



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE

JACKIE LACEY • District Attorney

JOHN K. SPILLANE
Chief Deputy District Attorney

June 22, 2016

The Honorable James R. Brandlin
Los Angeles Superior Court
Central District
Department 100
210 West Temple Street
Los Angeles, CA 90012

Dear Judge Brandlin:

In re PEOPLE V. RAYMOND JENNINGS, Case No. MA033712

On October 6, 2015, Mr. Jeffrey Ehrlich, counsel for defendant Raymond Jennings, requested the Los Angeles County District Attorney's (LADA) Conviction Review Unit (CRU) review the December 18, 2009 conviction of his client for the second-degree murder of 18 year old Michelle O'Keefe. Mr. Jennings was convicted by a jury after two previous juries were unable to reach a verdict. Mr. Jennings was sentenced to 40 years to life in prison on February 18, 2010.

The CRU undertook a complete and thorough review of the case which included a request that the Los Angeles County Sheriff's Department (LASD) reopen the investigation into the murder. Requests for additional forensic testing and investigations in order to identify the perpetrator(s) were included. Newly discovered evidence has been revealed that suggests a person or persons other than Mr. Jennings may have murdered Ms. O'Keefe. For the reasons set forth below, the Los Angeles County District Attorney's Office is petitioning the court to release Mr. Jennings's on his own recognizance forthwith pending the completion of the ongoing investigation by the Los Angeles County Sheriff's Department and the Los Angeles Police Department.

STATEMENT OF FACTS

A. Events Preceding the Murder

On February 22, 2000, Ms. O'Keefe and her friend, Jennifer Peterson, drove in tandem to a Park-and-Ride lot in Palmdale just off the 14 freeway. They arrived at 1:45 p.m. and Ms. O'Keefe parked her new, 2000, blue Mustang in the lot. Ms. O'Keefe got into Ms. Peterson's car and they drove together to Los Angeles to be extras in a music video.

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Los Angeles, CA 90012
(213) 257-2928

At 8:00 p.m. that night, Mr. Jennings arrived at the same Park-and-Ride lot for work as an unarmed, uniformed, security guard who patrolled the lot on foot. It was his second day working security at the lot, although he previously worked for All Valley Security on different job sites. Mr. Jennings's supervisor, Iris Malone, was also on duty that night and the two communicated by way of a hand held, two-way radio. Mr. Jennings's shift was scheduled to end at 4:30 a.m. the following morning.

Between 9:20 and 9:25 p.m., Ms. O'Keefe and Ms. Peterson returned to the parking lot via the southwest entrance in Ms. Peterson's car. At 9:23 p.m., Ms. O'Keefe used her red cell phone to make a call which lasted one minute. Ms. O'Keefe then got out of Ms. Peterson's car and retrieved her backpack from Ms. Peterson's trunk. The backpack contained a pair of pants Ms. O'Keefe was going to change into before going to her college class, which ended at 9:50 p.m. Ms. O'Keefe got a fruit bar from the Mustang's glove compartment and gave it to Ms. Peterson. The women said goodbye. Ms. O'Keefe got into her Mustang and started the engine. Ms. Peterson drove out of the lot through the southwest exit.

B. Shots Fired and the Immediate Response

At 9:32 p.m., Mr. Jennings reported "shots fired" over his hand held radio to Malone and asked her to call the police. At 9:36 p.m. the Sheriff's department dispatched deputies to the parking lot to respond to a "shots fired" call. Malone arrived at the northern end of the parking lot at 9:42 p.m. and spoke with Mr. Jennings. Malone wanted to go to the location where the shots originated, but Mr. Jennings refused, saying he was unarmed. Malone proceeded to the Mustang and Mr. Jennings followed minutes later. Both Mr. Jennings and Malone saw Ms. O'Keefe in her car, apparently shot multiple times.

Deputy Cox was the first deputy to arrive on scene at 9:49 p.m. Mr. Jennings, standing by his security post at the lot's northeastern entrance, waved his arms overhead to flag down Deputy Cox. Deputy Cox pulled up to Mr. Jennings and rolled down his window. Mr. Jennings appeared very excited. He told Cox somebody had been shot and pointed to the west end of the lot.

Deputy Cox drove quickly toward the blue Mustang and saw Ms. O'Keefe in the driver's seat with multiple gunshot wounds. Although he determined Ms. O'Keefe was dead, Deputy Cox called for paramedics and additional deputies.

Once additional deputies arrived, Deputy Cox walked around the crime scene looking for evidence. Mr. Jennings joined Deputy Cox and Mr. Jennings asked him what caliber of firearm was used to shoot the victim and if he knew what happened. Deputy Cox told Mr. Jennings it appeared the victim was shot with a 9mm firearm. Mr. Jennings used a flashlight to look on the ground and pointed out an expended shell casing. Deputy Cox thanked Mr. Jennings for his assistance and told him to "get out of the crime scene." Mr. Jennings walked toward the eastern

entrance of the parking lot and remained there throughout the evening, speaking with other deputies and homicide investigators, who arrived later that night.

Deputy Cox did not track Mr. Jennings's movements in the parking lot and considered him a witness, not a suspect. At trial, Deputy Cox testified he felt Mr. Jennings was "trying to help."

Crime Scene

The Mustang was found in the west end of the parking lot with the keys in the ignition, the engine running, headlights on, and the manual transmission¹ in neutral. The driver's door was open and its window was rolled down four and one half inches. The passenger door was closed with its window rolled up. The glove compartment was open. The rear wheels were on top of an elevated median/planter, while the front wheels were on the pavement of the parking lot.

