

Not all information listed here is included.

1. Incident Reports & Supplemental / Investigative Reports

h heubner

- 1.1. Incident Report – Deputy Schenck
- 1.2. Incident Report – Deputy Lukins
- 1.3. Supplemental Report – Deputy Lukins
- 1.4. Supplemental Report – Deputy Lukins
- 1.5. Supplemental Report – Deputy Smith
- 1.6. Supplemental Report – Deputy Smith
- 1.7. Interdepartmental Memo / Report – Deputy Lukins

1.8 INVESTIGATIVE REPORT – Cornelius

1.9 Weeks

2. Timothy Nolan Depositions

- 2.1. 09/05/99
- 2.2. 09/17/99

3. Robert Springstead Deposition - 09/05/99

4. Patrick Nolan Deposition – 09/17/99 (with diagram)

5. Scott Kehoe Deposition – 09/06/99

6. Matthew Smokowski Deposition – 09/13/99

7. Investigator Weeks Deposition – Re: Kim Leubner Interview – 09/08/99

8. Sergeant Charles Greenman Deposition - 09/22/99

9. Evidence Sheets and Laboratory Reports / Forms

- 9.1. Evidence Report – 09/04/99 (8mm tape)
- 9.2. Evidence Report – 09/04/99 (VHS copy of 8mm tape)
- 9.3. Evidence Report – (Fire Evidence) 5 pages
- 9.4. Lab submission form – lab items 1-13
- 9.5. Lab submission form – lab items 14-20
- 9.6. Lab submission form – lab items 21-23
- 9.7. Lab report – lab items 1-13
- 9.8. Lab report – lab items 14-19
- 9.9. Lab report – lab items 21-23
- 9.10. Property Receipt – 8 mm tape
- 9.11. Property Receipt – items from house requested by family
- 9.12. Property Receipt – Golf clubs

10. Diagrams

- 10.1. First floor diagram
- 10.2. Second floor diagram
- 10.3. First floor showing floor burn patterns
- 10.4. Second floor showing floor consumed by fire
- 10.5. First floor evidence sent to Lab
- 10.6. Second floor evidence sent to Lab
- 10.7. First floor evidence not sent to Lab

- 10.8. Second floor evidence not sent to Lab
- 10.9. Diagram #1 produced by D.Moone
- 10.10. Diagram #2 produced by D. Moone
- 10.11. Drawings with measurements taken at scene – 5 pages

11. Fire Investigation Reports

- 11.1. Owner / Interview Form – Robert E Lee Davis
- 11.2. Owner / Interview Form – Michelle Ann Davis
- 11.3. Permission to Search signed by Michelle A. Davis
- 11.4. JAMES RYAN, OFPC CAUSE AND ORIGIN REPORT

12. K-9 Search Report (3 pages)

- 13. Photo Logs (16 pages)
 - 13.1 - PHOTO INVENTORY
 - 13.2 - Cornelius Rolls C1-C7
 - 13.3 LUKINS 21
 - 13.4 Cornelius C-B-C-14
 - 13.5 McCloud - M1-M1

14. Crime Scene Logs

- 14.1. Log of Fire Investigation Team (3 pages)
- 14.2. Law Enforcement Log (8 pages)

15. Dispatch paperwork

- 15.1. Copy of punch card (2 pages)
- 15.2. Fire Control Radio Log (2 pages)
- 15.3. Sheriff's Radio Log (2 pages)

16. Notes

- 16.1. Inv Cornelius (4 pages, 1 card, 2 scrap)
- 16.2. Dep Lukins (4 pages)
- 16.3. Dep Schenck (3 pages, 1 card)
- 16.4. Sgt Outhouse (1 card)
- 16.5. Dep Benton (1 scrap [washed tools])
- 16.6. Inv Weeks (4 pages)
- 16.7. Chief Inv McCloud (1 page)

- 16.8 Weeks 4pg 3 card
- 16.90 Gould 1pg
- 16.99 Cornelius 3pg 3 cards

17. Press Releases and Media Coverage

- 17.1. Initial Press Release
- 17.2. Arrest Press Release
- 17.3. Citizen Article (09/05/99) (3 pages)
- 17.4. Citizen Article (09/23/99) (3 pages)
- 17.5. Citizen Obituary (09/07/99)
- 17.6. Post Standard Article (09/23/99) (1 page)
- 17.7. Citizen Article (09/24/99) (2 pages)
- 17.8. Citizen Article (09/24/99) (1 page)
- 17.9. Citizen Article (09/24/99) (1 page)
- 17.10. Post Standard Article (09/25/99) (2 articles, 3 pages)
- 17.11. Citizen Article (09/26/99) (1 page)
- 17.12. Post Standard Article (09/29/99) (1 page)

18. Polygraph

- 18.1. Fax info sent to Inv D'Aurizio to prepare for polygraph (2 pages)

18.2. Polygraph report from Inv D'Aurizio (1 page)

19. Filicide by Fire Article (2 pages)

20. Voice Stress Analyzer

20.1. Questions that the CVSA operator says that stress is indicated

21. Previous Incidents

21.1. Incident Report (07/23/99)

21.2. Incident Report (07/26/99)

22. Weather Reports

22.1. Chart with Wind Direction and Speed

22.2. Chart with Temperature and Barometer

22.3. Monthly Climatological Summary

22.4. Weather printout (09/03/99 thru 09/05/99) (3 pages)

23. Autism Information

23.1. Info from Internet (12 pages)

23.2 2pg from Autism Services CTR

24. Pedigree and Photos (2 pages)

25. Arrest Paperwork

25.1. Document Delivery Sheet

25.2. Information Complaint – Murder 2nd

25.3. Information Complaint – Murder 2nd

25.4. Information Complaint – Arson 2nd

25.5. Pre-trial Notice (09/22/99)

25.6. Arrest Report

25.7 Amended A/R

26. Confession (s)

26.1. Miranda Waiver (polygraph)

26.2. Written Statement of Michelle Davis (09/22/99) Canandaigua (6 pages)

26.3. Written Statement of Michelle Davis (09/22/99) Cayuga County PSB (1 page)

26.4. Miranda Waiver (09/21/99)

27. Child Protective Paperwork

27.1. Hotline Report – this incident

27.2. Previous CPS report paperwork (*12* pages)

27.3. Current CPS report paperwork (7 pages)

28. Family Court Paperwork

28.1. (03/20/96) (21 pages)

28.2. (04/12/96) (20 pages)

28.3 11/6/96 (13 pages)

29. Involved Person Directory (5 pages)

30. Miscellaneous Paperwork

- 30.1. Copy of required leads from DA (2 pages)
- 30.2. Neighbor list from 911 (1 page)
- 30.3. NYS PILR report – garage fire (1 page)
- 30.4. William Patrick Resume (2 pages)
- 30.5. Fire and Arson Investigation: The CIS Professionals – Jess Aronstein info (4 pages)
- 30.6. Request from Fleming 1 for audio tape of fire (1 page)
- 30.7. Search Warrant Info from ATF (4 pages)
- 30.8. NYSPIN teletypes, CCH requests, vehicle datas (6 pieces)

31. Discovery ORDER + Paperwork 10/29/99

32. Report on Smoke Detectors

33. Autopsy Report

34. [→] JOB INTERVIEW with Dick Miller
34. 31/1 NOTES + 34/ APPLICATION

Cayuga County Sheriff's Department
INVESTIGATION REPORT

Nature of Case		CID Number
Arson / Homicide – Victim: Daniel Leubner		99-318
Date of Report	Dates covered by Report	Complaint Number
10/25/99	09/04/99 thru 09/24/99	99-6878
INITIAL / SUPPLEMENTAL REPORT		

09/04/99 - I was called at home by Emergency Services Dispatcher Corbett at approximately 5:00 a.m. Corbett informed me that there was a structure fire on West Lake Road in the Town of Fleming. Corbett stated that there was a possibility that there was a person trapped in the fire. Corbett further stated that Deputy Lukins had requested that I be contacted and also that told me that Deputy Lukins had instructed Corbett to contact the Sheriff. When I hung up the phone with Corbett; I got dressed and proceeded to the fire scene.

After I called in service on the radio; I immediately called Chief Investigator McLoud and informed him that I was responding to the scene of a possible fatal fire. McLoud told me to proceed to the scene and call him back when I had more information. As I was arriving at the scene; I heard the Fire Department tell Fire Control that they had "one confirmed victim". I took this to mean that they had found the body of the person who was trapped. I called McLoud back and told him that there was one confirmed victim. McLoud questioned me as to whether the victim was injured or dead and I told him that I assumed from the context of the radio message, that the victim was dead. McLoud said that he would be getting ready to respond to the scene but he wanted me to confirm the victim's status and get back to him.

As I was exiting my vehicle, Deputy Lukins approached me and told me that the Fire Department had, in fact, found the body of a male on the second floor of the residence, lake side. Deputy Lukins told me that the fire department was planning to remove the body. I instructed Deputy Lukins to find someone in command of the fire operations and tell that person not to remove the body unless it was a last resort. I told him that this was a crime scene until proven otherwise and I needed to be able to see the body as it was found in the house. I called on the radio and told dispatch that there was one confirmed fatality and requested that McLoud be notified. Dispatch notified me shortly thereafter that McLoud would be enroute.

The Sheriff, UnderSheriff and Lieutenant were all responding to the scene. I met with all shortly after their arrival and briefed them as to the status of the incident.

The fire department was able to direct their suppression efforts in such a way as to allow for the protection of the room with the body in it. As soon as it was safe, I went onto the lake side porch roof and photographed the body as it was found. The body was located in a bed just to the left of the Southeast window. It appeared to be a male, wearing a T-shirt and shorts. The body was positioned on his back with his head at the foot of the bed (furthest from the window). The appearance of the body indicated that it was subjected to very high temperature but not much, if any flame. When I was finished with the initial photographs, I met with the Sheriff and both the Sheriff and I went to notify the parents of the victim. We first located Leroy Leubner, the victim – Daniel Leubner's father. We informed Mr. Leubner that his son

STATUS: Closed - Arrest - TOT DA

INVESTIGATING OFFICER: INV. [Signature] SHIELD: 4034

SUPERVISING OFFICER: Chief [Signature] SHIELD: 4096

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did not survive the fire. He was noticeably shaken and upset. A female who was later identified as Sheryl Parsons comforted him. Mr. Leubner was saying things like, "I want this looked into" and "This is not right." He didn't come right out and say it but it was obvious that he was trying to tell us that he felt there was foul play involved. *we stated SHE did it, it's the fourth claim fire*

The Sheriff and I were then directed to a small white house, closer to the road than the effected house, where we found Michelle Davis, the victim's mother. She was sitting on a couch with a couple of people around her. Mrs. Davis did not appear to have been injured and I did not notice any soot or burns on her face or extremities (I could see her arms and legs because she was wearing shorts and a sleeveless top). She had been crying. The Sheriff told her that Daniel had perished in the fire. She began to cry loudly and "dry heave". One of the people around her started to yell for a bucket. After a few seconds someone arrived with a bucket, the Sheriff and I expressed our sympathy and then left the house. As we were leaving, a medic from Rural Metro was entering the house to check out the condition of Mrs. Davis.

I was notified by the fired department that the structural integrity of the area under the room with the body had become compromised. The fire department felt that there was a chance that the structure would collapse and asked if the body should now be removed. I agreed to the removal of the body and arranged for the removal to be photographed by myself. As the body was being prepared for removal, I noticed a protected area on the victim's right arm as a small pillow was removed from that area. Another larger protected area was noted on the back side of the body as the body was rolled over. The body was removed at 0615 hours.

Once the body was removed, Doctor Ross was contacted and was responding to the scene. I instructed Deputy Lukins to post himself with the body and deny access to anyone until Dr. Ross arrived.

Dr. Ross arrived and inspected the body. Key Livery was notified at Dr. Ross's request and responded to remove the body from the scene. Dr. Ross informed me that the autopsy would be conducted at 0930 hours. She inquired as to whether or not anyone from our office would be present at the autopsy. I told Dr. Ross's assistant, Mimi Rogers, that if we were not there promptly at 0930 hours, we would not be observing. The body was removed from the scene at 0702 hours.

After the body was removed, Deputy Lukins was sent to identify a spectator who was behind the house near the lake. Deputy Schenck was assigned to go and identify the neighbors. I told Deputy Schenck to go about two house out from the effected house and to map out who the neighbors were and simply ask them how they found out about the fire and determine what, if any, information they had.

Deputy Schenck provided me with the names and a "layout" of the neighbors and stated that nobody that he had spoke to offered any information that we did not already have. I told Deputy Schenck to put all the information into a report.

Deputy Lukins reported back to me that a man who was staying at a camp on the North side of the Davis residence had taken videotape of the fire. Deputy Lukins brought me to the man, Russell Netti of West Palm Beach, Florida. Mr. Netti informed me that he was staying at Kary Johnson's camp and that he had been woke by the sound of a woman screaming. He went outside and found the house next door on fire. He then went back in house and got his video camera and started taping. I told Mr. Netti that due to the severity of the incident, I would like him to turn his videotape over to me. Mr. Netti asked if he could just make a copy of the fire portion of the tape and get it to me later. I told him that I would rather

STATUS: Closed - Arrest - TOT DA

INVESTIGATING OFFICER: JNV [Signature] SHEILD: 4034

SUPERVISING OFFICER: [Signature] SHEILD: _____

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take the tape and make him a copy of the non-fire portion. Mr. Netti reluctantly agreed. I instructed Deputy Lukins to take the tape and to give Mr. Netti a property receipt for it. I told Deputy Lukins that as soon as he had possession of the tape he was to take it to the PSB and lock it in an evidence locker.

When I returned to the immediate location of the fire scene, I spoke to McLoud about how we were going to organize the Fire Investigation. During this conversation, it was decided that we would contact some more Fire Investigators from the department. I was going to call Deputies Lupo and Smith when I was informed by Lieutenant Lamphere that Deputy Lupo was out of town. I called dispatch and instructed the dispatcher to contact Smith and have him respond to the scene.

Once all suppression efforts were completed, McLoud and I organized the Fire Investigators that were on scene, Joe Morabito, Chris Morabito, Joe Bell, Mike Bower, Denis Cuff, Steve Smith, Paul Benton. Assignments were given including photography that was assigned to Joe Bell and I. I was initially assisted by Paul Benton then by Steve Smith after Benton had to leave. Two members of the New York State Office of Fire Prevention and Control, Dale Moone and James Ryan also assisted the investigation. Moone also arrived with his K-9 partner, Alex.


While we were conducting the fire investigation, I was approached by the Sheriff who asked me to return the videotape that was secured from Mr. Netti. I consulted Chief Investigator McLoud and after several conversations with the Sheriff, it was determined that we would retrieve the tape and make a copy at the scene. The original tape would be returned to Mr. Netti and a copy of the fire portion of the tape would be placed in evidence. I called Deputy Stephens to the fire scene. I gave him instructions as to how and what to get from evidence. Deputy Stephens went to the PSB and obtained the videotape. I also arraigned for Fleming Assistant Fire Chief Aswad to bring a TV/VCR combination to the scene to facilitate the dubbing of the tape. When the equipment and the original tape were both at the scene, two tapes were made of the fire. One tape went immediately into an evidence bag and the other was kept out to be treated as a "work copy".


The fire investigation continued, including the use of the State K-9 and the subsequent collection of several items of evidence. It was decided that the evidence would only be collected by police officers and Deputy Smith was designated as the primary person assigned to collect evidence. I assisted Deputy Smith in the evidence collection and the documentation of the evidence through photographs.

During the investigation, it became clear that we would have to maintain the integrity of the crime scene at least until the first samples came back from the lab. I had a conversation about this with Chief Investigator McLoud who in turn spoke with the UnderSheriff who authorized us to maintain a deputy at the scene as long as needed.

Deputy Gallow was assigned to "guard" the scene and I had a conversation with Gallow regarding his duties. I instructed Gallow that nobody was to enter inside the area marked with crime scene tape without the authorization of McLoud or myself. I also told Gallow that a log was to be maintained that included the names and phone numbers of any person stopping at the scene, the time they got there and the time they left. I told Gallow that anyone coming into the driveway, with the exception of on-duty personnel doing routine checks of the guards status was to appear on the log.

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All investigative personnel cleared the scene at 2025 hrs and I returned to the PSB with Deputy Smith to take care of the evidence. I unlocked the temporary evidence storage room inside the CID office and all evidence was placed in that room. The room was locked and sealed.

I contacted Lieutenant Lincoln of the New York State Police and inquired when the soonest possible time that we could get the evidence samples analyzed would be. Lincoln stated that he would check with the Lab Director and find out what the provisions for weekends / holidays would be. Lincoln later called back (09/05/99 0900 hrs) and told me that the lab would run our samples first if we were able to get the samples to the Olean Lab by Tuesday Morning at 0830 hours. I told Lincoln that they would be there and made arrangements with Investigator Gray to get the samples delivered.

I then contacted Sgt Langler and made arrangements to have a patrol posted at the fire scene until further notice.

09/05/99 – I arrived at the PSB at 1100hrs. I met at the PSB with Deputy Smith. I instructed Deputy Smith to return to the area of the fire and attempt to re-interview the neighbors and also to find the first fireman on scene and other important fire department interviews. I told Deputy Smith to get written statements from any person with any information.

At 1130 hours, Robert Davis came to the PSB for interview. I conducted the interview in my office and asked questions contained on the Fire Investigation – Owner/Tenant Interview Form. During the interview Davis told me that the only flammable liquid that may have been in the house was charcoal lighter that they used to start bon-fires. He said that it would have been in the utility room off the kitchen. Davis also told me that he felt the fire was electrical because he was familiar with fire and he noticed a lot of damage around the electrical service. Davis was very cooperative and the interview was completed at approximately 1300 hours.

I met back up with Deputy Smith at approximately 1530. I reviewed the statements that had been taken to this point and after developing a list of persons who still needed to be interviewed; Smith was released to go off duty.

During the day, Deputy Lukins who was working at the crime scene contacted me. Both Michelle Davis and Leroy Leubner had come to the scene and were asking to have access to the garage to obtain access to some photographs salvaged from the fire. They said that Daniel was to be cremated and they were looking for pictures to display at his funeral. Deputy Lukins denied Davis and Leubner access and contacted me. I contacted Chief Investigator McLoud at his residence; we discussed this and decided to allow the pictures to be released. I called Deputy Lukins and told him that he could allow access to the garage but he was to document every item removed from the scene with photographs.

