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January 8, 2021

David Prater
Oklahoma County District Attorney
Oklahoma County District Attorney's Office
320 Robert S. Kerr
Room 505
Oklahoma City, OK 73102

RE: Request for all Discovery and Evidence on Richard Glossip and Justin Sneed

Dear Mr. Prater,

When I first began work on Mr. Glossip's innocence case in the spring of 2015, I discussed with you my need for all documents in your file. I recall you told me that you had Mr. Glossip's files brought into your office and that you would personally review them and decide whether you would provide me with the discovery in the case[1]. I never learned if you reviewed the documents, but you did tell me shortly thereafter that you would not release any documents from your file to me. You did not explain why.

Throughout the summer of 2015, Mr. Glossip's innocence team spoke with witnesses we were able to identify without the help of any documents from your files and, in our petition filed in September of that year, we made a compelling case for his innocence based upon this newly discovered evidence, such that 2 of the 5 judges on the OCCA voted to grant a hearing on the evidence we disclosed in our petition.

[1] When I make a reference to "discovery" in this case, I am referring to all documentation or evidence in your files that your office was required to turn over or make available to the lawyers representing Mr. Glossip at both trials pursuant to the terms of the Oklahoma Criminal Discovery Code (OCDC) OKLA. STAT. tit. 22 § 2001; see also *Dodd v. State*, 993 P.2d 778 (2000) (imposing specific discovery requirements on the government when using jailhouse informant testimony).

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Thankfully, the State of Oklahoma was unable to execute Rich that year and, on February 29, 2016, I sent a letter informing you that we were continuing our investigation into Mr. Glossip's innocence and renewed our request for all documents and evidence pertaining to his case. You never replied to that letter.

On October 8, 2020, I sent another letter to you for information. In addition to renewing our request for all discovery in general, we were very specific in requesting that you review your files and provide Mr. Glossip's innocence defense team copies of all notes taken during pre-trial witness interviews by attorneys at the Oklahoma County DAs office, their investigators, and/or staff, for both Mr. Glossip's 1998 and 2004 trials. Considering your office's documented history of wrongfully withholding such material[2], we stated in that letter,

> …if your review shows that these notes contain any information that could be construed as exculpatory or impeaching for another witness, their disclosure is constitutionally mandated under *Brady*[3] and/or *Giglio*[4], even at this late date, as Mr. Glossip remains under a sentence of death. If your review of the notes is merely consistent with the information given to the defense in other documents, then there is simply no reason not to turn them over, in the interest of full disclosure, and again as recommended by the bipartisan Oklahoma Death Penalty Review Commission in 2017.

You did not respond to this letter. Should it assist in your search, we believe, based on documents we do have, that pre-trial interviews for which you should have notes were conducted with Ricky Great in the jail by Bob Bemo on April 21 or 22, 1997; Donna Van Treese immediately following the murder and throughout the period leading up to trial in 1998; Cliff Everhart by Sgt. Tim Brown and/or Detectives Bemo and Cook on January 7, 1997, and by the DA's office on October 29, 2003; Donna Van Treese, Kenneth Van Treese, and Billye Hooper by the DA's office in the fall of 2003; Dr. Chai Choi by the DA's office on October 29, 2004; Kayla Pursley on October 30, 2003 by the DA's office; Bill Sunday on May 4, 2004 by the DA's office; Kathryn Kay Timmons and Jacqueline Williams on May 10, 2004 by the DA's office; and Justin Sneed, both

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[2] *State ex. Rel. Oklahoma Bar Association v. Miller & Kimbrough*, 2015 OK 69

[3] *Brady v. Maryland*, 373 U.S. 83 (1983) (prosecutors have an affirmative duty to disclose evidence favorable to the accused).

[4] *Giglio v. United States*, 405 US 150 (1972) (prosecutors must disclose matters that affect the credibility of prosecution witnesses).

prior to the first trial in 1998, and by ADAs Gary Ackley and Connie Pope Smothermon on October 21, 2003 and in April, 2004, including a "list" Smothermon referred to in her questioning of Mr. Sneed at trial. Of course, there may have been many more. For some of these, your office provided a summary of anticipated testimony, but that, of course, is not the same thing as all the information collected from the witness, as the prior cases finding *Brady* violations by prosecutors in Bob Macy's and your office make abundantly clear.

