

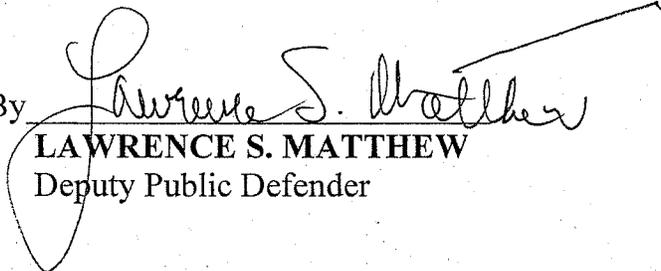
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Attorneys for DEFENDANT

**IN THE SUPERIOR COURT OF MARICOPA COUNTY, ARIZONA**

<b>STATE OF ARIZONA,</b>	)	<b>No. CR 1995-009046</b>
	)	
	)	<b>DEFENSE OFFER OF PROOF IN</b>
	)	<b>SUPPORT OF RESIDUAL DOUBT</b>
v.	)	<b>AS A MITIGATING FACTOR</b>
	)	
<b>JAMES CORNELL HARROD,</b>	)	(Assigned to Judge Brian R. Hauser)
	)	
_____	)	(Complex capital case)
Defendant.)	)	

On December 18, 2003, the Court ruled that Harrod was precluded from presenting evidence of residual doubt in mitigation. A subsequent Motion to Reconsider was also denied on July 29, 2005. Consequently, Harrod submits his offer of proof as to what would have been presented to the jury during the penalty phase in support of residual doubt as a mitigating factor.

**RESPECTFULLY SUBMITTED** this 28<sup>th</sup> day of October, 2005.

By   
**LAWRENCE S. MATTHEW**  
Deputy Public Defender

**A. Introduction.**

The starting point in this Offer of Proof is that the Eighth Amendment to the United States Constitution requires that the sentencer “not be precluded from considering, as a mitigating factor, any aspect of a defendant’s character or record and any of the circumstances of the offense that the defendant proffers as a basis for a sentence less than death.” *Eddings v. Oklahoma*, 455 U.S. 104, 110 (1982) (quoting *Lockett v. Ohio*, 438 U.S. 586, 604 (1978)).

*Green v. Georgia*, 442 U.S. 95 (1979) (per curium) held that under *Lockett*, the defendant’s evidence that he had not participated in the murder was a relevant circumstance of the offense that the sentencer must consider, notwithstanding that the defendant had already been convicted of the victim’s murder. *Id.* at 96-97.

Consequently, if Harrod had been permitted to present evidence of residual doubt to the jury, he would have presented the following evidence to the jury.

**A. Harrod has Maintained his Innocence from the Beginning.**

Harrod would have testified, as he did at the first trial, that he is innocent of the offense charged. He did not kill Jeanne Tovrea and he was not present when she was killed. (R.T. 11/10/97 at 90). He also would have testified that the money he received from Ed Tovrea, Jr. was for services rendered to Mineral Export Company of the Americas (MECA).

**B. Evidence Showing that Joe Calo, James Majors, and Others were Responsible for the Death of Jeanne Tovrea.**

Within days of the murder of Jeanne Tovrea, the police suspected the involvement of organized crime and went so far as to question Jeanne's daughter about the possibility that Jeanne had been involved with some organized crime organization. (Exhibit A, Bates 87).

On March 10, 1989, Joe Calo was contacted by Det. Masino of the Missing Person's Detail of the Phoenix Police Department (PPD) to determine if either Calo or James Majors was involved in the Jeanne Tovrea homicide. Calo was shown Tovrea's photo and photos of her jewelry. He said he did not recognize either. Calo was asked if he recognized the name Gordon Phillips. He said it was familiar but couldn't recall where he'd heard it.

Calo said that Majors approached him in December of 1988 and asked Calo to assist in the robbery and murder of a rich woman who lived on East Lincoln at MacDonald Drive. Her name may have been Virginia. She lived in a large house with a bridge to the front door. The contractor of the house had hired Majors to do the painting. Majors needed help with the scheme because the woman had a live-in house boy. Calo said the plan was never executed. (Exhibit B, Bates 536).

At the time of this interview, Calo was a suspect in several homicides, but he had not been charged or arrested. Later that same month he was arrested and indicted in CR 1989-002973 on 32 felonies, including several counts of murder. Of the homicides for

which Calo was charged, Calo claimed James Majors was the triggerman in all the homicides.

In 1991, Calo began negotiations with the county attorney to provide testimony against James Majors in exchange for a plea agreement that would spare Calo the death penalty. As part of the deal, Calo was to cooperate with law enforcement to provide information about any crimes of which he had knowledge that were committed prior to March 15, 1989. The Jeanne Tovrea homicide was committed on the night of March 31 through April 1, 1988, and thus fell within the specified time frame. During interviews with the police and county attorney, Calo indicated that James Majors murdered Jeanne Tovrea.

**1) The Meeting.**

Calo spoke of the meeting where the Tovrea homicide was planned, who was present and why it was planned:

Short: Who was running the meeting?

Calo: [Sbrocca] Romano, sir, and Mike Peloquin. \* \* \* And Alain was talking to them between and they said they need to do it because she, she was tired and she was tired of all the garbage going on. \* \* \* [S]he didn't want to do this stuff no more and they wondered about it because she was talking to some other family. They were worried about she was going to go over to those other people. She told them that 'cause she was tired to do all the stuff, she didn't want to do . . . (inaudible).

Short: What kinds of things would she do?

Calo: She was setting up everything, get people with the money. Like she was doing, the way they explained it to me, coming up and use her as give me [sic] \$500,000 to buy this home, to but this property to do

this and you've got a year's time to pay back. She was (inaudible). She was setting up people like this.

Short: Okay. Was she setting up people for loans then?

Calo: For loans and for drugs and for all kinds of things.

(Exhibit C, Interview of 10/11/91, at Bates 2106).

\* \* \*

Calo: At the meeting they were talking about, especially Romano, were talking . . . (inaudible) and they were telling us there was a lot of problems going on. She was wanting . . . (inaudible) and he say got to do something about it real quick, can't let it go on too long. She's come to the point, she was using some kind of word, 'cause I remember they're using some kind of words and . . .

Short: What do you mean?

Calo: . . . some kind of words she was out of sight, out of, she's going out of sight, she's going, she's not going straight no more and they were worried about it so said its gotta be done as soon as possible. And that one night they agreed at a meeting, at a meeting, let's send Major.

(Exhibit C, Interview of 10/11/91, at Bates 2107-08).

