



PHIL BREDESEN
GOVERNOR

RECEIVED
TENNESSEE BUREAU OF INVESTIGATION

901 R.S. Cass Boulevard
Nashville, Tennessee 37216-2639
2008 MAY -7 (615) 744-4000
Facsimile (615) 744-4500
Federal Defense
Services
of Eastern TN



MARK GWYN
DIRECTOR

May 5, 2008

Ms. Susanne Bales
Public Defender
Federal Public Defender Services
of Eastern Tennessee, Inc.
800 South Gay Street
Suite 2400
Knoxville, TN 37929

Re: Gary Wayne Sutton v. Ricky Bell (Case 3:06-cv-00388)

Dear Ms. Bales:

Enclosed are copies of records within the TBI's possession that are responsive to Magistrate Shirley's order of April 24, 2008. The file that the order describes as "TBI file ME-95-716" is not a TBI file, and because we do not have such a file, it is not being produced.

We have enclosed records from the following TBI files:

1. 12A(O)-343
2. 13D(O) 64
3. 80F-10
4. 82A-306-NA
5. 82B-49-CI

Please let me know if you have any questions about this matter. You can contact me directly at (615) 744-4208.

Sincerely,

Jeanne Broadwell

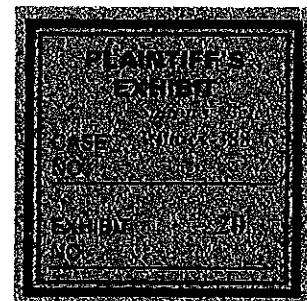
Jeanne Broadwell
General Counsel

Enclosure

cc: Jennifer L. Smith
Associate Deputy Attorney General



INTERNATIONALLY ACCREDITED SINCE 1994



not routinely submit specimens from "private autopsies" to the TBI Crime Laboratory. Dr. Blake cited three instances in which he submitted specimens to the TBI Crime Laboratory which were not routine Medical Examiner cases.

Rufus Isom was a known cocaine user. He was a patient at the Morristown Hospital. He told his nurse and his family that someone came into his room and put cocaine in his I.V. bag. Isom died approximately twenty-four hours after the I.V. bag incident of meningitis. His family retrieved the I.V. bag and kept it in a refrigerator for approximately two or three years. The family's lawyer brought the I.V. bag to Dr. Blake and wanted it tested for cocaine. Dr. Blake brought the I.V. bag to the TBI Crime Laboratory for testing. The TBI Laboratory reported the specimen was negative for cocaine, but positive for Demerol. He could not explain how Demerol got in the I.V. bag.

Tim Grizzell was on federal probation. A periodic random drug test showed that he was positive for metabolites of cocaine. When the results were challenged, Dr. Blake obtained permission from then TBI Director John Carney and Assistant Director Darby to submit a specimen to the TBI Crime Laboratory for testing, as is noted on the submittal form. Though tests for cocaine and metabolites were requested, lack of the proper equipment prevented testing for metabolites. This fact was not communicated to Dr. Blake, which resulted in an erroneous report being presented to the court. The laboratory later acquired the equipment necessary to perform the testing for metabolites.

Tucker Williams died suddenly after ingesting a common headache powder. Dr. Blake submitted a specimen of the powder to the TBI Crime Laboratory. Several weeks later, he learned the specimen was positive for cyanide. It was determined that the death was a suicide disguised as product tampering. TBI conducted an investigation concerning this incident.

These are the only cases in which he has made submittals of private case specimens to the TBI Crime Laboratory. His reason for doing so was to maintain the integrity and the reliability of the evidence. He said it was not done to save money.

(Refer to Serial 35)

Dr. Gretel Harlan is still employed as a pathologist by the Davidson County Medical Examiner's Office.

Dr. Charles Harlan was officially suspended without pay as an Assistant Davidson County Medical Examiner effective January 12, 1994. He was suspended for not following office policy pertaining to the use of a Metro facility for private purposes and for falsifying a death certificate. They discovered that Dr. Harlan

The investigative records of the Tennessee Bureau of Investigation are confidential by statute (TCA 10-7-504). Unlawful disclosure of this information is a misdemeanor (TCA 40-32-101 and TCA 39-11-114).

APPROVAL *Don Taylor*
DATE *1/24/94*

TENNESSEE BUREAU OF INVESTIGATION

REPORTED: RECEIVED: 01/14/94 TRANSCRIBED: 01/15/94

TO: TBI File 80F-10

FROM: SA G. Richard Wright

SUBJECT: Interview - Oral - Dr. Julia Goodin,
Davidson County Medical Examiner

REFERENCE: TBI Administrative Matters - All Others
(S) STATE OF TENNESSEE MEDICAL EXAMINERS

On January 13, 1994, Dr. Julia Goodin, Davidson County Medical Examiner, was interviewed at the Davidson County Medical Examiner's Office, Nashville, Tennessee. After proper identification and explanation for the purpose of this interview, she voluntarily provided the following information:

SA Joanne Schuler was present and participated in this interview.

In November 1993, when she took over the Davidson County Medical Examiner's Office, she issued a memorandum prohibiting the conducting of private autopsies. The reasons for the prohibition were because of a backlog of autopsy cases. They were behind approximately 150 autopsy reports. Private autopsies were taking too much time away from routine duties.

See attached copy of memorandum from Dr. Goodin to staff dated November 1, 1993.

According to instructions that she received from Mayor Bredesen and the Metro Legal Department, Dr. Harlan was supposed to work under her direction.

