

COMMONWEALTH OF KENTUCKY

VS

DONNIE FAGAN.©

Rape in the First Degree

Complicity to Commit Rape in the First Degree

INVESTIGATION OF DETECTIVE SERGEANT DEBORAH HARI

KENTUCKY STATE POLICE

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INVESTIGATIVE SUMMARY

OFFENSE: RAPE IN THE FIRST DEGREE DATE OF OFFENSE: March 4, 2007

VICTIM: CHANDRA ESPOSITO TIME OF OFFENSE: 12:00-3:00 a.m.

SUSPECTS: DONNIE FAGAN
 667 Happy Circle
 Knotty Pine, Kentucky 42655

 MONTROSE "MILKY" SHATNER
 R.R. 2, Box 750
 Knotty Pine, Kentucky 42655

 COLIN _____ (LNU)
 Address Unknown at this time

DATE: MARCH 5, 2007

COURSE OF INVESTIGATION:

At approximately 2:00 p.m. I received a call from Assistant Commonwealth's Attorney Syd Barrett to come to the Offices of the Commonwealth's Attorney for the 58th Circuit. Mr. Barrett reported that a young woman had come to their offices complaining of being raped. According to Mr. Barrett, the young woman came into the office quite unexpectedly and started telling her story to Commonwealth's Detective David Gilmore. Mr. Barrett and I agreed to meet formally with other members of the Interdisciplinary Sex Offense Team at 15:00 p.m.

I arrived at the Offices of the Commonwealth's Attorney at approximately 14:49 p.m. Upon my arrival I was escorted directly to the main conference room. Present when I arrived was Mr. Barrett, Commonwealth's Detective David Gilmore and a young woman who I was introduced to as Ms. Chandra Esposito. At approximately 15:00, Ms. Nickie Hopkins, the Victim's Advocate came in. With the team assembled, we began to conduct an interview of Ms. Esposito. The interview was recorded and will not be reproduced verbatim here.

During the interview, we learned that Ms. Esposito, 19, went on a date with her boyfriend, DONNIE FAGAN, 22, on Saturday, March 3, 2007. They went to the Ascot in Tennessee, just over the state line from Knotty Pine. Ms. Esposito and Mr. Fagan have a child in common—Imus, 2—who is in the custody of Mr. Fagan. Mr. Fagan picked Ms. Esposito up in his car, a late model, blue, four-door, Le Baron.

Unbeknownst to Ms. Esposito, Mr. Fagan had two associates in the car when he arrived to pick Ms. Esposito up. One was identified by Ms. Esposito as "Milky" Shatner. This is

MONTROSE "MILKY" SHATNER, a know child molester who is on parole from a 10-year sentence for molesting a three-year old in Fayette County. The other person in the car could only be identified by Ms. Esposito as "COLIN."

Ms. Esposito said that they were all drinking while at the Ascot. She was drinking Long Island Iced Teas. She said she had two of them. Mr. Fagan and Mr. Shatner were drinking shots of Jack Daniels. Mr. Colin _____ was drinking some sort of alcohol-based fruit drink. There was no hint of any sort of problem while they were in the Ascot.

After the four left the Ascot, Mr. Fagan suddenly pulled off to the side of the road and indicated that he expected Ms. Esposito to have sexual relations with him. She indicated that she was not going to do that, especially in front of the two other men in the car. However, she was grabbed from behind and held while Mr. Fagan was able to pull his pants down and held further while Mr. Fagan began to pull her clothes off. All the while, Ms. Esposito was clearly indicating her unwillingness to engage in intercourse.

Mr. Shatner, at some point, got out of the car and opened Ms. Esposito's door and punched her at least two times in the face. Ms. Esposito lost consciousness and later awoke to find Mr. Fagan on top of her having intercourse with her. She lost consciousness again and awoke later to find Mr. Colin _____ on top of her having intercourse with her. Ms. Esposito was very clear that both of these men had inserted their penis into her and were raping her. She was less clear about whether Mr. Shatner had intercourse with her, but indicated that to the best of her knowledge he did.

She awoke later at her home. She was on the porch. She went inside her home and took off her clothes. At this time, she noticed that one or all of the men had ejaculated on her. She cleaned off the semen with her clothing and then took a shower. She indicated that the clothing is still at her home.

During our meeting, Mr. Gilmore, the Commonwealth's Detective, called Mr. Shatner's parole officer and learned that he has not heard from Mr. Shatner for more than a month and that he missed a scheduled meeting at the PO's office this morning. Mr. Barrett asked that Mr. Gilmore contact the PO again and tell him to arrest Mr. Shatner and pick him up because of the violations.

At the end of the interview, Ms. Esposito, who seemed very truthful and did not indicate any motive to fabricate this attack, was accompanied by the Victim's Advocate, Ms. Hopkins, in order to go for a medical examination scheduled with Dr. Connie Fermmet, at the Advocacy Center.

The investigation is continuing.

March 5, 2007
17:25 p.m.

DET. SGT. DEBORAH HARI
Kentucky State Police

Chandra Esposito, a 19-year old Wal-Mart cashier, from Knotty Pine, Kentucky appeared in the office of the Commonwealth's Attorney for the 58th Judicial Circuit on Monday, March 5, 2007 and gave the following transcribed statement, under oath, to Assistant Commonwealth's Attorney Sydney Barrett (SB), Commonwealth's Detective David Gilmore (DG), Victim's Advocate Nickie Hopkins (NH) and Kentucky State Police Detective Sergeant Deborah Hari (DH):

DH: Miss. Would you please raise your right hand and be sworn by the Court Reporter.

CT. RPTR: Do you swear or affirm that the statement you are about to give is the truth, the whole truth and nothing but the truth, so help you God?

CE: I do, yes.

DH: Okay. Today's date is March 5, 2007. We are present in the offices of the Commonwealth's Attorney for the 58th Judicial Circuit. Ah, specifically, we are in the conference room of those offices. The time is 15:07 p.m. Present is myself, Detective Sgt. Deborah Hari of the Kentucky State Police, Sydney Barrett, Assistant Commonwealth's Attorney, Commonwealth's Detective, David ... David what is your last name? ...

DG: Gilmore.

DH: ...Gilmore, David Gilmore, and Nickie Hopkins who is the Advocate, the Victim's Advocate for the Commonwealth's Attorney's office. Also present is Vicki Vail, the court reporter. We are all talking to a young woman who has, ... I guess you just came to the Commonwealth's Attorney's office today. Is that right?

CE: Yes. I got here about 1 o'clock this afternoon.

DH: But, you were not expected here, right?

CE: Huh?

DG: You didn't have an appointment? You just came to the office hoping to speak to someone?

CE: I spoke to you (indicating Mr. Gilmore).

DG: Yeah, you did, when you got here. But, before that, you had not talked to anyone about what you told me. Right?

CE: I told my mother.

DG: But, you didn't tell anyone in this room before you got here today, right?

CE: I didn't even know any of you before today.

DG: Oh, my.....

DH: Let me see if I can help. Let's start this conversation with your name. What is your name?

CE: Chandra Esposito.

DH: Where do you live?

CE: 2415 Settlement Avenue, Knotty Pine, Kentucky.

DH: How old are you?

CE: 19.

DH: What is your birthday?

CE: October 23, 1987.

DH: How long have you lived at the Settlement Avenue address?

CE: My whole life.

DH: Who lives there with you?

CE: My mother, Abby, and my father, Bobby, and my younger sister, Danita. Danita is 16.

DH: Now, Chandra, you got to this office about 1 o'clock this afternoon, right?

CE: Yeah, about then.

DH: And, when you got here, you met Mr. Gilmore. This man right here?

CE: Right. He asked me if there was some way he could help me. And, I said, "I hope so, I have just been raped."

DH: Okay, I will get to that in just a minute. But, for right now, just try to listen to my questions and answer my questions as best you can. Okay?

CE: Uh-huh (affirmative).

DH: That is a "yes?"

CE: Huh?

DH: When you said, "Uh-huh," you meant to indicate "yes?" See, it would be easier for us if you were to say either "yes" or "no" to my questions. That way, the court reporter over there (indicating) will know what you mean and so will we. Do you understand?

CE: Uh-huh.

DH: Does, ...

CE: Yes, okay? Yes. It means "yes."

DH: Alright.

[Whereupon a recess was taken. During the recess only Ms. Esposito and the court reporter remained in the room. The recess lasted 22 minutes.]

DH: Chandra, can I call you Chandra?

CE: Sure. That means "yes."

DH: How far did you go in school?

CE: I got my GED.

DH: But, how far ...

CE: I quit in the 10th grade, okay? I quit because I was pregnant and had to quit to have the baby. I got my GED last year just before my last birthday.

DH: But, ... Let me try this. When I asked who lived with you, you did not mention that you had a child.

CE: Why would I? The child does not live with me. It lives with its father.

DH: Who is that?

CE: Who?

DH: Who is the baby's father?

CE: Donnie Fagan.

DH: Where does he live now?

CE: He lives in Knotty Pine. On Happy Circle. 667 Happy Circle. He lives by himself ... and our child lives there too.

DH: How old is your child?

CE: Almost 2 years old.

DH: Is your child a boy or a girl?

CE: Boy.

DH: What is his name?

CE: Imus.

DH: Imus?

CE: Uh-huh. Yes.

DH: Like the guy that got kicked off TV and radio for making comments about the Rutgers Basketball team?

CE: No. After, you know, the Imus in the Morning guy.

DH: Yeah, that is what ... OK. So, you named your son after Don Imus, the Imus in the Morning guy?

CE: Yeah.

DH: Why?

CE: 'Cause when I was in the hospital I would watch Imus in the Morning on cable.

DH: Alright ...

CE: What's the matter? You don't like the name? You think it's stupid? You think I'm stupid? Well, just 'cause I'm not smart like all of you doesn't mean that I should have been raped. Just, ... Just, ... [Ms. Esposito is crying now] Fuck you. I knew this was a bad idea.

NH: No. No. No. No. Please sit down, Ms. Esposito. We don't think that at all. We are just trying to understand as best we can, you know. We all believe you when you say you were raped, but we are trying to understand your story. We're trying to get to know you.

DH: Right. There is no need to get upset. I like Imus. That is a really different name.

DG: Unique.

DH: Yeah, unique name. A unique name. No one was saying the name is stupid or that you're stupid or anything like that. We are just trying to figure out what is going on so that we can help you.

CE: I don't have my boy because that judge said I am unfit mother.

DH: What judge said that?

CE: Well, Donnie ...

DH: Donnie Fagan, the boy's father?

CE: Yeah. Anyway, he went to court to take my child and the judge said that I was unfit and Donnie should have the child.

DH: Did you have a trial when you went to court? Did you bring witnesses and Donnie bring witnesses?

CE: Yeah. But, I didn't have any witnesses. Donnie had lots of people there.

DH: What judge made the decision to give Imus to his father?

CE: That Woodley guy. Greg Woodley or Gary Woodley or whatever.

SB: Gregory Woodley, Circuit Court judge here in Knotty Pine?

CE: I guess so, yeah.

DH: When was that?

CE: In May.

DH: Of last year? About a year ago?

CE: Yeah! God, why do you keep talking about that? I was raped two days ago and you don't even want to hear about that!

SB: Look, I think it would be better to get to the facts of the rape and see what Ms. Esposito, you know, has to say about that.

DH: Fine. Ms. Esposito, you told Mr. Gilmore ... When you first got to the office, you told Mr. Gilmore that you had been raped.

CE: I was. [Ms. Esposito is crying again]

DH: And you have told us while we've been sitting here for ...how long have we been here?

SB: It doesn't matter.

DH: Well, you've told us a couple times since we've been here that you were raped.

CE: I was. Three guys all raped me.

DH: Well, would you just tell ... in your own words, tell us what happened.

CE: I got a call from Donnie ...

DH: The father of your child?

CE: Yeah. Yes. He called me around 9:00 in the evening on Saturday night.

DH: What did he want?

CE: He said that he wanted to know if I wanted to go to the Ascot.

SB: What is the Ascot?

CE: It's a bar across the line, the Tennessee line, that a lot of people my age go to 'cause we can drink there and the cops don't bother us.

DH: So, what did you tell Donnie?

CE: I told him I would go. I asked him what he was gonna do with Imus and he just said that he, you know, was gonna have his mom babysit. Besides, he said we'd only be gone for maybe an hour or two.

DH: Did you go?

CE: Yeah, of course I went. That's why I got raped. Not "why" I got raped. "When" I got raped.

[Words in quotations were emphasized by Ms. Esposito.]

DH: Well, just keep telling us what happened.

CE: I got ready and waited for Donnie to pick me up. He showed up in his, what does ... drive ... drives now? ... I am trying to think what he drives. A ... I think it is an old LeBaron. It's a Dodge or something. It's blue with a tan top. Leather top. It has blue seats and ... the inside is blue, too. Four-door.

DH: When did he pick you up?

CE: About 15 minutes after he called. Maybe about 9:15 or 9:30.

DH: Do you still see Donnie?

CE: Not after what he did.

DH: No. I mean, were you and Donnie seeing each other pretty regular? Is that why he called you up? Or, did his call surprise you?

CE: It didn't surprise me. Since the baby was born, I've been seeing Donnie. Well, before the baby was born too. [Laughing] That's how I got pregnant, you know. But, after the baby was born, we would go out maybe once or twice a week. Whenever, you know. He would call and I would go.

DH: Go ahead, then.

CE: Well, he picked me up and I asked him, ... Before I got in the car, I asked him who the two guys in the back were.

DH: There were two guys in the back?

CE: Yeah. Uh-huh.

DH: Did you know them? Had you ever seen them before?

CE: No. Never. Never met 'em. Never saw 'em. That's why I asked who they were.

DH: Did Donnie tell you who they were?

CE: Yeah.

DH: Do you remember their names?

CE: One was a Colin, ... Colin something. And the other was, ... wait a second ...

SB: Take your time. This is important.

CE: They just kept calling him, "Milky." I wish, ...

DH: That's alr ...

CE: Milky Shatner.

DH: Shatner?

CE: Yeah, you know. Like Captain Kirk. Shatner.

DH: OK.

DG: I know Shatner. He has a history of sexual assault. Usually, he, ... Well, he has to register.

CE: I don't know.

DG: No, don't worry about it. Shatner is pond scum. I think he is on parole. I'll check.

SB: Yeah. Do that right now. Call his PO and find out what his story is. Do that right now.

DG: OK.

[Mr. Gilmore leaves the room]

DH: Go ahead Ms. Esposito.

CE: Well, where was I?

DH: You were getting in ...

CE: I know.

DH: ... the car.

CE: Donnie told me who the guys were and I said "hi," you know, and they said, "hi." So, they seemed friendly enough. I got in the car and we took off for the Ascot. We drove to the Ascot and everyone got out and went in the bar.

DH: Okay. Do you know how old Milky and Colin are?

CE: No. They seemed about my age and Donnie's age.

DH: How old is Donnie?

CE: 22.

DH: Did you drink at the Ascot?

CE: Yeah.

DH: Did anyone else?

CE: Yeah, everybody did.

DH: What were you drinking? Tell me what everybody was drinking.

CE: I had a LIT. Donnie and Milky were drinking Black Jack. And, Colin was drinking some sort of gay shit. Excuse my french.

DH: Gay shit?

CE: You know. His drink had some sort of fruit in it and a lemon or orange on the glass. It wasn't like a guy's ... Like a drink a guy would drink. Unless, you know, he was gay.

DH: Is Colin gay, as far as you know?

CE: He was one of the ones that raped me. I guess that means he ain't gay, right?

DH: Well, ...

SB: That's a pretty good indication, I suppose.

DH: Syd!

SB: Sorry. No offense meant, Ms. Esposito.

CE: It's okay. Do you want to hear what happened next?

DH: Yes, absolutely we do. Please, ... How many drinks did everybody have, and who paid for them?

CE: Well, I had two LITs. Donnie had, ... I think he had five or six shots of Jack. Milky had at least that many shots, too. I am not sure though about Milky. Colin had three drinks with the umbrella. I don't know who paid, but I didn't pay for anything.

DH: And when the drinking was done?

CE: Donnie said they would take me home. But, we never got home. Well, we never got straight home.

DH: Why not?

CE: Cause they stopped the car off the road in the trees and I said, “What the hell are you doing, Donnie?” And he said, “You know how we end our dates?” And I told him, “Fuck no,” I’m sorry about cussing’ like I am.

DH: That’s okay. Keep going. Tell us what happened.

CE: I said, “Fuck no, Donnie.” I was not gonna have sex with him with those other guys in the car. I ain’t never done that before. I didn’t even know them guys.

DH: But?

CE: But? But Donnie wasn’t listening to me. He was unzipping his pants. I tried to get out of the car, but one of the guys in the back grabbed me over the seat and held me so I couldn’t get away. He was holding me by the shoulder [indicating the right shoulder].

DH: And what happened next?

CE: Donnie got his pants off. Well, not off, but down.

DH: Around his ankles?

CE: Yeah.

DH: And then what?

CE: He grabbed me by the belt on my jeans and pulled me toward him. I fought with him but my arms got grabbed by the guys in the back seat. Or, at least one of them.

DH: Could you kick Donnie?

CE: Yeah and I did. But, at some point, I heard the back door behind me open. Then my door opened. When I looked up, I saw Milky standing over me.

