case has been transferred to me, as Susan Wilson will not be able to get to it soon. I want to make sure there I understand what is wanted.

The note on the RFLE says to compare glass collected from the suspect's suit with glass from the broken basement window. I have four items:

- Item 34 "men's pink dress shirt"
- Item 35 "men's grey suit"
- Item 37 "(RF38) big pieces of glass from inside"
- Item 38 "glass from door (still in pane)"

Is item 38 the glass from the basement window? Do you know if this window/door is a single pane, or double pane? What is item 37, and what do you want done with it?

Thank you,

Daniel R. Van Wyk
Forensic Scientist
WSP Marysville Crime Laboratory
360-654-1172

This e-mail might contain information that is confidential and legally privileged. If you have received this message in error, please notify the sender immediately and delete this message. Any unauthorized copying, disclosure, distribution or other use of this information is prohibited.

315-65-10
p.c.

VanWyk, Daniel (WSP)

From: Kristy Jack <kjack@ci.olympia.wa.us>
Sent: Friday, September 30, 2016 10:11 AM
To: VanWyk, Daniel (WSP)
Subject: RE: Gregory Schirato/Ann Larson case 2014-8123

Hi Daniel,

On a previous trip to the lab, Susan Wilson recovered small pieces of glass from the bottom cuff of the pants of the grey suit and some small fragments from the dress shirt. The glass pieces were put into a small envelope and then placed back in with the respective item they were recovered from.

Item 38 is glass from the basement window. It is a single pane window believed to be original to the house that was built in 1941. Item 37 contains larger sized pieces of glass collected from the floor just inside the basement door that fell from the window when it was broken. I wasn't sure what sized pieces of glass you would need to perform your analysis, so I sent both items to provide options of what would work best.

We need the glass fragments collected from the suit and/or shirt compared to the glass from the basement window to see if they originated from the window. Our suspect has had access to the victim's home previous to the incident. Matching the glass in his suit to the broken basement window proves he was there on the night of the crime and was most likely responsible for breaking the window to gain entry into the victim's home.

Let me know if you need anything else. Thanks for your help with this case.

Kristy Jack

Evidence Custodian
Olympia Police Dept
(360)753-8234

From: VanWyk, Daniel (WSP) [<mailto:Daniel.VanWyk@wsp.wa.gov>]
Sent: Friday, September 30, 2016 9:17 AM
To: Kristy Jack
Cc: winderm@co.thurston.wa.us
Subject: Gregory Schirato/Ann Larson case 2014-8123

Hello,

The glass evidence in this case has been transferred to me, as Susan Wilson will not be able to get to it soon. I want to make sure there I understand what is wanted.

The note on the RFLE says to compare glass collected from the suspect's suit with glass from the broken basement window. I have four items:

- Item 34 "men's pink dress shirt"
- Item 35 "men's grey suit"
- Item 37 "(RF38) big pieces of glass from inside"
- Item 38 "glass from door (still in pane)"

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

IN THE COURT OF APPEALS FOR THE STATE OF WASHINGTON
DIVISION TWO

In re the Personal Restraint Petition of,)
) NO.
GREG SCHIRATO,)
) DECLARATION OF
Petitioner.) WAYNE C. FRICKE
_____)

MY LEGAL BACKGROUND

I, Wayne Fricke, state as follows:

1. I am an attorney admitted to the bar in Washington. Since entering practice in 1986, I have focused my practice on the representation of individuals accused of criminal offenses at both the trial and appellate levels. My practice has included representation of criminal defendants charged with a broad spectrum of criminal charges in federal and state courts in all parts of the State of Washington, the State of Alaska, as well as federal district courts in Alaska, California and Montana. I have handled numerous criminal cases through trial, including charges involving sexual assault.

2. I am a member of the Washington State Trial Lawyers Association, American Bar Association, Federal Bar Association, National Association of Criminal Defense Lawyers, Washington Association of Criminal Defense Lawyers, past member of American Inns of Court, past president of the Tacoma Pierce County Bar Association

1 (2008), past president of Tacoma-Pierce County Young Lawyers Division (1995), Board
2 of Directors Pierce County Department of Assigned Counsel (1995 to 2000), Trustee for
3 the Tacoma Pierce County Bar Association (1995). Most recently I served as a lawyer
4 representative for the Western District of Washington from 2014 through 2017. I have
5 also spoken at continuing legal education seminars over the years on a variety of topics.