Dr. Harlan has violated internal rules. She has been told by a source that Dr. Harlan has recently performed private autopsies without her permission.

Dr. Harlan was officially suspended without pay as an Assistant Davidson County Medical Examiner effective January 12, 1994. He was suspended for not following office policy pertaining to the use of a Metro facility for private purposes and for falsifying a death certificate.

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Page 1 File: 80F-10 Vol.: 1 Serial: 30

CID-68

Dr. Goodin stated that she does not think Dr. Harlan should be able to do any autopsies whatsoever.

On Monday, January 10, 1994, she found organs from another private autopsy which had been conducted over the weekend, possibly Sunday, in the waste disposal container at the medical examiner's office.

Additionally, in December, Dr. Harlan performed a private autopsy on a female named _____ at a local funeral home. McGruder had been seen at the Davidson County Medical Examiner's Office for an external examination. No autopsy was performed. Toxicology specimens were taken from the body as standard procedure. These specimens were taken to the TBI Crime Laboratory for analysis. The body went to the funeral home. Dr. Harlan performed an autopsy on the body at the funeral home. Dr. Harlan did not charge for this autopsy.

They discovered that Dr. Harlan had marked on the death certificate that no autopsy was performed. When confronted with this information, Dr. Harlan changed the notation and filed an affidavit saying that it was a clerical error.

As of the time of this interview, Dr. Gretel Harlan had not resigned.

January 12, 1994, was the last day for Roberta Rosser, secretary. She was discharged from her Metro duties. She can still perform her State duties under supervision of someone from the medical examiner's office. The State is reviewing what to do concerning her contract.

After a meeting with auditors, it is Dr. Goodin's opinion that their office should not be doing private autopsies, because of the use of government services and Metro facilities. Metro government was not receiving any money from the private autopsies. The pathologists were billing privately and were not turning any portion of the money over to Metro government.

Dr. Harlan told her that when he was hired, he was told it was alright to conduct private autopsies. It was part of the deal. He said that he had been doing it since he came there and that it was alright.

Dr. Goodin added that it was standard and customary practice for pathologists to perform both forensic and private autopsies.

During the fall, Dr. Goodin issued a memorandum to out of county medical examiners that unless the case involved a homicide or a SIDS death or a prison death, for them not to automatically send the body to their facility unless they contacted their office

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DON SUNDQUIST
GOVERNOR

TENNESSEE BUREAU OF INVESTIGATION

1148 Foster Avenue
Nashville, Tennessee 37210-4408
615-741-0430
FAX 615-741-4788
TDD 615-741-0430



LARRY WALLACE
DIRECTOR

July 3, 1995

Commissioner Fredia Wadley
Tennessee Department of Health
Tennessee Tower, 9th Floor
3112 Eighth Avenue North
Nashville, Tennessee 37247-0101

Dear Commissioner Wadley,

I have been made aware of a very disappointing situation concerning the conduct of the State's Chief Medical Examiner, Dr. Charles Harlan. On two separate occasions at the TBI Crime Laboratory in Donelson, Tennessee, Dr. Harlan exhibited bizarre behavior and made comments in front of Bureau personnel which were offensive and uncalled for. I have enclosed memorandums of two (2) separate incidents, as well as the recommendation of the Laboratory Director, Mr. William Darby, III, for your review.

I bring the matter to your attention because I believe his actions to be not only unprofessional, but unbecoming for the State's Chief Medical Examiner. In addition, his actions have had an adverse impact on the employees of the Bureau's Forensics Division. So much so that I have a female employee who has requested not to be present when Dr. Harlan submits evidence to the lab.

While it is the responsibility of the TBI to process forensic evidence for the State's Medical Examiners in cases where the cause of death is not known, I do not have to allow my employees to be subjected to the irresponsible and unprofessional conduct exhibited by Dr. Harlan.

Therefore, it is my decision that, from this date forward, Dr. Harlan will not be allowed to enter the TBI Crime Laboratory. Evidence to be submitted by him will be handled at the lobby pass through window, or Dr. Harlan may send one of his assistants to the lab with the evidence in cases which are to be processed. These assistants will be allowed full access to the evidence receiving area.

The State of Tennessee is an equal opportunity, equal access, affirmative action employer.

P.01 4446854

TO

FROM W1019M 07:01AM 7/3-20-1995



DON SUNDQUIST
GOVERNOR

TENNESSEE BUREAU OF INVESTIGATION
FORENSIC SERVICES — CRIME LABORATORY
8021 Lebanon Road, Post Office Box 140170
Donelson, Tennessee 37214
(615) 741-4476
FAX (615) 741-4787
TDD 615-741-0430



RECEIVED

LARRY WALLACE
Director

JUN 20 1995

LEGAL COUNSEL

MEMORANDUM

TO: Larry Wallace, Director

FROM: William J. Darby, III, Assistant Director *WJD*

DATE: June 20, 1995

SUBJECT: Charles Harlan, M.D., Tennessee Chief Medical Examiner

I have attached two memoranda from Tennessee Bureau of Investigation Evidence Technicians employed at the Nashville Crime Laboratory relative to the conduct of Dr. Charles Harlan when he was in the Nashville Crime Laboratory submitting biological evidence for toxicological analyses. As can be seen from the memoranda, I feel Dr. Harlan's conduct and conversation is extremely unprofessional and I do not feel TBI employees have to be subjected to conversations of this type. One of the Evidence Technicians has requested she be allowed to leave the Evidence Receiving area until Dr. Harlan leaves the building.