DH: What did Milky do?

CE: He grabbed me and held me. But I kept fighting. At some point, he hit me.

DH: Who? Who hit you?

CE: Milky. He hit me in the face and that’s how I got the bruise here [indicating her left cheek].

SB: Jesus! How many times did he hit you?

CE: After two times, I do not remember anything else. I think I got knocked out.

DH: When do, ... What do you remember next?

CE: I sort of woke up and Donnie was on top of me.

DH: Were you still dressed?

CE: No. My pants were off. My panties were off and my shirt and bra were pulled up. Someone behind me had hold of my shirt and bra, but I couldn't see him because Donnie was on top of me. I think I sort of passed out again because, when I woke up again, Colin was on top of me.

SB: What were Donnie and Colin doing? Were they, ...

CE: What were they doing? They were fucking me! They were raping me! Are you not paying attention? [Ms. Esposito stands up and is pointing at Mr. Barrett.]

SB: Look, Ms. Esposito, ...

DH: Syd! Wait a minute. Ms. Esposito, we need for you to tell us exactly what was happening so we can understand. We cannot assume anything and we cannot put words in your mouth. You have to tell us.

CE: Okay. I'm sorry. I just don't understand why this happened. They were both inside of me. Their, ... Oh, Christ! Look, ... Okay. You know. They each had their dick inside of me and they were raping me. Okay? Does that tell you enough?

SB: Yes.

DH: Yes it does.

CE: I'm sorry ...

DH: No need to apologize. From the way you described it, you did not want to have sex with anyone that night, right?

CE: No.

DH: You did not consent, ... You did not agree for either of those guys to have intercourse with you. Is that right?

CE: Yes.

DH: You told Donnie "no." Is that right?

CE: Yes.

DH: But you did not tell Colin ...

CE: I was unconscious.

DH: ... because you had been assaulted and you were knocked out. Is that right?

CE: Right.

DH: If you had not been knocked out, you would have told Colin “no” as well. Right?

CE: That’s right. I didn’t even know him. Why would I fuck him? And I damn sure was not going to fuck Donnie with those guys there.

DH: Do you know if Milky raped you?

CE: I’d say he did. But, I don’t know for sure. I think he did.

DH: Why do you think he did?

CE: Because, I mean, there I am, unconscious. Donnie has raped me. Colin raped me. Why wouldn’t Milky rape me too? He was holding me down and he got out of the car to hold me. He was the one who hit me.

DH: Do you know if anyone ejaculated?

CE: You mean, did they come?

DH: Yes.

CE: I don’t know who did. But I know at least one of them did because when I woke up, I could tell. I had stuff on my stomach and on my legs.

DH: Where did you wake up?

CE: My house. On the porch.

DH: On the porch? They took you home?

CE: Well, I guess. I didn’t walk.

DH: Okay ...

CE: Look, when I woke up, I went into the house and wiped myself off. I wiped my legs off with my underwear and my stomach with a towel.

DH: Did you shower?

CE: Hell yes!

DH: What did you do with the towel and your underwear?

CE: They are at my house. In my room.

DH: Do you mind if we come over to pick those things up? We want to test them.

CE: No. Whatever will help to get them.

DH: Well, those items will help a great deal.

CE: No problem.

DH: Ms. Esposito. You said that before Donnie began to attack you, he said something about,... Let me just ask it this way, When you and Donnie would go out, prior to the night you were raped, did you and he ever have sex at the end of the date?

CE: Yes. Almost always.

DH: And that was always with your consent, or permission?

CE: Yes, until this last time. Then he raped me and I didn't give him permission.

DH: What time did you leave the Ascot?

CE: Maybe 11:00.

DH: So, it takes what, maybe 25 minutes to get from your place to the Ascot?

CE: About that.

DH: So, you got to the Ascot around 10:00?

CE: I guess. Maybe a little before.

DH: And left around 12:00, midnight?

CE: Yeah.

DH: Where were you all sitting?

CE: At a table just to the right of the jukebox. Across from the hallway to the bathrooms.

DH: The restrooms?

CE: Yeah.

DH: Did you talk to anyone except Donnie, Milky and Colin while you were at the Ascot?

CE: The waitress.

DH: What is her name?

CE: Sandy. Or, maybe Cindy. Tall girl with streaked hair. Blonde streaks.

[Mr. Gilmore returns.]

DG: I got hold of Shatner's PO. Shatner has not reported this month. And, get this, he was supposed to be at his PO's office this morning and was a no show.

SB: Call the PO back. Tell him I want Shatner picked up right now on a parole violation. Have him take Shatner to the jail. We'll join him there shortly.

DG: Alright.

[Mr. Gilmore leaves again.]

SB: Does anyone have any other questions? I think we have enough to get this investigation started. Debbie, you head up the team on this one. Okay, hang on.

SB: Ms. Esposito, I am going to get these guys for you. I will make sure that they go to prison for what they did. Right now, we have a lot of work to do to get our investigation started and we need for you to meet with Ms. Hopkins. She works with people who have been victimized, people like you who have been raped and otherwise victimized. She will have some things for you to do and some places to go. She will be with you every step of the way. Okay? Do you have any questions?

CE: Do you think this will help me get my child? I mean, if Donnie is in jail, what will happen to my child?

SB: I do not know. But, Ms. Hopkins will talk with you about that. Also, she is going to want to take you to the doctor and don't worry, the state will pay for that exam.

CE: So, I have to go for an exam?

NH: Yes. But the exam is done by a person trained to examine rape victims. Everything will be fine.

CE: Okay. Well, thank-you. Will I hear from you again?

SB: Of course. But, remember that you can always contact Ms. Hopkins and she will tell you how to do that?

CE: Okay. Thanks again. Bye.

SB: Bye.

DH: Bye-bye. Take care.

[Ms. Hopkins and Ms. Esposito leave.]

DH: That will end this statement. It is 16:14 p.m on March 7, 2007.

[Statement ends.]

Mr. Shatner's body was on the floor of his bedroom, face down, in a pool of blood. It was apparent that a single bullet hole had entered his right temple area. I did not see an exit wound. No other marks or injuries were observed by me. On the right side of the body, on the floor, was a .38 caliber handgun. On the bedside table was an open bottle of J&B Scotch.

The forensics team took pictures and took possession of the gun. It was fully loaded with five live rounds and one empty shell casing. From the position of the shell casing within the cylinder, it appeared that the gun was the weapon which caused the death of Mr. Shatner. Following the Coroner's declaration of death, the body was moved by EMS personnel to an ambulance for transport to the hospital.

Nothing of note was found in the search of Mr. Shatner's residence except for what was found in his bedroom. In his room, however, forensics team members found three videotapes of what appeared to be child pornography, a bag of suspected marijuana, and a handwritten note. A copy of the note is attached to this report. It appears from the note, that Mr. Shatner committed suicide because he felt guilty about taking part in the rape of Ms. Esposito.

The suspected marijuana will be sent to the crime lab for analysis. The gun will also be sent for ballistics and fingerprints. The note will be kept until such time as I can obtain other writing samples to submit for handwriting analysis.

The investigation continues.

March 6, 2007
1:25 a.m.

DET. SGT. DEBORAH HARI
Kentucky State Police

THE LETTER FOUND AT MR. SHATNER'S RESIDENCE:

*I cant stand to think abot what I have done any more I don't know why I
done it but I keep thinking that it was cus I was drinking and just dint know what
I was doing. I cant get her face out of my head and I hate myself for what I
done. I cant stop and I don't know who to call for help. I am going back to
prison and I cant go back to that again. They almost killed me the first time for
what I done to her there gonna kill me for sure this time. Please foregive me.*

Montrose Shatner

All the items of clothing, according to Mr. Gilmore, were in a pile at the foot of Ms. Esposito's bed in her bedroom. I will package all of these items and send them to the Kentucky State Police Lab for serology and DNA analysis. I will send DNA samples (card and swabs) as I receive them from the victim and the various suspects.

Following my departure from the Commonwealth's Attorney's office, I placed a call to the Ascot. I spoke to the manager, Zeke Sirvamal. I explained that I was investigating the whereabouts of a number of individuals from the previous Saturday night. I also explained that I probably would need to come down to talk to a waitress named Cindy or Sandy, and I gave him the description that Ms. Esposito gave to us yesterday. He said that the only waitress that meets the description I gave was a girl named Cheryl. However, Cheryl did work last Saturday and may know something. He said that Cheryl would be in at 17:00 p.m. tonight.

I also asked Mr. Sirvamal whether he knew of anyone named Colin, who might be a regular or who might have been in on Saturday. He said that the only Colin he knew was an Scottish guy named Colin MacCleod who was something of a regular. Mr. Sirvamal did not remember Mr. MacLeod being in the bar on Saturday but, he said that Cheryl might.

I ended the conversation by letting Mr. Sirvamal know that I would be by later.

I finished packaging Ms. Esposito's clothing and preparing the lab analysis requests and sent those items to the State Police Lab for analysis. Specifically, I asked for all the clothing to be analyzed for the presence of blood, semen or other fluids. Further, if any blood, semen or other fluids were found, I asked for a DNA analysis. In order for that to be done, I will need samples from Mr. Shatner and Ms. Esposito. Additionally, I will need a sample from Mr. Fagan and, if I can find Colin, from him.

At approximately 15:00 p.m., I contacted the Coroner's office. An autopsy was performed on Mr. Shatner this morning and I wanted to learn what the preliminary findings were. I also needed to obtain any bullet fragments and the DNA card. The Coroner informed me that it appeared Mr. Shatner committed suicide. The tearing, the powder burns and stippling around the wound indicated a contact wound, and Mr. Shatner had significant amounts of antimony, barium and lead on his right hand, indicating he had recently fired a gun. The bullet itself was recovered nearly intact in Mr. Shatner's brain and only a small sliver of the bullet was sheared off upon contact with the skull. The Coroner advised that I could come to his office and take possession of these items at any time.

Also, preliminary indications are that Mr. Shatner's BAC was .246. He also had traces of marijuana in his system.

I proceeded to the Coroner's office and picked up the bullet and fragment as well as the DNA card which were packaged by the Medical Examiner at the autopsy. I returned to the office and packaged these items for transmission to the State Police Lab for analysis.

At 17:45 p.m., I proceeded to the Ascot to meet with Mr. Sirvamal and to speak to Cheryl. I arrived at approximately 18:20 p.m. and introduced myself to Mr. Sirvamal. Indicated that I knew on Saturday he served at least one person who was underage but that I did not care about that. I indicated that what I cared about was the four people—three guys and one girl—who were in from about 20:00 p.m. until midnight. They sat at the table near the jukebox, across from the hallway to the bathrooms. He said that he did not remember them but that was not unusual because Saturdays are busy and he stays behind the bar unless there is a fight or some other reason to come out from behind there. However, he did say that there was one woman who was hanging onto the jukebox and he told Cheryl to find out who it was and to tell her that she was messing up the CDs by banging the machine around. He did not know who the woman was, however. He said that Cheryl seemed to be able to take care of the problem.

After talking to Mr. Sirvamal, I met Cheryl and spoke to her at length. The substance of her interview, which was not taped, is as follows:

Cheryl's last name is Stevens. She is 26 and has worked at the Ascot for about three years as a waitress and part-time bartender. She is married and has one child. Cheryl seemed to be pretty much on the ball about things and had no trouble remembering Saturday night and the people in question.

Cheryl said that three of the four people I was interested in came into the bar around 10:00 p.m. and sat at the table by the jukebox. She remembered Donnie Fagan and Ms. Esposito as they have been in the bar before. However, she had never seen the third person before. I showed her a picture of Montrose Shatner and asked if that was the person she saw. She indicated it was.

I asked if she saw a fourth person with the other three. She said that a fourth person, a guy named Colin MacLeod sat down at the table a little after the three arrived. MacLeod is a regular at the bar and a friend of Mr. Sirvamal. He also knows Donnie Fagan and both of them had been in before. She thought Fagan and MacLeod were also friends. However, she said that Mr. MacLeod left about half past midnight with a girl named Debbie King. Ms. Stevens was certain that Mr. MacLeod left the bar after the other three and that he left with Ms. King.

I asked if there was a problem with some woman who kept messing with the juke box. Ms. Stevens acknowledged that there was. In fact, she said, Ms. Esposito kept bumping into the machine every time she got up out of her chair and people were complaining. Ms. Stevens was told by Mr. Sirvamal to deal with the problem. Ms. Stevens said that she went over and spoke to Ms. Esposito and had the people change seats so Ms. Esposito would quit bumping into the machine. There was no problem with the people changing seats.

I asked if she could remember what people were drinking on Saturday. She said that Ms. Esposito was drinking LITs, Mr. Fagan was drinking shots of Jack Daniels and the third guy was drinking scotch on the rocks. I asked what Mr. MacLeod was drinking and she said that he has been on the wagon for some time now because of being in an accident and hurting someone some years ago. Mr. MacLeod was drinking soda water with lime. Stevens did add that Ms. Esposito was

clearly drunk. In fact, Ms. Stevens had already made a decision not to serve her anymore LITs. Ms. Stevens remembers Ms. Esposito having at least four LITs. She also said that Mr. Fagan was probably “feeling it” but that the third guy was not that bad off. He only had “maybe three” Scotch on the rocks.

I spoke again with Mr. Sirvamal and advised him the Ms. Stevens had confirmed that Mr. MacLeod was in the bar on Saturday. Mr. Sirvamal agreed that Mr. MacLeod is “on the wagon” because of an automobile accident back in 2003 where his brother was riding as a passenger as was hurt pretty bad when MacLeod ran a red light and hit a coal truck on Route 92. Since then, Mr. Sirvamal said, Mr. MacLeod does not drink. I obtained an address for Mr. MacLeod as 1000 Highland Avenue, Knotty Pine, Kentucky 42655 and thanked Mr. Sirvamal for his assistance and left.

On the way back to Post, I stopped by Colin MacLeod’s address in Knotty Pine. I arrived at approximately 21:00 p.m. He was home and Ms. Debbie King was with him. I apologized for stopping by unannounced so late. He invited me into his residence and we spoke for a few moments. The conversation was not recorded. I explained that there had been some trouble last Saturday night/Sunday morning and I would like an opportunity to talk with him about what happened. He said that he would speak with me. Because of the lateness of the hour, he asked if he could come by the Post tomorrow morning around 09:00 a.m. I suggested that he come by at that time. Ms. King said that she was with Mr. MacLeod on Saturday and wondered if it would be helpful if she came by as well. I said that if she did not mind giving me a statement, I would be grateful if she could stop by as well. She said she would be there. With that, I left a card with them and asked that they call if there was a problem.

On the way out the door, Mr. MacLeod asked if this had anything to do with the death of Montrose “Milky” Shatner. I said that one thing I was trying to decide was whether the death of Mr. Shatner had anything to do with the trouble on Saturday night/Sunday morning. He said that he would see me in the morning.

March 7, 2007
22:30 p.m.

DET. SGT. DEBORAH HARI
Kentucky State Police

Mr. Fagan and Mr. MacLeod are friends from back in high school and Mr. Fagan was very supportive when Mr. MacLeod had his car accident back in 2003.

Mr. Fagan, Ms. Esposito, and the third person (Mr. Shatner) left the Ascot, according to MacLeod, around midnight. Mr. MacLeod and Ms. King stayed for a short time afterward. At around 12:30 a.m., just after Ms. King finished her second glass of wine, Mr. MacLeod and Ms. King left the bar. He drove and she left her car in the parking lot. They went to Mr. MacLeod's residence where Ms. King spent the night. In the morning, they drove back to the Ascot and she picked up her car.

After Mr. Fagan, Ms. Esposito and Mr. Shatner left the Ascot, Mr. MacLeod did not see them again that night or up until the present time.

Mr. MacLeod firmly denied being in Mr. Fagan's car or taking part in any rape of Ms. Esposito, or in having intercourse or any other form of sex with Ms. Esposito on the night of March 3-4, 2007. He agreed to submit a DNA sample for purposes of testing his DNA against the evidence expected to be found on Ms. Esposito's clothing.

After Mr. MacLeod submitted the sample (cheek swab) the interview ended and Mr. MacLeod left my office to sit in the waiting room while Ms. King spoke to me.

Following my interview with Mr. MacLeod, I asked Ms. King to step into my office and I interviewed her. Her interview was also recorded and a transcript prepared and made a part of this Report. Ms. King was advised that she was not under arrest and would not be arrested under any circumstances, regardless of what she told me and that she was free to leave or stop the questioning at any time. I also told her that given the nature of what the problem was which I was looking into, I felt that she should be advised of her rights. She said she understood her rights and agreed to sign, and did sign a rights waiver. A copy is attached as part of this Report.

In essence, Ms. King confirmed, in almost exact detail, the story told by Mr. MacLeod. When the interview ended, Ms. King and Mr. MacLeod left the Post. I said that I would be back in touch with them. They agreed to cooperate in any way they could.

Following the departure of Mr. MacLeod and Ms. King, I packaged the DNA swabs submitted by Mr. MacLeod and sent them to the Kentucky State Police Crime Lab for analysis.