Ms. O'Keefe's body was found in the driver's seat of the Mustang. Her left leg was outside of the car while her right leg was inside the car. She wore a sandal on her right foot, but her left foot was bare. Her left hand was on her lap and her right arm was bent at the elbow with the right hand behind her back. There was a drop of blood on the inside of her left knee and another on the inside of her left ankle.

Ms. O'Keefe was wearing a tube top with a bra underneath, a skirt, underwear and a green wristband on the left wrist. The tube top was in disarray, partially exposing her right breast. The bra and underwear were undamaged. Ms. O'Keefe had two identical earrings in her left ear. Each earring had a white stone with a yellow backing.

The coroner determined that Ms. O'Keefe was shot once to the chest, once to the neck and twice to the face at close range. The coroner documented a large laceration over Ms. O'Keefe's left eyebrow, which was caused by blunt force trauma.

Ms. O'Keefe's purse and cellphone wallet, which contained approximately \$100, was between the Mustang's center console and driver's seat. A cell phone charger was plugged into the cigarette lighter, but her cell phone was missing. Multiple drops of blood were to the left of the driver's seat on the lower portion of the door frame next to an expended casing. A single post earring with a white stone was found underneath the passenger seat, which was similar in appearance to the two earrings found in Ms. O'Keefe's left earlobe.²

It appears the Mustang rolled backwards out of a parking space before it came to a stop. On the pavement in the area the Mustang rolled backwards out of, investigators found Ms. O'Keefe's

¹ A manual transmission is also known as a "stick shift."

² Autopsy photographs appeared to show Ms. O'Keefe had two pierced holes for earrings in her right ear. Only three earrings were found at the crime scene, however. If Ms. O'Keefe wore two earrings in her right ear that night, one earring is missing.

left sandal, a fired bullet, three expended shell casings, the backing to a yellow metal earring, a gouge in the asphalt, and several drops of blood. There was one drop of blood on the heel of the left sandal and multiple drops of blood on the bottom of the sandal. When Ms. O'Keefe's body was removed from the Mustang, a plastic card fell to the ground.

Five cartridges were fired from the same 9mm semi-automatic firearm used to kill Ms. O'Keefe. Two of the five cartridges were "hollow point" while the other three were regular 9mm Luger ammunition. Three of the four expended cartridge casings recovered were manufactured by "CCI" and one was manufactured by "FC."

C. Mr. Jennings's Statements

Deputy Curran arrived at the parking lot a few minutes after Deputy Cox and saw Mr. Jennings standing by the lot's northeastern entrance. Deputy Curran asked Mr. Jennings what happened. Mr. Jennings said he was by the northeastern entrance when he heard gunshots and saw the Mustang roll backwards across the parking lot. Deputy Curran asked if anybody left the parking lot after the shooting and Mr. Jennings said, "No." Deputy Curran asked Mr. Jennings to enter the patrol car and they drove up to the Mustang. Mr. Jennings remained in the patrol car because it was cold outside and Deputy Curran considered him a witness. After the scene was secured, Deputy Curran conducted a detailed interview of Mr. Jennings in the patrol car at 11:30 p.m.

Mr. Jennings said he walked from the northwest to the northeast corner of the parking lot at 9:34 p.m. and did not see anyone. When Mr. Jennings got to the lot's northeastern entrance, he heard a car alarm. He looked in the direction of the alarm and heard a gunshot. Mr. Jennings crouched behind a parked car, looked over the hood of the car and saw a blue Mustang in the west end of the parking lot rolling backwards. He heard five more gunshots and reported to his supervisor, over the radio, that shots were fired in the parking lot. Mr. Jennings did not see anybody leave the lot and when asked the same question again, Mr. Jennings was sure nobody left the parking lot. Mr. Jennings said his supervisor Iris Malone arrived and drove up to the Mustang while he stayed by the northeastern entrance. Malone told him that someone had been shot and to call the police. Deputy Cox noted Mr. Jennings wore wool gloves, no spectacles and nothing was amiss with his appearance.

Homicide investigator Sergeant Longshore arrived on scene at 12:35 a.m. At 1:20 a.m. Sgt. Longshore spoke with Mr. Jennings, who remained at the crime scene. Sgt. Longshore described Mr. Jennings's demeanor as cordial and polite. At approximately 9:00 p.m., while on foot patrol, Mr. Jennings noticed Ms. O'Keefe's blue Mustang parked on the north side of the parking lot. He did not see anyone in or around the car. The windows were not fogged and the engine was not running.

Mr. Jennings walked slowly through the parking lot until, at 9:30 pm, he reached his car which was parked in the security guard parking space at the northeastern entrance of the lot.³ At that time, Mr. Jennings heard a car alarm in the west end of the parking lot. He walked towards the sound of the alarm and heard a single gunshot coming from the same area. He took cover behind his car, looked toward the west end of the parking lot and saw a blue Mustang rolling slowly backwards. The car's alarm was sounding, the lights were flashing and he could hear the sound of the engine. Ten seconds later he heard five more gunshots and took cover behind his car. He did not see any muzzle flashes and thought the shots sounded like automatic gunfire. Mr. Jennings used his radio and notified Malone about the gunshots and remained by his car until she arrived in her marked security car. He did not see anyone leave after the shooting and was worried the shooter was in the area.