As you are aware, the Evidence Receiving area can become extremely busy with many law enforcement personnel submitting and/or picking up evidence. If TBI evidence receiving personnel are allowed to leave their workstation when Dr. Charles Harlan is submitting evidence, a significant bottleneck and backlog of these evidence receiving tasks will occur.

It is my recommendation that Dr. Charles Harlan not be allowed to enter the Nashville Crime Laboratory. He can submit evidence to the Laboratory through a package drawer located in the outer lobby of the Laboratory. I totally agree with the Evidence Technicians that Dr. Harlan's conduct and conversation in the presence of TBI personnel is unprofessional and should not be tolerated.

WJD/gjs

Attachment

"The State of Tennessee is an equal opportunity, equal access, affirmative action employer."

P.03 4448854

TO

FROM JAN-20-1900 07:02PM



NED McWHERTER
GOVERNOR

TENNESSEE BUREAU OF INVESTIGATION
FORENSIC SERVICES—CRIME LABORATORY
3021 Lebanon Rd., PO Box 140170
Donelson, TN 37214
(615) 741-4476
(615) 741-4787 Fax



LARRY WALLACE
DIRECTOR

MEMORANDUM

TO: William J. Darby, III, Assistant Director
FROM: Gwen Bearden^B and Mildred Krise^{MK}
DATE: February 14, 1994
SUBJECT: Dr. Charles Harlan

On February 9, 1994 at 3:35 p.m., Dr. Charles Harlan and Stan Carney were at the TBI Crime Laboratory. They were submitting samples from autopsies that Dr. Harlan had performed. Upon entering the laboratory, Dr. Harlan was acting strangely; he was extremely loud and was swinging his arms and saying how wonderful he was. He returned to his vehicle, he had forgotten hair samples. When he returned to the building, he has his hand over his head acting as if he was dancing.

While Dr. Harlan was in the Evidence Receiving Area, he received a phone call on his mobile phone. His call was lost. When the call came through again he gave the person the laboratory phone number. They returned the call through the laboratory phone system. (He told Mr. Carney it was a woman lawyer from Knoxville.)

The caller was questioning Dr. Harlan about some of the Medical Examiners in the state. It seemed from the conversation that a second autopsy was required on a person, and she was questioning who to use.

Then the caller asked about Dr. Blake and Dr. McCormick, Dr. Harlan was very critical of the two men. He at one point said that Dr. C. Blake was retiring and he was trying to take over his counties. He also said that Dr. William McCormick was trying to take his job, and said he didn't have anything good to say about that.

During the conversation he also mentioned that he had trained Dr. Pedigo and Dr. Frank King. He said that Dr. Pedigo was good when he stayed away from the drink and drugs. Then he said that Dr. King didn't have the experience and that he was a nice and very sweet, sweet, sweet man if she got his drift. He also

END OF ROLL

P.05 4448854

TO

FROM WJDM 07:03AM JAN-20-1994

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mentioned Dr. Julia Goodin, saying she had gone power crazy and that he would have her job in two weeks. He mentioned Dr. Fransico and other Medical Examiners, basically saying not to use them. He stated that himself, Gretel Harlan (his wife), and another medical examiner out of Memphis (don't recall his name) were the only ones he considered creditable to use. This phone conversation lasted about thirty (30) minutes. This conversation was loud enough for anyone in the evidence area or hallway to hear.

While Mr. Carney was submitting the samples, Dr. Harlan was standing behind him with his arms around Mr. Carney's waist, leaning around Mr. Carney's shoulders talking to him.

Dr. Harlan would not submit the bullets from the Clarksville Taco Bell case, he stated to Mr. Carney that they were not ready, although he had them with him.

GB/MK/gjs

444854 P.06

TO

JAN-28-1980 07:04AM FROM



DON SUNDQUIST
GOVERNOR

TENNESSEE BUREAU OF INVESTIGATION
FORENSIC SERVICES — CRIME LABORATORY
3021 Lebanon Road, Post Office Box 140170
Donelson, Tennessee 37214
(615) 741-4476
FAX (615) 741-4787
TDD 615-741-0430



LARRY WALLACE
DIRECTOR

June 15, 1995

MEMORANDUM

TO: WILLIAM J. DARBY, III
FROM: LIBBY HUFFMAN, JBT

On May 31, 1995, Dr. Charles Harlan arrived at the evidence receiving area to submit specimens from autopsies. I made sure his items were properly packaged and placed them in the hood. As I walked back to where Dr. Harlan was sitting, Clayton Thomas and Todd Spearman from Smyrna Police Department entered the room. I had talked previously with Clayton Thomas and had his evidence ready to return. I remembered Dr. Harlan had a rape kit submitted in conjunction with autopsy evidence and returned the kit to him asking that he sign his name by the X. He asked, "what am I suppose to do with it?" He was laughing and acting immature and childish. As he signed his name he slowly spelled it aloud and the officers were amused. Clayton Thomas only asked a few questions but Todd Spearman was really encouraging Dr. Harlan ego by asking questions. When asked what Dr. Giles was doing Dr. Harlan replied "I hear he is babysitting." I was signing in evidence received earlier in the day and was really trying to tune the conversation out but I know what tid-bits were verbalized and the following is only parts of the conversation. They were talking about Dr. Giles and Dr. Harlan said, "he screwed dead bodies." "I had to let a person go from my office for leaking information to the wrong sources." "Cleland is in trouble, he really messed up a case." The laughter was flowing, and Dr. Harlan was fed by the attention he was receiving. I only heard parts of a story he was telling about a young child whose parents had used a "dildo" on him leaving bruises and lacerations.