At approximately 14:45 p.m., I drove to Ms. Esposito's residence to speak with her about the latest developments in the case. When I arrived, she invited me into her home. She said that she did not want me to tape record the interview. I asked why and she just said, "It makes me think like you don't believe me." I explained about what I had learned about Mr. MacLeod and Ms. King and told Ms. Esposito that if their stories were true, Ms. Esposito's story had some serious problems. She asked, "what kind of bullshit is that?" I told her that it wasn't bullshit, but that Mr. MacLeod could not have been in the car with her and Mr. Fagan and Mr. Shatner after they left the Ascot.

I asked Ms. Esposito if she might have made a mistake about Mr. MacLeod being in the car due to the amount of alcohol she consumed. She replied, "I didn't have that much to drink and I wasn't drunk. I got raped and no one wants to believe me." I replied that I did believe that she was raped but I was pretty certain that Mr. MacLeod had nothing to do with it. I told her I would know more once the DNA tests were run. She said that DNA tests were "bullshit."

I asked her why she kept bumping into the jukebox. She replied, "Because the damn thing was right next to my chair. I wanted to get up to dance and my chair was too close to the machine and I bumped into it a couple of times." I asked how that stopped. She replied, "When that bitch came over and told me that I was going to get thrown out of the bar if I ran into the juke box one more time." I asked, "what bitch?" She replied, "The waitress. The one who came over and told me to move my seat."

Because she was getting very agitated, I asked Ms. Esposito if what she had told me on Monday was the truth. She said that it was. "I may have been wrong about the Colin guy, but I was definitely raped by Donnie and the Milky guy." I said that this was the first time she had said that she was raped by Milky Shatner. Ms. Esposito replied, "No it isn't. I told you that I was raped by two guys and Milky 'probably' raped me too. He must have been the second one that I saw when I was in and out of it. You know, waking up and passing out."

Ms. Esposito would not change her original story about being raped by Donnie Fagan and Montrose "Milky" Shatner and I terminated this interview.

I asked Ms. Esposito to submit to a swab of her cheek for the purposes of being able to analyze her DNA. After initially refusing, she agreed after I told her that we could not proceed on the case without such a sample. She said, "If this will help me get Imus back, I guess it is worth it." Thereafter, I got a kit out of my car and obtained the sample.

With that, I said I would continue to stay in touch and I left the residence and proceeded back to the Post. I packaged the sample and sent it to the Kentucky State Police Lab for analysis.

I received a call from Mr. Gilmore at approximately 16:50 p.m. He advised that Mr. Barrett would like to see me at his office. I proceeded to the office of the Commonwealth's Attorney and met with Mr. Barrett and Mr. Gilmore.

Mr. Barrett asked me to fill him in on the course of my investigation and I told him all that I had done up to that point. He asked if I had been advised of the results of any testing yet. I said I had not. He suggested that, to him, it was pretty clear that something had happened. There was no reason for Mr. Shatner to commit suicide if he was not feeling guilty about taking part in Ms. Esposito's rape. He suggested that I go ahead and try to speak to Mr. Fagan and see if he would give a statement. I said that I would do that tomorrow. The investigation is continuing

March 8, 2007
20:45 p.m.

DET. SGT. DEBORAH HARI
Kentucky State Police

INTERVIEW OF COLIN MACLEOD

Colin MacLeod, appeared at Kentucky State Police Post 11 on Thursday, March 8, 2007 and gave the following transcribed statement, to Kentucky State Police Detective Sergeant Deborah Hari (DH):

DH: Today's date is March 8, 2007. We are present at State Police Post 11 in the conference room. The time is 09:08 a.m. Present is myself, Detective Sgt. Deborah Hari of the Kentucky State Police, and....

CM: Colin MacLeod. M-A-C-L-E-O-D.

DH: Mr. MacLeod, you have come to the KSP Post this morning voluntarily. Is that correct?

CM: Yes it is.

DH: Thank-you for coming today. You and I met last night when I dropped by your residence, rather unexpectedly, at night?

CM: Right. And I agreed to come by today to talk about something that happened over the past weekend? I am not sure what that was. You weren't too specific.

DH: Well, I will get to that in a minute. First, I want you to know understand that you are not under arrest at this time.

CM: Right. I understand that. Don't know what you'd want to arrest me for. [Laughing]

DH: Regardless of what you say to me today, you will not be arrested here at the Post and will be free to leave after we are done. Do you understand that?

CM: Yes I do.

DH: If you want to leave at any time, stop the interview and leave the Post, you are free to do that. Do you understand?

CM: Yes.

DH: If you want to stop the interview in order to consult with an attorney, you can do that at any time. Just let me know that's what you want to do. Okay?

CM: Sure, no problem.

DH: Now, given the nature of the problem I am going to talk with you about ... I want you to know that you have been accused of having committed a crime.

CM: You're shitting me? Oh, I apologize. You're kidding me?

DH: No I am not kidding you. And, don't worry, I've heard the language before.

CM: What am I being accused of?

DH: Having taken part in a gang rape of a 19-year old girl.

CM: That is just crazy! No way. No way I would ever do that.

DH: Well, because the allegation against you is so serious, it would probably be better if I read you your rights.

CM: Are you arresting me?

DH: No. And, like I say, you are not under arrest and will not be placed under arrest today.

CM: Okay. This is weird.

DH: Well, I understand. Have you ever been read your rights before?

CM: No. Never. Only a few speeding tickets.

DH: All right, then. You have the right to remain silent. Anything you say can and will be used against you in court. You have the right to speak with an attorney and to do so before any questions are asked. If you choose to answer questions, you can stop the questioning at any time. You can ask to consult an attorney at any time and, if you want an attorney but cannot afford one, one will be appointed for you by the court before any questioning. Do you understand these rights.

CM: Oh my God.

DH: Do you understand the rights?

CM: Yes. Yes I do.

DH: Do you wish to talk with me now?

CM: Yeah, I guess. I mean ... Yeah, I will. I didn't do anything wrong.

DH: I am going to have you sign a Rights Waiver form which just confirms in writing that you have these rights and that you are willing to waive them and speak to me. Here is the form ... let me fill it out. Okay, and you sign here after reading through the form.

DH: Did you read it?

CM: Yes.

DH: Do you have any questions?

CM: No. It's okay. I'll sign it.

DH: And the tape should reflect that Mr. MacLeod did sign the form at 9:17 a.m. on March 9, 2007. And, I am signing as a witness.

CM: Alright, shoot.

DH: Hmm?

CM: Go ahead and ask what you want.

DH: Well, let's get some basic information first. Date of Birth, Social Security Number, Age, Address, Phone, that sort of thing.

CM: I live at 1000 Highland Avenue here in Knotty Pine. I am 25 years old. My birth date is November 2, 1981. My Social is 303-09-8761. What else?

DH: How about the phone number?

CM: Oh, yeah. 606-354-9912.

DH: How long have you lived in Knotty Pine?

CM: All my life.

DH: Graduate?

CM: Knotty Pine High School in 2000. I also went to SCC for about three years and got an Associate's Degree in business.

DH: When was that?

CM: 2003.

DH: Do you drink?

CM: No. Not anymore. After the graduation ceremony in 2003, I was riding with my brother, Duncan and got into a wreck when I ran a red light. He was hurt pretty bad and so was I.

DH: Did you get charged?

CM: No. They talked about it. But, I never did.

DH: So, you don't drink any alcoholic beverages?

CM: Absolutely none. I have been clean and sober since the day of the wreck.

DH: How is your brother?

CM: He's alright now. But, it took a while, 15-18 months, I guess, for him to regain the use of his right arm.

DH: How about you?

CM: I'm fine. I was all banged up, cut up from the glass. We got t-boned by a coal truck in the middle of the intersection. My brother took the brunt of the blow, but I got tossed around and stuff.

DH: Well, I am sorry.

CM: Thanks. But, look, what is this all about?

DH: Were you out last Saturday night? The night of the 3rd?

CM: Yeah. I went to the Ascot in Tennessee.

DH: Who did you go with?

CM: Just me.

DH: Did you ... When did you get there?

CM: around 10:30.

DH: At night?

CM: Yeah.

DH: When did you leave?

CM: Around 12:30.

DH: In the morning?

CM: No ... Yeah, yeah. In the morning. 12:30 a.m. Half past midnight.

DH: I understand. Is there anyone who can confirm that you were there that night?

CM: All kinds of people.

DH: Can you tell me their names?

CM: Donnie Fagan. Chandra Esposito. A guy named Shatner, Milky Shatner. I didn't know him though until that night. I knew Don and Chandra before that. Also, my girlfriend, Debbie King met me there.

DH: Okay.

CM: And, Cheryl, the waitress.

DH: How do you know Donnie Fagan?

CM: Back when I had the wreck, he was the first person on the scene. He couldn't have been more than 18 or 19 at the time. But, he helped my brother and me and he called for the police and an ambulance. We have been friends ever since. He has a kid named Imus who calls me Uncle Colin. Great kid.

DH: How do you know Chandra?

CM: She's Don's girlfriend, off and on for years. She is Imus' mother. She is not all there.

DH: What do you mean?

CM: She has some mental issues and that's why she does not have custody of Imus. Don does.

DH: What kind of issues?

CM: She ... I am not sure exactly. She is pretty much nuts. I mean, don't get me wrong, she's a nice girl but she can be wild and she goes off at the drop of a hat.

DH: And, you say you only met Mr. Shatner that night?

CM: Yeah, I don't know him. He was strange fricking bird.

DH: What do you mean?

CM: Well, he seemed pleasant, but after a couple of drinks he was muttering something about remorse or regret and how your past always comes back to haunt you and how there's no escaping your past. He sounded depressed, but hey, I don't know the guy. Maybe he is always like that.

DH: He's dead.

CM: Whoa! What the hell? Oh Christ! I didn't mean nothing ... How? When? Am I supposed to have something to do with that?

DH: No. No. Just relax. Apparently, he committed suicide Monday sometime. But, we think his death had something to do with the rape you are being accused of.

CM: Who is accusing me?

DH: Chandra Esposito.

CM: That is just crazy. No way that happened. I have never had sex of any kind with her.

DH: How did you get home after you left the Ascot? What time did you leave?

CM: I left at around 12:30. Well, we left. Deb and me. I drove home to my place.

DH: And Ms. King was with you all the time?

CM: Yes. She stayed the night at my place.

DH: So, you did not leave in Donnie Fagan's car?

CM: Hell no! He left at least half an hour before Deb and me.

DH: Who did he leave with?

CM: It was Don, Chandra and the Shatner guy. Milky Shatner.

DH: When did Ms. King get to the bar?

CM: About 11:30 p.m. After she got off of work. She works second shift at ABC.

DH: Was she drinking?

CM: Yeah. She had two glasses of wine. Chardonnay, I think. White.

DH: How long have you two been dating?

CM: About eight months. We met in high school and were friends but never dated. We sort of started going out back last Summer and have been seeing each other since.

DH: So, when did you leave the bar?

CM: As I said, we left around 12:30. Right after Deb finished her second glass of wine, we left.

DH: How did Ms. King get to the Ascot?

CM: She drove.

DH: What happened to Ms. King's car?

CM: We left it parked in the lot. I know Zeke ... The manager, Zeke Sirvamal. No big deal to leave the car there. Besides, Deb had been drinking, so I couldn't let her drive.

DH: When ...

CM: We picked it up on Sunday morning and she went home.

DH: So, what you're saying is that you had no involvement whatsoever with Donnie Fagan, Chandra Esposito, Montrose Shatner ...

CM: Who? Montrose?

DH: Milky Shatner. His first name is Montrose.

CM: I had no idea.

DH: You had no dealings with any of those folks after they left the Ascot?

CM: None.

DH: You did not take part in any rape of Chandra Esposito?

CM: Hell no.

DH: You did not witness anyone having sex with, or raping, Chandra Esposito?

CM: Hell no.

DH: You were home when Chandra Esposito was being raped?

CM: I don't have any idea of when she was raped. I don't even know that she was raped. I left the bar at 12:30 and ... with Deb, and went home to my place. I would have gotten to my place before one in the morning. We stayed there until Sunday morning when we got up and went to get Deb's car.

DH: You were not in Domie Fagan's car that night?

CM: No.

DH: What kind of car does he drive?

CM: Late model LeBaron. Four-door. Blue. Crappy looking vinyl top.

DH: You've never been in that car?

CM: Yes I h ... Of course I have been in his car. We are friends. But, I was not in his car Saturday or Sunday ... last weekend. It's been at least a couple weeks since I have been in his car.

DH: How is Mr. Fagan as a father?

CM: Don is a great dad. He spends all his time with Imus.

DH: Except when he is at the bar?

CM: Now that is bullshit. Don is entitled to a night out once in a while. Well, Chandra was there too. Don's mom usually watches Imus when he goes out.

DH: How often does he go out?

CM: How do I know? Every now and again, I guess. He goes out a lot with Chandra.

DH: Do they get along?

CM: Most of the time. They do fight now and again.

DH: About?

CM: Imus. Chandra keeps ... Don tells me that Chandra wants to get Imus in her custody.

DH: And is that a problem?

CM: For Don it is. For Imus it would be a shock. He loves his dad. They are great together. And, Chandra is a nut at times. Besides, the judge already ruled that she was unfit. So, I don't suspect that she is going to actually get custody. She visits with Imus all the time. Don lets her see Imus about whenever she wants.

DH: Can you think of anything else I haven't asked you?

CM: No. Look, I am sorry for getting so riled up and cursing so much. It's ...

DH: Don't worry about it.

CM: ... just that I did not do this and if Chandra is saying I did, she's out of her flipping' mind.

DH: Why would she say something like that if it wasn't true?

CM: Probably because she is insane or high or drunk.

DH: She was pretty beaten up on Monday when I first saw her. Any idea of who would do that to her?

CM: None. Don wouldn't. He has never hit her as far as I know.

DH: Did you notice any bruises or marks on her face while you all were in the Ascot?

CM: No. None.

DH: Alright. We will stop the interview at this time. It is 09:24 a.m. on Thursday, March 8, 2007.

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INTERVIEW OF DEBBIE KING

Debbie King, appeared at Kentucky State Police Post 11 on Thursday, March 8, 2007 and gave the following transcribed statement, to Kentucky State Police Detective Sergeant Deborah Hari (DH):

DH: Today's date is March 8, 2007. We are present at State Police Post 11 in the conference room. The time is 09:35 a.m. Present is myself, Detective Sgt. Deborah Hari of the Kentucky State Police, and....

DK: Debbie King.

DH: Ms. King, you have come to the KSP Post this morning voluntarily. Is that correct?

DK: Yes it is.

DH: Thank-you for coming in today. You and I met last night when I dropped by the home of your boyfriend, Mr. MacLeod, right?

DK: Right.

DH: First, I want you to know understand that you are not under arrest at this time.

DK: Okay.

DH: Regardless of what you say to me today, you will not be arrested here at the Post and will be free to leave after we are done. Do you understand that?

DK: Yes I do.

DH: If you want to leave at any time, stop the interview and leave the Post, you are free to do that. Do you understand?

DK: Um-hmm. [Affirmative]

DH: If you want to stop the interview in order to consult with an attorney, you can do that at any time. Just let me know that's what you want to do. Okay?

CM: Okay.

DH: It is very important that if you are going to talk to me that you tell me the truth. Do you understand?

DK: No problem. I have nothing to hide.

DH: Mr. MacLeod is being accused of having taken part in a gang rape of a 19-year old girl.

DK: What? Who is saying that? Colin would never do something like that.

DH: Well, because the allegation against him is so serious, it would probably be better if I read you your rights.

DK: Why?

DH: Because if he has done something wrong and you lie to cover for him, you would be guilty of a crime. And, because I want you to know what your rights are so that you can make a choice to talk with me or not, depending on what you think is best.

DK: Okay, fine. But I will talk to you because Colin did not do no such thing.

DH: And, as I say, neither you nor he are under arrest and will not be placed under arrest today. Have you ever been read your rights before?

DK: No.

DH: You have the right to remain silent. Anything you say can and will be used against you in court. You have the right to speak with an attorney and to do so before any questions are asked. If you choose to answer questions, you can stop the questioning at any time. You can ask to consult an attorney at any time and, if you want an attorney but cannot afford one, one will be appointed for you by the court before any questioning. Do you understand these rights?

DK: Yes.

DH: Do you wish to talk with me now?

DK: Yes. I certainly will.

DH: I am going to have you sign a Rights Waiver form which just confirms in writing that you have these rights and that you are willing to waive them and speak to me. Here is the form ... let me fill it out. Okay, and you sign here after reading through the form.

DH: Did you read it?

DK: Yes.

DH: Do you have any questions?

DK: No. I understand what it says.

DH: And the tape should reflect that Ms. King did sign the form at 9:43 a.m. on March 9, 2007. And, I am signing as a witness.

DK: Yes, I did.

DH: Ms. King, where do you live?

DK: Knotty Pine. 500 Royal Court.

DH: Do you live with anyone?

DK: My cat Khufu. He is an Egyptian Mau.

DH: What is your date of birth?

DK: June 14 1982.

DH: What is your social?

DK: 307-98-1266.

DH: Phone?

DK: 606-354-9342.

DH: How do you know Colin MacLeod?

DK: We've know each other since high school, but we just started dating last July.

DH: I have already talked to Mr. MacLeod and have some idea of what ... Well, why don't you just tell me in your own words where you were Saturday night, March 3rd.

