FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
FOI/PA# 1385547-0

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Routing Slip
0-7 (Rev. 5-28-82)

(Copies to Offices Checked)

TO: SAC,

- ☐ Albany
- ☐ Albuquerque
- ☐ Alexandria
- ☐ Anchorage
- ☐ Atlanta
- ☐ Baltimore
- ☐ Birmingham
- ☐ Boston
- ☐ Buffalo
- ☐ Butte
- ☐ Charlotte
- ☐ Chicago
- ☐ Cincinnati
- ☐ Cleveland
- ☐ Columbia
- ☐ Dallas
- ☐ Denver
- ☐ Detroit
- ☐ El Paso
- ☐ Honolulu
- ☐ Houston
- ☐ Indianapolis
- ☐ Jackson
- ☐ Jacksonville
- ☐ Kansas City
- ☐ Knoxville
- ☐ Las Vegas
- ☐ Little Rock
- ☐ Los Angeles
- ☐ Louisville
- ☐ Memphis
- ☐ Miami
- ☐ Milwaukee
- ☐ Minneapolis
- ☐ Mobile
- ☐ Newark
- ☐ New Haven
- ☐ New Orleans
- ☐ New York City
- ☐ Norfolk
- ☐ Oklahoma City
- ☐ Omaha
- ☐ Philadelphia
- ☐ Phoenix
- ☐ Pittsburgh
- ☐ Portland
- ☐ Richmond
- ☑ Sacramento
- ☐ St. Louis
- ☐ Salt Lake City
- ☐ San Antonio
- ☐ San Diego
- ☐ San Francisco
- ☐ San Juan
- ☐ Savannah
- ☐ Seattle
- ☐ Springfield
- ☐ Tampa
- ☐ Washington Field
- ☐ Quantico
- ☐ ASAC, New Rochelle (MRA)
- ☐ ASAC, Brooklyn-Queens (MRA)

TO: LEGAT,

- ☐ Bern
- ☐ Bogota
- ☐ Bonn
- ☐ Canberra
- ☐ Hong Kong
- ☐ London
- ☐ Mexico City
- ☐ Montevideo
- ☐ Ottawa
- ☐ Panama City
- ☐ Paris
- ☐ Rome
- ☐ Tokyo

OCT 3 '83

Date

RE:

☐ For information ☐ Retention optional ☐ For appropriate action ☐ Surep, by _____

☐ The enclosed is for your information. If used in a future report, ☐ conceal all sources, ☐ paraphrase contents.

☐ Enclosed are corrected pages from report of SA _____ dated _____.

Remarks:

Enc.
Bufile
Urfile

FBI/DOJ

EDGAR H. SMITH, JR.

B-82784 P-102-L
POST OFFICE BOX 2000
CALIFORNIA MEDICAL FACILITY
VACAVILLE, CALIFORNIA
95696-2000

April 5, 1989

Special Agent-In-Charge
Sacramento Field Office
FEDERAL BUREAU OF INVESTIGATION
2800 Cottage Way
Sacramento, California

Dear Sir:

On March 26, 1989, I wrote to your office requesting an inquiry concerning a number of United States Treasury checks which seemed to have gone astray in some mysterious fashion. I advised you that the Postmaster here in Vacaville insisted that the checks had been delivered to this institution, while the institution mail room insisted just as strongly that the checks had never been received. The checks were Veterans Administration benefits for a service-connected disability.

Today, April 5, 1989, I have received a notice from a [redacted] in this institution, that the missing check for the month of February had been returned by him to the Department of Veterans Affairs to determine if I am entitled to receive it. No mention was made of the substitute check the VA issued for February, nor of the March or April checks, which I have also not received. b6 b7C

I recognize full well that any person, whether a state employee or a private citizen may contact any federal department to ask whether another person is entitled to receive government benefits, but I do not know of any authority for that state employee or private citizen to unilaterally take it upon himself to stop, delay, intercept, or confiscate those benefits until they have received a response to their inquiry. Granted, every inmate upon his reception into the Department of Corrections signs a power of attorney giving the Director or his agents the authority to receive and deposit monies received for inmates (See attached), but nothing in that power of attorney grant the authority to seize those monies or delay their deposit. Nor has an extensive search of the Department of Corrections rules and this institution's Operation Plans yielded any such authority. [redacted] is not, as best I can determine, a federal officer or an agent of the federal government authorized to seize government payments. As best I can determine, he is acting entirely on his own without authority. b6 b7C

AUTOMATED INDICES 4/8/89
MANUAL INDICES 4/8/89

44B-2543-2
SEARCHED INDEXED
SERIALIZED FILED
APR 07 1989
FBI — SACRAMENTO
WBM

File for info

I would point out, also, that the benefit check I receive includes a benefit payment for [redacted] a benefit granted by the VA just a couple of years ago, so that, in fact, [redacted] has also taken it upon himself to intercept, delay, and confiscate her benefits, as well. b6 b7C

It is my request that your office conduct an inquiry to determine the facts of this matter, and specifically the authority under which [redacted] has acted -- more to the point, whether that authority has been given him by the federal government under federal laws or guidelines. I request also that your office complete a report on this matter and forward same to the United States Attorney, Northern District of California, for determination as to whether [redacted] has acted in violation of federal law. As I have noted, I grant [redacted] the right to question my benefits, but I do not grant him the right to intercept, delay, and/or confiscate those benefits without authority of the federal government. b6 b7C

Very truly yours,

Edgar H. Smith Jr.

EDGAR H. SMITH, JR.
448-2543X

cc: Curtis L. Clark
Law Offices
972 Santa Rosa Street
San Luis Obispo CA 93401

Encs (1)

Power of Attorney
and
Authorization for Deposit

I, _____, do hereby appoint the Director of Corrections as my true and lawful attorney-in-fact with full power to: receive, endorse, and collect monies, checks, drafts, warrants, money orders, bills of exchange, or other securites payable to me from any source whatever; to deposit in my name and for my inmate trust account and for that purpose to sign my name and endorse the same for deposit; and to deposit in the inmate welfare fund interest earned on monies held for me in such trust.

Additionally, I do authorize the aforesaid attorney-in-fact to perform and delegate to any of his agents at the institution in which I am confined the authority to perform all necessary acts in the execution of the above authorization.

Done at VACAVILLE, California, this _____
(LOCATION) (DAY)

day of _____.
(MONTH, YEAR)

Signed and delivered in the presence of:

_____ _____
(SIGNATURE OF WITNESS) (SIGNATURE)

_____ _____
(TITLE) (NUMBER)

EDGAR H. SMITH, JR.
B-82784 P-102-L
POST OFFICE BOX 2000
CALIFORNIA MEDICAL FACILITY
VACAVILLE, CALIFORNIA 95696-2000

Special Agent-in-Charge
Sacramento Field Office
FEDERAL BUREAU OF INVESTIGATION
2800 Cottage Way
Sacramento, California

448-2543-3

SEARCHED LSS INDEXED
SERIALIZED XXL FILED XXL
SEP 06 1989
FBI - SACRAMENTO
MP

Already sent
to Justice Dept 9/88
No action =

CURTIS L. CLARK
ATTORNEY AT LAW
974 SANTA ROSA STREET
SAN LUIS OBISPO, CALIFORNIA 93401
TELEPHONE (805) 544-2889
STATE BAR #113744

IN THE SUPERIOR COURT OF CALIFORNIA

FOR THE COUNTY OF SOLANO

DEPARTMENT SIX

In Re EDGAR H. SMITH, B-82784, Petitioner, For a Writ of Habeas Corpus	CASE NO. 26130 DECLARATION OF ATTORNEY CURTIS L. CLARK

I, CURTIS L. CLARK, declare that if called as a witness I could and would competently testify as follows:

1. That I am an attorney licensed to practice law before the courts of the State of California.

2. That I was privately retained as counsel to represent Edgar H. Smith (the petitioner herein) before the Board of Prison Terms at his parole suitability hearing scheduled on July 13, 1988, at the California Men's Colony, in San Luis Obispo, California.

3. That at the request of Mr. Smith, I informed the Board of Prison Terms hearing panel that Mr. Smith desired a one (1) year postponement of his suitability hearing in order to permit him to transfer to the California Medical Facility, Vacaville, for the purpose of Category "T" group therapy programming. The hearing

panel granted that request, and Mr. Smith's hearing was postponed for one year.

4. That at the time of the hearing on Mr. Smith's request for postponement, the hearing panel also considered my objections to a large number of documents submitted by mail a few days earlier to the Board of Prison Terms by a person named Ronald E. Calissi. Among the documents were several inflammatory and prejudicial newspaper articles and book reviews, a 1953 military psychiatric evaluation of Mr. Smith, a letter to a woman supposedly written by Mr. Smith approximately 18-20 years ago, a book supposedly written by Mr. Calissi, as well as a cover letter to the Department of Corrections classification and parole representative. Over my objections and a specific motion to strike, the hearing panel reviewed and admitted into evidence all of the submitted materials with the exception of the book, which was excluded. The documents admitted became part of Mr. Smith's permanent Central File and are available for consideration by future hearing panels and such other person having access to Mr. Smith's Central File.

5. No evidence other than the assertions of Mr. Calissi in a covering letter were introduced to assure the reliability of the submitted documents, or to assure that they were what Mr. Calissi purported them to be.

6. That Mr. Smith was not present at the hearing on the admissibility of the documents submitted by Mr. Calissi, no tape recording or written record of the hearing was kept and therefore no transcript or record of these proceedings is available. Furthermore, no mention of the hearing or the introduction of the

CURTIS L. CLARK
ATTORNEY AT LAW
974 SANTA ROSA STREET
SAN LUIS OBISPO, CALIFORNIA 93401
TELEPHONE (805) 544-2889
STATE BAR #113744

documents was included on the form BPT 1001 "Life Prisoner Decision Face Sheet."

7. That on July 5, 1989, I received a telephone call from [redacted] the Defense Privacy Office of the Secretary of Defense in Washington, D.C., in response to a letter dated May 19, 1989, from Edgar Smith, which was attached to his Traverse to Return to Order to Show Cause in the instant petition. [redacted] informed me that his office had just completed their investigation of records regarding any requests for or releases of a military psychiatric evaluation of Edgar Smith done at the Tripler Army Hospital, Oahu, T.H. [redacted] informed me that said records indicated that Mr. Smith's military records, including the 1953 psychiatric evaluation, have only been released on one occasion, that being on January 26, 1977, to the San Diego District Attorney's Office pursuant to what he termed a "law enforcement request."

b6
b7C

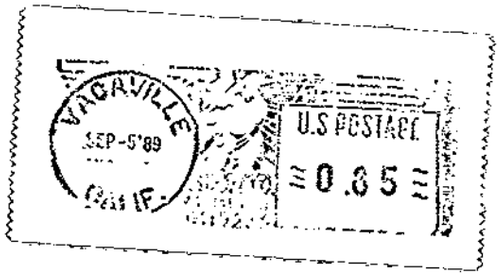
I declare under penalty of perjury that the foregoing is true and correct, except as to those matters which are alleged on information and belief, and as to those matters, I believe them to be true.

Executed at San Luis Obispo, California, this 7th day of July, 1989.