Deputy Lukins contacted me again later in the day stating that he had had a problem with Robert Davis. Robert Davis had been walking around the crime scene, outside the tape, when he came to the corner and lifted the tape up and went under it. Deputy Lukins confronted Davis, who told him that he just liked to cut corners. Lukins told me that he then ordered Davis out of the area. Davis responded by saying, "Why, what are you going to do, Arrest me?" Lukins said something to the effect of 'I hope it

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doesn't come to that.' I told Lukins that I would contact Davis and explain our position on the integrity of the fire scene and Investigation.

I contacted Davis by phone and asked him if he had some kind of problem at the scene. Davis stated that he had just kind of cut the corner and he didn't see a problem with that. I explained to Davis that we were trying to be sensitive to his loss but that we would not breach our duties for anyone. I told Davis that I was going to overlook the earlier incident but that further problems would be dealt with more severely. Davis apologized for his earlier conduct and assured me that it would not happen again.

09/06/99 - I received a request from Mark Aswad for a copy of the videotape of the fire and also a copy of the taped radio transmissions of the incident. Aswad stated that the tapes would be helpful in the fire department's critique of the incident. I conferred with McLoud and then made the copies to be turned over to Aswad.

At approximately 3:30 P.M. I interviewed Scott Kehoe in my office at the Public Safety Building. Kehoe is an assistant Chief with the Fleming Fire Department and was one of the first firemen on scene. Kehoe is also the fireman who attempted to rescue Daniel Leubner trying to get into the bedroom window. Kehoe stated that the heat was too intense for him to gain entry in the window. The fire equipment that he was wearing at the time, Air Pack Mask and Helmet, were damaged as a result of the intense heat. I later secured the equipment as evidence. A written statement was taken from Kehoe.

09/07/99 - Early this morning, I briefed Chief Investigator McLoud on the status of the investigation. During this meeting, we were informed a representative from the insurance company, Bowman, was at the scene requesting access to house so that he could start his investigation. Bowman was allowed access to the scene after permission was obtained from the Sheriff. Deputy Nedza accompanied him into the scene.

Later in the day, Leroy Leubner arrived at the PSB and both McLoud and I interviewed him in Steve's office. Leubner was inquiring about the status of the investigation and told us that the funeral would be on the ninth. Leubner was requesting that someone go into the fire scene and retrieve some of Daniel's toys. Leubner wanted the toys for use at Daniel's funeral. Leubner also wanted us to try and find a photo album in the dining room area and a little yellow stuffed animal (Pokemon) that Kimberly had slept with on the night of the fire. We told Leubner that we would do our best to retrieve the items that he requested. Leubner was very inquisitive about the investigation and offered us any assistance that he could provide

SHE NEVER ASKED FOR ANYTHING

09/08/99 - I had previously had conversations with McLoud about the possibility of us bringing in a professional electrician to inspect the fire scene. He subsequently had checked with The DA. I had also questioned Mark Aswad about who he would recommend. Aswad does fire investigations in the

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INVESTIGATING OFFICER: *JNV [Signature]* SHIELD: 4034

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"private sector". Aswad recommended Dr. Jess Aronstein. I got the phone number from a Web site provided to me by Aswad and called and left a message for Aronstein him to call me back.

I received a phone call from Leroy Leubner who called to ask again about the toys and pictures that he requested from the house. I told Leubner that we were still discussing the idea of getting the items from the house. I requested that we be allowed to interview Kimberly Leubner, who had been staying with Leroy since the fire. Leroy said that he had absolutely no problem with bringing Kimberly in but it would have to be after school. Leubner also told me that he thought I should know that Kimberly had told him that 'mommy was wanting to buy a house on Lake Ave.'. He said that she was very specific about her memory of this.

McCloud arranged with Michelle Davis's friend Sue Gatto to bring Michelle in for an interview. It was decided that I would go to the fire scene and retrieve the items requested by Leroy Leubner and when I came back to the PSB, I would give the items to Investigator Weeks who would take them to Leubner's house and then interview Kimberly. I would then interview Sue Gatto while Steve spoke with Michelle. It was also decided that we would set up the recording device in McCloud's office to allow for us to audio tape the interview.

I went to the fire scene and retrieved the items. I documented this through photographs. When I returned to the PSB, I turned the items over to Investigator Weeks. Gatto and Davis were already waiting at the PSB. McCloud and I brought both Gatto and Davis in from the lobby. We explained to them that the process would go faster if we could interview them separately. They agreed and I took Gatto into the "Juvenile Interview Room" while McCloud took Michelle Davis into his office.

During the interview with Sue, she told me that she and Michelle had been friends for about nine years. They met at work, United Health Care. Sue was "odd" in that she seemed to put herself into Michelle's situation. She would say "I" or "we" or "us" when it seemed that it should be "she" or "her". Sue told me that people in Michelle's neighborhood had been very kind and generous. Sue stated that Michelle was handling things as well as expected. I then asked Sue if she knew the inside of Michelle's house very well and she stated that she did. I asked if she knew if Michelle had smoke detectors and Sue then stated that she and Michelle had just bought new smoke detector batteries this past summer. Sue stated that when She and Michelle lost their jobs, she took Michelle out to buy the batteries. Sue told me that on the day of the fire (Friday), she had taken Michelle and Kimberly shopping for school clothes. She said that Robert had watched Danny during the day and they had returned by 6:00 PM. She said that between the time she parted company with Michelle and when she got a call informing her of the fire; she spoke to Michelle once on the phone. The phone conversation was short and she didn't remember what they had talked about other than to say that Michelle had said that she had been doing laundry. After the interview was completed, I had Sue wait back out in the lobby for Michelle. I then went into my office where I could listen to the last of McCloud's interview with Michelle.

As I was listening, Michelle stated that she had gone into the house after being waked by Kimberly coughing. Michelle stated that she went to the stairs and tried to get up them but they were gone. I felt that this was extremely unlikely due to what I had seen inside the house during the fire investigation. I listened to the rest of the interview and met with McCloud after to "compare notes".

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SUPERVISING OFFICER: [Signature] SHIELD: _____

as late
numbers?
batteries

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Investigator Gray had said that he knew a police officer in Livingston County that was certified in Computer Voice Stress Analyzer (CVSA) and that this police officer had offered his assistance in anything that we needed. Investigator Gray contacted this officer and he stated that he was willing to run the taped interview through the CVSA. Investigator Gray made arrangements to transport the original tape(s) to Livingston County the next day. We also faxed a copy of the Owner/Tenant Interview Form to him to review prior to receiving the tape.

Investigator Weeks returned from his interview of Kimberly and gave McLoud and I a synopsis of how that had gone. (SEE DEPOSITION OF INVESTIGATOR WEEKS)

09/09/99 - I worked at the scene along with McLoud and the investigators for the Insurance Company (Dennis Ware, Bob Ware Sr., and Bill Patrick). We started work at 0900 hrs and worked at the scene until 1700 hrs. The majority of the scene work this day consisted of the removal of the fire debris from the first floor.

I also secured more evidence, again documenting the collection with photographs. I took videotape of the scene on this date, documenting first the outside of the residence then the inside.

While we were at the scene, McLoud called the SP Lab to get a verbal report on the first samples that were sent. The verbal report from the lab indicated the presence of a Heavy Petroleum Distillate in two of the sample taken from the first floor room with the electrical panel in it. The lab also said that examples of a heavy petroleum distillate would be Diesel Fuel, Kerosene and some Charcoal Lighters.

09/10/99 - The insurance company's investigators along with McLoud and I returned to the scene at 0830 hrs and worked there again until 1730 hrs. We continued to reconstruct the scene, placing the remnants of furniture and other items where they would have been prior to the fire. We cleaned off the floors with shovels, both upstairs and down.

At lunchtime, all the persons working at the scene were outside in the driveway when Michelle Davis drove in with Sue Gatto. Leroy Leubner drove in at about the same time. There soon was a verbal confrontation between Michelle and Leroy. Michelle was yelling loudly at Leroy saying things like, "You didn't care enough when he was alive so don't try to care now that he is dead." Leroy was quite calm during the exchange, only stating that he didn't want Michelle scattering Daniel's ashes without him. Michelle continued to yell and at one point stated, "Maybe if you had helped more, this wouldn't have happened."

Michelle told Leroy that she didn't want him around her and that he was to stay off her property. Michelle then stated that if Leroy wanted to scatter Daniel's ashes that he could scatter "his half." She then turned to Sue Gatto and said, "Take Dan and have them split him in half." Leroy was saying that he didn't want that but Michelle kept saying that she would have Dan split up. I intervened at this point, trying to calm both parties. I told Leroy that if Michelle didn't want him on her property that he would have to stay off her property. He stated that he would get permission from the neighbors to be on their property. Michelle then came over to me carrying a small cardboard box. Michelle looked past me

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INVESTIGATING OFFICER:

TIN JEDN & E. G.

SHEILD:

4034

SUPERVISING OFFICER:

JM

SHEILD:

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toward Leroy and stated, "You can have all the ashes, I will bury what I have of my son." She then handed the box to me and said, "Be careful with him." I handed the box to Leroy and he Thanked Michelle, got in his car and left.

I continued with the fire investigation throughout the afternoon, taking pictures of the windows and window frames to document (or attempt to document) the position of the windows prior to the fire. We had Fleming Fire Department return to the scene with a Pumper Truck to facilitate us being able to wash down the floor on the lower level. I also secured Scott Kehoe's mask and helmet and some other evidence prior to leaving the scene.

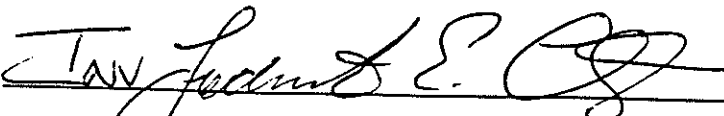
09/13/99 - I met with Fireman and Rural Metro Critical Care Technician, Matt Smokowski at the PSB. I questioned him as to what he saw when he arrived on the scene of the fire. He told me that he arrived just behind the first truck and that he had went to the back (lakeside) porch roof to see if he could make a rescue on the person trapped. Smokowski told me that when he got onto the roof, the heat he could feel and the smoke that he could see through the upstairs window were obviously too much for him to make any attempt without fire gear. He directed the responding firefighters to the roof and watched as they made the failed attempt at the rescue. Smokowski also described to me the examination that he had done on Michelle Davis. He said that it was brief but he made several observations that led him to believe that Michelle Davis had not been inside the house. He said that he had thought that she had returned home from somewhere to find the fire. He had treated several fire victims during his career and she showed no sign of being inside a burning building. I took a written statement from Smokowski.

Investigator Gray and I went to the Fire scene to collect more evidence. Our purpose was to collect samples from the gas containers in the garage as well as anything that was inside the portable heaters found inside the house. I collected the samples while Investigator Gray documented the collection with photographs. We drilled into the heaters and were able to obtain an oil sample from the heater that was located in Daniel's bedroom. We then used a reciprocating saw to cut apart one of the other heaters. I was unable to obtain a sample or swab from inside the other heater. When I left the scene I took the samples along with the heaters and pieces of heaters. I returned to the PSB and prepared a Lab submission form for the items that I had taken this day. I intended to submit the fluid samples along with a piece of the one heater that we had cut apart. My intention was to send the piece of the heater just in case there was something that the Lab could do to obtain a sample from that heater. Investigator Gray was to deliver the samples to the NYSP Lab in Olean on the morning of the 14th.

Mark Aswad came to the PSB and turned a diagram over to me of the first floor of the residence. He had been working on the diagram using a computer program that I provided him (3-d Eyewitness).

09/14/99 - I met with Chief Investigator McLoud and Dr. Jess Aronstien at the fire scene. McLoud and I assisted Aronstien with whatever he needed for the rest of the day, answering questions and providing equipment. Aronstien completed what he was doing early in the afternoon. Prior to

STATUS: Closed - Arrest - TOT DA

INVESTIGATING OFFICER:  SHIELD: 4034

SUPERVISING OFFICER:  SHIELD: _____

Cayuga County Sheriff's Department
INVESTIGATION REPORT

leaving the scene, he stated that he had not seen anything at the scene that would indicate an electrical cause but due to the damage in parts of the structure it would be impossible to completely rule it out.

After Aronstien left the scene, several more items of evidence were secured, including some wiring, the ceiling fans and the sole of a shoe found outside the dining room window. Photographs were taken and all persons left the scene.

09/15/99 - I met with McLoud at the scene at around 1330 hours. We worked at the scene collecting more evidence and taking more videotape and photographs. We also collected the last items of evidence this day. The decision was made to release the scene when we were done on this afternoon / evening. The deputy who was the "guard" was released at 1600 hours but investigative personnel remained at the scene until around 1800 hours.

Fleming Fire Department was called to the scene to retrieve the jacks that they had put up to shore up the structure for the investigation. They responded and used a winch to remove the jacks from the structure.

I spoke with Robert Davis at the scene and informed him that we would be leaving and the scene would be unguarded. I told Mr. Davis that it would probably be in his / Michelle's best interest to board up the residence so nobody could just wander into the house and get injured. I informed Mr. Davis that the braces that were in the house had been removed and we did not feel that it was safe to be in there. Mr. Davis started putting boards on the windows as we were leaving.

09/16/99 - The NYSP lab gave McLoud a verbal report stating that the oil sample that we obtained from the heater and submitted for analysis was not the same as the Heavy Petroleum Distillate found in the previous samples (#2 & #8).

09/17/99 - Investigator Weeks and I went to Nolan's Sporting goods where I interviewed both Pat and Tim Nolan. I first interviewed Pat and he gave me a written statement clarifying some of the information that he had given earlier. He told me that he had not broken the upstairs window and didn't remember hearing glass break. He said that the window must have been partially open when he went onto the roof to assist Michelle. He said that he tried to get in the window but the heat and smoke kept him from making it. He said that he thought he got his foot inside the window. This seems unlikely due to the fact that we have information from the firefighters that they broke the window and at that point, there was no significant smoke escaping the window.

I then interviewed Tim and took a written statement from him about his efforts to control the fire by spraying a garden hose in the dining room window. I showed Tim a diagram of the first floor and Tim indicated on the diagram where he saw fire coming up from the floor. The place that he identifies is close to the bottom of the stairs leading to the second floor. I had Tim sign the diagram.

STATUS: Closed - Arrest - TOT DA

INVESTIGATING OFFICER: T. N. Weeks SHEILD: 4034

SUPERVISING OFFICER: JM SHEILD: _____



09/21/99 – McLoud made arrangements for Michelle Davis to come to the PSB for another interview at 1600 hours. Prior to her arrival I assisted McLoud in placing the recording device in his office and testing it to make sure that it was operating properly. Originally, McLoud was going to go and pick up Michelle where she was staying but he was unable to locate her. Through a number of phone calls, I was able to find out through Robert Davis that Michelle was shopping and had her cell phone on. I gave McLoud the cell number and he made contact arranging the interview.

Michelle arrived promptly at 1600 hours and McLoud brought her to his office. Investigator Weeks and I went to my office where the receiver was set up to monitor the interview. During the interview, I would periodically page McLoud with questions that Weeks or I wanted him to ask. Michelle waived her miranda rights and the interview went on for about four (4) hours. Michelle was offered opportunities to go to the bathroom and have coffee or soda and declined all these offers.

During this interview Michelle did not seem to get as upset as I would expect person being accused of this crime(s) to get. When she did get upset, she calmed down very quickly. Michelle contradicted her original story toward the end of the interview when McLoud told her that it would have been impossible for her to get to the stairs. Michelle said, Well maybe I didn't get that far. Michelle kept mentioning that Dan was a difficult boy and had been beating her over the summer. She dwelled quite a lot on Daniel's bad points. She mentioned several times that she was current on her mortgage and repeatedly asked, Why would I damage my house?

Toward the end of the interview, McLoud asked Michelle if she would be willing to take a polygraph examination. Michelle said that she had been through too much to make that decision, indicated that she did not feel well and wanted to go home. She then stated that maybe she should get an attorney. McLoud asked if there was an attorney that she would like to call and she said no. McLoud offered Michelle a ride home and Michelle said that she would be fine to drive. Michelle indicated that she would call back and let us know about the polygraph. She then left.

Investigator Weeks and I then went to Starlight Lanes where we made contact with Sue Gatto. Our purpose was to interview Gatto and find out if Michelle had made any incriminating statements to her before or after the fire. Sue rode with Investigator Weeks and I from Starlight lanes to the PSB. She asked us if Michelle was still there at the PSB and we told her Yes. She asked us if Michelle needed and attorney. I then told Sue that if Michelle wanted an attorney, it would be Michelle decision. As we were pulling out of the parking lot at Starlight, Sue asked if Michelle was in a cell.

STATUS: Closed - Arrest - TOT DA

INVESTIGATING OFFICER: TNU [Signature] SHEILD: 4034

SUPERVISING OFFICER: [Signature] SHEILD: _____

We arrived at the PSB and we all went to my office. McLoud had contacted me on my cell phone and told me that Robert Davis had arrived and that he was in McLoud's office. I told Sue that Michelle had told us some things about the fire and that we needed to know whether Sue knew Michelle set the fire. I told Sue that we needed to know when she found out. Sue denied having any knowledge of the fire's origin. She said that she couldn't believe that Michelle had set the fire. Investigator Weeks and I talked with Sue for an hour or so, she denied knowledge of the fire's origin the whole time. Deputy Vanditto gave Sue a ride back to Starlight. Prior to leaving she reiterated that she could not believe that Michelle would do such a thing as set this fire.

After Sue had left, Investigator Weeks and I spoke with McLoud and he stated that Michelle was going to take the Polygraph. He said that it was all set up for the next morning at 8:30 Am with BCI D'Aurizio in Canandaigua. I was to meet with McLoud the next morning at the PSB and Robert and Michelle Davis would follow us in their car.

09/22/99 - I met with McLoud at the PSB at 0730 hrs. I prepared a brief synopsis of the case and faxed it Investigator D'Aurizio. We then left to go to the Polygraph exam. We traveled in Investigator McLoud's vehicle and the Davis' followed in Robert's car. Investigator McLoud and I listened to the Audio tapes (some of them) from the previous day's interview during the ride.

When we arrived at Troop E Headquarters, we left Robert and Michelle in the waiting area while we went back and met with D'Aurizio. Shortly after we arrived we were joined by Investigator Weeks. Investigators Weeks, McLoud and I went into an observation room where we could observe the polygraph through a mirror. We all observed the entire exam including the filling out of all the paperwork prior to the actual exam. This paperwork included the Miranda waiver. Investigator D'Aurizio advised the Miranda rights in the standard polygraph procedure which consists of asking the person questions about what their rights are and having the person answer. Michelle indicated that she knew what her rights were and that she wanted to take the polygraph. During the initial phases of the exam Michelle seemed quite nervous and asked several times whether the machine would be able to tell the difference between her nervousness and lying. Investigator D'Aurizio assured her that the polygraph would work just fine. Even after the question was answered, Michelle continued to ask.