DK: Well, I worked on Saturday. I work at ABC, for about three years now. Anyway, I work second shift and Colin and I made plans to meet at Ascot after I got off work. So, I got done about 11:00 p.m. or so and headed down to Tennessee to meet Colin. I got to the Ascot about 11:30 or so. I saw Colin sitting at a table with some friends. He was sitting there with Don and Chandra and some guy who I have never seen before. This guy didn't even have a real name. He went by some sort of nickname. Anyway, he was just too weird. Talking to himself and muttering under his breath. He gave me the creeps.

DH: Do you remember any part of his name? The nickname or surname?

DK: Monkey or Mickey. I don't know, I didn't really catch it and I didn't talk to him 'cause he was creeping me out.

DH: Could it have been "Milky."

DK: Yeah, could'a been. I don't really know.

DH: Alright. Go ahead.

DK: Well, we were all just sitting there at the table by the juke box and drinking.

DH: Do you remember what people were drinking?

DK: I think so. Colin was drinking club soda and lime. He doesn't drink since he was in an accident where him and his brother got hurt. I was drinking white wine. Don was drinking Jack Daniels, shots. Chandra was drinking Long Island Ice Tea. And Mr. Creepo was drinking something on the rocks.

DH: How many did you have?

DK: Two glasses.

DH: How do you know Mr. Fagan and Ms. Esposito?

DK: Donald and Chandra? They've been going together off and on for a while. They have a kid together. There's another weird name. Who names their kid Imus for goodness sake? What was I saying?

DH: How you knew Mr. Fagan.

DK: Right. I have known him since Colin and I started dating. Colin and Don are good friends. I am not sure but I think it has something to do with Colin's car accident. Don helped him or something and they have stayed good friends even though Colin is older than Don.

DH: Okay. So you were drinking at the Ascot. How long did you stay?

DK: We left around 12:30 a.m.

DH: Where was everyone else when you left?

DK: Don and them?

DH: Yeah.

DK: They left.

DH: When you and Mr. MacLeod did?

DK: No. They left around midnight. I was just starting on my second glass of wine about then, so we said we would stay for a little bit longer, you know, until I finished my drink.

DH: So, you're saying that Mr. Fagan, Ms. Esposito and Mr. Shatner all left around midnight?

DK: If that is Mr. Creepy's last name, you know, yeah. I never knew his last name. But, they all left together. Around midnight.

DH: And, Mr. MacLeod did not leave with them even for a short period of time?

DK: I don't think so. I would have pitched a fit if he would have left me alone. No way. He stayed with me until we left at 12:30.

DH: When you say "I don't think so" ...

DK: I did not say, "I don't think so." I said, "I don't think so," emphasis on the word "think." What I meant is that there is no way he would have left me alone to take off with them others. Especially Mr. Creepy.

DH: The guy you keep calling Mr. Creepy killed himself on Monday. Did you know that?

DK: Oh my God! Are you kidding? That is so freaky. Still yet, he just creeped me out. I'm sorry to talk about him so bad, but looking back, I'm not too surprised that he killed himself. How did that happen?

DH: I'm not at liberty to say right now.

DK: Okay.

DH: Has Mr. MacLeod ever said anything to you about Chandra? Like did he talk about her with Mr. Fagan or anything?

DK: Not that I know of. And I don't think he was going to be talking about some other girl to me. I mean, I like to get my freak on and all. But, my guy is my guy. I don't want to be sharing him or nothing.

DH: That isn't quite what I meant.

DK: Oh. That's embarrassing.

DH: Is there anything else you can think of that you would like to tell me about this past weekend? Is there anything you think I need to know?

DK: Just that there is no way Colin would have taken part in the rape of anyone. He is a good hearted person who wouldn't hurt anyone. We are in love and he doesn't have any reason to be looking for something else on the side. Whether its rape or, you know, consensual. He isn't going to get involved in something like that.

DH: Okay. Thank-you.

DK: Can I just say one more thing?

DH: Sure

DK: If this is supposed to have taken place on Saturday or Sunday morning, the only person I could think of who would have done it would be Mr. Creepy and he's dead, you said. But, you gotta be careful to believe Chandra. She has some mental problems. That's why Don has Imus.

DH: That's what I understand.

DK: Yeah. She's not the most reliable person. Fun to party with and she just loves music. But she ain't quite right, if you know what I mean.

DH: I have one last question. While she was with you at the Ascot, did you see any bruises or marks on Ms. Esposito's face?

DK: No. She looked fine to me.

DH: Well, thank-you for coming in today. That will end the interview. It is 09:55 a.m. on Thursday, March 8, 2007.

—END—

AFFIDAVIT OF RIGHTS

1. You have the right to remain silent.
2. Anything you say can and will be used against you in Court.
3. You have the right to an attorney before making any statements and may have your attorney with you during the questioning.
4. If you cannot afford an attorney and desire one, the Court will appoint one for you.
5. You may stop the questioning at any time by refusing to answer further or by requesting to consult with your attorney.

A. Do you understand each of these rights that I have explained to you?

CM X YES _____ NO

B. With these rights in mind, do you wish to talk to us now?

CM X YES _____ NO

I **Colin MacLeod**, have read, and/or have had my rights

read and explained to me, by **Detective Sgt. Deborah Hari**

_____ of the **Kentucky State Police**, on the **8th** day of

March, 200**7**, at **9:15** A.M., and I fully

understand them. I have signed this Affidavit knowingly and voluntarily on the

8th day of **March** at **9:17** A.M.

Colin MacLeod

SIGNATURE

Deborah Hari, Det. Sgt. KSP

WITNESS

AFFIDAVIT OF RIGHTS

1. You have the right to remain silent.
2. Anything you say can and will be used against you in Court.
3. You have the right to an attorney before making any statements and may have your attorney with you during the questioning.
4. If you cannot afford an attorney and desire one, the Court will appoint one for you.
5. You may stop the questioning at any time by refusing to answer further or by requesting to consult with your attorney.

- _____
- A. Do you understand each of these rights that I have explained to you?
DK X YES _____ NO
- B. With these rights in mind, do you wish to talk to us now?
DK X YES _____ NO

I **Debbie King**, have read, and/or have had my rights read and explained to me, by **Detective Sgt. Deborah Hari** _____ of the **Kentucky State Police**, on the **9th** day of **March** _____, 200**7**, at **9:41** _____ **A.M.**, and I fully understand them. I have signed this Affidavit knowingly and voluntarily on the **9th** day of **March** at **9:42** _____ **A.M.**

Debbie King

SIGNATURE

Deborah Hari, Det. Sgt. KSP

WITNESS

INVESTIGATIVE SUMMARY (Continued)

OFFENSE: RAPE IN THE FIRST DEGREE DATE OF OFFENSE: March 4, 2007

VICTIM: CHANDRA ESPOSITO TIME OF OFFENSE: 12:00-3:00 a.m.

SUSPECTS: DONNIE FAGAN
 667 Happy Circle
 Knotty Pine, Kentucky 42655

MONTROSE "MILKY" SHATNER
 R.R. 2, Box 750
 Knotty Pine, Kentucky 42655

COLIN MACLEOD
 1000 Highland Avenue
 Knotty Pine, Kentucky 42655

DATE: MARCH 9, 2007

COURSE OF INVESTIGATION:

At approximately 08:00 a.m. this morning, I traveled to 667 Happy Circle in Knotty Pine to interview Mr. Donnie Fagan. Mr. Fagan was not home and I left a card in his front door with a note for him to call me. At approximately 10:15 a.m., Mr. Fagan called and I said that I needed to speak with him because his name came up in an investigation of some events last Saturday night and early Sunday morning. He asked if this had to do with "Chandra's shit about being raped." I said that, "Frankly, I would rather talk in person about this matter, if you are willing to sit down and talk to me." He said that he would be home until 2:00 p.m. and that I could come by if I wanted. I said I would be about 40 minutes. Before I left Post, I picked up a DNA swab kit.

On the way to Mr. Fagan's, I received a dispatch message to call the Post. When I called, I was informed that the preliminary ballistics test results had come back from the Lab on the gun found at Montrose "Milky" Shatner's residence. I was informed that the .38 found in Mr. Shatner's room was indeed the gun that fired the bullet taken out of Mr. Shatner's head during the autopsy. In addition, the only fingerprints found on the gun belonged to Mr. Shatner. It seems that he did, in fact, commit suicide. Lastly, I was told that the suspected marijuana found at Mr. Shatner's tested positive as marijuana. The weight of the bag found was 6.31 ounces.

I arrived back at Mr. Fagan's residence approximately 11:00 a.m. and upon knocking was let in the residence by Mr. Fagan who seemed very upset but was trying to be cordial. It should be noted that Mr. Fagan was doing laundry at the time I arrived. More on this later.

I introduced myself and sat down on Mr. Fagan's couch. I explained why I was there and told Mr. Fagan that my purpose in being there was to allow him to tell me his side of the story, if he wanted to. I told him that he was not under arrest and would not be arrested today regardless of what he said. I also explained to him that if he wanted me to leave, he could ask at any time and I would comply with his request. However, I explained to him that because of the allegations made by Ms. Esposito, before I spoke to him I wanted to read him his rights so that he would know what his rights were before we started to talk. Mr. Fagan said that he knew what his rights were. But, I insisted that before any conversation took place, I would be obligated to read him his rights. He agreed to hear his rights and, afterward, agreed to talk to me. He signed a rights waiver and spoke to me. The conversation is recorded and will not be repeated verbatim here. However, I will summarize parts of the conversation and attach a transcript of the conversation to this Report.

During the early stages of the conversation with Mr. Fagan, he repeatedly lied to me about smoking pot and the fact that Montrose "Milky" Shatner was the person who sold him marijuana. He also lied about smoking pot on Saturday night, March 3, 2007. Though he finally confessed to the truth about these matters, his repeated lies and other deceptions render everything he had to say completely unbelievable.

Mr. Fagan denied raping Ms. Esposito but said, instead, they had consensual sex in the car behind the old tobacco store after stopping to let Mr. Shatner out per his request. Apparently, Mr. Shatner simply decided, on a whim, to walk home—a distance of several miles—when he could have had a ride. This makes absolutely no sense.

Mr. Fagan says that he does not know how Ms. Esposito got the bruises on her face and says that the sex they had was not particularly rough. He tries to blame Ms. Esposito for the sex getting as rough as it did.

When I arrived at Mr. Fagan's he was doing laundry. As it just so happened, all of his clothing from Saturday needed to be washed today. And, all of it made it into the first load—mixed colors and whites—which was started after he spoke to me on the phone around 10:15 a.m. So, there was no chance to take his clothing into custody to examine it for telltale signs of a struggle or of a sexual assault.

During the interview, I asked Mr. Fagan for permission to examine the interior of his car. He had no objection and we examined it together. I sprayed the front and back seats with Luminol but no area of the seats indicated the presence of any blood. I also checked the area preliminarily for traces of semen and found none. There was no indication on the upholstery that there were any stains of any kind. However, the upholstery is vinyl and not cloth or leather. There was no

indication that the car had been cleaned recently.

Mr. Fagan abruptly and without any cause ended the conversation around 12:18 p.m. and I acceded to his wish to terminate the interview after he invoked his right to counsel.

It is clear that Mr. Fagan is hiding something and covering for another, probably Mr. Shatner. It is also clear that he is lying about having consensual sex with Ms. Esposito.

After returning to Post, I packaged the swabs I obtained from Mr. Fagan and sent them to the Kentucky State Police lab in Frankfort for use in the DNA analysis that I requested.

I followed up with Mr. Barrett and Mr. Gilmore who asked me to speak to Dr. Fermmet about the examination of Ms. Esposito which took place in the late afternoon on March 5, 2007.

I drove to Dr. Femmet's office in Whippy City around 15:00 p.m. As she had patients, I asked for her to call me when she was finished for the day and I would return.

Dr. Fermmet called me back around 17:40 p.m. and said that she had time to see me now. When I arrived I was shown to Dr. Fermmet's office and we began the discussion with Dr. Fermmet telling me that there was no doubt in her mind that Ms. Esposito had been violently raped, multiple times, on Saturday night. She said that her findings were consistent with the story told by Ms. Esposito of having been brutalized and raped.

Specifically, the doctor's findings were that Ms. Esposito had some bruising and swelling of the tissues in her genital area and the area was somewhat reddened. There were small tears in her vaginal area specifically at the 12:00 and the 2:00 position. There was also an abnormally large scar in the tissue surrounding the vaginal opening at the 6:00 position. The scar, according to Dr. Fermmet was not caused by the rape but was indicative of previous multiple and regularly-occurring rapes, probably when Ms. Esposito was much younger. The bruising on the left side of Ms. Esposito's face was consistent with having been punched, violently, on multiple occasions. Certainly, this sort of a beating could cause unconsciousness and probably did in Ms. Esposito. It most definitely, according to the doctor, would have rendered her helpless.

Dr. Fermmet also is of the opinion that Ms. Esposito's claim to have been raped by three men is consistent with her findings. I advised Dr. Fermmet that I had eliminated Mr. MacLeod as a suspect because he has a valid alibi. Dr. Fermmet suspected that another, unnamed third person was involved because it appears that the injuries to Ms. Esposito were caused by three different people. When I asked how she was able to come to this conclusion, she told me that she is able to do this through her years of experience in examining rape victims.

I told Dr. Fermmet that it seemed to me, based upon my investigation, that only two people could have been involved in this rape. Dr. Fermmet suggested that perhaps, Ms. Esposito was raped after she arrived back at her home. I advised her that there does not seem to be any evidence of that

happening, if only because Ms. Esposito has never said that happened. Dr. Fermmet said that could be because she does not remember it or has blocked it out of her mind as a traumatic event that she cannot yet deal with. I said that if and when Ms. Esposito made the claim that she was raped after arriving home, I would investigate it, but did not have time to go chasing after shadows. Whereupon the doctor questioned my commitment to justice. At this point, I decided I had other things to do and left Dr. Fermmet's office.

I asked the doctor for her report and she provided one. It is being made a part of this Report.

The investigation is continuing

—END—

March 9, 2007
19:35 p.m.

DET. SGT. DEBORAH HARI
Kentucky State Police

INTERVIEW OF DONNIE FAGAN

Donnie Fagan, was interviewed at his home, 667 Happy Circle, Knotty Pine, Kentucky 42655, on Friday, March 9, 2007 and gave the following transcribed statement, to Kentucky State Police Detective Sergeant Deborah Hari (DH):

DH: Today's date is March 9, 2007. I am present in the home of Mr. Donnie Fagan, 667 Happy Circle, Knotty Pine, Kentucky. Specifically, we are in Mr. Fagan's living room. The time is 11:21 a.m. Present is myself, Detective Sgt. Deborah Hari of the Kentucky State Police, and....

DF: Donnie Fagan.

DH: Mr. Fagan we are in the living room of your home?

DF: Yes.

DH: I appreciate your letting me come over to talk. We spoke briefly on the phone this morning and I told you I would like to come by to talk with you about some events which occurred this past weekend—that would be the weekend of March 3-4, 2007. Is that correct?

DF: That's correct. And I told you this was about the shit Chandra was raising about being raped.

DH: Yes, that I true. You said that. But, I will get to that in a minute. First, I want you to know understand that you are not under arrest at this time.

DF: I understand that.

DH: Regardless of what you say to me today, you will not be arrested here at your home today and I will leave after we are done. Do you understand that?

DF: Yes.

DH: If you want me to leave at any time, stop the interview and leave your residence, you are free to ask me to do that. Do you understand?

DF: Yes.

DH: If you want to stop the interview in order to consult with an attorney, you can do that at any time. Just let me know that's what you want to do. Okay?

DF: Will do.

DH: Now, given the nature of the problem I am going to talk with you about ... I want you to know that you have been accused of having committed a crime.

DF: I know. I'm supposed to have raped Chandra last Saturday night after we left the Ascot bar in Tennessee.

DH: How do you know that?

DF: Well, apparently you been talking to Colin MacLeod and Debbie King. They called me.

DH: Well, what they told you is true.

DF: It ain't true at all. That is just a made-up story by her. She's crazy. What am I being accused of exactly?

DH: Having taken part in a gang rape of a 19-year old girl.

DF: That is just stupid. I never gang raped nobody. Never had to. Wouldn't do it even if ... no matter what.

DH: Well, we have already discussed the need for me ... because the allegation against you is so serious, it would probably be better if I read you your rights. So if you could wait until I get done with that to say anything else.

DF: Go ahead.

DH: Have you ever been read your rights before?

DF: Yeah, once when I was 16. I was charged with burglary and ended up with one of those public pretenders who made me plead guilty. I know what you are going to say.

DH: All right. So you're somewhat familiar with the rights you have. I will go over them anyway. You have the right to remain silent. Anything you say can and will be used against you in court. You have the right to speak with an attorney and to do so before any questions are asked. If you choose to answer questions, you can stop the questioning at any time. You can ask to consult an attorney at any time and, if you want an attorney but cannot afford one, one will be appointed for you by the court before any questioning. Do you understand these rights?

DF: Yeah, sure.

DH: Do you wish to talk with me now?

DF: I didn't do anything wrong, but I guess the only way for you to hear my side of it is to talk with you.

DH: You do not have to talk to me. You are not required to do so. Do you understand that?