Curtis L. Clark
CURTIS L. CLARK

CURTIS L. CLARK
ATTORNEY AT LAW
974 SANTA ROSA STREET
SAN LUIS OBISPO, CALIFORNIA 93401
TELEPHONE (805) 544-2889
STATE BAR #113744

Edgar H. Smith
B-82784 P-127-L
P.O. Box 2000
Vacaville, California
95696-2000



Special Agent in Charge
FEDERAL BUREAU OF INVESTIGATION
2800 Cottage Way
Sacramento, California

Post Office Box 13130
Sacramento, California 95813

September 15, 1989

Mr. Edgar H. Smith
B-82785 P-127-6
Box 2000
Vacaville, California 95696

Dear Mr. Smith:

This acknowledges receipt of your letters dated 9/3/89 and 9/11/89.

Further investigation is not appropriate at this time inasmuch as all relevant facts set forth in your letters were incorporated in the report submitted by our Los Angeles Office dated September 27, 1988.

Should new facts be developed warranting a reexamination of this matter, you may forward that information to this office.

Sincerely yours,

DOUGLAS A. BALL
Special Agent in Charge

By: [redacted]
Supervisory Special Agent

b6
b7C

1 - Addressee
(1) - SC 44B-2543 (C)
PWS:mml
(2)

44B-2543-4

EDGAR H. SMITH
B-82784 P-127-L
Post Office Box 2000
California Medical Facility
Vacaville, California
95696-2000

September 11, 1989

Special Agent In Charge
Sacramento Field Office
Federal Bureau of Investigation
2800 Cottage Way
Sacramento, California

Dear Sir:

Approximately two weeks ago I wrote to your office concerning an investigation the Santa Maria Field Office had conducted last year with regard to the manner in which a private citizen had obtained copies of my military medical records. Attached to my letter were copies of the report issued out of the Los Angeles Field Office, a report by the Defense Privacy Office, and various other relevant documents.

Please note the following:

On September 1, 1989, in the Superior Court, Solano County, in Case No. 26130 (habeas corpus), Judge James Moelk, ruling from the bench, held that the private citizen involved, one Ronald Calissi, of New Jersey, had "probably" obtained the military medical records "illegally" and "surreptitiously" and in violation of state and federal statutes, in a manner offending the court's sense of fairness. On that basis, the court ordered the records suppressed.

A copy of the transcript of that ruling will be made available to you when it is received from the court.

Very truly yours, 44B-2543
44-0-639

EDGAR H. SMITH

44B-2543-5

SEARCHED INDEXED
SERIALIZED FILED
SEP 14 1989
FBI - SACRAMENTO

EDGAR H. SMITH
B-82784 P-127-L
Box 2000
Vacaville, CA 95696-2000

SACRAMENTO, CA 95
PM
13 SEP
1989

25 USA

Special Agent in Charge
Sacramento Field Office
FEDERAL BUREAU OF INVESTIGATION
2800 Cottage Way
Sacramento, California

FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
FOI/PA# 1385547-0

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4-22 (Rev. 9-22-87)

Federal Bureau of Investigation
Records/Operations Sections

FR UTD _____, 19____

- ☐ Name Searching Unit, 4989, TL# 121
- ☐ Service Unit, 4654, TL# 225
- ☐ Special File Room, 5991, TL# 122
- ☐ Forward to File Review, 5447, TL# 143
- ☐ Attention [redacted] b6
- ☑ Return to [redacted] Qm 4790 Ext: 4891 b7C
  Supervisor, Room, TL# , Ext.

Scope of Search: (Check One)
- ☑ Automated Data Base - 5 & 20
- ☐ Automated Data Base - 5 & 30
- ☐ Unrestricted (ADB & Inactive Index)

Type of Search Requested:
- ☐ All References (Security & Criminal)
- ☐ Security Search
- ☐ Criminal Search
- ☑ Main all + sec see References Only

Special Instructions:
- ☐ Exact Name Only (On the Nose)
- ☐ Buildup ☐ Variations
- ☐ Restricted to Locality of _____

Subject Smith, Edgar Herbert
AKA(s) _____

Birthdate & Place 2-8-34 New Jersey
SSAN 147-26-2510
Localities _____

R# _____ Date 4-17 Searcher Initials SM
Prod. _____

File Number	Serial	Ident	ADB	Inactive	Date of Ref M/Y
✓ 88- 73976 I		4-17-89			
✓ 190-0- 19249 I	Sect. 210	4-17-89			
Closed 10-17-79 No release					
Edgar H.					
62-0-A - WASH Post-Times Herald 6-10-71					
[redacted]					b7E
Edgar					
62- 75450-A NO Newspaper Clipping 2-6-87					
OC NO FO#					
[redacted]					
Fenty, Bob (AKA)					
SI					

FBI/DOJ

4-22a (9-22-87)

Page 2

Numerous Reference Search Slip

FR UTD

Subject Smith, Edgar Herbert

R# Date 4-17 Searcher Initials SJT

Prod.

File Number	Serial	Ident	ADB	Inactive	Date of Ref M/Y
Mason, Michael		(HK1)			
[redacted]					b6 b7C b7E
[redacted]					b6 b7C
[redacted]					b6 b7C b7E

FBI/DOJ

Routing Slip
FD-4 (Rev. 5-31-84)

Date 3/24/89

To: ☐ Director
Att.:

FILE # LA 187-23

☐ SAC
☐ ASAC SSA [redacted]
☐ Supv. RECORDS MGMT DIVISION
☐ Agent ROOM 4282
☐ OSM
☐ Rotor #
☐ Steno
☐ Typist
☐ M
Room

Title RON CALASSI; EDGAR SMITH-VICTIM
PRIVACY ACT OF 1974
(CRIMINAL)

RE: our TX today

b6
b7C

☐ Acknowledge	☐ For Information	☐ Return assignment card
☐ Assign ☐ Reassign	☐ Handle	☐ Return file ☐ serial
☐ Bring file	☐ Initial & return	
☐ Call me	☐ Leads need attention	☐ Return with action taken
☐ Correct	☐ Open case	☐ Return with explanation
☐ Deadline	☐ Prepare lead cards	☐ Search and return
☐ Delinquent	☐ Prepare tickler	☐ See me
☐ Discontinue	☐ Recharge file ☐ serial	☐ Type
☐ Expedite		
☐ File	☐ Send to	

Attached are my two reports and the FD-610. detach & handle separately

After we talked I decided to send this via US Mail, which, sad to report, is much more reliable and certainly much faster than BuMail. 187-1424

So far I have received telephone inquiries re this matter as follows:

NOV 6 1989

(1) [redacted] Dept of Defense [redacted] on 3/15/89. He wanted to know how CALASSI got hold of the information.
(2) [redacted] FBI HQ [redacted] mostly concerned that we (FBI) might have let slip some restricted military document. [redacted] is with FOIA Unit, I think.
(3) Your inquiry today.

b6
b7C

May you have blue skies and green lights

SAC [redacted]
Office SANTA MARIA RA

b6
b7C

See reverse side

4-NCSU/LCC

FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
FOI/PA# 1385547-0

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FD-610 (Rev. 10-9-85)

AIRTEL

TO: DIRECTOR, FBI
Attn: Criminal Investigative Division
Civil Rights Unit

L6L/R

FROM: SAC, LOS ANGELES (AP-1/SMRA) (P) 9/2/88

1. Title: (use additional page if necessary)
RON CALISSI;
EDGAR H. SMITH, aka
Edgar H. Smith, Jr.,
Edgar Smith,
Edgar Herbert Smith,
Edgar Herbert Smith, Jr., B-82784 - VICTIM
PRIVACY ACT OF 1974 (CRIMINAL)
OO: Los Angeles

Re:

2. Office of Origin File No: 187 - 23 (include alpha)
3. Auxiliary Office File No: _____ - _____ (initial submission only)
4. X initial submission ____ supplemental submission
5. Matter Type: (check more than one if applicable)
A. Brutality
☐ Law Enforcement
☐ Non-Law Enforcement
No Brutality
☐ Law Enforcement
☐ Non-Law Enforcement
B. Violence
☐ Racial ☐ Religious ☐ Other
C. ISS Matters
☐ Migrant Victim ☐ Other
D. Known/Suspected Extremist Group
☐ Klan ☐ Other _____
Use to describe above (check all applicable)
☐ Arson ☐ Injury ☐ Property damage
☐ Death ☐ No injury ☐ Cross burning
6. Date of incident 7/12/88
7. Date of complaint Letter Postmarked 8/29/88
8. Synopsis of case:

See page 2

INDEXED
SERIALIZED
FILED

9. Significant case ☐ Yes ☒ No (if yes, provide reason) _____

Remarks/Administrative

187-23-1

3 - Bureau
2 - Los Angeles
RJL/bef
(5)

FBI/DOJ

Synopsis of case:

SMITH, a white male, born 2/8/34, in New Jersey, FBI Number 519 813 C, Social Security Account Number 147-26-2510, is housed at CALIFORNIA MEN'S COLONY (CMC), a State of California prison at San Luis Obispo, California. He is serving San Diego County Superior Court life sentence rendered 1977 for kidnaping for ransom, attempted murder, attempted armed robbery, and assault with intent to murder. His previous conviction was for murder at Hackensack, New Jersey, during 1957.

SMITH complains that during a parole hearing on 7/12/88, a copy of a psychiatric evaluation prepared at Tripler Army Hospital, Hawaii, long ago when SMITH was in the Marine Corps was presented to the Parole Board in a letter submitted by a RON CALISSI of New Jersey. SMITH claims the psychiatric report is a confidential military document protected under the Federal Privacy Act of 1974.

On 9/2/88, telephone inquiry to Attorney CURTIS L. CLARK, San Luis Obispo, California, determined he represents SMITH and supports the claim of Privacy Act violation. CALISSI was identified as the son of SMITH's prosecutor for murder in New Jersey during 1957. Many documents used at that trial, including the military psychiatric document in question, were ordered to be suppressed by the U. S. Supreme Court. Attorney CLARK has established that CALISSI has involved himself in a conspiracy with the District Attorney prosecutor in San Diego to keep SMITH from receiving a parole date. Other pseudo psychiatric documents prepared by an unlicensed individual were submitted by the San Diego prosecutor. A newspaper reporter is also involved; CALISSI may have written a book concerning SMITH.

Attorney CLARK will provide documents to FBI regarding this matter.

Los Angeles will submit letterhead memorandum concerning this matter. SMITH's letter of complaint is as follows:

August 28, 1988

Special Agent in Charge
Federal Bureau of Investigation
2739 Santa Maria Way
Santa Maria, California

Dear Sir:

I am a life term prisoner at the California Men's Colony. I am also a veteran of the U.S. Marine Corps (SS #1305436) discharged in 1954.

On July 12, 1988 I was scheduled for a parole hearing at the California Men's Colony. The day prior to that, my attorney informed me that the Board of Prison Terms had received a letter from a private citizen from New Jersey, a Mr. RON CALISSI, who was opposing the granting of a parole date to me. Attached to Mr. Calissi's letter to the Board of Prison Terms was a copy of a psychiatric evaluation done of me at Tripler Army Hospital, Oahu, Hawaii, while I was on active duty with the Marine Corps.