## 2) The Set-up.

Although Calo always claimed he was not present during the Tovrea homicide, he related what he recalled being told about the particulars of the planning:

Short: So what was the plan? Okay, Majors – Peloquin takes Majors for a ride, shows him the house, what was the rest of the plan?

Calo: The rest of the plan was he was gonna show him the house and when she was going out, he was gonna get her in the parking lot and just let her drive, then go over to the house.

Short: How'd they know where she goes? Did someone call her and was she set up?

Calo: Mike Peloquin set up everything . . . (inaudible). He knew when she was going out because Mike Peloquin used to take her out to dinner and this one girl used to know . . . (inaudible), the one in Cave Creek . . . .

(Exhibit C, at Bates 2109).

Short: Okay, they were gonna take her out to the parking lot. What's the next thing? How long after this first meeting did it actually happen?

Calo: It was not too long. It was only about a week.

Short: A week?

Calo: Yeah, maybe two weeks, a week and a half or two weeks. . . (inaudible). . . and then Major is going out with Mike Peloquin a few days in a row and he told him everything. Major told me the story about this and he drove him around and he told him where she was going, the time she was going and everything and she was set up.

Short: . . . This was the first murder that you were aware of –

Calo: Yes, sir, to my knowledge.

Short: – that you were privy, that you sat in a meeting on.

Calo: Yes, sir, that was the first one, sir.

\* \* \*

Calo: . . . it was a clean job, went right down and then Majors told me the story and when he got in and drove to the house, but I didn't want to hear it and that's why I stopped him and said please don't tell me the rest of it and he didn't tell me anything in details like he told Angelo and all the other ones.

(Exhibit C at Bates 2110).

During a subsequent interview Calo had with police, he again summarized what he was told about the "hit" and Calo clarified some possible confusion about the details of the murder:

Majors told [Calo] that he had to get in the house from the back. Majors said that Jean had a guard shack on the main entrance to the complex so he had to find another way in. Majors also mentioned that she had an alarm on the house. Majors did not say how he bypassed it. Majors said that he got in through a window. He also mentioned something about an arcadia door. Once inside, Majors shot her with a .22 caliber handgun. Calo feels that Majors had this gun prior to the murder. Majors also stated that he used this same gun to kill Angelo Desideri. After Desideri, he threw the gun in the ocean in San Diego. (Note: Desideri was in fact killed, probably with a .22 and bullet fragments were recovered in the body.)

Calo was also questioned about the earlier story he had told to Detectives Short and Michaels, where he said that Majors picked her up in a car and rode into the complex hiding on the floor so that the security guard would not see him. Calo stated that he feels that he may have been confused earlier about this because Majors may have done this on one of his other murders and Calo was mixing them up. I brought it to his attention that Majors had repeatedly left Desideri's house hiding on the floor so the neighbors would not see him. Calo felt that this could be where he became confused.

(Exhibit D at Bates 217-18).

**3) The Hit.**

Short: Who was at the Tovrea house –

Calo: (inaudible).

Short: -- when it happened?

Calo: Mike Peloquin and Jim Major to my knowledge.

Short: No one else?

Calo: Not that I know of sir. Not that I know of.

Short: How did – what was Peloquin driving back then?

Calo: He always drive, drove a Volkswagen. Every time that I see him he always had a Volkswagen.

Short: So you don't know if Peloquin was there when Majors got her there or if he went with her, you're not sure?

Calo: I'm not sure sir and I can't say.

(Exhibit C at Bates 2111).

Short: How did you hear how she was killed?

Calo: She was shot, sir. Majors said he shot her.

Short: How many times?

Calo: I don't (inaudible) a small caliber handgun, 22 . . .

Short: Are you guessing 22 or were . . . (inaudible).

Calo: It was a small caliber handgun and he say he used the same gun, that he would probably use the same gun on Angel.

\* \* \*

Short: Do you know where he shot her?

Calo: He say he shot her in the, shot her in the head.

(Exhibit C at Bates 2113-14).

#### **4) The Payoff.**

With regard to payment for the Jeanne Tovrea homicide, Calo said that James Majors was paid for the hit:

Calo: Major told me when he done it out there and those other guys set up everything but Major got paid.

Short: And did you see Majors get paid?

Calo: Yes, sir.

\* \* \*

Short: Was that [Majors] first job then?

Calo: Yes, sir, that was his first job to my knowledge that I know.

(Exhibit C at Bates 2105).

**5) Calo had no Incentive to Lie About the Tovrea Homicide. To the Contrary, He had a Compelling Reason to be Truthful.**

Based upon the terms of the plea agreement between Joe Calo and the county attorney, Calo was to provide truthful information about the homicides and other crimes he knew of in exchange for having the death penalty removed as a possible punishment. In other words, if the prosecutor discovered Calo lied about any of the crimes he detailed for the police, the agreement removing the death penalty would be void and Calo could receive the death penalty.

Thus, Calo had no incentive to lie about what he was saying about the Tovrea homicide. His discussing the case did not reduce his possible punishment in any way, *unless what he said was the truth*. If he lied about the Tovrea homicide and was discovered, he is in violation of the plea agreement. Consequently, Calo had a strong incentive to tell the truth about what, if anything, he knew about the Tovrea homicide. This is borne out by the following discussion between Calo and Det. Reynolds:

[Det. Reynolds:] Did you think there was some incentive for you to talk about Tovrea as, why did you bring up Tovrea, why did you bring it up?

[Calo:] Because they asked me and I told them the little bit I know.

\* \* \*

[Det. Reynolds:] Did you ever feel that it was important for you to bring up something big like Tovrea to talk about?

[Calo:] Not really, I admit it, I, to be honest I didn't really, really like the old man in June, I told County Attorneys . . . (inaudible) I just didn't want to do it. . . (inaudible). I don't care no more. I think I'll be honest with you at this point. I really don't want to do anything. I don't really want to do anything. My life's gone now. I get the death sentence, you, I get the death sentence. I don't care no more.

[Det. Reynolds:] Okay.

[Calo:] That's the way I look at it. I look at it this way.

[Det. Reynolds:] So you're talking about Tovrea just because. . .

[Calo:] I talked with them because they asked me and I tell them what little I know.

[Det. Reynolds:] Because it's true.

(Exhibit E, Bates 1048-49).

**6) Joe Calo Stood by His Statement Even After Being Informed of the Arrest of James Harrod.**

Following the arrest and indictment of James Harrod for the murder of Jeanne Tovrea, Detective Reynolds visited Joe Calo in prison. Joe was informed that by Det. Reynolds that Reynolds was certain that Harrod was either the murderer or one of the murderers. Calo was told that Harrod's fingerprints had been found at the murder scene. In light of this evidence, Calo was asked if he still stood by his claim that James Majors had confessed committing the murder to Calo and Calo responded in the affirmative.