DF: Yeah. I'll talk to ya.

DH: OK. I am going to have you sign a Rights Waiver form which just confirms in writing that you have these rights and that you are willing to waive them and speak to me. Here is the form ... let me fill it out. Okay, and you sign here after reading through the form.

DH: Did you read it?

DF: Yes.

DH: Do you have any questions?

DF: No. It's okay. I'll sign it.

DH: And the tape should reflect that Mr. MacLeod did sign the form at 11:29 a.m. on March 9, 2007. And, I am signing as a witness. Is all that correct Mr. Fagan?

DF: Yep.

DH: Before we get into the allegations against you, would you mind giving me some background information? Full name? Address? Phone? Date of Birth? Social Security Number?

DF: Donald Becker Fagan. 667 Happy Circle, Knotty Pine, Kentucky 42655. 606-354-3382. I was born on December 10, 1984. That makes me 22. 401- 44 - 0144.

DH: Wow. That's an easy one to remember.

DF: Yeah, pretty easy.

DH: Are you married? Are you in a relationship with someone? Do you have any children?

DF: No, I am not married. Up until this, I had been seeing Chandra pretty regular. We have one child together, Imus Barry Fagan. He is two.

DH: And, you have custody of Imus?

DF: Yeah for about a year now. Family Court Judge Woodley gave me custody. Chandra is unfit as a mother so I have been raising my boy.

DH: How often do you see Chandra Esposito?

DF: Like, how often do we go out?

DH: Yes.

DF: At least once a week. Usually twice. Once during the week and once during the weekend.

DH: What kind of things do you do?

DF: Go see a movie. Go get something to eat. Take Imus to the playground. Go to Dollywood. All kinds of things.

DH: You and Chandra ever go out to the bars?

DF: Yes. We go to Tennessee.

DH: Where to?

DF: Various places.

DH: Look Mr. Fagan, you want to talk with me, fine. I'll stay and talk. You don't want to talk with me, fine. I'll leave. But, don't waste my time being evasive and don't waste my time with crap. I know that last Saturday you and Chandra were at the Ascot. I know because I already talked to Colin MacLeod, your friend. Debbie, his girlfriend. The bar manager. The waitress who served you all. I know what you were drinking. I know how much you had to drink. I know you left with Chandra and Montrose Shatner and I know that Chandra was raped after leaving the bar. So, let's just cut the shit and get down to the truth, okay?

DF: I'm telling you the truth.

DH: No, you're not. So, let's try again. Where do you go in Tennessee when you go to the bars?

DF: The Ascot.

DH: And, you go there because no one asks any questions about Chandra's age right?

DF: That's pretty much it.

DH: No, sir, it's not "pretty much it." That is the reason right?

DF: Yeah.

DH: She is 19 and isn't allowed to drink legally, so you go to the Ascot because they will serve her without asking for an ID? Right?

DF: You know it is.

DH: Mr. Fagan ...

DF: Okay. Alright. That is correct. You're right.

DH: Fine. Here is your chance to show me that you can tell me the truth. Tell me what everyone was drinking Saturday night.

DF: I was drinking shots of Jack Daniels. Chandra was drinking LITs. Milky was drinking scotch. Shots I think ... No, he was drinking it on the rocks.

DH: What about Colin and Debbie?

DF: Colin don't drink. He just had water or soda or something. Debbie drank wine.

DH: Very good Mr. Fagan. Thank-you. You are 100% correct.

DF: Maybe we ought to just quit this.

DH: Well, let me see if you can tell me some other information that I already know the answer to. What time did you get to the Ascot and how did everyone get there?

DF: Me, Chandra and Milky all rode together in my car.

DH: And, your car is a what?

DF: 1999 LeBaron, four-door. It's blue.

DH: Okay, go ahead.

DF: Colin got there after we did and Debbie got there after Colin. Colin and Debbie drove there, I guess.

DH: Separately or together?

DF: Separately. Colin was already there when Debbie arrived. I think she came from work.

DH: How do you know Montrose Shatner?

DF: Milky?

DH: Yes.

DF: He is a friend of mine.

DH: Good friend?

DF: Just a friend.

DH: As good a friend as Colin MacLeod?

DF: No. No way as good as Colin. I'm like a brother to Colin and he is to me. Milky is just a friend.

DH: Mr. Fagan, do you smoke pot?

DF: No.

DH: Here we go again. Mr. Fagan, Montrose Shatner died on Monday from a self-inflicted gunshot wound to his right temple. He committed suicide.

DF: Yeah, I heard. His funeral is tomorrow.

DH: Yes, but what's important is that in his room at his home—which is where he died, by the way—was a bag containing more than six ounces of pot.

DF: Uh-huh. So?

DH: So, Montrose Shatner was selling pot in this area wasn't he?

DF: I don't know what he does.

DH: I thought he was a friend?

DF: He is, or was. Not really a friend, just an acquaintance.

DH: Oh for pete's sake, Mr. Fagan. You said three time not one minute ago that he was a friend. Now you're trying to go back and say he wasn't because he was selling pot.

DF: I didn't have nothing to do with selling pot.

DH: I didn't say you did. But you did have something to do with buying pot from Shatner for your own personal use. Right?

DF: No.

DH: Well, from whom do you get your pot?

DF: I don't smoke pot.

DH: Mr. Fagan, I have already spoken to people who know you and who know you smoke pot. They have seen you smoking pot. They have smoked pot with you. They know Shatner was selling pot. They believe that Shatner was selling pot to you.

DF: Look, I got to think about Imus.

DH: Mr. Fagan, this case is about Rape, not pot smoking. You have a lot more than pot smoking to be concerned about.

DF: So, why all the questions about pot?

DH: Because I am trying to see just how honest you'll be with me. Right now, I know that you are lying through your teeth. I'm right aren't I?

DF: Look ...

DH: No, Mr. Fagan, I am not going to look. Yes or no, do you smoke pot?

DF: Yes.

DH: Yes or no, was Montrose "Milky" Shatner the person from whom you would get your pot?

DF: Yes.

DH: Have you smoked any pot today?

DF: No.

DH: Mr. Fagan ...

DF: I haven't.

DH: Did you smoke any last Saturday night or early Sunday morning?

DF: No.

DH: Did you smoke pot with Mr. Shatner?

DF: No.

DH: Well, at his autopsy, they found marijuana in his system. He smoked with someone. The only persons around him that night were you, Chandra, Colin MacLeod and Debbie King. I know Colin and Debbie did not smoke anything. What about you and Chandra?

DF: Chandra might have smoked with Milky.

DH: When? Where?

DF: After we got to the Ascot, she wanted to get some air and she went outside. Milky went outside with her. He said, "to burn one." Maybe while they were both outside, they smoked.

DH: And, maybe you went outside to smoke too? C'mon Mr. Fagan. Do you expect me to believe that this guy who is an acquaintance went outside with your girlfriend, the mother of your child, and you just stayed in the bar drinking shots of Jack? That doesn't even make a lick of sense.

DF: I went outside just to see what was taking so long for them to come back in.

DH: Of course you did. And while you were outside, you saw them smoking a joint?

DF: That's right.

DH: And you went up to them?

DF: Yeah.

DH: And, took a couple of hits off the joint?

DF: Just one hit. There wasn't that much left.

DH: So, you did smoke pot with Shatner on Saturday night?

DF: Yeah. One hit off of the joint.

DH: So, why did you lie to me earlier?

DF: I don't know.

DH: Mr. Fagan, I already know what happened that night. All I am doing is trying to get you to confirm what I already know. I just want to see how honest you are.

DF: Well, if you already know everything, maybe we should just stop.

DH: So, you were drinking and smoking a little pot before leaving Tennessee. Right?

DF: Yeah.

DH: Chandra was pretty drunk wasn't she?

DF: I wouldn't say drunk.

DH: Well, do you know Cheryl? The waitress?

DF: Yeah.

DH: Well, Cheryl says that Chandra was drunk. She says that she had to come over to the table to tell Chandra to quit falling into the juke box every time she got up from the table. That happened, right?

DF: Yeah. I remember Cheryl coming over.

DH: Because Chandra was pretty well lit?

DF: She was feeling good and had some trouble with her balance because her chair was too close to the juke box. So, we switched places. But I wouldn't say Chandra was lit.

DH: So, she wasn't drunk.

DF: No. I don't think so.

DH: And, she wasn't high?

DF: Oh, hell no. She just hit the one joint. After that, we stayed in the bar.

DH: Until when?

DF: We left around midnight.

DH: Colin and Debbie stayed in the bar when you and Chandra and Shatner left?

DF: Yes.

DH: So, Colin MacLeod had nothing to do with raping Chandra?

DF: No one did.

DH: Someone did. But, my question was just about Colin. You would say that your good friend had nothing to do with having sex with Chandra or raping her in the early morning hours of March 4th?

DF: Colin had nothing to do with that.

DH: So, who did?

DF: No one.

DH: Mr. Fagan. Do you think I am stupid?

DF: No.

DH: Do you think I would come here without already knowing the facts?

DF: I guess not.

DH: You guess not. Mr. Fagan, I want you to listen very carefully to my next question. The answer to the next question might mean the difference of as much as ten years in prison.

DF: But, ...

DH: Just listen.

DF: Okay.

DH: Carefully.

DF: Okay.

DH: We found the clothes Chandra was wearing last Saturday night while she was out with you and Shatner. We found her clothes and a towel in her room. She told us that she used the clothes and towel to wipe semen off of her body after she got home. Those clothes and that towel have been sent to the Kentucky State Police Lab and are being analyzed to find out whose semen it is that she wiped off of herself on Sunday morning. I want to know, Mr. Fagan, if there is any way that could be your semen?

DF: Well, ...

DH: Stop. Stop for a minute and think. This answer is going to be critical to you Mr. Fagan. The answer to this question is going to make a world of difference to you and to how you are treated by the system. So, think before you answer.

DF: Yes. It could be mine.

DH: I knew that, Mr. Fagan. Now, if it could be yours, would you care if I obtained a DNA sample from you so that the lab can confirm that it is yours?

DF: I don't know if I should.

DH: I already have samples from Colin MacLeod and Montrose Shatner.

DF: But, Colin had nothing to do with this and Shatner is dead.

DH: Right. But Mr. MacLeod consented because he had nothing to hide and a sample was taken from Shatner after he had nothing to hide. I'm just wondering if you have something to hide?

DF: No.

DH: Then, can I take a sample.

DF: Will it hurt?

DH: Nope. Not at all. I just have to rub a swab, maybe two, inside your cheek and seal them up and send them to the Lab.

DF: No needles?

DH: My goodness, no.

DF: Okay. You can do that.

DH: Well, I will be right back, then. I have the kit in my car. We will take a break right now and shut the tape off until I get back.

DH: The tape is back on and I have obtained the DNA swabs from my car. While the tape was off, we did not speak did we Mr. Fagan?

DF: No.

DH: Now that you have had a minute to think about it, do you still consent to allowing me to obtain a sample from you?

DF: This is a really tough decision. Maybe I should call someone. Maybe I should call a lawyer.

DH: Mr. Fagan, that is your decision. What I need to know is if you will consent to my swabbing your mouth for a DNA sample?

DF: Yeah, I guess.

DH: Is that a "yes?"

DF: Okay. It's a "yes."

DH: Thank-you. At this time, I will conduct the swabbing of Mr. Fagan's mouth. I will leave the tape on at this time.

DH: That was not so bad, right?

DF: No. It's a lot different than on TV.

DH: Lots of things are, Mr. Fagan. I would also like to take a look inside your car. Would you have any objection to that? I mean, you don't have anything to hide, do you?

DF: No.

DH: So, you won't mind if I take a look at the car?

DF: Not if you don't mind if I watch.

DH: Absolutely, I insist.

DF: Okay, then.

DH: I will keep the recorder on while we go out to the car.

DF: Okay.

DH: You have a 1999 LeBaron, four-door. Blue interior. Right?

DF: You can see that I do.

DH: But, the tape cannot see that, Mr. Fagan. I am asking so that it can be on the tape.

DF: Sorry. Yes. You were right about the car.

DH: It is pretty filthy, huh?

DF: It needs to be cleaned out.

DH: Have you cleaned it out since last Saturday?

DF: Nope.

DH: Didn't clean the seats or upholstery at all?

DF: No.

DH: I will be right back.

[Walking and opening of trunk heard]

DH: Do you mind if I spray some of this on the seats?

DF: What is it?

DH: Luminol. It will show the presence of blood.

DF: There ain't no blood in there. But, go ahead.

DH: Okay. Step back.

[Spraying heard]

DH: Now, I will just use this black light to see if the Luminol shows anything. No it doesn't. I would like to swab the seat area with this other chemical to see if I can find any semen. Do you mind?

DF: Does it hurt the seats?

DH: If all the trash and dirt in this car doesn't hurt the seats, this certainly won't. No, it won't hurt the seats. After I am done, you can wipe them off and they'll be fine. By the way, the seats are vinyl, right?

DF: Yeah.

DH: Alright. I don't see anything. Are you sure that you have not cleaned the seats?

DF: Positive.

DH: Okay, let's go back in the house.

[Walking heard]

DH: Doing laundry?

DF: Yeah. It's been piling up.

DH: Just decided to do it today?

DF: No. Not just. It's been piling up and it needed to get done.

DH: You wouldn't happen to have the clothes you were wearing on Saturday, would you.

DF: They are in the wash.

DH: All of them?

DF: Yeah, why?

DH: What were you wearing Saturday night?

DF: Jeans, black Harley Davidson t-shirt, boots.

DH: Underwear and socks?

DF: Yeah. Of course.

DH: White underwear and socks or are you a colors man?

DF: White boxers and white socks.

DH: And all that is in the laundry now?

DF: Yeah. So?

DH: Been doing laundry for a while?

DF: Number of years.

DH: Never really caught on to separating whites and colors, have you?

DF: Well, I just toss stuff in and wash it.

DH: And it just so happens all the clothes you were wearing Saturday got tossed into this first load?

DF: Yeah.

DH: Not that you were trying to hide something was it?

DF: Like what?

DH: Like evidence of a rape, Mr. Fagan.

DF: I told you, I didn't rape anyone.

DH: I guess it's just my tough luck that I got here after you decided to start laundry and to wash all the clothes that might have evidence on them in the first load.

DF: I do not know what on earth you are talking about.

DH: You started this load after I spoke to you on the phone, right?

DF: So what? I was trying to make the place presentable. I picked up and started some laundry. There is no evidence being washed. This conversation I getting out of control. I think I may need to talk to someone to see what my rights are.

DH: I already went over that with you. So, let's talk about Ms. Esposito. What happened when you left the Ascot?

DF: Trooper ...

DH: Detective

DF: Detective, the truth is that Chandra and I stopped on the way back to Kentucky and had sex in the car. But there was no rape. It was purely by her consent. She agreed.

DH: What happened to Shatner? He was there and watched?

DF: No, Milky and Chandra and me all left the Ascot around midnight like I said. We got to the car and Milky ... He wasn't right all night. He was moping around and talking to himself. He kept going on about how he couldn't get her face out of his head and it didn't matter how much he smoked or drank, her face was always there.

DH: Whose face, Chandra's?

DF: No. Hell, I have no idea whose face he was talking about. For all I know he sees faces and hears voices. I don't know. He was just muttering to himself. I think he was making Debbie scared, 'cause she was closest to him at the table.

DH: Okay, so what happened to Shatner?

DF: We got about a mile and a half from the bar and Milky told me to pull over. I thought he was going to get sick, so I did. I pulled off in a clearing behind the old tobacco store. You know the one that's red and green and has the Marlboro logo on the Kentucky side of the line?

DH: Yeah. He was going to get sick and you pulled all the way off the road instead of just pulling onto the shoulder?

DF: He wasn't going to get sick.

DH: But, you thought he was.

DF: Yeah, I did. Well, we pulled off back there. I don't know why. I just did. I asked him if he was okay and Milky just mumbled something about tearing out the memory of her face. When I asked what he meant, he just said, "Nothing. I gotta go." He got out of the car and started walking toward home I imagine. He was not walking toward Tennessee.

DH: Do you expect me to believe that he walked home? In the pitch darkness? In the cold?

DF: No. There was a full moon on the third. It was dark but you could see. And, it wasn't all that cold. He had a coat and he had gloves. The weather wasn't that bad.

DH: How far was it to his home?

DF: Maybe three, four, five miles. He lives just inside the line a couple few miles. He could have gotten home pretty quick. Maybe an hour. For all I know, he caught a ride with someone.

DH: You're saying that you did not give him a ride home?

DF: No I did not.

DH: Chandra says that he stayed in the car while the two of you had sex? She says that he held her down while you raped her. She says that he beat her into unconsciousness while you were raping her. She awoke a bit later to find him inside of her and raping her, too.

DF: That is absolute bullshit. That never hap ... None of that ever happened. No. No he did not. And I did not. Milky left and was walking home ... or wherever he was going.

DH: Did Chandra have any marks on her face when you picked her up?

DF: Like what?

DH: Like anything. Bruises, scratches, cuts?

DF: No.

DH: Did you ever see any bruises, scratches or cuts on her face at all that night?

DF: Nothing at all.

DH: Did you hit her that night?

DF: No. I have never hit her.

DH: Did anyone else hit her?

DF: No.