My attorney objected to the admission of the documents, but the Board of Prison Terms nevertheless accepted and filed them.

The psychiatric report is a confidential military document covered by the Federal Privacy Act. Without my written consent, which I have not given, it may not be released to any private citizen, nor to any agency such as the Board of Prison Terms.

It is my request that this letter be referred to the appropriate Field Office or Agency for investigation as to how the confidential military record was obtained by Mr. Calissi, and whether legal action would be appropriate.

A copy of the psychiatric report and additional information may be obtained from my attorney, CURTIS L. CLARK, 972 Santa Rosa Street, San Luis Obispo (805) 544-2889.

Very truly yours,

Edgar H. Smith B-82784
Room 6311
Box 8101
San Luis Obispo, California 93409-0001

cc: Curtis L. Clark
Board of Prison Terms

Routing Slip
FD-4 (Rev. 5-31-84)

Date 9-8-88

To: ☐ Director
Att.:

FILE #

☐ SAC
☐ ASAC
☐ Supv. ROTOR
☐ Agent AP-1
☐ OSM
☐ Rotor #
☐ Steno
☐ Typist
☐ M
Room

Title

RE: ATTACHED

☐ Acknowledge
☐ Assign ☐ Reassign
☐ Bring file
☐ Call me
☐ Correct
☐ Deadline
☐ Delinquent
☐ Discontinue
☐ Expedite
☐ File

☐ For information
☐ Handle
☐ Initial & return
☐ Leads need attention
☐ Open case
☐ Prepare lead cards
☐ Prepare tickler
☐ Recharge file ☐ serial
☐ Send to

☐ Return assignment card
☐ Return file ☐ serial
☐ Return with action taken
☐ Return with explanation
☐ Search and return
☐ See me
☐ Type

BLIND COPY SUBMITTED AS PER YOUR REQUEST

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b7C

SAC

Office

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LA 187-23-2

SEARCHED ____ INDEXED ____
SERIALIZED ____ FILED ____

SEP 26 1988

FBI — LOS ANGELES

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CURTIS L. CLARK
ATTORNEY AT LAW
(805) 544-ATTY
(805) 544-2889

972 SANTA ROSA
SAN LUIS OBISPO, CALIFORNIA 93401

P. O. BOX 1576
SAN LUIS OBISPO, CALIFORNIA 93406

September 22, 1988

[redacted] b6 b7C

Federal Bureau of Investigation
Santa Maria Branch
P. O. Box 1159
Santa Maria, CA 93456

RE: Edgar Smith
CDC No. B-82784

Dear [redacted]

I apologize for the amount of time it has taken for me to respond to your inquiry concerning Edgar Smith, but, as you know, I have been involved in a lengthy criminal trial which just ended.

Enclosed you will find copies of certain documents, some of which have illegally been offered as evidence at Mr. Smith's Board of Prison Terms hearings, as well as distributed to reporters and other "interested" parties. These documents include the following:

1. A complete copy of the various documents sought to be introduced by the [redacted] Said documentation includes military, medical and psychological records. Also included is a report by a [redacted] employed by the San Diego district attorney's office which was based in part on the aforesaid privileged documentation. b6 b7C

2. A copy of the relevant pages concerning an objection I made to the introduction of said materials at Mr. Smith's July 1, 1986, Board of Prison Terms hearing.

3. A copy of a newspaper article from The Record, a newspaper in the New Jersey area, which shows that [redacted] was the unlawful recipient of privileged materials from Edgar Smith's files.

4. A copy of letters dated August 3, 1988, by Mr. Smith to the Department of Consumer Affairs and the Department of Corrections complaining about [redacted] continued misrepresentations of [redacted] and the disclosures of privileged information to The Record. b6 b7C

5. Various letters subsequent to the 1986 hearing in complaint and response concerning [redacted] and the utilization of materials previously sealed by federal court order.

Thank you for your time spent in investigating these flagrant violations of Mr. Smith's civil rights. It appears to me that both Messrs. [redacted] and Calissi are the principal sources of the unauthorized disclosures as a result of their own personal and other motivations. b6 b7C

If you should have other questions regarding this matter, please feel free to contact my office.

Sincerely,

LAW OFFICE OF CURTIS L. CLARK

Curtis L. Clark

Curtis L. Clark

CLC/[redacted] b6 b7C
Enclosures
cc: Mr. Edgar Smith

RICHARD J. NEELY
Assistant District Attorney

CHARLES R. HAYES
Chief Deputy District Attorney

WAYNE A. BURGESS
Chief Investigator

OFFICE OF
THE DISTRICT ATTORNEY
COUNTY OF SAN DIEGO
EDWIN L. MILLER, JR.
DISTRICT ATTORNEY

101 W. BROADWAY, SUITE 1440
SAN DIEGO, CA 92101
(619) 236-2329

June 18, 1986

[redacted] b6 b7C

California Men's Colony
P.O. Box 8101
San Luis Obispo, California 93409

Re: SMITH, EDGAR HERBERT, CDC #B-82784

Dear [redacted]

[redacted] will represent my office at the hearing for Mr. Smith on July 7, 1986.

I am enclosing background materials and historical data on Mr. Smith together with a report to [redacted] from my [redacted] b6 b7C [redacted] This material, as well as past Board of Prison Term reports on Mr. Smith, form the basis for [redacted] report and these materials will all be discussed by [redacted] in making his presentation to the Board of Prison Terms.

Your consideration of these materials is, therefore, greatly appreciated.

Very truly yours,

[redacted] b6 b7C

[redacted] b6 b7C
Encls.

COUNTY OF SAN DIEGO

INTER-DEPARTMENTAL CORRESPONDENCE

DATE June 17, 1986

TO: [redacted]

FROM: [redacted] b6 b7C

SUBJECT: EDGAR HERBERT SMITH, Jr.
D.A. #A-17321
C.D.C. #B-82784

As you requested, I have reviewed the most recent packet of materials received on the above named defendant, preparatory to his appearance before the Board of Prison Terms on July 1, 1986, including a report prepared March 25, 1986, by CC II [redacted] b6 b7C and a report prepared by the Psychiatric Council at CMC East in San Luis Obispo. You had requested that I provide you with an assessment of the defendant's present situation and his future potential for your appearance before the Board of Prison Terms. In order to provide you with a detailed, comprehensive assessment, I have also reviewed prior materials provided you by the California Department of Corrections on the defendant for past B.P.T. appearances, along with the Probation Officer's report and official documents contained in our files on the defendant dating back to his arrest and conviction for first degree murder in 1957 in the state of New Jersey. This assessment contains no new information and is based on materials already given to the defendant either during his trial or since his incarceration.

not text under 2281

In order to arrive at an accurate assessment of the defendent and his potential for release in society, I feel it is necessary to review his entire history. The defendant has been examined on numerous occasions by a variety of psychiatrists and psychologists, the earliest of which was in November 1953 at which time he was stationed at the U.S. Naval Air Base on Oahu, Hawaii, as a member of the U.S. Marine Corps. On that occasion, the defendant was hospitalized for several days in a Psychiatric Unit at Tripler Army Hospital on Oahu.

The documents from the state of New Jersey and those compiled on him subsequent to his arrest here in California indicate that the defendant experienced a very chaotic childhood and began to act out in anti-social ways early in his life. The documents indicate that the defendant's early anti-social behavior included poor performance and failure in school, repeated acts of truancy, running away, breaking and entering; and at the age of 14 he accosted [redacted] b6 b7C The defendant was subsequently arrested for this offense and placed on five years juvenile probation, which was terminated at the age of 18. Prior to the termination

of his probation, he dropped out of high school at the age of 17. The defendant then held a series of menial jobs for brief periods of time and subsequently entered the U.S. Marine Corps in April 1952.

The defendant's performance in the Marine Corps could be described as marginal at best. Between June 1953 and June 1954, the defendant compiled a total of six disciplinary actions taken against him, three of which were informal company disciplinary actions for disobedience of orders or failure to maintain his post. An additional three disciplinary actions were summary court martials for unauthorized absences, disobedience of orders and breaking restrictions. These disciplinary actions resulted in his either being fined, restricted to quarters or, on the last occasion, confined for one month at hard labor. Finally, in November 1954, the defendant was given a general discharge due to partial deafness.

As previously noted, the defendant spent nine days in the Psychiatric Unit at Tripler Army Hospital and was discharged back to his duty station with a diagnosis of anti-social personality disorder, manifested by difficulties with authority, inability to follow regulations and emotional upset under regulations. Subsequent to his discharge from the Marine Corps, the defendant held a variety of menial jobs, the longest of which was for nine months.

In June 1956, he married a girl that he had known for about nine months. On March 4, 1957, the defendant picked up [redacted] b6 b7C When intially questioned by the police, the defendant repeatedly denied any knowledge of the crime; however, when it became apparent that the police were able to place him at the crime scene and place the victim in his car, he admitted having gone to the location with the victim, who, he said, was subsequently killed by a friend of his who, according to Smith, had been dating the victim. He repeatedly denied having [redacted] killing her.

Following the defendant's arrest and indictment, he was subjected to three separate comprehensive psychiatric evaluations and a lengthy, in-depth, sodium amytal interview regarding his behavior in the murder. In each of these examinations, the defendant admitted having been at the crime scene with the victim and having struck the victim after she supposedly accused his wife of

no report known to exist

marital infidelity; however, he did deny committing the homicide and claimed to have witnessed a friend of his, who had been dating the victim, commit the homicide. The report of the sodium amytal interview by [redacted] on May 5, 1957, in which the defendant blamed the homicide on his friend, clearly indicates that the defendant had malingered his way through the amytal interview, and immediately upon termination of the interview, jumped to his feet, and inquired about his lunch. [redacted] concluded that the defendant was fabricating his statements under the influence of the amytal. The previous three psychiatrists that had examined the defendant all arrived at a diagnosis which would be consistent with a present-day diagnosis of Antisocial Personality Disorder. The defendant repeatedly denied having killed the victim in that case and claimed amnesia for the events surrounding the killing. He was subsequently convicted and sentenced to death in June 1957. During the defendant's stay in the New Jersey State Penitentiary, he was repeatedly examined by a number of psychiatrists, all of whom arrived at the same diagnostic impression of Antisocial Personality Disorder.

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The defendant's conviction in that case was ultimately over-turned and in 1971, he entered a plea of no contest to second degree murder, was given credit for time served and placed on probation with the probation subsequently transferred to California in April 1974.

The defendant's probation expired in April 1976. It is significant to note that, as was the case prior to his incarceration in 1957, after being released from prison in 1971, the defendant lived a somewhat transient life style and held a variety of menial jobs, none of which lasted more than six months. It is noteworthy that the defendant, during his entire lifetime, except for his vocational assignments while confined to the California Department of Corrections, has never been gainfully employed in any one job for longer than nine months.

full time position 4 months over 5 years

The defendant committed the offense for which he is presently serving a term in prison on October 1, 1976. It is significant that the defendant, throughout his present term in prison and in his conversations with the Probation Officer preparing his pre-sentence report, claims to be amnesic for actually stabbing the victim and states that he is not sure at what point the victim was stabbed. However, [redacted] it is noted in the pre-sentence probation report that [redacted] In reviewing the police and medical reports on the instant offense, it is apparent that, save for the fact that a Drug Enforcement Agent was on the scene at the time of the offense and was able to radio for paramedics, the victim very likely could have died from her wounds prior to treatment.