6 MY REVIEW OF THE DOCUMENTS

7 3. I have been asked by David Allen, the current Attorney for Respondent, to
8 review the case of *State of Washington v. Greg Schirato*, Thurston County Superior Court
9 No. 15-1-00520-4, in which Mr. Schirato was convicted of the crimes of Rape in the
10 Second Degree and First Degree Burglary. In particular, I have been asked to review the
11 performance of Mr. Schirato's trial attorney, Richard Woodrow.

12 4. I have reviewed the charging documents, the affidavit for search warrant
13 (hereafter "affidavit") and the warrant issued in this case, trial transcripts, as well as an
14 article involving the analysis of glass evidence entitled "Glass and Paint Fragments
15 Found in Men's Outer Clothing" that Mr. Schirato states he provided to Mr. Woodrow
16 prior to trial. Additionally, I reviewed the Department of Licensing registration for Mr.
17 Schirato's vehicle, a photo of the vehicle, and the declaration of Clifford Spiegelman.

18 5. Based on this review, it is my firm opinion that the performance of trial
19 counsel fell below an objective standard of reasonableness, and lacked a sound strategic
20 purpose, in several respects. I will not discuss each and every error of trial counsel in this
21 declaration, rather I will focus upon what I see as the two of the most damaging errors
22 and omissions. First, defense counsel provided deficient representation when he failed
23 to file any motion to suppress evidence before trial. Second, defense counsel provided
24
25

1 claimed he described as a “small SUV” at AL’s house shortly before the incident. The
2 detective claimed Mr. Schirato told him he owned a small “Mazda SUV”, which the
3 detective claimed he corroborated through DOL records. That false information was the
4 only information that connected Mr. Schirato’s vehicle and thereby Mr. Schirato to AL’s
5 residence near in time to the incident.

6 9. Perhaps most troubling in the lengthy affidavit is the detective’s
7 conclusion that “*Schirato drives a similar vehicle to the suspicious vehicle seen in AL’s*
8 *driveway two weeks prior to the assault.*” This appears to be false. It is based on the
9 detective’s representation that, “*Kirkpatrick described the vehicle as a silver small SUV*
10 *style. During the interview with Schirato he stated he drove a small silver Mazda SUV. I*
11 *checked Schirato’s name through the Department of Licensing (DOL) and found he was*
12 *the registered owner of a 2008 Mazda M3S bearing Washington license 948-XYR.*”

13 10. First, it is my understanding that Mr. Schirato never told the detective that
14 he drove a silver Mazda “SUV” and that he informed Mr. Woodrow of this fact.
15 Additionally, the DOL registration for Mr. Schirato’s vehicle, a copy of which was
16 provided to me for review, demonstrates that his vehicle was actually a sedan and is
17 identified as such in the registration. This is completely different from what the detective
18 represented in his affidavit. This registration was certainly available to Mr. Woodrow.
19 Also Mr. Schirato told Mr. Woodrow that he did not own an SUV type vehicle, but
20 instead a sedan. Mr. Woodrow never followed through with a meritorious motion to
21 suppress, despite the readily available information showing that the detective included
22 false or misleading statements in the affidavit.
23
24
25

1 16. Moreover, I have read Clifford Spiegelman's declaration, as well as the
2 FBI report, and it appears that a "**Frye Hearing**" was warranted to challenge the
3 proffered testimony. In a trial where the introduction of such evidence was critical to the
4 prosecution of the case and the defense thereto, it was incumbent on the defense attorney
5 to attempt to prevent the introduction of the testimony. There was no strategic reason not
6 to do so.

7 17. Assuming the court allowed the testimony of the State's expert witnesses
8 following a "**Frye Hearing**", it was incumbent on trial counsel to be prepared to
9 effectively cross-examine Mr. Van Wyk, the State's glass expert, and to rebut his
10 testimony with competent evidence if available. It is my understanding that well before
11 trial, Mr. Schirato provided a copy of a survey from the *Journal of Forensic Sciences* to
12 Mr. Woodrow and asked him to use it at trial to challenge the glass evidence. The essence
13 of this survey is that men's clothing that has been dry-cleaned showed a prevalence of
14 glass fragments. This would have been extremely important in a case that was contingent
15 on the State placing Mr. Schirato in the residence through the glass analysis.