(Exhibit F at Bates 8249).

7) **Other Independent Evidence that Supports Calo's Claim of Responsibility.**

- i) An unidentified vehicle was seen possibly surveilling the residence on the day of the homicide and tire marks and an oil slick were discovered on the premises after the homicide, but could not be accounted for.

Frank Wolf was a caretaker working for Jeanne Tovrea. He was present at the house on March 31, 1988. At about 1:00 p.m. he observed a brown newer-model convertible, occupied by two males, drive slowly by the residence two times. (Exhibit G at Bates 54). Interestingly, there was no record of the vehicle entering the gated community. (*Id.* at Bates 51). Mr. Wolf left the residence at 2:00 p.m. on March 31. Following the homicide, a large oil slick was discovered along with some tire marks on the north side of the Tovrea driveway. Wolf was questioned about them and indicated they were not present prior to 2:00 p.m. on March 31. (*Id.* at Bates 52). This evidence indicates that there might have been some early surveillance of the residence on the day of the murder and that some vehicle, not recorded in the logs by the guards at the guard shack, was present at the Tovrea Residence sometime between 2 p.m. on 3/31/88 and 1 a.m. on 4/1/88.

- ii) Jeanne Tovrea was so concerned about someone knowing exactly where she lived that she removed her address marker from in front of her home.

Interestingly, Jeanne Tovrea showed concern about her safety when, about one month before the homicide, she removed the name and address sign that stood by her driveway. She expressed to an acquaintance that she did this because she didn't want a certain unidentified individual to know exactly where she lived. (Exhibit H, Bates 151).

- iii) A vehicle similar to the one owned by James Majors was observed parked at the cul-de-sac above Jeanne's home on the night of the murder.

At approximately 10:00 p.m. on the night of March 31, 1988, Rene Snowberger parked her vehicle along the side of 36<sup>th</sup> Street not far from the cul-de-sac above Jeanne Tovrea's home. While parked, she observed an '85 or '86 white pickup truck being driven at approximately 20 miles per hour toward the dead end at the cul-de-sac by a lone white male. (Exhibit I, Bates 8073-75). While James Harrod owned a pickup truck, it was nothing like the one described by Snowberger. Harrod's pickup was a beat up 1965 GMC, not a late model pickup. (Exhibit J, Bates 7951). Interestingly, James Majors, the alleged hitman (according to Joe Calo), owned a light colored pickup truck. (Exhibit K, Bates 1029-30).

- iv) Jeanne Tovrea knew and dated Michael Peloquin and one of the Lincoln Estate guards had seen Peloquin on more than one occasion.

Jeanne Tovrea knew one of the alleged conspirators, Michael Peloquin. According to Jeanne's friend, Karen Ganz, Jeanne sold some real estate to Michael Peloquin in 1985. Karen acted as Jeanne's agent during the transaction. Karen said Jeanne got to know Michael Peloquin quite well during the course of the land deal. Karen said that it was possible that Jeanne had additional contact with Peloquin of which Karen was unaware. (Exhibit L at Bates 762).

Howard Barnett – one of the guards for the Lincoln Hills Estates where Jeanne Tovrea lived at the time of her death – was shown a photograph of Michael Peloquin. While Barnett couldn't recall when he had seen the individual in the photo, Barnett said

Peloquin looked "very familiar" and he was sure he had seen Peloquin on more than one occasion. (Exhibit M, Bates 746).

Detective Ed Reynolds asked Jeanne's daughter, Debbie, if Jeanne had ever dated Peloquin and Debbie thought that her mother had once mentioned that she dated Peloquin. Debbie was sure, however, that on one occasion when she and her mother had dined at Avanti's restaurant, Michael Peloquin was present and Jeanne went over to say hello to him. (Exhibit N, Bates 857). When Reynolds mentioned this to Joe Calo, Calo said that Jeanne was seen dating Peloquin in 1987 or '88 on numerous occasions. (Exhibit F at Bates 8251).

Sandra Richardson, a dancer at Bourbon Street Circus, accompanied Michael Peloquin to several lunch and dinner meetings at Avanti's and Pronto's restaurants. Around March of 1988, Richardson saw Jeanne Tovrea arrive with Peloquin at one of these meetings. (Exhibit O, Bates 772-73).

- v) Both the Police and Debbie Luster connected the Composite of "Gordon Phillips" with James Majors. Moreover, an officer who met with Harrod in person – an officer who had seen the sketch and heard the tape – never made the connection between Harrod and Gordon Phillips.

On May 2, 1988, Debbie Luster assisted in preparing a composite sketch of "Gordon Phillips" from her memory of their encounter in Newport Beach. (Trial exhibit 91). In August of 1988, Det. Lott, the case agent, interviewed James Harrod. Despite the fact that Lott had seen the composite of "Gordon Phillips," he never made the connection between the person depicted in the composite and James Harrod. Moreover, Lott had also been privy to the tape of "Gordon Phillips" voice recorded on Jeanne Tovrea's

telephone answering machine but failed to recognize Harrod's voice as even being similar to the voice on the recording. (R.T. 10/20/97 at 140-41, 148-49; Trial exhibit 1)

On May 10, 1991, Det. Hamrick, PPD, met with officials from the county attorney's office to discuss the case. Hamrick was shown the composite sketch of "Gordon Phillips" prepared using Debbie Nolan's description of the man she met. He compared the composite sketch to a photo of James Majors. Hamrick concluded that Majors' "picture had a strong resemblance to the composite." (Exhibit B at Bates 537 and Exhibit P, Bates 1735).

Hamrick then prepared a photo line-up containing a photo of James Majors. (Trial Exhibit 166). This line-up was shown to Debbie Luster on May 21, 1991. Although Luster didn't make a positive identification of anyone in the line up as Gordon Phillips, "she did single out picture 4 (Majors) explaining she keyed on that picture and said the person was too old to be Gordon Phillips as she recalls him but if he had had a hard life 'and went to shit' #4 might be Gordon Phillips." (Exhibit Q, Bates 8209 – handwritten notes of Det. Fuqua).

Debbie Luster described Gordon Phillips as follows: White male in his mid-thirties, 5'-9" to 5'-10", stocky build, with light brown hair. (Exhibit D at Bates 220).

One interesting fact about the "Gordon Phillips" issue is the fact that the police located a person by the name of Gordon Phillips who lived in Buffalo, New York. A review of Jeanne Tovrea's phone records reveals that on October 19, 1987, she placed a call to the phone number assigned to Gordon Phillips in Buffalo, New York. (*Id.* at Bates 222).