Three days later, on February 25, 2000, Sgt. Longshore returned to the parking lot to view the scene. Mr. Jennings was working at his security post and spoke with Sgt. Longshore at 12:15 a.m. Sgt. Longshore noticed that Mr. Jennings was wearing spectacles. Mr. Jennings told Longshore that, one hour earlier, a red truck with two men came to the parking lot and asked him if he was the security guard working at the time of the murder. The encounter concerned him and he did not feel his employer cared about his safety.

Later that day, Mr. Jennings quit his job, not mentioning the concerns he had for his safety to his employer, or that two men in a truck approached him earlier that night. He turned in his uniform three days later, on February 28, 2000.

On March 23, 2000, Sgt. Longshore and investigator Harris spoke with Mr. Jennings at his residence. Although it was an unscheduled interview, Mr. Jennings agreed to speak with them. The investigators asked if he remembered any additional facts about the murder. Mr. Jennings told the investigators the same thing he said when first interviewed. He repeated that he did not see a person or vehicle leave the parking lot after the shooting and said the shooter must have run up the embankment on the north side of the parking lot to escape undetected.

Investigators told Mr. Jennings there was a car parked in the lot close to the Mustang with people smoking marijuana in it. Mr. Jennings said he did not see the car. Investigators asked him if anyone drove out of the lot after the shooting and Mr. Jennings responded a square-shaped, four-door gray sedan with a hard vinyl top approached him five to ten minutes after the shooting. A Black female was driving the sedan and there was at least one male in the back seat of the car.⁴ The woman asked him if shots had been fired. He remembered the incident with the woman in the car when the investigators brought it up. Investigators asked him if he owned any firearms. Mr. Jennings said he owned a .380 caliber semiautomatic handgun and produced the handgun for

³ Mr. Jennings did not own a car, so he borrowed his neighbor's vehicle to drive to work that night.

⁴ In civil deposition testimony, Mr. Jennings said he saw four African-Americans in the car that drove up to him after the shots were fired.

the investigators to inspect.⁵ Mr. Jennings told them he bought and registered the gun in North Carolina when he lived there.

During the March 23, 2000 interview, Mr. Jennings described his observations of the crime scene to detectives. He saw spent shell casings on the ground and one "slug." He could not understand why the "slug" would have been there unless the shooter shot into the ground. He saw a weak pulse in the victim's neck and her body was twitching when he walked over to the Mustang. Mr. Jennings agreed to meet with investigators again and participate in a cognitive interview.⁶

On April 7, 2000, Mr. Jennings went to a Sheriff's facility in Lancaster to participate in the cognitive interview. Mr. Jennings filled out a lengthy questionnaire before the interview and was instructed to be as detailed as possible in answering questions about his "observations, recall and thoughts about the incident."

During the cognitive interview, Mr. Jennings was asked his opinion on the motive for the crime, how he thought the crime occurred, and how the victim received her injuries. Mr. Jennings was also asked about his military experience.

Mr. Jennings said that upon seeing the victim after the shooting he thought she was a prostitute due to her scantily-clad appearance. He later learned she was wearing "club attire" for work as an extra in a music video. Initially, he thought Ms. O'Keefe was raped because her tube top was pulled down and her breasts were exposed. After he looked into the car, he decided she was not raped.

Mr. Jennings thought the gunman discharged a round into the ground first and then shot the victim in the chest and head. He thought she was shot in the chest first, because if she were shot in the head, she would not be able to back the car up. Mr. Jennings thought the chest wound was fired at close range because of the "powder" and "the way it looked." Investigators Longshore and Harris felt Mr. Jennings's statements indicated an intimate knowledge of the crime, which only the killer would know.

Mr. Jennings's description of Ms. O'Keefe's injuries, however, was wrong. In the interview, Mr. Jennings told investigators Ms. O'Keefe was shot above the left eye. The coroner testified the injury above the left eye was a laceration, not a gunshot wound. Mr. Jennings also described

⁵ Ballistic tests determined the .380 caliber handgun was not the murder weapon.

⁶ The cognitive interview ("CI") is a method of interviewing eyewitnesses and victims about what they remember from a crime scene in hopes of developing further leads in an investigation. The CI uses four memory retrieval techniques to make witnesses aware of all the events that transpired. The participant is asked to (1) form a mental picture of the environment in which he or she witnessed the event, which may include the placement of objects; (2) report as much detail as possible; (3) create a narrative of the event; and, (4) report the event from several different perspectives, including the perspective of another witness or participant.

seeing brain matter behind Ms. O'Keefe's head, which too was wrong. When questioned why he did not render first aid to Ms. O'Keefe, Mr. Jennings said his first instinct was to do so, but he realized the car and victim were a crime scene and he did not want to disturb any evidence.

The same day, after the cognitive interview, Mr. Jennings voluntarily participated in a polygraph examination. The examiner told Mr. Jennings he failed the examination because some of his responses indicated deception. Mr. Jennings admitted he lied about aspects of his military service, because he was trying to make himself look good.

After the polygraph examination, investigators Longshore and Harris told Mr. Jennings they believed he killed Ms. O'Keefe. Mr. Jennings responded he had nothing to do with the murder. Investigators confronted Mr. Jennings with various scenarios of how he could have killed Ms. O'Keefe. Mr. Jennings calmly rejected every scenario. Investigators presented Mr. Jennings with a letter, which was a ruse, which stated a witness in the parking lot saw a security guard running away from the Mustang after the shooting. Mr. Jennings said the letter was wrong.

D. Other People at the Crime Scene at the Time of the Murder

1. Jane Doe⁷

On March 7, 2000, Sheriff's investigators were notified that the Los Angeles Police Department (LAPD) had taken 17 year old Jane Doe into custody on a warrant for assault with a deadly weapon. The juvenile claimed to have information about the Palmdale murder.