We write today not only to renew our previous requests for all discoverable evidence and documents in your files and the notes we specifically requested in our October letter, but also to make further *specific* requests for particular information to assist in our continuing work on Mr. Glossip's innocence case.

GENERAL DISCOVERY

We begin by noting that we have recently completed a review of every document contained in boxes that were in possession of the various lawyers that have represented Mr. Glossip over the years, at trial, on appeal, and during state and federal post-conviction proceedings. Our review shows that we have only 109 pages of police reports in our possession. We note that some of the pages reference additional pages we do not have, so it is clear the lawyers who represented Mr. Glossip at his two trials either never received or did not keep a complete set of discovery documents[5]. Therefore, we once again request that your office make available a full set of all documents (not only police reports) that were, or should have been, provided to the defense prior to trial pursuant to the OCDC (including that required by *Dodd v. State*), especially considering the findings of the Oklahoma Supreme Court in *State ex. Rel. Oklahoma Bar Association v. Miller & Kimbrough*, 2015 OK 69. If there is a cost to produce these documents, let us know, and we will pay it immediately.

[5] Per the OCDC, all law enforcement reports made in connection with this case were required to be made available to the defense attorneys at both trials. You may recall that the attorney for the first trial was so incompetent that the Oklahoma Court of Criminal Appeals threw out the conviction, considering his performance not to constitute the basic legal representation to which criminal defendants are constitutionally entitled. The lead attorney for the second trial was removed from the case right as trial began, and the case was left in the hands of his two subordinates, who were given six months to prepare the case but completely neglected it until the month before the trial. It appears that the departing attorney took most of his knowledge and information about the case with him. In any event, the files we have from these lawyers do not contain a complete set of the discovery that should legally have been made available to them.

DOCUMENTATION OF ALL POLYGRAPH EXAMINATIONS

In her questioning of Mr. Glossip in his clemency hearing in 2014, Pardon and Parole Board member Patricia High, a former assistant DA in the Oklahoma County DAs office during his 2004 trial, referred to Mr. Glossip having failed a polygraph in the days after this homicide. It appears that the allegation of a failed polygraph made an impression on the voting members of the Pardon and Parole Board that day as the members of the Board voted unanimously to deny clemency. Ms. High certainly considered it to be important enough to raise during the hearing.

While we are aware that Mr. Glossip was supposedly administered something alleged to be a polygraph in the days following the death of Barry Van Treese, no document we have ever seen supports such an examination—we have never seen any record of what biological indicators were used nor, crucially, what questions Mr. Glossip was asked nor what statements he made that were allegedly "untrue" or "deceptive."

There is support in the court record that some sort of examination may have taken place. At the April 23rd, 1997 preliminary hearing, Detective Bemo testified about a polygraph exam that was supposedly administered to Mr. Glossip, although it is clear that Bemo did not witness the exam. This is the testimony your office has brought up on several occasions in support of this allegedly failed polygraph. Detective Bemo discussed this polygraph again at a hearing (out of the presence of the jury) during trial on June 8, 1998. Mr. Glossip also testified about it during this hearing. Moreover, our review of notes in Mr. Glossip's file uncovered that in November 2000, an investigator for state post-conviction lawyers attempted to get polygraph materials from the City Attorney and the OCPD. This investigator talked to Warren Powers, an employee of the police department who conducted polygraph exams, who told her he administered a test to Mr. Glossip on January 9, 1997, but he retained nothing in his file that documented the test or the result.

