

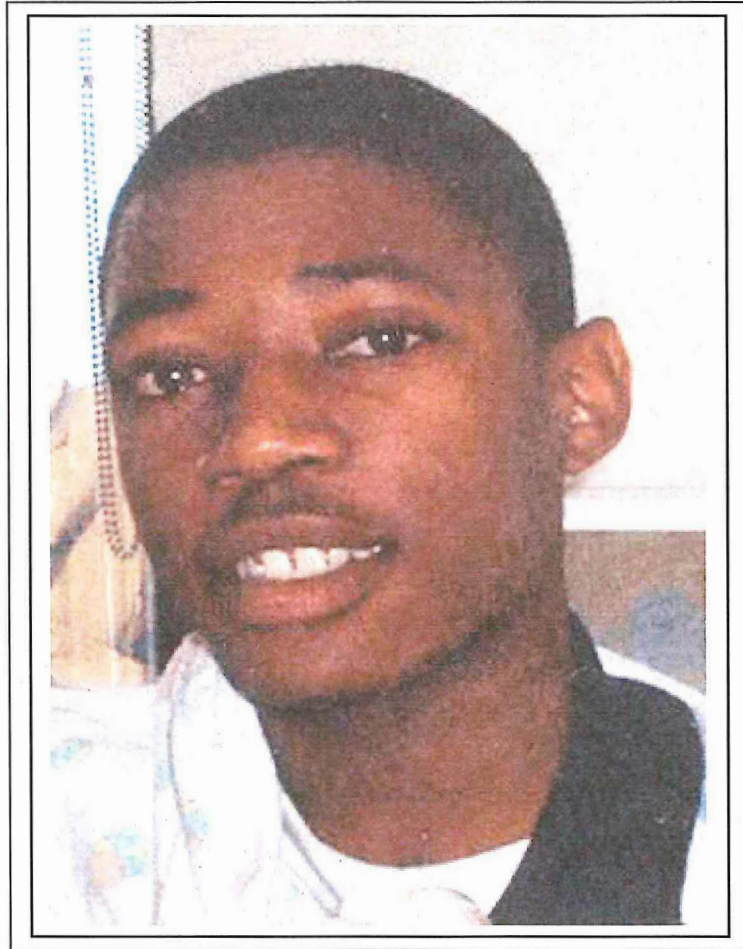
Crime Bulletin



\$250,000 REWARD

The Office of the Mayor has authorized a \$250,000 reward for information leading to the arrest and prosecution of the suspect(s) responsible for the murder of AUBREY ABRAKASA Jr.

8-041
07-27-16
RE-ISSUE



Victim AUBREY ABRAKASA Jr.

On August 14th 2006, at approximately 3:00 in the afternoon, Aubrey Abrakasa Jr. was killed in the intersection of Grove and Baker Streets. Mr. Abrakasa was a popular 17 year old.

Anyone with information or questions is urged to contact Inspector Jim Spillane or Inspector Gianrico Pierucci of the SFPD Homicide Detail at (415) 553-1145. Person(s) wishing to remain anonymous may call the SFPD Tip Line at (415) 575-4444 or Text-A-Tip at TIP411 (847411) write SFPD followed by the message.

SFPD CASE #: 060 862 038.



LONDON N. BREED
MAYOR

CITY AND COUNTY OF SAN FRANCISCO
POLICE DEPARTMENT
HEADQUARTERS
1245 3RD Street
San Francisco, California 94158



WILLIAM SCOTT
CHIEF OF POLICE

February 24, 2021

To Whom It May Concern,

Since 2017 I have served as the Chief of Police for the San Francisco Police Department. In my role as Chief of Police I have met and come to know Ms. Paulette Brown whose teenage son Aubrey Abrakasa Jr. was murdered in the City and County of San Francisco on August 14, 2006. Since that time, the San Francisco Police Department has been responsible for investigating his murder - which remains unsolved.

Investigators from the SFPD's Homicide Detail have been in communication with Ms. Brown since this incident occurred. Also, since the day Aubrey was murdered, Ms. Brown has regularly appeared and spoken at San Francisco Police Commission meetings where she has pleaded for the SFPD to continue to investigate her son's murder and for members of the public to come forward with information that will aid in the arrest and prosecution of those responsible.

Recently, Ms. Brown brought to SFPD's attention that allegations had been made by others that her son Aubrey was a gang member and was involved in gang activity prior to his death. As a mother still grieving the death of her son, Ms. Brown is intent on doing everything she can to clear Aubrey's name and protect his reputation as he is not alive to protect his own reputation.

I have verified by way of record and conversation with members of the SFPD that although Aubrey Abrakasa knew individuals from his neighborhood who SFPD members believe were involved in gang activity, there is no SFPD documentation or indication that Aubrey was a gang member or that Aubrey was involved in any gang related criminal activity. SFPD members who have relayed this information have historical knowledge of Aubrey and are intimately involved in the investigation of his homicide.

As a law enforcement professional with over 30 years in the policing profession, I understand and respect that SFPD members are not privy to the details and investigative finding pertaining to any investigations by other agencies as it relates to Aubrey, his friends, or associates. However, I believe Ms. Brown, has every right as a mother to advocate to protect the name and reputation of her deceased son. With that said I ask that Ms. Brown's request to remove the listing of her son as a gang member be seriously considered and investigated by any agency with such record.

We applaud Ms. Brown who worked tirelessly during Aubrey's life to prevent him from becoming involved in a gang activity and after his death has worked tirelessly to keep the investigation of his murder alive, hold those responsible accountable, and protect Aubrey's good name and reputation.

Our support and condolences remain with Ms. Brown and her family over this tragic incident.

Sincerely,



WILLIAM SCOTT
Chief of Police



The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

Friday, December 18, 2020

To whom it may concern,

My name is Petra DeJesus and I am writing in my individual capacity as a member of the San Francisco Police Commission on behalf of Paulette Brown. I am not writing on behalf of the Police Commission as whole. Mrs. Brown has appeared in front of the San Francisco Police Commission for years, relentlessly seeking justice for her son, Aubrey Abrakasa, Jr.. She is a tireless advocate for victims of crime, and a dedicated member of the Healing Circle. Her son was murdered on August 14, 2006 and his murder has not been resolved.

Mrs. Brown has brought it to the Police Commission's attention, repeatedly, during public comment that her son, a victim of a violent crime is being characterized as a "known" gang member. This is concerning to me. During the 13 years I have been on the Police Commission, I understand that there is no evidence that Aubrey Abrakasa was a member of a gang. Indeed, the SFPD has assigned several homicide investigators to help solve Aubrey's murder and the City has participated in billboard campaigns, as well as offered cold case rewards to help solve his murder.

Clearly, living in a neighborhood with known gang members or living across the street from a known gang member does not make one a gang member. It's easy to make an accusation it's another thing proving it. Disparaging a murder victim's reputation without concrete evidence is irresponsible and incredibly hurtful to his family, his friends and colleagues.

Given the historical bias and stereotyping of young African American men and the discriminatory practices in the Justice System, it is important that the Department of Justice Professional Responsibility investigate Mrs. Brown's request to remove the gang member classification imposed on her son, especially since as a victim of a homicide Aubrey cannot defend himself. Labeling Aubrey Abrakasa as a gang member in perpetuity is unwarranted and unconscionable under these circumstances.

Thank you for your attention to this matter.

A handwritten signature in blue ink that reads "Petra DeJesus".

Commissioner Petra DeJesus

Crime Bulletin



\$250,000 REWARD

8 041

Thompson Hannibal

Paris Moffett

Andrew Videau

Jason Thomas

Anthony Hunter

Mauric Carter

Potential story - federal gang prosecution, false claims about a murdered black teenager

From: Shawn Halbert (shawn@shawnhalbertlaw.com)

To: iteam@sfchronicle.com

Cc: paulette [REDACTED]

Date: Wednesday, September 30, 2020, 02:31 PM PDT

Dear SF Chronicle,

I am sending this to you confidentially and ask that you contact Paulette Brown directly at her email on the cc here or at (415) 683-8803. I was one of the defense attorneys in the federal case that is referenced in Ms. Brown's complaint, wherein her son Aubrey Abrakasa, who was murdered, was falsely labeled a gang member. (My client, Reginald Elmore, was in the second set of defendants and pled guilty to a lesser charge and so did not go to trial with the first set of defendants). The defendants who were convicted at trial are appealing their convictions.

In the course of our investigation of the informant, I met Ms. Brown and learned about all of the work she has done in the community since her son was murdered. She wrote a declaration that we submitted to the Court at our sentencing. She has met and been photographed with almost every important SF public official because of the work that she has done.

This story raises serious Black Lives Matter issues, as you will see when you read Ms. Brown's complaint. Her son was labeled as a gang member by federal prosecutors in the trial even though the SF Police Department and many SF public officials have made it clear in news stories over the years that he had no gang affiliation. Despite the evidence to the contrary (which unfortunately was not brought up at trial by the lawyers), the government needed for Aubrey to be thought of as a gang member in order to tell the story they wanted to tell at trial and because their main informant (who was caught lying about other things an extraordinary number of times) said it was true.

I cannot represent Ms. Brown because of my involvement in the underlying criminal case, so I am just contacting you in case having an email from a lawyer establishes any baseline of credibility (though with the reputation of the legal profession, that may be too great an assumption!)

Please do not hesitate to contact me.

Shawn

Law Offices of Shawn Halbert

214 Duboce Avenue

San Francisco, CA 94103

T: (415) 703-0993

No. _____

**THE UNITED STATES DEPARTMENT OF JUSTICE
OFFICE OF PROFESSIONAL RESPONSIBILITY**

Paulette Brown

Complainant,

v.

William Frentzen, Scott Joiner and Kevin Barry, Assistant United
States Attorney's in the Northern District of California

Respondent.

Director and Chief Counsel
Office of Professional Responsibility
U.S. Department of Justice
950 Pennsylvania Avenue, N.W., Suite 3266
Washington, DC 20530-0001

COMPLAINT

Paulette Brown, Complainant
1532 Grove Street, Suite #B
San Francisco, CA 94117
(415) 683-8803

TABLE OF CONTENTS

TABLE OF CONTENTS	1
TABLE OF AUTHORITIES.....	3
I. INTRODUCTION AND PROCEDUAL BACKGROUND...5	
1) Vicarious Murder	8
2) Use of a Firearm.....	8
3) Use of a Fire Arm in Murder, and.....	8
4) Accessory to Murder after the Fact.....	8
II. REMEDIES SOUGHT UNDER THIS COMPLAINT	8
III. STATEMENT OF FACTS	9
A. Federal Prosecutor’s Smeared Aubrey’s Character on the Bases of the Color of his Skin – Even While Governor Gavin Newsom, Police Detectives, and Community Leaders Proclaimed He Was an Innocent Victim.....	9
B. ASUS’s Reliance upon False Testimony in United States v. Williams Represents a Burning Cross of Contempt for Black Male Children.....	11
C. Prosecutor’s Ignored Aubrey Abrakasa had No Criminal Record and Only Called upon Gangster(s) facing Trial to Give False Testimony of his Alleged Gang Affiliation	12
1. No Credible Witnesses Called other than Gang Leaders	13
2. Equal Justice under Law Requires Prosecutor’s to have applied the Same Standard of Proof in Capital Murder Cases as if Aubrey Abrakasa were a Blonde Blue Eyed White Boy	13
3. Aubrey Abrakasa’s Mother Has Recently Succeeded at Clearing Her Son’s Good Name after 14 Years	14

4.	Prosecutor’s Rush to Judge Aubrey Abrakasa as a Gang Member Was Racially Motivated Under A Double Standard	15
5.	Since Aubrey was killed by a Gang According to Prosecutors Meant he was in a Gang	16
6.	Defense Attorney Mark Vermeulen for Defendant Charles Heard Destroyed Johnnie Brown’s Perjured Testimony with Surgical Precision and Exposed That ASUA’s Knew or should have known Brown’s Testimony was False	17
7.	Aubrey Abrakasa was Litigiously Lynched.....	18
IV.	This Has Remained A Cold Case Because Potential Witnesses Don’t Trust the Feds Rendering the \$250,000 Reward Useless	24
V.	LEGAL ANALYSIS	27
VI.	ASSISTANT UNITED STATES ATTORNEY’S WILLIAM FRENTZEN, SCOTT JOINER AND KEVIN BARRY CUT A DEADLY DEAL THAT LED TO AUBREY’S “COLD CASE”	30
VII.	Conclusion.....	34
VIII.	CERTIFICATE OF ELECTRONIC	35
	SERVICE VIA E-MAIL	35

TABLE OF AUTHORITIES

CASES

<i>Brady v. Maryland</i> , 373 U.S. 83 (1963)	19
<i>Describing Mooney</i> , 294 U.S. at 112-13	20
<i>Hayes v. Brown</i> , 399 F.3d 972, 984 (9th Cir. 2005) (en banc)	21
<i>Hayes v. Brown</i> , 399 F.3d 972, 985 (9th Cir. 2005) (en banc)	21
<i>Jackson v. Brown</i> , 513 F.3d 1057, 1075 (9th Cir. 2008)	21
<i>Jackson v. Brown</i> , 513 F.3d 1057, 1075-76 (9th Cir. 2008)	20
<i>Mooney v. Holohan</i> , 294 U.S. 103 (1935).....	19
<i>Morris v. Ylst</i> , 447 F.3d 735, 743 (9th Cir. 2006).....	22
<i>Napue v. Illinois</i> , 360 U.S. 264 (1959).....	19
<i>Napue v. Illinois</i> , 360 U.S. 264, 269 (1959).....	18
<i>Phillips v. Ornoski</i> , 673 F.3d 1168 (9th Cir. 2012).....	22
<i>Reis-Campos v. Biter</i> , 832 F.3d 968, 976 (9th Cir. 2016), cert. denied, 137 S. Ct. 1447 (2017).....	20
<i>United States v. Ali</i> , 344 F.3d 1002, 1007 (9th Cir. 2003)	21
<i>United States v. Houston</i> , 648 F.3d 806, 814 (9th Cir. 2011)	23
<i>United States v. LaPage</i> , 231 F.3d 488,492 (9th Cir. 2000)	22
<i>United States v. Inzunza</i> , 638 F.3d 1006, 1020 (9th Cir. 2011)	24
<i>United States v. Renzi</i> , 769 F.3d 731, 751-52	24
<i>United States v. Rodriguez</i> , 766 F.3d 970,980 (9th Cir. 2014)	24
<i>United States v. Wallach</i> , 935 F.2d 445, 457 (2d Cir. 1991)	22

CODE

Title 18, United States Code, Sections 1959(b)(1) and 1961(1).....	6
---	---

Title 18, United States Code, Sections 922(g)	5
Probate Code section 8226 (a).....	24

I. INTRODUCTION AND PROCEDUAL BACKGROUND

Complainant, Ms. Paulette Brown (hereinafter “Ms. Brown”) hereby formerly seeks an impartial investigation by the Department of Justice Office of Professional Responsibility (hereinafter “OPR”) against Assistant United States Attorney’s (“AUSA”) **William Frentzen, Scott Joiner and Kevin Barry**. The bases for requesting an investigation are based upon the foregoing facts and evidence proffered and herein attached as fully incorporated exhibits to this complaint as follows:

On August 14, 2006, a barely 17-year-old boy Aubrey Abrakasa Jr. (“Aubrey”) was shot multiple times and killed at the intersection of Grove and Baker Streets in the Western Addition district of San Francisco, California. Aubrey sacrificed his life to warn another younger to “run” from assailant(s) who were carrying semi-automatic weapons. The other young Black male fled, but the perpetrators next fired 30 rounds of bullets at Aubrey fatally wounding him in retribution for his part in saving the life of their intended victim.

If Aubrey were a white boy, it is reasonable to conclude, he would have been hailed a hero and no less than as a Good Samaritan. Instead, an all-white male prosecution team labeled Aubrey a gang member of one of the most notorious crime rings in Northern California’s history. It mattered not that he held a job, went to school, and had no criminal record.

The hue of his skin trumped all acceptable standards of accurate verification of criminal characteristics. For at least 10 consecutive years AUSA prosecutors could not find anything untoward in Aubrey’s background. So they used the vulnerability of living defendants to castigate the life of a dead Black boy. According to trial court records, up until now most of the evidence had been filed under seal and thus hidden from public view. At some point, Brown became a paid informant against several of the members of his own gang, associate members of others gangs as well as

gang rivals. He was paid in excess of \$200,000 at various times those payments to him were in increments of \$8,000 to \$9,000 or as much as \$10,000 and like a Swiss watch in syncopated repetition.

Federal Court transcripts show, while under the protection of United States Marshals and direct supervision of the Federal Bureau of Investigation's Witness Protection Program, the government paid for all of Brown's hotel bills, living expenses, including food and other accommodations. These and other expenses were paid for both in several different locations in the San Francisco Bay Area and in other states.

Brown admitted that there was frequent marijuana use where he had been temporarily placed with female visitors and bragged to other women that he worked for the FBI and got paid a lot of money.

Incredibly, he also admitted lying about scamming money from the government with respect to renting out the very room or apartment already once paid for by the government as his safe house. Between trial cross-examination and re-cross of Defense Attorney Mark Vermeulen and federal Public Defender Servera Keith, on December 21, 2017, Brown admitted lying 122 times at trial about this case, even while under the witness protection program. Among the other lies he told in exchange for his paid testimony was that Aubrey Abrakasa Jr. was a gang member. Vol. 27 p. 24

Brown also admitted lying repeatedly about his whereabouts during periods he could not be found, He also lied to federal Marshals and the FBI Special Agent's repeatedly only to reoffend to the extent he was temporarily suspended from the witness protection program for three months. Vol. 28/31/32/54 pp. 9359-9530.

But, when pressed at trial by Defense Counsel for Charles Heard Attorney Mark Vermeulen followed by United States Federal Public Defender Several Keith for Monzell Harding, he was exposed not to have actually been a paid informant, but a paid pathological liar. Equally as

mindboggling, Assistant United States Attorney's William Frentzen, Scott Joiner and Kevin Barry made no effort to correct Brown's obvious and duplicitously false testimony, but rather prosecutor's made numerous feeble attempts to resurrect Brown's false testimony, while fully cognizant of his paid motive and scorched credibility.

Prosecutor's recklessly promoted false and perjured testimony, involving several defendants facing long prison terms, paying for informant testimony so perfunctory, most could be found in any 90 minute crime drama. If that were not enough, other considerations were granted including all-expense paid hotel or apartment accommodations out-of-state. Brown was free to choose anywhere he desired to live.

Taxpayer funded monies were spent for lavish living accommodations for the real criminals coupled with immunity from prosecution for murder, attempted murder, witness intimidation, in exchange for lighter sentences, leniency, and other forms of favorable treatment. Aubrey despite his innocence became a convenient target to implicate, distort and distract attention from the actual perpetrators who killed him in cold blood. The obvious reason is, he could not possibly testify from his own grave.

On March 12, 2010, the United States Attorney for the Northern District filed a criminal complaint for murder against Johnnie Brown based upon his possession of a pistol suspected involved in the commission of a capital offense in violation of Title 18, United States Code, Sections 922(g) and (g)(1) under Case No. 3:10-mj-70394-CRB-1. Johnnie Brown was suspected of being the leader of a Western Addition District street gang. A true and correct copy of that complaint is attached as **Exhibit A** and is fully incorporated in this complaint. After numerous pretrial stipulations for continuances granted by the magistrate of the court, on or about December 22, 2010, the case of Brown was ordered reassigned to the Honorable Judge

Charles R. Breyer.

On November 21, 2013, a four count grand jury indictment was handed down in a related case against alleged gang leader Alfonzo “Fonzo” Williams et al charging him with the following offenses:

- 1) Vicarious Murder
- 2) Use of a Firearm
- 3) Use of a Fire Arm in Murder, and
- 4) Accessory to Murder after the Fact

Apart from capital murder, the Grand Jury found sufficient evidence to indict Williams and others for gang related racketeering as defined under Title 18, United States Code, Sections 1959(b)(1) and 1961(1), specifically describing such illegal enterprises, fitted to intimidate and threaten witnesses with violence. A true and correct copy of said indictment is hereto attached as **Exhibit B** and is fully incorporated in this complaint.

The indictment alleges gang members actively promoted interstate “pimping of women”, “murder”, “narcotics”, “extortion”, “robbery” “assault upon rival gangs” and “obstruction of justice” by manipulating “snitches” and “feigning cooperation” with law enforcement authorities in order avoid detection.

II. REMEDIES SOUGHT UNDER THIS COMPLAINT

Complainant Paulette Brown and mother of Aubrey Abrakasa Jr. seek appropriate remedies available under well settled case law and its prodigy in *Mooney-Napue*. A statutory duty exists for the prosecutors who tried this case to appropriately and properly correct the record. First, any and all such references which imply, suggest, or infer that Aubrey Abrakasa Jr. was a member of a street gang must unconditionally and categorically be excised from ALL trial court pleadings, verbatim transcripts, investigative reports, and all other writings available to the prosecutors that had otherwise been presented to the court and jurors in this case. Secondly,

correction of the record must provide a reasonable or responsive explanation for the government's substantial payments for testimony proffered to the court and jurors as true when prosecutors knew that testimony to be patently false. Third, reopen the record and the case consistent with *Napue* since convictions were clearly obtained through use of false evidence. Furthermore, representatives of the federal government actively solicited false evidence and stood silent to allow it to go uncorrected.

III. STATEMENT OF FACTS

On August 14, 2006, seventeen year old Aubrey Abrakasa Jr. was shot multiple times and killed at the intersection of Grove and Baker Streets in San Francisco, California. The intended victim was not him. Rather, it was another youth that he told to "run".

The assailants next turned a semi-automatic weapon on Aubrey firing 30 rounds of bullets and fatally wounding him. Adding insult to existing injury, without a single iota or one scintilla of evidence, ASUS unethically, immorally, and with reckless disregard for the victim and his family concluded in open court and before a sitting federal District Court judge and jury that this young boy was a known gang member. No attempt has even been made to correct the false testimony of the record.

A. Federal Prosecutor's Smeared Aubrey's Character on the Bases of the Color of his Skin – Even While Governor Gavin Newsom, Police Detectives, and Community Leaders Proclaimed He Was an Innocent Victim

Each of the above named prosecutors without good cause or justification defamed this young African American boy not based on the content of his character, but solely on the color of his skin. Such willful negligence led to a benign failure to catch and convict his killer(s) and those known others complicit in Aubrey's senseless and calloused murder.

As a proximate cause of prosecutorial negligence and gross

misconduct, the family of young Aubrey has for 14 years been needlessly denied equal justice under law. Aubrey's untimely murder has remained a "Cold Case" for nearly 15 years in the face of *boiling hot* evidence. Proof pointing to the murderers has been and continues to be in plain view of law enforcement for years after Aubrey took his last breath.