**C. There is Evidence Implicating Debbie Nolan Luster in the Murder of her Mother.**

i) Debbie's relationship with her mother was strained at the time of the murder.

Mabel Wolf, Jeanne's part-time maid, told police that Jeanne and her daughter, Debbie Luster, were always fighting. Apparently Debbie expected Jeanne to keep giving her more and more money. Jeanne was concerned about the way Debbie was spending money. (Exhibit L at Bates 764-65). Linda Colcord, a friend of Jeanne's for over thirty years, told the police that six months before Jeanne died, Jeanne was so upset with her daughter's life style that she was planning on changing her will to limit the amount of money Debbie would receive. (*Id.* at Bates 759-60).

ii) Debbie inherited millions as a result of her mother's death.

Jeanne Tovrea took out a \$3,000,000 life insurance policy in December of 1986 and Debbie was the sole beneficiary for this policy. (*Id.* at Bates 768). Moreover, Jeanne's will left her entire estate to Debbie. (Exhibit R, Bates 621). The estate was valued in excess of \$8,000,000 at the time of Jeanne's death (including the value of the residual trust). (R.T. 10/27/97 at 158). Only \$2,000,000 of the \$8,000,000 was going to go to Ed Tovrea, Jr. and his sisters. (*Id.*). There was a second \$1,000,000 life insurance policy but it is unclear whether Debbie also received this money. (Exhibit L at Bates 761-63).

iii) Debbie Luster's Polygraph indicates she gave deceptive answers to questions about her knowledge of who planned her mother's murder.

A polygraph was given to Debbie Luster in September of 1989 by examiner Gary Burke in North Carolina. This polygraph was subsequently reviewed by David Enger

and Kelly Andrews, both polygraph examiners for the Phoenix police department. With regard to Debbie's negative answers to questions on whether Debbie had planned to kill her mother or knew of others who planned to kill her mother, Burke, Enger, and Andrews all agreed that the charts indicated deception. Enger and Andrews both indicated that it was their objective opinion that the numerical evaluation of the polygraph charts indicated deception on Debbie's part. Moreover, both indicated it was their subjective opinion that Debbie was directly involved in the murder of her mother or knows for sure who killed her. (Exhibit S, Bates 498).

**D. James Harrod Passed a Polygraph Examination.**

During the polygraph examination administered in this case, the following questions were asked of James Harrod:

- R1 Were you physically present when Jeanne Tovrea was killed?
- R2 Did you shoot Jeanne Tovrea?
- R3 Did you enter Jeanne Tovrea's home through the kitchen window on April 1, 1988?
- R4 Did you participate in any way in the killing of Jeanne Tovrea?

(Exhibit T, Affidavit of Dr. David Raskin, p.26).

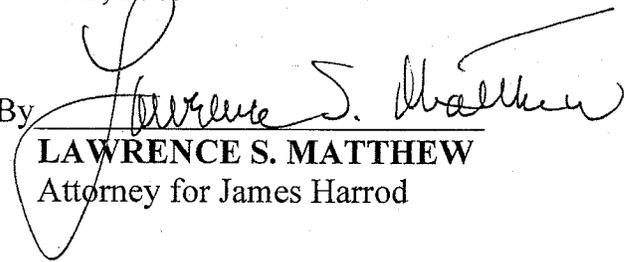
Harrod responded in the negative to each question. It was the opinion of Dr. Raskin that Harrod responded truthfully. (*Id.*).

**E. Conclusion.**

The foregoing information would have been presented to the jury as evidence in support of residual doubt had the court not precluded Mr. Harrod from presenting such evidence.

**Respectfully Submitted** this 28<sup>th</sup> day of October, 2005

By

  
**LAWRENCE S. MATTHEW**  
Attorney for James Harrod

Copy of the foregoing mailed/delivered this 28<sup>th</sup> day of October, 2005, to:

**HON. BRIAN HAUSER**

Judge of the Superior Court  
Central Court Building, 8<sup>th</sup> Fl.  
201 West Jefferson  
Phoenix, Arizona 85003

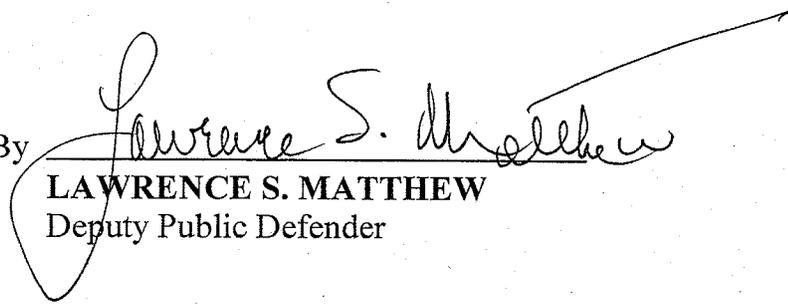
**PAUL W. AHLER**

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**JAMES HARROD #P024951**

Fourth Avenue Jail  
201 South Fourth Avenue  
Phoenix, Arizona 85003

By

  
**LAWRENCE S. MATTHEW**  
Deputy Public Defender

# Exhibit A

1. LOC. GRID OF RECOVERY	2. DAY OF WEEK OF RECOVERY	3. HOURS OF DAY OF RECOVERY 0-23	4. SEAT OF RECOVERY	ORIGINATING DISTRICT
5. VALUE OF PROPERTY RECOVERED OR ADDITIONAL PROPERTY TAKEN			7. TYPE OF REPORT HOMICIDE	8. DATE OF THIS SUPPLEMENT 9. DR. # 4-10-88 88-043690
PROPERTY RECOVERED <input type="checkbox"/>	ADDIT. PROP. TAKEN <input type="checkbox"/>	4. VICTIM'S NAME (FIRM NAME IF BUS.) TOVREA, JEANNE		11. LOCATION OF OCCURRENCE 3500 EAST LINCOLN #26
\$ _____ CURRENCY, NOTES ETC.	\$ _____ CLOTHING	CLEARED BY ARREST OR EXCEPTIONALLY CLEARED		OVER 18 YEAR OLD <input type="checkbox"/> UNDER 18 YEAR OLD <input type="checkbox"/>
\$ _____ JEWELRY, PRECIOUS METALS.	\$ _____ AUTOS	PENDING <input type="checkbox"/>	UNFOUNDED <input type="checkbox"/>	PREVIOUS CLEARED BY ARREST OR EXCEPTION <input type="checkbox"/>
\$ _____ FURS	\$ _____ MISC.	ADDITIONAL SUSP: LAST, FIRST, MIDDLE		
		SOC. SEC. #	SEX	DOB (APPROX.) RESIDENCE

INTERVIEW, INVESTIGATIVE LEAD: TOVREA, GEORGIA (continued)

GEORGIA was questioned as to if she had ever expressed to anyone any dissatisfaction over her father's will to his estate and she stated no. GEORGIA was asked if she was aware of anything that she would gain by the death of JEANNE, and she stated no, she has never known the details of any of her father's business.