When interviewed by investigator Harris, Jane Doe stated on the night of the murder she drove some friends to the parking lot in a rented, black, Chevrolet Malibu, to smoke marijuana, listen to music and talk.⁸ They arrived around 10:15 or 10:30 p.m. Lois Doe, John Doe, and Jane's 4 year old godson were in the car with her. Jane described Lois as a 22 year-old African-American female and provided the investigator with Lois's phone numbers. Jane described John Doe as an 18 year-old African-American male, but offered no further information.

Jane's car was parked facing north in the lot. Jane was in the driver's seat, her four year-old godson was asleep in the front passenger seat, and Lois and John were in the backseat. After an unknown period of time, Jane heard a car alarm but paid no attention to it. She did not hear any gunshots, but heard tapping noises and assumed someone was trying to break into her car. She did not know when the tapping noises occurred in relation to the car alarm. After the car alarm sounded, Jane saw through her rearview mirror a 1997 or 1998, black, Toyota Tercel, driven by a

⁷ The Sheriff Department's investigation of individuals suspected of complicity in Ms. O'Keefe's murder is ongoing. The Los Angeles Police Department has undertaken its own investigation to determine if the individuals complicit in the murder of Ms. O'Keefe committed crimes in their jurisdiction. In order to protect the integrity of the investigations the true names of the suspects will not be disclosed in this letter.

⁸ Jane Doe was driving a black, Chevrolet Malibu, when she was arrested.

white male, approximately 26 years-old, wearing a white t-shirt and a baseball hat turned sideways. The car circled around and left the parking lot. Approximately four minutes later, Jane saw a security guard's car, with yellow flashing lights, park near the Mustang.

After the security car arrived, Jane and her friends decided to leave. Jane backed out of the parking space and drove east past the Mustang. She did not notice if the Mustang's lights were on or if the alarm was sounding. Jane saw a young woman sitting in the Mustang's driver's seat and thought she committed suicide. She drove to the northeast exit and saw a male, black, security guard, approximately 25 years old, walking toward the Mustang. Jane said he was the same security guard she saw when she arrived at the lot earlier that night.⁹ Jane stopped and asked the security guard what happened. He responded, "We heard gunshots." Jane drove to Lois's house and told Lois's parents what happened, which took about 25 minutes. Jane said "they" returned to the crime scene and saw an ambulance. Thereafter, Jane returned to Lois's house and then drove home, arriving around midnight.

Jane testified in the first trial that her friend Lois, Lois's boyfriend "John," and her godson were in the car with her. She did not know how to spell Lois's name and could not remember how old her godson was at the time or if she told investigators he was four. Jane did not know if her name was Jane Doe in the year 2000, because she was a minor. She heard tapping noises, but did not remember the sequence of events thereafter. Jane claimed her ability to recall events at trial was affected by prolonged marijuana use and the trauma of being raped. Jane testified she saw through her rearview mirror a black, Toyota Corolla, drive by after the tapping noises but did not remember telling investigators she saw a Toyota Tercel drive out of the parking lot driven by a white male. She drove away when she saw the security car with flashing lights. As they drove away, Jane stopped at the lot's northeastern exit and spoke to a security guard. Jane asked him what happened and he responded he did not know. Jane testified she did not know if it was the same security guard that walked by the Malibu earlier, stating "I don't recall his face." She did not remember telling investigators it was the same security guard.

Jane testified she drove out of the lot as sheriff's cars "were already getting ready to be inside the park-and-ride." None of the deputies who testified at trial said they saw a Chevrolet Malibu drive out of the lot upon arrival.

Jane was never questioned about John Doe. Jane was deemed unavailable for the second and third trials and her testimony was read into the record at Mr. Jennings's third trial.

⁹Aaron Dugais is African-American and was a security guard at the lot, but was not present at the time of the murder as he completed his shift at 8:30 pm and left the lot between 8:45-8:50 pm. Mr. Jennings is Caucasian.

2. Lois Doe¹⁰

Using the numbers Jane provided, investigator Harris called Lois and conducted a telephonic interview. Lois said she, Jane and two other people were sitting in a parked car in the Park-and-Ride lot in Palmdale at the time of the crime. Lois did not identify the other people in the car or indicate if one of them was a child.

Lois said they were parked next to a blue or green van and “facing the hill.” Lois was in the backseat, facing forward, and was unable to see anything that happened in the parking lot. Lois said Jane was in the front seat, facing the backseat, and could see if something happened in the parking lot. Lois was unsure how long they were in the lot and was not able to give an exact time they were there. Lois felt they were parked for 35 to 60 minutes before hearing a car alarm, which sounded for 15 or 20 minutes. She heard six or seven tapping noises on the trunk of the car she was in, but did not know when the tapping noises occurred in relation to the car alarm sounding. Lois asked everyone in the car to be quiet, but did not hear any more tapping sounds.

Lois said they saw a gray-colored security vehicle, with “security” written on the side, enter the parking lot and they decided to leave. As they drove out of the lot, she saw the Mustang with the dead girl in the driver’s seat. They drove to the northeastern exit at the top of the hill and saw a male security guard walking down the hill toward the Mustang. Lois described the security guard as a Black male, approximately 25 years old, wearing a black or brown uniform. They stopped and asked him what happened, to which he said he heard gunshots.

3. John Doe¹¹

Although Jane told investigators an 18-year-old, African-American male named John Doe was in her car, investigators never identified John Doe. John Doe was never interviewed.