California Governor Gavin Newsom along with veteran San Francisco Homicide detectives were publically quoted in an publication captioned "Fear Handcuffing Witnesses to a San Francisco Killing" by investigative reporter John King appearing on April 4, 2009 in the San Francisco Chronicle newspaper as stating:

"I know who killed her son," Mayor Gavin Newsom said Thursday. "The D.A. knows who killed her son. The police know."¹

On Aug. 14, 2006, a high school senior named Aubrey Abrakasa was gunned down on a San Francisco street. The reporter prefaced his comments by adding: "You probably think you know how this story goes. You're wrong. It may be easier to say what this wasn't.

It wasn't gang-on-gang violence. It wasn't in one of the city's worst neighborhoods. And it wasn't one of those cases where the police

¹ THE EXACT NAMES OF AUBREY ABRAKASA'S KILLER'S HAVE BEEN PUBLISHED IN THE S.F. POLICE HOMICIDE DETAIL BULLETIN AND ARE AS FOLLOWS:

- 1) Thompson Hannibal
 - 2) Paris Moffett
 - 3) Andrew Videau
 - 4) Jason Thomas
 - 5) Anthony Hunter and
 - 6) Mauric Carter
- See Exhibit F

have no leads, no suspects and no chance to arrest the killers who shot Paulette Brown's 17-year-old boy. He's serious. They can name names, identify individuals and even list home addresses. They've got everything they need to nail this down with one exception - a witness.

It isn't that no one saw what happened. It is that they are afraid to speak up. Right there, in a pretty nice neighborhood by the Panhandle of Golden Gate Park, people are living in fear.

"It's simple and it's complex," said homicide Inspector Kevin Jones, who is working the case. "But I can tell you this: Aubrey did absolutely nothing to be shot for. Whatever it was that the shooter or shooters were thinking, there was nothing that justified them shooting him." (underlined emphasis added.)

A true and correct copy of that nationally syndicated news publication is hereto attached and fully incorporated in this complaint as **Exhibit C**. Indeed, Aubrey was metaphorically murdered twice — once by a barrage of bullets, and again by bigotry grounded in systemic racism too indifferent toward Black boys to even take time to investigate the good and kind person who he really was. For all these many years Aubrey's good name, good character and loving soul has been buried in a desolate graveyard of unfounded stereotypes crying out from the tomb for simple peace and plain justice.

B. ASUS's Reliance upon False Testimony in United States v. Williams Represents a Burning Cross of Contempt for Black Male Children

Under the facts of this case, casting blame upon a child for his own death can be for no other reason than he was born Black. To let this continue to stand represents **a burning cross of contempt** and an emblem of unconscious hate towards Black children across America. Young Aubrey was raised by great parents, a loving and caring extended family, and highly regarded mentors within the community.

Illustrative of this truth, examination of excerpts of the trial court indictment and relevant transcripts of the closing remarks as to the

testimony of alleged gangland murders, pimps, drug dealers were summarily accepted by prosecutors as *credible* evidence of gang affiliation and criminality.

The record indisputably shows that from the onset prosecutors made its case for conviction entirely from identifiable characteristics of rival street gangs with distinguishable street nicknames, tattoos, criminal arrest history therewith gang affiliations to pervasive acts of violence, and terror resulting in sustained fear within and throughout the community.

In fact, ASUA's involuntarily collected photographs of *tattoos* from the defendants under a pretext of open discovery and prosecutorial transparency when presenting them to the court and jurors as courtroom *trial exhibits*. Repeatedly, Mr. Joiner represented to the judge and jury that identifying *tattoos* is the surest method of detecting criminal gang activity. See also Vol. 53 p. 9338/9355.

However, that standard of proof for determining gang involvement or gang affiliation dramatically shifts, when applied to Aubrey. At trial prosecutors were presented with direct evidence that Aubrey regularly attended school and had a job at the Bernal Heights Recreation Center located in an upscale neighborhood in San Francisco.

Despite undisputed evidence Aubrey had not been branded with any gang regalia, prosecutors stubbornly argued he was still a criminal gang member because we reasonably deduce that observation is erroneous for no other rational reason than because he happened to be Black.

C. Prosecutor's Ignored Aubrey Abrakasa Jr. had No Criminal Record and Only Called upon Gangster(s) facing Trial to Give False Testimony of his Alleged Gang Affiliation

When prosecutors are shown affirmative evidence that Aubrey had no criminal record, they preposterously argue before the court and jury that having no past criminal history is irrelevant. Direct proof proffered showing Aubrey did not have any gang related "tattoos" anywhere on his

person, prosecutor's **Frentzen, Joiner** and **Barry** collectively maintained that [Aubrey] having a "job"; "no prison record"; "going to school", and not wearing "tattoos" made no difference at disaffirming him as gang member.

1. No Credible Witnesses Called other than Gang Leaders

Not a single credible witness was ever called to confirm Aubrey had ever been a gang member at any time in his short young life, except for the gangsters themselves having been indicted and facing trial at that time.

Rather, word-for-word official Court Reporter transcripts categorically reveal a disgraceful display of prosecutorial misconduct committed by these purported "Officers of the Court".

Despite the indictment detailing the propensity of these same gang members to lie and manipulate law enforcement to protect each other from arrest and prosecution, federal authorities nonetheless submitted as truth these criminal defendants false testimony to the judge and jury under oath.

Such testimony too consisted of no more than manufactured and perfunctory ("he said" — "she said") hearsay witness statements, speculatively procured from the same young murders, pimps, narcotics dealers, and violent predators named in the criminal indictment.

2. Equal Justice under Law Requires Prosecutor's to have applied the Same Standard of Proof in Capital Murder Cases as if Aubrey Abakasa Jr. were a Blonde-Blue Eyed White Boy

While grief stricken parents, family, friends and the community mourned Aubrey's untimely death, federal prosecutors set into motion its case predicated solely upon the assassination of this young boys character. Equal justice under law requires prosecutor's to have applied the same standard of proof to capital murder cases regardless of race, creed, or color.

Consequently, Aubrey was as defenseless in life as he was in death. He was as much assassinated from the invisible projectiles of prejudice as

he was the forensic residue of unconscious bias.

That same strong psychological and prosecutorial bias precluded **Frentzen**, **Joiner** and **Barry** from distinguishing an innocent Black boy's face of a murdered child from the Black faces of the perpetrators, because they all regarded as no different from the latter and thus being all the same.

3. Aubrey Abrakasa's Mother Has Recently Succeeded at Clearing Her Son's Good Name after 14 Years

In the case of Aubrey these prosecutor's refused to do anything except to lend a deaf ear and a blind eye to what surely should have been a search for truth and justice. Unlike, federal prosecutors, elected officials, community leaders, local law enforcement and the Black community rose up to unanimously defend this child since he had never been in a gang.

Prosecutors have willful and negligent failed to correct the record spanning the past several years since Aubrey's killing. Such wanton disregard for his young life has required his loving mother Paulette Brown to perform the investigative work federal authorities have flatly refused to do, while failing to simply correct the record. *See* her declaration attached.

Ms. Brown's tireless efforts as a first priority was to take on the difficult and daunting task of keeping her son's memory alive. This grieving mothers' second task has all along been her relentless pursuit of justice for her son.

For over 14 consecutive years, she has organized an uncalculatable number of vigils, memorials, town hall meetings on gang violence and attended innumerable San Francisco Police Commission meetings. She circulated fliers, fearlessly walked the neighborhood of her child's killers, while making City Hall virtually her second home.

Along with carrying the daily burden of her own loss, Ms. Brown has continued to help other grieving mothers and their families coordinate, investigate, and navigate the frustrating complexities of the criminal justice

system concerning gangland violence.

Her unselfish and prolific works have become the “gold standard” for such cases, earning Ms. Brown the highest degree of respect and ever growing cooperation from local law enforcement. Such support remains unparalleled and unsurpassed in San Francisco county history.

4. Prosecutor’s Rush to Judge Aubrey Abrakasa Jr. as a Gang Member Was Racially Motivated Under A Double Standard

A rush to judgment by prosecutors proved no match for a mothers’ love. This complaint is from a mother that federal authorities refused to listen to, when she said her son had all along been a good, law abiding young boy. She said Aubrey had been raised in a disciplined-two-parent-household fortified with strong moral fiber and a solid foundation of respect for others, consistent with acceptable American societal norms.

In total and utter disregard of the facts, evidence, and simple principles of truth and justice prosecutor’s **Frentzen, Joiner and Barry** summarily disregarded ALL available evidence Aubrey was not a gang member. If the evidence under seal had been properly admitted and testimony received thereafter corrected would have clearly affected the outcome of the jury verdict.

Indeed, on information and belief, if Aubrey were a White Boy with blonde hair and blue eyes, rather than a Brown eyes and Black skin, the outcome would have been different for that reason standing alone. Both anecdotally and statistically, the killers would have most likely been caught and convicted because prosecutors would never hypothetically conclude for example, a White Boy not wearing Hell’s Angel tattoos and insignia, without a Harley Davidson motor bike is still a member of the Hell’s Angels motorcycle gang based solely upon statements of another rider.

Aubrey’s mother, family, and community have had to live with his “cold-blooded” murder when the governor, DA, mayor all they knew him

to be innocent all along. Federal authorities refused to honor him for the Good Samaritan he really was.

5. Since Aubrey was killed by a Gang According to Prosecutors Meant he was in a Gang

According to verbatim transcripts filed on February 28, 2018 with the Northern District of California, marked for identification as # 022618 *USA v Williams* Vol 56, ASUA Scott Joiner proceeds to thank the judge and jury before describing the evidence that his colleagues and he relied upon in determining Aubrey to be a gang member. A true and correct copy of the excerpts of these transcripts are attached and herein fully incorporated in this complaint as **Exhibit D**.

Incredulously, he concludes that simply because Aubrey had been killed by a gang member, implied he was in a gang. Next, Joiner states because his “Death Certificate” shows Aubrey was shot multiple times supports he had been a gang member. An even more preposterous presumption is cited by Joiner, because Aubrey’s nickname was “Chedda”.

Prosecutors in effect used the depravity and overkill of Aubrey’s death as justification to label a completely innocent 17 year-old boy, a gangster of a highly sophisticated criminal syndicate. This was accomplished by taking isolated or disjointed facts and weaving them together such as Aubrey’s residence being across the street from gang leader Johnnie Brown. On February 20, 2020, his testimony is propped up by ASUA Kevin Barry as angelically witnessed and flawlessly told in his closing arguments as being consistent with other evidence. Mr. Barry narrated Johnnie Brown’s testimony in intimate detail involving home invasions, vehicle thefts, inclusive of point-blank-shots of a gun from the rear seat of a vehicle to the back of an unsuspecting victim’s head.

He went on to extensively describe random acts of street killings of senior citizens and execution style murders for respect and more powerful

caliber guns to gain so called stripes. In addition, Barry explained how and why rival gang disputes erupted into such graphic acts of violence and soon thereafter laughed and celebrated the brutal taking of life as victory.

His closing argument had been based entirely on the testimony of Jonnie Brown, a witness who said he would do anything only after getting caught on serious RICO charges and being paid \$200,000 with a promise of immunity from prosecution on certain other serious charges. See Vol. 54 pp. 9401-9464.

6. Defense Attorney Mark Vermeulen for Defendant Charles Heard Destroyed Johnnie Brown's Perjured Testimony with Surgical Precision and Exposed That ASUA's Knew or should have known Brown's Testimony was False

Defense attorney Mark Vermeulen ("Vermeulen") utilized a simple slideshow of 25 exhibits to prove not only was the testimony of Johnnie Brown perjured, but that AUSA knew it to be false. With the surgical precision of a laser, he showed slide-by-slide the following:

- Johnnie Brown's motive for giving false testimony had all along been for leniency and a break on his sentence. Vol. 54 pp. 5465-9466.
- He makes up story-after-story and outright lies on the witness stand repeatedly, while AUSA has never once attempted to correct or rehabilitate his testimony towards the truth. Vol. 54 pp. 9480-9496.
- Based upon the same false testimony, the state court jury convicted Charles Heard. Vol. 54 p. 9505.
- The Government put a lot of reliance of what Johnnie Brown says. Vol. 54 pp. 9480-9493.

For all intents and purposes, Johnnie Brown's testimony is strikingly familiar to Hollywood movie blockbuster "American Gangster" starring Grammy Award winner Denzell Washington's portrayal of ex-crime figure

Frank Lucas or “New Jack City” starring actor Westley Snipes portrayal of fictional drug lord Nino Brown.

In recent times all that would have been necessary is to include with the jury instructions a required viewing of the popular TV mini-series “Power Ghost II” to show exactly how and why Brown got away with both scamming and gaming our justice system.

Prosecutors argued that gang members expressed to law enforcement their intent to seek revenge against Aubrey’s killers. It is astounding that federal law enforcement officials would summarily indict a dead boy who could not possibly return to defend himself.

An analysis of trial testimony establishes an utter absence of credibility by Assistant United States Attorney Scott Joiner’s “Rebuttal Argument” with respect to the immoral manner and methodology used to smear Aubrey’s memory.

7. Aubrey Abrakasa Jr. was Litigiously Lynched

Not even as an afterthought did AUSA consider the irreparable harm of its actions on his grieving mother, father, family and friends of his community who knew and loved him during his life cut short far too soon.

Nonetheless, before jurors and the Honorable William H. Orrick, a sitting judge with an impeccable reputation for civil rights and justice were blatantly misled by antebellum style racism, the kind of which most white Californian’s find reviling. This brand of bigotry is better known to have occurred in courts of law in the so called Deep South. Those of us Americans who witnessed this unfortunate era in time recall when it was commonplace for innocent African Americans, whether boys or men to be simultaneously accused and convicted as guilty of a crime for no other reason than all were Black. However, in spite of everything else, the Assistant United States Attorney’s prosecuted the living and persecuted the dead for merely sharing the same skin color. Our justice system is still

being used to make ALL Black boys and men look alike, mistreated alike, and imprisoned alike, without due process of law, even in a modern era of improved race relations.

The foregoing is but a textbook example of an old-cowboy style litigious lynching, to round them all up typified by misleading hearsay, distortions of testimony, and outright lies to execute a judicial hanging of a dead Black boy. As a prelude, AUSA Scott Joiner begins his rebuttal by employing nothing more than inferences, hearsay, and innuendo as a tool to distort the testimony of Monzell Harding before pivoting from him back to Johnnie Brown.

Next, he swings his rebuttal argument back to Charles Heard and then Gary Owens for the purpose of establishing Aubrey to have been a hardened and dangerous gang member of a corrupt criminal enterprise.

Finally, Mr. Joiner gives the appearance of retreating from the premise of his argument until realizing United States Public Defender Servera Keith had raised compelling arguments for which he could not answer. At trial, Ms. Keith argued that Aubrey neither had tattoos nor any record of arrests, or convictions. Moreover he held a job. Vol. 53 p. 9229.

Yet Joiner again pivots to equating Aubrey to Johnnie Brown and retorts that it does not matter what his good record is so long they are all:

- Black;
- Lived across the street from a known street gang member;
- Likens Aubrey to other repudiated gang members that are higher up in the criminal enterprise who memorialized his death with (“RIP”) tattoos on their hand;
- Alleges Aubrey is a gang member regardless of his verifiably clean record and profile normally relied

upon to measure social responsibility;

- Aubrey is a gang member regardless to the sworn testimony of any other testimony and rebuttal;
- Aubrey is a member of a gang regardless of credible and compelling evidentiary arguments of the United States Public Defender showing Brown admitted lying in his testimony over 100 times; and
- Rather, Mr. Joiner and his colleagues relied solely on Brown's testimony that they themselves elicited, while fully cognizant of having paid for untrustworthy and patently false testimony.

Relevant excerpts taken from Mr. Joiner's rebuttal argument are proffered as evidence and fully incorporated in this complaint as follows:

"Aubrey Abrakasa was brutally murdered at Grove and Baker. We've got his death certificate. Multiple gunshot wounds. Monzell Harding, for example, has a "RIP Chedda", "RIP Chedda Boy" on his hand, a memorial, evidence that he knows what this gang is about. And think about what Johnnie Brown told you about that. We all felt that pain, he said gather the group together and says, you all need to step up.

They took one of ours. Step up. That means go kill Eddy Rock. "Ride for Chedda". It is a murder conspiracy so that's one shooting. "The Eddy Rock" funeral shooting in January 2009. He was our generation.

And they're literally in the cemetery, and Alfonzo Williams. We also heard argument about Aubrey Abrakasa. And Ms. Keith said well, he's not a gang member because he does not have any tattoos. Well, he's not a gang member because he also had a job. You can be both. You can have a job and be a gang member. Johnnie Brown worked at the Garden Project. He had a job. He was a gang member. Just because you don't have tattoos doesn't mean that you're not a gang member, and regardless of whether Aubrey Abrakasa was a gang member or not, you actually don't have to decide that.

The importance of Aubrey Abrakasa's death is that it was a huge event in the history of the neighborhood, in the history of CDP. Monzell Harding is not the only one that has "RIP Chedda Boy" on his hand. Okay. You also saw other individuals that had that tattoo. So he became a rallying cry for CDP. Whether he was a gang member or not they certainly took it that way. They took one of ours. Now we're going to take more of theirs. So that's actually not the important question.

You don't have to focus on whether Aubrey Abrakasa was a gang member. What you focus on is how did the gang react to his murder? That's what helps define the enterprise. And, by the way, Johnnie Brown lived right across the street from Aubrey Abrakasa. And he told you, yes, he was one of ours. I felt that way. He was one of ours.

So I think that the evidence before you supports the fact that Aubrey Abrakasa was a gang member. But I'm pointing it out because you don't have to get hung up on that. Do you hear the reference to Chedda? That's Aubrey Abrakasa. And what Mr. Heard is doing is saying this is why I'm so upset. Imagine when Aubrey Abrakasa got murdered if I had come at you and said somebody from KO did it.

How would you feel then? How would you react? Aubrey Abrakasa is a gang member. Charles Heard knows it. Charles Heard is holding him up as an example of this was one of my boys. He got murdered. How would you feel if I came at you, my ally, and said "I thought you did it"?

So these calls, they are highly probative, not just of the double murder, but just listen to the way Charles Heard and Gary Owens talk about their gangs and the names that they're mentioning. It's corroborating a lot more than Johnnie Brown. It's corroborating a lot of the evidence in this case." (underlined emphasis added)

In summary, the United States Attorney's office more than implied that Aubrey, an innocent victim of a savage act of murder was somehow at fault for his own death for having allegedly been a member of a street gang. The record reeks of prosecutorial misconduct by Assistant United States Attorney's **Scott Joiner, William Frentzen, and Kevin Barry.**

Instead of conducting an impartial and substantive investigation into Aubrey's factual and evidentiary character, background, and his well-established community ties, these prosecutors relied exclusively on the testimony from the gang members they indicted for lying among crimes committed. Those charged for the most egregious crimes imaginable are detailed in the criminal indictment and complaint were clearly facing long terms of imprisonment, if found guilty.

Top operatives of this so called criminal enterprise are SOME not ALL of the defendants whose "*criminal-job-resume*" is listed directly in the indictment. In relevant part, the scope of crimes *allegedly* committed by this and other rival racketeering street gangs included, but were not limited

to each of the following:

- 1) **Murder**
- 2) **Attempted Murder**
- 3) **Narcotics Distribution**
- 4) **Assault**
- 5) **Robbery**
- 6) **Extortion**
- 7) **Interstate Transportation in Aid of Racketeering and Pimping**
- 8) **Pimping of Minors**
- 9) **Illegal Firearms Possession**
- 10) **Obstruction of Justice by Threatening and Intimidating Witnesses Believed to be Cooperating with Law Enforcement**
- 11) **Destroying Evidence**
- 12) **Providing False Information to Law Enforcement**
- 13) **Committing Acts of Violence to Maintain and Enhance Membership and Discipline within the Gang**
- 14) **Promote Violence Against Rival Gang Members and Enforcement Gang Rules**
- 15) **Work Cooperatively with other Gangs in the Western Addition to Engage in Criminal Activity and Assist One Another in Avoiding Detection by Law Enforcement**

Yet, the fate of some of the same gang member's alleged to have committed either some or all of the above crimes, including **Monzell Harding, Charles Heard, Gary Owens** and others fate appears to have been put in the hands of alleged ring leader **Jonnie Brown**. He was paid in excess of \$200,000 excluding other considerations to give TRUTHFUL TESTIMONY UNDER OATH. Brown did just the opposite, he lied.

Obviously, this young boy could not appear in court to defend himself. A fact-by-fact examination of the courtroom record reveals an astounding miscarriage of justice. Prosecutors arbitrarily and unlawfully determined Aubrey to be a *gang member* based on the following facts and de facto evidence:

- 1) Assistant United States Attorney Scott Joiner begins his closing remarks by presenting Aubrey's "Death Certificate" as a first showing of proof of Aubrey's alleged gang affiliation for no other reason than he had been shot multiple times.
- 2) Next prosecutors equate tattoos appearing on other gang members hand as their memorializing him as one of theirs.
- 3) Monzell Harding had a Rest in Peace ("RIP Chedda"), and ("RIP Chedda Boy") on his hand. Prosecutor's introduced this as so called "memorial evidence" that [he] Harding "knows what this gang is about" thus implicating Aubrey.
- 4) Johnnie Brown, the repudiated gang leader's testimony is presented to corroborate Harding's testimony and in general other testimony as the gospel truth.
- 5) Brown's testimony about a conspiracy to seek revenge for the death of Aubrey is next exploited to support this same disjointed premise.
- 6) Aubrey is then compared with Brown because both had jobs although Aubrey had no tattoos arguing that "you can be a gang member and still have a job" without body art.
- 7) Servera Keith, an attorney with the Office of Public Defender argues that Aubrey did not have any tattoos as objective evidence that he is not a gang member.
- 8) Prosecutor's next reply that it did not matter whether or not Aubrey had a job or tattoos, while still ringing the bell, "you can be both."
- 9) After the public defender stands up for Aubrey, prosecutors

temporarily retreat from its argument stating in relevant part, “Regardless of whether Aubrey Abrakasa Jr. was a gang member or not, you actually don’t have to decide that . . . [B]ut I’m pointing it out because you don’t have to get hung up on that”.