GEORGIA then explained that she and her brother and sister are financially well off, due to their grandfather's will and further explained that in their financial situation they are always a generation ahead when it comes to benefactors of a will.

GEORGIA was questioned about any knowledge she may have regarding a reporter who wanted to do a story about her father's time as a prisoner of war. GEORGIA stated that a boyfriend she had at the time of her father's death, named LOUIE, who represented her at the funeral due to the fact that she was in Scotland, indicated that he had apparently been approached by a person who wanted to do a story about her father and LOUIE was given a business card from this person which she eventually received and subsequently gave to her brother, EDWARD. GEORGIA could not recall any further information about the subject or the business card and stated that her ex-boyfriend, LOUIE, would have no further information.

GEORGIA was questioned as to if she had any knowledge of JEANNE being involved in any type of organized crime, and she stated none whatsoever. The interview with GEORGIA was terminated at 8:45 P.M., however, it should be noted that the entire interview was held in the presence of her brother, EDWARD "HAP" TOVREA, JR.

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PAGE # 3	OFFICER WRITING REPORT'S # DET. DAVE LOTT #1555	DATE & TIME TYPED 4/10/88 GIB A2663-1gr 2131	DIV. CLERK D.R. # 88-043690
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# Exhibit B

\*\*\*\* NARRATIVE \*\*\*\*

DETECTIVE HARRICK'S DAILY PROGRESS NOTES  
=====

WHILE REVIEWING THE CASE FILE I DISCOVERED DETECTIVE H. HARRICK'S DAILY PROGRESS NOTES REFERENCE THIS INVESTIGATION. THESE NOTES BEGIN ON MARCH 10, 1989 AND CONCLUDE ON JANUARY 31, 1992. THE FOLLOWING IS A TRANSCRIPTION (WORD FOR WORD) OF THOSE NOTES.

3-10-89

DETECTIVE C. MAGINO, #2636, P.P.D. MISSING PERSONS DETAIL INTERVIEWED JOE GIUSEPPE CALO, W/M, 35, ABOUT JEANNE TOVREA'S MURDER.

RE: JOE CALO  
JAMES MAJORS

ON 3-10-88, I CONTACTED CALO TO DETERMINE IF HE AND JAMES MAJORS WERE INVOLVED WITH THE JEANNE TOVREA CASE. HE WAS SHOWN HER PHOTOGRAPH, AND PHOTOGRAPHS OF HER JEWELRY. HE ADVISED HE DID NOT RECOGNIZE EITHER. HE WAS ASKED IF HE KNEW OR HEARD THE NAME GORDON PHILLIPS. HE ADVISED THAT NAME WAS FAMILIAR TO HIM, BUT HE DIDN'T KNOW WHERE HE HAD HEARD IT.

HE WENT ON TO RELATE THAT MAJORS CAME TO HIM IN DECEMBER OF 1988, AND ASKED HIM TO HELP HIM ROB AND KILL A RICH WOMAN THAT LIVES ON EAST LINCOLN AT MAC DONALD DRIVE. HE ADVISED SHE WAS A WIDOW WHOSE HUSBAND WAS A DOCTOR OR LAWYER. MAJORS TOLD HIM THE WOMAN HAD A LOT OF MONEY, AND HER NAME MAY HAVE BEEN VIRGINIA. HE DESCRIBED THE HOUSE BY BEING LARGE WITH A "BRIDGE" TO THE FRONT DOOR. THE BRIDGE WAS BUILT BY A CONTRACTOR AT A COST OF \$20,000.00, AND THE CONTRACTOR HIRED MAJORS TO PAINT THE HOME. JOE STATED HE WAS NEEDED TO DO THE KILLING, BECAUSE THE WOMAN HAD A LIVE-IN HOUSE-BOY.

JOE STATED THEY NEVER WENT THROUGH WITH MAJORS' PLAN.

THE FINGERPRINTS OF CALO AND MAJORS WERE COMPARED TO THIS CASE WITH NEGATIVE RESULTS.

MAJORS IS A SUSPECT IN MURDERS IN CALIFORNIA AND WAS ASSISTED IN AT LEAST ONE MURDER BY ROBERT REESE WHO WAS FOUND MURDERED IN MARICOPA COUNTY.

REESE'S PRINTS ARE ALSO BEING COMPARED TO THIS CASE.

MAY 1991

PRIOR TO 5-10-91 I RECEIVED A PHONE CALL FROM MARICOPA COUNTY ATTORNEY INVESTIGATOR GARY MICHAEL ABOUT THE TOVREA HOMICIDE. HE IS ASSISTING



# Exhibit C

TS: How do you know that?

JC: Because that's who told me.

TS: Who told you?

JC: Major told me when he done it out there and those other guys set up everything but Major got paid.

TS: And, and did you see Majors get paid?

JC: Yes sir.

TS: Let's, let's go through that one, everything you know about that. Okay. You made the introduction to Alain.

JC: Yes sir. Then Lorenzo ...(inaudible), Lorenzo took over ...(inaudible) and we were talking and everything ...(inaudible) find out that second month of '88 ...(inaudible) Major. And I contact Major and brought him back down to them and

TS: Was he getting paid for this, I mean before that,

JC: Oh

TS: did he, did he get

JC: ...(inaudible)

TS: to, was he on the payroll?

JC: No sir, no sir, they were paying by the job.

TS: So he was just waiting. Was that his first job then?

JC: Yes sir, that was his first job to my knowledge that I know. But there was the next meeting set up and one night it was me with Romano ...(inaudible) Lorenzo was standing out there too, at the meeting and ...(inaudible).

TS: And Mike, Alain and you and Majors

JC: And Romano, oh no Major wasn't there sir, no sir.

TS: Okay. Romano

JC: Romano and Lorenzo and ...(inaudible) back and forth inside the restaurant because people wouldn't know what was going on. ...(inaudible) drinking coffee, everybody was visiting and everything and we didn't really know what, what was going on. And everything was set up. I done other things and I, it was set up.

TS: This was a meeting for the planning ...(inaudible)

JC: That's correct sir.

TS: Who was running the meeting?