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It is also important to point out to the Board that, in view of the defendant's amnesia for the stabbing, at one point in time, according to [redacted] The defendant, in his various protests to previous Board continuations, claims to be taking responsibility for the instant offense; however, his claims of amnesia for the actual stabbing gives one the impression that he continues to malinger an engage in denial. b6 b7C

During the defendant's testimony at his trial in 1977 and in his statements to the Probation Officer, he claimed that his initial intent in kidnapping the victim, was to rape and rob her. He goes on to elaborate and gives a story of having found a secure location off of I-5 in Chula Vista where he could carry out the rape. He also advised the Probation Officer that he had been searching for potential victims for some time before having kidnapped the instant victim. He stated that he had explored an isolated area near Chula Vista off of Interstate 5 with very dense undergrowth; subsequent to that he drove around picking up hitchhikers, mainly high school girls, and he was looking for a victim between 17 and 20 years of age.

Also during the defendant's testimony, he finally admitted, after 20 years of denial, that he was attempting to rape [redacted] in 1957. The defendant also admitted to the 1948 attempt to force [redacted] b6 b7C

In his statement to the Probation Officer, the defendant said that he couldn't totally recall what had happened. He knew that, "he didn't have what he wanted; that he wanted a compliant, complacent, cooperative woman," and later stated that all he wanted was "to get her to a place that he had picked out, but he couldn't control the car." Additionally, in that statement he informed the Probation Officer that he had no reasons to stab the victim, that, "a dead [redacted] was no good to me. I wanted her alive. I didn't want a dead woman bleeding all over the front seat of my car." Yet, he then follows that statement by a quote, "I didn't know she was stabbed," a somewhat contradictory comment. I should point out to you that it was [redacted] in the vehicle used by him in 1957 which ultimately led to his identification as a suspect and was used as evidence against him at his trial. In his interview with the Probation Officer and a hand-written letter to the Probation Officer, the defendant admitted that his primary problem was that he was a mentally disordered sex offender and that each of his offenses committed against females were sexually oriented. Prior to his sentencing, the defendant was examined by [redacted] Both of them concluded that the defendant was a mentally disordered sex offender and diagnosed him as having an b6 b7C

Antisocial Personality Disorder. [redacted] stated, "There is considerable dangerous potential within him." b6 b7C

Throughout his stay in prison, the defendant has been seen by a number of psychiatrists for the past eight years, all of whom have repeatedly attached to him the diagnosis of Antisocial Personality Disorder and have considered him to be a danger to society. However, in 1983, the defendant was examined by [redacted] who concluded that the defendant does not fit the classification of an Antisocial Personality Disorder as previously described, but is rather a passive, dependent male.

I note that at the time of [redacted] examination, the defendant had been in weekly therapy with [redacted] at the institution, since January 1983; and, in fact, [redacted] had previously diagnosed the defendant as suffering an Antisocial Personality Disorder. On page 1 of [redacted] report he states, concerning the 1957 crime, the defendant "still is not too sure of the motivation." The defendant apparently went on to tell [redacted] that the 1976 crime was definitely not a sexual offense, but rather, an effort on his part to assert himself in order to get away from the feelings of helplessness and inadequacy that he had in relation to women. Thus he refutes the statements he made to the Probation Officer and to [redacted] along with his testimony during the trial. I question why he would search out a complete stranger, force her into his car at knife point, and plunge a knife into her in order to assert himself. b6 b7C

There is contained in our file, a May 12, 1985, notation from [redacted] who states that he agrees with the change in diagnosis as suggested by [redacted] and that the defendant is really a "passive, dependent male, sub-normally assertive and with outbursts of masculine protest." I also note that the file contains an April 29, 1985, report by [redacted] at the institution, with a diagnosis of Antisocial Personality Disorder. [redacted] noted that "in a less controlled setting, such as a return to the community, subject is at risk for the commission of further crimes of violence with sexual overtones. Violence potential outside of a controlled setting in the past is considered to have been greater than average and at present is estimated to be the same." However, less than one month later, [redacted] who has been treating the defendant for three years, states that, in his opinion, the future prognosis for the defendant is good. b6 b7C

An additional note in the Probation Officer's pre-sentence report is an interview with the defendant's [redacted] Both of these are a b6 b7C

reflection of the defendant's propensity for violence and sadistic dehumanization of females.

I note that in [redacted] report of March 25, 1986, on page 2, the defendant apparently is repudiating his previous statements about being a mentally disordered sex offender and denying that his offenses had sexual motivation. He apparently went on to state insistently to [redacted] that the offense for which he is presently committed, was definitely motivated out of an intent to rob the victim. An examination of the crime scene photographs and the medical reports on the 1957 victim clearly indicates [redacted]. The defendant's detailed statement to the Probation Officer about his intent to take the victim in the instant offense to an isolated location and rape her was consistent with his route of travel towards an area off of Interstate 5 in Chula Vista which is concealed by an overgrowth of brush. It was only through the victim's efforts to escape that he was unable to accomplish this crime. b6 b7C

From 1953 to the present, the defendant has been examined extensively by at least 14 psychiatrists or psychologists, several of which have spent many hours examining and interviewing the defendant. Of those, 13 arrived at the conclusion that the defendant was experiencing an Antisocial Personality Disorder of a severe long standing nature. One of the 14, [redacted] in October 1983, after a one-hour interview and a review of the defendant's central file, concluded that this is an inappropriate diagnosis and that the defendant is best diagnosed as a passive-dependant male. Subsequent to that, [redacted] who had originally diagnosed the defendant as an Antisocial Personality and very dangerous, also changed his diagnosis in May 1985 to conform to [redacted] diagnosis. From a diagnostic perspective, there is no classification in the Diagnostic and Statistical Manual, third edition, of the American Psychiatric Association, for a Passive-Dependant Personality Disorder; however, there are diagnostic criteria for a Dependant Personality Disorder and diagnostic criteria for a Passive-Aggressive Personality Disorder (DSM III 301.84). A review of the defendant's files, the material available to us and all the previously cited data, including material from the Department of Corrections, clearly demonstrates that the defendant, neither by history or by examination meets the criteria for a diagnosis of either one of these disorders. (See attachments). b6 b7C

On the other hand, a review of the defendant's history, his criminal behavior and the predatory nature of his offenses, along with the 33 year history of his behavior when not institutionalized demonstrates that he continues to meet all the diagnostic criteria contained in the DSM III for Antisocial

Personality Disorder (301.70).

In a May 23, 1985, letter to the Board of Prison Terms written by the defendant, on page 3, under the second paragraph, the defendant attacks [redacted] suggestion that the defendant may also experience sexual sadism. In my opinion, the defendant's description of his preoccupation with rape, both in his testimony and to the Probation Officer, his statements to [redacted] prior to his sentencing, [redacted] in 1957, along with the statement by the defendant's [redacted] are all indications that the defendant had a propensity for sexual sadism. The Psychiatric Council apparently agrees with this in their diagnostic impression on Axis I. b6 b7C

In so far as the change in diagnosis by [redacted] is concerned, it is entirely possible that the defendant, while in an institutionalized structured setting, has intentionally altered his behavior and conduct so as to present himself as a passive dependent individual. As you are aware, in addition [redacted] and I have dealt with numerous cases of individuals who presented, in an unstructured free society as a severe antisocial personality having repeatedly engaged in violent and non-violent crimes over a protacted period of time, who later, when incarcerated, are capable of intentionally altering their behavior and conversation so as to manipulate their environment to their advantage and present themselves ~~in a~~ as much more compliant, cooperative, well-adjusted individuals, only to return to their anti-social acting-out upon release. b6 b7C

A review of the communications by Smith directed at the prison authorities during his stay in the institutions, his previous history and the manner in which he presently presents himself, clearly indicates that he continues to engage in an on-going pattern of manipulation. I think the greatest example of this is his repeated efforts to have himself declared a mentally disordered sex offender prior to and during his sentencing, including the presentation of psychiatric reports to the court and his statements to the Probation Officer that he is a sexually violent person to others. Yet once having been sentenced to the Department of Corrections, he now maintains that the offense for which he is currently incarcerated, was simply an effort to rob the victim and not to sexually attack her. He further denies or avoids responsibility for the previous sexual offenses for which he has been convicted. He would now have the Board believe that he was simply a passive-dependent male who felt weak and inadequate among females and acted-out in an unmotivated,

explosive way.

In addressing [redacted] report to the Board and the report of the Psychiatric Council, one notes some glaring incongruities. [redacted] states in his report on page 2, "The most common thread running through his file since he was interviewed by [redacted], is that the crime just happened because the victim was there and he was being overwhelmed by feelings of frustration and lack of self-esteem." [redacted] goes on to state that, "Based on the self-appraisal by Smith, any projections for release must be deferred to the gains he has made through the therapeutic process with [redacted] and elsewhere." However, the Psychiatric Council, on page 2 of their report, conclude that, "We also believe though that his parole considerations now should be based on other than psychiatric or psychological reasons." Also, on page 2, under their "Conclusions and Recommendations", the Psychiatric Council notes, in referring to the defendant, "His level of dangerousness in the past has been above average due to his history and the instant offense; however, at this time we feel that his level of dangerousness has decreased appreciably and that he is much better equipped to handle everyday stresses and problems that might arise in the future. We believe that he is less dangerous than the average inmate now, and that prognosis from the psychiatric point of view is much more productive for the future."

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In my 27 years in the criminal justice systems, and particularly the last eight years in which I have served as a consultant in forensic psychology for this office, this is the first time I have become aware that the standard for judging a prison inmates dangerousness is by comparing him to the dangerous potential of other inmates, rather than the rest of society. I find it somewhat incongruous that six mental health professionals would judge and inmate's potential for danger based upon a comparison to other inmates who have been removed from society, primarily because they present a danger of one sort or another to society.

Finally, I should point out that there is considerable documentation in the professional literature and in Appellate Court decisions that the mental health profession is woefully inadequate in its ability for predicting dangerousness, either the potential for it or the lack thereof. Perhaps the clearest example of this is in the case of Edgar Smith, when on December 4, 1971, [redacted] of the Department of Institutions and Agencies Diagnostic Center for the state of New Jersey, upon examining Edgar Smith, concluded on page 5 of his report, "There is no evidence of serious psychiatric pathology and he does not appear to have any malignant psycho-sexual process. The examiner feels this defendant may be returned to the community without posing a danger to the public."(See attachments).

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Most clinicians in the mental health profession will admit that the best predictor of future behavior is past behavior. In my opinion, it is obvious that Edgar Smith has predicted his future behavior and has clearly demonstrated the inability of mental health professionals to assess dangerousness (especially when compared to other inmates). When once having been given a clean bill of health in 1971, he once again enters the criminal justice system, after having attempted a sexual assault on a woman who was a total stranger to him and nearly killing a second time, while impulsively acting-out his clear disregard for society and the rights of others.