- 10) After having stated the latter in open court, ASUA’s pivot right back to the testimony of yet two other additional alleged gang members Charles Heard and Gary Owens, as extrinsic evidence that Aubrey is a gang member.
- 11) Equally outrageous, because the same accused murderers, pimps, drug dealers alleged to have been managing this sophisticated racketeering enterprise purportedly claimed Aubrey as one of their own, ASUA **Scott Joiner**, **William Frentzen**, and **Kevin Barry** chose to disregard all other available evidence that clearly showed Aubrey was not a gang member.
- 12) The RICO indictment categorically states that the street syndicates frequently were engaged in obstruction of evidence, destroyed evidence, lied to, and otherwise manipulated law enforcement authorities in order to evade detection and capture. The Witness Expenditure Sheet categorically shows the government was paying Brown to lie concerning exactly what he had been indicted for.

IV. This Has Remained A Cold Case Because Potential Witnesses Don’t Trust the Feds Rendering the \$250,000 Reward Useless

The record is entirely silent on prosecutors search for the truth that would otherwise have vindicated Aubrey, including statements from his loving parents (mother and/or father), other family members, friends, his employer and clergy. At all relevant times, such credible resources existed from which to properly and accurately evaluate whether Aubrey had any gang affiliations. During the course of investigating this case, prosecutors failed to even interview Aubrey’s employer; failed to consider his clean

police record or any undisputed evidence exonerating him from any gangland activity. To this very day, everyone knew exactly who is responsible for the cold blooded murder of Aubrey, except for the Assistant United States Attorneys who prosecuted this case.

However, witnesses(s) won't come forward to testify for fear of reprisal even though a reward for the capture and conviction of his killer(s) stands at \$250,000 with the commendable assistance of the San Francisco Police Department's top brass.

In this regard, it is particularly worthy to underscore that the police department gang taskforce from 2008 to the present has worked in close collaboration with the Federal Bureau of Investigations ("FBI") at effectuating arrests of gang leaders and their cohorts. **Never** once did either law enforcement agency *ever* report Aubrey participated in racketeering.

In fact, the criminal complaint filed on May 12, 2010 indicting convicted felon Johnnie Brown includes a sworn affidavit of FBI Special Agent G. Bradford May describing his assignment to the San Francisco Division of the FBI, wherein he investigated violent crime gangs, organized crime, drug and white collar investigations.

According to the complaint, Special Agent May's work also involved use of informants, interviewing subjects and witnesses, surveillance, consensual and monitoring and undercover operations. No evidence has ever been produced from either the FBI or GTF to even remotely implicate Aubrey for any gang related criminal conduct. That is precisely because Aubrey's record accurately reflected that he had no gang affiliation. Recently, on the 14th anniversary of her son's murder, Ms. Paulette Brown succeeded in a collaborative effort fully supported by the San Francisco Police Department to keep the memory and accomplishments of her only son not just alive, but in proper context.

Undaunted by the present pandemic she courageously spoke to the

media as she has for several years in a row, hoping to generate leads to inspire investigators to keep the trail of his “cold case” warm enough to one day find his murderer(s). The attendees included former Police Chief Greg Surh along with current high ranking SFPD brass and a host of elected officials and community dignitaries and supporters. See attached photographs jointly submitted as **Exhibit E**.

On August 13, 2020 the San Francisco Police Department publically supported Ms. Brown in her long and frustrating effort to clear her sons name as recently reported in the media as, “Grieving Mother Renew Efforts to Solve Cold Case Murder of Teenager Aubrey Abrakasa”.

<https://sanfrancisco.cbslocal.com/2020/08/13/sf-police-grieving-mother-renew-efforts-to-solve-cold-case-murder-of-teenager-aubrey-abrakasa/>
<https://sanfrancisco.cbslocal.com/video/4145683-mother-continues-quest-for-justice-13-years-after-fatal-shooting-took-her-son/>

In relevant part, at the press conference Ms. Brown said:

“My son was a good boy. He had two parents at home. He had no problems. He went to school. He worked for Bernal Heights Recreation Center. He was working, Brown said last year.

All he did was one day was walk out the house and see perpetrators getting ready to shoot someone and — because he opened his mouth and said ‘Run!’ — they shot my son with a semi-automatic gun 30 rounds of bullets.”

On August 25, and 27, 2020, the San Francisco Police Department sent KTVU Fox-2 News a press release to clarify a news segment it had aired a week earlier to clarify and confirm that Aubrey was a victim of homicide and not a gang member and that he had never been a gang member at no time in his short life.

Moreover, to its credit, SFPD’s Homicide and Media Relations quite commendably participated with Aubrey Abrakasa’s mother, Paulette Brown at the same public event held at the exact location of Grove and Baker

Streets in San Francisco where her son was gunned down added information to its website for the 2006 cold case. A true and correct copy of the press release is hereto attached and fully incorporated in this complaint as **Exhibit F**. See <https://www.sanfranciscopolice.org/news/sfpds-2006-cold-case-homicide-investigation-adds-information>

Similarly, “San Francisco News” published the same facts reaffirming that young Aubrey was never affiliated with a street gang. A true and copy of that publication is hereto attached as **Exhibit G** and fully incorporated in this complaint. Ms. Brown has for the past several years been a tireless advocate for her son and for the families of other murder victims. She has regularly attended San Francisco Police Commission meetings to keep attention on her son’s case.

The reward for information in connection with the murder of Aubrey Abrakasa Jr. stands at \$250,000. Now, there can neither be any mistake, dispute, nor misunderstanding that after a decade and a half, Ms. Brown has finally proven once and for all, her “son was a good boy” and never a member of a street gang. With this immutable revelation of the truth there remains an unfulfilled statutory duty before the United States Attorney to correct the record therewith with other appropriate consideration.

V. LEGAL ANALYSIS

In *Napue v. Illinois*, 360 U.S. 264, 269 (1959) the Supreme Court held the government violates due process by knowingly presenting false testimony or allowing false testimony from its witness “to go uncorrected,” even when unsolicited by the government:

“A lie is a lie, no matter what its subject, and, if it is in any way relevant to the case, the [prosecutor] has the responsibility and duty to correct what he knows to be false and elicit the truth.” *Id.* at 269-70 (emphasis added) (citation omitted).

In *Napue*, the prosecuting attorney asked the key witness whether

“he had received [a] promise of consideration in return for his testimony.” *Id.* at 265, 79 S.Ct. 1173. The witness responded that he had not. However, “[t]he Assistant State’s Attorney had in fact promised him consideration, but did nothing to correct the witness’ false testimony.” *Id.*

The Court noted that “it is established that a conviction obtained through use of false evidence, known to be such by representatives of the State, must fall under the Fourteenth Amendment,” and that “[t]he same result obtains when the State, although not soliciting false evidence, allows it to go uncorrected when it appears.” *Id.* at 269, 79 S.Ct. 1173.

The undersigned Complainant hereby argues that a *Napue* violation occurred here not only when Assistant United States Attorney’s **William Frentzen, Scott Joiner** and **Kevin Barry** failed to correct the clearly false testimony it elicited before a judge and jury, but that it also knew it to be perjured while failing to lawfully disclose the truth in its rebuttal argument.

No attempt has since been undertaken to correct the falsified testimony at any time before, during, or after trial. It is indisputable that, apart from accused **Monzell Harding, Charles Heard, Gary Owens**, that only gang leader turned informant **Johnnie Brown** received \$200,000, excluding other consideration for his and other perjured testimony.

On information and belief, such consideration has included substantial sums of monetary payments for witness protection and other taxpayer financed costs of living. In exchange, one or more of the above defendants received the possibility of parole and/or less time for cooperating with authorities.

As with all else, the accused routinely feigned cooperation with law enforcement authorities meticulously detailed in the criminal indictment. The record of the deal struck between the killers and prosecutors is not much different than the list of corrupt activities it describes in the complaint.

Although the witness protection activities were disclosed to jurors, prosecutors failed to properly acknowledge exculpatory information that exonerated Aubrey in blind pursuit of its case. A true and correct copy Private Investigator Scott Compton's sworn declaration filed with the court and entered into evidence on September 3, 2019 and herein submitted as **Exhibit H** and fully incorporated in this complaint.

His declaration reveals a defendant identified by the initials "JB" was in a witness protection program, under government protection, in another state since January 2015. Clearly prosecutors knew or should have known the testimony about Aubrey had to have been absolutely false.

Had the triers of fact known Assistant United States Attorneys would promote patently false testimony posited in a court of law would have with reasonable certainty produce a different outcome. In any event, irrefutable proof is now available for public consumption. *See* Ex. C/E.

The United States Court of Appeal for the Ninth Circuit ruled in Mooney v. Holohan, 294 U.S. 103 (1935), and Napue v. Illinois, 360 U.S. 264 (1959) perjured testimony from witnesses at trial violates the State's statutory duty to disclose material and exculpatory information as required by Brady v. Maryland, 373 U.S. 83 (1963)

Under *Mooney*, "a conviction obtained through the use of false evidence, known to be such by representatives of the State, must fall under the Fourteenth Amendment." *Napue*, 360 U.S. at 269 (*describing Mooney*, 294 U.S. at 112-13). *Napue* held that the "same result obtains when the State, although not soliciting false evidence, allows it to go uncorrected when it appears." *Id.*

To demonstrate a constitutional violation under Mooney-Napue, it must specifically be shown:

- (1) The testimony (or evidence) was actually false;
- (2) The prosecution knew or should have known that the testimony was

actually false; and

(3) The false testimony was material.” *Reis-Campos v. Biter*, 832 F.3d 968, 976 (9th Cir. 2016), cert. denied, 137 S. Ct. 1447 (2017)

A *Napue* violation is evident here because this DOJ Complaint has alas proven under the factual circumstances of this case, the “false evidence is material”. See, *Jackson v. Brown*, 513 F.3d 1057, 1075-76 (9th Cir. 2008) (“A jury’s finding should be overturned as a result of . . . [a] *Napue* violation [] if and only if [it is] material.”).

Prosecutor’s clearly failed in their statutory duty to correct the trial record for nearly a decade and one half. Willful negligence by prosecutor’s falsely “pigeon-holed” young Aubrey as a gangster rather than a Good Samaritan. False testimony had been taken as truth exclusively from the same alleged murders, sex traffickers and drug dealers.

Prosecutors knew or should have known SOME of the repeat felons faced 25 years to life without possibility of parole for their part in the very same capital crimes listed in the complaint.

VI. ASSISTANT UNITED STATES ATTORNEY’S WILLIAM FRENTZEN, SCOTT JOINER AND KEVIN BARRY CUT A DEADLY DEAL THAT LED TO AUBREY’S “COLD CASE”

Public officials from the governor to the mayor to the police chief know who each of Aubrey’s killers are by name, but also know a residual fear of reprisal still exists within the Black community. Despite having posted a reward of \$250,000 for information leading to the arrest and conviction of the perpetrators not a single witness has stepped forward.

Specifically, a *Napue* violation requires a court to ask whether there is “any reasonable likelihood that the false testimony could have affected the judgment of the jury.” *Hayes v. Brown*, 399 F.3d 972, 985 (9th Cir. 2005) (en banc).

A determination of guilt or innocence for capital murder involving a sophisticated and well established crime syndicate speaks for itself. Here,

by contrast and comparison to *Napue*, the prosecuting attorney asked the key witness whether “he had received [a] promise of consideration in return for his testimony.” *Id.* at 265, 79 S.Ct. 1173.

The witness responded that he had not. However, “[t]he Assistant State’s Attorney had in fact promised him consideration, but did nothing to correct the witness’ false testimony.” *Id.*

In this case and to date, no attempt has *ever* been undertaken by the United States Attorney to correct the record that the community, government and elected officials and police brass have known for quite some time that Aubrey was *never* in a gang.

The Court also noted under *Napue*, “it is established that a conviction obtained through use of false evidence, known to be such by representatives of the State, must fall under the Fourteenth Amendment,” and that “[t]he same result obtains when the State, although not soliciting false evidence allows it to go uncorrected when it appears.” *Id.* at 269, 79 S.Ct. 1173. *See United States v. Ali*, 344 F.3d 1002, 1007 (9th Cir. 2003) (prosecutors’ fundamental responsibility to promote justice, fairness, and truth”)

Napue further extends to evidence a prosecutor actually knows is false, and evidence he should know is false. *Jackson v. Brown*, 513 F.3d 1057, 1075 (9th Cir. 2008); *Hayes v. Brown*, 399 F.3d 972, 984 (9th Cir. 2005) (en banc). Prosecutors are also deemed knowledgeable of facts known to colleagues. *Browning v. Baker*, 875 F.3d 444, 460 (9th Cir. 2017).

Thus, a *Napue* violation occurs when the government (1) presents actually false testimony it knows, or should know, is false; or (2) fails to correct such testimony from its witness.

The duty to correct false testimony applies “whenever it appears.” *Morris v. Ylst*, 447 F.3d 735, 743 (9th Cir. 2006). Prosecutors also must

investigate false testimony” when put on notice of the real possibility” it occurred. N. Mariana Islands v. Bowie, 243 F.3d 1109, 1117-18 (9th Cir. 2001). “The duty to act is not discharged by attempting to finesse the problem by pressing ahead without a diligent and good faith attempt to resolve it.” Morris, 447 F.3d at 744 (citation omitted).

Nor is a prosecutor’s duty to correct the record “discharged merely because defense counsel knows, and the jury may figure out, that the testimony was false.” United States v. LaPage, 231 F.3d 488,492 (9th Cir. 2000).

Cross-examination does not discharge the duty either; rather, it can trigger the duty to investigate and elicit the truth. *See Ali*, 344 F.3d at 1007 (government had “independent obligation immediately to take steps to correct known misstatements despite defendants “efforts on cross-examination”) United States v. Wallach, 935 F.2d 445, 457 (2d Cir. 1991) (reversing where, after cross-examination, government “should have been aware” of false testimony, did not alert jury, and rehabilitated witness).

When the government violates *Napue*, courts evaluate whether the violation was material and reverse if it was. Jackson, 513 F.3d at 1071-72. “A *Napue* violation is material when there is “any reasonable likelihood that the false testimony could have affected the judgment of the jury. Phillips v. Ornoski, 673 F.3d 1168 (9th Cir. 2012) (emphasis added citation omitted).

This includes false testimony bearing upon a witness’s credibility, because the “jury’s estimate of the truthfulness and reliability of a given witness may well be determinative of guilt or innocence:” Napue, 360 U.S. at 269. The *Napue* materiality standard is more favorable to reversal than that for *Brady* violations. Jackson, 513 F.3d at 1076.

Reversal is required unless the violation was “harmless beyond a reasonable doubt.” LaPage, 231 F.3d at 491 (citation omitted). [footnote:

United States v. Bagley explained the *Napue* materiality standard “is equivalent to the *Chapman* harmless-error-standard.” which requires the error’s beneficiary to prove” beyond a reasonable doubt” it did not contribute to the verdict. 473 U.S. 667, 679 n.9 (1985). *LaPage* cited *Bagley*’s “harmless beyond a reasonable doubt” standard. 231 F.3d at 488.

“The importance of Aubrey Abrakasa’s death is that it was a huge event in the history of the neighborhood, in the history of CDP. Monzell: Harding is not the only one that has “RIP Chedda Boy” on his hand. Okay. You also saw other individuals that had that tattoo. So he became a rallying cry for CDP.”

And what Mr. Heard is doing is saying this is why I’m so upset. Imagine when Aubrey Abrakasa got murdered if I had come at you and said somebody from KO did it. How would you feel then? How would you react? Aubrey Abrakasa is a gang member. Charles Heard knows it. Charles Heard is holding him up as an example of this was one of my boys. He got murdered. How would you feel if I came at you, my ally, and said I thought you did it”?

“So these calls, they are highly probative, not just of the double murder, but just listen to the way Charles Heard and Gary Owens talk about their gangs and the names that they’re mentioning. It’s corroborating a lot more than Johnnie Brown. It’s corroborating a lot of the evidence in this case.” (underlined emphasis added)

In an apparent conflict, the Court later stated the defendant must show the false testimony was *material* though it cited habeas law (where petitioner bears the burden) for this proposition. *United States v. Houston*, 648 F.3d 806, 814 (9th Cir. 2011).

Because the uncorrected and irrevocable testimony presented i testimony here is indisputably material, a thorough de investigation is required to determine under any harmlessness formulation whether the false testimony elicited by **Assistant United States Attorney’s William Frentzen, Scott Joiner and Kevin Barry** constituted a *Napue* violation.

Where, a *Napue* violation occurs the Court reviews such a claim de

novo. See United States v. Rodriguez, 766 F.3d 970,980 (9th Cir. 2014) (“We also review de novo the district court’s denial of a new trial based on an asserted *Mooney-Napue* violation”.) United States v. Renzi, 769 F3d 731, 751-52 (9th Cir. 2014 (considering “*Napue* claim de novo”))

Underlying factual findings are reviewed for clear error. United States v. Inzunza, 638 F.3d 1006, 1020 (9th Cir. 2011).

VII. Conclusion

Overwhelming evidence proves Assistant United States Attorney’s **William Frentzen, Scott Joiner** and **Kevin Barry** committed gross prosecutorial misconduct. Neither lawyer cited above representing the United States Attorney’s office has ever moved to correct the trial court record.

A constitutional violation is evident under the *Mooney-Napue* standard attributable to willful negligence to properly vindicate an innocent child savagely murdered on the streets of San Francisco.

Conclusive evidence long ignored by AUSA prosecutors shows Aubrey was *never* a member of any Western Addition street gang. Moreover, conclusive evidence shows this young boy was a ‘Good Samaritan’ who lost his life attempting to save someone else. At no time, did AUSA attorney’s fully and truthfully disclose to the presiding District Court judge and empaneled jurors that the government paid over \$200,000 for lies. Even worse, it has all along known that the same questionable testimony was false at the very time government elicited it, including completely perjured testimony that implicated Aubrey Abrakasa Jr. as ‘a gang member.

DATED: September 27, 2020

/s/ *Paulette Brown*
Complainant

**VIII. CERTIFICATE OF ELECTRONIC
SERVICE VIA E-MAIL**

I, _____, do declare:

I am a citizen of the United States, am over the age of eighteen years, and am not a party to or interested in the within entitled case. My business address is _____, California _____.

On September 27, 2020, I served the following document(s) on the parties in the within action:

COMPLAINT FOR PROSECUTORIAL MISCONDUCT

☒ BY EMAIL: The above-described document will be served upon the parties at the listed email addresses shown acceptable for filing complaints accepted by the United States Department of

E-mail: opr.complaints@usdoj.gov

☒ KTVU

E-mail:

☒ SFPD

E-mail:

Shawn Halbert (SBN 179023)
LAW OFFICES OF SHAWN HALBERT
214 Duboce Avenue
San Francisco, CA 94103
Tel: (415) 703-0993
Fax: (415) 255-8631
shawn@shawnhalbertlaw.com

Josh A. Cohen (SBN 217853)
CLARENCE DYER & COHEN LLP
899 Ellis Street
San Francisco, CA 94109
Tel: (415) 749-1800
Fax: (415) 749-1694
jcohen@clarencedyer.com

Attorneys for Defendant
REGINALD ELMORE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

REGINALD ELMORE,

Defendant.

CASE NO. CR-13-0764 WHO
DECLARATION OF PAULETTE BROWN

1. My name is Paulette Brown. I have lived in the neighborhood in San Francisco known as the Western Addition for the past 35 years. I have had four children: my daughter, Pearl, who is now 39 years old; Aubrey Abrakasa, who was murdered in 2006 when he was 17 years old; Serina, who is now 24 years old; and Champagne, who is 26 years old, my half-niece and to whom I have served as a foster mother since she was three years old and after I discovered she was being raped in foster care.
2. For most of the time I lived in the Western Addition, I lived at 1532B Grove Street at Grove and Baker Streets; my family still has that address and I now live several blocks away. I attended classes at City College and worked in health care and in in-home-care

1 over the years. I now have custody of Champagne's six-year-old daughter Maya and
2 provide in-home care for my father, among other obligations.

3 3. My son, Aubrey Abrakasa, was murdered on August 14, 2006, when he was only 17 years
4 old. Ever since Aubrey was murdered, I have devoted much of my time to calling attention
5 to his case. I have gone to the Board of Supervisor's meeting every Tuesday and the Police
6 Commission meeting every Wednesday. I go to speak at high-risk schools to talk about my
7 son's death. I have met every Mayor and Police Chief of San Francisco since Aubrey died
8 and have had frequent contact with inspectors from the police department over the past
9 thirteen years – they know me well. I hold a vigil every August 14 at the corner where
10 Aubrey was murdered, which is always attended by members of the San Francisco Police
11 Department.

12 4. My life will never be the same after Aubrey's death. He was my only son and our whole
13 family lives with the pain of losing him every day. I have devoted much of my life since
14 Aubrey's death to helping support as many other people as possible who have lost their
15 loved ones to violence, to victims' rights work, and to bringing awareness to unsolved
16 homicides. I joined "The Healing Circle" six months after Aubrey died and I now run it.
17 We meet twice per month and do community activities like speaking in jails and prisons
18 like San Quentin to do victim impact work – to let people know how families are affected
19 by violence against their loved ones. When I hear about a murder, I will often go
20 immediately to the family to see if I can provide support. A flyer for our group is attached
21 here as Exhibit A. I am also on the African-American Advisory Board to the San Francisco
22 Police Department. We meet once per month to address issues such as crime, schools,
23 employment and community relationships with the police. I am also a member of "Moms
24 Demand Action," a group devoted to families seeking justice for their murdered loved
25 ones, as well as "Survivors Speak."

26 5. I obtained mental health and drug education certificates at City College so that I can
27 counsel people. I need to do two internships to complete my education. While I will never
28

- 1 be relieved of the pain of Aubrey's death, I have seen many people who are not even able
2 to function or return to stable mental health after the murder of a family member. I have
3 made it my mission to try to help these people, as well as the families of victims of crime,
4 to make people who commit violence aware of the consequences of their actions, and to
5 help relieve suffering when I see it.
- 6 6. Aubrey was about to enter his senior year at Raoul Wallenberg High School, a small,
7 excellent high school north of our home off Divisadero. On the day of his murder, Aubrey
8 was going to work at his summer job at the Bernal Heights Recreation Center, assisting
9 Thomas Mayfield to run the youth programs.
- 10 7. I was a hands-on mother to Aubrey. From the time he was young, I kept him near me and
11 advocated for him when he needed it. In the summer before he died, I would often go to
12 Aubrey's job with him and hang out there. During the year, I also went to many of his
13 classes because he had dyslexia and I suspected that he was not getting the educational
14 services that he needed.
- 15 8. From the time he was young, Aubrey had an allowance because I did not want him to ever
16 feel like he did not have money to take care of himself. I was mostly a stay-at-home
17 mother and Aubrey's father was an engineer.
- 18 9. Aubrey went to Saint Dominic School from kindergarten through eighth grade. His
19 diploma from graduating from St Dominic is attached as Exhibit B. I always made sure
20 Aubrey and my other children received excellent educations. We would get academic
21 tutors for our children when they needed extra help.
- 22 10. Before Aubrey's death, we were an extremely close family and were known for being an
23 intact family. Aubrey, his father, and my daughters lived together at 1532B Grove Street.
24 As a family, we did many activities together. Our home also frequently welcomed other
25 children from the neighborhood to hang out. We were known for taking Aubrey and his
26 friends to places like Great America and Ocean Beach and we frequently would ride bikes
27 to Golden Gate Park for picnics. We had several little electric cars that our children could
28

ride in on the sidewalk and in the park, and many neighborhood children would also share in the games. I was a "Costco Mom," meaning that I would buy lots of food, and kids from the neighborhood would hang out at my house.