After the exam was over, Investigators Weeks, McLoud and I spoke with D'Aurizio who stated that he felt Michelle was not being truthful on the crime questions. Investigator D'Aurizio then returned to the polygraph room and the rest of us returned to the observation room. Investigator D'Aurizio told Michelle that she didn't do well on the exam. Michelle asked him which questions she had not done well on and D'Aurizio told her - all of the ones having to do with the death of her son and the setting of the fire. Investigator D'Aurizio then started to ask Michelle some questions about the origin of the fire. Michelle kept saying thing like "why would I burn my house? I am not behind on my mortgage." She also said, "I have been dealing with Danny every day for 13 years, why would I do this now instead of when he was four or five." *She expressed this in one way or another on several occasions throughout both this and the previous interview.

STATUS: Closed - Arrest - TOT DA

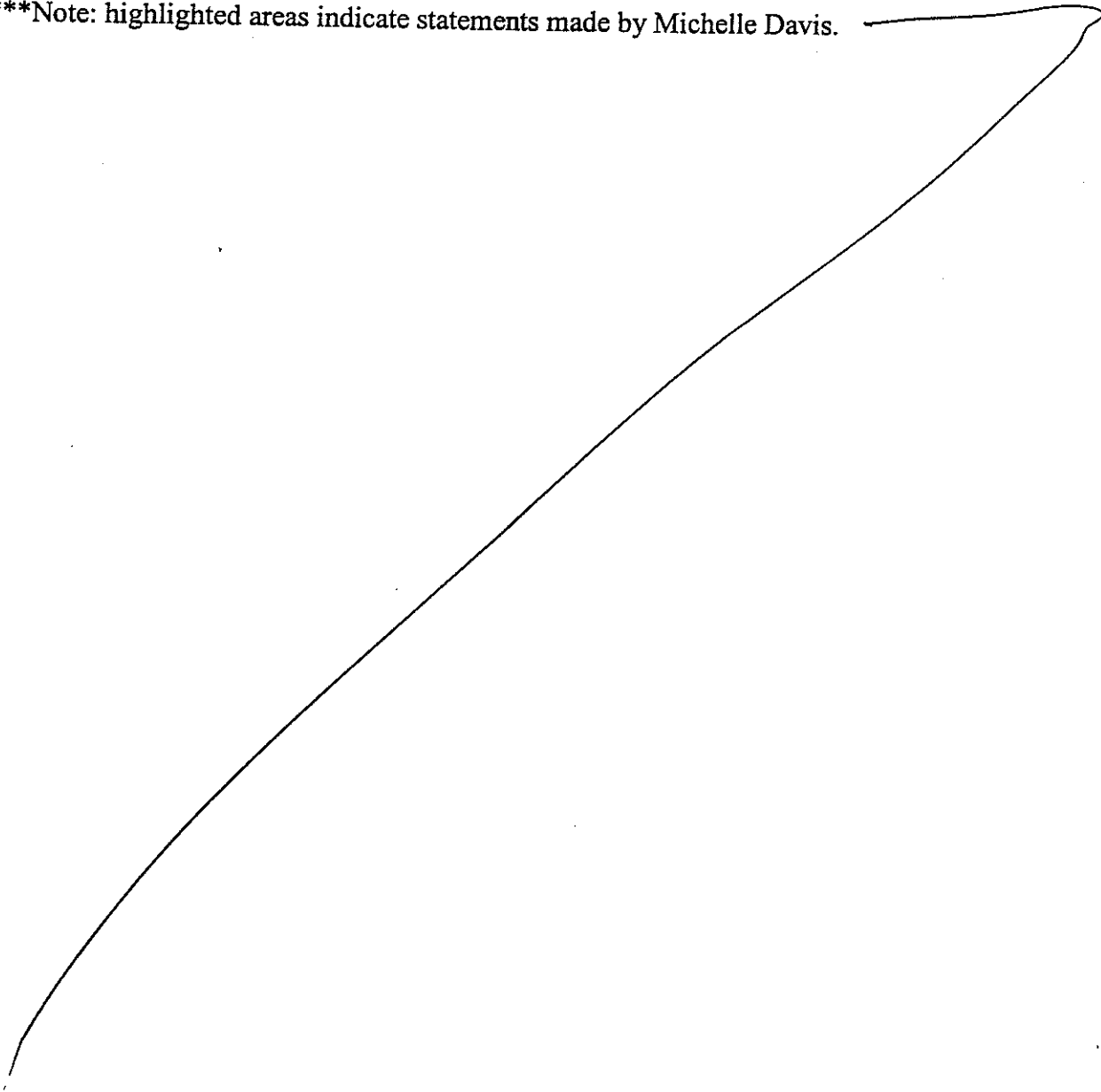
INVESTIGATING OFFICER: INV [Signature] SHIELD: 4034

SUPERVISING OFFICER: Chief [Signature] SHIELD: 4096

We left Canandaigua and proceeded back to the PSB. Michelle road with Investigator Weeks and I in Weeks' car. We stopped at McDonalds to get something to eat. We offered Michelle something but she declined. She did eventually accept a soda. Michelle said nothing on the trip back to the PSB.

CASE TOT DISTRICT ATTORNEY FOR PROSECUTION

*****Note: highlighted areas indicate statements made by Michelle Davis.



STATUS: Closed - Arrest - TOT DA

INVESTIGATING OFFICER: [Signature] SHEILD: 4034

SUPERVISING OFFICER: [Signature] SHEILD: 4096

Cayuga County Sheriff's Department
 INVESTIGATION REPORT

Nature of Case		CID Number
Arson/Homicide Suspect/ Michelle A. Davis, DOB 02-26-63		99-318
Date of Report	Dates covered by Report	Complaint Number
10-15-99	09/04/99 thru 09/16/99	99-6878

**INITIAL / SUPPLEMENTAL
REPORT**

At about 0510hrs Writer received a call from Inv. Cornelius who indicated he was enroute to house fire on West Lake Rd. in the Town of Fleming, near the Fleming #1 Firehouse. He stated that it was reported as possible people trapped. I advised Inv. Cornelius to continue into the scene to keep me informed as to the status of injuries. Shortly thereafter I was advised by dispatch that there was a confirmed fatality at which time I responded to the scene at 0557hrs. Upon arrival at the scene at 0620hrs I met with Sheriff Pinckney and Inv. Cornelius and was briefed of the incident at that point. Upon learning that the body of the victim, Daniel Leubner, had been removed to the back yard and was awaiting the arrival of Dr. Ross, County Coroner, I started my initial exam of the fire scene. As fire suppression was still in progress I conducted my initial investigation of the fire by walking around the exterior of the involved structure. As I started from the Northwest corner of the structure and walked east I noticed that the North side of the exterior did show evidence of fire and smoke damage. The center section of the roof had been consumed by fire, showing a gapping hole in the structure in that area. (See Cornelius Photo's # 2-5), as well as videotape. As I continued around the structure to East Side and saw evidence of smoke and heat damage, see Cornelius photo # 2-6, and video. Around the south side I noticed fire, heat, and smoke damage, see Cornelius photo to # 2-7,8, around to the west side of the structure I noticed again fire, heat, and smoke damage,(See Cornelius photo #2-2) Upon completing my exterior, exam and with fire suppression still active I started to organize the Fire Investigation Team, and the members of the Sheriff's Dept. As a result of the fatality the New York State Office of Fire Protection and Control, had been contacted and they had Investigators Moon, and Ryan enroute to the scene.

The Fire Suppression Crews indicated that the integrity of the structure was in question and they had requested equipment to be able to shore up the structure to prevent collapse. Once the structure was rendered safe the Cause and Origin investigation was commenced.

Members of the Fire Investigation team were assigned tasks, sketching, measuring, debris removal, reconstruction, and photography. Inv. Moon and Ryan arrived on scene, were briefed and they joined the cause and origin investigation.

Fire Department: Fleming #1, Incident Commander: Mark Aswad, Assistant Chief Fleming#2 Fire Dept.

Location of Loss: 6012 West Lake Rd. T/Fleming, Davis/Leubner property.

STATUS: Closed/Arrest

INVESTIGATING OFFICER: Chief Inv. J.B. M. Sand SHEILD: 4096

SUPERVISING OFFICER: _____ SHIELD: _____

Cayuga County Sheriff's Department
INVESTIGATION REPORT

Time of Loss: 04:39

Owners of Property: Michelle A. Davis, Michael & Ellen Janero

Occupants: Daniel M. Leubner, DOB 06-04-86, Deceased

Kimberly L. Leubner, DOB 12-31-89

Michelle A. Davis, DOB 02-26-63

Melissa M. Leubner, DOB 12-20-83, (not at home at the time of the fire's occurrence as she was out of town for night with the Susan Heisler.)

Incident Details: Michelle Davis states that she was asleep on the lakeside porch with her daughter Kimberly, age 9, She stated she was awakened by Kim coughing, and that she asked her daughter if she wanted a drink of water. Davis states at that time she noticed it was "Foggy" inside. Davis stated she realized it was smoke not fog and she sent Kim to the Nolan residence to call the Fire Dept. Davis states she then went into the house off the lake side porch over to the stairway in an attempt to get upstairs. She was unable to get upstairs and then went outside and got up onto the lakeside porch roof in an attempt to rescue her son. Tim Nolan, a neighbor, got up on the roof with Davis but they are unable to gain entry do to the heavy smoke and heat. The Fire Dept. arrives and Firefighter Kehoe & Springstead attempt entry to the southeast upstairs window. The fire is so intense that as Kehoe attempts entry through the window he is hit by extreme heat and smoke, and is driven back. See statements of Tim Nolan, Kehoe and Springstead.

First Firefighter to arrive: Fleming Engine #1, Rod Taylor and Rob Springstead

Structure Information: The structure is a two-story wood frame single family home. The structure sits partially on a crawl space, with a dirt floor. The roof system is a hip type wood truss, with plywood and asphalt shingles. There were two skylights located on the south side of the roof over the upstairs sitting area. The second floor consisted of two bedrooms on the Eastside, the sitting room on the south side, two more bedrooms on the Westside and a hallway with closets along the north side. See second floor diagram, photos, and video.

The first floor as entered from the Eastside porch consisted of the enclosed attached porch on the Eastside of the structure. It appeared the porch was being used for sleeping, as there was a hide a bed, TV, stereo, and video games in that area. Entering the home from the lake side porch you walked into a living room type area, located off the northeast side of the living room, was a bedroom. This bedroom was identified as that of Michelle Davis. Off the northwest side of the living room was another room. It was described as the vacant bedroom of the estranged husband, Robert Davis. The room had no furnishings other than a dresser along the west wall. Located along the north wall of this room was the electric service panel for the residence. Off the living room heading to the west was the hallway into the kitchen. Along the south side of the hallway was the dinning room, which had half walls around it. Off the north side of the base of the stairs was a small room that appeared to be vacant.

STATUS: Closed/Arrest

INVESTIGATING OFFICER: Chief Inv. S.B. Mgmt SHEILD: 4096

SUPERVISING OFFICER: _____ SHEILD: _____

Cayuga County Sheriff's Department
INVESTIGATION REPORT

Off the West End of the hall was the kitchen area, to the north was a bathroom and adjacent, pantry/laundry room. On the northwest side of the kitchen was the exterior door that had a porch roof over the outside area. See first floor diagram and photos.

The heating system in the structure consisted of two natural gas standalone furnaces. One located on the first floor in the dining room, the second on the second floor, directly above the first floor unit, in the sitting room. These heaters were examined and found to have sustained heat, fire, and smoke damage. Upon examination of the heaters, and the areas around them, these heaters were eliminated as being a cause of the fire.

The electric service was a standard overhead residential service drop, natural gas, and municipal water were the utilities for the structure. The utilities to the structure were examined and eliminated as being a cause of the fire.

Scene Investigation: Upon completing my examination of the exterior of the structure I entered it from the lake side porch entrance. Inside the porch I could see a clear smoke level line and no evidence of fire involvement on the porch. (See photo's # M-3-15) As I entered into the structure from the porch I could see the fire had been more intense in this room. (Living Room) The fire damage was heavier at the ceiling level of the room, and it lessened closer to the floor. (See Photo's # M-3-6,7) Off the living room, was a bedroom (Michelle Davis'). This room had sustained heavy Heat and smoke damage, and there was fire damage to the upper west wall of the bedroom. Examining the fire damage I was able to determine that the fire was traveling from the adjacent room into this bedroom.(See photos # M-3-9) Back into the living room and looking to the west I could see that the south side of hallway had sustained less fire damage than the north side. (See photos # M-2-15) As I continued down the hallway, I entered into the kitchen, it had sustained fire, heat and smoke damage. Again this damage appeared to be more severe at the ceiling level and lessen towards the floor. (See Photo's #M-2,3,4)Off the kitchen to the north was a pantry/laundry room area, this room had mostly smoke damage and no evidence of fire damage. (See Photo's # M-2-6) Adjacent to the pantry, off the kitchen, was a full bathroom. This room had sustained heavier heat damage and some fire damage. (See photo's #M-2-7)

Based on my examination of the first floor I was able to determine that the room in the center of the structure on the north side of the hallway had the heaviest and lowest fire damage. This damage indicated that this area was a potential area of fire origin. (See photos # M-5-4,5,6,7,8,) A closer exam of the area and fire debris was conducted in an attempt to locate an accidental ignition source. The ceiling over the majority of the room had either been consumed by fire or collapsed onto the first floor. Looking up it was noted that the fire had traveled up to the second floor and upward through the roof consuming most of the combustible material in the area. The electric panel was located on the north wall of the room of origin. (See photos #M-5,9,11, M-4-12,13) Inv. Cuff and Ryan examined the panel in place, they found no evidence of malfunction or failure that could have ignited said fire. They did note the panel had sustained heavy heat and fire damage as a result of it having been subjected the fire. There were electrical outlets located in the walls of said room these outlets were examined and showed no evidence of overload or failure. There was no electrical equipment located in the room that appeared to have been plugged in at the time of the fire occurrence.

STATUS: Closed/Arrest

INVESTIGATING OFFICER: Chief Inv. SB M/G/L SHEILD: 4096

SUPERVISING OFFICER: _____ SHEILD: _____

Cayuga County Sheriff's Department
INVESTIGATION REPORT

Upon examining the room further there was evidence from the burn patterns, and damage that the fire may have been accelerated in some fashion. Do to these observations Inv. Dale Moone, and his Accelerant detection K-9, Alex was requested to examine the area. As A result of the K-9 alerts in the area it was determined that more debris would need to be removed from the area. The fire debris was removed from the area and the K-9 was brought back in. Again the K-9 alerted in areas of the room indicated that there was accelerant residue present. (See Inv. Moone's report)

Inv. Cornelius and Deputy Smith were assigned to collect samples of fire debris from the area for lab analysis. (See evidence report and photos.)

The area under the stairway appeared to have suffered the lowest level of burn. There was a hole in the floor and the floor joists appeared to be burned from the top down. This indicates the fire started on top of the floor and burned down as the fire progressed upward and outward. The wooden stairs that led to the second floor were for the most part consumed by the fire. Only the bottom two steps were remaining the underside of the steps were burned heavier than the topside. This was another indicator that the fire had originated in the area above the first floor but under the area of the stairs leading to the second floor.

In the fire debris near the area of the electric service panel there were two electric oil filled space heaters. The electric supply cords were examined by Inv. Cuff and Ryan and it was determined that these heaters were not plugged in at the time of the fires occurrence. These heaters were removed from the room for closer examination at a later time.

I moved to the second floor of the structure entering through the southeast bedroom window (Daniel Leubner's room). (See photos # M-6-14,15,16,17) I noticed this room had sustained heavy heat and smoke damage. As I exited the room I could see that the fire had consumed a large area of the second floor. The roof over the area of the consumed area had also been consumed by fire.(See photos #M-6-18,19,20,21,22,23,24) To the left was the sitting room, the roof over this area had collapsed down onto the second floor. In the Northeast corner was another bedroom. This room had sustained fire, heat and smoke damage. Based on the fire patterns I was able to determine the fire had entered this room by running across the ceiling and it appeared it came from the area at the top of the stairway. (see photo's # M-7-6,7,8) Continuing to the west I entered into the southwest bedroom. This room had sustained some damage from fire, along with heat and smoke damage. It appeared that the fire was rolling across the ceiling and downward on the walls. The northwest bedroom was examined and the same pattern of fire was observed as in the southwest bedroom. (See photos #M-9-10, 12)

Conclusion: Based on my examination of the fire scene I was able to identify the first floor as an area of fire origin. It appeared that the fire had multiple areas of fire origin and there was evidence that a flammable liquid had been introduced. These areas included the hallway between the base of the stairs and the dinning room. (See photo's # M-4-7, 11)

Note the defined areas of damage to the metal flooring strips, again a possible indicator of the presence of flammable liquid. (See Photo's # M-4-11, M-2-12)). The area under the stairs in also appeared to be an area of fire origin. The area of the room adjacent to the north of the stairway also appeared to be an area of fire origin.

STATUS: Close & Arrest

INVESTIGATING OFFICER: Chief Inv. S.B. Smith SHIELD: 4096

SUPERVISING OFFICER: _____ SHIELD: _____

Cayuga County Sheriff's Department

INVESTIGATION REPORT

It's possible that the second floor above those areas may also of been an area of fire origin but do to the amount of the area that had been consumed by fire I was unable to collect samples of fire debris for laboratory analysis from much of that area. Another indicator that the fire had an origin on the second floor was the electrical activity on the cord to the fan in the bedroom where the victim was recovered.

All of the possible accidental ignition sources in the areas of origin were examined and ruled out as being the cause of the fire.

It is my opinion that based on the Cause and Origin investigation conducted as a result of this fire loss that this fire was incendiary in nature.

On Wednesday September 8, 1999 about noon I left a message on Sue Gatto's answering machine in an attempt to contact Michelle Davis. About @2:30pm Sue Gatto returned my call. She wanted to know what the interview would entail and I informed her it was a basic fire investigation interview. I asked her if she and Michelle could come to the PSB, as I needed to get basic information about the building, and complete the routine Fire Investigation Owner Interview Form. Sue spoke with Michelle briefly and they agreed to drive in. They arrived at about 3pm. I met Davis and Gatto in the lobby and brought them into the building. Inv. Cornelius took Gatto to one Office. I conducted the interview of Davis in my Office and it began at 3:20pm.. The owner interview form was completed and Michelle gave written consent for entering her entire property so members could conduct the investigation into the Fire's origin. See consent and Owner Interview forms. This interview was recorded with a recording device. The interview was completed and Davis left the Office at @ 5:10pm.