[redacted] b6 b7C

[redacted]

Attachments:

1. DSM III diagnostic criteria for:
   Dependant Personality Disorder
   Passive Aggressive Personality Disorder
   Antisocial Personality Disorder

2. 1979 Report of [redacted] b6 b7C

STATE OF CALIFORNIA—HEALTH & WELFARE AGENCY

GEORGE DEUKMEJIAN, GOVERNOR

DEPARTMENT OF CORRECTIONS
CALIFORNIA MENS COLONY
SAN LUIS OBISPO 93409

June 19, 1986

Re: SMITH, Edgar
B-82784

Curtis Clark, Attorney at Law
972 Santa Rosa Street
San Luis Obispo, CA 93401

Dear Mr. Clark:

Enclosed is a package of information I just received from the District Attorney, San Diego County, concerning your client. It is his interest that this material be subject to discussion at your client's hearing on July 1, 1986, and I am sending it for your attention/preparation for the hearing.

Very truly yours,

[redacted]

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cc: C/File
Inmate
file

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which neighbors they should be friendly. A child or adolescent with this disorder may allow his or her parents to decide what he or she should wear, with whom to associate, and how to spend free time.

Generally individuals with this disorder are unwilling to make demands on the people they depend on for fear of jeopardizing the relationships and being forced to rely on themselves. For example, a wife with this disorder may tolerate a physically abusive husband for fear that he will leave her.

Individuals with this disorder invariably lack self-confidence. They tend to belittle their abilities and assets. For example, an individual with this disorder may constantly refer to himself or herself as "stupid."

Associated features. Frequently another Personality Disorder is present, such as Histrionic, Schizotypal, Narcissistic, or Avoidant Personality Disorder. Anxiety and depression are common. Unless the individual has managed to secure a permanent relationship that satisfies his or her dependency needs, there is invariably preoccupation with the possibility of being abandoned.

The individual often experiences intense discomfort when alone for more than brief periods of time.

Impairment. Occupational functioning may be impaired if the nature of the job requires independence. Social relations tend to be limited to those with the few individuals on whom one is dependent.

Complications. Dysthymic Disorder and Major Depression are common complications.

Predisposing factors. Chronic physical illness may predispose to the development of this disorder in children and adolescents. Some believe that Separation Anxiety Disorder and Avoidant Disorder of Childhood or Adolescence predispose to the development of Dependent Personality Disorder.

Prevalence and sex ratio. The disorder is apparently common, and is diagnosed more frequently in women.

Familial pattern. No information.

Differential diagnosis. In Agoraphobia, dependent behavior is common, but the individual is more likely to *actively* insist that others assume responsibility, whereas in Dependent Personality Disorder, the individual *passively* maintains a dependent relationship.

Diagnostic criteria for Dependent Personality Disorder

The following are characteristic of the individual's current and long-term functioning, are not limited to episodes of illness, and cause either significant impairment in social or occupational functioning or subjective distress.

A. Passively allows others to assume responsibility for major areas of life because of inability to function independently (e.g., lets spouse decide what kind of job he or she should have).

B. Subordinates own needs to those of persons on whom he or she depends in order to avoid any possibility of having to rely on self, e.g., tolerates abusive spouse.

C. Lacks self-confidence, e.g., sees self as helpless, stupid.

301.40 Compulsive Personality Disorder

The essential feature is a Personality Disorder (p. 305) in which there generally are restricted ability to express warm and tender emotions; perfectionism that interferes with the ability to grasp "the big picture"; insistence that others submit to his or her way of doing things; excessive devotion to work and productivity to the exclusion of pleasure; and indecisiveness.

Individuals with this disorder are stingy with their emotions and material possessions. For example, they rarely give compliments or gifts. Everyday relationships have a conventional, formal, and serious quality. Others often perceive these individuals as stilted and "stiff."

Preoccupation with rules, efficiency, trivial details, procedures, or form interferes with the ability to take a broad view of things. For example, such an individual, having misplaced a list of things to be done, will spend an inordinate amount of time looking for the list rather than spend a few moments to recreate the list from memory and proceed with accomplishing the activities. Time is poorly allocated, the most important tasks being left to the last moment. Although efficiency and perfection are idealized, they are rarely attained.

Individuals with this disorder are always mindful of their relative status in dominance-submission relationships. Although they resist the authority of others, they stubbornly insist that people conform to their way of doing things. They are unaware of the feelings of resentment or hurt that this behavior evokes in others. For example, a husband may insist that his wife complete errands for him regardless of her plans.

Work and productivity are prized to the exclusion of pleasure and the value of interpersonal relationships. When pleasure is considered, it is something to be planned and worked for. However, the individual usually keeps postponing the pleasurable activity, such as a vacation, so that it may never occur.

Decision-making is avoided, postponed, or protracted, perhaps because of an inordinate fear of making a mistake. For example, assignments cannot be completed on time because the individual is ruminating about priorities.

Associated features. Individuals with this disorder may complain of difficulty expressing tender feelings. Considerable distress is often associated with their indecisiveness and general ineffectiveness. Their speech may be circumstantial. Depressed mood is common. Individuals with this disorder tend to be

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Complications. Frequent complications include Major Depression, Dysthymic Disorder, and Alcohol Abuse or Dependence.

Predisposing factors. Oppositional Disorder in childhood or adolescence apparently predisposes to the development of this disorder.

Prevalence, sex ratio, and familial pattern. No information.

Differential diagnosis. In Oppositional Disorder there may be a similar clinical picture and this diagnosis preempts the diagnosis of Passive-Aggressive Personality Disorder if the individual is under 18.

Passive-aggressive maneuvers that are used in certain situations in which assertive behavior is discouraged or actually punished and that are not part of a pervasive pattern of personality functioning do not warrant this diagnosis.

Diagnostic criteria for Passive-Aggressive Personality Disorder

The following are characteristic of the individual's current and long-term functioning, and are not limited to episodes of illness.

A. Resistance to demands for adequate performance in both occupational and social functioning.

B. Resistance expressed indirectly through at least two of the following:

(1) procrastination
(2) dawdling
(3) stubbornness
(4) intentional inefficiency
(5) "forgetfulness"

C. As a consequence of A and B, pervasive and long-standing social and occupational ineffectiveness (including in roles of housewife or student), e.g., intentional inefficiency that has prevented job-promotion.

D. Persistence of the behavior pattern even under circumstances in which more self-assertive and effective behavior is possible.

E. Does not meet the criteria for any other Personality Disorder, and if under age 18, does not meet the criteria for Oppositional Disorder.

301.89 Atypical, Mixed, or Other Personality Disorder

If an individual qualifies for any of the specific Personality Disorders, that category should be noted even if some features from other categories are present. For example, an individual who fits the description of Compulsive Personality Disorder should be given that diagnosis even if some mild dependent or paranoid features are present.

Diagnostic criteria for Antisocial Personality Disorder

A. Current age at least 18.

B. Onset before age 15 as indicated by a history of three or more of the following before that age:

(1) truancy (positive if it amounted to at least five days per year for at least two years, not including the last year of school)

(2) expulsion or suspension from school for misbehavior

(3) delinquency (arrested or referred to juvenile court because of behavior)

(4) running away from home overnight at least twice while living in parental or parental surrogate home

(5) persistent lying

(6) repeated sexual intercourse in a casual relationship

(7) repeated drunkenness or substance abuse

(8) thefts

(9) vandalism

(10) school grades markedly below expectations in relation to estimated or known IQ (may have resulted in repeating a year)

(11) chronic violations of rules at home and/or at school (other than truancy)

(12) initiation of fights

C. At least four of the following manifestations of the disorder since age 18:

(1) inability to sustain consistent work behavior, as indicated by any of the following: (a) too frequent job changes (e.g., three or more jobs in five years not accounted for by nature of job or economic or seasonal fluctuation), (*b*) significant unemployment (e.g., six months or more in five years when expected to work), (c) serious absenteeism from work (e.g., average three days or more of lateness or absence per month, (*d*) walking off several jobs without other jobs in sight (Note: similar behavior in an academic setting during the last few years of school may substitute for this criterion in individuals who by reason of their age or circumstances have not had an opportunity to demonstrate occupational adjustment)

(2) lack of ability to function as a responsible parent as evidenced by one or more of the following: (*a*) child's malnutrition, (*b*) child's illness resulting from lack of minimal hygiene standards, (c) failure to obtain medical care for a seriously ill child, (*d*) child's dependence on neighbors or nonresident relatives for food or shelter, (e) failure to arrange for a caretaker for a child under six when parent

is away from home, (f) repeated squandering, on personal items, of money required for household necessities

(3) failure to accept social norms with respect to lawful behavior, as indicated by any of the following: repeated thefts, illegal occupation (pimping, prostitution, fencing, selling drugs), multiple arrests, a felony conviction

(4) inability to maintain enduring attachment to a sexual partner as indicated by two or more divorces and/or separations (whether legally married or not), desertion of spouse, promiscuity (ten or more sexual partners within one year)

(5) irritability and aggressiveness as indicated by repeated physical fights or assault (not required by one's job or to defend someone or oneself), including spouse or child beating

(6) failure to honor financial obligations, as indicated by repeated defaulting on debts, failure to provide child support, failure to support other dependents on a regular basis

(7) failure to plan ahead, or impulsivity, as indicated by traveling from place to place without a prearranged job or clear goal for the period of travel or clear idea about when the travel would terminate, or lack of a fixed address for a month or more

(8) disregard for the truth as indicated by repeated lying, use of aliases, "conning" others for personal profit

(9) recklessness, as indicated by driving while intoxicated or recurrent speeding

D. A pattern of continuous antisocial behavior in which the rights of others are violated, with no intervening period of at least five years without antisocial behavior between age 15 and the present time (except when the individual was bedridden or confined in a hospital or penal institution).

E. Antisocial behavior is not due to either Severe Mental Retardation, Schizophrenia or manic episodes.

301.83 Borderline Personality Disorder.

The essential feature is a Personality Disorder (p. 305) in which there is instability in a variety of areas, including interpersonal behavior, mood, and self-image. No single feature is invariably present. Interpersonal relations are often intense and unstable, with marked shifts of attitude over time. Frequently there is impulsive and unpredictable behavior that is potentially physically self-damaging. Mood is often unstable, with marked shifts from a normal mood to a dysphoric mood or with inappropriate, intense anger or lack of control of anger. A profound identity disturbance may be manifested by uncertainty about several issues relating to identity, such as self-image, gender identity, or long-term goals or values. There may be problems tolerating being alone, and chronic feelings of emptiness or boredom.

State of New Jersey

DEPARTMENT OF INSTITUTIONS AND AGENCIES

DIAGNOSTIC CENTER

MENLO PARK

[redacted]

December 4, 1971

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Interview with Edgar Smith held at the New Jersey State Diagnostic Center on December 3, 1971 by [redacted] and in the presence of [redacted] Psychiatry, Columbia Presbyterian.

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The defendant is now 37 years of age and a product of a broken home. He knows little of his natural father. His school adjustment was erratic and unstable. Aside from sports, he achieved very little. He was frequently truant with a deteriorated academic performance. While in the third year of high school, he dropped out in order to enter the service. He enjoyed sports, was a football player and was considered a hero type at high school. He was promiscuous with other female students. This period of his life could be characterized as immature, unstable and quasi delinquent.