11. I liked to keep Aubrey close to me because I worried about his safety, as an African-American boy and young man. We even opened up our back yard so that it connected with the Pacific Primary School next door. We had a bouncy house, trampoline and basketball hoop in the back yard, and Aubrey would often help out at Pacific Primary School playing with the little kids.

12. Aubrey met Reggie Elmore about a year before his death. They met in the neighborhood and became friends. Because I was very protective of Aubrey, I always wanted to make sure I knew who he was hanging out with. For that reason, once, without any notice, I visited where Reggie lived. I did not see anything there that gave me concern, though I did learn that he was not receiving much parental support and was living on his own. Reggie spent a lot of time hanging out at our house where the boys would do things that teenagers did. Aubrey's father would drive the boys, including Reggie and Aubrey, to dances at recreational centers.

13. Reggie Elmore was a pall bearer for Aubrey at his funeral. The funeral was standing-room only. The people who attended included Aubrey's teachers (many of them nuns) from Saint Dominic as well as the principal of the school; Aubrey's father's family from Nigeria and London; all of the people I knew through Child Services because of my foster daughter; the Boys and Girls Club, as well as many people from the neighborhood who knew our family.

14. I have been told that in the first trial in this case, the government told the jury that Aubrey was a gang member. This causes me great pain to hear that Aubrey was defamed in this way. Aubrey had never been arrested and was not a gang member.

15. An article in the San Francisco Chronicle on April 4, 2009 quoted Homicide Inspector Kevin Jones as saying: "But I can tell you this: Aubrey did absolutely nothing to be shot

1 for. Whatever it was that the shooter or shooters were thinking, there was nothing that
2 justified them shooting him." The article continues by citing Inspector Jones as saying that
3 the police "know [Aubrey] was a nice kid with an actively involved mother and father. He
4 coached kids' basketball at the Bernal Heights Recreation Center." A newspaper article on
5 the tenth-year anniversary of Aubrey's death quoted then-Police Chief Toney Chaplin as
6 saying: "And this cannot be stressed enough: Aubrey was not a gang member." This is
7 consistent with every interaction I have ever had with the San Francisco Police
8 Department. No one from the police department has ever told me that Aubrey was
9 suspected of being a gang member; to the contrary, I have been told that they knew he was
10 never suspected of being a gang member. He may have been an innocent victim of gang
11 violence, but he himself was not involved in a gang whatsoever. After his death, I received
12 funds for his funeral from a San Francisco city victim's fund - they have a rule that they
13 will not provide funeral funds to any person who was suspected of being involved in
14 crime. We received funds for my son's funeral because he was not suspected of having any
15 criminal background.

16 16. At first, the reward for helping solve my son's murder was \$10,000, and the reward kept
17 going up, and eventually it went up to \$250,000. Every time the reward amount would go
18 up, I would get a letter from the Mayor's Office. There were posters on MUNI buses, like
19 the one attached here as Exhibit C, offering a reward for any information about Aubrey's
20 death. The San Francisco Police Department does not give rewards for the murder of a
21 person who is in a gang.

22 17. At Aubrey's funeral, one of the gentlemen from the older generation spoke and told the
23 younger men to honor Aubrey's life by doing what he did - finishing school, getting a job
24 and being a good person. Raoul Wallenberg School allowed me to go on stage to accept
25 Aubrey's graduation certificate with his classmates. Then-Mayor Gavin Newsom gave me
26 a letter to read at the graduation.

- 1 18. All of the boys in the neighborhood had nicknames from when they were young. Those
2 nicknames were not gang names, but simply nicknames that had stuck to the boys over the
3 years. If I did not like a nickname, I would not use it, but even the parents would call the
4 boys by their nicknames sometimes.
- 5 19. I never heard of anything called "CDP" until after Aubrey was killed. Many people used
6 the terms "Uptown" and "Downtown" in a way that had nothing to do with gangs.
7 "Uptown" is where I live, and it is a place that has less crime than "Downtown," which is
8 the area further north on Divisadero where there are more housing projects. In my
9 neighborhood, African-Americans tend more to be home owners or renters, and I can feel
10 safe going outside at midnight, which is not true in the "Downtown" area, which I find
11 depressing.
- 12 20. The old BBQ Pit, "Brother-in-Laws," was a place where many people, including African-
13 Americans in the neighborhood, went for barbeque. Kids would hang out there and it was
14 also a place for neighborhood kids to get jobs. If there was any criminal activity happening
15 there, it was not evident to people like me who went there all the time.
- 16 21. For many years, Johnnie Brown's maternal grandmother and her common-law husband
17 Horace lived across the street in a little basement apartment at 1525 Grove Street, and at
18 times, Johnnie Brown and his parents would stay with the grandparents. Over the years,
19 during the time when Johnnie Brown was living with his grandparents, I had an
20 opportunity to observe him and his family's interactions. Johnnie Brown and his family
21 were sometimes living across the street and sometimes gone for long stretches of time.
22 Horace (the companion to Johnnie's grandmother) was well known to sell drugs and had
23 lots of guns in this house.
- 24 22. I first saw Johnnie Brown and his parents when Johnnie was about nine or ten years old.
25 Johnnie's father was a little bit scary. He seemed like a drug addict and was always very
26 dirty and ungroomed, like a homeless person; he would pace around and act strangely. It is
27 possible he had mental health issues. Johnnie's father was always yelling at Johnnie's
28

1 mother and Johnnie, and I had the impression that Johnnie's mother was trying to calm
2 him down and protect her and Johnnie. I never saw Johnnie alone with his father.

3 23. I could tell that there was something strange about Johnnie Brown from when I first saw
4 him. I have seen many children over the course of my life, and he was not like other
5 children, like there was no light inside him. From the very little I interacted with him, I
6 could also tell that he was very slow. He was rarely allowed to leave his grandparents'
7 apartment or to play with the other kids. He never came out to ride a bike or go on a
8 skateboard. Even though he lived across the street, he never came over to our house, we
9 never gave him a ride to school, and he never came with us on any of the outside activities
10 we did with the neighborhood kids. I had the impression that he was not allowed to leave
11 his grandparents' apartment. I invited him to our home, but he never came. I never saw
12 neighborhood kids playing with Johnnie – he did not seem to have the ability to connect
13 with other children.

14 24. I have been told that Johnnie Brown said he never met his father. That is not true. I saw
15 Johnnie Brown with his father countless times and Johnnie was old enough that it is not
16 possible that he would not remember his father. I have also been told that Johnnie said that
17 he had been told that his father was schizophrenic. I do not know whether he was or not,
18 but that would not surprise me, since it was clear to me and everyone who saw Johnnie's
19 father that there was something very wrong with him.

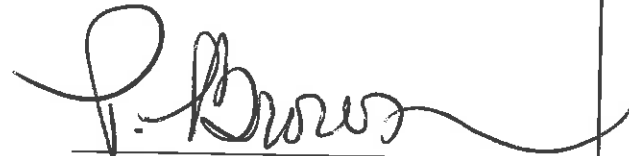
20 25. The Gilton/Mayes home was less than a block away from my house. They had a really
21 pretty house that was a hub of the neighborhood. The home would be beautifully decorated
22 for Christmas, Halloween and other holidays. Their house was also a voting place during
23 elections – I myself voted there. I knew the Mayes family from the neighborhood and I
24 would often take Ms. Mayes to church. I never saw Johnnie Brown at the Gilton/Mayes
25 house. Nor did I ever see any connection between the Gilton/Mayes family and Johnnie's
26 family. When I went to Freddy Mayes' funeral and gathering at the Gilton/Mayes house,
27 Johnnie Brown was not there.
28

1 26. Johnnie Brown lied when he said my son Aubrey was a gang member. Not only was
2 Aubrey not a gang member, but Aubrey did not have any relationship with Johnnie Brown
3 except for being sometimes-neighbors.

4 27. I am willing to come to Court to testify about any of the matters in this Declaration.

5
6 I declare under penalty of perjury that the foregoing is true to the best of my knowledge and
7 memory.

8
9 DATED: July 10, 2019



PAULETTE BROWN

No. _____

**THE UNITED STATES DEPARTMENT OF JUSTICE
OFFICE OF PROFESSIONAL RESPONSIBILITY**

Paulette Brown

Complainant,

v.

William Frentzen, Scott Joiner and Kevin Barry, Assistant United States
Attorney's in the Northern District of California

Respondent.

Director and Chief Counsel
Office of Professional Responsibility
U.S. Department of Justice
950 Pennsylvania Avenue, N.W., Suite 3266
Washington, DC 20530-0001

APPENDIX OF EXHIBITS IN SUPPORT OF COMPLAINT

Paulette Brown, Complainant
1532 Grove Street, Suite #B
San Francisco, CA 94117
(415) 683-8803

1. Criminal Complaint for Murder against Johnnie Brown.....Exhibit A
2. Four count Grand Jury Indictment against Alfonzo “Fonzo” Williams....Exhibit B
3. California Governor Gavin Newsom publically states, “I know who killed her son”Exhibit C
4. Excerpts of Verbatim Transcripts filed on February 28, 2018.....Exhibit D
5. Photographs of 14 year Memorial Event of Aubrey’s 2006 Shooting.....Exhibit E
6. San Francisco Police Department Press Release.....Exhibit F
7. San Francisco News Republication of SFPD Press Release.....Exhibit G
8. Private Investigator Scott Compton’s sworn declaration.....Exhibit H

EXHIBIT A

United States District Court **FILED**

NORTHERN DISTRICT OF CALIFORNIA

MAY 12 2010

UNITED STATES OF AMERICA

Venue: San Francisco

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

V.

CRIMINAL COMPLAINT

JOHNNY BROWN

CASE NUMBER:

3 10 70394

JCS

I, the undersigned complainant being duly sworn, state the following is true and correct to the best of my knowledge and belief. On or about May 4, 2010 in San Francisco County, in the Northern District of California the defendant did,

OFFENSE:

having previously been convicted of a crime punishable by imprisonment for a term exceeding one year, did knowingly possess a firearm described as Iver Johnson "Pony" model .380 Auto caliber semi-automatic pistol, serial number IJ005925, in and affecting interstate and foreign commerce, in violation of Title 18, United States Code, Section 922(g)(1).

I further state that I am a FBI Special Agent and that this complaint is based on the following facts:
Official Title

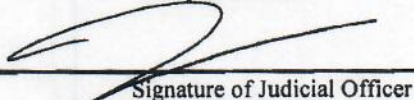
SEE ATTACHED AFFIDAVIT IN SUPPORT OF THIS COMPLAINT**PENALTIES:****SEE ATTACHMENT A**

APPROVED AS TO FORM: _____

ASSISTANT UNITED STATES ATTORNEY

Continued on the attached sheet and made a part hereof: ☒ Yes ☐ NoWarrants of Arrest Requested: ☒ Yes ☐ NoBail Amount: **NO BAIL**
Signature of Complainant

Sworn to before me and subscribed in my presence,

5/12/10
Dateat San Francisco, California
City and State**Honorable Joseph C. Spero**
United States Magistrate Judge
Name & Title of Judicial Officer
Signature of Judicial Officer

JCS

JOSEPH P. RUSSONIELLO (CABN 44332)
United States Attorney

BRIAN J. STRETCH (CABN 163973)
Chief, Criminal Division

WILLIAM FRENTZEN (LABN 24421)
TAREK J. HELOU (CABN 218225)
Assistant United States Attorneys

450 Golden Gate Ave., Box 36055
San Francisco, California 94102
Telephone: (415) 436-6959/7071
Fax: (415) 436-6753
E-Mail: william.frentzen@usdoj.gov

Attorneys for United States of America

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

JCS

IN THE MATTER OF THE CRIMINAL
COMPLAINT OF THE UNITED STATES
OF AMERICA

No. CR 3 10 70394

AFFIDAVIT OF FBI SPECIAL AGENT
G. BRADFORD MAY

I, G. ~~Bradley~~ ^{Bradford} May, Special Agent, Federal Bureau of Investigation (FBI), San Francisco,
California, being duly sworn, depose and state as follows:

1. I respectfully submit this Affidavit in support of a Criminal Complaint charging Johnny BROWN (hereafter "BROWN"), with possession of a firearm by a convicted felon, in violation of Title 18, United States Code, Section 922(g).
2. The facts stated in this Affidavit are based on my personal knowledge, on my review of reports prepared by other law enforcement officers and records prepared by others, and on conversations I have had with other law enforcement officers and witnesses involved in this investigation. I have not set forth each and every fact learned during the course of this investigation in this Affidavit. Rather, I have set forth only

AFFIDAVIT OF FBI SPECIAL
AGENT G. BRADFORD MAY

[Handwritten signature]

1 those facts that I believe are necessary to support the lawful arrest of the individual listed
2 in this Affidavit.

3 **SECTION I: AGENT BACKGROUND**

- 4 3. I have been a Special Agent of the FBI since October 2007. Since March of 2008, I have
5 been assigned to the San Francisco Division of the FBI, where I have worked on various
6 investigative matters, including violent crime, gangs, organized crime, drug and white
7 collar investigations. I have participated in the development of informants, interviews of
8 a variety of subjects and witnesses, surveillance, consensual monitoring, undercover
9 transactions, and execution of search warrants and arrest warrants.
- 10 4. I have previously been the affiant on a criminal complaint. During the time that I have
11 been an FBI Special Agent, I have been involved in investigations of numerous criminal
12 offenses, including the offense referred to herein.

13 **SECTION II: FACTS ESTABLISHING PROBABLE CAUSE**

- 14 5. Based on a San Francisco Police Department (SFPD) incident report number 100413561,
15 dated May 4, 2010, members of the San Francisco Police Department ("SFPD") Gang
16 Task Force ("GTF"), were traveling west on the 800 block of Market Street, San
17 Francisco, California. In the vehicle were Officer Damon Jackson, Officer Sean Griffin,
18 and Sgt. Reese Burrows. While approaching the intersection with Fifth Street, the
19 officers observed BROWN with several other individuals at the bus stop at 890 Market
20 Street. BROWN was known to the officers from prior arrests for firearms violations and
21 a witness intimidation arrest in connection with a homicide preliminary hearing at 850
22 Bryant, the "Hall of Justice." Officer Jackson was aware that BROWN was on active
23 felony probation with a search condition on May 4, 2010.
- 24 6. As the officers approached – in plainclothes but with SFPD stars showing – Officer
25 Jackson noticed the silhouette of a handgun in BROWN's right jacket pocket. Officer
26 Jackson also noted that BROWN's jacket pocket was sagging from a heavy object. The
27 officers approached and saw BROWN see them and then place his hand into his right
28 jacket pocket. All three officers saw BROWN then turn his back to the officers, pull a

1 handgun from his jacket pocket and attempt to hand the firearm to several other
2 individuals at the bus stop. The officers exited their vehicle and ran towards BROWN.
3 The officers observed that no one would take the firearm from BROWN and he dropped
4 it on the ground. BROWN then began to run to flee, but Sgt. Burrows placed BROWN
5 under arrest. Officer Griffin secured the firearm. There were no other items on the
6 ground near the firearm where BROWN dropped it. The firearm was cocked with the
7 safety off. Each of the other individuals with BROWN was detained and searched for
8 weapons before being released at the scene. BROWN was transported to Tenderloin
9 Station.

10 7. The firearm is manufactured by Iver Johnson. It is a "Pony" model .380 Auto caliber
11 semi-automatic, black in color, serial number IJ005925. The firearm is not manufactured
12 in the State of California.

13 8. I have reviewed the criminal history of BROWN. On August 4, 2008, BROWN was
14 convicted in San Francisco County Superior Court of possessing a firearm with an altered
15 identification number, which was a felony punishable by more than one year in prison.

16 **SECTION III: CONCLUSION**

17 17. For the foregoing reasons, I respectfully submit that there is probable cause to believe that
18 Johnny BROWN, having been convicted of a crime punishable by imprisonment for a
19 term exceeding one year, did knowingly possess a firearm described as Iver Johnson
20 "Pony" model .380 Auto caliber semi-automatic pistol, serial number IJ005925, in and
21 affecting interstate and foreign commerce, in violation of Title 18, United States Code,
22 Section 922(g)(1). I declare under penalty of perjury that the statements above are true
23 and correct to the best of my knowledge and belief.

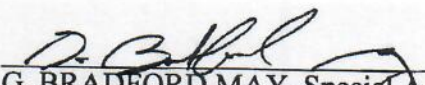
24
25
26 
27 G. BRADFORD MAY, Special Agent
28 Federal Bureau of Investigation

EXHIBIT B

United States District Court

FOR THE
NORTHERN DISTRICT OF CALIFORNIA

VENUE: SAN FRANCISCO

FILED

NOV 21 2013

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

v.

CR 13 764

ALFONZO WILLIAMS, A/K/A "FONZ," A/K/A "RELLY";
ANTONIO GILTON, A/K/A "TG," A/K/A "TONE";
BARRY GILTON, A/K/A "PRELL";
and
LUPE MERCADO,

RS

DEFENDANT(S).

INDICTMENT

18 U.S.C. § 1959(a)(1) – Vicar Murder;
18 U.S.C. § 924(c) – Use of Firearm During Crime of Violence;
18 U.S.C. § 924(j) – Murder With a Firearm;
18 U.S.C. § 3 – Accessory After the Fact

A true bill.

Nancy J. Peterson
Foreman

Filed in open court this 21st day of

November 2013,

Ada Means
Clerk

NO BAIL WARRANT

*as to
all defendants*

Jacqueline Scott Corley
Bail, \$
Jacqueline Scott Corley
United States Magistrate Judge

AO 257 (Rev 6/78)

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT
 BY: ☐ COMPLAINT ☐ INFORMATION ☒ INDICTMENT
☐ SUPERSEDING
OFFENSE CHARGED
 Title 18, United States Code, Section 1959(a)(1)
 Title 18, United States Code, Section 924(c)
 Title 18, United States Code, Section 924(j)
 Title 18, United States Code, Section 3

☐ Petty
☐ Minor
☐ Misdemeanor
☒ Felony

PENALTY: Please see attached

 Name of District Court, and/or Judge/Magistrate Location
 NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

DEFENDANT - U.S.

ALFONZO WILLIAMS et al.,

DISTRICT COURT NUMBER

CR 13 764

DEFENDANT

IS NOT IN CUSTODY

- 1)
- ☐
- Has not been arrested, pending outcome this proceeding.
-
- ☐
- If not detained give date any prior summons was served on above charges

- 2)
- ☐
- Is a Fugitive

- 3)
- ☐
- Is on Bail or Release from (show District)

IS IN CUSTODY

- 4)
- ☐
- On this charge

- 5)
- ☐
- On another conviction

- 6)
- ☒
- Awaiting trial on other charges

 If answer to (6) is "Yes", show name of institution
 San Francisco County Jail

 Has detainer been filed? ☐ Yes
☒ No

If "Yes" give date filed

DATE OF ARREST

Month/Day/Year

Or... If Arresting Agency & Warrant were not:

DATE TRANSFERRED TO U.S. CUSTODY

Month/Day/Year

☐ This report amends AO 257 previously submitted**PROCEEDING**

Name of Complainant Agency, or Person (& Title, if any)

FBI

- ☐
- person is awaiting trial in another Federal or State Court, give name of court

- ☐
- this person/proceeding is transferred from another district per (circle one) FRCrp 20, 21, or 40. Show District

- ☐
- this is a reprosecution of charges previously dismissed which were dismissed on motion of:

☐ U.S. ATTORNEY ☐ DEFENSE

SHOW DOCKET NO.

- ☐
- this prosecution relates to a pending case involving this same defendant

MAGISTRATE CASE NO.

- ☐
- prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

Name and Office of Person

Furnishing Information on this form MELINDA HAAG

☒ U.S. Attorney ☐ Other U.S. Agency

Name of Assistant U.S. Attorney (if assigned)

WILLIAM FRENTZEN

PROCESS:
☐ SUMMONS ☐ NO PROCESS* ☒ WARRANT

Bail Amount: None

If Summons, complete following:

☐ Arraignment ☐ Initial Appearance

Defendant Address:

* Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Date/Time:

Before Judge:

Comments:

Penalty Information for ALFONZO WILLIAMS et al.,:

Count One (VICAR Murder)

Not less than life imprisonment; not more than \$250,000 fine; not more than five years of supervised release; \$100 special assessment.

Count Two (Use/Brandish/Discharge Firearm)

Not less than 10 years imprisonment consecutive to any term of imprisonment for other offenses; not more than \$250,000 fine; not more than five years of supervised release; \$100 special assessment.

Count Three (Use of Firearm in Murder)

Not more than life imprisonment; not more than \$250,000 fine; not more than five years supervised release; \$100 special assessment.

Count Four (Accessory After the Fact)

Not more than 15 years imprisonment; not more than \$250,000 fine; not more than three years supervised release; \$100 special assessment.

FILED

NOV 21 2013

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

RS

UNITED STATES OF AMERICA,

v.

ALFONZO WILLIAMS, A/K/A "FONZ,"
A/K/A "RELLY";

ANTONIO GILTON, A/K/A "TG, A/K/A
"TONE";

BARRY GILTON, A/K/A "PRELL"; and

LUPE MERCADO,

Defendants.

CRIMINAL NO.

INDICTMENT

CR 13 764

VIOLATIONS – 18 U.S.C. § 1959(a)(1) – Vicar
Murder; 18 U.S.C. § 924(c) – Use of Firearm During
Crime of Violence; 18 U.S.C. § 924(j) – Murder With
a Firearm; 18 U.S.C. § 3 – Accessory After the Fact

INDICTMENT

The Grand Jury charges:

At all times relevant to the Indictment:

COUNT ONE: (18 U.S.C. § 1959(a)(1) – Murder in Aid of Racketeering)

The Racketeering Enterprise

1. Central Divisidero Playas, also known as Central Divis Playas, also known as the "CDP" gang
(hereafter "CDP"), is a violent street gang with members operating in the City and County of San

1 Francisco, whose activities affected other parts of the United States. The members of CDP primarily
2 conduct their activities in the Western Addition or Fillmore neighborhood of San Francisco, centered
3 in the area of Central and Divisadero Streets. CDP has been in existence since before 2000.