JC: Romano sir and Mike Peloquin.

TS: Okay.

JC: And Alain was talking to them between and they said they need to do it because she, she was tired and she was tired of all the garbage going on.

TS: She was tired?

JC: And she was tired, she didn't want to do this stuff no more and they wondered about it because she was talking to some other family. They were worried about she was going to go over to those other people. She told them that 'cause she was tired to do all the stuff, she didn't want to do ...(inaudible)

TS: What kind of things would she do?

JC: She was setting up everything, get people with the money. Like she was doing, the way they explained to me, coming up and use her as give me five hundred thousand dollars to buy this home, to buy this property to do this and you got a year's time to pay back, she was ...(inaudible). She was setting up people like this.

TS: Okay. Was she setting up people for loans then?

JC: For loans and for drugs and all kinds of things.

TS: Were you aware of her, had you ever heard her name up until this point? Were you aware of Jeanne Tovrea?

JC: Well yeah, I heard, I heard the name before too.

TS: So you knew that she was

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JC: And I saw the picture when Detective ...(inaudible) I believe it was from, one time he showed me the picture that they had, two and a half year's ago. I told them, I, I remember. I mean, I, if he would have forced me on a little bit, little more, I would have told them about it. But he didn't force me ...(inaudible).

TS: Well I'll tell you, I forced you before today and you didn't come up with everything.

JC: ...(inaudible) Det. Shorts, I got to be honest with you because ...(inaudible) you say one thing and then do another, I think that's why it hurts me a lot because one day you came put me in jail when I came to the jail and I asked them for cigarettes and he just, he just like he wanted ...(inaudible) you know what I mean? That hurt me so much and honest to God I try to be nice about everything ...(inaudible) jail, I was gonna' call up and then but, and then Sergeant Smith when he said that to me, first he showed my ...(inaudible) that I took them, I took everybody, remember we took them to the grave that ...(inaudible) and that's the same thing about this. They would have never found out and but I was trying to ...(inaudible)

TS: Well, we would have found out.

JC: Yeah, later on, yeah, yeah. But, like what I say, I'm gonna' tell you everything that I know so we can, I would like you to solve all this puzzle and then we'll

TS: Okay. You have a meeting setting up the planning on, on Tovrea.

JC: That's correct sir.

TS: Have you ever been to Tovrea's house?

JC: No sir, no sir never been out there.

TS: Okay, what did you,

JC: I don't even know where she lives.

TS: what did you hear at this meeting?

JC: At the meeting they were talking about, especially Romano, were talking ...(inaudible) and they were telling us there was a lot of problems going on. She was wanting...(inaudible) and he say got to do something about it real quick, can't let it go on too long. She's come to the point, she was using some kind of word, 'cause I remember they're using some kind of words and

TS: What do you mean?

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JC: Like she's, where they were saying, I'm trying to look back on it anyway. A lot of things I didn't understand too good you know, some kind of words she was out of sight, out of, she's going out of sight, she's going, she's not going straight no more and they were worried about it so said it's gotta' be done as soon as possible. And that one night they agreed at a meeting, at a meeting, let's send Major. And Mike Peloquin took Major for a ride 'cause he knew Major. Him ...(inaudible) they were good friends and Major knew ...(inaudible) good friends of Mike Peloquin and he recommended, he was a good friend and it was okay, he knew him for a long time and Lorenzo said the same thing, he said oh I know him and I see him for a long time, he's okay and 'cause at that point we knew it, knew he was in prison ...(inaudible) prison, all the things that they say that man has already hurt a lot of people back in Indiana. That guy's got so much money ...(inaudible)

TS: Majors does?

JC: He got troubles in money ...(inaudible) in Indiana. I'm trying to remember ...(inaudible) he was mentioning him all the time, all the time. ...(inaudible) and ...(inaudible) and Mike Peloquin agreed to take Major for a ride and show him the house and show everything 'cause Jeanne was picked up offsite and drove in to the house by Major ...(inaudible) the car.

TS: Was he hiding back there ...(inaudible) or what?

JC: I wasn't there sir, got to be honest with you, that is what I heard he used a gun point, a gun pointed and he was hiding behind the back seat ...(inaudible)

TS: How did they, okay, Peloquin takes Majors up, shows him the house.

JC: Yes sir because Mike Peloquin attend, I believe, I don't know that for sure, if he was waiting at the house or went back in later. If they come later ...(inaudible) house ...(inaudible) house. I try and refresh my memory on the little details that I know.

TS: And this is all things that were told to you?

JC: Yes, ...(inaudible)

TS: At the meeting?

JC: ...(inaudible)

TS: Well you were, you were there for the setting up of it. Was there a meeting afterwards?

JC: Oh there was another meeting, yes there was and then everybody was talking ...(inaudible)

TS: Was Majors at that meeting?

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JC: No, Major was not allowed in the meetings. Major was not allowed with Romano. Major wanted to meet Romano many time, he was not allowed to meet Romano.

TS: So he never did?

JC: He never met Romano. ...(inaudible) last minute he never met Romano. Alain and Major are good friends.

TS: Alain?

JC: Yes sir.

TS: How did they become

JC: They become after that first job, ...(inaudible) Alain and Major didn't come. Not a good friend and you know what I mean, Alain did his share ...(inaudible) getting the truck and ...(inaudible) good guys at the same price and ...(inaudible) he was talking to him all the time.

TS: Okay. You remember the dates, the time when you, when this meeting took place?

JC: This meeting took place I'm sure at oh, the second month, second or third month in '88 sir. Maybe the third month of '88.

TS: Okay. Where'd this meeting take place?

JC: At the Pronto Restaurant, late in the morning about 3:00, 3:30 in the morning. Most of the meetings ...(inaudible) Pronto, the Pronto Restaurant and

TS: So what was the plan okay, Majors, Peloquin takes Majors for a ride, shows him the house, what was the rest of the plan?

JC: The rest of the plan was he was gonna' show him the house and when she was going out, he was gonna' get her in the parking lot and just let her drive, then go over to the house.

TS: How'd they know where she goes, did someone call her and was she set up?

JC: Mike Peloquin set up everything ...(inaudible) He knew when she was going out because Mike Peloquin used to take her out to dinner and this one girl used to know ...(inaudible), the one in Cave Creek and she was doing a lot of ...(inaudible) stick around with this guy involve him too but he was real big guy ...(inaudible) Peoria some, something like that, that's the guy that knows a lot of people back east, he knows a family in Niagara Falls. I'm trying to remember back when they were talking about it and, you know, and all those people back ...(inaudible) Montreal and Niagara Falls. ...(inaudible)

TS: On, okay they were gonna' take her out to the parking lot. What's the next thing, how long after this first meeting did it actually happen?