After all was said they finally left. I can not find enough words to describe my feelings. After the statement about Dr. Giles I was mad and ready to burst into tears. I think of his statement at least once a day since the incident. I have waited on Dr. Harlan maybe five times in the past and his behavior was not professional but this display of utter indecency, degrading behavior and the laughter that entwined the whole conversation was too much for me to handle.

I am requesting that when Dr. Harlan comes into the lab that I have permission to leave the area until he has exited the building.

Lh

"The State of Tennessee is an equal opportunity, equal access, affirmative action employer."

4446854 P.04

10

JUN-20-1995 07:03AM FROM

END OF ROLL



RECEIVED
Lu
JUL 11 1995
DIRECTOR'S OFFICE
TN. BUREAU INVEST

DON SUNDQUIST
GOVERNOR

STATE OF TENNESSEE
TENNESSEE TOWER
812 8TH AVENUE NORTH
DEPARTMENT OF HEALTH
NASHVILLE, TENNESSEE 37247-0101

FREDIA S. WADLEY, MD, MSHE
COMMISSIONER

July 7, 1995

Larry Wallace, Director
TN Bureau of Investigation
1148 Foster Avenue
Nashville, TN 37210-4406

Dear Mr. Wallace:

I appreciate your letter of July 3, 1995, concerning your reasons for barring Dr. Charles Harlan from the TBI Crime Laboratory.

As of June 30, 1995, Dr. Harlan's contract as State Medical Examiner was terminated. While he will still be doing forensic autopsies due to his private agreements with many Middle Tennessee counties, he is no longer employed by the state to perform any function. The restrictions you place upon him as a private forensic pathologist using your laboratory services is entirely a call for you to make.

However, because he was a contract employee of this department, I apologize for any inappropriate behavior that might have occurred while he was affiliated with us. Please express my regrets to your employees.

Sincerely,

Fredia S. Wadley, M.D.
Commissioner

FSW/djr/508

4446854 P.07 TO FROM JAN-20-1900 07:04PM



STATE OF TENNESSEE
DEPARTMENT OF LABOR
DIVISION OF OCCUPATIONAL SAFETY AND HEALTH
GATEWAY PLAZA BUILDING, 3RD FLOOR
710 JAMES ROBERTSON PKWY.
NASHVILLE, TENNESSEE 37243-0659
PHONE (615) 741-3161

June 6, 1995

Dr. Charles Harlan,
Forensic Pathology Associates
620-B Davidson Street
Nashville, TN

RE: Complaint #76410265

Dear Dr. Harlan:

On 05/23/95, the Division of Occupational Safety and Health (TOSHA) received a complaint concerning possible health hazards at your worksite at 620-B Davidson Street, in Nashville, Tennessee. The specific items on the complaint are:

1. Lack of personal protective equipment available for personnel removing bodies.
2. Bodies released without identification tags as to the names or infectious nature.
3. Autopsied bodies not placed in leakproof bags. Body fluid spills are common.
4. Unsanitary conditions.
5. Dead mice on the floor.
6. Dead deer stored with dead human remains.

We have not determined whether the hazards, as alleged, exist at your workplace and we are not conducting an inspection at this time. However, since allegations of possible violations have been made, you should investigate the alleged conditions and make any necessary corrections or modifications. Within 30 calendar days of your receipt of this letter, please advise us in writing of your findings and of the action you have taken to correct any hazards. You should enclose any supporting documentation on the action you have taken, such as monitoring results, new equipment, orders and the like, as well as photographs of the corrected condition.

Dr. Charles Harlan
Page 2

Enclosed you will find a copy of the requirements for 1910.1030 Bloodborne Pathogen Standard enforced by TOSHA.

The complainant has been advised of this preliminary response to the complaint and furnished a copy of this letter.

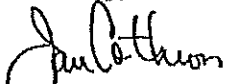
This letter is not a citation nor is it a notification of proposed penalty which, according to the Tennessee Occupational Safety and Health Act (T.C.A. 50-3-101 through 50-3-918), may be issued only after an inspection or investigation of the workplace. If we do not receive a response from you within 30 calendar days indicating that appropriate action has been taken or that no hazard exists and why, an inspection may be conducted.

In addition, it is our policy to select for inspection a random sample of cases where we have received letters in which employers have indicated satisfactory corrective action to assure that the employer has actually taken the action asserted in his/her letter. Finally, any action taken by you in this matter will not automatically remove your workplace from the possibility of an unannounced inspection by duly authorized representatives of TOSHA in accordance with routine scheduling procedures currently in effect.

You are requested to post a copy of this letter and your response to it where it will be readily accessible for review by all of your employees.

If you have any questions concerning this matter, please contact our office. Your personal support and interest in the safety and health of your employees is appreciated.