DH: Did Milky Shatner hit her?

DF: No.

DH: Could she have fallen or tripped and hit her face?

DF: Not that I saw.

DH: Well, Mr. Fagan, when we saw her on Monday afternoon, the day she reported this rape, the left side of her face was bruised and battered pretty badly.

DF: Well, I didn't do it and I didn't see anyone do anything like that to her. When we left the Ascot, she was fine.

DH: What about in the car behind the old tobacco store?

DF: She was fine.

DH: Sex get a little rough, did it?

DF: No. It wasn't like that.

DH: Well, what was it like?

DF: After Milky left, Chandra and me just sit there for a while talking about what the hell was wrong with him. After a bit, she moved over toward me a little bit and put her hand on my leg. She started rubbing on me and one thing lead to another and we were having sex.

DH: How do you ...

DF: Look, ma'am ... detective ... Chandra and me have sex about every time we go out together. If not at her place then at mine or in the car. We have been doing this for years. That's how she got pregnant. Sex in the car after being at the Ascot.

DH: You are saying that you and Chandra had sex in the car behind the old tobacco store and that it was consensual? She agreed to have sex with you?

DF: No question about it.

DH: Then, how do you account for her face being beaten and bruised?

DF: I don't know. Maybe she fell after she got home.

DH: Didn't you walk her in the house?

DF: No, I'm not liked very much by her family, so I just let her out at the street and left.

DH: You are a real gentleman, Mr. Fagan. Didn't you even stay long enough to make sure she got in the house safely? Just wham, bam, thank you ma'am? With the emphasis on wham and bam?

DF: I told you, I let her out of the car and she was walking toward the porch. It's only fifty feet or so. She got into the yard and I left. I swear to god that I did not rape her and neither did anybody else. We had sex together like we always do after a date.

DH: Was it rough sex?

DF: Not particularly. I mean, she gets going pretty good and all. But, it wasn't rough like violent. You might not think I am much of a gentleman, but I do not hurt women. I would not hurt Chandra.

DH: And you don't smoke pot?

DF: That's it. We are done. You need to leave now. I am going to call a lawyer and you just go do whatever you think you have to do. I didn't rape nobody. And I,

DH: Okay. Mr. Fagan has terminated this interview by invoking his right to counsel. So, I am required to leave and to leave my other questions unasked.

DF: You ...

DH: That will end the interview. It is 12:18 p.m. on Friday, March 9, 2007.

—END—

AFFIDAVIT OF RIGHTS

1. You have the right to remain silent.
2. Anything you say can and will be used against you in Court.
3. You have the right to an attorney before making any statements and may have your attorney with you during the questioning.
4. If you cannot afford an attorney and desire one, the Court will appoint one for you.
5. You may stop the questioning at any time by refusing to answer further or by requesting to consult with your attorney.

A. Do you understand each of these rights that I have explained to you?

DF X YES _____ NO

B. With these rights in mind, do you wish to talk to us now?

DF X YES _____ NO

I **DONNIE FAGAN**, have read, **and**/or have had my rights

read and explained to me, by **Detective Sgt. Deborah Hari**

_____ of the **Kentucky State Police**, on the **9th** day of

March, 200**7**, at **11:27** A.M., and I fully

understand them. I have signed this Affidavit knowingly and voluntarily on the

9th day of **March** at **11:29** A.M.

Donnie Fagan

SIGNATURE

Deborah Hari, Det. Sgt. KSP

WITNESS

REPORT OF DR. CONNIE FERMMET

At approximately 5:30 p.m. on March 5, 2007, Ms. Chandra Esposito was presented to my office in Whippy City for an examination after having been raped by multiple persons, some known and others unknown, on Saturday, March 3, 2007. Accompanying Ms. Esposito was the Victim's Advocate for the Commonwealth's Attorney for the 58th Judicial Circuit, Nickie Hopkins.

After Ms. Esposito arrived, she filled out some paperwork with the assistance of Ms. Hopkins and provided a written history of the nature and origins of her injuries. That form is attached.

Following my review of the written history, I conducted an interview with Ms. Esposito. The interview was not recorded as it is my experience that doing so puts off the patient and frequently puts me at odds with lawyers who are appointed to represent the perpetrators of these terrible crimes. Also, I have been asked not to record the interviews by law enforcement.

Still, from my notes, I can report the following facts which were developed during my interview with Ms. Esposito:

1. On Saturday, March 3, 2007 she was in the company of her boyfriend, Darren Fagan, and two of his friends whom she did not know. They went to the Ascot bar in Tennessee.
2. Ms. Esposito had one Long Island Iced Tea to drink and a few sips of one glass of wine.
3. After leaving the bar around midnight, her boyfriend, who was driving, pulled over unexpectedly off the road. Thereupon, he asked Ms. Esposito to have sex with him and the two companions. Ms. Esposito refused and was grabbed from behind by one of the two lesser-known men. She was held as she struggled and could not get free. During this time, her boyfriend was able to pull his pants down and pulled hers down. As she continued to struggle, the second of the lesser-known men got out of the car and opened her door (the front passenger door) and proceeded to beat her about the face until she lost consciousness. Ms. Esposito awoke briefly two times to find herself being vaginally raped; first by her boyfriend and second by one of the other men. She awoke on her porch early in the morning hours and contacted the authorities on Monday, March 5, 2007.
4. Ms. Esposito identified her attackers as her boyfriend, Darren Fagan, Milkbone Shatner, and Colin (LNU).
5. She said that all three ejaculated on or in her and that she cleaned that up when she got home with a towel. She said the police have the towel.
6. Ms. Esposito makes no claim of having been sodomized either orally or anally.

Upon examination, I note the following findings which are remarkable:

1. Ms. Esposito has dark red marks on her left cheek. The area is swollen and the area of edema has a number of small abrasions associated with it. Her left eye will soon be black as it is within less than a day of darkening to a purple/black color. The patient does not complain of blurriness, but I find this to be hard to understand given the nature of the beating she must have been subjected to.
2. Her face is definitely asymmetrical in size and shape. This is due to the edema. The injuries are consistent with Ms. Esposito's history that one of the lesser-known men stood over her and beat her with his fist as she lay prone on the front seat. The beating that Ms. Esposito suffered was certainly sufficient to render her unconscious and to leave her helpless.
3. Upon examination of her genitalia, I note some edema and erythema of the labia majora. Upon gently spreading the labia majora, I note an area surrounding the vaginal opening where there appears to be neo-vascularization, a clear sign of trauma. Further, in the introitus, I note some mild edema and erythema, though no tearing or bruising. Obviously, the area is healing nicely after the trauma.
4. In the vaginal opening are the most cogent signs of the brutality that Ms. Esposito endured. I note small tears at the 12:00 and the 2:00 position. These tears are consistent with Ms. Esposito having been vaginally raped from behind.
5. All other findings of the genital exam are consistent with having been raped multiple times by three adult men. Though, no sign of semen was found intravaginally.
6. Additionally, I note a large scar at the 6:00 position of the vaginal opening. This is a healed past trauma where Ms. Esposito was torn during a sexual assault of some kind and is not an injury from the March 3rd rape. However, this injury tells a very clear story about Ms. Esposito's past abuse. I suspect that she has blocked out the prior trauma.
7. All my findings are consistent with the story of a violent and non-consensual rape of Ms. Esposito by three men within the last 48 hours. All my findings are within a reasonable degree of medical certainty.

Connie Fermet, MD/OB-

GYN

Dr. Connie Fermet, M.D./OB-GYN
McDREARY City Medical Associates

INITIAL PATIENT INFORMATION FORM

CONFIDENTIAL DO NOT DISCLOSE INFORMATION

DR. CONNIE FERMMET, M.D./OB-GYN

Doctor's Medical Bldg., McDreary City, Kentucky 42656
(606) 354-1111 (o) (606) 354-1112 (f)

DATE: **March 5, 2007**

NAME: **Chandra Esposito**

ADDRESS: **2415 Settlement Avenue, Knotty Pine, Ky. 42655**

HOME PHONE: **(606) 354-6765**

DATE OF BIRTH: **10-28-1987** SOC. SEC. NO. **401-12-9178**

EMPLOYER: **Unemployed** WORK PHONE:

EMPLOYER'S ADDRESS:

JOB DESCRIPTION: TIME ON JOB:

MARITAL STATUS: **S** SPOUSE'S NAME: YRS. MARRIED:

| CHILDREN | AGE | ADDRESS |
|-------------------------|----------|--------------------------------------|
| Imus Barry Fagan | 2 | 667 Happy Circle, Knotty Pine |

EDUCATION: (SHOW FURTHEST GRADE COMPLETED) **11th** **GED**

PSYCHIATRIC HOSPITALIZATIONS: **None**

MENTAL HEALTH TREATMENT: None

PHYSICAL AILMENTS: My face is very sore and in pain

MEDICATIONS: My mom gave me some percaset for pain

ONSET OF PROBLEM: Saturday, March 3, 2007
I was raped

HISTORY: I went to Tennessee on Saturday with some friends and after we left, I was raped on the way home. There were three guys, one of whom was my boyfriend and the father of my son. The other two guys were strangers and I don't know who they were except for being friends of my boyfriend. He wanted me to have sex with all of them and when I wouldn't they beat me in the face and when I was unconscious, they took turns raping me. I was not subjected to anal or oral sex. They came on me and in me and when I got home they dumped me on the porch. I cleaned up with towels and the police have

**that for testing. I want them punished
and put in jail, especially my boyfriend
because he was responsible for me being
raped. I will be able to take care of my
son once he is in jail.**

Chandra Esposito
March 5, 2007

INVESTIGATIVE SUMMARY (Continued)

OFFENSE: RAPE IN THE FIRST DEGREE DATE OF OFFENSE: March 4, 2007

VICTIM: CHANDRA ESPOSITO TIME OF OFFENSE: 12:00-3:00 a.m.

SUSPECTS: DONNIE FAGAN
 667 Happy Circle
 Knotty Pine, Kentucky 42655

MONTROSE "MILKY" SHATNER (Deceased)
 R.R. 2, Box 750
 Knotty Pine, Kentucky 42655

DATE: MARCH 10, 2007

COURSE OF INVESTIGATION:

I was provided with a recipe for Long Island Iced Tea today from Mr. Gilmore who was asked to obtain one by Mr. Barrett. It is as follows:

1. ½ ounce of vodka
2. ½ ounce of light rum
3. ½ ounce of gin
4. ½ ounce of tequila
5. Juice from ½ lemon
6. A splash of Coca-Cola

The vodka, gin, rum and tequila are mixed in a glass over ice. The juice is stirred in and the Coca-Cola is splashed on top.

Approximately 13:00 p.m., I called to speak with Mr. Sirvamal in order to checked with him about how he makes these drinks. Mr. Sirvamal indicated that he usually makes the drink using a standard one ounce shot glass. The mixture is poured into a 20-ounce glass. So, he uses roughly four ounces of alcohol and 14-15 ounces of ice, lemon juice and Coke. Still, this seems like a lot of alcohol in one drink.

Additionally, I received a call from Mr. MacLeod today at approximately 14:30 p.m. He advised that I should be aware that Ms. Esposito was treated for a mental breakdown and depression at Charter Ridge when she was 17. I asked him how he knew this. He indicated that Mr. Fagan had told him while they were talking during the time Mr. MacLeod was dealing with the automobile accident and the physical and emotional aftermath of that event. I thanked him for the information and indicated that I would look into that.

I contacted Mr. Barrett at home and told him what Mr. MacLeod had told me. He said that he would obtain a court order for the hospital to produce the records of the hospitalization on Monday.

The investigation is continuing.

—END—

March 10, 2007
15:00 p.m.

DET. SGT. DEBORAH HARI
Kentucky State Police

INVESTIGATIVE SUMMARY (Continued)

OFFENSE: RAPE IN THE FIRST DEGREE DATE OF OFFENSE: March 4, 2007

VICTIM: CHANDRA ESPOSITO TIME OF OFFENSE: 12:00-3:00 a.m.

SUSPECTS: DONNIE FAGAN
 667 Happy Circle
 Knotty Pine, Kentucky 42655

 MONTROSE "MILKY" SHATNER (Deceased)
 R.R. 2, Box 750
 Knotty Pine, Kentucky 42655

DATE: MARCH 12, 2007

COURSE OF INVESTIGATION:

In today's mail were the Lab reports on the following items which I sent for testing:

- | | | |
|----|------------------------------------------|------------------------------|
| 1. | .38 cal. S&W Revolver | Latent Prints and Ballistics |
| 2. | Suspected Marijuana | Identification of Substance |
| 3. | Projectiles from autopsy | Ballistics |
| 4. | Fingerprint Card for Montrose Shatner | Latent Prints |

All are included with this Report and the findings have been reported elsewhere in this Report.

At approximately 16:00 p.m., I contacted the KSP Lab to see how close we were to having DNA results. I was told, it would take at least four, probably closer to six, weeks. I asked if this could be speeded up a bit because I was concerned that a rapist would remain free until I could get this piece of information. The examiner I spoke to said that she would do the best she could.

The investigation continues.

March 12, 2007
17:00 p.m.

DET. SGT. DEBORAH HARI
Kentucky State Police

SUPPLEMENTAL REPORT
A.F.I.S. SECTION
KENTUCKY STATE POLICE

CASE NO. 03-04-056
A.F.I.S. ID 07-3-0197

TITLE OF INVESTIGATION: Rape (forcible)
VICTIM: Chandra Esposito
SUSPECT: Donnie Becker Fagan
Montrose "Milky" Shatner
Colin MacLeod
EVIDENCE SUBMITTED TO: A.F.I.S. BRANCH
1250 LOUISVILLE ROAD
FRANKFORT, KENTUCKY 40601
EVIDENCE SUBMITTED BY: Det. Sgt. Deborah Hari
Kentucky State Police Post 11
EVIDENCE RECEIVED FROM: Det. Sgt. Deborah Hari
03/08/07 10:30 hours

EXHIBITS SUBMITTED FOR EXAMINATION:

- (1) .38 Smith and Wesson Revolver
- (2) Five (5) live rounds of .38 Smith and Wesson ammunition and one (1) empty .38 Smith and Wesson shell casing.
- (4) Bag of green leafy material (suspected marijuana)
- (5) Fingerprint card for Montrose "Milky" Shatner

PROCESSING AND EXAMINATION:

Exhibits 1 and 4 were processed for the possible recovery of latent prints. No latent prints of value for AFIS or comparison were developed on Exhibit 4. However, three latent prints of value were developed for AFIS and comparison on Exhibit 1 or on any of the live rounds of ammunition. Latent print was found on the trigger mechanism, the barrel and on the empty shell casing of Exhibit 2. These latent prints were compared through AFIS and by reference to Exhibit 5. All three latent prints found and analyzed were those of Montrose Shatner.

DISPOSITION OF EVIDENCE:

Exhibits 1 and 2 are being forwarded to firearms section for testing. Exhibit 4 is being forwarded for testing to drug identification unit. Exhibit 5 is being returned to Det. Sgt. Hari

3/8/07

1 of 1

WBS

Doug Dorfman

Date of Report Page Number Reviewed By Report by: Latent Analyst-Doug Dorfman

KENTUCKY STATE POLICE
CENTRAL FORENSIC LABORATORY
100 SOWER BLVD., SUITE 102
FRANKFORT, KENTUCKY 40601-8272
502-564-5230 (Office)
502-564-4821 (Fax)

LAB NO. 07-3-01875
CASE NO. 03-4-056

RE: Esposito, Chandra (V)
 Fagan, Donnie (S)
 Shatner, Montrose (S)
 MacLeod, Colin (S)

REPORT OF FORENSIC LABORATORY EXAMINATION

SUBMITTED BY: Det. Sgt. Deborah Hari Kentucky State Police Post 11 CO 171
RECEIVED DATE: Various (See below) VIA: Sgt. Gibbon

RETURNED TO: Det. Sgt. Deborah Hari 3/10/07

MATERIAL SUBMITTED:

- Exhibit (1): .38 Smith and Wesson Revolver (Received 3-9-07 from AFIS)
- Exhibit (2): Five (5) live rounds of .38 Smith and Wesson ammunition and one (1) empty .38 Smith and Wesson shell casing (Received 3-9-07 from AFIS)
- Exhibit (3): Two bullet fragments taken at autopsy of Montrose Shatner (Received 3-8-07 from Det. Sgt. Deborah Hari)

EXAMINATION REQUESTED:

Ballistics comparison between Exhibit 3 and Exhibit 1 to see if Exhibit 3 was fired from Exhibit 1. Additionally, comparison is requested to see if empty shell casing of Exhibit 2 was fired from Exhibit 1.

RESULTS OF EXAMINATION:

- A. Microscopic examination of Exhibit 3 indicates that the two bullet fragments are from the same projectile as the smaller “sliver” matches the portion of the larger projectile where a piece is missing.

- B. Exhibit 1 is in good working order and capable of firing a projectile such as those found in Exhibit 2.

- C. The fragments submitted as Exhibit 3 match the characteristics of the live rounds submitted as Exhibit 2 and are .38 caliber, Smith and Wesson, ammunition.
- D. Tool markings on the base of the larger fragment of Exhibit 3 were microscopically examined and compared with tool markings on the casings of three rounds of ammunition submitted as Exhibit 2 after those three rounds were test fired in Exhibit 1 by the examiner. The tool markings on the casings of the three test-fired rounds are identical to the tool markings found on the empty shell casing submitted as Exhibit 2.
- E. Therefore, within a reasonable degree of scientific certainty, it can be said that Exhibit 3 was originally housed in the empty shell casing submitted as Exhibit 2 and was fired from Exhibit 1.