At a hearing on January 10, 2003, Lynn Burch, who was Mr. Glossip's attorney at the time, stated that a motion he filed to produce all of Mr. Glossip's statements was intended to specifically include the questions asked during any polygraph and Rich's responses, and yet nothing was produced. In an email dated October 23, 2003 (attached

hereto as Exhibit A), Burch asked ADA Connie Smothermon to follow-up on the defense team's previous request to Fern Smith for the polygraph materials. There is no evidence she complied. Mark Henricksen, a lawyer representing Rich in federal habeas and clemency proceedings, also explicitly requested the materials from your office in a December 19, 2014 letter after prosecutor Gary Ackley had raised the issue in the clemency hearing (attached hereto as Exhibit B). Apparently, despite these repeated requests both before his second trial and after your office represented to the Board of Pardon and Parole that Rich had "flunked" a polygraph, no such materials were ever given to any defense lawyer.

Mr. Glossip's innocence defense team strongly suspects the absence of any charts, notes, or reports means that the "polygraph" referred to in the court proceedings and at the clemency hearing was not a legitimate truth-seeking examination conducted according to the rules and procedures required for a valid polygraph examination. The record shows that the police confronted Mr. Glossip after he left an attorney's office. When he arrived at the police station, he was told by Detective Bemo that if he agreed to take a polygraph exam and passed it, he would not be charged with this murder. Mr. Glossip was also told that, should he refuse to take the polygraph, he would be immediately put in jail. In direct contravention of the advice he was given by the attorney whose offices he had just left, given his two choices, Mr. Glossip agreed to talk to the police without an attorney present and take the polygraph. Mr. Glossip was then taken to Mr. Powers, and he recalls that Mr. Powers only placed a device that resembled a pulse oximeter on his finger and asked him some questions. Thereafter, Mr. Powers reported to Detectives Bemo and Cook that Mr. Glossip was not being truthful in response to his questions (whatever they may have been).

If this is true, there was no legitimate polygraph examination conducted, as there is far more that goes into a properly conducted polygraph examination than a pulse sensor placed on a finger. Therefore, this allegation of a failed polygraph is not an indication of guilt as has been portrayed, but instead was merely a ruse, a common interrogation technique and scare tactic used by police[6] in an attempt to persuade Rich

[6] *See, e.g.*, Fred Ibanu, John Reid et al., *Criminal Interrogation and Confessions*, 5th Ed. (2013) at 267.

to implicate himself in the murder of Barry Van Treese. It should be noted that Mr. Glossip never implicated himself and has maintained his innocence for more than 23 years. Mr. Glossip said to Mr. Powers and the detectives then, as he does now, that he had nothing to do with the death of Barry Van Treese.

Given how these alleged polygraph results were used against Mr. Glossip at the clemency hearing in 2014, were cited recently in a meeting with attorneys from the Oklahoma Attorney General's Office, and will undoubtedly be relied upon again, we request that you review your files and copy all documents that concern, in any way, any polygraph examination given to Mr. Glossip at any time after January 7, 1997. In addition, we request that you provide any materials pertaining to any polygraph examination(s) of witness D-Anna Wood who, according to Detective Bill Cook, also agreed to take such a test. In addition, if any polygraph or similar examination was administered to Justin Sneed, we request all documents regarding that, too, as his answers to police questioning is clearly discoverable to Mr. Glossip. If you conduct this review and find there are no such documents in your files or in any other files for any other agencies that may retain these documents (such as the OCPD), please let us know what efforts you made so we can verify the results of your search. If no such documents exist, we need to know this for future court filings and statements to the press.

THE SINCLAIR VIDEOTAPE

Room 102 of the Best Budget Inn is within view of what was then a Sinclair station that was open throughout the night of January 6-7, 1997. We know from a police report (see attached exhibit C) that there was a security video system in use at the Sinclair station at the time and that police seized a videotape from the station as evidence.

On the eve of the first trial, May 28, 1998, Mr. Glossip's attorney, Wayne Fournerat, filed a motion to produce this videotape (attached hereto as Exhibit D). At the hearing on this motion, ADA Fern Smith stated she had not watched it and that the prosecution did not believe it had any evidentiary value (attached hereto as Exhibit L). However, she went on to state that it was probably in the police property room and that

she would try to get it for him. Smith also reported to the court that Fournerat told her, about ten days earlier by phone, that if she wasn't going to use it, he didn't need it. Apparently, the issue was then dropped. This failure to obtain the Sinclair footage was included as part of the claim that Mr. Fournerat was ineffective, and it does not appear that any attempt was made to obtain the tape during the first appeal.