On Thursday September 9th 1999, Members of the Investigation Team and I entered the unattached garage looking for information and or evidence pertaining to the fire. This building was not damaged by fire and did have it's own separate electric service. Upon checking the service panel/breaker box it was discovered that the #2 circuit breaker was in the off position. It was the only circuit breaker in the off position in the panel. The log on the panel door indicated the #2 circuit was for the motion light on the East Side of the garage (facing the burned house.)

During the investigation I spoke with neighbor Kim Nolan about the motion detector light. She stated that it had been working right along, and that it shinned in her kitchen window whenever it was activated. She did state she could not say for sure that it was working Friday night September 3, 1999.

During the investigation I spoke with Robert Davis about the service panel in the garage. He stated he was the only one who ever used the panel box and to the best of his knowledge all the circuits were on in the garage and that the motion light did work. (see photos #M-1-3,7,8,9,10,11)

END OF REPORT.

STATUS:

Closed / Arrest

INVESTIGATING OFFICER:

Chief Inv. SB M. Paul

SHIELD:

4096

SUPERVISING OFFICER:

SHIELD:

STATE OF NEW YORK

JUSTICE

COURT

99-6878

STATE OF NEW YORK
COUNTY OF CAYUGA

SS.

TOWN of FLEMING

On	DATE <u>09.05.99</u>	at	TIME STARTED <u>1:50</u> <input type="checkbox"/> a.m. <input checked="" type="checkbox"/> p.m.	I.	FULL NAME <u>TIMOTHY J. NOLAN</u>	
DATE OF BIRTH <u>02.12.53</u>	NO. & STREET <u>6016 WESTLAKE RD.</u>	CITY <u>AUBURN</u>	STATE <u>NY</u>			

state the following:

PAGE ONE OF 2 PAGES

ON THE MORNING OF OF 09.04.99 AT ABOUT 4:30 AM I WAS AWAKENED BY THE SOUND OF MY DOGS BARKING AND SOMEONE SCREAMING FOR HELP. MY WIFE STOOK ME AND SAID I THINK THAT IS KIMMY, WHO I KNOW TO BE KIM LUBNER, YELLING FOR HELP. KIM LIVES AT MY THE HOUSE BEHIND MINE AT 6012 WEST LAKE RD. I WENT OUTSIDE AND SAW KIM STANDING IN MY FRONT YARD.. SHE WAS YELLING THAT HER HOUSE WAS ON FIRE. I RAN TO THE BACK OF KIM'S HOUSE WHERE I COULD HEAR MICHELLE DAVIS, KIM'S MOTHER, SCREAMING AS I RAN TO THE HOUSE I COULD SEE THE FRONT OF THE HOUSE. THE FRONT DOOR WAS CLOSED. THE FRONT DOWNSTAIRS WINDOW WAS STILL INTACT AND I COULD SEE A GLOW INSIDE. THE HOUSE LOOKED LIKE A PUMPKIN WITH THE DEEP ORANGE GLOW INSIDE. AS I PASSED THE SOUTH SIDE OF THE HOUSE I COULD SEE THAT THE WINDOWS ON THE LOWER FLOOR WERE STILL INTACT. I COULD SEE FIRE THROUGH THE MIDDLE WINDOW. WHEN I REACHED THE BACK OF THE HOUSE I COULDN'T SEE ANY FIRE IN THE BACK, EAST SIDE. MICHELLE WAS ON THE ROOF OF THE HOUSE ON THE EAST SIDE. SHE SCREAMED THAT SHE WAS TRYING TO GET TO HER SON DANNY'S ROOM. SHE SAID SHE COULDN'T GET UP THE STAIRS AND SHE WAS GOING TO TRY TO GO IN HIS WINDOW. I

NOTICE

(Penal Law §210.45)

In a written instrument, any person who knowingly makes a false statement which such person does not believe to be true has committed a crime under the laws of the state of New York punishable as a Class A Misdemeanor.

Affirmed under penalty of perjury

this 05 day of SEPT, 19 99.

- OR -

*Subscribed and Sworn to before me

this _____ day of _____, 19 _____.


 (SIGNATURE OF DEPONENT)


 (WITNESS)
 (NAME OF PERSON TAKING DEPOSITION)

TIME ENDED <u>2:40</u>	<input type="checkbox"/> a.m. <input checked="" type="checkbox"/> p.m.
---------------------------	---

*This form need be sworn to only when specifically required by the court.

COMPLAINANT - LAST NAME, FIRST, MIDDLE

CASE NO.

99-6878

LOOKED AROUND FOR SOMETHING TO SMASH THE WINDOW WITH. I SAW A BENCH THAT GOES TO THE PICNIC TABLE SO I THREW IT ONTO THE ROOF. I STARTED LOOKING AROUND FOR A LADDER WHEN I REALIZED THAT SHE HAD A LADDER UP TO THE ROOF ALREADY. I CLIMBED UP THE LADDER TO GET ONTO THE ROOF. WHEN I REACHED THE WINDOW WHERE MICHELLE WAS SHE HAD SMASHED THE WINDOW. THE TOP HALF WAS STILL INTACT BUT THE BOTTOM WAS OUT. THE HEAT AND SMOKE WERE POURING OUT OF THE WINDOW AND MADE IT IMPOSSIBLE TO GET INSIDE. I COULDN'T SEE INTO THE ROOM AT ALL THE SMOKE WAS TOO THICK. I TOLD MICHELLE THAT WE HAD TO GET OFF OF THE ROOF. I STARTED CLIMBING DOWN THE LADDER. ED WYCOFF, A NEIGHBOR, SHOWED UP AND I TOLD HIM WHAT WAS GOING ON. HE HELPED MICHELLE GET OFF THE ROOF. I RAN TO THE ROAD TO DIRECT THE FIRE MEN TO THE SCENE AND TELL THEM THAT THERE WAS A PERSON INSIDE. AT THAT POINT I TRIED TO HELP GET HOSES OFF TRUCKS AND DO WHAT I COULD.

SIGNATURE OF DEPARTMENT

PERSON TAKING STATEMENT

RCN

STATE OF NEW YORK
JUSTICE COURT

99-6878

STATE OF NEW YORK)
COUNTY OF CAYUGA)
TOWN of FLEMING)

ss.

On	DATE <u>09.05.99</u>	at	TIME STARTED <u>12:45</u> <input type="checkbox"/> a.m. <input checked="" type="checkbox"/> p.m.	I, FULL NAME <u>ROBERT J. SPRINGSTEAD</u>
DATE OF BIRTH <u>10.25.77</u>	NO. & STREET <u>5801 SOUTH ST. RD</u>	CITY <u>AUGURN, N</u>	STATE <u>NY</u>	

state the following:

PAGE ONE OF 2 PAGES

I AM A RESCUE CAPTAIN FOR THE FLEMING NO. 1 FIRE DEPARTMENT. ON 09.04.99, I RECEIVED A FIRE CALL TO 6012 WESTLAKE RD. FOR A POSSIBLE STRUCTURE FIRE AT ABOUT 9:30 AM. IN LESS THAN FIVE MINUTES I WAS AT THE FIRE STATION. MYSELF AND RAO TAYLER RESPONDED ON ENGINE #1. I CALLED ON SCENE WHEN I ARRIVED. AS WE PULLED IN TO THE RESIDENCE ONE OF THE NOLAN BROTHERS CAME RUNNING FROM BEHIND THE HOUSE TOWARDS OUR TRUCK. WHEN HE GOT TO THE DOOR OF MY TRUCK HE SCREAMED "YOU'VE GOT TO COME TO THE BACK, I CAN HEAR SOMEONE SCREAMING. HE IS STILL INSIDE" I RAN TO THE BACK OF THE BUILDING WITH SCOTT KELHOE, WHO HAD ARRIVED DIRECTLY BEHIND ME. AS WE RAN BY THE HOUSE I LOOKED AT THE FRONT OF THE HOUSE THE FRONT DOOR WAS INTACT AND APPEARED TO BE SHUT THE FRONT WINDOWS WERE STILL SOLID. AS I LOOKED AT THE DOWNSTAIRS WINDOWS I COULD SEE FLAMES THAT SEEMED TO BE CEILING LEVEL AND THE FLAMES WERE A DEEP ORANGE COLOR. I HAVE BEEN ON 8 OR 9 FIRES THAT WERE IN STRUCTURES AND THIS ONE SEEMED TO STRIKE ME. THE WHOLE LOWER LEVEL WAS BURNING AND HAD A DEEP ORANGE GLOW. AS I RAN PAST THE SIDE OF THE HOUSE I SAW THAT ALL OF THE SIDE WINDOWS WERE STILL INTACT. WE GOT TO THE

NOTICE

(Penal Law §210.45)

In a written instrument, any person who knowingly makes a false statement which such person does not believe to be true has committed a crime under the laws of the state of New York punishable as a Class A Misdemeanor.

Affirmed under penalty of perjury
this 05 day of SEPT, 19 99.

- OR -

*Subscribed and Sworn to before me
this _____ day of _____, 19 _____.

Robert J. Springstead
SIGNATURE OF DEPOSITOR

[Signature]
(WITNESS)
(NAME OF PERSON TAKING DEPOSITION)

TIME ENDED <u>1:38</u> <input type="checkbox"/> a.m. <input checked="" type="checkbox"/> p.m.
--

*This form need be sworn to only when specifically required by the court.

COMPLAINANT - LAST NAME, FIRST, MIDDLE

CASE NO.

99-6878

BACK AND THE GUY THAT CAME TO OUR TRUCK WAS STILL SCREAMING. HE KEPT YELLING "SOMEONE IS IN THERE; YOU NEED TO GET IN THERE". THERE WAS A WOODEN LADDER ALREADY LEANING ON THE REAR OF THE HOUSE. I WENT UP THE LADDER FIRST FOLLOWED BY SCOTT. WHEN WE GOT TO THE UPSTAIRS LEVEL, ON TOP OF THE ROOF IT WAS COMPLETELY CLEAN. WE LOOKED IN THE WINDOWS WITH THE AID OF A FLASHLIGHT BUT WE COULD SEE NOTHING. IT WAS LIKE LOOKING AT A WALL. SCOTT HAD A HALCON BAR TO BREAK THROUGH WINDOWS. WE COULD SEE THAT BOTH OF THE WINDOWS WERE STILL INTACT INCLUDING THE SCREENS. THERE WAS NO DAMAGE TO THE SCREEN THAT I COULD SEE. SCOTT BROKE THE WINDOW THAT IS ON THE SOUTHEAST OF THE HOUSE. THAT IS WHERE THE MAN SAID THE PERSON WAS INSIDE. AN IMMEDIATE CLOUD OF THICK BLACK ROLLING SMOKE CAME OUT THE WINDOW. I BROKE THE WINDOW TO THE NORTHEAST AND A BALL OF DARK ORANGE FLAMES POURED OUT. WE TRIED TO ENTER BUT THE HEAT WAS MUCH TO INTENSE. WE CONTINUED TO FIGHT THE FIRE THROUGHOUT. I WAS IMPRESSED BY THIS FIRE BECAUSE IT WAS SO INCREDIBLY HOT. THERE WAS NOT ONE SMALL BURST OF HEAT. IT JUST SEEMED TO BE A CONSTANT INTENSE HEAT. THE TWENTY MINUTES IT TOOK TO DEplete MY AIR TANK WAS HOW LONG IT TOOK TO FOUL THE FIRE TO BREAK THROUGH THE ROOF. OF ALL OF THE FIRES AND TRAINING I HAVE BEEN THROUGH, THIS IS THE HOTTEST MOST INTENSE FIRE I HAVE EVER SEEN.

RS

SIGNATURE OF DEPONENT
PERSON TAKING STATEMENT

Robert Springuel
Will [Signature]

RCN

STATE OF NEW YORK

PAGE 1 OF 2

COUNTY OF CAYUGA

TOWN OF SENNETT

me On 09/13/99 at 1:08 PM I, Matthew E. Smokoski, having been born on 6/10/66 and residing at 5865 Sand Beach Drive, Auburn, NY 13021 state the following to Investigator Frederick E. Cornelius at The Cayuga County Public Safety Building :

I was working as Critical Care Technician for Rural Metro on the morning of September 4, 1999. My shift was 1900hrs on September 3, until 0700 on September 4. My partner on this shift was Chris Logue. We were at the Auburn Memorial Hospital Emergency Room around 4:30 in the morning when I heard Fleming getting dispatched to a possible structure fire on West Lake Road. We decided to head in that direction. While we were enroute, the call was upgraded to a structure fire with a person trapped. We speeded our response to the scenen and arrived right behind Fleming's first engine. As I was approaching the house, Mrs Benda, whom I know as a wife of one of the Fleming firemen, yelled to me to go around the back of the house. By back I mean the lake side of the house.

I noticed that there was light smoke puffing from the eaves of the house and I did not seen any flames showing. I did notice a glow from inside one of the downstairs windows as I passed it. I also saw Mr Nolan leaning in a window on the south side of the house with a garden hose. It was the second window from the west lake road side of the house. Mr Nolan told me that he thought he had it under control. He also said that there was still someone in the house. Mr Nolan put the hose down and came around to the lake side of the house with me. I am pretty sure that Mr Nolan and I put an old wooden ladder up to the roof. I climed up the ladder and I looked at the two windows on the second floor. I had been told that the kid that was inside the house was inside the south window. When I looked at the windows, I saw smoke up against the windows and some coming out of the windows. The windows were both closed. I realized that with that amount of smoke, I would not be able to get in the window so I went back down the ladder and around the side of the house to direct the fireman where to go. I directed Scott Kehoe and Rob Springstead toward the south window facing the lake. They went up the wooden ladder and onto the roof. I think it was Scott Kehoe that broke the window. I was watching from the ground and saw that as the window broke, a large amount of black smoke came out. I saw Scott try to get into the window but he was unable to. Then the other window was broken by the firemen.

After a few minutes someone came back and asked that I take a look at the mother of the kid trapped in the house. I went up toward the road side of the house and was brought to a woman who was laying on the ground near the picnic table behind the house closest to the road. She was yelling and screaming. I asked her if she was hurt or injured in any way and she did not give any specific answers. She was not coughing and spoke clearly when she did speak. I made several observations as to her appearance. She was a white female probably in her forties, she was clothed in shorts and a purple / or *me* flowered top. She had no burns visible on her body or her clothing including no visible redness in her face

NOTICE

In a written instrument, any person who knowingly makes a false statement which such person does not believe to be true has committed a crime under the laws of the State of New York punishable as a Class A Misdemeanor.

~~Affirmed under penalty of perjury~~

~~OR~~

Subscribed and sworn to before me

This 13th day of Sept 1999

[Signature]

Notary Public / Witness **FREDERICK E. CORNELIUS**

Notary Public, State of New York

No. 01CO6003321

Qualified in Cayuga County

Commission Expires March 2, 2000

Matthew E. Smokoski

Signature of Deponent

Witness

re or extremities. She did not had any burns to her eyebrows or hair and she had no soot or ash on her indicating exposure to smoke. My first impression was that she was not at home at the time of the fire but must have come home to discover it. I determined that my services were not needed at this point. Father Enright had arrived at the scene and I asked if he would stay with the woman and keep an eye on her. I then reported to the incident commander, Marc Aswad, as to what I had done.

I believe that my partner along with the members of the second Rural Metro Rig that came to the scene all looked at this woman at various times during the incident.

I have worked for Rural Metro and been a member of the Fire Service for more than eleven years. I have, over the course of this time, treated many victims of fires, including those who have re-entered burning buildings for one reason or another. I would expect to see evidence of heat exposures including redness in the face and/or extremities and a dirty appearance indicating exposure to smoke. Many people are coughing and many also have singeing of their hair, eyebrows or facial hair. *no*

Marc E. Aswad

NOTICE

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Affirmed under penalty of perjury
OR

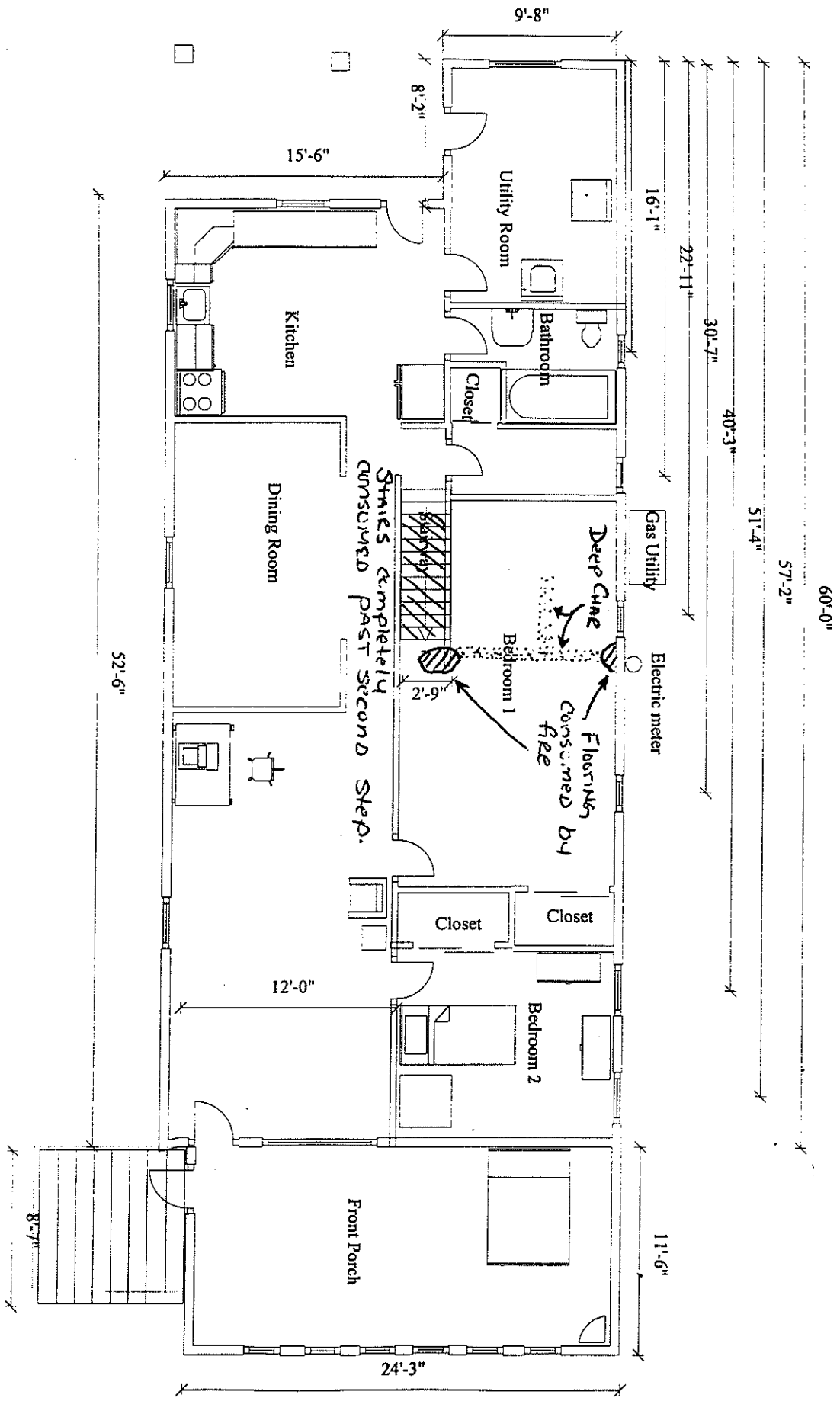
Subscribed and sworn to before me
This 13th day of SEPT 19 99