4. Fourth Person in the Car

Investigators never identified the fourth person in the black, Chevrolet, Malibu. Jane said the fourth person in the car was her 4-year-old godson. Lois did not identify the two other people in the car or indicate if one of them was a child. In civil deposition testimony, Mr. Jennings said he saw four African-Americans in the car that drove up to him after the shots were fired, but did not mention seeing a 4-year-old in the car.

¹⁰ See footnote 7, *ante*.

¹¹ See footnote 7, *ante*.

E. Anonymous Tip

On March 17, 2000, Bart Weitzel, a reporter for the Antelope Valley Press newspaper, informed Lieutenant Ed Dvorak of the Sheriff's department that the newspaper received an anonymous tip about the murder. Weitzel said a female called him earlier that day and said a retired private investigator, who feared for his safety, told her a gang member informed him he was present when two other male gang members discussed the murder.

The two gang members who discussed the murder said they were in the parking lot stealing hub caps, rims and anything else they could steal from parked cars to sell. The gang members said they saw Ms. O'Keefe get into her vehicle and they tried to carjack her, but something went wrong and she was shot.

The two gang members said there was a witness, who they described as a 30 year old man, in the Park-and-Ride lot and they were worried the witness could identify them. Both suspects wore dark clothing and claimed to be driving a dark blue or black car that was either an Oldsmobile Cutlass or a similar looking car.¹² The car was described as "presentable" and "a clean stock vehicle" with "no add-ons."

One of the two gang members discussing the crime was described as having a common name such as "Luke"¹³ while the other one had an "urban name" such as "Steel" or "Santino."¹⁴ Both were described as having "dark skin," possibly African-American males. One was between 14 and 17 years of age, approximately five feet five inches tall with a husky build¹⁵ and the other was between 18 and 20 years of age, approximately five feet eight inches tall and weighed approximately 150 pounds. The tip gave the general area where the two gang members lived.

Investigators attempted to validate the tip, but were unsuccessful and requested deputies with the Gang Enforcement Team in Palmdale to assist them. Those deputies were also unsuccessful. In a report dated May 2, 2000, investigators wrote they were unsuccessful in following up on the tip, adding "[f]urthermore, some of the assertions made by the anonymous caller appeared to be far-fetched or improbable, based upon the evidence at the scene and the totality of the investigation conducted to date."

F. Forensic and Physical Evidence

DNA found underneath the fingernail of Ms. O'Keefe's left ring finger excluded Mr. Jennings, but included another unknown male. Ballistic tests determined Mr. Jennings's registered .380

¹² An Oldsmobile Cutlass looks similar to a Chevrolet Malibu. Jane was in a black, Chevrolet Malibu, the night of the murder and when arrested two weeks later.

¹³ John had a crime partner named Luke (see footnote 7, *ante*). See section IV, C3, *post*

¹⁴ See footnote 7, *ante*.

¹⁵ In June 2000, John was five feet six inches tall and weighed 150 pounds.

caliber handgun was not the murder weapon. Mr. Jennings's work uniform (which he returned several days after the murder) was analyzed for blood and gunshot residue. None was detected, although Ms. O'Keefe was shot at close range and had gunshot residue on her hands. The uniform did not appear to have been cleaned recently. Hairs found on the uniform were tested and determined not to belong to Ms. O'Keefe. No physical evidence collected from Ms. O'Keefe, the Mustang, the area around the Mustang, or from Mr. Jennings connected him to the murder.

The CRU requested additional DNA testing be conducted on Ms. O'Keefe's clothes to determine if Mr. Jennings's DNA was contained thereon. The tests determined no male DNA was present on Ms. O'Keefe's tube top, bra, or skirt. Male DNA was detected on the cuff of Ms. O'Keefe's jacket and the green wristband on Ms. O'Keefe's left wrist, but was in an amount insufficient to compare with any other sample.

ARGUMENTS AT TRIAL

At trial, the prosecutor argued the crime was not a carjacking, but a sexual assault that escalated into a murder. The prosecutor urged the jury to find Mr. Jennings lied, made statements only the killer would know, and that Mr. Jennings must be the killer because he failed to see things he should have seen. Defense counsel argued the crime was an attempted carjacking committed by an unknown individual.

Forensic evidence now undermines the theory the crime was a sexual assault. Further, it seems to negate the argument the assailant wore gloves and pulled down Ms. O'Keefe's tube top and bra, but left DNA on the cuff of the jacket and wristband.

EVIDENCE SUPPORTING THE INNOCENCE CLAIM

A. New Evidence

Documents which contain new and credible evidence that Mr. Jennings did not kill Ms. O'Keefe were provided by Jennings's post-conviction attorney.¹⁶ One document was a screen-shot of Jane's MySpace page on which Jane wrote she only dated "Blood" gang members. A separate document described Jane's numerous arrests and convictions for violent crimes after she provided a statement to investigators in the instant matter.

Mr. Ehrlich also provided reports from Peter Klismet, Jr., a retired FBI profiler, and a ballistics expert retained post-conviction. Klismet opined the evidence strongly suggested the murder was

¹⁶ The documents were submitted along with the request to have the conviction reviewed.

precipitated by a robbery, not an attempted sexual assault, relying on the fact the cell phone was taken and the glove compartment was open. The fact that the wallet was not taken was explained as being because it was between the seat and center console and not readily visible to someone outside of the car.