The existence of this tape surfaced again prior to the second trial. On January 13, 2003, at an inspection of the evidence by the defense team, Lynn Burch asked about missing items, including the Sinclair tape, as reflected in the attached transcript (attached hereto as Exhibit E). Then on October 23, 2003, Burch sent an email to ADA Connie Pope Smothermon (attached hereto as Exhibit F), asking again about the Sinclair video and any further information about evidence destruction. Ms. Pope Smothermon replied that she didn't know anything about the destruction of evidence and ignored the question about the video. Finally, on October 28, 2003, Burch asked Pope Smothermon again by email (attached hereto as Exhibit G) about the Sinclair tape and, despite the police report documenting its seizure, she stated she was unsure the police ever collected one. Notably, although the Oklahoma City Police documented their destruction of several items of evidence in this case after the first trial (attached hereto as Exhibit H), the Sinclair video was not among them. Thus, either it is still in evidence somewhere, or more evidence was destroyed than the destruction report shows.

As stated above, Room 102 of the Best Budget Inn was in full view of and only a short distance from the Sinclair station. Any interior or exterior footage on the tape may hold evidentiary value (it was taken into evidence that night by the police, so it appears that someone thought it could be of evidentiary value). For instance, in her testimony at trial, Kayla Pursley, the Sinclair station attendant, testified that Justin Sneed came into the Sinclair station to purchase cigarettes and snacks around 2:00-2:30 AM. If so, his appearance, actions, demeanor, and whether anyone else can be seen with him could be crucial to Mr. Glossip's defense, whether Fern Smith realized it or not. An ADA's conclusion—apparently unsupported by an actual review of the evidence—that the video had no evidentiary value says only that she did not find it useful in presenting the *State's* version of facts. This video could very well contain

information that, while not useful for supporting the *State's* theory that Rich was involved, supports a very different story about what actually happened that night.

We request that you search your files and any room where you keep evidence for this videotape and/or any documentation as to what might be contained on the tape and/or regarding its loss or destruction. We ask that your search include a search of all evidence held by the OCPD, Oklahoma City Attorney, and Oklahoma County Sheriff, or any other agency that could conceivably have this videotape or documentation about it, and to turn the results of your search over to Mr. Glossip's innocence defense team as soon as it is complete. If you conduct this review and do not find this videotape or any evidence documenting it and/or its loss or destruction, please let us know what efforts you made so we can verify your findings. If no such tape or document(s) exist, we need to know this for future court filings and statements to the press.

FINGERPRINT EVIDENCE

The trial record makes clear that fingerprints were taken from various places in Room 102 and the vehicle belonging to Barry Van Treese—and that some of them belonged to an unidentified person, not Mr. Glossip, Sneed, or Van Treese. While some prints were not of sufficient quality to be compared to known prints, some were "usable" or "had value." Of the usable fingerprints, the record shows they were only ever compared to the three people the police already believed were involved: Justin Sneed, Richard Glossip, and Barry Van Treese. Some were Sneed's; none belonged to Glossip or Van Treese, and some belonged to some unknown third party entirely, although the police apparently never investigated who this person was.

The trial testimony on fingerprints came from two prosecution witnesses. The first was John Fiely, a sergeant with the Oklahoma City Police Department, who collected the fingerprints from the crime scene. The second was Cindy Hutchcroft, also an OCPD employee, whose job it was to place the prints she received from Mr. Fiely into a computer database and to compare them to others. A transcript of their relevant testimony is attached (attached hereto as Exhibit I).

Of relevance to our request for information from your office, Mr. Fiely testified on May 4, 2004, that after he collected fingerprints from pieces of broken glass inside

Room 102, the print cards were "submitted to what we call AFIS, it's our girls there, they enter them into a computer, and they examine the fingerprints, and they compare them to any possible suspects." On cross, he confirmed these prints were obtained "for purposes of comparison."