Marc E. Aswad
Signature of Deponent

[Signature]
Notary Public / Witness

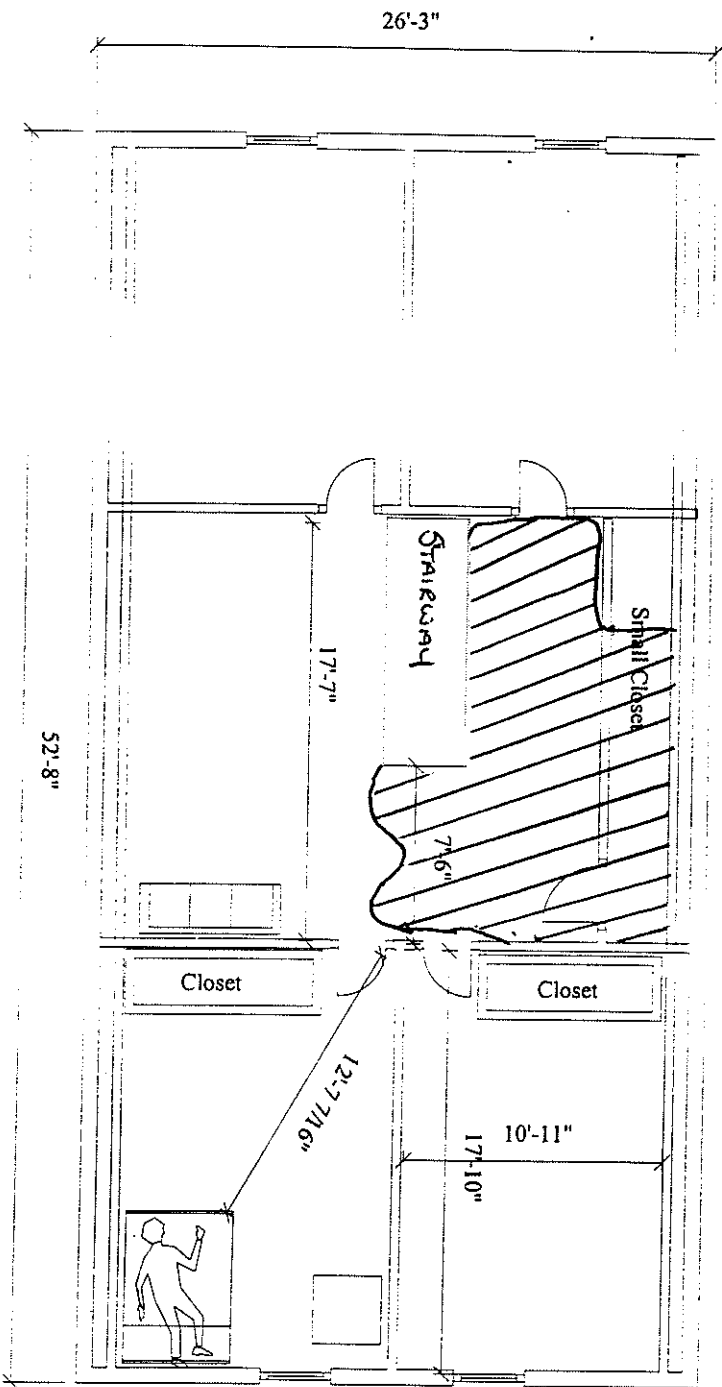
FREDERICK E. CORNELIUS
Notary Public, State of New York
No. 01CO6003321
Qualified in Cayuga County

Witness

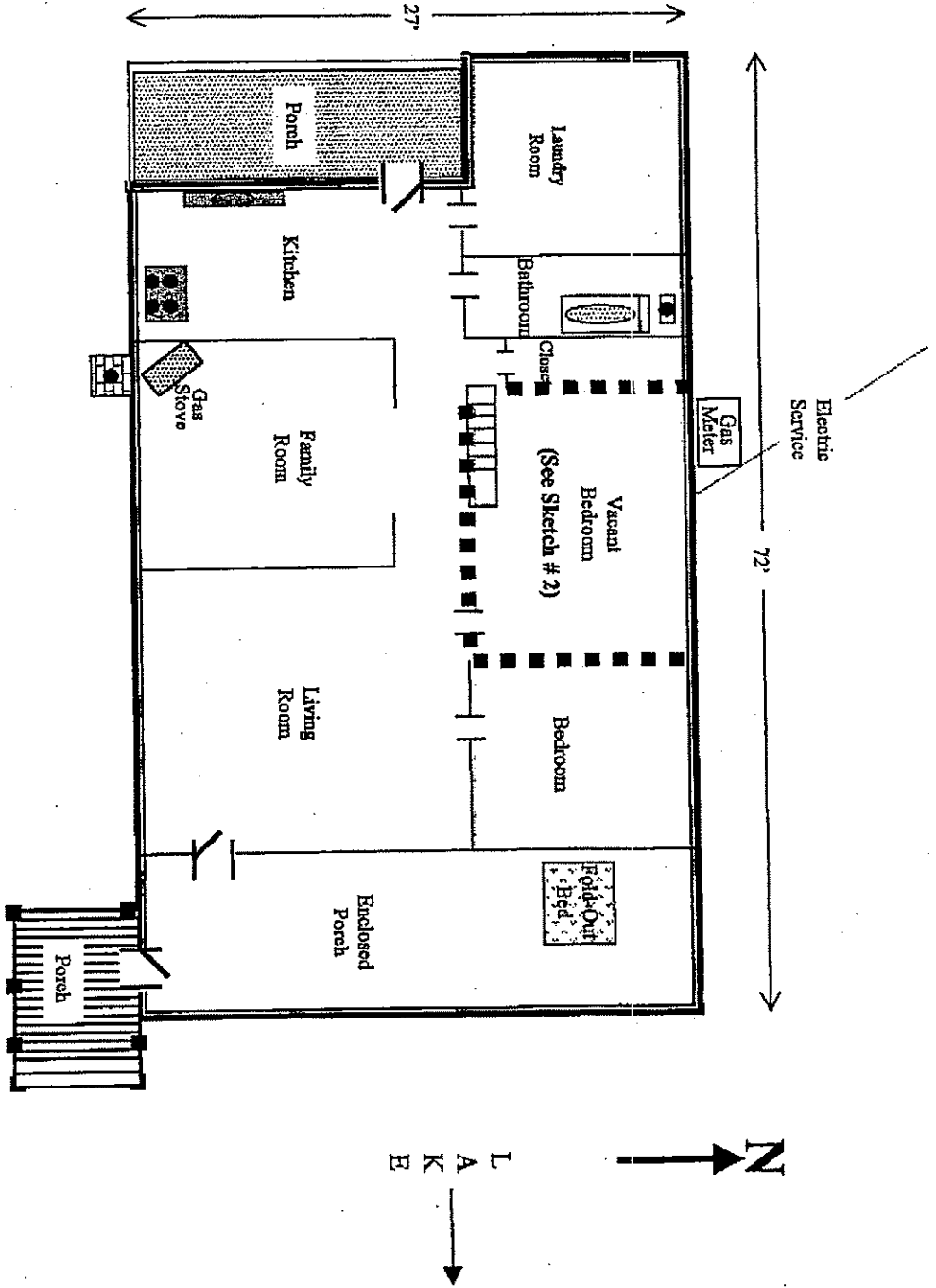


Sketch: *[Signature]*

Floors completely consumed by fire



Sketch: *Tom Kelly 7/03V*

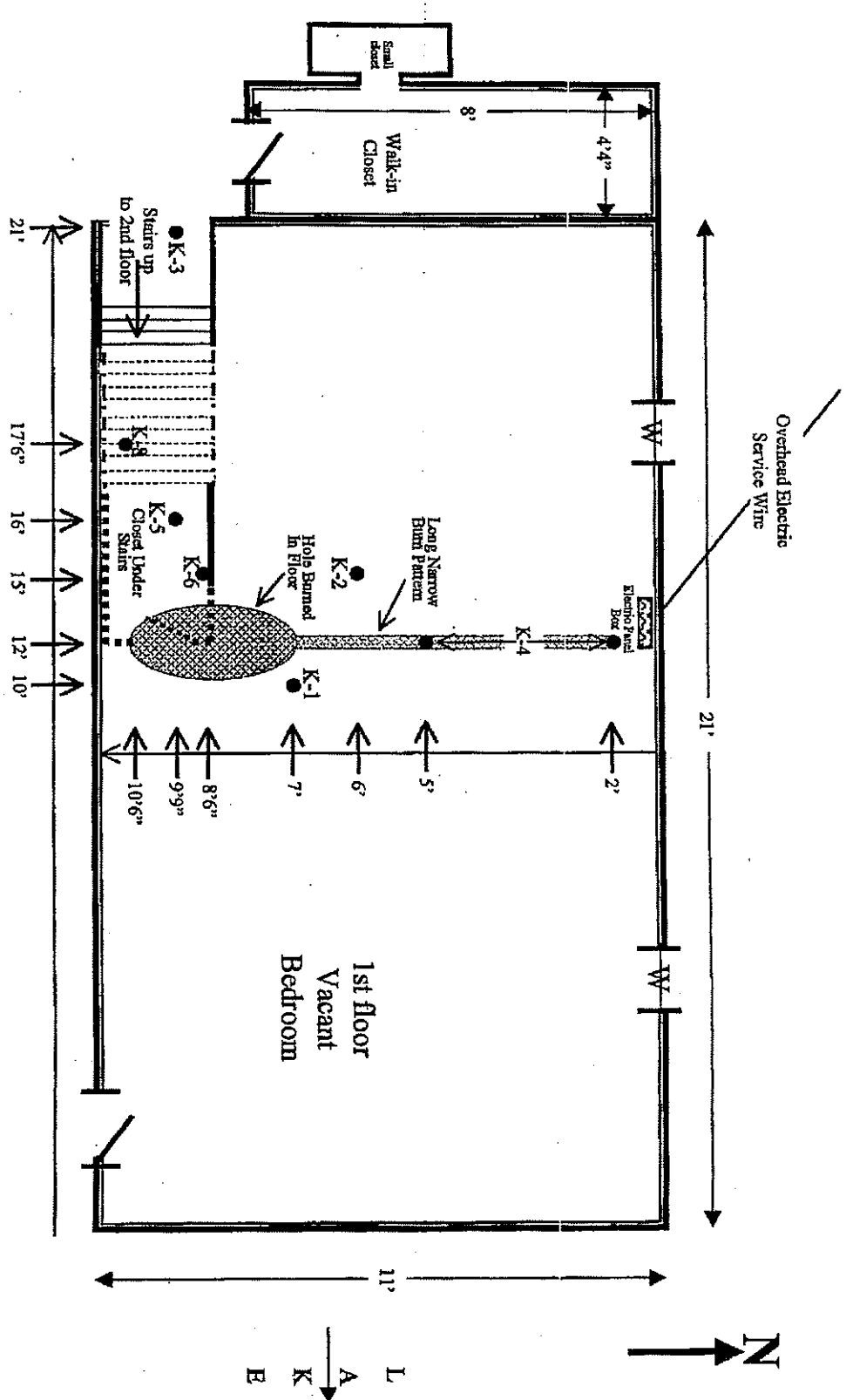


New York State
 Office Of Fire Prevention & Control
 Arson Bureau

Case # 99-M30
 Drawn By: Inv. D.H. Moone
 NOT TO SCALE

6012 West Lake Road
 Fleming, NY
 9-4-99

Sketch # 1 of 2 *PKM*



New York State
Office Of Fire Prevention & Control
Arson Bureau

Case # 99-M30
Drawn By: Inv. D.H. Moone

NOT TO SCALE

● K9 Indication Location

..... Dashed Lines Indicate Structural Components Consumed By Fire

6012 West Lake Road
Fleming, NY
9-4-99

K9 Indications
K9 Alex - #K-4
Area of Origin

Sketch # 2 of 2 *7/1/99*

NEW YORK STATE POLICE
SCIENTIFIC LABORATORY
EVIDENCE SUBMISSION FORM

PRINT OR TYPE ONLY

990 - 001576

NY STATE POLICE
WESTERN REGION
CRIME LABORATORY

METHOD OF TRANSMITTAL:

IN PERSON *Inv. Gray*

CERTIFIED MAIL # _____

REGISTERED MAIL # _____

OTHER _____

99 SEP -7 AM 8:37

FOR STATE POLICE USE ONLY

TROOP _____

STATION _____

BCI # _____

SUBMITTED BY _____
NAME & RANK

FOR USE BY AGENCIES OTHER THAN STATE POLICE

NAME OF ~~XXXX~~ SHERIFF, ~~XXXX~~ DIRECTOR, ~~XXXX~~ *Peter J. Pinckney*

AGENCY NAME *Cayuga Co. Sheriff's Dept.*

CASE # *99-6878*

AGENCY ADDRESS *PO Box 518 County House Rd
Auburn, NY 13021*

SUBMITTED BY *Frederick E. Cornelius, INV*
NAME & RANK

NAME OF ~~XXXXXX~~ DECEASED, ~~XXXXXX~~ COMPLAINANT (CIRCLE ONE) *Daniel M. Leubner*

ADDRESS *6012 West Lake Road, Auburn, NY 13021*

NATURE OF COMPLAINT OR NAME OF CRIME *Fatal Structure Fire*

PLACE & DATE OF OCCURRENCE *Town of Fleming* *Cayuga* *09-04-99*
C-V-T COUNTY DATE

BRIEF DESCRIPTION OF EVENTS *Structure Fire in occupied residence. Area of origin is an empty room on the first floor of the residence and under the stairs, inside a closet in this room. One 13 year old male died as a result of the fire. Samples secured of Flooring in this room and of some partially burned blankets located on floor inside closet decribed above.*

*Dealed
MSD*

ITEMS SUBMITTED (ONLY ONE ITEM PER LINE)	EXAMINATION REQUESTED
ITEM #1 "Sample 1" 1gal can containing fire residue	} Accelerant Residue
ITEM #2 "Sample 2" 1gal can containing fire residue	
ITEM #3 "Sample 3" 1gal can containing fire residue	
ITEM #4 "Sample 4" 1gal can containing fire residue	

LIST REMAINING ITEMS SUBMITTED ON THE REVERSE SIDE OF THIS FORM

Archie 11/21

ITEMS SUBMITTED

EXAMINATION REQUESTED

ITEM #5 "Sample 5" 1gal can containing fire residue

ITEM #6 "Sample 6" 1gal can containing fire debris(blanket)

ITEM #7 "Sample 7" 1gal can containing fire debris(cardboard)

ITEM #8 "Sample 8" 1gal can containing fire residue

ITEM #9 "Sample 9A" K-pak bag containing fire debris(blanket)

ITEM #10 "Sample 9B" K-pak bag containing fire debris(blanket)

ITEM #11 "Sample 9C" K-pak bag containing fire debris(blanket)