JC: It was not too long, it was only about a week.

TS: A week?

JC: Yeah, maybe two weeks, a week and a half or two weeks. ...(inaudible) right after the meeting, yeah, a couple of weeks maybe, couple of weeks it lasted and then Major is going out with Mike Peloquin a few days in a row and he told him everything. Major told me the story about this and he drove him around and he told him where she was going, the time she was going and everything and she was set up.

TS: Okay. Did, this was the first murder that you were aware of,

JC: Yes sir to my knowledge.

TS: that you were privy, that you sat in a meeting on.

JC: Yes sir, that was the first one sir.

TS: Let, how did it be carried out, what happened and who did you hear it from? How, how'd you know when it happened and how it was carried out.

JC: That was before, the one, that meeting was going on and it was set up right there ...(inaudible)

TS: Uh-huh.

JC: ...(inaudible) it was done and it, it was a clean job, went down right and then Majors told me the story. And when he got in the car and drove to the house but I didn't want to hear it and that's why I stopped him and said please don't tell me the rest of it and he didn't tell me anything in details like he told Angelo and all the other ones. 'Cause that's when I wondered, that's when I began to drink a lot because I couldn't figure, it was bothering me and I didn't know what to do. Every part in my mind it was like what am I doing over here, am I going crazy or 'cause this was not an option ...(inaudible) from the beginning. They told me ...(inaudible) we'll make some money, people won't get hurt. But then all of a sudden people died and it's not that

TS: At this stage when Tovrea came down, what was your business at that time?

JC: Delivering drugs to ...(inaudible)

[blank tape]

TS: ...(inaudible)

JC: Yes sir.

TS: You can do that with him ...(inaudible)

JC: ...(inaudible) never, he would never leave me alone and always ...(inaudible)

TS: So anyway, you had a meeting after that, everyone's talking about how it went down ...(inaudible).

JC: ...(inaudible)

TS: Who was at the Tovrea house

JC: ...(inaudible)

TS: when it happened?

JC: Mike Peloquin and Jim Major to my knowledge.

TS: No one else?

JC: Not that I know of sir. Not that I know.

TS: How did, what was Peloquin driving back then?

JC: He always drive, drove a Volkswagen. Every time that I see him he always had a Volkswagen.

TS: So you don't know if Peloquin was there when Majors got her there or if he went with her, you're not sure?

JC: I'm not sure sir and I can't say. I'm not gonna' tell you a lie sir because I wasn't there and I didn't, I didn't see it happen. Whatever I heard and I was at the meeting, first and second, then they told me that whatever happened.

TS: You know as, as

JC: ...(inaudible)

217.

TS: we go through these and I understand

JC: ...(inaudible)

TS: in talking with, with your attorney that, you know, you were present

JC: ...(inaudible) the one that I was present

TS: But it, it, let me tell you, it's real important, any of the, obviously nothing's gonna' hurt you at this point.

JC: Yes sir.

TS: And the one and I, I, my personal opinion is you were present for more than one.

JC: I tell you the one thing I was present at because I'm looking at life here for sure ...(inaudible) I was present whichever ...(inaudible) I'm not gonna' lie to you. I was present ...(inaudible) I could go on ...(inaudible) that I was present ...(inaudible)

TS: I don't know when that is.

JC: And 'cause I'm not gonna' lie to you 'cause ...(inaudible)

TS: Well even if, even if you were there and set outside, went in

JC: Yes.

TS: I need to know that

JC: ...(inaudible)

TS: because I, I think, you know, I had believed that you were present, at least present

JC: Yeah.

TS: for several of these.

JC: Oh, I was present ...(inaudible)

TS: Yeah.

JC: Was not present when they got killed.

TS: Well

JC: But I was present

TS: Okay. We'll get to that but well, okay

JC: ...(inaudible)

TS: we'll go on and we'll get to that because it's very important that you don't hold those things back and

JC: ...(inaudible)

TS: ...(inaudible) and, and update ...(inaudible)

JC: When I'm going through them and, and I tell you everything.

TS: 'Cause, you know, we're gonna' end up down the road, we'll talk to Majors and all these people as they come down and when they sit there and tell us, Majors said well Joe, Joe Calo was here at, at Desederi's, right, and any of these, he went in the house with me.

JC: Yes sir.

TS: Well that, that's what's gonna' hurt this when, you know, I need to know that.

JC: I, I'll tell you the truth sir ...(inaudible)

TS: Okay, go ahead. ...(inaudible) clean job, you know or you heard that Peloquin and Majors were at the house.

JC: That's correct sir.

TS: How did, did you hear how she was killed?

JC: She was shot sir. Majors said he shot her.

TS: How many times?

JC: I don't ...(inaudible) a small caliber handgun, 22 and

TS: Are you guessing 22 or were ...(inaudible)

JC: It was a small caliber handgun and he say he used the same gun, that he would probably use

the same gun on Angel.

TS: And you don't know how many times he shot her?

JC: I don't remember that, got to be honest with you.

TS: Do you know where he shot him?

JC: He say he shot her in the, shot her in the head.

TS: Where, do you know where in the house she got shot at?

JC: I'm not

TS: What room, how it came down, do you have any of that?

JC: Whenever it came to details and I wasn't

TS: Okay, let's move on past that. That was, that was the first one that you were directly involved in.

JC: Yes sir.

TS: What happened after that?

End of transcription.

np

2111

# Exhibit D

TYPE OF REPORT HOMICIDE	SUPPLEMENT DATE 4-30-88	DR # 88-043690
VICTIM'S NAME TOVREA, JEANNE	LOCATION OF OCCURRENCE 3500 E. LINCOLN	
OFFICER WRITING REPORT'S # DET. F. FUQUA, 1660	SUPPLEMENT # 88-043690.04A	
DATE & TIME TYPED April 30, 1988 2:25 PM	BUREAU GIB	CLERK A2845

INVESTIGATIVE LEAD: PHILLIPS, GORDON R. III, W/M, 1-12-63, 5'8",  
SSN 154-62-2158. AKA - "CHIP". 520 Windspere,  
Buffalo, New York, 716-837-6099.

Employer: Self - resident physician for Buffalo  
General Hospital and other local  
hospitals.

On 4-26-88 at approximately 11:45 a.m., I made contact with a  
MR. GORDON R. PHILLIPS, who resides at 520 Windspere, Buffalo, New York.  
I contacted MR. PHILLIPS by phone, (716) 837-6099.