According to Klismet, the Crime Classification Manual states money left behind at a crime scene is indicative of "situational felony murder." In situational felony murder the offender often panics, kills the victim and flees. Indications of this scenario include blunt force trauma, a contact or near contact gunshot wound, and an alarm sounding which causes the killing to occur. This suggests the offender is youthful and inexperienced, is in the early stages of their career, and an abuser of drugs and alcohol. Klismet concluded the crime was likely gang-related as Jane was a gang member and the other people in the car were "likely gang members."

Report from a ballistics expert addressed the fact the ammunition used in the crime was made by different manufacturers and was a mixture of hollow point and regular 9mm Luger ammunition. The expert opined "an experienced shooter would never mix ammunition from different manufacturers. When shooting crimes are committed and evidence is recovered which shows that different makes and types of ammunition came from a single firearm, it is a clear and convincing sign that the person simply loaded whatever they could get their hands on. A person who cannot legally purchase ammunition and use the same brand and design with the same consistent velocity and energy will acquire whatever they can from other sources. Typically, these are people affiliated with street gangs where resources involving firearms can be shared."

B. Consultations With Trial Deputy

After receiving the request to review the conviction, the CRU consulted with the trial prosecutor, Deputy District Attorney (DDA) Michael Blake, on December 16, 2015 and March 11, 2016. In the first meeting, DDA Blake explained the case and answered the questions raised by the post-conviction innocence claim submitted by Mr. Ehrlich on behalf of Mr. Jennings. The second meeting was held to discuss the additional information discovered about the occupants of the car and allow DDA Blake to analyze its impact on the conviction.

C. Review of Evidence Relating to Additional People Present at the Crime Scene at the Time of the Crime

A review of the material provided and police reports obtained from District Attorney data-bases, revealed the following information about Jane, Lois, John, and the fourth person at the scene at the time of the crime:

1. Jane Doe

Jane is currently 35 years old and was 17 years old at the time of the murder. According to her MySpace page, she is a Blood gang member who only dates fellow Blood gang members. Jane is a documented member of the Flushing Fifties¹⁷ Bloods criminal street gang with numerous monikers.

Flushing gang members wear the color red to signify their gang affiliation. Ms. O'Keefe's cell phone, which was taken, was bright red and her Mustang was blue. The color blue is commonly associated with Crip gang members, the traditional rivals of Bloods. It would be reasonable to assume the blue car would be the target of a Blood gang member.

a. Jane's Criminal History:

In 1997, Jane's uncle accused of her stealing from him. He searched her belongings to find the stolen property. Jane was infuriated and used a crowbar to destroy the front door to her uncle's home.

Still angry at her uncle in 1998 for accusing her of stealing, Jane approached him from behind and hit him with a baseball bat. He called the police. After being arrested, Jane threatened her uncle several times telling him, "You are going to die." As a juvenile, Jane was charged with dissuading a witness and assault with a deadly weapon. The petition was sustained and a warrant was issued for her arrest. Jane was arrested on the warrant on March 7, 2000 and sent to camp.

In 2002, Jane was arrested for inflicting corporal injury to a spouse, in violation of Penal Code section 273.5. The District Attorney's office rejected the case.

In 2003, Jane was charged with misdemeanor assault with a deadly weapon and willful cruelty to a child. She was convicted of vandalism and placed on summary probation. In the case, Jane and three other women surrounded the victim as she sat in a parked car. The women yelled at the victim and challenged her to fight. Jane threw rocks at the victim's head, but missed and shattered the car window. When officers attempted to detain Jane, she was verbally combative and resisted arrest. One of the three accomplices visited John Doe in prison on November 13, 2007.¹⁸

In 2005, Jane was convicted of possession of cocaine base for sale and was placed on formal probation. Jane was selling crack cocaine from a residence occupied by a documented Flushing Fifties gang member.¹⁹

¹⁷ See footnote 7, *ante*.

¹⁸ See footnote 7, *ante*.

¹⁹ See footnote 7, *ante*.

In early 2008, Jane was placed on probation for a drug possession offense. The court revoked her probation in early 2009 and sentenced her to a term in county jail.

In mid-2008, Jane was arrested after she had an argument with a neighbor, retrieved a handgun, pointed it at the neighbor's head and said, "I'm going to kill you, motherfucker." The arrest was the basis for the revocation of Jane's probation in the 2005 cocaine sales case.

In 2009, Jane was charged with being an accessory to murder and felon in possession of a firearm for the benefit of a gang. She was convicted of felon in possession of a firearm, done for the benefit of a gang, and sentenced to 40 months in state prison. Jane was dating a gang member who shot and killed a rival gang member in her presence. Jane contacted the police and told them her boyfriend committed the murder and fled. She claimed not to know his whereabouts and requested to be relocated due to fears for her safety. Detectives discovered Jane was hiding her boyfriend and found a revolver in her apartment.

In July of 2011, Jane argued with her boyfriend and threw a cup of bleach in his face. Jane was arrested for assault with a deadly weapon. No criminal conviction resulted from this arrest.

In October of 2011, Jane stabbed her boyfriend in the chest and was arrested for assault with a deadly weapon. No criminal conviction resulted from this arrest.

In 2015, Jane was charged with attempted murder in San Bernardino County. She was convicted of assault with a deadly weapon and sentenced to five years in state prison. In this matter, Jane stabbed her boyfriend through the open passenger window of the car in which he was seated. Before the stabbing, Jane called the victim's house and threatened to shoot him. After the stabbing, Jane mistakenly called the investigator and left a voicemail message intended for the victim. Jane said she was going to "Pull your card," which is a slang expression for killing someone, and "Don't get caught on Cedros. Because they own you, blood. That's on FF [Flushing Fifties Bloods]."