Ms. Hutchcroft testified that part of her job is to scan all fingerprints brought to her by Mr. Fiely into the computer, which is how they determine if they can use AFIS to analyze them.[7] There should thus be a computer file of these fingerprints she evaluated in your office or that of the OCPD. Specifically, Ms. Hutchcroft testified Sgt. Fiely had given her five fingerprint cards from the broken glass found on the chair. Two matched prints of Justin Sneed's right thumb, two of the prints were not clear enough to use, and one was potentially useful for comparison—but was not from Sneed, Van Treese, or Glossip. She stated that although they sometimes compare latent prints to specific known individuals, they also "just enter them on the computer." Ms. Hutchcroft also explained that eight prints were also collected by another officer from inside Mr. Van Treese's car, and most of those prints were not usable. One had value for comparison purposes, but it did not match Sneed, Van Treese, or Glossip.

It appears from this testimony there were two prints that did not match anyone, that were entered into the AFIS computer, but were never compared to all the prints in the AFIS database in any attempt to discover who, outside of the people whom the police had already focused, might have left them. These prints have obvious evidentiary value, as they point to the presence of one or more third parties that may have been involved in this homicide or that should, at least, have been questioned as to how their prints ended up at a crime scene. By way of example, the prints from the broken glass and car were presented to the jury as proof that Justin Sneed was in the room and car. If Sneed's fingerprints are evidence of his involvement in this homicide, then the unidentified prints in the room and car are also of evidentiary value.

The State presented a case in which the only two people involved were Sneed and Glossip. This fingerprint evidence suggests otherwise. The fact that your office has never provided any documentation that these unidentified prints were run through the full AFIS database suggests they were not compared to anyone outside of Sneed, Van

[7] AFIS stands for 'Automated Fingerprint Identification System". AFIS is a statewide database that can search large collections of fingerprint images and is able to generate lists of most-likely donors.

Treese, and Glossip. If these prints were not run through the full AFIS database by the OCPD, they clearly should have been as part of any competent and complete investigation.

Furthermore, the technology for the examination of fingerprints has vastly improved since either 1998 or 2004, when these prints may have last been run through the AFIS database. For instance, in 2015, after an FBI AFIS upgrade, news outlets reported Oklahoma authorities running cold-case prints through the improved system—and finding hits. Therefore, running the prints from this case through the database now (to which you have access but, by law, we do not) may answer the question of who was in Room 102 and/or the car in addition to Justin Sneed on the night of the murder. Of course, if the unknown fingerprints *were* run through the AFIS database prior to either trial and any matches found, that is indisputably *Brady* material, as it is potentially exculpatory or impeaching and must be turned over to us immediately.

We request that you make available to us all reports and notes regarding all fingerprint evidence from any police or investigative source, including reports and notes from discussions with Mr. Fiely or Ms. Hutchcroft or any other witness by prosecutors, investigators, or staff, from the OCDA's office, and all fingerprint cards in your possession or in possession of the OCPD or any other agency that might house such evidence. We also ask that you consult with the OCPD about the records they created in AFIS of these fingerprints and any records they have regarding the status of these prints today when they were last run through the database and the results of that search. If this evidence has been lost or destroyed, please provide documentation that such destruction complied with the policies and procedures in place for the lawful destruction of evidence in a pending death penalty case.

INFORMATION ABOUT CASH FOUND IN THE TRUNK OF VAN TREESE'S CAR

Police reports we have in our possession show that more than $23,000 in cash was discovered in envelopes in the trunk of Barry Van Treese's car (attached hereto as Exhibit J). The reports make clear that there were at least sixteen $100 bills that had blue dye on them, which is what happens when a dye pack placed in a bag of cash taken during a bank robbery explodes. Therefore, it is almost certain that some of the bills found in Barry Van Treese's car were the ill-gotten goods of a bank robbery.

The purpose of a dye pack is to make the bills permanently unusable and, when such funds are discovered, their serial numbers can be traced back to the bank that was robbed. It is difficult to understand how $23,000 in cash found in the trunk of a murder victim's car, some permanently stained with blue dye from a bank robbery, would not be seen as suspicious on some level, thereby prompting a further investigation by the police. However, the information we have in our files shows that these bills were very quickly turned over to the Van Treese family. Indeed, it appears (based upon headers on our copies suggesting they were faxed to police by the Van Treese family days after the murder) that the envelopes in which these bills were found were also returned to the family before police copied them, even though they were covered in hand-written notations crucial to understanding the motel's finances, which were a central part of this case. We have never seen any documentation that police investigated these bills, before or after releasing them to the Van Treese family, to determine which robbery they might have come from and what evidence such an investigation may have produced.