Date Completed: 3/9/07

Carl Louis Wollpaw
SIGNATURE OF EXAMINER KSP 89

Carl L. Wollpow

KENTUCKY STATE POLICE
CENTRAL FORENSIC LABORATORY
100 SOWER BLVD., SUITE 102
FRANKFORT, KENTUCKY 40601-8272
502-564-5230 (Office)
502-564-4821 (Fax)

LAB NO. 07-3-01875
CASE NO. 03-4-056
RE: Esposito, Chandra (V)
Fagan, Donnie (S)
Shatner, Montrose (S)
MacLeod, Colin (S)

REPORT OF FORENSIC LABORATORY EXAMINATION

SUBMITTED BY: Det. Sgt. Deborah Hari Kentucky State Police Post 11 CO 171
RECEIVED DATE: Various (See below) VIA: Sgt. Gibbon
RETURNED TO: Det. Sgt. Deborah Hari 3/10/07

MATERIAL SUBMITTED:

Exhibit (4): Plastic baggie with green leafy material (Received 3-9-07 from AFIS)

EXAMINATION REQUESTED:

Identification and weight of substance within bag.

RESULTS OF EXAMINATION:

Exhibit 4 contained marijuana, a Schedule I controlled substance. Weight of marijuana in bag is 6.21 ounces (176.05 grams).

Date Completed: 3/9/07

Jasmina Crocker

SIGNATURE OF EXAMINER KSP 92
Jasmina Crocker

INVESTIGATIVE SUMMARY (Continued)

OFFENSE: RAPE IN THE FIRST DEGREE DATE OF OFFENSE: March 4, 2007

VICTIM: CHANDRA ESPOSITO TIME OF OFFENSE: 12:00-3:00 a.m.

SUSPECTS: DONNIE FAGAN
 667 Happy Circle
 Knotty Pine, Kentucky 42655

 MONTROSE "MILKY" SHATNER (Deceased)
 R.R. 2, Box 750
 Knotty Pine, Kentucky 42655

DATE: MARCH 13, 2007

COURSE OF INVESTIGATION:

I traveled to Fayette County this morning and obtained a copy of the Circuit Court Judgment regarding Montrose "Milky" Shatner's previous CSA conviction. A copy is attached to this Report.

Mr. Shatner was originally charged with 27 counts of Sexual Abuse in the First Degree. He plead to two counts and received two five-year sentences, to run consecutively.

According to the Parole Board, Mr. Shatner served five years and was paroled this past December (2006) after successful completion of the SOTP. However, the Parole Board vote was 2-1 with the lone dissenter complaining that Mr. Shatner's psychological profile indicated that he was a significant risk to re-offend. However, he was released because of his hard work in the SOTP and the danger continued incarceration posed to him physically. He was on very closely monitored supervision, reporting twice a month, and attending an outpatient SOTP. He was also under instructions not to drink alcohol or use drugs not otherwise prescribed by a physician. Also, he was not to be out of the Commonwealth without permission.

According to his Parole Officer, Mr. Gordon Schumway, Mr. Shatner did not have permission to be in Tennessee, or to drink or to smoke pot. All of these would have resulted in his being revoked and sent back to prison, as would this newest allegation of having participated in a gang-rape of Ms. Esposito.

The investigation continues.

March 13, 2007
14:15 p.m.

DET. SGT. DEBORAH HARI
Kentucky State Police

**COMMONWEALTH OF KENTUCKY
22nd JUDICIAL CIRCUIT
FAYETTE CIRCUIT COURT
DIVISION 1
INDICTMENT NO. 00-CR-00410**

COMMONWEALTH OF KENTUCKY,

PLAINTIFF,

VS

**FINAL JUDGMENT ON PLEA OF GUILTY
AFTER REVIEW OF PSI REPORT,
AND COMMITMENT TO CORRECTIONS CABINET**

MONTROSE SHATNER,

DEFENDANT.

In October 2001, the Defendant was originally charged in the above-numbered Indictment with 27 counts of Sexual Abuse of R.C., a three-year old child with whom the Defendant had a relationship of trust and care. Pursuant to the agreement of the parties, the Defendant entered a plea of guilty on the 27th day of August, 2001, and the Court adjudged the Defendant guilty of, two (2) counts of Sexual Abuse in the First Degree. Sentencing was put off until October 24, 2001 so the Court could receive a Pre-Sentence Information Report and a Sex Offender Evaluation from Probation and Parole. At the request of the Commonwealth, sentencing was re-scheduled for November 21, 2001. There was no objection by the defense.

The Defendant appeared before the Court for sentencing on the 21st day of November, 2001 with his attorney, Mr. Hiram Wigotaplee. The Commonwealth was represented by Mr. Percy Byron, an Assistant Commonwealth's Attorney for the 22nd Judicial Circuit.

The Court inquired of the Defendant and his counsel whether they had any legal cause why judgment should not be pronounced, and afforded the Defendant and his counsel an opportunity to make statements in the Defendant's behalf and to present any information in mitigation of punishment. The Court noted the Commonwealth's recommendation of five (5) years to serve on each count, with the sentences to run consecutively, for a total of ten (10) years imprisonment.

The Court reviewed the pre-sentence investigation report prepared by the Department of Probation and Parole and, having given due consideration to the nature and circumstances of the crime, the history, character, and condition of the Defendant, and having considered release of the Defendant on probation, conditional discharge, or alternative sentencing and no sufficient cause being shown why judgment should not be pronounced,

The Court will reluctantly accept the agreement of the parties and sentence the Defendant to a term of five (5) years imprisonment for each of the two (2) counts of Sexual Abuse in the First Degree. The sentences shall run consecutively to one another, for a total sentence of ten (10) years imprisonment.

The agreement of the parties is that the sentence shall be served and shall not be probated. Frankly, the Court is of the opinion that any resolution other than a sentence of imprisonment would cause the Court to reject this agreement. Therefore, the sentence of imprisonment shall be imposed and the Defendant is hereby committed to the Cabinet for Corrections for service of the sentence at such place within this Commonwealth as the Cabinet shall direct.

Despite the fact that the Defendant has no criminal record of any significance, probation, conditional discharge, or any other form of release is hereby denied because the Court finds the Defendant is in serious and immediate need of treatment that can best be provided by the Cabinet for Corrections. Additionally, the Sexual Offender Evaluation indicates that the Defendant has significant mental health issues and, as a result, is a high risk to re-offend and without treatment will re-offend. Further, probation, conditional discharge or other forms of release are denied because to grant such would unduly depreciate the seriousness of the offenses to which he has plead guilty.

And in this regard, the Court will say the following: The Defendant's conduct in abusing R.C. was particularly cruel. He confessed to the police that he did not know why he engaged in the behavior he did; claiming a sort of "out-of-body" experience during the periods of abuse. But the fact remains that, on at least 27 occasions, the Defendant took advantage of a helpless three-year old and engaged in digital penetration so violent that the physical injuries he caused may last the rest of the child's lifetime; to say nothing of the emotional scars he has undoubtedly left on the child's psyche. To allow him to be probated would render the concept of justice a mockery and meaningless.

When the Defendant is released from prison, either on parole or at the end of the service of his sentence, he shall be subject to three (3) years of supervised release under such conditions as shall be imposed by the Probation and Parole officer. If the Defendant fails to obey all of the foregoing conditions his parole or supervised release is subject to being revoked and he is subject to being arrested and re-incarcerated for the balance of his sentence or period of supervised release.

The Defendant is given jail credit for 350 days of pre-sentence incarceration.

IT IS SO ORDERED.

_____, November 21 _____, 2001

Tyrone Shoelaces
HON. TYRONE SHOELACES, JUDGE
Fayette Circuit Court

Distribution:

Counsel of Record ()

Probation and Parole Office ()

Clerk's Initials and Date _____ / ____ /01

INVESTIGATIVE SUMMARY (Continued)

OFFENSE: RAPE IN THE FIRST DEGREE DATE OF OFFENSE: March 4, 2007

VICTIM: CHANDRA ESPOSITO TIME OF OFFENSE: 12:00-3:00 a.m.

SUSPECTS: DONNIE FAGAN
 667 Happy Circle
 Knotty Pine, Kentucky 42655

 MONTROSE "MILKY" SHATNER (Deceased)
 R.R. 2, Box 750
 Knotty Pine, Kentucky 42655

DATE: MARCH 21, 2007

COURSE OF INVESTIGATION:

I obtained a copy of the Judgment granting custody of Ms. Esposito's child to Mr. Fagan. A copy is attached.

Ms. Esposito called today to ask how things were going. I said that the investigation was continuing and that I was waiting on the results of the DNA tests from the lab. She told me that "the bastard that raped me still has my child. When is he going to be put in jail?" I said that I would present all that I had to the Commonwealth Attorney as soon as the DNA test results were back and he would make the decisions of whether to proceed and how to proceed. At this, she became enraged. In order to try to calm the situation, I asked her to contact Mr. Barrett to speak with him, and gave her his office number. She said that she would call. With that, the call ended.

The investigation continues.

March 21, 2007
10:15 a.m.

DET. SGT. DEBORAH HARI
Kentucky State Police

COMMONWEALTH OF KENTUCKY
58th JUDICIAL CIRCUIT
McDREARY FAMILY COURT
DIVISION 2
CIVIL ACTION NO. 05-CI-00002

DONNIE BECKER FAGAN,

PETITIONER,

VS

FINAL JUDGMENT

CHANDRA ESPOSITO,

RESPONDENT.

On the May 4-5, 2006 the Court conducted a bench trial in the above-captioned matter. The Petitioner, Donnie Becker Fagan, was present and represented by Hon. Susan Pierzynski. The Respondent, Chandra Esposito, was present and was unrepresented by counsel; choosing instead to represent herself *pro se*. Prior to beginning the hearing, the Court advised Ms. Esposito of the dangers of proceeding *pro se* and advised her that it would be in her best interests to obtain counsel. The Court further went on to advise Ms. Esposito that if she wished to have counsel to represent her in this matter, the Court would treat such a request as a Motion for a Continuance and would grant the Motion over the objection of the Petitioner. In the end, the Respondent chose to proceed without counsel, as her own lawyer.

The nature of this action is fairly easily explained. It is an action for custody of the parties' minor child brought by the Petitioner and opposed by the Respondent who, in her response, asks the Court to formally vest her with custody. Paternity needs to be formally established, but the parties agree that the Petitioner is the child's father.

The Petitioner called several witnesses and presented several items of documentary evidence. The Respondent called no witnesses but did testify on her own behalf in what the Court can only describe as a rambling monologue without either internal or external consistency.

Petitioner was born December 10, 1984 and is 21 years old. The Respondent was born on October 23, 1987 and is 18 years old. The parties are the biological parents of Imus Barry Fagan, born November 22, 2004. The child has been in the temporary custody of, and resided with, the Respondent since the time of his birth. However, in the interim period since this action was brought, the Court has ruled that the Petitioner shall have liberal rights of visitation with the child. Numerous problems with visitation have occurred which the Court will address below.

The parties have had an on-again-off-again relationship for the last few years. Petitioner is a high school graduate who is currently employed at Home Depot as a Clerk. He makes \$9.28 per hour. He lives on his own. The Respondent dropped out of school during her 10th grade year of high school. She is working on her GED. She is not currently employed and is living with her family.

There does not seem to be any question that the Petitioner is a caring and loving parent who is fully capable of taking care of Imus. The Respondent, it is conceded by the Petitioner and most of his witnesses, loves her child. However, there is no proof before the Court that the Respondent has even the first inkling of how to care for this child. In fact, one of the Petitioner's witnesses was Diane Lafferty, one of Respondent's best, and seemingly only, friends. According to Ms. Lafferty, the Respondent regularly neglects even the most basic needs of her child, frequently refusing to feed or change the child until another family member actually intervenes and begins to act on the child's behalf. The Court found the testimony of Ms. Lafferty, which lasted over two hours and contained numerous specific examples to be most credible and helpful to the Court's ultimate decision.

The Respondent frequently argued with witnesses and refused to follow the Court's instructions with regard to courtroom decorum. Frankly, the Court believes that the Respondent behaved, generally, like a spoiled brat during nearly the entirety of the proceedings. In doing so, she demonstrated a complete lack of self-control and her inability to behave rationally as an adult.

The Petitioner has numerous support systems in place to assist him with the raising of the parties' child. He has family members who are ready, willing and able to babysit the child for the next year or so until the child is old enough to be enrolled in and attend preschool. He lives within one half mile from the daycare where his child will go to pre-school once he is enrolled. With the exception of his continuing to see the Respondent socially—i.e., dating—his family situation is stable. The same cannot be said of the Respondent who, apparently lives in a home where at least three people have demonstrable problems with alcohol, and/or drug, abuse.

During the period following the Court's grant of temporary custody to the Respondent, the Petitioner has not missed any date on which he was to have visitation. On the contrary, he has had more time with the child than has Respondent as he is regularly called by Respondent and told, or asked, to come and pick up the child because she has plans. Additionally, there have been at least nine occasions where the Respondent, despite being allowed to have the child picked up for visitation from her residence, has not been present to deliver the child to Petitioner for visitation. The Court cannot but believe such an intolerable situation will continue if Respondent's temporary custody is made permanent.

Further, during this interim period of time, Petitioner has sought the assistance of social services agencies for the purpose of attending courses on parenting, child discipline, early child development and recognizing patterns of drug usage and abuse. The Respondent, when asked what she has done to better prepare herself for the rigors of parenting during the interim period of time answered: "Nothing, but I watch Dr. Phil every day and he has lots to say about raising kids."

This answer and this answer alone would compel the finding that the Respondent is not fit to be given custody of this precious child. But, the Court will make that finding based on the totality of the evidence presented before it over the last two days. Based upon everything the Court has seen

and heard, as well as all the testimonial and documentary evidence adduced at the hearing, there is no question that Imus belongs, and stands the best chance of thriving in life if he is placed, with his father.

Therefore, the Court will Order as follows:

1. Petitioner Donnie Becker Fagan is hereby adjudged to be the father of Imus Barry Fagan.
2. Respondent, Chandra Esposito, is unfit to be custodian of Imus Barry Fagan and the Court's previous temporary Order of custody is hereby terminated.
3. Petitioner, Donnie Becker Fagan is hereby granted sole and permanent custody of Imus Barry Fagan, to begin immediately. Without further Order or proceeding, the McDreary County Sheriff will enforce this Order upon complaint by Petitioner that Respondent will not comply with the Order.
4. Respondent, Chandra Esposito, is granted visitation with Imus Barry Fagan per the terms of the Court's Standing Order on Visitation.
5. Respondent, Chandra Esposito, shall pay the sum of \$25.00 per week as and for child support. Such payments are to be made through the McDreary County Attorney's Child Support Office.
6. Petitioner, Donnie Becker Fagan, shall pay the costs of these proceedings and each party shall pay their own attorney fees.

There being no cause for delay, this is a final and appealable Order and the Clerk shall strike this matter from the Court's docket.

IT IS SO ORDERED.

May 31, 2006
DATE

Gregory K. Woodley
HON. GREGORY K. WOODLEY
McDreary Family Court

Distribution:

Ms. Susan W. Pierzynski ()
1313 Mockingbird Lane
Stanford, Kentucky 40484
Counsel for Petitioner

Ms. Chandra Esposito ()
2415 Settlement Avenue
Knotty Pine, Kentucky 42655
Respondent

McDreary County Sheriff ()

Clerk's Initials and Date _____ / ____ /06

INVESTIGATIVE SUMMARY (Continued)

OFFENSE: RAPE IN THE FIRST DEGREE DATE OF OFFENSE: March 4, 2007

VICTIM: CHANDRA ESPOSITO TIME OF OFFENSE: 12:00-3:00 a.m.

SUSPECTS: DONNIE FAGAN
 667 Happy Circle
 Knotty Pine, Kentucky 42655

 MONTROSE "MILKY" SHATNER (Deceased)
 R.R. 2, Box 750
 Knotty Pine, Kentucky 42655

DATE: April 23, 2007

COURSE OF INVESTIGATION:

I obtained the serology and DNA results today from the KSP Lab. A copy is attached.

I contacted the Commonwealth Attorney's Office and spoke with Mr. Barrett. He decided, based upon everything which has been discovered, to proceed against Mr. Fagan on charges of Rape in the First Degree and Complicity to Commit Rape in the First Degree. He will need me at the McDreary County Grand Jury on Wednesday, April 25, 2007.

I called Ms. Esposito to notify her. She was very happy to hear that something was "finally going to be done." She wanted to know if she could keep her son after visitation this weekend. I told her she needed to comply with whatever court order is in place until it is changed. She said that she would.

The investigation continues.

April 23, 2007
12:30 p.m.