2. Lois Doe

Lois is currently 38 years old and was 22 years old at the time of the murder. She has no felony convictions and currently resides outside of California. At the time of the murder she lived a short distance from the crime scene.²⁰

²⁰ Jane told investigators it took her 25 minutes to drive from the parking lot to Lois's house after they left the scene. Actual travel time would be closer to five minutes.

3. John Doe

Jane told police she was in a parked car a few spaces away from the blue Mustang when Ms. O'Keefe was killed. Lois, Jane's 4-year-old godson, and John Doe were in the car with her. Jane described John as an 18-year-old African American male and provided no further information.

A review of District Attorney databases resulted in the identification of an 18-year-old African-American man named John Doe as the likely person Jane referenced. John repeatedly associated with Flushing Fifties gang members and, at one point in time, lived close to Jane. John and Jane had common friends. John is a Flushing Fifties Blood gang member²¹ John was out of custody at the time of the Ms. O'Keefe murder.

a. John Doe's Criminal History:

When John was 13-years-old he was suitably placed on a sustained petty theft petition.

When John was 14-years-old, he was sent to camp for committing a series of residential burglaries along with a 14 year-old Flushing Fifties gang member.

When John was 16-years-old, he was arrested for battery but no criminal charges were filed. He approached a female student at school and demanded that she hug and kiss him. She refused. He grabbed her, put her in a bear hug and began kissing her on the cheek. He released the victim when he heard someone walking toward them.

When John was 16-years-old, his girlfriend broke up with him. John paid a man to set his girlfriend's house on fire. John was found unfit for juvenile court, convicted of arson in adult court and placed on five years of formal probation. At the time he was arrested for this offense in March of 1998, John had no tattoos.

On May 26, 2000, John was in the front passenger seat of a car driven by his girlfriend at the time and sister of a known Flushing Fifties gang member.²² His girlfriend collided with the center median. They began to argue and John hit her above the eyebrow, on the cheek and the forehead. The girlfriend characterized John's actions as "beating her to death." When officers arrived, they noticed a large injury over her eyebrow.²³ No criminal charges were filed as his girlfriend did not wish to prosecute. His girlfriend however, was prosecuted for driving under the influence and possession of cocaine base for sale.

On June 20, 2000, the police received an anonymous tip which identified John as the person who stole a white Mustang during an armed home invasion robbery. The caller said John still had the

²¹ See footnote 7, *ante*.

²² See footnote 7, *ante*.

²³ Ms. O'Keefe was also struck over the eyebrow.

white Mustang. John was arrested the same day and the white Mustang was parked near his residence.²⁴

When interviewed by detectives, John admitted he was present when the white Mustang was taken, but minimized his culpability. John said that on June 12, 2000, he and another gang member walked into a residence and held the occupants at gunpoint. A witness indicated the shorter suspect had a dark-colored 9mm handgun.²⁵ John, who was 5'6" tall at the time, told one of the victims to put the watch he was stealing on him, and asked if the Ford Mustang parked in the driveway belonged to anyone in the house. When a victim said it did, John demanded the keys and asked if the vehicle was "a stick" or an automatic.

John admitted to detectives that he was present during an attempted carjacking that occurred the following day, on June 13, 2000, immediately after the home invasion robbery. Witnesses said John and a tall male African-American approached two people sitting in a parked car. John produced a semiautomatic handgun, pointed it at the man in the car and demanded he open the car door. When the man refused, John walked to the female passenger and demanded she open the door. The male occupant fled to a nearby residence yelling for help. The female passenger screamed and John and his companion walked to a waiting van and drove away.

John provided information about several other armed home invasion robberies and carjackings. He identified the perpetrators²⁶ although John closely matched the description of one of the assailants and was found in possession of property taken in the carjackings. John, however, was not charged with committing these crimes.

In one incident, which took place on June 11, 2000, a woman sitting in her parked car was approached by two young African-American men. One of the men was short, while the other was tall. The short man asked her, "What time is it?" and before she could answer, he pointed a gun at her and demanded her purse and car keys. The man took her keys and drove away in her car. When John was arrested nine days later, officers found the woman's credit cards and belongings in John's bedroom.

In another incident which occurred on June 19, 2000, two young African-American men approached a man as he unloaded items from his parked car. One of the two men pointed a gun at the victim and demanded his wallet. The gunman ordered the victim to take them into his house and give them more property. The victim led the robbers into his house where they took jewelry, cell phones and cash. The gunman told the victim to lay down on his stomach and ordered a second victim to take them to her parked car. She complied and the gunman demanded

²⁴ Fingerprints belonging to John's crime partner were found on the interior and exterior of the Mustang. The Mustang had an automatic transmission.

²⁵ A 9mm semi-automatic handgun was used to kill Ms. O'Keefe four months earlier.

²⁶ See footnote 7, *ante*. One of the person's identified is a Flushing Fifties gang member and Jane's uncle. He is also a known associate of John's crime partner who is a Flushing Fifties gang member.

her car keys. She again complied and the perpetrators drove away in her car. Less than an hour later, John's crime partner was apprehended driving the victim's car.²⁷ John's crime partner was convicted and sentenced to four years in prison. When he was released from prison, he committed another armed carjacking and kidnapping and is currently serving a life sentence.