Sincerely,



Jan Elovitz Cothron
Nashville Area Supervisor
Occupational Health Compliance

JAE/DAK



PHIL BREDESEN
GOVERNOR

RECEIVED
TENNESSEE BUREAU OF INVESTIGATION

901 R.S. Gass Boulevard
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Federal Def
Services
of Eastern T



MARK GWYN
DIRECTOR

April 10, 2008

Ms. Susanne Bales
Public Defender
Federal Public Defender Services
of Eastern Tennessee, Inc.
800 South Gay Street
Suite 2400
Knoxville, TN 37929

Re: Gary Wayne Sutton v. Ricky Bell (Case 3:06-cv-00388)

Dear Ms. Bales:

Pursuant to the Order by U.S. Magistrate Judge C. Clifford Shirley, Jr., enclosed are copies of the relevant documents regarding TBI Case Number 5A-760-NA in the investigation of the death of "Baby Murphy":

- 1) CID-22 – CID-23: TBI Report from SA Roy L. Copeland;
- 2) CID-24 – CID-26: TBI Report from SA Roy L. Copeland;
- 3) CID-27 – CID-29: TBI Report from SA Roy L. Copeland;
- 4) CID-34: TBI Report from SA Roy L. Copeland; and
- 5) CID-73 – CID-74: Letter dated July 7, 1995, from District Attorney General Tom P. Thompson, Jr., to Mr. Roy Copeland.

Please contact me if you have any questions.

Sincerely,

Jeanne Broadwell
General Counsel

JB/sgp

cc: Jennifer L. Smith
Associate Deputy Attorney General

Enclosure



INTERNATIONALLY ACCREDITED SINCE 1994

APPROVAL: *Jim Taylor*
DATE: 2/27/96

TENNESSEE BUREAU OF INVESTIGATION

REPORTED: 11/07/95 RECEIVED: 11/16/95 TRANSCRIBED: 02/16/96

TO: TBI File 5A-760-NA
FROM: SA Roy L. Copeland
SUBJECT: Interview - Oral - Dr. Charles Harlan
REFERENCE: Death Investigations
(S) ~~STOCKWELL~~,
W/M, DOB:
(S) ~~MURPHY~~,
W/F, DOB:
(V) ~~MURPHY, BABY~~
W/M, DOB:

On September 27, 1995, Dr. Charles Harlan was briefly interviewed by this Agent in Lebanon, Tennessee. Also present during a part of the interview was Stan Carney, an assistant to Harlan. After reviewing an interview of Harlan conducted by this Agent on July 13, 1995, DAG Tommy Thompson requested that Harlan be contacted again to obtain responses to two other allegations made by Cathy Roush during a meeting on May 26, 1995. Roush had said that Harlan permitted Stan Carney to actually perform complete autopsies. In addition, Roush had also described an incident during one autopsy performed by Harlan where Harlan's pet dog was allowed to roam in the autopsy area during a particularly busy time and had allegedly eaten human organs and/or tissues which had been removed from a body. After proper identification and explanation of the purpose for the interview, Harlan voluntarily provided the following information:

With regards to Carney, Harlan said that his assistant's usual duties were to prep bodies for autopsy, assist in the processing of tissues, and to suture the body upon completion. Harlan also that if he (Harlan) was not personally available to perform an autopsy, Carney was permitted to cut a body open and eviscerate organs, but only for the purpose of taking those organs back to Harlan, who would then do the actual examination and determinations. Harlan

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Page 1 File: 5A-760-NA Vol: 1 Serial: 18

CID - 22

P. 242

stated that the performing of such limited procedures by assistants was standard practice in many large-scale operations across the country. He also said that he felt Carney was as qualified to perform those procedures as many doctors, due to the more than eight years he has assisted Harlan.

With regards to the described incident involving the dog, Harlan denied the allegation. He stated he had no personal knowledge of any incident involving the animal and damaged organs/tissues.

Harlan stated that Roush has contacted him since making those allegations and expressed a desire to renew a professional working relationship with him, but that he did not plan to do so.

At this point, the interview was concluded.

RLC:rc

cc: DAG Tommy Thompson

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Page 2

File: 5A-760-NA

Vol: 1

Serial: 18

CID - 23

P. 243

Attachment G

...OVAL
DATE 9/14/95

TENNESSEE BUREAU OF INVESTIGATION

REPORTED: 08/02/95 RECEIVED: 08/03/95 TRANSCRIBED: 09/12/95

TO: TBI File 5A-760-NA
FROM: SA Roy L. Copeland
SUBJECT: Interview - Oral - Dr. Charles Harlan
REFERENCE: Death Investigations
(S)ϕ W/F - DOB: _____
(S)ϕ W/M - DOB: _____
(V)ϕ "BABY MURPHY"
W/M - DOB: _____

On July 13, 1995, Dr. Charles Harlan was interviewed at the Tennessee Bureau of Investigation Headquarters in Nashville, Tennessee. DAG Tommy Thompson was also present and took part in the interview, the purpose of which was to discuss with Harlan allegations made by Cathy Roush during a meeting on May 26, 1995. Roush had said that Harlan told her all evidence related to the BABY MURPHY autopsy or review. The allegation had been made known to Harlan by DAG Thompson prior to this interview. After proper identification and explanation of the purpose for the interview, Harlan voluntarily provided the following information:

Harlan said that Roush had occasionally worked for him as a trainee to gain experience. He said that in her actions involving Henderson, she had violated professional ethics and confidentiality regarding patients. He stated that she had been reported to her licensing board for Emergency Medical Services and that she was subject to having her license revoked if she chose to ever testify concerning her actions. Harlan said that he has also reported the attorney Henderson to the Board of Professional Responsibility and that the Board is actively investigating Henderson.

Harlan said Roush told him that she and Henderson had met through a computer on-line service and, after they became friends, Henderson had asked her to spy on Harlan and attempt to find certain evidence in Harlan's place of business. Harlan said Roush told him a woman named Stacey Elder had been spying on Harlan on behalf of Henderson while she was working at the Medical Examiner's Office as a trainee. Harlan said Roush told

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CID-24

him Elder had been trying to find evidence on a Yvette Blackmum case Henderson was involved in, according to Henderson.