4 2. Some members of CDP signified their membership by wearing tattoos reading "CDP," "237," "D
5 Block," "D Boys," "Banga," "Uptown," or similar words and symbols. Also, CDP members from
6 time to time marked their territory or signified their presence through use of graffiti, clothing, social
7 media, and hand signs. Some CDP members have hidden tattoos in order to avoid detection by law
8 enforcement or opted not to utilize tattoos and symbols. CDP members frequently referred to one
9 another by their gang names or monikers. CDP members displayed gang signs by, among other
10 things, forming the letters "c" and "d" with their hands or signifying "Uptown" by placing two fists
11 together with the thumbs up to form a "U." CDP members also used the numbers "237" to signify
12 CDP, as those are the numbers corresponding to spelling CDP on a telephone keypad.

13 3. Members of CDP were expected to protect the name, reputation, and status of the gang and its
14 individual members from harm, insult, or disrespect by rival gang members and other persons. CDP
15 members required that all individuals show respect and deference to the gang, its membership and
16 associates, and the families associated with the gang. To protect the gang and to enhance its
17 reputation, CDP members were expected to use any means necessary to force respect from those
18 who showed disrespect, including acts of intimidation and violence.

19 4. Members of CDP engaged in criminal activity, including murder, attempted murder, narcotics
20 distribution, assault, robbery, extortion, interstate transportation in aid of racketeering, pimping,
21 pimping of minors, illegal firearms possession, and obstruction of justice by threatening and
22 intimidating witnesses whom they believed to be cooperating with law enforcement and by
23 destroying evidence and providing false information to law enforcement. CDP members could be
24 required to commit acts of violence to maintain and enhance membership and discipline within the
25 gang, including violence against rival gang members, those perceived to be rival gang members,
26 rivals in general, those who disrespected or committed violence against CDP members, friends or
27 family, as well as CDP members and associates who violated the gang's rules.

28 5. CDP worked cooperatively with other gangs in the Western Addition to engage in criminal activity

1 and to assist one another in avoiding detection by law enforcement. The groups that CDP aligned
2 with called themselves, collectively, Uptown. Uptown included CDP, Chopper City, a/k/a "223,"
3 Mac Block, 800 Block, Page Street Mob, a/k/a "PST," and Knock Out Posse, a/k/a "KOP," a/k/a
4 "KO." In or around 2008, one of these groups, KOP, became a violent rival of CDP. The principal
5 rivals to CDP are gang members of a Western Addition gang called Eddy Rock, a/k/a "Outta
6 Control," a/k/a "OC," who also referred to themselves as the Downtown faction of the Western
7 Addition.

- 8 6. There were leaders of CDP. While they had no official titles, there were individuals who were
9 feared, respected, and whose directions were followed by other members. Below the leaders were
10 "shooters," those gang members who were prepared and known to commit violence on behalf of the
11 gang and to protect each other. Below the shooters were gang members who dealt narcotics, pimped
12 out women, or who might commit robberies, but who were either hesitant to commit other violent
13 acts on behalf of the gang, or who had not had an opportunity to commit other violent acts.
- 14 7. CDP members communicated about gang activities with other CDP members using mobile
15 telephones, telephone text messages, and other modes of electronic and wire communications.
- 16 8. CDP, including its leadership, members, and associates constituted an "enterprise" as defined in
17 Title 18, United States Code, Section 1959(b)(2), that is, a group of individuals associated in fact
18 that was engaged in, and its activities affected interstate and foreign commerce. The enterprise
19 constituted an ongoing organization whose members functioned as a continuing unit that had a
20 common purpose of achieving the objectives of the enterprise.

21 Purposes of the Enterprise

- 22 9. The purposes of the CDP gang enterprise, including its members and associates, included, but were
23 not limited to, the following:
- 24 a. Preserving and protecting the power, territory, reputation, and profits of the enterprise, its
25 members, and family members, through the use of intimidation, violence, threats of violence,
26 assaults, and murder;
 - 27 b. Promoting and enhancing the enterprise and the activities of its members and associates,
28 including, but not limited to, murder, attempted murder, conspiracy to murder, narcotics

1 trafficking, robbery, pimping, and other criminal activities;

- 2 c. Keeping victims, potential victims, and community members in fear of the enterprise and its
3 members and associates through violence and threats of violence;
- 4 d. Providing financial support and information to CDP members, including those incarcerated;
5 and
- 6 e. Providing assistance to other CDP members who committed crimes for and on behalf of the
7 gang, to hinder, obstruct, and prevent law enforcement officers from identifying the
8 offenders, apprehending the offenders, and successfully prosecuting and punishing the
9 offenders.

10 The Means and Methods of the Enterprise

11 10. The means and methods by which the defendants and the members and associates of CDP conducted
12 and participated in the conduct of the affairs of CDP included, but were not limited to:

- 13 a. Members of CDP committed, attempted, and threatened to commit violence, including
14 murder, to protect and expand the enterprise's criminal operation, which included assaults,
15 murder, intimidation, and threats of violence directed against rival gang members, rivals in
16 general, those who disrespected CDP, its members, associates, and families, and potential
17 witnesses to the crimes of the enterprise;
- 18 b. Members of CDP promoted a climate of fear through intimidation, violence, and threats of
19 violence intended to promote the authority of the enterprise and its members and insulate its
20 members from liability for the other criminal actions of the enterprise;
- 21 c. Members of CDP used the enterprise to murder, attempt to murder, assault, and threaten
22 those who posed a threat to the enterprise; and
- 23 d. Members and associates traveled in interstate and foreign commerce, and affected interstate
24 and foreign commerce to conduct the affairs of the enterprise.

25 11. The above-described CDP enterprise, through its members and associates, engaged in racketeering
26 activity, as defined in Title 18, United States Code, Sections 1959(b)(1) and 1961(1), namely acts
27 involving murder and robbery, in violation of the California Penal Code, acts indictable under Title
28 18, United States Code, Section 2422, namely acts involving pimping and pimping minors, and acts

1 involving narcotics trafficking, in violation of Title 21, United States Code, Section 841(a)(1) and
2 846.

3 Murder in Aid of Racketeering of Calvin Sneed

4 12. On or about June 4, 2012, in the Northern District of California, as consideration for the receipt of,
5 and as consideration for a promise and agreement to pay, anything of pecuniary value from the CDP
6 enterprise, and for the purpose of gaining entrance to and maintaining and increasing their positions
7 in CDP, an enterprise engaged in racketeering activity, the defendants,

8 ALFONZO WILLIAMS, a/k/a "Fonz," a/k/a "Relly,"

9 ANTONIO GILTON, a/k/a "TG,"

10 BARRY GILTON, a/k/a "Prell," and

11 LUPE MERCADO,

12 each aided and abetted by the other, unlawfully and knowingly did murder Calvin Sneed, in violation of
13 California Penal Code Sections 187, 188, and 189.

14 All in violation of Title 18, United States Code, Sections 1959(a)(1) and 2.

15
16 COUNT TWO: (18 U.S.C. § 924(c)(1)(A) – Use/Possession/Brandish/Discharge of Firearm in
17 Furtherance of Crime of Violence)

18 On or about June 4, 2012, in the Northern District of California, the defendants,

19 ALFONZO WILLIAMS, a/k/a "Fonz," a/k/a "Relly,"

20 ANTONIO GILTON, a/k/a "TG,"

21 BARRY GILTON, a/k/a "Prell," and

22 LUPE MERCADO,

23 each aided and abetted by the other, willfully and knowingly did use and carry and brandish and
24 discharge a firearm during and in relation to a crime of violence for which they may be prosecuted in a
25 court of the United States, namely, the murder in aid of racketeering of Calvin Sneed charged in Count
26 One of this Indictment, and did possess and brandish and discharge a firearm in furtherance of the
27 offense charged in Count One of this Indictment.

28 All in violation of Title 18, United States Code, Sections 924(c)(1)(A) and 2.

1
2 COUNT THREE: (18 U.S.C. § 924(j) – Use/Possession of a Firearm in Murder)

3 On or about June 4, 2012, in the Northern District of California, the defendants,

4 ALFONZO WILLIAMS, a/k/a “Fonz,” a/k/a “Relly,”

5 ANTONIO GILTON, a/k/a “TG,”

6 BARRY GILTON, a/k/a “Prell,” and

7 LUPE MERCADO,

8 each aided and abetted by the other, willfully and knowingly, during and in relation to a crime of
9 violence for which they may be prosecuted in a court of the United States, namely, the murder in aid of
10 racketeering of Calvin Sneed charged in Count One of this Indictment, did use and carry a firearm, and
11 in furtherance of such crime, did possess a firearm, and in the course of that crime did cause the death of
12 a person through the use of a firearm, which killing is murder as defined in Title 18, United States Code,
13 Section 1111(a), namely, the defendants caused the death of Calvin Sneed by discharging a firearm at
14 Calvin Sneed.

15 All in violation of Title 18, United States Code, Sections 924(j)(1) and 2.

16
17 COUNT FOUR: (18 U.S.C. § 3 – Accessory After the Fact)

18 From on or about June 4, 2012, up to June 9, 2012, in the Northern District of California, the
19 defendant,

20 LUPE MERCADO,

21 knowing that offenses against the United States had been committed, namely the murder and unlawful
22 use of firearms as charged in Counts One, Two, and Three of the Indictment, did knowingly and
23 willfully receive, relieve, comfort and assist the offenders in order to hinder and prevent their
24 apprehension, trial, and punishment for those offenses.

25 //

26 //

27 //

28 //

1 All in violation of Title 18, United States Code, Section 3.
2
3

4 DATED:

November 21, 2013

A TRUE BILL

5
6 Nancy J. Peterson
FOREPERSON

7
8 MELINDA HAAG
United States Attorney

9
10 J. Douglas Wilson

11 J. DOUGLAS WILSON
Chief, Criminal Division

12
13 (Approved as to form:

14 William Frentzen
AUSA William Frentzen
AUSA Damali A. Taylor

United States District Court
Northern District of California

FILED

NOV 21 2013

CRIMINAL COVER SHEET

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT,
NORTHERN DISTRICT OF CALIFORNIA
RS

Instructions: Effective January 3, 2012, this Criminal Cover Sheet must be completed and submitted, along with Defendant Information Form, for each new criminal case.

Case Name:

USA v. ALFONZO WILLIAMS et al.,

Case Number: **CR 13 764**

Total Number of Defendants:

1 ☐

2-7 ☒

8 or more ☐

Is This Case Under Seal?

Yes ☐

No ☒

Does this case involve ONLY charges under 8 U.S.C. § 1325 and/or 1326?

Yes ☐

No ☒

Venue (Per Crim. L.R. 18-1):

SF

☒

OAK

☐

SJ

☐

EUR

☐

MON

☐

Is any defendant charged with a death-penalty-eligible crime?

Yes ☒

No ☐

Assigned AUSA (Lead Attorney):

William Frentzen

Is this a RICO Act gang case?

Yes ☒

No ☐

Date Submitted:

11/21/2013

Comments:

Save

Print

Clear Form

EXHIBIT C

Fear handcuffs witnesses to a killing in S.F.

By John King

You probably think you know how this story goes.

You're wrong.

On Aug. 14, 2006, a high school senior named Aubrey Abrakasa was gunned down on a San Francisco street.

All the stories, all the time

Unlock The Chronicle for 95¢

It may be easier to say what this wasn't. It wasn't gang-on-gang violence. It wasn't in one of the city's worst neighborhoods. And it wasn't one of those cases where the police have no leads, no suspects and no chance to arrest the killers who shot Paulette Brown's 17-year-old boy.

"I know who killed her son," Mayor [Gavin Newsom](#) said Thursday. "The D.A. knows who killed her son. The police know."

He's serious. They can name names, identify individuals and even list home addresses. They've got everything they need to nail this down with one exception - a witness.

It isn't that no one saw what happened. It is that they are afraid to speak up. Right there, in a pretty nice neighborhood by the Panhandle of Golden Gate Park, people are living in fear.

"It's simple and it's complex," said homicide Inspector Kevin Jones, who is working the case. "But I can tell you this: Aubrey did absolutely nothing to be shot for. Whatever it was that the shooter or shooters were thinking, there was nothing that justified them shooting him."

Jones said he doubts that there's any remorse among the shooters. Honestly, I doubt that. Aubrey lived in the neighborhood his whole life. So did most of the guys who police suspect shot him. They know he was a nice kid with an actively involved mother and father. He coached kids' basketball at the Bernal Heights Recreation Center.

The shooters know this was a bad kill. I believe there are times, maybe alone at night, when they wish they'd just fired wide - wish they'd just tried to scare him.

"He was like the son I never had," said Tom Mayfield, director of the Bernal

Heights Recreation Center. "I'd see his big smile coming in the door every day. And I remember when it happened. It was a Monday and he was on his way to work."

His mother says Aubrey was walking up Grove Street in front of a neighborhood preschool when he spotted some dodgy guys heading for a house up the street where a group of kids was sitting on the steps. He may have even spotted the guns. We know he yelled to a neighborhood kid, "Fonzi," who sitting with the group on the steps.

"He said, 'Run, Fonzi, run,' " Brown said. "And they turned around and shot my child. While he was being shot he put his hands up to protect himself and the bullets took some of his fingers off."

Brown remembers it all. She remembers walking across the stage at Wallenberg High School to accept his diploma the June after he was killed. And she remembers the day when she realized that no one was going to step forward, that the killers were going to get off, free and clear.

"No one is coming forth," she said. "I've gone to some of them. I ask them, 'You know what happened. There's a reward of \$250,000.' They say, 'That's not enough to get my extended family out. What about my granny. Or my auntie?' "

Jones used to work juvenile crime. He said there was never a problem with sources. People were happy to turn in child molesters or people who mistreated their kids. He came to homicide three years ago. Suddenly, the same people who cooperated before had nothing to say.

"I think that while they would like to do the right thing, they know it is possible their lives will be changed forever," Jones said. "The element of fear is real."

But Brown refused to accept the dead end. She quit her day job and worked nights so she could camp in front of City Hall, demanding every day to see the mayor. It took a full year, but she got a meeting. The mayor sympathized and wrote a nice letter. Not enough, but Brown will take it. She's determined Aubrey won't be forgotten.

Up at the rec center, Mayfield remembers how he used to let Aubrey win at dominos because if he lost he'd stay forever until he won a game. The summer Aubrey died, Mayfield asked his summer counselors what they'd like to be, "other than a professional basketball player or a rap star." Mayfield remembers that Aubrey was the last to answer.

"I want to be like you, May," he said. "I want to do what you are doing."

After 30 years working with kids in the city, that hit Mayfield pretty hard. It isn't like he doesn't know the code in the streets. He knows people are scared to talk.

But he also knows this shouldn't stand. Not in a world we say is just and fair.

"I tell young people if you don't stand for nothing, you'll fall for anything,"

Mayfield said. "Sometimes you got to man up."

After all, Aubrey stepped up for a guy from the neighborhood without a thought. Where's everyone else?

Sign up for Breaking News alerts

Get critical updates on the biggest stories in the Bay Area.

By subscribing, you agree to our [Terms of use](#) and acknowledge that your information will be used as described in our [Privacy Policy](#).

EXHIBIT D

~~REBUTTAL ARGUMENT~~

1
2 MR. JOINER: Thank you, Your Honor.

3 Are you guys ready to wrap this up? I know I am.

4 But as everybody said, it's our burden to prove the
5 charges beyond a reasonable doubt, and so the defense got up
6 here and you've heard at this point about 12 hours' worth of
7 defense argument. As you can imagine, I have something to say
8 about that. So thank you in advance for bearing with me.

9 I've got my own PowerPoint. I bet you didn't know how
10 many PowerPoint slides you were going to watch by sitting as a
11 jury. It's a slow death by PowerPoint. Thanks in advance for
12 working through this.

13 Before I get started, I did want to say thank you to you
14 as a jury. You guys have spent a lot of time in this courtroom
15 with us. You've listened to a lot of lawyers talk, going on
16 four months now, and other people have said it, I agree with
17 it, that is far, far above and beyond what a normal juror has
18 to do. So thank you from our table, from Special
19 Agent Millspaugh, from Sergeant Jackson, from Mr. Barry,
20 Ms. Tian, Mr. Costello. Thank you for your sacrifice. We
21 appreciate it.

22 You know, after Mr. Barry's closing -- I probably don't
23 have to stand up here and say anything, actually, because he
24 went through it all, but more importantly, you guys went
25 through it all. You've sat here and listened to the witnesses.

1 You saw the same evidence. You were paying attention. So you
2 probably already have identified a lot of the issues that I'm
3 going to raise for the defense arguments. I probably don't
4 have to say anything, but I'm a lawyer, so I will.

5 The first thing I want to start with is the jury
6 instructions. Some of the defense counsel showed you portions
7 of the instructions, some of them showed you all of the
8 instruction. A lot of them didn't show you the full
9 instruction, but I think everybody understands that this first
10 instruction on reasonable doubt is the most important. It is
11 the Government's burden to prove each and every element of the
12 offense beyond a reasonable doubt.

13 We don't shy away from that. We're not making light of
14 that. It is a high standard. And it should be. This is an
15 important case.

16 One of the things I wanted to point out to you, though,
17 and I've got it in a red box here, proof beyond a reasonable
18 doubt, it's not proof beyond all possible doubt. It's not
19 proof beyond any doubt. And reasonable doubt is not doubt
20 that's based on speculation. And I also put a box here around
21 common sense because at the end of the day, reasonable doubt is
22 a common sense standard. Nobody is going to ask you to leave
23 common sense behind when you go to deliberate.

24 And I think some of the defense lawyers might have
25 misstated this burden to you. And let me give you some

1 examples.

2 First, Mrs. Jayne and Mr. Ramsey spent a lot of time
3 talking to you about various standards. Preponderance of the
4 evidence, clear and convincing, different levels in the legal
5 system. Burdens of proof.

6 You will find none of those in your jury instructions.
7 You don't have to worry about any of that. You don't have to
8 worry about what clear and convincing is. You don't have to
9 worry about what preponderance of the evidence is. Those were
10 defense PowerPoints. They're not going to be in the jury
11 instructions. This instruction is going to be in the jury
12 instruction, along with a lot of others. So you can just focus
13 on what reasonable doubt is.

14 And nobody likes objections. I did object a couple of
15 times during the defense arguments because I thought they were
16 getting it wrong. Ms. Jayne, in particular, misstated the
17 standard to you at the beginning of her closing. She said
18 something along the lines of if you have any doubt, then you
19 must acquit. That's not the standard. It has to be a
20 reasonable doubt. So don't be misled about that.

21 Reasonable doubt is based on common sense. And Ms. Jayne
22 said to you, If I had to make everyday decisions based on
23 reasonable doubt, I would never leave the house because of
24 terrorism or maybe an astroid. That was Mr. Barry's example of
25 a doubt, a possibility that is based on speculation. Okay.

1 So that is not reasonable doubt. Not leaving your house
2 because there is some remote possibility, some speculation,
3 that something bad might happen, that's actually not the
4 reasonable doubt standard.

5 A reasonable doubt is a doubt based upon reason and common
6 sense. It's not based purely on speculation. So it's
7 important to keep that in mind as you begin your deliberations.

8 Another example where I think defense counsel twisted this
9 reasonable doubt standard into something that it's not or it
10 shouldn't be, and that was Mr. Vermeulen, who represents
11 Mr. Heard, and it was when he was talking about the double
12 murder over by USF. He put up -- he put up a piece of evidence
13 that the defense put in, and it was sort of a chart of calls
14 between Mr. Heard and Isaiah Turner going back a few days
15 before the double murder, and he said, Look, they were in
16 contact with each other before the double murder. Yes, they
17 were. That actually supports the Government's case.

18 But then what he did is he put up these distances between
19 cell towers and he said, And I've highlighted calls where they
20 were in close proximity to each other. I encourage you to go
21 have a close look at that exhibit because close proximity in a
22 couple of cases was six miles, and, again, he was measuring the
23 distance between cell towers, and Special Agent Solomon-Hill
24 told us that is really not an accurate way to figure out how
25 far a phone may be between two towers. It's in the coverage

1 area. It's somewhere in between. It's not right at the tower.

2 But why was he pointing out phone calls between Charles
3 Heard and one of his murder victims in the days before the
4 double murder? It was to set up this argument about
5 transference of DNA. This is an argument that I'm going to
6 call my client is the unluckiest man in the world.

7 They were in close proximity to each other, as
8 demonstrated by these phone calls so maybe they got together
9 and shook hands. And when they shook hands, just maybe my
10 client's DNA ended up on Mr. Turner's DNA, and then Mr. Turner,
11 who had rented this car, just happened to touch not the front
12 steering wheel or the front door, but the rear left door lock,
13 and when he did that, he just happened to transfer my client's
14 DNA to the left rear door lock, so much so that my client's DNA
15 was the major contributor in the DNA that was recovered from
16 that left rear door lock, to the tune in 1 in 139 octillion.
17 My client is the unluckiest man in the world.

18 Ladies and gentlemen, that is not reasonable doubt. It's
19 not. That is speculation.

20 And so you've got dozens of pages. I think we've got 60
21 to 80 pages of jury instructions. Do not be daunted by that.
22 Jurors before you have done it. You all have been here through
23 all the evidence. When you read the instructions, you still
24 get to use your common sense. It's just a matter of going
25 through the instructions and applying the law to the facts that

1 are in evidence.

2 And it says right here that that argument, my client is
3 the unluckiest man in the world, maybe there is some
4 possibility somewhere that that might have happened, but it's
5 speculative. It's speculative, so that's not reasonable doubt.
6 That is an unreasonable doubt. And that's why I wanted to put
7 this instruction back up in front of you because I think during
8 the course of the arguments, it got twisted a little bit.

9 And I'm not faulting the defense. I'm not faulting the
10 lawyers for doing their job. You did hear 12 hours of
11 argument. And that's fine. It's an important case. They
12 should stand up and defend their client. But it's our job to
13 point out to you why we think they got things wrong.

14 So I'm obviously going to come back to the double murder
15 in just a little bit. Before I do that, there are a couple of
16 other places in the instructions that I wanted to talk about.

17 The first is this idea of general conspiracy law. It
18 doesn't have to be a formal agreement. I think that's clear,
19 but I wanted to emphasize it. It doesn't have to be a formal
20 agreement. And every single conspirator doesn't need to know
21 all of the details of the conspiracy. Monzell Harding, for
22 example, doesn't need to know everybody in the conspiracy to be
23 a member of the CDP conspiracy.