At the time of contact with MR. PHILLIPS, I explained to him that I was  
investigating a homicide death of a MRS. JEANNE TOVREA, and on her  
answering machine was a name of GORDON PHILLIPS and in her phone billing  
was a phone number to his residence. MR. PHILLIPS at this time explained  
to me that he remembers receiving a call from someone, a lady, about a  
month ago, asking about a news media or something to do with Time Life  
magazine. MR. PHILLIPS stated that he explained to the lady that he was  
not associated with Time Life magazine and he is, in fact, a medical  
doctor in the New York area. I asked MR. PHILLIPS if he had any persons  
residing in his house by the name of GORDON R. PHILLIPS beside himself.  
He stated that he did not. I then asked him if he has had any contact  
with local police agencies in reference to someone using his name. He  
stated that he has not. After discussing the phone call incident with  
MR. PHILLIPS, it was determined that he did, in fact, talk to the VICTIM  
where she was asking him about his association with Time Life magazine,  
which he has none. It was further determined that MR. PHILLIPS is a  
medical doctor by verification from Buffalo General Hospital.

At approximately 1245 hrs., I contacted MIKE LESTER, the VICTIM'S  
son-in-law, asking him how the phone number was obtained by the VICTIM  
prior to her death. He stated that his wife, DEBBIE, told him that when  
MR. PHILLIPS approached her sometime back, she, JEANNE, asked  
MR. RICHARDSON to check him out and MR. RICHARDSON looked in the phone  
book, finding GORDON R. PHILLIPS, III, at the address earlier described.  
There had been no verification on MR. RICHARDSON'S part, that this was the  
same GORDON PHILLIPS that the VICTIM had contact with earlier in the year.

At this time it is unknown if there is, in fact, a GORDON R. PHILLIPS, who  
is employed with Time Life magazine or if it's a person using MR. PHILLIPS  
name to conceal his true identity.

000217

TYPE OF REPORT HOMICIDE	SUPPLEMENT DATE 4-18-88	DR # 88-043690
VICTIM'S NAME TOVREA, JEANNE	LOCATION OF OCCURRENCE 3500 E. LINCOLN #26	
OFFICER WRITING REPORT'S # DET. D. LOTT #1555	SUPPLEMENT # 88-043690.060	
DATE & TIME TYPED April 19, 1988 11:48 AM	BUREAU GIB	CLERK A1724

## Interview - Investigative Leads:

E.J. ROBSON and STEVEN S. ROBSON  
Robson Industries  
25612 E. Robson Blvd.  
Sun Lakes, AZ 895-9600, 228-7041

On Monday, 4-18-88, at 10:55 AM, I contacted MR. EDWARD ROBSON at his place of business, Sun Lakes Arizona.

MR. ROBSON was contacted and interviewed due to the fact that it had been learned during the investigation that he had been associated with JEANNE TOVREA and at one time was romantically involved with her.

MR. ROBSON related that he was introduced to JEANNE TOVREA by a mutual friend by the name of LORETTA WHITE about 1 1/2 years ago. MR. ROBSON stated that this was after the death of his wife who died in a boating accident. MR. ROBSON said that he then dated MRS. TOVREA approximately three times and during that time, he got the feeling that she became more serious about it than he did, as well as the fact that during that time, he was also dating someone else and didn't want to get serious.

MR. ROBSON stated that he has five children by his marriage, which lasted for 31 years, and that MRS. TOVREA met his children and she liked them very much and was very generous to them.

MR. ROBSON stated that he last saw MRS. TOVREA on the evening of March 21 or March 22, 1988, at a restaurant at which time he was in the company of his present girlfriend, named CAMIE. At that point, the two ladies met and were very cordial to each other, as MR. ROBSON indicated both of them are very social.

MR. ROBSON stated that before that event, the last time he saw MRS. TOVREA was at a business partner's cocktail party on March 1, 1988. The name of the business partner is BUD SMITH.

000218

TYPE OF REPORT	VICTIM	OFFICER	DR #
HOMICIDE	TOVREA, JEANNE	LOTT #1555	88-043690

MR. ROBSON was questioned as to whether or not during his time of association with MRS. TOVREA he had ever been introduced to any of her stepchildren and he stated no. MR. ROBSON was asked if during his association with MRS. TOVREA, EDWARD JR. was ever at the house and he stated no, stating that the last time he was at her residence, she had just completed her guest house.

MR. ROBSON was questioned as to if he had any business dealings with MRS. TOVREA at all and he stated no. MR. ROBSON was questioned as to if he had ever asked MRS. TOVREA to invest in any of his business dealings and he said not at all. MR. ROBSON further stated that the two of them never talked about business matters other than the fact that at one time, MRS. TOVREA indicated to him that KAREN GANZ wanted her to go into partnership with her and he advised MRS. TOVREA not to do that.

MR. ROBSON was questioned about his knowledge of any alleged news reporters trying to interview MRS. TOVREA and he had no knowledge of that but indicated that LORETTA WHITE has mentioned something to that effect, however, at this time, MRS. LORETTA WHITE is very reluctant to talk to anyone.

MR. ROBSON was questioned as to if he had any knowledge of there being any problems between MRS. TOVREA and the neighborhood security and he stated no, not at all.

At this time, I once again questioned MR. ROBSON about his contacting MRS. TOVREA recently and asking her for money and more precisely, asked him if his son STEVEN had been in contact with her for such a purpose. MR. ROBSON at that time introduced STEVEN ROBSON to me and STEVEN related that they had no business association with MRS. TOVREA, with the exception of the fact that MRS. TOVREA was a supporter of the Paradise Valley Country Club and a number of foundations and charities which he and his wife KIM work with her on together.

STEVEN related that he and his wife had been together with MRS. TOVREA on several occasions for breakfast and lunch, etc., but their conversations always revolved around the various charities that MRS. TOVREA or themselves were involved in.

Neither MR. ED ROBSON nor his son STEVEN had any further information at this time.

TYPE OF REPORT HOMICIDE	SUPPLEMENT DATE 4-19-88	DR # 88-043690
VICTIM'S NAME TOVREA, JEANNE	LOCATION OF OCCURRENCE 3500 EAST LINCOLN #26	
OFFICER WRITING REPORT'S # DETECTIVE DAVE LOTT #1555	SUPPLEMENT # 88-043690.06Q	
DATE & TIME TYPED April 19, 1988 6:33 PM	BUREAU GIB	CLERK A1471

Addition to interview with DEBORAH NOLAN on 4-2-88:

MS. NOLAN described GORDON PHILLIPS as being a W/M, mid 30's, 5'9-5'10, stocky build, light brown hair.

000220