In yet another incident which occurred on June 9, 2000, two young African-American men approached a woman sitting in her parked car. One man was taller than the other. One of the men smiled at the victim and said, "How are you doing? You look fine!" The men walked away and returned a short time later. When they returned, the taller man pointed a gun at the victim and ordered her out of the car, while the shorter man opened the car door, grabbed her by the arm and pulled her out of the car. Both men got into the car and drove away. On June 12, 2000, officers saw the stolen vehicle and arrested the occupants. John's crime partner was in the passenger seat and his girlfriend was the driver of the vehicle. The driver told detectives that the passenger's friend, "John," gave him the car.

When John was arrested on June 20, 2000, he had a single yellow metal earring with a white stone in his ear.²⁸ Ms. O'Keefe was murdered four months prior to this arrest. John was convicted at trial and sentenced to 31 years in prison.

4. Fourth Person in the black, Chevrolet Malibu

Based on the information known to date, the fourth person in the black Chevrolet Malibu with Jane could be Jane's godson, John's crime partner, Jane's uncle, or some other unknown individual.

5. Raymond Jennings

Mr. Jennings is 41 years old and was 25 years old at the time of the murder. He is the father of five children. He was enlisted in the National Guard prior to the murder and deployed to Iraq in 2004. According to friends and family, Mr. Jennings was not a violent person and did not display any signs of sexual deviancy. At the time of the murder, Mr. Jennings was helping a friend as a distribute his Christian music cds, was studying to join the United States Marshall's Service, and was a security guard for All Valley Security. He had no criminal record.

D. Ballistics Evidence

Allison Manfreda is the supervisor of LAPD's Firearms Analysis Unit. Manfreda inspected digital images from a law enforcement ballistic database of a 9 mm expended casing left at the Palmdale murder scene with photographs of one of the 9mm expended casings left at an

²⁷ This person was 6'2" tall at the time of this crime.

²⁸ The earring in Stewart's ear is similar in description to the two earrings in Ms. O'Keefe's left ear and the third earring found in Ms. O'Keefe's Mustang.

unsolved murder scene committed within LAPD's jurisdiction on June 14, 2000.²⁹ The latter evidence has since been destroyed. On first inspection, Manfreda noticed a similar defect in the same area on the expended shell casing. In a subsequent joint meeting with Manfreda and Sheriff's Senior Criminalist Robert Kyle, both Manfreda and Kyle stated they could not provide a definitive conclusion without a physical inspection and comparison of both expended casings.

The June 14, 2000. LAPD murder was committed by Flushing Fifties gang members in retaliation for the shooting of one of their members. John was dating the sister of the Flushing Fifties gang member that was shot (see page 14, *ante*). John drove a car that matched the description of the car used in the retaliatory murder.

E. Review of Defense Expert's Contentions

Jane's and John's age, gang involvement, criminal histories, and presence at the crime scene lend credence to the opinions of the retired FBI profiler and ballistics expert the crime was a robbery committed by gang members, rather than a sexual assault which escalated into a murder.

CONCLUSION

The evidence that other people present at the crime scene committed crimes with handguns close in time and similar in nature to the instant matter and left the scene before law enforcement could arrive raises questions about the validity of Mr. Jennings's conviction. The newly discovered evidence supports the inference that Ms. O'Keefe may have been killed by gang members during a robbery. As noted in footnote 7, *ante*, at page 7, the Sheriff's Department and the Los Angeles Police Department are conducting ongoing investigations of individuals suspected of complicity in Ms. O'Keefe's murder.

In order to expedite Mr. Jennings's release from state prison, and after consultation with Mr. Jennings's attorney, Jeffrey Ehrlich, the LADA and Mr. Ehrlich on behalf of his client stipulate to the following, subject to the approval by this court:

- (1) This letter will serve as Mr. Jennings's petition for writ of habeas corpus, which is based on the allegation that newly discovered evidence exists which completely undermines the prosecution's case and points unerringly to petitioner's innocence (*In re Lawley* (2008) 42 Cal.4th 1231, 1240-1241);
- (2) pursuant to Penal Code section 1476, on filing of this letter with the court, the court will authorize Mr. Jennings immediate release from custody on his own recognizance pending final resolution of the habeas petition;

²⁹ Ms. O'Keefe was murdered on February 22, 2000.

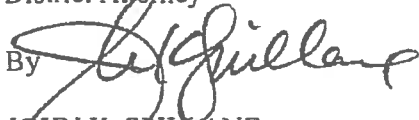
The Honorable James R. Brandlin
June 22, 2016
Page Nineteen

- (3) a status conference will be set in this matter 60 days from the date of the filing of this letter with the court at which time the LADA believes further investigation into the murder of Ms. O'Keefe will be completed;
- (4) the LADA will not oppose this court's granting of the habeas petition at that status conference if the further investigation has been concluded and the investigation fails to unearth any new evidence pointing to Mr. Jennings's involvement in the murder of Ms. O'Keefe;
- (5) if the LADA concludes that the habeas petition should be granted and Mr. Jennings's conviction overturned on the grounds of newly discovered evidence, the LADA agrees that it will not seek to retry Mr. Jennings for the murder of Ms. O'Keefe and will further request that Mr. Jennings be released from all custody with entry of the judgment granting the habeas petition; and
- (6) if at the time of the status conference the LADA concludes that it will oppose petitioner's petition for writ of habeas corpus, the LADA will agree to any reasonable continuance for petitioner's counsel to file an amended petition for writ of habeas corpus and for respondent to thereafter file the return to that amended petition and will further agree that petitioner may remain out of custody on his own recognizance pending final resolution of that amended petition.

Very truly yours,

JACKIE LACEY
District Attorney

By



JOHN K. SPILLANE
Chief Deputy District Attorney

c: Jeffrey Ehrlich, Counsel for Mr. Jennings