24 An informal understanding is enough. And Ms. Keith is
25 absolutely right. It is not enough that individuals simply met

1 and discussed matters of common interests like football or
2 sports. That's not what we have here. That's not what we have
3 here. We have a group, a gang, which qualifies as a federal
4 racketeering enterprise, because of the associations among them
5 and because of the types of crimes that they commit. That's
6 what makes it a federal racketeering conspiracy. The types of
7 crimes that they commit. It's pretty basic.

8 Murder, attempted murder, robbery, transportation in
9 interstate commerce for prostitution. Mr. Ramsey stood up here
10 and told you his client did that so you can check that box.
11 You know, one of the racketeering crimes was committed and you
12 know who it was by. Okay. I'm getting ahead of myself.

13 The other thing I wanted to point out is that if you are a
14 member of a criminal conspiracy like a RICO conspiracy, you are
15 on the hook for things that happened before. You're also on
16 the hook, even if your involvement was minor or for a short
17 period of time.

18 And, again, it's this idea that you can be a member of the
19 conspiracy without knowing all the different tentacles that it
20 has, without knowing exactly what every other co-conspirator is
21 up to at any given time.

22 I have highlighted that language there. It's Instruction
23 No. 27.

24 The other thing -- and I talked to you about this when I
25 stood up -- when was it? The first week in November. And it's

1 this idea that this is a criminal street gang. Okay. This is
2 not -- we're not talking about a corporate enterprise. We're
3 not talking about brass name plates on the door. We're not
4 talking about a military chain of command. This is a different
5 kind of organization. It's not a formal hierarchy.

6 And Instruction No. 29 says that's okay. The
7 organization, the gang, this group of people that gets together
8 and commits certain kinds of crimes, they don't have to have
9 any particular or formal structure. They don't have to have a
10 hierarchy. There doesn't need to be a chain of command.
11 Decisions can be made on an ad hoc basis. You don't need to
12 have a formal meeting of the special committee of CDP to
13 determine who you're going to rob next or who you're going to
14 shoot next.

15 And this idea that members of the group don't have to have
16 fixed roles. And that's what you've heard in evidence here.
17 Bruce Marshall said that. Jaquain Young told me that his crew,
18 his clique, some people pimp, some people rob, some people
19 shoot. Johnnie Brown told you the same thing. Not everybody
20 does the same thing. They don't have the same role.

21 And sure enough, that's okay. That's within the
22 definition of a racketeering conspiracy.

23 What you also heard from the defense is this idea that
24 it's an enterprise. Enterprise. It's a fancy word. It means
25 something more than what we have here. It's a lawyer's word.

1 It's the term that got put into the law. But when you break it
2 down, an enterprise is just a group of people who have
3 relationships with each other and they get together to do
4 certain things.

5 Now, you can have a criminal street gang here in
6 San Francisco and let's say all they do is auto burglaries.
7 That's not going to end up here in federal court. But if they
8 do auto burglaries and they do armed robberies and they pimp
9 and they kill and they attempt to kill their rivals, well,
10 guess what? You have taken that group of guys that gets
11 together or group of guys and gals that gets together and
12 commits certain crimes, and they are now a federal racketeering
13 conspiracy. They are a RICO enterprise.

14 And the other thing that you heard from defense counsel
15 was this idea that we shouldn't be in federal court for this
16 crew, for these defendants, because they're not the mafia.
17 It's the Gambino family sitting over here in the dock.

18 They say that in one breath and then they talk to you
19 about all the horrible things that you have seen and heard over
20 the last four months.

21 Does this case belong in federal court? Absolutely.
22 Absolutely. The path of devastation that this group left in
23 their wake, the dead bodies, the destroyed lives, all they
24 cared about were themselves. That's all they cared about.
25 Money and power.

1 Ms. Keith asked the question what's the purpose? What's
2 the purpose? What are they -- they're just here for money and
3 status? Yes, you can put it that way. That is not a new
4 purpose, that is not a new story. That is a motivation that
5 goes back to the beginning of time.

6 I mean, I'm thinking -- picture Conan the Barbarian,
7 right, to drive my enemies before me and to hear the lamenting
8 of their women, to take their riches, to make myself more
9 powerful, to have my enemies fear me.

10 This is not a new story. This is not a new purpose, and,
11 yes, that's what CDP was about. Money and power. Power over
12 their rivals, killing their rivals, making their rivals fear
13 them, protecting each other so that they could do things like
14 commit armed robbery, pimp women.

15 Here's another concept from Instruction No. 32. So you
16 see language in there that says "the enterprise was or will be
17 established." Right? And this is in regards to Count 1, the
18 RICO conspiracy. "Was or will be established." The crime was
19 or would be committed. No crime actually has to be committed
20 for you to find these defendants guilty of Count 1. And that's
21 because, like it says here in this instruction, the crime is
22 the agreement.

23 So if these defendants all got together and decided they
24 were going to form something like CDP that was going to kill
25 their rivals and rob people and they were just going to do that

1 two times or more, you could find them guilty. You don't have
2 to find that anybody committed any particular racketeering act.

3 And more importantly, in order to find a defendant liable
4 of RICO conspiracy, the defendant does not need to have
5 committed, personally committed, any racketeering acts
6 themselves. So as long as they knew that somebody would, some
7 CDP member or associate would, they can be liable.

8 So I wanted to focus on the agreement because the RICO
9 conspiracy charge is actually quite, quite broad.

10 In this case, however, we have proved beyond a reasonable
11 doubt racketeering acts that were committed. So this is
12 actually an easier case because you know what the enterprise
13 was about. You know what the group was about because you've
14 seen the crimes that they committed.

15 There's this idea that you have to find that the group did
16 or would commit two or more racketeering acts. So Instruction
17 No. 32 is also important because it's defining racketeering act
18 and it tells you that the two racketeering acts they can be the
19 same act, somebody joins CDP and they know that there's going
20 to be more than two attempted murders. We're going to go shoot
21 at Eddy Rock and we're going to do it two or more times. It's
22 not just a one-and-done kind of deal.

23 Or it can be I know we're going to murder this guy and
24 we're going to rob this guy. All you need is two. Right?

25 So let me make another movie reference. Ocean's Eleven.

1 It's this crew of guys that gets together. Everybody has their
2 different role. You've got the cat burglary, the guy that is
3 going to crack the safe, but it's one crime. Right? This is a
4 group that comes together and they are going to rob a casino.
5 Right? It's one crime. That's not a pattern of racketeering.

6 Now let's talk about CDP.

7 Does anybody think that CDP is only going to rob one
8 person? Just going to do one robbery and that's it? We're
9 just going to do one shooting and that's it? No. The evidence
10 has proved beyond a reasonable doubt that CDP was about
11 multiple shootings, multiple murders, multiple robberies.

12 Here's one shooting. This was January 8th, 2009. This is
13 Reginald Elmore, Fat Reg, and Greg Walker, Fella. And this is
14 the one with Reginald Elmore shooting up an Eddy Rock funeral.
15 Right? There's one racketeering act in January of 2009. I'm
16 not going to pull out every single gun.

17 Can I have the ELMO just briefly?

18 This is a murder conspiracy. This is a tool of the trade.
19 These are just some of the firearms that we put into evidence
20 in this case. These are tools of the trade. Why did you hear
21 evidence about firearms possession? Charles Heard tossing a
22 gun at the pit, Charles Heard running with a gun, countless
23 others being caught with firearms.

24 It's because the racketeering conspiracy, the racketeering
25 enterprise, CDP, was a murder conspiracy. CDP members shared

1 firearms. You heard that testimony from Johnnie Brown. They
2 shared firearms because they were tools of the trade, tools
3 that would be used to murder or attempt to murder their rivals.
4 Not just once. Multiple times.

5 So is there a pattern of racketeering activity?

6 Absolutely. Absolutely. Is it a murder conspiracy? Do
7 individuals that claim CDP that affiliate with CDP -- do they
8 know that they might be shot or they might have to shoot at
9 their rivals and attempt to kill them? Absolutely.

10 Did Monzell Harding know that? Absolutely.

11 ~~Aubrey~~ Aubrey Abrakasa was brutally murdered at Grove and Baker.
12 We've got his death certificate. Multiple gunshot wounds.

13 Monzell Harding, for example, has a RIP Chedda, RIP Chedda Boy
14 on his hand, a memorial, evidence that he knows what this gang
15 is about. And think about what Johnnie Brown told you about
16 that. We all felt that pain, he said. He was our generation.

17 And they're literally in the cemetery, and Alfonzo Williams
18 gathers the group together and says, You all need to step up.
19 They took one of ours. Step up. That means go kill Eddy Rock.
20 Ride for Chedda. It is a murder conspiracy.

21 So that's one shooting. The Eddy Rock funeral shooting in
22 January 2009.

23 Turk Street shootout. We also saw a video of that. That
24 was KOP members ambushing CDP members. It didn't matter that
25 they had their kids with them. Shoot on sight, shoot to kill.

1 And you saw Greg Walker with a firearm. He had a firearm on
2 him because that's what it means to be a CDP member, and he
3 shot back. Attempted murder.

4 Robberies. You heard a lot of evidence about robberies.
5 That's a lot of racketeering acts. The idea that Monzell
6 Harding would claim 237, would claim CDP, would have a RIP
7 Chedda Boy tattoo -- I'm talking a lot about Monzell, maybe
8 because Ms. Keith just finished arguing, so it's fresh in my
9 mind, but this idea that it doesn't involve two or more
10 racketeering acts, two or more robberies, that doesn't fly. Of
11 course the conspiracy would involve two or more robberies and
12 two or more shootings.

13 Monzell Harding knew that because he was one of the
14 individuals in CDP who robbed people. Adrian Gordon knew that
15 because he was one of the individuals in CDP who robbed people.
16 He also shot at people, and we'll talk about that in a sec.

17 Silver van robberies. We focused on Adrian Gordon's and
18 Monzell Harding's cell phone data. That's the evidence you
19 have in front of you. That's the evidence that we have. But
20 that doesn't mean that they were the only two that were
21 involved.

22 Tyrice Ivy. You heard about Tyrice Ivy from Alexandria
23 Williams. He was there when Jaquain Young took her to Vegas
24 and prostituted her. He was also at Monzell Harding's at
25 Nordstroms wearing a C hat. C for CDP.

1 You heard about how the teller, when Mr. Harding was
2 trying to return those sunglasses, felt uncomfortable, and she
3 is the one that buzzed security to zoom in and take a closer
4 look.

5 And you also heard about Darryl Jones. So Darryl Jones is
6 the one that rented that Toyota Sienna van that you see in the
7 Nordstroms video and he rented it in his own name, but the
8 phone number he used was Adrian Gordon's. Darryl Jones also
9 was with Monzell Harding, Johnnie Brown, Esau Ferdinand,
10 Marzette Parker in October of 2009 when they stood up and tried
11 to intimidate a witness during the Charles Heard's murder
12 trial. Right?

13 So these robberies are not just racketeering acts.
14 They're also evidence of concerted action of the relationships
15 between the enterprise members and their associates.

16 Let me pause here, and I'll have to call an audible. I
17 have my Power-point which is way too long, but Ms. Keith hadn't
18 argued yet, so let me pause and talk a little bit about what
19 she went through with you.

20 So Exhibit 632, those are Monzell Harding's text messages.
21 And Mr. Barry put those in front of you, and the text message
22 to Monzell Harding was, "Who is this?" And the response was
23 "237." At this point, we all know what 237 is. I also would
24 ask you to listen to that jail call.

25 After Monzell Harding gets arrested for the January 2010

1 robbery of Colin Toerge, you hear him on a jail call, and
2 that's Exhibit 594D-1. And he's having this conversation with
3 individuals on the outside, and they're talking about Sergeant
4 Burrows. "Did Sergeant Burrows try to get you to cooperate?"
5 They are trying to get information. He says, "They are trying
6 to make me take gang restrictions." "Don't take gang
7 restrictions. What gang are you part of?" He doesn't get it
8 at first. Listen to that call. He kinds of laughs. He goes,
9 "Come on. Central." And they're like, "No, no. You're not
10 part of a gang. What gang are you part of?" You hear somebody
11 in the background yell, "Tell them you're with Mac Block."

12 So Monzell Harding is not making a secret that he's CDP.
13 This is not sporadic conduct. He's in it. He may be one of
14 the younger members, but he's in it.

15 And Johnnie Brown also told you he would go with them when
16 they would shoot at Eddy Rock. He didn't say he shot. He was
17 more like Johnnie Brown in that regard. Johnnie Brown shot a
18 few times, but most of the time, he was holding the gun for
19 somebody else. He didn't say he shot. This idea that Monzell
20 Harding is not a member of CDP doesn't fly.

21 ✓ We also heard argument about Aubrey Abrakasa. And
22 Ms. Keith said well, he's not a gang member because he does not
23 have any tattoos. Well, he's not a gang member because he also
24 had a job. You can be both. You can have a job and be a gang
25 member. Johnnie Brown worked at the Garden Project. He had a

1 job. He was a gang member.

2 Just because you don't have tattoos doesn't mean that
3 you're not a gang member, and regardless of whether Aubrey
4 Abrakasa was a gang member or not, you actually don't have to
5 decide that. The importance of Aubrey Abrakasa's death is that
6 it was a huge event in the history of the neighborhood, in the
7 history of CDP. Monzell Harding is not the only one that has
8 RIP Chedda Boy on his hand. Okay. You also saw other
9 individuals that had that tattoo. So he became a rallying cry
10 for CDP. Whether he was a gang member or not, they certainly
11 took it that way. They took one of ours. Now we're going to
12 take more of theirs.

13 So that's actually not the important question. You don't
14 have to focus on whether Aubrey Abrakasa was a gang member.
15 What you focus on is how did the gang react to his murder?
16 That's what helps define the enterprise.

17 And, by the way, Johnnie Brown lived right across the
18 street from Aubrey Abrakasa. And he told you, Yes, he was one
19 of ours. I felt that way. He was one of ours. So I think
20 that the evidence before you supports the fact that Aubrey
21 Abrakasa was a gang member. But I'm pointing it out because
22 you don't have to get hung up on that.

23 I'm sorry to switch back and forth, Ms. Davis. If I could
24 go back to the ELMO.

25 So a lot of the defense lawyers put this instruction in

1 front of you, and it's No. 42. And it's titled acts that are
2 not racketeering acts. And they sort of focused you on this
3 top portion, and they didn't talk about the bottom portion. So
4 when you go back and read that, pay attention to that second
5 portion because what it tells you is all right, residential
6 burglary, auto burglary, possession of firearms, those by
7 themselves, those aren't technically racketeering acts.

8 Well, I've just explained to you how they can still be
9 evidence of the conspiracy of the association. Firearms, yes.
10 Possession of firearms is not by itself a stand-alone
11 racketeering act, but is it evidence of a murder conspiracy?
12 Is this evidence of a murder conspiracy that firearms were
13 tools of the trade for CDP members, and they all understood
14 that? Yeah. Absolutely.

15 And so that's why this second portion of the instruction
16 is important because it reminds you that even though these
17 criminal activities are not defined as racketeering acts, you
18 can still consider evidence of such activities when deciding
19 whether each of the defendants was a member of the charged RICO
20 conspiracy.

21 The instruction also points out, it's a reminder, that in
22 addition to the RICO conspiracy, we also have VICAR, Violent
23 Crimes in Aid of Racketeering. So maiming by itself, not a
24 racketeering act. But that doesn't mean that maiming in aid of
25 racketeering isn't one of the charged offenses. So you could

1 tell that this instruction gives a little bit to both sides.
2 What I'm asking you to do is don't over-emphasize the first
3 part. The first part is saying you've heard a lot of evidence
4 of crimes that are not, strictly speaking, racketeering acts.
5 The second part is saying that's still evidence. You can still
6 use it to inform your decisions on the other elements.

7 We talked about the Lucky Chances shooting and robbery in
8 April of 2011. That is both. That is a robbery, which is a
9 racketeering act. It's an attempted murder, which is a
10 racketeering act, and it's a maiming in aid of racketeering.
11 I'm going to talk about this a little bit more in advance. But
12 before we move on, I want to point out this other individual,
13 Marzette Parker, Coop. That's the guy in the red hat who was
14 with Esau Ferdinand at the Lucky Chances Casino.

15 Mr. Waggener made this argument that Mr. Ferdinand's there
16 by himself. He's just with his cousin. He's not with any CDP
17 associates. That's actually not correct. Marzette Parker is a
18 CDP associate. Technically he is a member of the Page Street
19 Gang, but he is an associate of CDP? Is he within that broader
20 alliance? Absolutely. And how do you know that? Because
21 Coop, because Marzette Parker in October of 2009, a year and a
22 half before Vanson Truong was shot, is standing up in court
23 side by side with other CDP members: Johnnie Brown, Esau
24 Ferdinand, a host of others. Okay.

25 So this idea that Esau Ferdinand was just out there

1 freelancing on his own without any other CDP associates with
2 him, that's not correct. He absolutely was with another CDP
3 associate, and this type of crime, armed robbery, that is
4 squarely within the CDP conspiracy. This is what CDP members
5 do. They're ready to do it at any given time, a target of
6 opportunity. It doesn't matter.

7 You heard a lot from the victims of the silver van
8 robberies. Maybe we should have just called them the van
9 robberies, but you heard from a lot of victims, and they all
10 gave up their cash. They all gave up their valuables. They
11 didn't fight. They didn't struggle.

12 Vanson Truong did. And you saw what happened to him.
13 This is what CDP does. They see something of value. We see
14 that, we need that, we take that. And if you don't give it up,
15 Vanson Truong got pistol-whipped in the head.

16 Mr. Barry -- I don't know how old he was. 78? Somewhere
17 in there. An old man, tough as nails, wouldn't give it up.
18 Pistol-whipped in the head. And when he wouldn't give it up,
19 he got kneecapped. Was that robbery part of the CDP
20 conspiracy? Is that what CDP does? Is that inherent to CDP?
21 Yes. It's a racketeering act. Mr. Truong was maimed in aid of
22 racketeering. I'm sorry. More on that later.

23 Fair warning. I'm going to spend a significant amount of
24 time on the double murder at USF, and like I said, Mr. Barry
25 already went through a lot of this. I probably don't have to

1 do it, but there were some things that were argued during the
2 defense arguments that need to be addressed.

3 Double murder of Andre Helton and Isaiah Turner over by
4 USF, August 14, 2008. It's another one of these watershed
5 moments in the history of CDP. You saw what happened
6 afterwards. You saw the rupture with KOP. Family member
7 against family member. Tore that neighborhood apart. These
8 groups have been so tight, but not after CDP murdered Andre
9 Helton, Baby Bin.

10 Johnnie Brown was in jail when this happened. He wasn't
11 there. He didn't do it. He has no way of knowing the things
12 that he told you unless someone who was there told him.

13 We could talk a lot about Johnnie Brown's lies while he
14 was under the supervision of Special Agent Millspaugh, when he
15 went into the WITSEC program.

16 Johnnie Brown -- you heard this theme over and over again,
17 he's kind of -- he's very street smart in a lot of, ways but
18 he's also like a big kid. He lies about where he is and who
19 he's with. And he gets caught over and over and over again.
20 You could hear the witness security inspector's exasperation.
21 He is no mastermind. He lies about things like my kids lie
22 about: Who he is with, what he's doing.

23 Johnnie Brown didn't like to be supervised. Can you blame
24 him? The Witness Security Program is so strict that he got
25 kicked out the first time for making phone calls back to the

1 danger area. That's it. That's it.

2 The Witness Security Program was able to run up in his
3 house and search it and check on him whenever they wanted to.
4 He had never been out of San Francisco when he left for that
5 program. He hadn't spent a lot of time traveling out of state.
6 He didn't even know how to write a check. He didn't even know
7 that hotel room numbers were even on one side and odd on the
8 other side.

9 Johnnie Brown's not good with maps. Johnnie Brown is not
10 good at catching airplanes on time because he didn't have that
11 world experience.

12 So a kid like that, reacting, given his background, where
13 he's coming from, he doesn't like to be supervised, and he
14 lied.

15 He did not lie about the double murder. What I said to
16 you way back in November was you're going to hear from
17 cooperators and you may not like them, you may not like what
18 they've done. What you have to ask -- what you have to ask
19 yourself is how does what they're telling you line up with the
20 facts? How is it corroborated?

21 So with the double murder, Johnnie Brown said that
22 Reginald Elmore and Charles Heard set up this lick, a house
23 lick. We're going to go rob a house. We're going to get a
24 huge payoff to lure in Isaiah Turner and Andre Helton. Well,
25 if you look at the crime scene evidence, Helton and Turner were

1 wearing gloves. Turner just had one glove on. It looked like
2 he was putting the second one on as he put this car in gear to
3 go hit this house lick when he's murdered.

4 Andre Helton is sitting on a .38 caliber revolver because
5 he thinks he is going to rob somebody, so he brought a revolver
6 to do that.

7 How does Johnnie Brown know this? He knows it because
8 Reginald Elmore told him. Reginald Elmore was bragging about
9 it. Look at the text messages between Charles Heard and Isaiah
10 Turner. You see them setting up this home invasion robbery,
11 whatever it was going to be. You see that in the text
12 messages.

13 Johnnie Brown didn't manufacture those text messages.
14 Johnnie Brown doesn't have access to the FBI's cellular
15 analysis and survey team. Johnnie Brown doesn't have access to
16 phone records. He had access to members of CDP, and he was
17 there when Reginald Elmore was bragging about it.

18 This is Exhibit 493. Mr. Barry put these text messages
19 and others in front of you when he was closing. Look at some
20 of Isaiah Turner's last text messages to Charles Heard. "It's
21 time to eat. Let's succeed." He thought he was going to hit a
22 lick that night, just like Johnnie Brown said Reg Elmore told
23 him.

24 Reginald Elmore also bragged about the fact that it was
25 him that pulled the trigger. And he told Johnnie Brown where

1 he was sitting. He said, I was sitting behind Baby Bin.

2 Charles Heard was sitting behind the driver, Isaiah Turner.

3 You can look at the medical exam. You can look at those
4 diagrams. You can look at the autopsy photographs. Andre
5 Helton was shot in the back of the head at close range, so
6 close that there's possible gunpowder, not only on the hood
7 that he had over his ball cap, but also on the ball cap.
8 That's how close that firearm was.

9 Isaiah Turner, there is a gunshot wound on the right rear
10 side of his head which suggests that the shooter was sitting
11 where Reginald Elmore was, behind the passenger. And we've
12 talked about Charles Heard's DNA on the rear left door lock.

13 All of that corroborates Johnnie Brown. Think what you
14 will of Mr. Brown. What he's telling you makes sense. What
15 he's telling you is backed up by physical evidence, by forensic
16 science, by cell phone records.