Harlan said that Roush told him on May 15, the night of the BABY MURPHY autopsy, that Henderson had made the request for her to help him get evidence from Harlan's office on the previous Friday, May 12, 1995. Harlan said that he then discussed with Roush the possibility of her wearing a tape recorder and meeting again with Henderson to get that request on tape. However, he said that he told her he wanted to talk to an attorney and the TBI before attempting to do something of that nature. He said he did talk to his attorney, Dan Warlick, concerning the matter. In addition, he said he also spoke by telephone to TBI Agent Richard Wright, who advised him that allegations of wrongdoing involving attorneys should be reported to the Board of Professional Responsibility. Harlan stated that he then contacted that Board and was told by a Mr. Lance Bracy to file a written complaint that would be used to investigate the matter. Harlan said he has since filed that complaint and that the Board was now attempting to get Roush's phone number and address. DAG Thompson advised Harlan that Henderson should be able to provide that information, since Henderson had mentioned in the May 26, 1995, meeting that Roush had previously performed work for him.

Harlan said that the Yvette Blackmum case that Henderson was wanting to obtain evidence in pertained to an autopsy he had performed in 1990 while employed as the Medical Examiner for Metro Nashville. He stated that his findings were that a seizure caused a rupture in the woman's perineal sidewall, causing internal bleeding and subsequent death. He said the rupture could not possibly have been caused by surgery performed on her some four weeks earlier, but that since its origin would most certainly be an issue, he did remove the tissue and preserved it in his personal storage space at the Metro morgue. Harlan stated that the tissue was later lost in the relocation that resulted when he left that position. He also said that he no longer has access to the records and evidence at that location and that all saved bottles which were supposed to be preserved indefinitely were destroyed by the person who was hired to replace him as Medical Examiner. He said photos were taken of the rupture and are available and suitable for examination.

Harlan said that after the BABY MURPHY autopsy was performed, the body was kept in his office for a while. It was then sent to Wilson County, since the Sheriff's Department was planning to provide a burial. Harlan stated that it was returned on the evening of May 17, 1995, after attorney Jack Lowery advised Harlan earlier that date that a second autopsy was going to be requested. Harlan said he explained to Lowery that the first autopsy had been difficult to do because of the condition of the body and that a second would be almost impossible, as the organs

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had since been incinerated. Harlan said the body remained in a freezer from May 17 until May 22, when it was transported to Morristown for Blake's examination. Harlan said that Blake could not possibly have conducted an autopsy on the remains, but that the sutures from the first autopsy were cut by Blake and that incisions were made at the corners of the baby's mouth. Harlan stated that Blake mutilated the baby's body.

Harlan said that when he talked to Roush on May 21, 1995, the autopsy was not completed. He said that at that time he was only in possession of the case jacket, the save bottle and the block bottle. Harlan stated that the block bottle contains the tissues that are to be sent to a histologist for the preparation of paraffin blocks and slides. He said the save bottles are retained by him indefinitely for backup. He said that his only concern in providing those three items to Blake was the preservation of critical evidence.

Harlan stated that since then, the paraffin blocks and two sets of slides have now been prepared and secured at his office. He said they were prepared at his expense, but that they are available for inspection at his office by Blake or defense attorneys. He said that if he is reimbursed for the associated costs, he will also provide one full set of slides to Blake or the defense. He said the evidence will always be there and will never be destroyed. He stated that the only concern he ever had was that Blake might destroy the evidence. He also said that the only statements he ever made to Roush was in reference to his concern for the preservation of the evidence.

Harlan said that attorney Buck Chambers has contacted his office in an attempt to arrange for a review of the evidence by the defense. Harlan stated that he has attempted to contact Chambers several times since to arrange that examination, but has been unsuccessful.

With regards to the BABY MURPHY autopsy, Harlan said the baby's lungs had breathed air. In addition, the paraffin blocks and slides returned by the histologist provide evidence of a cellulose-type plant material in the lung tissue that would have only been in the soil. Harlan stated this indicates not only that the baby was alive after birth, but died due to being buried alive.

At this point, the interview was concluded.

RLC/jlw

cc: DAG Tommy Thompson

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FD-302 (Rev. 11-27-83) File # EA-760-NA Vol. 1 Serial 17

APPROVAL *[Signature]*
DATE 09/14/95

TENNESSEE BUREAU OF INVESTIGATION

REPORTED: 08/02/95 RECEIVED: 08/03/95 TRANSCRIBED: 09/12/95

TO: TBI File 5A-760-NA
FROM: SA Roy L. Copeland
SUBJECT: Meeting - DAG Tommy Thompson,
ADAG Robert Hibbett, Mark Henderson, Cathy Roush
REFERENCE: Death Investigations
(S) ϕ W/F - DOB: _____
(S) ϕ W/M - DOB: _____
(V) ϕ "BABY MURPHY"
W/M - DOB: _____

At the request of DAG Tommy Thompson, this Agent met with him, ADAG Robert Hibbett, and Cathy Roush on May 26, 1995, at the office of Attorney Mark Henderson in Hendersonville, Tennessee, telephone number (615) 824-1847. Ms. Roush provided (615) 833-8592 and (615) 373-0808 as her home and work numbers, respectively. Mr. Henderson was also present and acted as counsel for Ms. Roush during the meeting. According to DAG Thompson, Mr. Henderson had called him on May 22, 1995, and requested the meeting in order to make the State aware of certain information concerning State Chief Medical Examiner Dr. Charles Harlan which was known by Ms. Roush and that could possibly affect the criminal prosecution of defendants accused of killing a child known as BABY MURPHY in Wilson County, Tennessee. At approximately 6:45 p.m., all participants were present and Roush was then asked by Henderson to provide DAG Thompson with said information.