The next phase of his development covered his service in the United States Marine Corps, which he joined in 1952. His personality remained essentially unchanged. He describes his adjustment as a series of disasters and his personal philosophy was that anything involving fun was to be pursued. He was considered sloppy, careless

and irresponsible. He was court-martialed twice, once for being out of uniform and the second time for being AWOL. He was sexually promiscuous, enjoying females of all races. About the only thing he experienced being shy of was dancing, at which he was awkward and unskilled. He was discharged in 1954 for partial deafness, and he is presently receiving $23.00 a month for this service connected disability.

Adjustment following his discharge from the service continued erratic and irresponsible. He floated from job to job, always looking for something to make easy money. About 1965, he met a girl who was employed in a Loft Candy Shop. Pregnancy at the time of marriage was admitted. One child was born of this union [redacted] b6 b7C

At the time of his offense matters were unstable at home. He was uncomfortable in relating the details of the offense. He frequently alludes to the victim as a female who went out with many others. He admits to the murder, recalling the victim's derogatory remarks about his wife. She slapped his face. However, he is reluctant to discuss full details. He was not drinking at the time except for a bottle of beer. He describes pressures which may have been contributing factors; trouble at home, loss of job, etc. Interestingly enough, he states that had he been drunk that night, he would not have committed the crime. Following commission of the crime, he describes no panic and he was not particularly overwhelmed with remorse. The events have become blurred since that time. He admits that he was apprehended shortly

afterward and interrogated for twenty hours, following which he gave a statement.

He was placed in the death house in June 1957. For the first five years he accomplished very little then, he began to realize that, "I was a bum." He realized too that he had turned away many opportunities in education, in service and at work.

Although he was born and raised in the Roman Catholic faith, he became a protestant when he married. He feels that his resurrection began when his wife finally separated from him after five years of incarceration. "That was the bottom, I was bitter, she was quitting on me, etc., etc." As he recalls these experiences, furtive tears were seen in his eyes. From this point on, together with moral assistance from others including [redacted] he devoted himself to education. He took college courses in English and history and did endless reading on legal matters. He introspects on the many years that he spent in the prison cell and describes the rich fantasy life that kept him going, particularly the dream that his lawyers would win an appeal.

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At the present time, he is looking forward to the future. He is told that he is a good writer. He has almost completed his third book and is anxious to teach English and creative writing. He feels that his incarceration was the best thing that ever happened to him as it has reshaped his life.

Approximately two hours were spent in a fairly comfortable discussion with the defendant. There was no sign of any gross psychiatric disability. His personality up to the time of the offense was that of an extremely immature, hedonistic, promiscuous and perhaps irresponsible type. There are no indications, however, that at the time he was suffering from any malignant form of psychosexual pathology. Fifteen years of incarceration have had a settling effect. Yet, one still observes some traces of the immature characteristics. He appears, however, quite realistic and entertains ideas which are particularly constructive in character. There is nothing in the personality pattern that would suggest the probability of a recurring similar offense, or that manifests other antisocial behavior. There are certain problems in readjusting to the community such as, will he succeed in writing to the degree that he anticipates? Will he sustain himself at work if the returns are not too great? However, the overall picture looks quite promising and the prospects for the future are good.

Throughout the interview, he was cooperative, friendly, and responsive without any manifest disturbances in either his emotional make-up or his mental processes. It is quite evident that the defendant examined today is a different man than the one who entered the death house fifteen years ago.

In summary:

There is no evidence of serious psychiatric pathology and he does not appear to have any malignant psychosexual process. The examiner feels this defendant may be returned to the community without posing a danger to the public.

However, the examiner strongly recommends in the interest of all concerned, he be supervised within a probationary framework for a period of five years if that is possible.

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PROPERTY OF THE
PROSECUTOR'S OFFICE

[redacted]

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GREYSTONE PARK
NEW JERSEY
March 8, 1957

RECEIVED
MAR 22 1957
OFFICE OF PROSECUTOR
BERGEN COUNTY

RESPONDENT'S EXHIBIT

Mr. Guy W. Calissi
County Prosecutor
Bergen County Court House
Hackensack, New Jersey

Re: Edgar Smith

Dear Prosecutor:

At your request, Iam sending you the report of my examination of Edgar H. Smith which was made in the Prosecutor's Office, Court House, Hackensack on the above date. [redacted] of your office introduced me to the defendant and I advised him that I represented the Prosecutor's Office and anything he might say could be used against him in case of trial and he readily consented to the examination. [redacted] of Hackensack, came to the office before my examination and I explained to him the nature of the examination and he also gave consent.

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He stated he was born on February 8, 1934 at Hasbrouck Heights. He was married on June 9, 1956 at St. Elizabeth's Church, Ridgewood and said he had met his wife in September 1955; one child was born of the union and he gives the child's age as [redacted]

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He stated his father was living and well, as far as he knew, and his last known address was Richmond, Virginia. He stated his parents were divorced. His mother was living at 52 Elizabeth Avenue, Ramsey, gave her age as about 45. He has one [redacted] Said he had measles but no operations. He started school at the age of 5 at Hasbrouck Heights Grammar School and graduated from the Euclid School on Passaic Street, Hasbrouck Heights around the age of 14. He then attended part of his freshman year in the junior high school in Milford when he went to Don Bosco School in Ramsey and finished the second year. Said he flunked the seventh grade in public school and repeated same. Said he had no trouble with the teachers or students and no disciplinary measures were taken against him. While he was attending school at Don Bosco his family moved to Ramsey and after he finished the second year at Don Bosco, he enrolled in the public high school in Ramsey and remained eighteen days short of finishing the third year. Some of the fellows were quitting school and he fell in line and went to work. Thought a lot of going into the army but made no application at the time. He returned to the Ramsey High School and after a short time there transferred to St. Luke's School in Hohokus where he remained until the end of November 1951 and played on the football team. Said he was not getting along so well at St. Lukes and he did not like the school but he got along well with the sisters and had no trouble with the boys or girls.

After leaving school he did nothing for about one month. While debating going into service, he lived with his mother and step-father. He went to Florida by bus in January 1952. Said he first arrived in Stuart, Florida, that he knew somebody there and got a job as first mate on a private yacht. He moved from Stuart to Ft. Pierce in February 1952 and remained until the end of March 1952.

He then got a yen to go into service, came back to New Jersey and joined the Marine Corps in Paterson in 1952. He was sent to Parris Island on April 14, 1952 where he remained until June 6, 1952 when he was allowed home on leave for about a month. He then went to Miami by Eastern Air Lines and arrived about July 2, 1952 and remained until August 5, 1952. Said he was stationed there at the time and his rank was Private 2nd Class. On August 5, 1952 he signed up with a Parachute School at Quantico, Virginia and remained from August 25 to December 17, 1952 and came home for about 32 days on leave. He then went to the Marine Air Force Station at El Toro, Santa Ana, California where he remained until June 1953 and then went to the Naval Air Station in Oahu, Hawaii where he remained 1½ months and then flew to Japan.

He was at the Itami Air Force Base for about one month when he started flying back and forth from Korea but said he saw no combat service. After a period of time he returned to Oahu, Hawaii and remained until August 13, 1954 when he was evacuated to the Travis Air Force Base, Mare Island, Naval Hospital where he remained one week. Then he flew to San Antonio, Texas Air Force Base Hospital as his left ear was bothering him, felt he was going deaf in both ears. After leaving San Antonio, he flew to Anderson Air Force Base in Washington, D.C. for one day. Said he was examined at the Mare Island Hospital for about one month and remained in the Triplet Army Hospital one week. He was also flown to the Naval Hospital in Philadelphia where he remained until November 1, 1954 when he was sent to the Philadelphia Naval Yard and was discharged on November 8, 1954. Said he received a medical discharge because of his ears.

During his service he was courtmartialled once for being AWOL in Hawaii and was broke to Private First Class. Said he drank beer and whiskey while in the service but denied the use of any drugs such as marihuana, codein, heroin, etc., and denied any venereal disease.

Said now he may drink beer on a week-end but no whiskey. Smokes cigarettes. Stated he had no trouble in the service, got along well with his commanding officers but once had a fight with another marine at Quantico.

After his discharge on November 8, 1954 he came home to Ramsey to live with his mother and step-father. He did not do anything until January 1955. Then he worked for the Singer Sewing Maching for about 1½ months; said it was a good job but he could not sell sewing machines. He was

again home for about two months of idleness when he went to work at the Bergen Lumber Company at Ramsey for three or four months. He left with the idea of going to Florida but he did not go. He was idle for two more months when he went to the Midland Park Lumber Company where he worked three or four months and was laid off. Then went to the Continental Can Company in Paterson in February 1956 and remained until September or October 1956 when he was laid off. Said he was sick during the summer, had headaches, his stomach was bad and he could not eat.

In June 1956 he was married and after the marriage went to live in Hawthorne where he remained until December 1956 when he bought a trailer and went to live at the Bogert Trailer Camp where he lived until the present time.

I questioned him at length concerning any abnormal physical complaints that he might have had such as fits, convulsions or spasms, all of which he denied. Said he had a nervous breakdown and when questioned what he meant, stated while being courtmartialled, when the sergeant was making out the papers with the sentence, he started to shake and could not remember anything. He was taken to the sick bay at the Naval Air Station at Barber's Point. Said he was then sent to the Triplet Army Hospital psychiatric ward, that he was shaky and sweaty in the office previous to going there. Said he remained eleven days at Triplet Hospital. Said when he left Triplet he was all right for a couple of days. Later on in questioning said he was in the Triplet Hospital for his ear for about 1½ months and that he saw a psychiatrist in the Naval Hospital in Philadelphia who said he was all right. Said he went out with the other fellows and they told him he was antisocial.

I questioned him at length concerning any abnormal ideas in the nature of delusions, illusions or hallucinations or previous experiences of amnesia, all of which he denied.

When questioned why he was in jail stated, "I am supposed to have murdered Vickie Zielinski," and when questioned as to her age, said "about 15." When further questioned if she was in the automobile with him, stated she was and he had her in the pit. Then stated he had a blackout and denied any knowledge of the act as charged.

He was well oriented in all spheres and his general knowledge was in keeping with his advantages. Stated he had two years in algebra and four or five years of history in high school, that he failed some subjects in the first and second year. He also had two years of Latin. At this point he gave me the history that when about 13 years of age he was supposed to have molested a girl but he denied it. He was sent before the Juvenile Court, Judge Zimmerman, and was on five years probation. Said this was mostly because he was wild. He described himself as an average boy other than the fact that he did not like dancing but liked every other thing that boys do.

Physical examination revealed a well nourished adult male, weighing 141 pounds. Height: 5 feet 9½ inches. There was a recent scar on his left index

finger, about 1 inch in length, said he did not know how he received it. He had blue-grey eyes. Said he could use both hands but was mostly right-handed.

Neurological Examination: His pupils were equal, regular and responsive to light and accommodation. No nystagmus or strabismus. Vision normal. Tongue protrudes in the midline. No facial asymmetries. No restriction of neck or back movements. He bent over five times with no difficulty. Romberg negative. Gait normal. Position normal. Reflexes, both superficial and deep, were present, equal and active and there were no pathological reflexes such as Babinski, Chaddock, Gordon, Schaffer or Oppenheim.