ITEM #12 "Sample 11" 1gal can containing fire residue

ITEM #13 "Sample 12" ^{K-pak bag} ~~1gal can~~ containing fire residue
jc jc

ITEM #14

ITEM #15

ITEM #16

ITEM #17

ITEM #18

ITEM #19

ITEM #20

ITEM #21

ITEM #22

ITEM #23

ITEM #24

ITEM #25

ITEM #26

ITEM #27

ITEM #28

ITEM #29

ITEM #30

ITEM #31

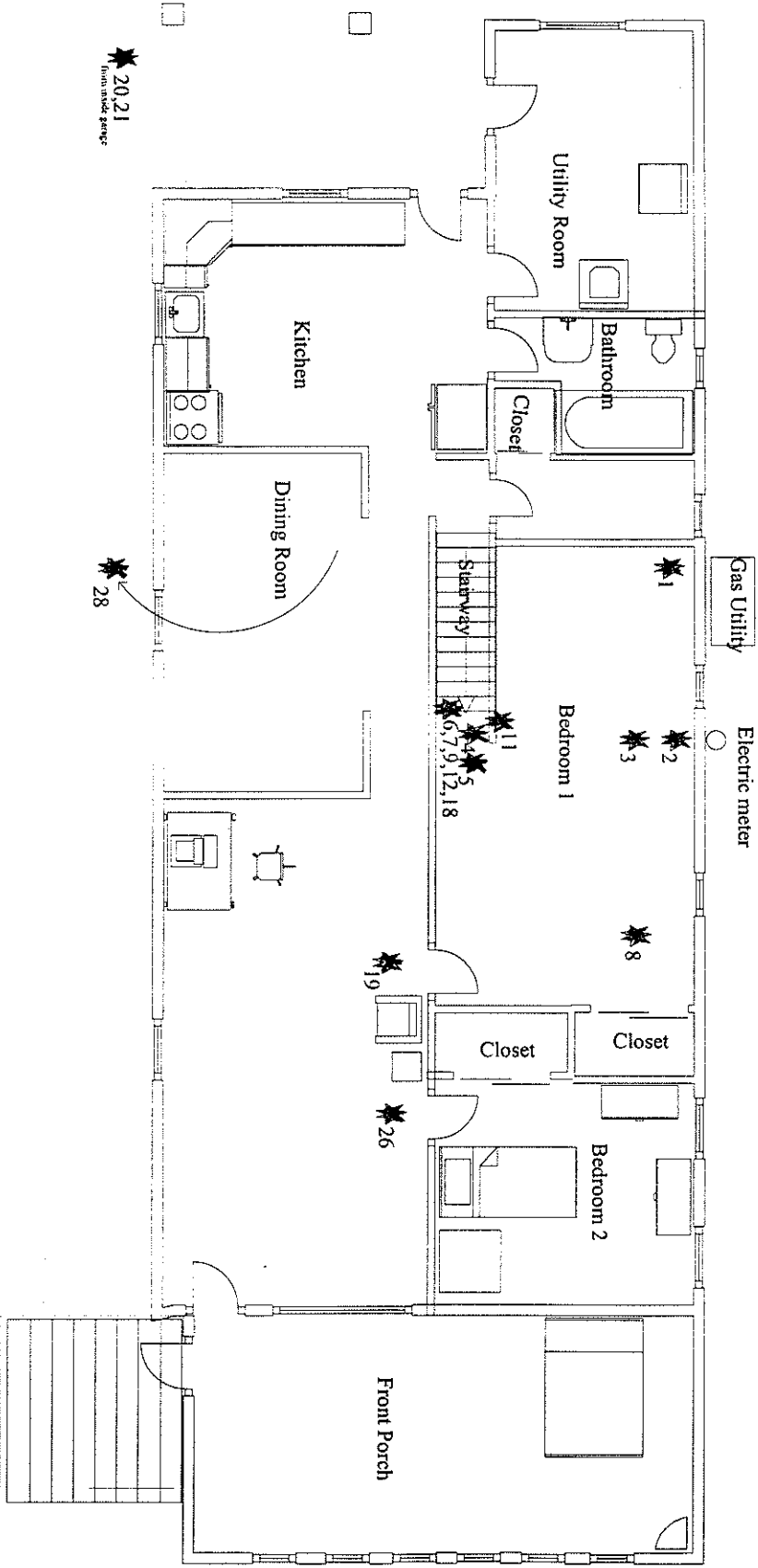
ITEM #32

ITEM #33

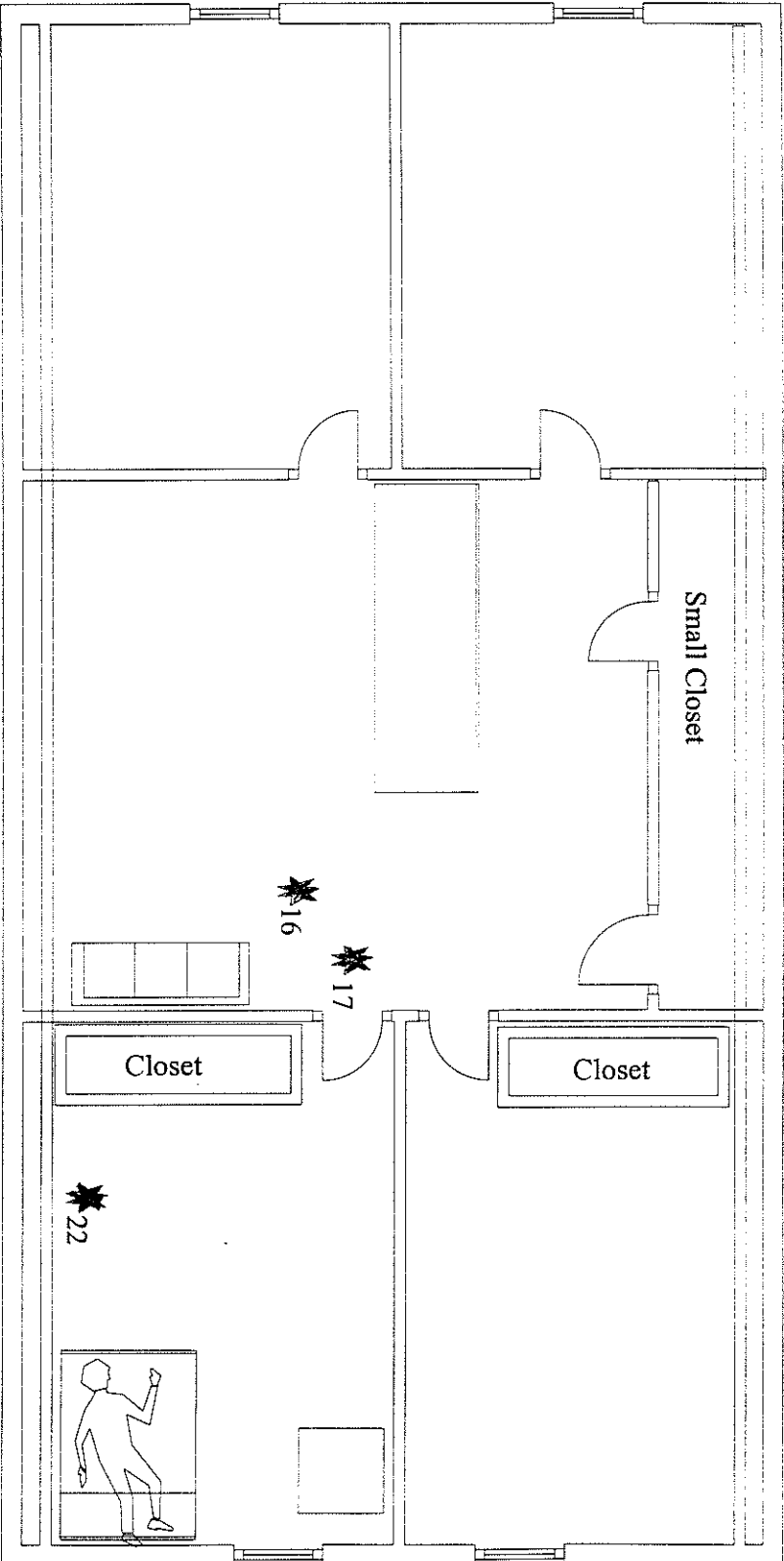
ITEM #34

Accelerant Resi

EVIDENCE SENT TO LAB



EVIDENCE SENT TO LAB



STATE OF NEW YORK

COUNTY OF CAYUGA

Town of Sennett

I Investigator Joseph J. Weeks DOB 01/10/66 employed at the Cayuga County Sheriff's Dept.do hereby make the following statement of fact:

That on September 8, 1999 at 3:45PM I interviewed nine year old Kimberly Leubner in regard to the fire that had occurred at her residence on 09/04/99. The interview was conducted on the front porch of her fathers' residence at 32 Mary St. in the City of Auburn with her father present. Kimberly appeared to be somewhat limited with a slight speech impediment. Her answers to my questions were clear, however I was unable to establish how accurate her sense of time was.

The interview was a question/answer type interview and the following is the substance of what Kimberly told me.

I asked her what they did earlier that day before the fire and she told me they went school shopping with Sue in Sues' car.

I asked her where they ate dinner and she said at home. I asked her what time she went to bed that night and she said about nine o'clock. She told me she slept on the porch. I asked her why she slept on the porch and she said she just does sometimes and that she'd slept on the porch alone the night before.

I asked her where her mom slept the night of the fire and she said "Mom got in my bed." She looked up at me and made a face and said "That was strange". I asked her what was strange and she said "Mom got into my bed." I asked her if it was like a girls night out and she said "No, if it was a girls night there would have been lots of girls there." I asked her if the radio was on or off when her mother came to bed and she said she woke up a little when her mother got into bed and the radio was off. I asked her what happened next and she said her Mom woke her up and she saw "fog outside." I asked her if there was fog inside and she told me "no just outside." She told me her mother opened the door to the house and they both could see the "fire in the kitchen." I asked her where the fire was in the kitchen and she told me "it looked like it was by the microwave." I asked her what she did then and she told me she "went to Kim Nolans and banged on her door" because her mother told her to.

I asked her what time Danny usually went to bed and she told me "after Bugs and Daffy on TV." I asked her who put Danny to bed and she told me Mom.

I asked her again to tell me about the fog when she woke up and again she said it was only outside. I asked her if she was coughing and she said no. She said "Mom said I was coughing when she woke me up."

I asked her if they had been looking at any new houses and she said they were looking at a "blue

NOTICE

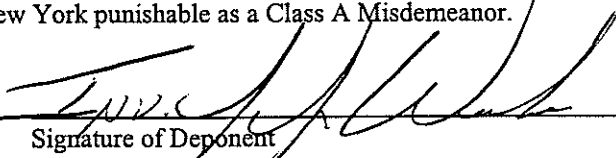
In a written instrument, any person who knowingly makes a false statement which such person does not believe to be true has committed a crime under the laws of the State of New York punishable as a Class A Misdemeanor.

Affirmed under penalty of perjury

OR

Subscribed and sworn to before me

This day of , 1998.

 4193
Signature of Deponent

Notary Public / Witness

Witness

one on Lake Ave." I asked her if they had looked at it before or after the fire and she said before. I asked her how long before and she said about two weeks. She then told me the house cost \$75,000.00 and that they stopped on the street out in front of it to try to see if it had a pool.

I asked her if she had any ideas about how the fire might have started and she said "I think it was that lamp Bob put in the kitchen hanging from the ceiling. Maybe it fell down and the wires got squished or something."

I asked her if anyone in the house smoked and she said no. I asked her if she knew where mommy kept any matches or lighters and she said there was a black bottle in the dining room on the shelf by the coats. She said the bottle had a picture of fire on it and her mother used it to start bonfires. Then she made a motion with her arms like she was squeezing a bottle and said "You spray it on the fire and it goes whoosh".

I asked her what her mother usually wore to bed and she said she thought she usually wore checkered pajamas. I asked her if she remembered what her mother was wearing when she woke her up and she said she thought she was wearing a T-shirt and shorts.

I asked her if anyone in the house had a fight the day of the fire and she first said no. Her father then asked her something to the effect of "Didn't Danny push Mommy?" Then she said "Oh ya, mommy hit Danny with a pillow because he poked her like this with his fingers" and she demonstrated on her father how he'd poked her.

I asked her if the fan was on when she went to bed and she told me she turned it off because "it was too cold."

I talked with her some more about when she first knew there was a fire and she told me "me and Mom both woke up, then she opened the window because it was stuffy. Mom had to go to the bathroom and she opened the door and saw fire."

I asked her if there were any picture albums in the house and she told me that there was an album in the dining room desk cabinet with a brown book.

I asked her if anyone had moved anything as far as any furniture or anything else out of the house that day and she told me no.

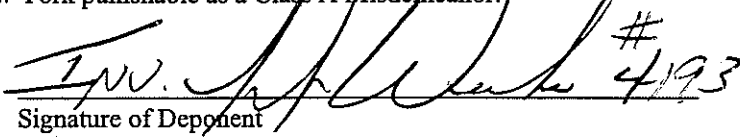
I asked her if she could remember anything that was different that day and she told me no. I asked her if she smelled anything funny or strange in the house that day and she said no.



NOTICE

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Affirmed under penalty of perjury
OR
Subscribed and sworn to before me
This day of , 1998.

 # 4193
Signature of Deponent

Notary Public / Witness

Witness

Cuyuga County Sheriff's Department
SUPPLEMENTAL REPORT

Nature of Case Structure Fire/Fatal		CID Number
Date of Report 09/05/99	SUPPLEMENTAL REPORT	Complaint Number 99-6878

Today's date, I/Deputy Lukins was detailed to the scene of the fire to maintain the scene. While maintaining the scene I was further instructed by Inv Mcloud to maintain a log report as to people whom stopped at the scene of the incident. While performing said assignments I had the opportunity to speak with some individuals whom provided me with some information that was all voluntary during conversation.

David Vanek, summer address: 6026 W. Lake Rd. Ph#252-6040
winter address: 9 North Hunter Ave. Ph#253-4873

Mr. Vanek stated that he recalls Danny as always either swimming in the lake or on the swing in the lawn of Dannys house. Danny was always yelling to him self probably as result of Dannys condition. Vanek also stated that he recalls that not recently but 1-2 yrs ago always seeing Bob, Dannys stepfather yelling at Danny for something. Vanek also stated he saw stepfather throw the swing early yesterday morning in which Danny always use to swing in.

Ed Wyckoff, address: 5702 W. Lake Rd.

Mr. Wyckoff stated how he believes the past couple of days that Danny was not acting himself and that he had been rather quiet. Wyckoff also provided the information that Dannys mom had talked recently of placing Danny into a home due to he was becoming uncontrolable to her. Wyckoff also recalls in the early stages of the fire while Dannys mom was on the roof, throwing her up a blue colored handle hammer of his. Wyckoff expressed also that he had a son with a disability of being hard of hearing so he tried to be somewhat protective of Danny. For example if Danny was swimming and other kids were harassing him, Wyckoff would go out onto the dock and let the other kids know that an adult was watching and or say something to the kids doing the harassing. Wyckhoff also recalled an incident in which Dannys two sisters were shooting mud balls at him while he was on the dock and Danny fell in to the lake and got cut, Wyckoff assisted Dannys mom in getting him out and treating his cut.

George Benda, address: 5698 W. Lake Rd. Ph#252-2367

Mr. Benda considered himself as being somewhat close to the Davis's/Leubners. He stated just about a week or so ago he went over to the house because there was a Uhaul truck in the driveway. Benda went over to socialize with Bob Davis when Bob told Benda that he was moving out and that it was a long story, Benda did not ask nor pry for the story figuring it was none of his business. Benda ref to the fire stated he was awoken by his Fleming Fire Dept. plectron and as he exited his house he smelled the smoke and that he went to the firehouse to get a fire truck.

Patrol also during the assignment today at the scene secured photos of some pictures in which the biological parents retrieved from the garage during patrols presence. Film tot'd to Inv Cornelius. Further

STATUS: Open

INVESTIGATING OFFICER: D/S [Signature] (Lukins) SHIELD: 4102

SUPERVISING OFFICER: Inv [Signature] SHIELD: 4034

Cayuga County Sheriff's Department
SUPPLEMENTAL REPORT

patrol assisted Fire Inv Joe Bell in entering the residence as covering with tarps the area of origin of the fire.

See also patrols entries to the log of people coming to the scene.

STATUS: Open

INVESTIGATING OFFICER: D/S [Signature] (Lukmi) SHIELD: 4102

SUPERVISING OFFICER: Inv [Signature] SHIELD: 4034

Cayuga County Sheriff's Department
INVESTIGATION REPORT

Nature of Case		CID Number
Arson / Homicide <i>(Victim: Daniel Leubner)</i>		99-318
Date of Report	Dates covered by Report	Complaint Number
10/1/99	09/08/99-10/01/99	99-6878
SUPPLEMENTAL REPORT		

09/08/99 I was detailed by Investigators McLoud and Cornelius to interview 9 year old Kimberly Leubner at her fathers residence at 31 Mary St. City of Auburn. The purpose of the interview was to obtain as much information as possible about events that occurred prior to and during the fire. The interview was conducted on the front porch of the residence, in the presence of her father Leroy Leubner. I have written a deposition in regard to what Kimberly told me. See depositions.

09/21/99 I monitored a recorded interview that Investigator McLoud did with Michelle Davis. During that interview I made mental note of some key statements that Michelle made. One such statement was that if she wanted to kill Danny she would have done it when he was five years old. Another was that she talked about Daniel reaching puberty, and how that had affected his behavior. Michelle made several comments about a "lightbulb" coming on her head the night of the fire that told her she had to "watch it" meaning Danny was becoming aggressive again. She stated she'd been able to control his behavior through medication for six weeks prior to that night but that she knew the problems were starting all over again. Michelle seemed to have no trouble talking about all of the bad things that Daniel had done in his life and about all of the problems she'd had with him. Michelle also mentioned several times that she was current on her mortgage, and made these remarks when there was no financial conversation going on. I do not recall her ever asking how the fire started. I would have expected that to be the first question anyone would ask in her situation.

09/22/99 I was requested by Investigator McLoud to accompany him and Investigator Cornelius to SP Canandaigua to observe a polygraph examination of Michelle Davis. I met McLoud and Cornelius at Canandaigua at approximately 10:15hrs.

I observed the entire polygraph exam conducted by State Police Investigator Frank Durizio and again made mental notes of Michelles oral statements and at this time could also observe her while she was being interviewed. Michelle at times slumped in her chair and put her head down on her arm when Inv. Durizio would leave the room. She also made several comments to Durizio that she was nervous and inquired about what effects that would have on the exam. I have observed several polygraph exams and usually the subject asks a question of that nature once and then is satisfied with the explanation. Michelle brought it up several times.

After the exam we met with Investigator Durizio at which time he informed us that in his opinion she was lying. He then returned to the interview room to inform her of the results of the exam and further interview her. When he informed her the results were not favorable to her she showed no signs of

STATUS: _____

INVESTIGATING OFFICER: *[Signature]* SHIELD: 4193

SUPERVISING OFFICER: *Chief Insp. S.B. [Signature]* SHIELD: 4896

Cayuga County Sheriff's Department
INVESTIGATION REPORT

her I would like to be able to talk to Danny about it but that we obviously couldn't, and that that only left her. We continued discussing those facts and I told her that I thought something must have happened that night that had caused her to react by setting the fire. She again began talking about the lightbulb going off in her head that night and that she knew she had to watch out because things were going to get bad again. I continued talking to her about that lightbulb and all at once she started shaking and looked me right in the eyes and all in one breath said "He raped me. I couldn't take any chance he would do that to Kimmy, he already tried to do things with her once. I left the candles in the spare room and just walked out." "I couldn't tell anyone my son was raping me." Michelle then broke down sobbing putting her head down in her hands in her lap. She was shaking and sobbing uncontrollably and repeating that she didn't care what he did to her but that she wasn't going to let that happen to the girls. She stated "I tried to fight him but I knew it would just be worse, so I gave up. I knew I couldn't fight him. All I could think of was that Kimmy would walk in on it." Then she said "But then I realized what I'd done and I tried to save him. I really did try to save him." At this point I knew she was about to tell me what had really happened the night of the fire. It was the first time since I'd become involved in this case that I had seen her show any emotion. Her demeanor at this point was just as I had anticipated it would be if she did confess to murdering her own son. Rather than calculated answers as before, the words were pouring out of her mouth just as I have seen with other people who have confessed to me. I told Michelle that I felt she was close to telling me the truth but that I wanted her to tell me what she had really done with the candle, and to tell me if she had poured anything anywhere in the house to start the fire. I told her it was time to tell the truth. She then made more admissions and stated that she poured nail polish remover on some wrapping paper and set the candle next to it and closed the door. She stated the nail polish remover said flammable on it. I asked her where, in what room had she poured the nail polish remover and she told me "In the closet under the stairs." (This was exactly where Inv. McLoud had told me the fire had started) I asked her if she had actually put the candle to the paper to make sure it lit and she told me no, that she had just set the candle next to the paper and knew it would catch on fire. She then stated she just wanted him to go to sleep and never wake up. She stated she wanted the carbon monoxide to get him but not burn the house down. She kept repeating that she didn't mean to burn her house down. I said to her "So you meant to kill Danny, that's why you set the fire?" and she replied yes while also nodding her head. I asked her why she had set the fire under the stairs and she said "Because I knew Danny wouldn't be able to get down."