Roush stated that she was presently earning a living working as a secretary, although she was an Emergency Medical Technician (EMT) and was studying to be a Paramedic. She said that she had developed a professional relationship with Harlan after witnessing an autopsy performed by him during an earlier part of her medical training. She stated that as a result of that relationship, she had worked as an assistant to Harlan in a number of autopsies, although she did so as an unpaid volunteer. Roush also said that although she did not assist on the BABY MURPHY autopsy, she had accompanied Stan Carney, Harlan's assistant, to Wilson County to remove the baby's body from the burial site and return it to Harlan's Nashville office. Roush said that she

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knew several things about the operation of Harlan's office and past practices that she felt needed to be known and investigated by officials.

Roush said that she had received a page from Harlan on the previous Sunday, May 21, 1995. She stated that when she contacted Harlan by telephone, he told her that Dr. Cleland Blake of Morristown, Tennessee, was scheduled to come to Nashville and perform a second autopsy on the body of BABY MURPHY. She said that Harlan seemed very upset that his autopsy was apparently being questioned and told her that he would make certain that all evidence, including pictures, organs and reports, would be missing and unavailable if Blake did attempt to obtain them in order to perform a second autopsy or review.

Roush also stated that on another occasion, Harlan had ruled on an autopsy she had assisted in, even though the spleen, kidney and other organs had been destroyed by a pet dog named Shadow which was kept at Harlan's office. According to Roush, the organs had been placed in a container and set on scales at floor level while the autopsy was being performed and the dog, which was permitted to roam around the office, came in unnoticed and ate them.

Roush also stated that she had witnessed Stan Carney, a long-term assistant to Harlan who is an EMT studying to be a paramedic, performing portions of Harlan's autopsies with Harlan's full knowledge and approval.

Henderson stated that he was representing a client in a civil lawsuit which involved an autopsy that was also performed by Harlan. He said that although he had obtained a court order requiring the Medical Examiner to turn over evidence related to the autopsy, Harlan would not comply. Henderson said that, after hearing Roush's story, he was concerned that Harlan either already had or possibly at some point would conceal or destroy the evidence in question. Henderson said that, if Roush's allegations pertaining to the withholding or concealing of evidence was true, he felt that Harlan was in violation of law. He provided DAG Thompson with a copy of the TCA referencing obstruction of justice. Henderson said that before he proceeded to follow up with any action in that civil case, he wanted to give DAG Thompson the benefit of hearing the information provided by Roush. He said it was his desire to possibly keep ongoing prosecution from being jeopardized, including those in the BABY MURPHY case.

DAG Thompson stated that he had spoken with Harlan by telephone on the previous Sunday, as well. He said that during the conversation Harlan told him that he would cooperate if Blake attempted to perform a second autopsy. DAG Thompson said, however,

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er, that he had understood Harlan to mean only that he would not provide any of his personal work product to Blake.

DAG Thompson then told Henderson that he would check into the matters discussed during the meeting, but that Henderson should continue ahead with any actions he felt necessary to best serve the interests of any of his clients. At that point, the meeting was concluded and this Agent accompanied DAG Thompson and ADAG Hibbett back to their Lebanon office.

RLC/jlw

cc: DAG Tommy Thompson

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AL. JVAE: [Signature]
DATE: [Signature]

TENNESSEE BUREAU OF INVESTIGATION

REPORTED: 08/02/95 RECEIVED: 08/03/95 TRANSCRIBED: 09/12/95

TO: TBI File 5A-760-NA
FROM: SA Roy L. Copeland
SUBJECT: Document - Order for Autopsy -
Chief Medical Examiner's Office
REFERENCE: Death Investigations
(S)ϕ W/F - [unclear]
(S)ϕ W/M - [unclear]
(V)ϕ "BABY MURPHY"
W/M -

On June 15, 1995, this Agent went to the Wilson County Sheriff's Department (WCSD) and obtained a copy of an official police document from WCSD Detective David Kennedy. The document, issued by DAG Tommy Thompson on May 15, 1995, is an order for autopsy of a white male, newborn baby herein referred to as BABY MURPHY. The order was carried out by Chief State Medical Examiner Dr. Charles Harlan on May 15, 1995, and witnessed by this Agent.

RLC/jlw

Attachment

cc: DAG Tommy Thompson

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COMMONWEALTH OF KENTUCKY
 JUSTICE CABINET
 LOUISVILLE, KY
 40204

SECTION OF FORENSIC PATHOLOGY
 AND CLINICAL FORENSIC MEDICINE

OFFICE OF THE
 CHIEF MEDICAL EXAMINER
 TELEPHONE: (502) 852-5507
 FACSIMILE: (502) 852-1787

September 29, 1995

URBAN GOVERNMENT CENTER
 810 BARNETT AVENUE

Special Agent Sgt. Jeff Puckett
 Tennessee Bureau of Investigation
 1148 Foster Avenue
 Nashville, Tennessee 37210

Re: Lichelle Phelps (ME-95-716)

Dear Sgt. Puckett:

This letter is written to you as the result of gross discrepancies between the results of the first post mortem examination and the second. The discrepancies include failure of diagnosis and incorrect assessment of manner of death.