Opinion: This man, throughout the interview, showed no disturbance in his thinking capacity with no oscillations of mood. He readily gave an account of his past life which has been noted at the beginning of this report. He was well oriented in all spheres and had a good grasp on the recent and remote past. His father and mother were divorced and he attended the schools mentioned and says he reached the third year of high school. He got along well with the teachers and other students and gave as his reason for leaving that other fellows were quitting and joining the service and he wanted to join the army and enlisted in the Marine Corps and served in the various places noted. Said he reached the rank of corporal but in Hawaii went AWOL for five days and when he reported they broke him in rank from corporal to private first class. Said he had no difficulty with the officers or men in the service other than a statement made that he once had a fight with a marine. He had no combat experience but said he flew from Japan to Korea. At the time of his courtmartial he began to shake and was nervous. Said he had a "nervous breakdown" and was placed in the psychiatric ward for a few days and when in the Philadelphia Naval Hospital said he was seen by a psychiatrist who stated he was all right and he was given a medical discharge from the service because of an infected ear. After his return home he was not steadily employed for any length of time. He married a young woman and has a child [redacted] When questioned concerning his personal life he denied the use of any drugs or marihuana. Said he never had homosexual experiences and his sexual life was a normal one. In the past, said he drank whiskey and beer but lately only on an occasional week-end he will drink beer but never to the point of becoming intoxicated. b6 b7C

When questioned why he was in jail, replied, "Because I was supposed to have murdered Vickie Zielinski." Said she was in the car with him and he recalled going to the quarry. Has what he calls a blackout for the act as charged. I questioned him at length concerning any abnormal experiences in the nature of delusions or hallucinations, all of which were denied. He gave no history of spasms, fits, convulsions or psychiatric equivalents (epileptic manifestations). He gave no history of wetting the bed, biting his tongue or having noticed blood on the pillow in the morning and there was no history of a previous brain injury or toxic condition that could

account for his alleged amnesia. An amnesia or loss of memory is a complete blotting out for a period of time and is not spotty, that is you cannot recall certain things and forget others during the same period of time. I found no objective involvement of the central or peripheral nervous system and he gave no history of any illness that might account for his alleged "blackout." After a complete review of the history at hand in which he was charged on one occasion with juvenile delinquency for a sexual misdemeanor and was placed on probation by Judge Zimmerman, I feel we are dealing with a sociopathic personality who is legally sane and in the absence of any history to the contrary, was sane at the time of the commission of the act as charged, is able to distinguish the nature and quality of his acts and distinguish between right and wrong.

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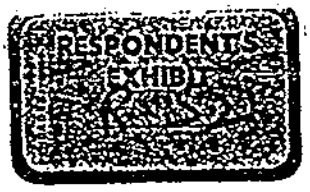
JE EXPORT 2-5456

[redacted]

383 WEST STATE ST.
TRENTON 8, N. J.



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EXAMINATION BY
APPOINTMENT ONLY

PRACTICE LIMITED TO
NEUROLOGY AND PSYCHIATRY

In re: Edgar Smith

March 14, 1957

RECEIVED
MAR
PROPERTY OF THE
PROSECUTOR'S OFFICE

Hon. Guy J. Calissi
Prosecutor of the Pleas
Bergen County
Hackensack, N. J.

Dear Sir:

This is a report of my examination of Mr. Edgar Smith made at your office in Hackensack, New Jersey, on the afternoon of March 9, 1957.

I found this young man to be white, 23 yrs. of age. He is married and has one child about [redacted] He left school at the age of 17 when in the second year of high school. He joined the Marine Corps on April 14, 1952, and was discharged on November 5, 1954, with a medical discharge which, he stated, was the result of a hearing defect. He was awarded 10% disability and received $17.00 a month. While in the Marine Corps he was hospitalized on several occasions -- once for tonsillectomy, another time because of some trouble with his ear, and on one occasion for psychiatric observation. He apparently did not adjust too well in the service because he was A.W.O.L. on one occasion and during an altercation with another soldier he broke this man's jaw. He denied alcohol except for an occasional social drink of beer. He has never used drugs.

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Since his release from the service, he has worked at various jobs -- the longest being for about 9 mos. His last employment was about one week for a seat cover concern. He stated that he has been more or less self-supporting, sometimes requiring financial help from the family. There is no history of any important illnesses, accidents, or major surgery. He volunteered that on occasions he has some trouble with his stomach and is prone to have headaches. His last medical examination was sometime in the summer of 1956.

He was married on June 9, 1956, to a girl whom he had known for about nine months. He stated the marriage has been congenial and he and his wife are well-adjusted to one another.

He stated that on March 4, 1957, he, his wife, and baby were living in a trailer camp. On that day he went to the plant where he worked to receive pay for the preceding week's service. He took the day off from work after being paid and bowled in the afternoon until about 6:30 P. M. He then went with friends to their home so that he might borrow the car and after dropping them off he proceeded to his own home which he reached at about 6:00 o'clock. He was met by his wife and mother-in-law and after a short period left to get gasoline for a stove. After buying the gasoline and while on his way home at about 8:30 P. M., he passed a girl whom he recognized as Vickie whom he had known for the past 2 or 3 mos., seeing her almost every day and on occasions had given her rides in his car to her home. He stated that she recognized him and called to him and asked for a ride to her home which was about a mile or mile and a half away. She joined him in the car and he

Hon. Guy J. Calissi
Prosecutor of the Pleas

proceeded towards her home but about one block before reaching her home she asked him to go another way so that she would not be seen by her sister and gave him some details about trouble that she was having with her family because of a note from the school authorities directed to the mother that had been intercepted by Vickie.

At her suggestion he changed his course to a round-about way to her home and finally ended up at a gravel pit where they parked. He denied that he made any advances towards this girl but admitted that she became angry and decided to walk home and attempted to get out of the car. He grabbed her by the sleeve but she was able to leave the car, broke away from him. He then followed her out through the same door. She struck him in the face and chest several times and he thinks he may have struck her with his fist.

He reported that at this time there was a flash in his eyes. He saw various colored lights and that he has a complete loss of memory for everything that happened from that point until he was pulling into his driveway at home. When he got out of the car he knew that his trousers were saturated with blood so he called to his wife and asked him to pass out to him another pair of trousers explaining to her that he had been ill and had vomited on these trousers. After changing trousers he entered the trailer. He had lost one of his shoes and remembered that the shoe had been lost at the gravel pit. He then called his friend who owned the car and told him that he was returning the car. He left the house at about 9:20 P. M. with a large flash light and drove directly back to the gravel pit, found his shoe, and noticed red blood on the ground which he stated he did not recognize as having belonged to Vickie. After finding the shoe he proceeded to his friend's house but en route he threw away the bloody pants and which he had brought with him.

After reaching the home of his friend he returned to his own home. Since the stove was not working properly, he took his wife and baby to the home of his mother-in-law and with them watched television until about 10:00 P. M. when he went to bed. He slept soundly until about 9:00 o'clock the next morning. He decided not to go back to work and spent the morning listening to the radio and television. On the 11:30 news he heard a report of a girl being killed which, he stated, meant nothing to him, not even her name was significant. However, he listened to the next news-cast at 12:00 o'clock following which he called his friend and asked him if he had heard about the girl being dead and asked the friend to come for him at his mother-in-law's home and return him to his own home in the trailer. There was a second 'phone call to this same man at about 1:30 and when the friend came for him at about 3:30 they talked about the murder and he began to realize that he knew something about it. They drove by the place where the murder occurred, then went into town where he got a haircut, talked with friends in the barber shop and others at a gas station about what had occurred.

About 7:00 P. M. he laid down with his wife and there was further discussion with her about the murder and sometime later in the evening they decided to again spend the night with her mother and they went to her home.

Hon. Guy W. Calissi
Prosecutor of the Pleas

About 11:00 P. M. detectives came for him and he then realized that he was implicated. He volunteered the statement that some of the information he gave to the detectives while being questioned was untruthful, that he gave them several stories and versions, and it was not until the next day that he told them the truth as he remembered it.

During the examination a number of inconsistencies of his statement of complete loss of memory from the time of the reported light flashes in his eyes until he was in the driveway of his home were developed. He recalled that he had lost his shoe at the sand pit and went directly back for the shoe and found it without searching. Later he reported that en route to his home he realized that he was not wearing his right shoe and that his right foot was very cold. He admitted that he had placed these blood stained shoes in an ash can but stated this was done because the shoes were worn out and of no value and not because they were blood stained. To me it is inconsistent that he would have driven several miles to recover a shoe which he threw away on the following day because they were useless. I also learned that he was able to direct the officers to a point where the girl's handbag was recovered, presumably after he had thrown it from the car while en route to his home after the commission of the crime.

The type of amnesia which he described is in no way characteristic of a true amnesia and it is significant that the amnesic period was not complete as first stated, that it was a self-serving amnesia and encompassed only the period which is important in his hope to be relieved of responsibility for what he did.

Physical and Neurological Examinations were negative for any diseased condition of the brain or spinal cord. He has an excellent memory for all details. There were no hallucinations, delusions, or other psychotic material present.

IMPRESSIONS: This man is not insane, has never been insane, and the proper classification for him is a "Sociopathic Individual" who has difficulty in meeting responsibilities and who is prone to act on impulse with little regard for the rights of others and little respect for constituted authority.

His claim of loss of memory is an effort to protect himself from being penalized for his anti-social act. He does in fact have a recollection of what transpired and is fully responsible for the crime which he committed. He is able to consult with counsel, has an understanding of the charge against him, that he will be tried for murder, and the possible penalties which may be imposed.

I thank you for the opportunity of examining this man.

Yours very truly,

[redacted]

b6
b7C

[redacted]

BEST AVAILABLE COPY

275 EAST 18TH STREET
PATERSON 4, N. J.

March 18, 1957

RECEIVED
MAR 21 1957
OFFICE OF THE PROSECUTOR
BERGEN COUNTY

PROPERTY OF THE
PROSECUTOR'S OFFICE

b6
b7C

Guy A. Valisi, Esq.
Prosecutor Bergen County
Court House
Hackensack, N. J.

Dear Sir:

Herewith is the synopsis of the psychiatric examination performed on Mr. Edgar Smith, age 23 years, on March 11, 1957, at the Court House, Hackensack, N. J.