For instance, we have information uncovered by our own investigation that this money may have been "bought" by Mr. Van Treese as part of an effort to "launder" this cash. The witness we talked to is a former police officer who related that Mr. Van Treese may at times have purchase dye-stained money for pennies-on-the-dollar and then run those in stacks of cash through counting machines at banks when he made his cash deposits. In this way, the money ended up in the bank's possession without any way to trace it back to anyone. If the serial numbers on the bills found in the trunk of his car were traced to a particular bank robbery, and suspects were arrested, we might have information to corroborate the testimony of this witness. This would also produce information on possible alternate suspects in this homicide, as these people might know Mr. Van Treese had large amounts of cash on him and could have informed others (such as Mr. Sneed) of this fact.

We hereby request all information from your files, or that of the OCPD or any other authorities, including federal authorities such as the FBI or the Secret Service, regarding the investigation of this cash with blue dye on it. If your review shows that no investigation into the money was ever conducted, and it was simply released to the Van Treese family, we request documentation of that fact.

ALL EVIDENCE COLLECTED REGARDING THE PROSECUTION OF JUSTIN SNEED

At the time of Barry Van Treese's murder, Justin Sneed was living in Room 217 of the Best Budget Inn. We have no information in our file regarding any police search of his room either during the week they were unable to locate him or after his arrest, and what was found and/or seized from his room. Obviously, any evidence of Sneed's drug use, which was debated at some length in both trials and in our petition with the OCCA in 2015, is relevant to Mr. Glossip's case. Any contents in the room may be evidence as to friends and associates of Mr. Sneed at the time and could reveal information about other witnesses that might shed light on Mr. Sneed's actions in the days leading up to this murder and his motivations for robbing and murdering Barry Van Treese.

Moreover, prior to his guilty plea, your office was building a murder case against Mr. Sneed, including filing witness lists and a bill of particulars. It is likely that at least some evidence the police and prosecutors thought would be most damning to Sneed could have been exculpatory to Rich Glossip. Evidence that Sneed had his own reasons for wanting to kill Van Treese, or that his reaction after the killing was more consistent with having planned it himself rather than being coerced by Mr. Glossip would be squarely within *Brady* and *Giglio.*

One example of such evidence would be statements by Fred McFadden, a county jail inmate with Sneed who reported in a letter hearing Sneed brag about the killing of Van Treese. We have one letter from Mr. McFadden to your office dated May 8, 1997 (attached hereto as Exhibit K) referencing these observations, but that letter makes clear there had been previous communications with the DA's office about possible testimony. McFadden was listed in early filings by the prosecution in Sneed's case as a witness the State apparently intended to call only against Mr. Sneed. Anything like this evidence from McFadden that police and prosecutors learned of in attempting to put together a murder case against Sneed should have been made available to the attorneys for Mr.

Glossip prior to both trials pursuant to the normal OCDC processes discussed above and must be turned over to Mr. Glossip's lawyers immediately.

We request that you search your files and any room where you keep evidence for all reports, notes, and physical evidence held by the OCPD, Oklahoma City Attorney, and Oklahoma County Sheriff, or any other agency that could conceivably have any information or evidence regarding Justin Sneed's case, and turn it over to Mr. Glossip's innocence defense team as soon as it is discovered. If you conduct this review and do not find any reports, documents, or physical evidence in your files or in any files for any other agency that may retain this evidence (such as the OCPD), please let us know what efforts you made so we can verify your findings. If this evidence was destroyed, please supply us with all documentation of its destruction pursuant to whatever document destruction policy was in place at the time of the destruction of the evidence. If no such evidence exists, we need to know this for future court filings and statements to the press.