DET. SGT. DEBORAH HARI
Kentucky State Police

KENTUCKY STATE POLICE
CENTRAL FORENSIC LABORATORY
100 SOWER BLVD., SUITE 102
FRANKFORT, KENTUCKY 40601-8272
502-564-5230 (Office)
502-564-4821 (Fax)

LAB NO. 07-3-01875
CASE NO. 03-4-056

RE: Esposito, Chandra (V)
Fagan, Donnie (S)
Shatner, Montrose (S)
MacLeod, Colin (S)

REPORT OF FORENSIC LABORATORY EXAMINATION

SUBMITTED BY: Det. Sgt. Deborah Hari Kentucky State Police Post 11 CO 171

RECEIVED DATE: Various (See below) VIA: Sgt. Gibbon

RETURNED TO: Held for Release

MATERIAL SUBMITTED:

- Exhibit (6): One pair of Lee Blue jeans with possible blood or semen stains
- Exhibit (7A): One blue and gold New Balance tennis shoe (left)
- Exhibit (7B): One blue and gold New Balance tennis shoe (right)
- Exhibit (8): Blue socks with possible blood or semen stains
- Exhibit (9): One pair of white and red thong panties with possible blood or semen stains
- Exhibit (10): One white bra, size 34-B with possible blood or semen stains
- Exhibit (11): One, size medium, blue T-shirt, design on front, "My eyes are a little higher up," in white lettering with possible blood or semen stains
- Exhibit (12): A white cotton towel with the words, HOLIDAY INN EXPRESS woven into the fabric with possible blood or semen stains

EXHIBITS 6-12 WERE RECEIVED ON 3-8-07, AT 11:03 A.M

Exhibit (13): DNA Card from Montrose Shatner

EXHIBIT 13 WAS RECEIVED ON 3-8-07, AT 12:45 P.M.

- Exhibit (14): DNA Swabs for Colin MacLeod
- Exhibit (15): DNA Swab for Chandra Esposito

EXHIBITS 14-15 WERE RECEIVED ON 3-9-07 AT 13:15 P.M.

Exhibit (16): DNA Swabs for Donnie Becker Fagan

EXHIBIT 16 WAS RECEIVED ON 3-10-07 AT 4:42 P.M.

EXAMINATION REQUESTED:

Serological and Deoxyribonucleic Acid (DNA) Analyses

RESULTS OF EXAMINATION:

No blood was found on Exhibits 6, 7A, 7B, 8, 9, 10, 11 or 12.

Testing indicates the presence of human semen on Exhibits 6, 9, 10, 11, and 12.

Human DNA was not able to be extracted from Exhibit 10 as the sample size was too small.

Human DNA was extracted from Exhibits 6 (inside right leg), 9, 11, and 12. Polymerase Chain Reaction (PCR) analysis was conducted at the polymorphic Short Tandem Repeat (STR) loci D3S1358, D16S539, vWA, FGA, D8S1179, D21S11, TH01, CSF1PO, D18S51, D5S818, D13S317, and D7S820 along with the gender specific locus, amelogenin. The results are as follows:

The male DNA profile from Exhibits 6 and 11 matches the profile of Donnie Becker Fagan at all loci. The estimated frequency of this profile is one person in 194 quadrillion based on the United States African American or Caucasian populations.

The male DNA profile from Exhibits 6 and 11 does not match Montrose Shatner nor Colin MacLeod.

A mixed male DNA profile was obtained from Exhibit 9. Donnie Becker Fagan is included as a contributor to this profile. The profile can neither include nor exclude Montrose Shatner as being a possible contributor. The mixed profile does not match Colin MacLeod and he is excluded as a possible contributor.

A different male DNA profile was obtained from Exhibit 12. This profile does not match Donnie Becker Fagan, Montrose Shatner, or Colin MacLeod.

Date Completed: 4/19/07

Denise Brown-Whiting

SIGNATURE OF EXAMINER KSP 117
Denise Brown-Whiting

INVESTIGATIVE SUMMARY (Continued)

OFFENSE: RAPE IN THE FIRST DEGREE DATE OF OFFENSE: March 4, 2007

VICTIM: CHANDRA ESPOSITO TIME OF OFFENSE: 12:00-3:00 a.m.

SUSPECTS: DONNIE FAGAN
 667 Happy Circle
 Knotty Pine, Kentucky 42655

 MONTROSE "MILKY" SHATNER (Deceased)
 R.R. 2, Box 750
 Knotty Pine, Kentucky 42655

DATE: APRIL 25, 2007

COURSE OF INVESTIGATION:

I appeared before the McDreary County Grand Jury this morning at the request of Mr. Barrett. I presented the case against Mr. Fagan. The Grand Jury returned an Indictment against him on charges of Rape in the First Degree for his rape of Chandra Esposito and for Complicity to Commit Rape for his role in assisting in Montrose "Milky" Shatner's rape of Ms. Esposito. The Circuit Court judge set bond at \$50,000.00 cash or property and issued a no contact order.

The warrant will be ready tomorrow. I will pick it up in the morning and serve it on Mr. Fagan.

The investigation continues.

April 25, 2007
4:00 p.m.

DET. SGT. DEBORAH HARI
Kentucky State Police

**COMMONWEALTH OF KENTUCKY
58th JUDICIAL CIRCUIT
McDREARY CIRCUIT COURT
INDICTMENT NO. 07-CR-00077**

COMMONWEALTH OF KENTUCKY,

PLAINTIFF,

VS

GRAND JURY TRANSCRIPT

DONNIE BECKER FAGAN,

DEFENDANT.

SB: Assistant Commonwealth's Attorney Sydney Barrett

DH: Detective Sergeant Deborah Hari, Kentucky State Police

GJF: Grand Jury Foreman, Billy Bob Miller

GJ2-4: Grand Jurors

SB: Come in Detective. Have a seat.

GJF: Will you please raise your right hand? Do you solemnly swear or affirm that the testimony you will present before the McDreary County Grand Jury is the truth, the whole truth, and nothing but the truth, so you shall answer unto God?

DH: Yes, I do.

GJF: State your name and occupation?

DH: My name is Deborah Hari and I am a detective sergeant with the Kentucky State Police.

SB: Detective, did you have occasion over these last couple of month to investigate an allegation of rape made by a young woman by the name of Chandra Esposito?

DH: Yes.

SB: Who was the allegation made against?

DH: She originally made the allegation against three men. Donnie Becker Fagan, Montrose “Milky” Shatner, and Colin MacLeod.

SB: So, she originally alleged a gang rape situation?

DH: That’s right.

SB: Have you done an extensive investigation in this matter?

DH: Yes, sir.

SB: And, after having done your investigation, are you still pursuing charges against all three men?

DH: No I’m not. I don’t believe charges are warranted against Colin MacLeod. There is just no evidence to tie him to the rape of Ms. Esposito.

SB: So, you are seeking charges against Shatner and Fagan?

DH: Well, I would be except that two days after the rape occurred, Mr. Shatner committed suicide. So, I am seeking charges solely against Mr. Fagan.

SB: What charges are you seeking?

DH: Rape in the first – forcible rape – and Complicity to Rape in the First.

SB: So, Rape in the first degree for forcibly raping Ms. Esposito himself?

DH: Yes.

SB: And what is the complicity charge for?

DH: For assisting in Mr. Shatner’s rape of Ms. Esposito.

SB: Tell us a little bit about what happened?

DH: Well, Ms. Esposito and Mr. Fagan have an on and off relationship. They have a child together and he has custody of the child. They agreed to go out on a date to Tennessee on March 3, 2007. They were going to the Ascot bar.

SB: How old are these folks?

DH: Mr. Fagan is 22 and Ms. Esposito is 19.

SB: Go ahead.

DH: When Mr. Fagan picked Ms. Esposito up at her home, he had another guy in the car. This guy was Montrose Shatner. He goes by the nickname, "Milky." Mr. Shatner is, was, a convicted child molester who was on parole.

GJF: So what was Fagan doing with Shatner?

DH: Mr. Shatner, besides being a child molester was also selling pot. Mr. Fagan regularly bought pot from Mr. Shatner.

GJF: He's hanging out with a dope dealing child molester and he has custody of a child?

DH: Yeah. Pretty odd.

GJF: Damn foolish if you ask me.

DH: Originally, Ms. Esposito claimed another person, Mr. MacLeod, was in the car as well, but I have been able to show that could not have been the case.

GJ2: Well, how can that be?

DH: Mr. MacLeod met them at the Ascot. So, Ms. Esposito did know him. I believe that the trauma of being beaten and raped may have caused her to be mistaken in who was in the car. She named Mr. MacLeod because she remembered him from the bar.

SB: Are you sure he could not have been involved?

DH: Yes. He has a rock solid alibi.

SB: Go ahead.

DH: Well, on the night of March 3, 2007, Ms. Esposito, Mr. Fagan and Mr. Shatner got to the Ascot and they all were drinking. Mr. MacLeod and his girlfriend came over to the table and everyone was having a pretty good time. All except for Mr. Shatner, who was apparently moping around and talking to himself. Witnesses think he was depressed. Anyway, the victim and Fagan and Shatner all left around midnight. They were heading home when Mr. Fagan suddenly pulled over off the road behind the old tobacco store down by the state line.

SB: So, did this take place in McDreary County, Kentucky or in Tennessee?

DH: Kentucky. Here in McDreary County. They were about a half-mile over the line. And, the rape itself took place on March 4, 2007. In the early morning hours of March 4th.

SB: Go ahead.

DH: When they pulled over, Mr. Fagan said something about having sex with Ms. Esposito and she refused. At that point, Mr. Shatner grabbed her from behind and held her while Mr. Fagan got his pants down. Then, when Mr. Fagan could use his hands again, he grabbed Ms. Esposito and Mr. Shatner went outside the car. Shatner opened Ms. Esposito's car door and punched her in the face so much that he knocked her out. She became unconscious and the two took turns raping her. Afterward, they dumped her on her porch and that is where she awoke the next morning.

SB: Did you see evidence of her being beaten?

DH: Yes, I interviewed her two days later and the left side of her face was swollen and bruised.

SB: If she was unconscious, how does she know she was raped?

DH: She kept waking and going into unconsciousness. During one waking moment, Mr. Fagan was raping her. During another waking moment, Mr. Shatner was.

SB: Is there other proof that she was raped?

DH: Yes. We took her for an exam and the doctor found signs of trauma which were consistent with her story of being raped. Additionally, semen was found which matched Mr. Fagan and did not exclude Mr. Shatner.

SB: What did Mr. Fagan say about this?

DH: Well, of course, he denied raping her and said that they had consensual sex. But, he was very evasive and I caught him in a number of lies.

GJ3: Consensual sex with both of them?

DH: Mr. Fagan said just he had sex with Ms. Esposito. He said that Shatner had left the car and walked home.

GJ3: In winter?

DH: That's what he said.

GJF: And, of course, you couldn't talk to Shatner because he killed himself?

DH: Well, we couldn't talk to him, but he did leave a note.

GJF: Suicide note?

DH: Yes. I have a copy if you want to read it.

SB: Why don't you go ahead and read it.

DH: "I cant stand to think about what I have done any more I don't know why I done it but I keep thinking that it was caus I was drinking and just dint know what I doing. I cant get her face out of my head and I hate myself for what I done. I cant stop and I don't know who to call for help. I am going back to prison and I cant go back to that again. They almost killed me the first time for what I done to her there gonna kill me for sure this time. Pleease foregive me."

There are a number of misspellings in it, but it is signed, Montrose Shatner.

GJF: Sounds like a confession to me.

GJ4: What about this girl? Does she have a reason to make this up?

DH: Well, of course, she wants her child back. But, she was beat up badly and there is physical evidence to corroborate her story. I guess anyone might have a reason to lie about such things, but her story seems to be confirmed by the available evidence.

GJF: Plus the confession from the grave.

[Laughter]

DH: Plus that, yes.

SB: Does anyone have any more questions?

SB: Okay, we'll quit there. Thank you detective.

DH: Yes, sir. You're welcome.

—END—

COMMONWEALTH OF KENTUCKY
58th JUDICIAL CIRCUIT
McDREARY CIRCUIT COURT
INDICTMENT NO. 07-CR-00077

COMMONWEALTH OF KENTUCKY,

PLAINTIFF,

VS

INDICTMENT

KRS 510.040(1)(a)
KRS 510.040(1)(b)
KRS 502.020(1)(b)
Rape 1st Degree
Complicity to Rape 1st Degree

DONNIE BECKER FAGAN,

DEFENDANT.

THE GRAND JURY CHARGES:

COUNT ONE:

On or about March 4, 2007, in McDreary County, Kentucky, the above-named individual, DONNIE BECKER FAGAN, committed the offense of First-Degree Rape either by engaging in sexual intercourse with C.E., a female over the age of 18, through the use of forcible compulsion or by engaging in sexual intercourse with C.E., a female over the age of 18, while she was physically helpless against the peace and dignity of the Commonwealth of Kentucky.

COUNT TWO:

On or about March 4, 2007, in McDreary County, Kentucky, the above-named individual, DONNIE BECKER FAGAN, committed the offense of Complicity to Commit First Degree Rape either by aiding, counseling, or attempting to aid MONTROSE "MILKY" SHATNER while he was engaging in sexual intercourse with C.E., a female over the age of 18, through the use of forcible compulsion or by aiding, counseling, or attempting to aid MONTROSE "MILKY" SHATNER while he was engaging in sexual intercourse of C.E., a female over the age of 18, while she was physically helpless against the peace and dignity of the Commonwealth of Kentucky.

A TRUE BILL.

Billy Bob Miller

FOREMAN McDREARY COUNTY GRAND JURY

WARRANT OF ARREST ON INDICTMENT

To All Peace Officers in the Commonwealth of Kentucky:

You are hereby commanded to arrest DONNIE BECKER FAGAN and bring him forthwith before the Circuit Court of McDreary County, Kentucky to answer an Indictment charging him with the offenses of Rape in the First Degree and Complicity to Rape in the First Degree. If the Court is not in session, you will deliver him to the Jailer of McDreary County.

Issued at Whippy City, McDreary County, Kentucky, this 26th day of April, 2007

Selma

Magillicuddy

CLERK, McDREARY CIRCUIT COURT

ENDORSEMENT AS TO BAIL

The Defendant may give bail in the amount of \$50,000.00 cash or \$100,000.00 property.

As a non-financial condition of the bond, the Defendant shall not initiate any contact, directly or indirectly, with the complainant, C.E. "Initiating contact" includes, but is not limited to intentionally bringing himself within 500 feet of C.E., except for court appearances.

Esther Bunnai

HON. ESTHER BUNNAI, JUDGE
McDreary Circuit Court

INVESTIGATIVE SUMMARY (Continued)

OFFENSE: RAPE IN THE FIRST DEGREE DATE OF OFFENSE: March 4, 2007

VICTIM: CHANDRA ESPOSITO TIME OF OFFENSE: 12:00-3:00 a.m.

SUSPECTS: DONNIE FAGAN
 667 Happy Circle
 Knotty Pine, Kentucky 42655

MONTROSE "MILKY" SHATNER (Deceased)
R.R. 2, Box 750
Knotty Pine, Kentucky 42655

DATE: APRIL 26, 2007

COURSE OF INVESTIGATION:

I obtained a copy of the arrest warrant for Mr. Fagan and served it on him this morning. He was completely shocked by my appearance saying, "I told you that this was bullshit. Why are you doing this to me?" I explained that I had a warrant and that the Grand Jury had indicted him.

He asked to be allowed to call his mother to come and get his son before I left with him. She arrived within 20 minutes and took the child with her. She asked what Mr. Fagan's bond was. I explained that the bond had been set at \$50,000.00 cash or \$100,000.00 property. However, I stressed that if Mr. Fagan made bond, he was to have no contact with Ms. Esposito. Mrs. Fagan told her son not to worry that she and his father would be down to the courthouse within a few hours to post a property bond for him.

I advised Mr. Fagan of his rights and he said that he wanted to talk to his attorney. I took him to the McDreary County Jail and processed him there with prints and pictures. He remained lodged in the jail when I left.

Approximately two hours later, at around 10:15 a.m., I received call from Ms. Esposito. She said that she had heard Mr. Fagan was arrested and in jail. I told her that was correct. She asked if that meant she should go and pick up her child. I told her she needed to obey the Court Order in place until it was changed. She asked how long that would be. I told her she needed to get an attorney and consult with the attorney because I did not know.

I did advise Ms. Esposito that there was a no contact order in place on Mr. Fagan's bond and that he was not allowed to have any contact with her and that she should not have any contact with him. She said that he was in jail and asked "why would that be a problem?" I told her that Mr. Fagan's parents had discussed posting bond for their son and that he might be released from jail if that happened. Ms. Esposito replied, "You mean he's going to get out?" I said that he might be released on bond. She then said, "What the hell do I have to do to put him away for good?" I said

that she needed to speak to Mr. Barrett about what the next steps were and how she could continue to be of help in this investigation. She said she would call him and the call ended.

At approximately 15:30 p.m. I received a call from Mr. Barrett who advised that Mr. Fagan had been released on bond. I asked who posted it. He advised that the bond had been posted by his parents in the amount of \$100,000.00 property. I said that I was not surprised. He said that he would need my file just as soon as I could get it ready. He wants to move this case through the system as soon as possible in order to get it tried within six months. I said that I will put my file together and give it to him next week.

The case is cleared by arrest.

April 26, 2007
17:15 p.m.

DET. SGT. DEBORAH HARI
Kentucky State Police