17 This is Exhibit 1861. This is the medical examiner's
18 diagram for Mr. Helton. You can see the gunshot wounds to the
19 back of his head. One went through the air. One went through
20 his ear. And you saw that hole in the windshield. It went
21 straight through. Then it hit the windshield wiper and
22 ricocheted over to the driver's side.

23 Medical examiner's diagram at Exhibit 1861 also notes the
24 possible gunpowder on the hat, on the hood. All of that is
25 consistent with Johnnie Brown.

1 Mr. Barry showed you a picture of the bullet that got
2 lodged in the passenger's side window jam. How shallow an
3 angle do you have to be firing at for that bullet to get lodged
4 in there the way it did, to hit the glass and get lodged in
5 there? That's somebody sitting behind the passenger. It's
6 exactly where Reginald Elmore said he was.

7 This is Isaiah Turner. Medical examiner labels this
8 gunshot wound Gunshot Wound C. And it's important to remember
9 if you go back and look at the medical examiner's report, just
10 because the gunshot wounds are labeled A, B, C does not mean
11 that the victim sustained those gunshot wounds in that order.
12 So in this case, if you look at the position of Mr. Turner's
13 head when they found him in that car, he is slumped over
14 towards the center, and the top of his head is facing towards
15 where the rear passenger would be seated.

16 This first gunshot wound, the evidence shows, was Gunshot
17 Wound C. He gets hit with Gunshot Wound C and he slumps and
18 the shooter then finishes him off with two more shots. You
19 will see there are shots to the top of his head as well which
20 is consistent with his head position in that vehicle and the
21 shooter in the rear passenger's seat.

22 And then we've got Charles Heard's DNA on the rear left
23 door lock. Again, the defense doesn't have to say anything to
24 you at all. We have the burden. They did not have to get up
25 here and argue for 12 hours, but they did, and so it's fair to

1 ask whether what they said to you makes sense, whether what
2 they argued to you is actually reasonable doubt or is it
3 speculation.

4 So the reasonable doubt that was offered to you for this
5 DNA does not make sense. I don't have to tell you that. I
6 mean, we're getting into astroid territory here; right? Look
7 at all these phone calls between Charles Heard and his intended
8 victim. Yes, that supports what Johnnie Brown told you, that
9 they were setting up this house lick. It does not support this
10 conspiracy theory that all these phone calls meant that these
11 individuals were close together, and at some point, they
12 touched and the DNA was transferred to Turner's hand and then
13 Turner, whose rental car it is, decides he's going to smear the
14 DNA on the left rear door lock such that you get such a
15 significant major contributor to the DNA that was recovered.
16 Okay. That's not reasonable doubt. That's speculation.

17 More importantly, this corroborates what Johnnie Brown
18 said Reginald Elmore told him about that murder.

19 The cell phone records also corroborate Johnnie Brown.
20 These are the calls -- it's Exhibit 457, but here are calls
21 between Charles Heard and Reginald Elmore, and look at the
22 timing. This is August 13. So this is the evening right
23 before the double murder. The double murder happened sometime
24 after 1:23, 1:24 in the morning on August 14. So this is
25 8:00 p.m. that same night. And you've got Elmore and Heard,

1 Fat Reg and Cheese, calling each other repeatedly around 8:00.
2 And we're going to look at that slide on the CAST analysis, but
3 they're setting it up. Cheese is using that tower in the
4 vicinity of the crime scene. He's already there.

5 Now we've got the calls between Isaiah Turner and Charles
6 Heard. Incoming calls from Charles Heard, 1:02 in the morning
7 on the 14th and 12:57 a.m. A bunch of outgoing calls from
8 Isaiah Turner the night of the 13th into the early morning of
9 the 14th.

10 Isaiah Turner's phone is in evidence. We showed you
11 screenshots from that phone. There's the call at 12:57 a.m. to
12 somebody in the contacts who shows up as Cheese. Again,
13 1:02 a.m. with Cheese. 1:07 a.m. with Cheese.

14 You also heard from witnesses who happened upon the crime
15 scene after the double murder. Fred Nagle. You listened to a
16 recorded statement. There is also a written statement in
17 evidence. He sees activity in the victims' car at 1:15 in the
18 morning and so that's 8 minutes after that 1:07 a.m. call, so
19 that completely lines up with what you see in the CAST report
20 with everybody coming together to the same location, seeing
21 these calls, "Hey, where you at?" "I'm right here." About 8
22 minutes after that last call with Cheese, you've got
23 individuals at that car.

24 So Fred Nagle is seeing things that corroborate what the
25 cell tower data is already telling you.

1 Ms. Lipsky arrived around 2:55 a.m. So the vehicle at
2 that point when Ms. Lipsky gets there at it 2:55 in the
3 morning, the engine is running and the left-turn signal is on.
4 When Officer Brady gets there at 5:20 in the morning, the
5 engine is running, the left-turn signal is on. He also said he
6 had to put the car in park because it was in reverse. Okay.

7 Both Ms. Lipsky and Officer Brady saw a small hole in the
8 driver's side window. Mr. Vermeulen argued it was so dark, how
9 could Ms. Lipsky see that? How could Officer Brady see that?
10 They both said the same thing.

11 And let me pause for a second on Ms. Lipsky. So
12 Mr. Vermeulen put her three- or four-sentence written statement
13 that she wrote at 6:00 in the morning and basically said if
14 it's not in those four or five sentences that she wrote in her
15 initial statement, it didn't happen.

16 That kind of defies common sense. That's not how
17 investigations work. People make their initial statements,
18 investigators get involved, they uncover more detail later.
19 That's why you have follow-up investigations.

20 So Ms. Lipsky may not have been asked about the hole in
21 the window. She may not have thought at the time that it was
22 important to note. She may have been tired after getting off
23 of her shift that went from 3:00 a.m. to 6:00 a.m. at the radio
24 station and wanted to get the heck out of there. Just because
25 it's not in her written statement doesn't mean that's she's

1 making it up.

2 You know, Ms. Lipsky was here and Mr. Vermeulen had an
3 opportunity to ask her about this, if he wanted to. He didn't.
4 He didn't want you to hear, I submit, what she would say about
5 that. Instead, he asked her, "Well, you just said you got
6 there at 2:50 in the morning. Actually your statement says you
7 got there at 2:55 in the morning." Just because Ms. Lipsky
8 didn't put it in that written statement doesn't mean that she's
9 lying to you. What motive does she have to make it up? Why
10 would she make it up?

11 So this is a photograph that was taken about 20 or 30
12 minutes after Officer Brady responded to the scene. You can
13 see the left-turn signal is on.

14 What does that mean? Why do we care about the left-turn
15 signal? It means they were already dead. The car was in gear.
16 They were already dead. The turn signal had been on from
17 2:55 -- from at least as early as 2:55; right? We know that.
18 Ms. Lipsky saw it at 2:55, and it's in the exact same condition
19 at 5:20 in the morning.

20 So Mr. Vermeulen argues to you that the murder must have
21 happened sometime after Ms. Lipsky saw the car. That doesn't
22 make sense. Why is the turn signal on for so long? It's
23 because they're already dead.

24 You also have the phone records. You can go look at those
25 phone records. Both Mr. Turner and Mr. Helton, they're super

1 active on their phones that night. You can see incoming and
2 outgoing calls, text messages. After that call activity at
3 1:23, 1:24 in the morning, nothing. You may see some incoming
4 calls, some incoming text messages when people are starting to
5 worry about them, but you don't see sort of outgoing activity.

6 So Mr. Vermeulen would have you believe that those two
7 individuals are just sitting in that car for hours, and they're
8 not doing anything on their phones? That doesn't make sense.
9 Common sense tells us that doesn't make sense.

10 What happened was Isaiah Turner and Charles Heard and
11 Reginald Elmore were waiting for Andre Helton to get there. He
12 makes that call. There's those calls between Turner and Helton
13 around 1:23, 1:24 in the morning. The cell tower is very
14 close. Who knows exactly how close he was? He could have been
15 across the street. Oh, I see you. Ever done that? As soon as
16 he gets in the car, puts it in gear, let's go. And that's it.
17 They both got capped in the back of the head. The murderers
18 got out of there and they got the heck out of town.

19 And we see this play out in the CAST report. So this is
20 what I was discussing. These are calls between Reginald Elmore
21 and Charles Heard utilizing towers in the vicinity of the
22 murder scene and also over there by Kezar Gym.

23 Then you see calls between Isaiah Turner and Charles Heard
24 and you know what happens next. They are moving towards the
25 crime scene. And you've got that call at 1:01 in the morning

1 that starts at a cell tower just south of the crime scene and
2 ends at a cell tower just to the north of it.

3 And here's Isaiah Turner and Andre Helton calling each
4 other, 1:23, 1:24 a.m. and they are both utilizing that tower
5 that is right there at the murder scene.

6 They are both murdered shortly after that call. And
7 Charles Heard, his phone, he's getting the heck out of Dodge.

8 Now, we do have this tower down here on Market and South
9 Van Ness. There's no sector information with that tower, so
10 you don't know if the phone is to the west. You don't know if
11 the phone is already on 101 to the south. All you know is the
12 phone is in range. All you know is that the phone, Charles
13 Heard's phone, has moved significantly from where it was last
14 seen in the vicinity of USF and that crime scene.

15 You've got a straight shot here to the freeway. That
16 central freeway exception, that Octavia artery, that was
17 finished by the time of the murder. There is a stipulation to
18 that. He's got a straight shot.

19 At 1:25 in the morning, if anybody is familiar with Oak
20 Street, timed lights, how quickly can you get from Point A to
21 Point B. Pretty darn quickly, especially if you just murdered
22 two people and you want to get the heck out of town. And
23 that's exactly what he did.

24 This is at 2:17 to 2:22 in the morning. He's across the
25 Bay Bridge. Where is he going at 2:20 in the morning? I think

1 he ended up in Fairfield.

2 None of this has anything to do with Johnnie Brown.
3 Johnnie Brown didn't manufacture these records. This is
4 forensic analysis by the FBI's cellular analyst and survey
5 time. It's a CAST report. It's based on business records that
6 were maintained by the phone companies.

7 When Johnnie Brown started cooperating in 2010, do you
8 think he had any idea that this information would be available
9 to back him up? No. Everything he knew about this murder he
10 learned from Reginald Elmore, and these are things that he
11 could have not known unless he was getting it from somebody who
12 was there.

13 SFPD, during their homicide investigation, they're not
14 broadcasting the fact that Andre Helton was sitting on a gun.
15 You heard the inspector talk about it. We don't want to put
16 information out there that only the killer would know.

17 There's more corroboration for Johnnie Brown. So he told
18 you that Reg said that Heard and Elmore set it up.
19 Mr. Vermeulen cross-examined Inspector Walsh, and it's this
20 theme that you saw over and over again, well, why didn't you
21 investigate this, why didn't you investigate that? And it
22 turns out that one of the reasons why Inspector Walsh was not
23 focused on what the various descriptions the family members
24 were giving him is because within a week, on August 20th, 2008,
25 he received a tip from Isaiah Turner's -- well, from

1 somebody -- I believe it was Isaiah Turner's girlfriend -- that
2 somebody named Cheese had done it and that his real name was
3 Charlie. So Inspector Walsh looks at that, he looks at the
4 cell phone that he has in his hand where the last calls are
5 with somebody named Cheese, and he focuses on that lead. He
6 did the right thing.

7 So this idea that Cheese set it up, that's not something
8 that Johnnie Brown made up. That's something that was out
9 there.

10 The other corroboration we have is you heard evidence from
11 the FBI wiretap. They had a wiretap running on Gary Owens, KOP
12 member. And Charles Heard called him several times during
13 2008. And I'm not going to play every single one, but I do
14 want to go through them briefly.

15 And since I don't know how to use the technology, I'm
16 going to ask Mr. Costello to help me out here. Why don't we
17 cue up Exhibit 545, please.

18 (Whereupon, the audio was played)

19 MR. JOINER: Can you pause.

20 This is the first conversation between Gary Owens and
21 Charles Heard about the double murder. Within 30 seconds or
22 so, Charles Heard is bringing up this idea that Fat Boy,
23 Reginald Elmore, had something to do with that. Gary Owens
24 doesn't bring that up. Gary Owens doesn't know what he's
25 talking about. He hasn't heard anything about this.

1 This is Charles Heard realizing that the death of Andre
2 Helton could start a gang war, and he's worried that Gary Owens
3 knows about it. He's making this up that somebody told him
4 that they were involved, and he's fishing for information. He
5 wants to see how much KOP knows.

6 (Whereupon, the audio was played.)

7 MR. JOINER: Did you hear his voice crack? "Three
8 different people told me that. GOD, I swear to God, three
9 different people told me that. Somebody called me at 1:00 in
10 the morning. Two people called me today. Two different people
11 told me that." "Who?" "Three different people." "No, no, no.
12 Who told you that?" Why is there no answer? Why is there no
13 answer? Instead, the answer is, with his voice cracking, "It
14 doesn't matter. Somebody told me that."

15 Charles Heard was there, he knew exactly what happened.
16 He is lying to Gary Owens to figure out how much Gary Owens
17 knows.

18 (Whereupon, the audio was played.)

19 MR. JOINER: If we could go to Exhibit 546.

20 So 545 and 546, those are both wire calls that were
21 recorded on August 15, 2008. This is the day after the double
22 murder. And -- can we pause it real quick, Mr. Costello?

23 I want you to pay attention, if you will, to how the story
24 changes. It goes from "three different people told me that" to
25 somebody else. The story changes because he's making it up.

1 (Whereupon, the audio was played).

2 MR. JOINER: Just real quick, almost as an aside here,
3 you heard argument from Ms. Jayne that KOP is just a
4 neighborhood. Listen to the way Charles Heard and Gary Owens
5 are talking about KO and being from the Os. They're not
6 talking about just some neighborhood. Okay.

7 Mr. Waggener was quite candid in his closing arguments.
8 He said this rivalry, this retaliation, this brutality between
9 KO and CDP, it's real. "I'm saying my client is not a part of
10 it." He's wrong. We'll get to it. But at least he
11 acknowledged that it was real.

12 So this idea that KOP is just a neighborhood, that CDP is
13 just a neighborhood, listen to the way they're talking about
14 it. These are two gang members who are talking about their
15 respective gangs.

16 (Whereupon, the audio was play.)

17 MR. JOINER: "I don't even know this guy. I don't
18 even know this guy. He's calling me up out of the blue and
19 telling me about a double murder."

20 Does that make sense? No, because he's making it up.
21 Charles Heard knows exactly what happened. He's not getting
22 information from somebody named Ju. Maybe there was some
23 random comment on the street that somebody from the D had
24 something to do with it, but there weren't specific names.

25 Sorry. Go ahead.

1 (Whereupon, the audio was played.)

2 MR. JOINER: Now the story has changed again. "I
3 heard it from three people. Somebody called me at 1:00 in the
4 morning. Two more people called me today."

5 "Who was it?"

6 "I don't know. Oh, it was some guy named Ju who I don't
7 even know. Maybe I'll recognize him if I saw him on the
8 street."

9 Now he is talking about some girls at the school house,
10 some minors. The story keeps changing.

11 Gary Owens isn't buying it.

12 (Whereupon, the audio was played.)

13 MR. JOINER: You heard the mention of Sauce? Do you
14 know somebody named Sauce? It's Esau Ferdinand. That's the
15 only Sauce that's come up in this case. How does Sauce know?
16 Sauce knows because he's CDP. Sauce knows because Reginald
17 Elmore is already bragging about it or Charles Heard told him.
18 CDP knows. They have to know. They have to know. Because
19 there's a risk of a gang war.

20 Let's go find out how much KO knows.

21 Go ahead.

22 (Whereupon, the audio was played.)

23 MR. JOINER: Do you hear the reference to Chedda?
24 That's Aubrey Abrakasa. And what Mr. Heard is doing is saying
25 This is why I'm so upset. Imagine when Aubrey Abrakasa got

1 murdered if I had come at you and said somebody from KO did it.
2 How would you feel then? How would you react?

3 Aubrey Abrakasa is a gang member. Charles Heard knows it.
4 Charles Heard is holding him up as an example of This was one
5 of my boys. He got murdered. How would you feel if I came at
6 you, my ally, and said I thought you did it.

7 So these calls, they are highly probative, not just of the
8 double murder, but just listen to the way Charles Heard and
9 Gary Owens talk about their gangs and the names that they're
10 mentioning. It's corroborating a lot more than Johnnie Brown.
11 It's corroborating a lot of the evidence in this case.

12 I'm sorry. Go ahead, Mr. Costello.

13 (Whereupon, the audio was played.)

14 MR. JOINER: So you get the idea.

15 The wire call that is at Exhibit 547, you heard that one
16 as well. That's a three-way where Charles Heard goes out and
17 gets this guy Ju on the phone and he says, "Yeah, I did hear
18 something about the D doing it," and then Gary Owens calls him
19 back and he says, "I didn't hear any names, though." So this
20 guy Ju is on the phone saying, "Yeah, I heard somebody saying
21 something about maybe it was the D," but it's not lining up
22 with Charles Heard's story. He's saying, "I didn't hear any
23 names." Charles Heard is talking about Fat Boy was with them.
24 He started talking about that within 30 seconds of Gary Owens
25 picking up that first call.

1 So anyway, you get the idea. We're not going to play 547.
2 You've also got 548 where Gary Owens calls him back, this guy
3 Ju, what are you talking about? It does not line up. It went
4 from, "Three people called me one at 1:00 in the morning last
5 night. Two people today."

6 "Who was it?"

7 "I don't know. I don't know. It doesn't matter.
8 Somebody said it. I don't know."

9 To, "Somebody called Ju called me."

10 "Who is Ju?"

11 "I don't know. I don't know if I could recognize him on
12 the street."

13 To, "Well, there are these girls talking about it in the
14 schoolhouse."

15 The day after the murder, somebody is talking about in
16 high school? It doesn't make sense.

17 Charles Heard knows exactly what happened. He wants to
18 know whether anybody from KO has figured it out because if they
19 got away with it, they can pretend like it didn't happen, they
20 could stay cool with KO, they can collect the price that was on
21 Isaiah Turner's head, and they are thousands of dollars richer,
22 and they still have their alliance intact. But word did get
23 out and you saw what happened.

24 Can we go to Exhibit 1904. And you can leave it there for
25 a second.

1 So Mr. Vermeulen came at Johnnie Brown very aggressively
2 and said, "You just made this up. You just made up this idea
3 that there was a price on Isaiah Turner's head. You got that
4 out of nowhere."

5 First question, why would Johnnie Brown make that up?
6 Because he knows the federal government needs a VICAR motive?
7 And that some sort of price on the head is going to help us
8 prove our case? He knows that as a 19-, 20-year-old kid in
9 2010 when he's arrested? No, he doesn't. He's not trying to
10 help out our VICAR motive case when he starts cooperating in
11 2010. He barely knows what RICO is.

12 He's telling Special Agent Millsbaugh and Sergeant Jackson
13 repeatedly this story throughout 2010 and later about the price
14 being on Isaiah Turner's head because that's what he heard.
15 Mr. Vermeulen said, "There was nothing else out there about
16 that. You just made that up." Well, that's not true either,
17 because in this next wire call, you hear Gary Owens talking
18 about the same thing. That people thought there was a price on
19 Isaiah Turner's head.

20 It doesn't matter whether there actually was a price on
21 his head. What matters is whether the killers believed it
22 because it explains why it happened. They may not have ever
23 collected on it, but at the time, did they think there were
24 thousands of dollars on Isaiah Turner's head? Absolutely. And
25 they were not the only ones that thought that.

1 Okay. If you could roll it.

2 (Whereupon, the audio was played.)

3 MR. JOINER: If we could go back to the PowerPoint,
4 please, Mr. Costello.

5 Johnnie Brown says Reginald Elmore said the price was
6 50,000. Gary Owens is hearing it was 18,000. Regardless, the
7 word was out that there was a price on Isaiah Turner's head.
8 Thousands of dollars.

9 That's why the murders happened. This is what CDF does.
10 They want money.

11 There's another wire call. It's at Exhibit 543. Okay.
12 We're not going to play it. But that's the call between
13 Charles Heard and Gary Owens, July 16th, 2008. We played it
14 when Special Agent Millspaugh was on the stand and Charles
15 Heard was talking about what you need to do to rob people.
16 They also talk about selling drugs and a price for drugs in
17 there. But basically they're talking about ripping -- robbing
18 people for chains and valuables.

19 And Charles Heard gives you a window into what kind of
20 person he is. He's talking about these rich guys that might
21 come out and hang on the D. And he says, you know -- he says
22 you know, "You're my friend. You're my nigga. You're my
23 friend. But as soon as you come correct, as soon as you put on
24 that jewelry, you are no longer my friend."

25 Isaiah Turner represented thousands of dollars sitting

1 right there in that driver's seat. Charles Heard knew about
2 it. Reginald Elmore knew about it. And they set up this thing
3 to get Isaiah Turner in a place where they could kill him and
4 collect that money.

5 You don't think getting \$50,000 is going to enhance your
6 standing in CDP? You don't think coming back with thousands of
7 dollars in your pocket for killing somebody is going to enhance
8 your standing? More money, more status; more bodies, more
9 status.

10 Andre Helton may have been in the wrong place at the wrong
11 time. Andre Helton had a gun. Andre Helton was potentially
12 standing between Charles Heard and Reginald Elmore on the one
13 hand and a huge payday on the other hand. As soon as you have
14 something of value, you are no longer my friend. Andre Helton
15 had a gun. He had to go because of the payoff. Thousands of
16 dollars.

17 Who's going to know? It's just us sitting up here by USF
18 in the middle of the night, four people in a car. Who is going
19 to know? Nobody knows that we're setting this up.

20 More money, more status; more bodies, more status.

21 Now, you also had this other issue with Andre Helton
22 having a beef with Reginald Elmore. Johnnie Brown told you how
23 Reginald Elmore felt disrespected by Andre Helton. They had
24 robbed City Shine of that chain and his gun. Not the robbery
25 where he got shot. The robbery where there was a chain and a

1 gun taken, and Baby Bin stood up for City Shine, and the
2 reaction was You're Uptown, why are you taking his side? We
3 rob who we want. You should be with us on this.

4 So was that beef the primary motivation for the double
5 murder? I don't think so. That's for you to decide. It
6 doesn't have to be the primary motivation. It's still a VICAR
7 motive. Here's this kid that's disrespecting me, that's
8 disrespecting Uptown. I'm going to get another body. People
9 are no longer -- people will not disrespect me.