ALL POLICIES OF ALL INVOLVED AGENCIES FOR DOCUMENT AND EVIDENCE DESTRUCTION IN THIS CASE

Mr. Glossip remains on death row and facing execution, quite possibly in 2021. All evidence that was collected that pertains to this case, or that of Mr. Sneed's, whether it was used against Mr. Glossip at trial or not, *should* still be available for review and use in any further potential court proceedings, including another trial if that were to be ordered. However, we know it is not.

According to a report from Janet Hogue-McNutt (attached hereto as Exhibit H), the shower curtain and duct tape that were taken from the inside the window in Room 102 immediately after this homicide, along with a box of documents (the description of which is unknown), an envelope with note (unknown subject), glasses, wallet, knives, keys, one deposit book, and two receipt books were destroyed prior to Mr. Glossip's second trial in 2004. In addition, all financial documents produced by Donna Van Treese in response to a subpoena issued during the first trial in 1998 were returned to Donna Van Treese and, according to the record, later lost or destroyed. None of these critically important documents or evidence were available for review or use by the defense in the second trial.

As stated above, there exists evidence and documents that were never released to any defense attorney in this case, at trial, on appeal, in post-conviction, or clemency, of the polygraph examination to which Mr. Glossip was allegedly subjected, the Sinclair video, the fingerprint evidence we outline, evidence regarding the money with blue dye on it, and evidence from the search of Sneed's room. There is also no information in our files that any such documents or evidence were destroyed at any time in this process. If any of this evidence that the record reflects once existed was destroyed, we request confirmation of the details of its destruction and under which policy it was so destroyed prior to the end of these death penalty proceedings.

To that end, in addition to the evidence and information requested in this letter, we also request copies of the policies and procedures for how evidence and documents pertaining to a homicide investigation are to be maintained, stored, and/or destroyed prior to the end of the case, or once a case is completed. This request is meant to cover policies and procedures for the Oklahoma County District Attorney's Office, the Oklahoma City Attorney's office, the Oklahoma City Police Department, the Oklahoma County Sheriff's office, and any other agency that in any way had a part in either the investigation of the death of Barry Van Treese or in the gathering and/or storing of evidence in this case.

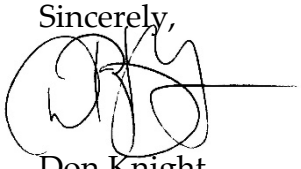
The information we request in this and the other letters we have sent to your office, to which you have not responded, is critical for the fate of Mr. Glossip and the Oklahoma system of criminal justice and capital punishment. Our investigation over the past five years has been the type of thorough investigation that should have been done by any competent defense attorney in a death penalty case. As a result, we have uncovered (and continue to uncover) a great deal of evidence that Richard Glossip has spent the last 23 years of his life on death row for a crime that he did *not* commit. Our meticulous review of the files we do have has confirmed that the police investigation in this case, where the ultimate sanction was sought by the State, was hasty and inadequate, and the state-provided defense attorneys failed to conduct any independent investigation of their own, which it was their responsibility to Mr. Glossip to do. These lawyers also failed to make timely demands from your office for the basic materials to which they were entitled to present an adequate defense and to meaningfully challenge the State's case on behalf of Mr. Glossip. Due to these systemic failures, the adversarial process on which our system relies to arrive at the truth utterly broke down for Mr. Glossip. This case shows precisely how innocent people can and do end up on death

row and are killed by the State. Ignoring this problem will undermine the public's confidence in the ability of the justice system in Oklahoma to get things right. This confidence is especially important as Oklahoma is seeking to revive its problem-plagued death penalty.

Mr. Glossip may be scheduled for execution in 2021. Undeniably, there has been a significant amount of evidence in this case that has been destroyed (even before the second trial), overlooked, lost, and/or never turned over to the defense, despite multiple requests over the last 23 years. If you are confident in your evidence and it is unassailable, as it should be to support the execution of a citizen of Oklahoma, there is nothing to be gained from refusing to reveal it now.

As time is becoming increasingly short for Mr. Glossip, I would appreciate a response to this letter within the next seven days.

Sincerely,



Don Knight

cc: Mike Hunter, Oklahoma Attorney General