16 18. Additionally, it was deficient for Mr. Woodrow to not subpoena the FBI
17 forensic scientist as a witness. The FBI expert would have rebutted Ms. Wilson's
18 testimony that the FBI used different testing procedures from the State in conducting its
19 analysis and would also have established that the glass fragments were too small to test,
20 contrary to Mr. Van Wyk's conclusions. This is especially important because the FBI
21 laboratory is so highly respected and their assistance was first requested by the State, and
22 the FBI scientist included her phone number and invited questions or further discussions.
23
24
25

PROOF OF SERVICE

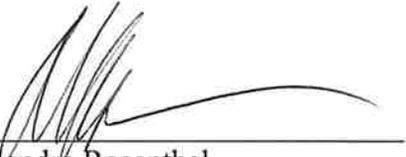
Alexandra Rosenthal swears the following is true under penalty of perjury under the laws of the State of Washington:

On the 11th day of October, 2019, I sent by U.S. Mail, postage prepaid, one true copy of Declaration of Wayne Fricke directed to attorney for Respondent:

Joe Jackson
Deputy Prosecuting Attorney
Thurston County Prosecutor's Office
2000 Lakeridge Dr S.W. Building 2
Olympia, WA 98502

One true copy of Declaration of Wayne Fricke was delivered to Petitioner.

DATED at Seattle, Washington this 11th day of October, 2019.



Alexandra Rosenthal
Legal Assistant

ALLEN, HANSEN, MAYBROWN, OFFENBECHER

October 11, 2019 - 4:16 PM

Filing Personal Restraint Petition

Transmittal Information

Filed with Court: Court of Appeals Division II
Appellate Court Case Number: Case Initiation
Trial Court Case Title: State of Washington Vs Schirato, Gregory Allen
Trial Court Case Number: 15-1-00520-4
Trial Court County: Thurston Superior Court
Signing Judge: James Dixon
Judgment Date: 03/14/2018

The following documents have been uploaded:

- PRP_Affidavit_Declaration_20191011150122D2734251_2836.pdf
This File Contains:
Affidavit/Declaration - Other
The Original File Name was Declarations in Support of Schirato PRP.pdf
- PRP_Other_20191011150122D2734251_3694.pdf
This File Contains:
Other - Opening Brief in Support of PRP
The Original File Name was Opening Brief ISO PRP 10.11.19.pdf
- PRP_Personal_Restraint_Petition_20191011150122D2734251_6933.pdf
This File Contains:
Personal Restraint Petition
The Original File Name was Schirato Personal Restraint Petition 10.11.19.pdf

A copy of the uploaded files will be sent to:

- PAOAppeals@co.thurston.wa.us
- cooper@ahmlawyers.com
- danielle@ahmlawyers.com
- todd@ahmlawyers.com

Comments:

Sender Name: Alexandra Rosenthal - Email: alex@ahmlawyers.com

Filing on Behalf of: David Allen - Email: david@ahmlawyers.com (Alternate Email:)

Address:
600 University Street
Suite 3020
Seattle, WA, 98101
Phone: (206) 447-9681

Note: The Filing Id is 20191011150122D2734251

ALLEN, HANSEN, MAYBROWN, OFFENBECHER

October 11, 2019 - 4:16 PM

Filing Personal Restraint Petition

Transmittal Information

Filed with Court: Court of Appeals Division II
Appellate Court Case Number: Case Initiation
Trial Court Case Title: State of Washington Vs Schirato, Gregory Allen
Trial Court Case Number: 15-1-00520-4
Trial Court County: Thurston Superior Court
Signing Judge: James Dixon
Judgment Date: 03/14/2018

The following documents have been uploaded:

- PRP_Affidavit_Declaration_20191011150122D2734251_2836.pdf
This File Contains:
Affidavit/Declaration - Other
The Original File Name was Declarations in Support of Schirato PRP.pdf
- PRP_Other_20191011150122D2734251_3694.pdf
This File Contains:
Other - Opening Brief in Support of PRP
The Original File Name was Opening Brief ISO PRP 10.11.19.pdf
- PRP_Personal_Restraint_Petition_20191011150122D2734251_6933.pdf
This File Contains:
Personal Restraint Petition
The Original File Name was Schirato Personal Restraint Petition 10.11.19.pdf

A copy of the uploaded files will be sent to:

- PAOAppeals@co.thurston.wa.us
- cooper@ahmlawyers.com
- danielle@ahmlawyers.com
- todd@ahmlawyers.com

Comments:

Sender Name: Alexandra Rosenthal - Email: alex@ahmlawyers.com

Filing on Behalf of: David Allen - Email: david@ahmlawyers.com (Alternate Email:)

Address:
600 University Street
Suite 3020
Seattle, WA, 98101
Phone: (206) 447-9681

Note: The Filing Id is 20191011150122D2734251