Multiple rib fractures were identified to be present in the second examination. I have no idea how these fractures could have been missed, especially the large displaced fracture involving the posterior portion of the left seventh rib.

A second non-displaced linear skull fracture is readily identifiable. This injury, while somewhat subtle compared to the huge skull fracture involving the right parietal bone, is clearly observable and is an actual "real" traumatic disorder. This injury itself, present on the opposite side of the cranium from the first skull fracture, is indicative of inflicted rather than unintentioned injury. Clearly, the lack of its assessment leads to an incorrect conclusion concerning the manner of death.

If, as I have been informed, Dr. Harlan or his office has stated that the manner of death in this case is accidental as the result of a 25 day old infant falling off of a 24" couch onto a carpeted, padded floor, then I am appalled. If this were in any way true, then no infant would live through infancy. If this line of irrational thinking has been applied to other cases in the State of Tennessee, then God help you and the rest of the citizens of the State of Tennessee.

82B-49-CT-12

SEARCHED	INDEXED
SERIALIZED	FILED
OCT 12 1995	
TENNESSEE BUREAU OF INVESTIGATION	
cc: SA Puckett JAG Carney	

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CID - 234

APPROVAL: *[Signature]*

DATE: 10-12-95

TENNESSEE BUREAU OF INVESTIGATION

REPORTED: 10/11/95 RECEIVED: 10/12/95 TRANSCRIBED: 10/12/95

TO: TBI File 82B-49-CI

FROM: SA Jeff Puckett

SUBJECT: Investigative Assist - Meeting With Detective
RUBS Winkler and Detective Alan Charvis,
Clarksville Police Department - District Attorney
General's Office

REFERENCE: Public Officials - Misconduct - Intelligence

On numerous occasions in the months of August and September, 1995, Detective Russ Winkler, Detective Alan Charvis and myself met about various homicide investigations that we were involved in jointly. Specifically on June 17, 1995, I became involved in a death investigation of an infant by the name of

When Detective Charvis called me at my residence and advised that they would possibly need a polygraph examination run by the TBI. I in turn went to Clarksville Police Department on that date and assisted Detective Charvis and Winkler in the investigation of the Lichelle Phelps death. It was related to me by Detective Winkler on that date that the initial findings by x-rays of the victim from physicians at Blanchfield Hospital at Fort Campbell Army Base was that Phelps had a skull fracture. An autopsy was ordered and contact was made with Dr. Charles Harlan's office. During the course of the day, Detective Charvis and Winkler both had conversations with Dr. Charles Harlan's assistant Stan Carney. Carney related to Detective Winkler and Charvis that Dr. Harlan was umpiring baseball games on that date and that Carney himself would come up and perform the evisceration, collect the organs and let Dr. Harlan determine the cause of death at a later date. It was decided among Detective Charvis, Detective Winkler and myself that this should not be done and we recontacted Carney and advised him that we would wait for Dr. Harlan to perform the autopsy. Carney related to us that Dr. Harlan would not off the ball field until probably 9:15 that night and that the autopsy would have to be performed around 11:00 p.m.

Approximately eighteen hours after the child's death, Dr. Harlan arrived at Clarksville Memorial Hospital and did indeed perform the autopsy of

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It was initially reported to me by Detective Winkler and Charvis that Dr. Harlan and/or Stan Carney had told family members of that this would probably be classified as an accidental death. Indeed, the next mornings' newspaper related that the findings of the autopsy was probably an accidental fall as quoted by Dr. Harlan's assistant, Stan Carney.

On September 15, 1995, the final autopsy results were received from Dr. Charles Harlan's office and the diagnosis for cause of death was blunt trauma to the head with no mention of how this trauma possibly occurred.

Detective Winkler had by this time shown x-rays of to various radiologist and physicians and they felt like there were other possible fractures of the baby that had not been discovered by Dr. Harlan. These facts were brought to District Attorney General John Carney's attention and it was decided that body should be disinterred and a second autopsy performed by the Kentucky State Medical Examiner since Phelps had been buried in Henderson, Kentucky. On September 27, 1995, Detective Winkler and myself went to Henderson, Kentucky, where the body of was disinterred and a second autopsy was performed on her on September 28, 1995, by Dr. George Nichols, the Chief Medical Examiner for the Commonwealth of Kentucky. Dr. Nichols advised Detective Winkler and myself during the course of the autopsy that it was improbable that any competent medical examiner would have missed the various rib fractures, corner fractures of the humerus, and second skull fracture of the baby's skull. It was the opinion of Dr. Nichols that the death in this case was obvious child abuse and the injuries were diagnostic of intentional infliction. Dr. Nichols left no doubt in Detective Winkler's or my mind that this was a child abuse death and could not be attributed to any accidental fall.

Further, after arrest on October 4, 1995, and partial results of the Kentucky autopsy were made public, Dr. Charles Harlan was quoted in the Tennessean newspaper on October 5, 1995, that law enforcement agencies were responsible for providing x-rays to him or his office for examination and that he was not provided any x-rays of to examine prior to or at the autopsy. X-rays were taken of at Blanchfield Hospital on the Fort Campbell Military Base and those x-rays accompanied body to Clarksville Memorial Hospital. Detective Winkler advised that Dr. Harlan was indeed provided those x-rays and that Detective Winkler personally saw Dr. Charles Harlan look at x-rays during the autopsy. Detective Winkler also states that nurse HARRY SEAY of Clarksville Memorial Hospital also saw Dr. Harlan examine the x-rays of This

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