Inv. McLoud asked her if she wanted a glass of water and she accepted. He left the room briefly and returned with a pitcher of water and some glasses. He poured her a glass and she took it and drank it.

After a few minutes her shaking had calmed some and she appeared to be relieved that she had gotten this out. I asked her if she felt better now after telling the truth and she said she just felt sick to her stomach. I asked her if she had been injured by Danny that night and if there was any possibility she could be pregnant. She told me he had scratched her back and bruised her chest. She stated she had been "spayed" and couldn't be pregnant. At that point I asked her if she would be willing to put what had happened in a written statement. She shook her head yes.

Inv. McLoud left the room briefly and returned with statement forms. I filled out the top of the form and then asked Michelle to tell me again what had happened that night. Michelle repeated to me that

STATUS: _____

INVESTIGATING OFFICER: _____  _____ SHEILD: _____

SUPERVISING OFFICER: _____  _____ SHIELD: _____

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Danny had raped her and that she had set the fire to kill him with the carbon monoxide. She was going through it so fast at times that I had to tell her to wait so I could catch up with my writing. During her statement she said "I couldn't bring myself to beat him or strangle him." which indicated to me she'd thought about different methods of killing him and left no doubt that killing him was her intent.

After taking her written statement I read it back to her. I then asked her if there was anything she wanted to change or add in her statement. She said "No, that's what happened." I then tried to hand it to her and as I did I told her I wanted her to read it for herself, so she would know I didn't put anything in there she hadn't said. She shook her head no and then stated she was too sick to her stomach. She stated she thought she was going to throw up. These appeared to be natural and genuine emotions given what she had just admitted to.

I then informed her that I needed her to sign her statement but that before she did, I wanted to remind her of her rights. I told her they were the same rights that Inv. Durizio had given her that morning except that the word "statement" was used in them. I told her to read the rights at the top of the page and if she was willing to sign the statement I needed her to sign the rights waiver first. I slid the statement in front of her and watched her eyes to see if she was reading. It did appear to me that she was reading them. After a short period she signed her name under the rights portion. I then asked her to put her name at the top of every page, and sign the bottom of every page. I had included in the statement a portion about false written statements and before she signed the first page recited to her the perjury warning. I asked her if she knew what that meant and she said "It means I'm in trouble for the first statement I gave" which to me meant she was admitting she'd been lying up until now. She then did put her name on every page and signed the bottom of every page.

She then asked me what was going to happen now and I told her I didn't know, and that it was not up to me at that point. She asked me that if she went to jail, would she be able to see her children that night. I told her we would be going back to our office and that I would try to arrange for her to see her children then. She told me she wanted me to talk to Kimmy and Melissa about Danny and that they would both tell me he had tried sexual things with them. She further stated that Danny had taken Kimmy into her room one night and had tried things with her.

I asked her if she wanted us to tell Bob, or if she wanted to tell him herself. She stated she wanted to tell him herself. I asked her if she wanted to tell him alone or if she wanted us to be there with her. She stated "I want you to be there." I told her we would stay with her while she told him.

Inv. McLoud went and got Bob (Robert Davis) who had been waiting outside and made arrangements to use an interview room where she could tell him.

I stepped outside momentarily and when I entered the room where Michelle, Inv. Cornelius, Inv. McLoud and Robert Davis where, she had already told him. Just after I walked in Robert moved closer to Michelle, pointed his finger at her and said "You tell me one thing and one thing only. Did Sue know about this?" Michelle replied no, and with that Robert asked her things like "Why didn't you tell me?" Michelle told him she couldn't bring herself to tell anyone.

Following that we began transporting her back to the PSB. We stopped briefly at a McDonalds just down the road from SP Canandaigua at which time I asked Michelle if she would eat something if we

STATUS: _____

INVESTIGATING OFFICER: _____  SHEILD: _____

SUPERVISING OFFICER: _____  SHIELD: _____

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bought it for her. She replied no, that she was too sick to her stomach. I did however talk her into excepting a soda, which she drank on the way back to Auburn.

Upon arrival at the PSB I seated Michelle in my office and posted Deputy Schlegel with her.

I then attended a briefing with the District Attorney and the Sheriff and Undersheriff along with Investigators McCloud and Cornelius at which time the events of the day were discussed. Also during that time Michelle was examined by a female correction officer and Jail Nurse Carol Wallace to determine if there were any marks on her back or chest as she had claimed. See Carol Wallaces report. It was determined that further clarification was needed in regard to why Michelle had set the fire under the stairs as she had. I went back into my office and asked Michelle if she would give me another statement in regard to that and she agreed. At that time (20:03hrs.) I took a brief written statement from her where she again admitted she'd set the fire under the stairs so that Danny would not be able to get down them, and further so that she would not be able to get up them. After she signed the second statement I continued talking with her about that night at which time I asked her about putting Danny to bed that night and inquired if she'd done anything different knowing it was the last time she would ever see him. She stated no and stated she put him to bed as normal, turned on his fan and radio and fixed his pillows just like she always did. She stated he was wearing his usual shorts and tanktop. She stated she just wandered around the house for the next two hours and set the fire around 12:30AM. I asked her to tell me more about the nail polish remover she'd poured at which time she told me it was in a pour bottle, not a squeeze bottle. It was during this conversation that I was informed that Attorney Tucker Leone had called and advised he was representing her. At that time I advised Michelle of that and told her I could not discuss the matter with her any further.

I then interviewed Kimberley and Melissa separately in my office in regard to what Michelle had told me about Danny's "sexual behavior".

I interviewed Kimberley first and asked her to tell me if there was anything about Danny she didn't like. She told me "He hits mommy." I then asked her if Danny had ever done anything that embarrassed her or made her feel uncomfortable attempting not to lead her. She said no. After talking with her a few minutes I realized she wasn't understanding what I meant so I asked her if she'd been taught about "good touch/bad touch". She told me she had so I asked her if Danny had ever touched her on her privates, or tried to touch her there. She said no. As the discussion went on she then told me that Danny had called her into her mothers room one night and took his shirt off. She stated she ran out of the room and told her mother. She said she thought Danny had learned it from "Bad tapes" he had watched a long time ago. She said the tapes were Bobs' and that Bob hid them after he found out Danny had watched them. She stated she never saw the tapes and at first stated she didn't know what was on them. Later in the conversation she told me she knew the tapes had to be of "disgusting stuff like boys and girls trying to have a baby."

I then interviewed Melissa and asked her to tell me if there was anything she didn't like about her brother or if he had ever done anything that made her feel uncomfortable, again attempting not to lead. She stated he was very controlling and spoiled. She said that they would only go out to dinner about twice

STATUS: _____

INVESTIGATING OFFICER: _____ SHEILD: _____

SUPERVISING OFFICER: _____ SHIELD: _____

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a year and that he would cause a scene by becoming loud and creating disturbance. She stated he had a short temper. She then went on to tell me that Danny had asked her one time to put on one of her mothers nightgowns. She said she told him no and that was the end of it. She stated she was never uncomfortable or scared to be in her house and stated "I felt very secure in my house. " "I was more afraid to sleep in motels than my own house." She stated she knew he had hurt her mother but that she had never really seen it happen. She stated her mother would send her upstairs and that she could only hear the yelling. Melissa stated that she tried several times to get her mother to fight back with Danny but that her mother wouldn't and would say "He's my son." She stated she also tried to talk her mother into putting Danny somewhere but that she wouldn't because she said they wouldn't know what Danny liked. Melissa told me that Danny usually slept in an oversized shirt and boxers. She said that she would sometimes hear him bouncing around and singing with the radio after he went to bed. She stated that after he got to sleep he was the heaviest sleeper she ever saw.

Following the interviews I brought Michelle back into my office so she could see the two girls. Sue Gotto had also arrived and Michelle requested she come in at the same time. At that time she told Kimberly and Melissa that "she had set the fire because Danny had hurt her." She had previously told me she was not going to tell them he'd raped her. At that point they all became emotional and the girls began crying about not wanting her to have to go away. She spoke with them for a few minutes and then asked both of them if they had told me about the things Danny had tried with them. She reminded Melissa about Danny trying to kiss her at which time Melissa stated she hadn't told me that because she didn't understand what I was asking her. (I had flat out asked Melissa if Danny had ever tried to touch her on her privates or anywhere else and she had told me no.) Melissa then began telling me that Danny had tried to kiss her and hug her a lot. She stated she would let him kiss her on the cheek but that he would try to kiss her on the lips. After this conversation the two girls left the room so Michelle could talk to Sue Gotto.

Michelle then admitted to Sue Gotto that she had started the fire and told her that Danny had raped her that night. Michelle did not go into detail with Sue about how she started the fire but fully admitted starting it. Sue commented that she should have told her so she could have helped her, and asked her why she hadn't told her. Michelle pleaded with Sue not to hate her for what she had done and told her she couldn't bring herself to tell anyone. Sue then told her she loved her and would stand by her.

Following that I allowed Robert Davis into my office to speak with Michelle at which time he talked with her about the charges being filed against her and then gave her his version of how he thought the criminal justice system would proceed from that point on, telling her she would stay in jail until she was convicted.

Michelle Davis was then arraigned in the T/Fleming Court on two counts of Murder in the Second degree and Arson in the second degree. She was remanded to the jail without bail.

STATUS: _____

INVESTIGATING OFFICER: _____

SHEILD: _____

SUPERVISING OFFICER: _____

SHEILD: _____

[Handwritten signatures and shield numbers]
SHEILD: 4193
SHEILD: 4096

VOLUNTARY AFFIDAVIT

STATE OF NEW YORK
COUNTY OF CAYUGA
TOWN OF SENNETT

SS:

DATE SEPTEMBER 22, 1999
TIME 1:50 PM
PAGE 1 OF 1 PAGES

I CHARLES S. GREENMAN, BEING DULY SWORN, DEPOSES AND SAYS, I AM 56 YEARS OF AGE HAVING BEEN BORN ON 04-21-43 IN CORTLAND, N.Y. I AM CURRENTLY EMPLOYED BY THE CAYUGA COUNTY SHERIFF'S DEPARTMENT AS A CORRECTION OFFICER SERGEANT. MY CURRENT DUTY IS SHIFT SUPERVISOR ON THE 8 AM TO 4 PM SHIFT. (S)

ONE OF MY DUTIES INCLUDES BEING A CLASSIFICATION OFFICER FOR THE COUNTY JAIL. I HAVE BEEN SPECIALLY TRAINED AND SCHOOLED AS A CLASSIFICATION OFFICER. THE DUTY OF A CLASSIFICATION OFFICER IS TO CLASSIFY INMATES COMING INTO THE JAIL AS TO WHAT AREA OF THE FACILITY THEY SHOULD BE HOUSED, WHETHER THEY ARE SUICIDAL, WHETHER THEY ARE A SECURITY RISK TO THE FACILITY, ETC. INMATE CLASSIFICATION IS SUPPOSED TO BE DONE WITHIN THE FIRST FIVE WORKING DAYS OF THEIR CONFINEMENT (S)

AT APPROXIMATELY 8:20 AM TODAY I BEGAN CLASSIFICATION ON INMATE MICHELLE DAVIS. MICHELLE DAVIS CAME INTO THE FACILITY SOMETIME LAST NIGHT. A PORTION OF THE CLASSIFICATION PROCESS IS AN INTERVIEW WITH THE INMATE. A PORTION OF THE INTERVIEW HAD BEEN CONDUCTED WHEN MICHELLE WAS BOOKED INTO THE FACILITY LAST EVENING. A SUICIDE SCREENING SHEET WAS FILLED OUT ON MICHELLE AND BASED ON THE SCREENING IT APPEARED THAT MICHELLE MAY BE AT RISK AS A POSSIBLE SUICIDE VICTIM. BECAUSE THE SUICIDE SCREENING SHOWED MICHELLE AT RISK, I CONDUCTED A FOLLOW-UP INTERVIEW WITH MICHELLE. THIS FOLLOW-UP INTERVIEW WAS CONDUCTED IN THE MED TANK WHERE MICHELLE WAS BEING HOUSED. DURING THIS INTERVIEW, MICHELLE STATED THAT SHE WAS WORRIED ABOUT HER DAUGHTERS. AS MICHELLE AND I WERE TALKING MICHELLE RELATED TO ME THAT HER SON HAD BEEN PHYSICALLY AND SEXUALLY ABUSIVE TOWARD HER AND HAD KISSED ONE OF HER DAUGHTERS. MICHELLE STATED THAT SHE KNEW THAT SHE HAD TO STOP HIM, THAT SHE HAD BLACKOUT SPELLS, BUT STATED THAT SHE KNEW THAT SHE HAD STARTED THE FIRE. AT THE CONCLUSION OF THE CLASSIFICATION INTERVIEW, MICHELLE SIGNED THE INMATE CLASSIFICATION SHEET. (S)

AT NO TIME DID I SILICATE ANY INFORMATION FROM MICHELLE THAT WAS NOT NECESSARY FOR ME TO CONDUCT THE CLASSIFICATION PROCESS. AT DID NOT ASK MICHELLE ANY QUESTIONS AS TO WHY SHE WAS IN JAIL. (S)

END OF STATEMENT.

I have read this statement consisting of TWO pages and the facts contained herein are true and correct. I have also been told and I understand that making a false written statement is punishable as a class "A" misdemeanor pursuant to section 210.45 of the Penal Law of the State of New York. (S)

SWORN TO THIS 23rd DAY OF SEPTEMBER, 1999.

Charles S. Greenman
Signed

Witness

Westlake Rd 4 Sept 99

	IN	out
Dale Moon -	1130:00	1140:00
Steve McCloud	1130:00	1140:00
Fred Cornelius	1130:00	1142:00
Joe Bell	1130:00	1142:00
Paul Benton	1130:00	1142:00
Steve Smith	1130:00	1142:00
Mike Bower	1130:00	1148:00
Dennis Cuff	1135:00	1148:00

Dale Moon & K9 Alex	1158:00	1200:00
James Ryan	1158:00	1200:00
Steve McCloud	1149:00	1205:00
Fred Cornelius	1149:00	1200:30
Steve Smith	1149:00	1200:30
Paul Benton -	Clear from Scene - 1202:00	

Dale Moon	1219:00	1321:00
James Ryan	1219:00	1224:00
Mike Bower	1219:00	1224:00
Chris Morabito	1219:00	1224:00
Steve McCloud	1224:00	1322:00
Steve Smith	1230:00	1322:00
Mike Bower	1230:00	1322:00
Joe Bell	1230:30	1304:30
Fred Cornelius	1230:30	1244:00
Dennis Cuff	1230:30	1233:30
Chris Morabito	1230:30	1311:30

4 sept 99

	IN	Out
Fred Cornelius	1254:00	1322:30
Steve McCloud	1348:00	14:20:00
Dale Moon	1348:30	14:20:55
J moribito	1350:00	14:20:00
Joe Bell	1350:00	14:14 12'
C moribito	1350:00	14:20:00
Fred Cornelius	1350:00	14:20 14:30:10
Jim Ryan	1350:00	13:59:10
Steve Smith	1350:00	14:30:10
Dennis Cuff	1350:00	13:59:55 <small>removed Heaters</small>
Dennis Cuff	1413:30	1414:00
Dale Moon <small>w/Alex K9 serch</small>	14:23:00	14:32:10
Jim Ryan	14:32:38	15:02:19
Fred Cornelius	14:35:15	14:40:15
Dale Moon	14:42:45	15:00:37
Steve McCloud	14:43:49	15:01:04
(Evidence Collection)		
Steve Smith	→ 14:50:00	16:32:18
Fred Cornelius	→ 14:50:00	16:32:18
CGM JOE BELL	15:03:35	15:25:45
CGM MIKE BOWER	15:03:35	15:25:45
CGM STEVE McLOUD	→ 15:08:30	16:27:50
CGM DALE MOON	15:27:58	16:46:11

CGM	JOE MORABITO	15:20:43	16:38:48
CGM	DENNIS CUFF	15:20:43	16:17:29
CGM	JOE BELL	15:43:15	15:54:25
CGM	JOE BELL	16:05:55	16:28:48
CGM	STEVE MCBODD	16:29:04	17:18:39
CGM	STEVE SMITH	16:39:46	
CGM	FRED CORNELIUS	16:39:46	
CGM	DENNIS CUFF	16:37:05	16:44:52
CGM	JIM RYAN	16:37:05	16:49:39
CGM	DALE MOON	16:55:30	
JB	J morabito	16:55:54	
BA	C morabito	16:56:02	17:20:29
1	Jim Ryan	16:55:30	17:00:21
1	Jim Ryan	17:04:15	17:06:14
	DENNIS CUFF	17:05:12	17:20:42

18:05:12.

Jack Nolan, Joe Morabito, Bob Springsted
 Entered Adjacent Building to the
 South, found 2 Working Smoke
 Detectors 1 1st floor 1 Second floor
 windows open @ this time unknown
 if open During fire Suppression.

Scene Sealed 17:3 hrs

COMPLAINANT - LAST NAME, FIRST, MIDDLE

CASE NO.

House Fire 6012 West Lake Road

99-6878

2025 Fire investigation team Secured from Scene

0005 C.O. Phillips to Scene, 712 to Residence

9/5/99 0025 712 return to Scene.

0345 Deputy Nedza to Scene

0400 Deputy Gallow Secured from Scene

0810 Deputy Lukins to Scene

0820 Deputy Nedza Secured from Scene

0820 David Vanek, 6026 W. Lake Rd. Ph # 252-6040

9 N. Hunter Ave Ph # 253-4823

(Neighbor revisiting the sight)

0950 Ed Wyckoff, 5702 W. Lake Rd.

~~1005~~ (Neighbor observing the sight)

1005 Kelly Germano daughter to neighbors Frank & Judy McKay

5692 W. Lake Rd. Ph # 253-5298

(Kelly had 3yr old son intrigued by the structure)

1030 George Bender, 5698 W. Lake Rd. Ph # 252-2367

(Neighbor observing the sight)

1045 Tom Nolan, 3045 Rockefeller Rd., Moravia, NY Ph # 497-7263

Keith Raymond, 10 Adams Ave, Auburn Ph # 255-0524

(Came to observe damage to Nolan house on s-side of sight)

1115 Michelle Davis (VI's mother)

Sue Gutto, 99 Lansing St. Ph # 255-3915

(Retrieve photos out of garage)

1127 Keray Leubner = girlfriend Cheryl Person (Cherry - father of VI)

1135 Door Open to the garage by Michelle Davis. Photos retrieved from box on work bench, northside wall.

1140 Garage Door shut by Cheryl Person

Photos displayed on trunk of 718 and photo'd by I/Dep. Lukins.