10 And keep in mind, there was also this other issue where
11 not only was it between Andre Helton and Reginald Elmore, but
12 there was a fight where Reginald Elmore got beat up by Beefy.
13 And that's corroborated on another wire call. That's the same
14 one that I just talked about, 543, and Gary Owens and Charles
15 Heard are talking about that towards the end of the call. You
16 can go back and listen to it. Talk about Beef has hands. Beef
17 knows how to fight.

18 Beef beat up Reginald Elmore. Charles Heard is saying,
19 "Like, man, you are not supposed to let that happen." He goes,
20 "No, no, no, that was between them, you know. He was
21 disrespecting him." Johnnie Brown told you that was all tied
22 in with this long-simmering beef between Andre Helton and
23 Reginald Elmore.

24 I asked him did you get a sense of how Reginald Elmore
25 felt about that? He said he felt disrespected. So is that

1 also a VICAR motive to kill Andre Helton? Yes, it is. Did
2 Andre Helton get killed because there were thousands of dollars
3 on Isaiah Turner's head? Most definitely. Most definitely.
4 Both of those are VICAR motives, and we're going to talk some
5 more about that in a little bit.

6 But I think, Your Honor, if we could take a break now, I
7 have maybe another 60 minutes left.

8 THE COURT: Okay.

9 Ladies and Gentlemen, we are going to take a break. So
10 let's -- we will be back at noon for the conclusion of the
11 Government's rebuttal.

12 (Proceedings were heard out of presence of the jury:)

13 THE COURT: All right. We'll be in recess.

14 (Recess taken at 11:45 a.m.)

15 (Proceedings resumed at 12:06 p.m.)

16 (Proceedings were heard out of presence of the jury:)

17 MR. RAMSEY: I just want to object to Mr. Joiner's
18 comments about the various standards of proof. I thought I
19 heard at one point him say that the other standards of proof,
20 preponderance, clear and convincing, didn't have anything to do
21 with the beyond a reasonable doubt standard. I do think they
22 put them in perspective and I think that is a misstatement of
23 the law to say they are completely unrelated. I just wanted to
24 make that objection.

25 MR. JOINER: What I said, Your Honor, is they are not

1 in the instructions and they need to focus on reasonable doubt.

2 THE COURT: Okay. Are we all set? Let's get the
3 jury.

4 (Proceedings were heard in the presence of the jury:)

5 THE COURT: Mr. Joiner, go ahead.

6 MR. JOINER: Thank you, Your Honor.

7 We're almost done with the double murder. And then we're
8 going to move a lot quicker, I promise. But before we leave
9 the double murder, I want to talk about this -- well, as we've
10 just discussed, Johnnie Brown is heavily corroborated by the
11 DNA, by the forensics, by the cell tower evidence. He's
12 heavily corroborated.

13 The defense would have you believe that he's just making
14 all this up. Why would he make this up? The only thing
15 they've been able to put in front of you is the fact that City
16 Shine got robbed in August of 2008 while Johnnie Brown was in
17 jail. And they are presenting that to you like that is the
18 only time City Shine got robbed. That's speculation.

19 City Shine is not somebody who goes to the police when he
20 gets robbed. Sergeant Manning talked about that. There's a
21 police report about that robbery of City Shine because he got
22 shot. He didn't have any choice. There was going to be a
23 police report about that because they came and put him in an
24 ambulance and took him to the hospital.

25 When the police tried to talk to him about that, he would

EXHIBIT E





EXHIBIT F



City and County of San Francisco
POLICE DEPARTMENT
MEDIA RELATIONS UNIT
1245 3RD Street, 6TH Floor
San Francisco, California 94158



NEWS RELEASE

August 27, 2020
20-079(a)

SFPD's 2006 Cold Case Homicide Investigation Adds Information, Clarity to Aubrey Abrakasa Statement

In an effort to add information and clarity to a news segment aired by KTVU Fox-2 news last Friday, Aug. 14, the San Francisco Police Department wishes to additionally confirm that Aubrey Abrakasa Jr., the victim in an SFPD homicide cold case investigation, was **not** a gang member at the time of his murder, and was **never** a gang member in his life.

Although SFPD investigators confirmed their belief that the suspects who shot the 17-year-old high school student multiple times in 2006 did belong to a gang, advocates for the homicide victim in this case (including Aubrey's mother, Paulette Brown) requested this published clarification from San Francisco Police that Aubrey Abrakasa Jr. himself was not a member of a gang.

Paulette Brown has been a tireless advocate for her son as well as for other families of other murder victims, according to the San Francisco Police Department, which applauds her advocacy and leadership.

Representatives from SFPD's Homicide Detail and Media Relations Unit attended the socially distanced, mask-required press event Ms. Brown hosted on Aug. 14, 2020 at the corner of Grove and Baker Streets in San Francisco. SFPD is happy to oblige advocates' request for additional information with this updated news release.

A crime bulletin highlighting this case accompanies this news release. Anyone with information about this or any other homicide case is asked to contact SFPD Homicide Detail. You may also call our anonymous tip line at (415) 575-4444 or text-a-tip to TIP411, beginning the text with SFPD.

Continued:

Tel. 1-415-837-7395

Fax 1-415-837-7249

E-mail: sfpdmediarelations@sfgov.org

 twitter.com/sfpd

 facebook.com/sfpd

 sanfranciscopolice.org



City and County of San Francisco
POLICE DEPARTMENT
MEDIA RELATIONS UNIT
1245 3RD Street, 6TH Floor
San Francisco, California 94158



NEWS RELEASE

Page 2 of 2
20-079(a)



###

Tel. 1-415-837-7395

Fax 1-415-837-7249

E-mail: sfpdmediarelations@sfgov.org



twitter.com/sfpd



facebook.com/sfpd



sanfranciscopolice.org

EXHIBIT G

SFPD Confirms Homicide Victim Not Gang Member - San Francisco News

Qiuqi

SAN FRANCISCO—On Thursday, August 27, the San Francisco Police Department (SFPD) announced via social media that they have added information for a 2006 cold case homicide investigation. The department also uploaded a detailed statement about the additional information via their website.

According to the statement, SFPD confirmed that Aubrey Abrakasa Jr., the victim in a homicide case, was not a gang member at the time of his murder; he had never been a gang member in his life.

The statement notes, the investigators of this case indicated that they believed the suspect of the homicide who shot the 17-year-old high school student in 2006 is a gang member.

On August 14, Paulette Brown, Abrakasa Jr.'s mother, an advocate for homicide victims and their families, hosted an event at the corner of Grove and Baker Streets. She requested that the SFPD to release a clarification to confirm her late son did not belong to a gang. SFPD decided to oblige the advocate's request and release a clarification.

"Representatives from SFPD's Homicide Detail and Media Relations Unit attended the socially distanced, mask-required press event Ms. Brown hosted on August 14, 2020, at the corner of Grove and Baker Streets in San Francisco. SFPD is happy to oblige advocates' request for additional information with this updated news release," reads the statement via SFPD's website.

Advertisement

San Francisco (/news/san-francisco)

Unsolved Crimes: The Murder of Aubrey Abrakasa



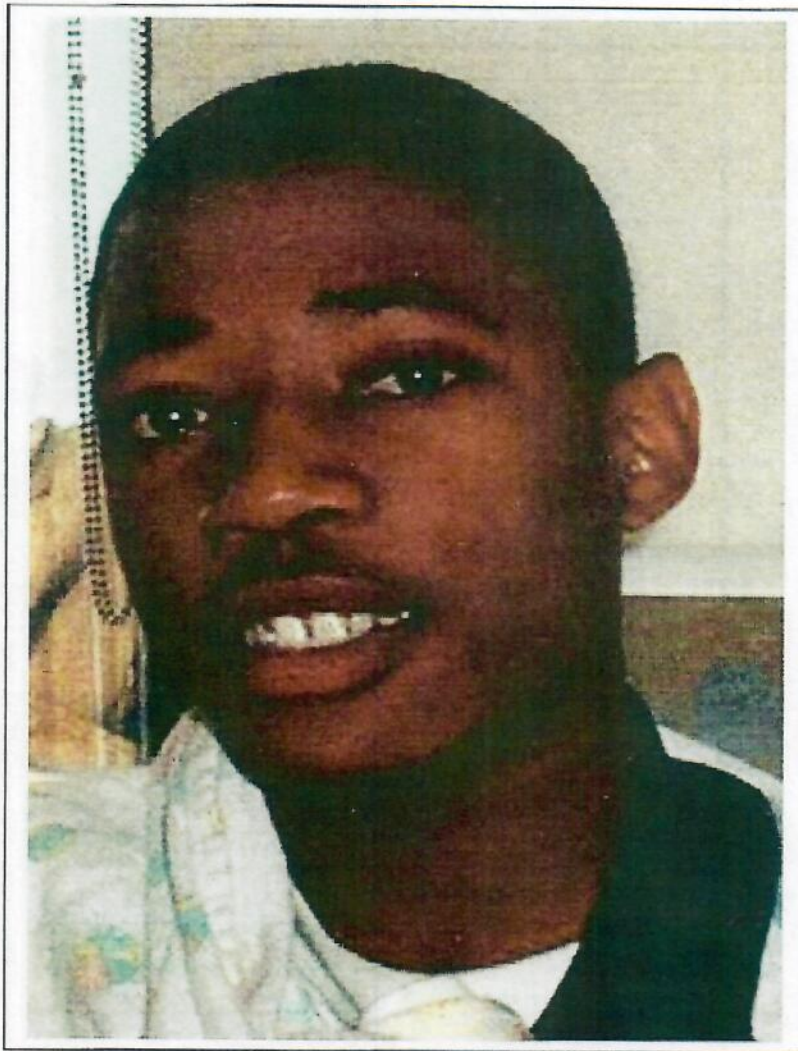
Aubrey's mother Paulette Brown / photo by **David Elliott Lewis** (<http://david-elliott-lewis.com/mug-23-09>)

by Andrew Dudley
@andrewdudley
August 14, 2013

Read Next:

Seven years ago today, a 17-year-old boy was murdered at the intersection of Grove and Baker.

Aubrey Abrakasa Jr. had just stepped outside his Grove Street home around 3:14pm on August 14, 2006 when he was shot several times by an unknown assailant. His killer used an automatic weapon, letting loose roughly 30 rounds. Paramedics soon arrived and transported Aubrey to the hospital, where he died 5 hours later.



Victim AUBREY ABRAKASA Jr.

(<https://lh3.googleusercontent.com/-pFS9GUyJsOU/UgrkxsiO2DI/AAAAAAAAAS14/waVjKxGLMF0/abrakasa.jpg?imgmax=1600>) SFPD bulletin

Aubrey was reportedly (<http://www.sfgate.com/default/article/SAN-FRANCISCO-High-school-boy-with-full-life-2514007.php>) a stand-up teenager, with no arrest

history and no known connections to any gangs. He was a guard on the high school basketball team and an assistant coach at Bernal Heights Park. In the years since the murder, Aubrey's mother, Paulette Brown, has campaigned tirelessly, both to try to bring her son's killer to justice, and to draw attention to the issue of gun violence. Just this past April, she spoke (<http://www.scpr.org/news/2013/04/16/36848/ca-senate-committee-advances-bans-on-rapid-reloadi/>) at a California Senate committee hearing, voicing support for a bill that would ban semi-automatic weapons with detachable magazines. That bill, SB 374, was passed by the full Senate in May, and is now being considered by the Assembly. While she has made progress on the gun violence issue, Brown has had seemingly little luck in finding justice for Aubrey, as his killer remains at large. In an odd and frustrating twist, a *Chronicle* article (<http://blog.sfgate.com/cityinsider/2009/05/08/mother-of-homicide-victim-resumes-city-hall-protest/>) from 2009 reported that then-Mayor Newsom claimed that he, along with the District Attorney and the SFPD, actually *knew* who killed Aubrey. But with no witnesses coming forward, they were unable to make arrests. Brown has pleaded for more attention to the situation over the years, as she did at a Police Commission hearing in September of 2012:



Read Next:

17- SHE GRIEVES HER SON'S SHOOTING DEATH AT ...



Today at 3:14pm, Brown and Homicide Inspector John Miller will mark the anniversary at the intersection of Grove and Baker, where they will hand out fliers and answer questions. There is a \$250,000 reward (<http://sf-police.org/index.aspx?page=334>) available for tips leading to an arrest in the case. Anyone with information about the murder can call the SFPD's Homicide Detail at 415-553-1145, or the anonymous tip line at 415-575-4444.

Neighborhoods NoPa (/neighborhoods/nopa)

Sponsored Content

Read Next:



Fw: SFPD News Release (exclusively to KTVU Fox-2)

From: paulette Brown (pauletteb2006@yahoo.com)

To: williams532001@yahoo.com

Date: Thursday, August 27, 2020, 3:16 PM PDT

Please see email form S.F.P.D.

Paulette Brown
pauletteb2006@yahoo.com

----- Forwarded Message -----

From: Dorsey, Matt (POL) <matt.dorsey@sfgov.org>
To: pauletteb2006@yahoo.com <pauletteb2006@yahoo.com>
Sent: Tuesday, August 25, 2020, 05:36:07 PM PDT
Subject: Fw: SFPD News Release (exclusively to KTVU Fox-2)

The news release is below.

Best,
MATT DORSEY
Director of Strategic Communications

[SAN FRANCISCO POLICE DEPARTMENT](#)
1245 3rd Street, 6th Floor
San Francisco, CA 94158
+1 (415) 837-7242 Desk
+1 (415) 806-2630 Mobile

CONFIDENTIALITY NOTICE: This communication and its contents may contain confidential and/or legally privileged information that is solely for the use of the intended recipient(s). Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws, including the Electronic Communications Privacy Act. If you are not the intended recipient, please contact the sender and destroy all copies of the communication.

From: Dorsey, Matt (POL) <matt.dorsey@sfgov.org>
Sent: Tuesday, August 25, 2020 16:49
To: christien.kafton@foxtv.com <christien.kafton@foxtv.com>
Subject: SFPD News Release (exclusively to KTVU Fox-2)

Hey Christien,

Thank you for making a pitch for this — in whatever slack filler it can fill. It's important to Paulette Brown, who has really been a champion for her son and other victims of violence. I appreciate your efforts and KTVU's, and please know I will owe you one for this.

Thanks again! Here's the news release:

SFPD's 2006 Cold Case Homicide Investigation Adds Information, Clarity to Aubrey Abrakasa Statement

AUGUST 25, 2020

In an effort to add information and clarity to a news segment aired by KTVU Fox-2 news last Friday, Aug. 14, the San Francisco Police Department wishes to additionally confirm that Aubrey Abrakasa Jr., the victim in an SFPD homicide cold case investigation, was *not* a gang member at the time of his murder, and was *never* a gang member in his life.

Although SFPD investigators confirmed their belief that the suspects who shot the 17-year-old high school student multiple times in 2006 did belong to a gang, advocates for the homicide victim in this case (including Aubrey's mother, Paulette Brown) requested a published clarification from San Francisco Police that Aubrey Abrakasa Jr. himself was *not* a member of a gang.

Paulette Brown has been a tireless advocate for her son as well as for other families of other murder victims, according to the San Francisco Police Department, which applauds her advocacy and leadership. Representatives from SFPD's Homicide Detail and Media Relations Unit attended the socially distanced, mask-required press event Ms. Brown hosted on Aug. 14, 2020 at the corner of Grove and Baker Streets in San Francisco. SFPD is happy to oblige advocates' request for additional information with this updated news release.

A crime bulletin highlighting this case accompanies this news release. Anyone with information about this or any other homicide case is asked to contact SFPD Homicide Detail. You may also call our anonymous tip line at (415) 575-4444 or text-a-tip to TIP411, beginning the text with SFPD.

[Click here to view the downloadable flyer \(PDF\)](#)

###

Best,
MATT DORSEY
Director of Strategic Communications

[SAN FRANCISCO POLICE DEPARTMENT](#)

1245 3rd Street, 6th Floor
San Francisco, CA 94158
+1 (415) 837-7242 Desk
+1 (415) 806-2630 Mobile

CONFIDENTIALITY NOTICE: This communication and its contents may contain confidential and/or legally privileged information that is solely for the use of the intended recipient(s). Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws, including the Electronic Communications Privacy Act. If you are not the intended recipient, please contact the sender and destroy all copies of the communication.

EXHIBIT H

1 Josh A. Cohen (SBN 217853)
2 CLARENCE DYER & COHEN LLP
3 899 Ellis Street
4 San Francisco, CA 94109
5 Tel: (415) 749-1800
6 Fax: (415) 749-1694
7 jcohen@clarencedyer.com

8 SHAWN HALBERT (SBN 179023)
9 Law Offices of Shawn Halbert
10 214 Duboce Ave.
11 San Francisco, CA 94103
12 Tel: (415) 703-0993
13 Fax: (510) 255-8631
14 shawn@shawnhalbertlaw.com

15 Attorneys for Defendant REGINALD ELMORE

16
17 IN THE UNITED STATES DISTRICT COURT
18 FOR THE NORTHERN DISTRICT OF CALIFORNIA
19 SAN FRANCISCO DIVISION

20 UNITED STATES OF AMERICA,

21 Plaintiff,

22 v.

23 ALFONZO WILLIAMS et al.,

24 Defendants.

CASE NO. CR-13-0764 WHO

**DECLARATION OF SCOTT COMPTON
IN SUPPORT OF DEFENDANT
REGINALD ELMORE'S PHASE I
SENTENCING MEMORANDUM**

25 I, Scott Compton, hereby declare as follows:

26 (1) I am over eighteen years of age and reside in the State of California. I am a private
27 investigator with Mason Investigative Group, which maintains its principal place of business in
28 Berkeley, California. Since 2014, I have worked as a private investigator on behalf of Reginald
Elmore, who is a defendant in this action.

///

///

4

1 (2) I am familiar with the contents of Mr. Elmore's Phase I sentencing memo and the
2 appendices to the memo.

3 a. I created Appendices 5, 6, and 7 with the help of an assistant. The vehicle
4 depicted in these appendices is a 2002 Mazda 626 that I purchased from a seller in Berkeley,
5 California for the purpose of using it as a demonstrative exhibit at trial.

6 b. Appendix 11 contains true and correct copies of video files that were
7 produced by Bay Area television stations KTVU and KPIX in response to a subpoena.

8 c. Appendix 16 is a true and correct copy of a transcript of a recorded
9 interview of witness Shaneka Washington that I obtained from the case file of attorney Mark
10 Goldrosen, who represented Cyril Hanna on criminal charges arising out of the assault and
11 robbery of Salvador Villalobos at the Gene Friend Recreation Center on Sixth Street in San
12 Francisco on August 20, 2008.

13 d. Appendix 17 contains a true and correct copy of an SFGate article I located
14 on the Internet concerning the 2008 playoff schedule of the San Francisco Bay Area Pro-Am
15 Basketball League, and a true and correct copy of a photograph of the 2008 champion "Dream
16 Team" I located on the Internet.

17 e. Appendix 21 is a true and correct copy of an incident report I obtained from
18 the Sonoma County Sheriff's Department.

19 f. Appendix 22 is a true and correct copy of an incident report I obtained from
20 the law enforcement agency named in the exhibit.

21 g. Appendix 23 is a true and correct copy of an incident report I obtained from
22 the law enforcement agency named in the exhibit. I have monitored the progress of the
23 prosecution of J.B. that resulted from this incident. The case has been continued repeatedly
24 without a disposition.

25 h. Appendix 26 contains true and correct copies of screenshots of text
26 messages that were provided to me on separate occasions by Reggie Greenwood and Shannon
27 Hill. Mr. Greenwood and Ms. Hill represented to me that all of these communications were with
28 J.B., though J.B. was texting under a different name.

1 (3) In December 2017 and April 2019, I spoke by telephone to Kyle Lecompte. I
2 asked Mr. Lecompte about the text message that police discovered on his telephone when he was
3 stopped in Santa Rosa on November 4, 2011 (as documented in Appendix 21 to Mr. Elmore's
4 sentencing memo). According to the Sonoma County Sheriff's Department incident report, the
5 text was from "City Mike" and read "KalyeI got sum bodythat need 3 in Rosa rite now he said the
6 most he would pay is \$1650 each get at me let me noe what up this aint no bullshitbra he got."
7 Mr. Lecompte told me that the person he knew as "City Mike" – and the person who sent him that
8 text – was the African-American male who was riding in the car with him on the day of his arrest.
9 According to the incident report, that person was J.B..

10 (4) I have reviewed public records documenting J.B.'s places of residence. According
11 to the records I have reviewed, J.B.'s address history in the years immediately following his
12 mother's death in 2004 included 730 33rd Ave. in San Francisco (a youth shelter), 2320 Orleans
13 Drive in Pinole (his aunt's residence); 2188 Cayuga Ave. in San Francisco (Mac's Children and
14 Family Services, Inc.); 1301 Revere Ave. in San Francisco (a foster home); 631 Woodside Road
15 in Redwood City (Daytop group home and school, where J.B. was enrolled in the summer and fall
16 of 2005 and the spring and summer of 2006); 1343 Palou Ave. in San Francisco (a foster home);
17 and 798 Innes Ave. in San Francisco.

18 (5) On April 19, 2019, I reviewed Special Agent Jake Millspaugh's handwritten notes
19 at the United States Attorney's Office in San Francisco. I was not permitted to make copies of the
20 notes. The materials included notes of a conversation that Agent Millspaugh evidently had with
21 J.B. in or around January 2015, when J.B. was in the Witness Protection Program in another state.
22 According to the notes, Agent Millspaugh discussed with J.B. a recent occasion when J.B.
23 summoned local police to report the theft of a video game console from his apartment. According

24 ///

25 ///

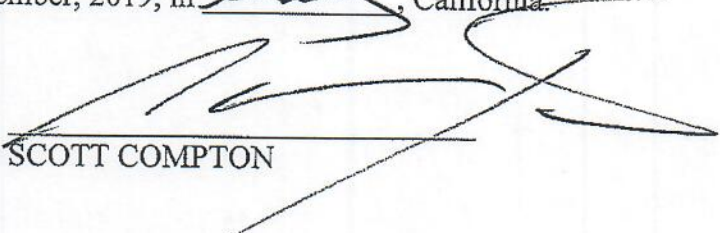
26 ///

27 ///

28

1 to the notes, J.B. told Agent Millspaugh that the console had been stolen by his upstairs neighbor
2 but that his neighbor had returned it. According to the notes, J.B. also told Agent Millspaugh that
3 he had promptly advised his Witness Security Inspector about the theft and the Inspector had told
4 him to call the police.
5

6 I declare under penalty of perjury that the foregoing is true and correct to the best of my
7 knowledge. Signed this 3rd day of September, 2019, in Berkeley, California.
8

9
10 
11 SCOTT COMPTON
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28