1146 Fire Inv. Joe Bell and Colleen Bell arrived. Entry to house accompanied by I/Dep. Lukins to tarp area of origin. 1156 hrs exited house.

1150 Dep. Nedza In to assist being family still on scene.

1203 Dep. Nedza Out, Family left. → 1232 hrs Fire Inv. Dep. Smith In

1242 Rob Sprusskady, 3881 South St Rd. Ph # 253-0819

-Passenger in Flemish / Engine 1 1st Apparatus on scene.

(Seems sight again) w/girlfriend Debbie Sincerbeaux.

Provided Deposition to Fire Inv. Dep. Smith. left at 1338 hrs

9/5/99 Page 2 started 1340 hrs. p/s → (Lukins) #4102

COMPLAINANT - LAST NAME, FIRST, MIDDLE

CASE NO.

House Fire, 6012 West Lake Road.

99-6878

9/5/99 Started Page 2 1340 hrs.

1345 Bob Nolan arrived, ^{co-}owner of 6008 W. Lake Rd, rental property, which received heat damages, complaint number provided for insurance purposes then left. 2851 Mobbs Rd Ph # 252-8395

1350 Tim Nolan, 6010 W. Lake Rd, provided Deposition to Dep. Smith completed 1440, left 1448 hrs.

Michelle Davis & Sue Gatto returned and went to lake shore

1400 Sue Gatto left 1415 Michelle Davis left

1437 Robert Davis, 302 Geneva Gardens, Ph # 253-8136 arrived looking for Michelle Davis, left 1448 hrs

1555 Don Powers, 54 Aurora St, Moravia, NY Ph # 492-3328 Just stopped by on way to cousin's George Bendas house

1620 - Michelle Davis, Robert Davis, Mary Davis & Christopher Davis arrived. Mary address - 8 Hallow St. Ph # 253-0201

Mary is Roberts Mom, Christopher is Roberts son. Left 1643

1635 - Scott Kehoe, Flenora I Fireman, stopped to see in daylight. Left 1643 Showed Dep Lupo Rear Side of ResidenceTM

1635 - Dep. Lupo arrived on scene.

1645 - Dep. Lukins secured from scene.

1730 - ALEX PARSON, Leroy Leubner, Scott Leubner Stop by looking for cats. Left 1743

8:43pm END Shift No other Activity MJL 4099

2043 DEP. LUPU RELIEVED DEL #4090

2355 END OF SHIFT - NO ACTIVITY - DEL #4090

- RED JEEP CHEROKEE / DODGE DURANGO - NEWER MODEL SEEN UP + DOWN W. LAKE RD - OCCASIONALLY SLOWING DOWN NEAR SCENE -

2355 - Dep Laraway Relieved MJL 4099

9/6/99 0400 Relieved By Dep. Stephens MJL 4099

0745 Dep Stephens relieved by Dep Appleby CS 4/55

0750 Deputy Stephens secured from scene

1035 - Robert Davis & Melissa Leubner returned to try to locate 2 cats. Davis states that Michelle & daughters will be staying in brown camp just North of house as of Wednesday, 06/08.

1155 - Sgt Outhouse on scene

1220 - Sgt Outhouse interviewed neighbor Patrick Nolan - will TOT info to CID

1228 - Sgt Outhouse secured from scene.

COMPLAINANT - LAST NAME, FIRST, MIDDLE

CASE NO.

House Fire @ 6012 West Lake Rd

99-6878

- Page 3 090699 @ 1300 hrs. -

1612 - Deputy Applebee relieved by Deputy VanDitto

1615 hrs. PROPERTY OWNER ARRIVED w/ MOTHER, WALKED UP TO SECURED AREA LOOKING AROUND, MET w/ NEIGHBORS, LEFT @ 1633 HRS.

1836 hrs. GOLD VEHICLE, NY-R15-98X, PULLED INTO DRIVEWAY, OPERATOR WHITE MALE, WAS CRYING, TURNED AROUND AND DROVE OFF. TOTAL TIME HE WAS AT SCENE AROUND 1 MINUTE.

1953 hrs. DEPUTY VAN DITTO RELIEVED BY DEPUTY CARBONARO

2336 hrs Deputy Carbonaro Relieved by Deputy Schenck

9-7-99 0814 HRS - Anthony DeCora - City of Auburn-Watersted - Walked around scene - taking pictures for record concerning watersted - also with a partner - Mike Szakalski - Total time at scene 6 minutes - Not allowed in secure area.

0828 HRS - Deputy Schenck relieved by Deputy Nedza

0920 K. Bohman Geneva Adjustment Service at scene for Insurance Co. Entered house at 0935 w/ Deputy Nedza to take pictures exited house 0945

0956 Bohman left scene.

1210 Leroy Lubner at scene, wanted to talk to someone about items of decensed. referred to investigator Corvillus left scene 1215

0421 NY R-1595X met w/ neighbors left 0427 w/ male

1632 HRS Deputy Nedza relieved by Deputy Lupo

1632 Dep Lupo Relieves Dep. Nedza 4099 ma

1640 mother of victim ARRIVES with two Daughters. ALL Go to Brown wood house just to the North. Talk to Neighbors inside

1654 all three subjects leave Area

2010 Patrol Deputy Lupo Relieved By Dep. Wellauer

2400 PATROL DEPUTY WELLAUER RELIEVED BY DEP. NEDZA. M/W

0747 Patrol Deputy Nedza Relieved by Deputy investigator Gray

0803 INV. GRAY RELIEVED BY DEP. NEDZA

0857 Patrol Deputy Nedza Relieved by Deputy Cotton

1205 NYSEG employee requests entry to shut off electric and gas. Denied entry, referred to CID members Cornelius, and Mellon.

1355 Mother of victim and friend Susan Gatto request access to collect photo album. Denied access/referred to CID.

1358 Neighbor Francis Vizvary inquires how long before clean up begins. "Unknown" Referred to CID

1450 Deputy Cotton, Inv. Cornelius ENTER House.

1510 Deputy Cotton, Investigator Cornelius Exit House with toys and photo album.

1610 Log and scene turned over to Deputy Benton

RON

COMPLAINANT - LAST NAME, FIRST, MIDDLE

CASE NO

HOUSE FIRE @ 6012 WEST LAKE RD

99-6878

- Page 4 090899 @ 1610 hrs -

2358 Log out scene to Dep. Lupo

0704 Deputy Lupo Relieved by Deputy Schlegel. 4094

- 09/09/99 - 0409 hrs - SCHLEGEL #4147

Relieved by Dep. Applebee @ 0800 hrs - Schlegel 4147

0842 Fire Inv Dennis Ware & Bob Ware Sr on scene. Meeting set for 9:00AM with Inv McCloud & Inv Cornelius

0900 Inv Cornelius on scene

0905 Bill Patrick on scene

0912 Inv Cornelius, Ware, Ware Sr, & Patrick enter immediate scene and begin taking photos from outside

0919 Investigators enter house

0927 Inv Gray on scene

1018 Inv Gray left scene

1132 Inv McCloud on scene

1142 Inv McCloud enters house

1158 Deputy Applebee relieved by Deputy Kelly

1220 Inv. McCloud entered two shovels onto scene. washed same.

1302 Food delivery from Nino's

1305 Food delivery person left.

1403 Co-13 on property to see Inv. McCloud.

1423 Co-13 off property

1443 Robt Davis wife & 2 children on prop not secured area.

1450 Davis family off prop.

1555 Dep. Kelly relieved by Dep. Daraway

1604 Inv. McCloud out of residence/scene

1611 Inv McCloud back into scene w/ PAINT CAN.

1645 Inv. D. WARE, B. WARE SR, INV CORNELIUS OUT OF SCENE - BRINGING EQUIPMENT w/ THEM. (shovels)

1647 Inv McCloud out of scene w/ 2 PAINT CANS; INV. CORNELIUS BACK INTO SCENE.

1655 Inv D. WARE & B. WARE SR BACK IN SCENE, INV. McCloud BACK INTO SCENE.

1704 Inv McCloud, B. PATRICK, D. WARE, B. WARE SR OUT OF SCENE.

1706 Inv. CORNELIUS OUT OF SCENE.

1704 ALL INVESTIGATIVE PERSONNEL LEAVE SCENE.

1850 ^{18:50} JACK NOLAN, OWNER OF ADJACENT PROPERTY, TO VIEW HEAT DAMAGE SO N. SIDE OF HIS

PROPERTY - VIEWED FROM OUTSIDE SECURE AREA - STATES INSURANCE ADJUSTER IS TO COME TO PROPERTY @ 0830 HRS ON 09/10/99 FOR INSPECTION. MR. NOLAN INFORMED INVESTIGATIVE PERSONNEL WILL ALSO BE AT SCENE IN A.M.

2040 RELIEVED BY DEP. GALLOW - DEL #4090

2109 a dark colored van shined lights down drive possibly two occupants left before plate number obtained 4046

2400 relieved by Deputy Lupo

COMPLAINANT - LAST NAME, FIRST, MIDDLE

CASE NO.

House fire AT 6072 West Lake Rd

99-6878

Page 5 09/10/99 AT 1200 AM
 Deputy Lupo relieves Deputy Gallow MSL 4094
 0357 Patrol noticed A Light on in kitchen Area of Camp that belongs to the Nolans. Camp is in Secured Area. Deputy Applebee Arrives And we check Area. Sgt Du
 0400 Sgt. Outhouse Arrives He assist in checking Area.
 0404 Deputy Lupo relieved by Deputy Applebee
 0427 Sgt Outhouse leaves scene. Scene is secure.
 0503 Light in Nolan's camp goes out.
 0504 Patrol checked area
 0510 Scene is secure
 0810 Deputy Applebee relieved by Deputy Stephens
 0819 Bill Patrick arrives at scene
 0822 Dennis & Bob Ware arrived
 0840 Inv Cornelius arrives
 0845 Bill Patrick, Dennis & Bob Ware, Inv. Cornelius enter secured area
 0905 Jack Nolan to scene, awaiting insurance adjuster for rental property next door. Advised of light in kitchen
 0935 Denise Schad, Nilans insurance adjuster to scene.
 0947 Jack Nolan, Denise Schad entered secure area with Dep Stephens, pictures & measurements
 0950 Robert Davis, Michelle Davis, Susan Gatto and David Finucane (insurance adjuster at scene) retrieved golf clubs
 1000 Ed Laraway arrived at scene, entered secure area
 1017 Jack Nolan and Denise Schad leave scene, light problem resolved.
 1037 Davis group left scene.
 1106 Mark Aswad enters secure area for measurements
 1128 Michelle Davis, Susan Gatto to scene, leaving flowers on dock
 1135 Leroy Leubner at scene. Argument ensues with Michelle Daw
 1148 Davis Gatto & Leubner leave scene
 1200 Dep. Benton relieves Dep Stephens at scene
 1234 Scott Kehoe in secured area w/ Inv. Cornelius
 1234 Scott Kehoe out of secured area
 1257 Ed Laraway left scene
 1346 Brian Scanlan & George Benda Fleming E.D. w/TRUCK ON SCENE
 1348 Scott Kehoe + DAVID MEYERS ON SCENE w/KR
 1403 S. Kehoe IN secured AREA
 1408 M. Smokoski ON SCENE
 1428 INV. GRAY ON SCENE IN SECURED AREA
 1432 William Beck ON SCENE
 1443 BRIAN SCANLAN, GEORGE BENDA, William Beck, M. Smokoski, D. Meyers left scene
 1526 S. Kehoe left scene
 1555 Bob Springstead ON SCENE
 1607 Scene T.O.T. Dep. Lukins

RCN

COMPLAINANT - LAST NAME, FIRST, MIDDLE

CASE NO.

House Fire, 6012 West Lake Rd.

99-6878

Page 6 9/10/99 at 1610 hrs.

- 1610 William Brock, Flemm FD Chet Car #2 arrived on scene
- 1615 Bob Spronskeed Flemm FD Chet Car #1 left
- 1617 Flemm Engine 1 on scene with Firemen Shawn Conaushty & Dave Meyers & George Benda, John Sheffte
- 1624 Bill Pelc, Flemm FD Chet Car #3
- 1635 Trv Grey clear from scene.
- 1645 Brock, Conaushty, Meyers Benda, Sheffte, Pelc - all Flemm FD members w/ Engine 1 cleared from scene.
- 1702 Don Arquette - neighbor, arrived at scene
- 1709 Sue Gatto, Michelle Davis & Marian Gatto arrived at scene
- 1720 Don Arquette left scene.
- 1729 Sue Gatto, Michelle Davis & Marian Gatto left scene.
- 1755 Bill Patrick, Dennis Ware, Bob Ware^S & Mark Aswad cleared scene.
- 1804 Trv Meland Cleared Scene
- 1815 Trv Cornelius Cleared Scene.
- 1945 Scene T.O.T. to Dep Schrock.
- 2353 Scene Secure TOT Deputy Leja

~~2400 hrs~~ 09/11/99

Scene Secure - DEP LEJA check Area/ON Post

- 0803 Scene Secure - TOT DEP KELLY
- 0830 Scene Secure TOT Dep Nedza
- 11:30 Robert Davis on scene brown house N of scene
- 11:40 Robert Davis request trash can in garage.
- 11:43 Robert Davis to contact Invt Cornelius thru pager.
- 12:00 Scene Secure TOT Dep Stephens
- 12:13 Leroy Leubne arrives at scene with flowers. Placed by back porch by Dep Kelly.
- 12:15 Leubne leaves, Robert Davis voices concerns about Leubne's presence, Invt Cornelius contacted. Leubne allowed on adjacent property.
- 1600 Scene secure, TOT Dep Schlogel
- 1832 Jack Nolan drop key off for Patrols to use his Cottage next to scene
- 2000 Scene Secure - TOT Dep. LARAWAY - #9747
- 2060 DEP LARAWAY ON SCENE - DEL #4100
- 2355 RELIEVED BY DEP. NEDZA - DEL #4090
- 2355 Dep. Nedza on scene #4108
- 0745 Scene Secured TOT Dep Stephens
- 1256 Scene Secure TOT Dep Nedza
- 1637 Scene Secured TOT Dep Vandetta
- 2000 SCENE SECURED TOT DEP CARBONARO

RCN

COMPLAINANT - LAST NAME, FIRST, MIDDLE

CASE NO.

House Fire @ 6012 Westlake Rd

99-6878

PAGE 7 09-12-99 @ 2000 hrs

No Activity

Deputy CARBONARO Relieved By Deputy Laramay 0000 hrs

0000 HRS 9/13/99 DEP. LARAMAY ON SCENE DEL #4090

0350 Relieved BY DEP. KELLY - DEL #4090

0740 Relieved by Dep. Colton B.V.K. 4085

1230P. Mother of victim checks on flowers placed on water side just outside scene.

1400 - Bishop Meil from T/Fleming inquires when he will be able to mark sewer line prior to NYSEG digging to disconnect service. Referred to CID - Cornelius.

1530 Inv. Cornelius, Inv. Gray into garage and house to collect evidence.

1615 Inv. Cornelius Inv. Gray leave scene with evidence + gas samples and heaters.

1620 Relieved by Dep. Lupo scene and log turned over CMC 4028

1845 - John E. Hilliard of 329 Tollgate Hill Rd Ph# 497-2089 stopped by to see scene leaves 1846.

1930 Mrs. Davis (Victims Mom) Susan GARD, Robin Stevens 9/20/65 of 114 E Genesee St 253 6735 and Donna C. CARAWAY 5/16/42 same address as Robin. All walk from Brown Camp just north of scene to rear of scene. Mrs. Davis showing friends flowers in back at secured area. All 4 subjects in view leave to go back to camp at 1940.

2030 Dep. Lupo Relieved Dep. Galloway and keys turned over 4099 ML

2130 Deputy Galloway on scene

0400 Relieved by Deputy Smith

0409 SCENE SECURE - PERIMETER CHECKED - SMITH

0801 Relieved BY DEP SCHLEGEL

09/14/99 - SCHLEGEL #4147

1032 - INV. McLOUD + DR. ARONENSTIEN ENTERED SCENE - (Residence)

1036 - DENNY WARE + BILL PATRICK ARRIVE ON THE SCENE.

1055 - SCENE TOT KELLY J #4147

1300 Scene TOT Dep. Schlegel. B.V.K. 4085

1415 Scene TOT Dep. Galloway J #4147

1415 Galloway 4046

1435 Inv McCloud entered scene Dr. Aronenstien entered scene

1500 Trevor Kapralos assistant photographer requests permission for photos (Citizen) Told at police line by Inv McCloud. Inv Cornelius reenters scene.

1530 Trevor Kapralos left scene

1535 Trevor Kapralos returns to scene

1540 Inv Gray leaves scene

1545 Inv McCloud, Inv Cornelius, Denny Ware, Bill Patrick, Dr Aronenstien to scene

1625 Dr Aronenstien, Inv McCloud leave scene

1710 Deputy Binton to scene

1738 Inv. McCloud @ scene

RON

COMPLAINANT - LAST NAME, FIRST, MIDDLE

CASE NO.

House FIRE @ 6012 Westlake Rd

99-6878

Page 8 9-14-99 @ 1739 hrs

1934 - Inv. Cornelius, Inv. McLoud, Bill Patrick, D. Ware leave scene

1953 scene turned over to Dep. Schenck

2350 Scene Secured tot Deputy Leja 09/15/99

0400 Scene Secured tot Dep Schlegel

0750 Dep Stephens to scene tot Dep Stephens - JS #4147

0805 Dep Stephens to Schlegel -

1007 - Michelle Davis walked to back of scene + sat on dock on lake staring off in lake and back at the scene until 1036 hrs then back to her residence

1102 - Inv. McLoud Arrives on scene

1118 - Michelle Davis walks back to and sits on dock.

1132 - Inv. McLoud begins taking pictures around + in scene.

1154 - Sue Gatto Arrives next door + walks out to Michelle on dock

1202 - Both went back to their residence

1319 - Inv. Cornelius Arrives at scene

1334 - Bill Patrick Arrives at scene

1350 - Denny Ware Arrives at scene

1553 - SCENE TOT INV Cornelius JS #4147

RCN