Patient enters the examining room accompanied by two guards. He is neat and clean in appearance, but casually dressed. He set himself opposite the examiner, slouched in the chair and immediately assumed an indifferent nonchalant attitude. Throughout the interview he played with some book matches, occasionally cleaning his fingernails or placing the cover of the matches to his teeth. He answered questions relevently and coherently, although at times there was much circumstantiality. Patient then told of his background, and stated that his parents were divorced and his mother remarried shortly thereafter, in 1948. He stated that he lived with his stepfather and mother and an older brother. He stated he never got along too well with his brother because "he was quiet and I wasn't". Patient had no unusual difficulty with his mother and stepfather. He stated that he saw his real father approximately two years ago. He then told of his experiences when a small boy. He recalled that when he was in the third grade he stayed away from school for approximately thirty days "without being caught". At the age of 12 he recalled breaking into a home and stealing some jewelry. He described this episode in detail. He also admitted that at the age of 13 or 14 years he was picked up by the police and accused of having molested a girl. For this offence he was placed on five years' probation. Patient stated that he completed three years of high school, having attended Don Bosco High School, Ramsey High School and St. Luke's High School. He told that he changed high schools so that he could play football. On one occasion he changed his name so that he could play for one of the schools. At the age of 17 years he entered the Marines. He entered on April 14, 1952. He told of his experiences in the Service. While in the Service he received a court marshall for being A.W.O.L. He was given thirty days punishment and stated "I pulled my brig sentence in the hospital". Patient had been hospitalized for an infection of his left ear and subsequently received a medical discharge for partial deafness of his left ear. He recalled that sometime in December of 1953 he was in the psychiatric ward in the hospital for approximately eleven days. He does not remember much of his experiences in the hospital. He did state that just prior to his hospitalization he had been A. W. O. L. from his unit for approximately five days. Patient was discharged from the Service on November 8, 1954. Subsequent to his service he had approximately eight to nine jobs. His longest employment was for

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nine months working as an automatic punch press operator for Continental Can. On June 3, 1956 he was married. At the present time he has a 2 month old daughter and is living in a house trailer which is parked in a trailer camp in Ramsey, N. J. He stated that he has always gotten along well with his wife, except for slight arguments. Patient then related his experiences on March 4, 1957. Patient described in detail how, in a borrowed car, he met and took "Vickie" for a ride. He recalled talking to Vickie in the car. He admits that at this particular time he was in a "lazy kind of mood. It was not a good mood". He also recalled that an argument ensued and subsequently he raised his right arm and then "it was like someone putting the lights out and then it was like a big cloud". He stated the next thing he recalled was that the car would not start. He then described again, in detail, his experience subsequent to leaving the sand pit. He stated he was picked up twenty six and a half hours after his experience. At the present time he is in the Bergen County Jail and is getting along very well there. He is eating and sleeping well and had no complaints. Throughout the interview patient maintained his indifferent attitude. He expresses no psychotic ideas. Patient then told of some previous accidents he had. He recalled at the age of 16 being unconscious for a period of time subsequent to an automobile accident. He stated also that in 1951, while playing football he lost consciousness for a short period of time. Patient states he has always had difficulty in concentrating and is inclined to day dream. He stated "I'm forever thinking about something". Patient's intelligence is estimated as average.

A Neurological examination was performed, which failed to reveal any organic pathology of the central nervous system.

Impression: This patient presents the symptoms and findings of an Underlying Sociopathic Personality Structure. This Sociopathic pattern has been evident since his early childhood. At the present time I find no evidence of any psychosis in this patient. It is my opinion that at the present time, and at the time of the alleged crime, patient is capable to differentiate right from wrong and understand the nature and quality of the act for which he stands accused. Patient's expressed amnesia for the act for which he stands accused is not consistent and does not fit into any pattern of known illness in which amnesia may take place.

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Guy [illegible] Galisci, Esq.

Page #3 (Edgar Smith)

It is my opinion, therefore, that his experiences during this alleged amnesic period are very close to the conscious level.

Thank you for the opportunity of examining this patient.

Very truly yours,

[redacted]

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b7C

[redacted]

[redacted]
937 Fifth Avenue
New York 21, N.Y.
Butterfield 8 9060

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b7C

PSYCHIATRIC REPORT ON EDGAR SMITH CONDUCTED
MAY 5, 1957 IN HACKENSACK, NEW JERSEY

Prior to the administration of 7-1/2 gr. of sodium amytal and 20 mg. of amphetamine sulphate intravenously, a psychiatric interview was conducted, to establish a pattern of thinking and acting for comparison with what this individual might show under the influence of the drugs.

He talked rather freely of his past experiences and revealed a portrayal of an aggressive, impulsive individual with an indomitable will and marked aggressive tendencies. He gave a history of being involved in Halloween pranks, thrown out of movies for loud and boisterous behavior, getting into a fight with a policeman, and at the age of fourteen being put on probation after attempting to compel [redacted] When the girl resisted and said she would tell her father, he threatened he would kill her if she did. While in the service he had difficulty with his superiors and was referred for psychiatric study. Upon these findings he was discharged from the service as an undesirable. His working record is rather unimpressive. The longest time he remained in a job, he said, was seven months. In his last job, he stayed away without permission and was fired the day of the offense. He admits he gave several contradictory statements or accounts of his activities in connection with this offense. He also claims amnesia for details and finally accused a friend of his as responsible for the offense, excusing himself for not giving this information prior because he was afraid that this friend would harm his wife and child if he talked.

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After the administration of the drugs he manifested a different conduct. He elaborated considerably on what took place in his parked car with the Zielinski girl. The relevant parts of his statements are as follows: [redacted]

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[redacted] b6 b7C

So I said what do you want to say. She said I heard your wife has been putting out for [redacted] But I told her she's a god damn liar. Every time [redacted] comes to the house my wife is there. She just had a baby. She couldn't be doing it for anybody but me. My wife has enough brains not to do that, especially after having a baby. I told her to get out of the car. You are a no good slut, start walking. She opened the door, I slapped her again. I said, don't let me see you near me again unless you want to put out." b6 b7C

He then relates that she was running, that he heard a commotion about fifty yards away, and knew she was arguing with somebody. [redacted]

His story was altered several times during the questioning. He gave conflicting statements, saying he went back for his shoe, then he did not go back for it. He denied that he carried his bloody pants and hid them away from the trailor camp where he lived. He insinuated that it was the work of his friend [redacted] b6 b7C

It appears that his story, under the drugs, is more disorganized, more detailed, and more self-indicting than without the drugs, still he was reluctant to make any direct statement on the act of the murder of the Zielinski girl. He

gave sufficient evidence of violent manifestation during the interview. He made the statement that if he were to meet the girl's father, he would knock his head to Canarsie. "When I get out of jail, I'm going to tear him apart, limb from limb, one limb for every day of the week, not enough limbs though." In reference to [redacted] he said, "I'm going to drink his blood." b6 b7C

Throughout the interview there was intensive emotional fluctuation from blanching to dark congestion of the face. His hands were clenched so tightly into fists that the circulation was suspended. He cursed, using obscenities and gave every indication of ungovernable temper and a state of fury if his path or will were crossed. He made efforts to simulate falling asleep when significant questions were asked to gain enough time to consider his answers. But immediately upon termination of the interview, he jumped up and inquired about his lunch. It is possible that his fury states might suppress temporarily the exact recollection of events. This is known as Ganser's syndrome, (Some degree of amnesia and some disturbance of consciousness restricted to highly emotionally charged events.) Or he might suffer from a kind of partial amnesia associated with a certain type of non-convulsive epilepsy. The total impression, however, is that this individual is not suffering from a psychosis. The divergence in the story is not a genuine manifestation, but is characterized strongly by fabricating tendencies.

[redacted] b6 b7C

[redacted] American Board of Psychiatry and Neurology
Qualified Examiner, State of New York

[redacted]

[redacted]
927 Fifth Avenue
New York 21, N.Y.
Butterfield 6 9060

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b7C

May 10, 1957

Hon. Guy Calissi
County Prosecutor
Bergen County, Court House
Hackensack, New Jersey

Dear Mr. Calissi:

I have the pleasure of transmitting to you the relevant parts of the interview with Edgar Smith, conducted after the administration of sodium amytal and amphetamine sulphate.

Should you require any further elaboration, kindly telephone my office.

I am enclosing statement covering this examination.

Sincerely yours,

[redacted]

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[redacted]
Encls.

State of New Jersey

STATE PRISON, TRENTON
TRENTON, N. J. 08625

November 22, 1976

[redacted]

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San Diego District Attorney Office
P. O. Box 2031
San Diego, California 92112

Re: Edgar Smith

Dear [redacted]

In response to your request via Ronald F. Calissi, Special Investigator, Division of Criminal Justice, State of New Jersey, for certain documents from the classification folder of Edgar Smith, enclosed please find those documents. Also enclosed is my signed affidavit.

The documents which could not be copied due to technical problems are as follows:

(1) Classification and Parole Summary;

(2) Memorandum dated July 29, 1958 from R. Olive, psychologist, to Parole Board;

(3) Progress Report on Death House Cases for the dates June 6, 1967 through June 10, 1971; and

(4) Psychological Admission and Progress Report(s) for the dates July 23, 1958 and April 15, 1964.

Please do contact this office if we can be of any further assistance.

Very truly yours,

[redacted]

b6
b7C

By: [redacted]

[redacted]

Enclosures
CERTIFIED MAIL
RETURN RECEIPT

STATE OF NEW JERSEY:
SS: AFFIDAVIT
COUNTY OF MERCER :

[redacted] of full age, being duly sworn according to law, upon her oath, deposes and says: b6 b7C

1. [redacted]

2. The following documents from the classification folder of ex-inmate Edgar Smith were selected for copying by [redacted] San Diego District Attorney Office, San Diego, California. I personally copied said documents and certify them to be true and accurate. b6 b7C

(a) picture; information re: eligibility ofr parole consideration; Bergen County (New Jersey) Probation Department, Social Investigation;

(b) Admission Interview Report; Social History Report;

(c) Memorandum dated August 16, 1965 from [redacted] to Howard Yeager, Principal Keeper and attachments thereto; b6 b7C

(d) Inter-Office Correspondence dated July 23, 1958 from [redacted] Individual Treatment;

(e) Psychiatric report undated and prepared by [redacted], New Jersey State Diagnostic Center, Menlo Park, New Jersey;

.../...

(f) Psychiatric report dated July 28, 1958 and prepared by [redacted] New Jersey State Diagnostic Center, Menlo Park, New Jersey; b6 b7C

(g) A series (six different dates) of psychiatric reports prepared by [redacted]

(h) Psychiatric report dated April 8, 1964 and prepared by [redacted]

(i) Letter dated April 12, 1971 from Howard Leager, Principal Keeper, State Prison, Trenton to [redacted] [redacted] Division of Correction and Parole, Department of Institutions and Agencies, and attachments thereto; and b6 b7C

(j) Letter dated April 12, 1971 from Howard Leager, Principal Keeper, State Prison, Trenton to [redacted] [redacted] 685 Parkway Avenue, Trenton, New Jersey, and attachments thereto.

3. I have sent the aforementioned documents to [redacted] [redacted] by certified mail, return receipt requested.

4. I am aware of the penalty for false swearing.

[redacted]

Sworn and subscribed to before me this 22 day of November, 1976 b6 b7C

[redacted]

My Commission Expires:

NOTARY PUBLIC OF NEW JERSEY
My Commission Expires April 8, 1981

NEW JERSEY STATE PRISON
RECORD OFFICE

INFORMATION RE: ELIGIBILITY FOR PAROLE CONSIDERATION

NAME

4837 SMITH, Edgar

SENTENCED COMMUTATION TIME

/6/57 6/4/57

JUDGE MINIMUM MAXIMUM

ergen O'Dea

JAIL TIME

arder 1st Degree

TYPE OF OFFENDER

1ST X 2ND 3RD 4TH

eath Wk. of 7/15/57

PAID REMITTED EXPIRATION OF MINIMUM

OURT PLEA EXPIRATION OF MAXIMUM

County 1957 NG

MITTED TIMES HERE POSSIBLE WORK TIME

1

ESS ELIGIBILITY DATE

439 Jackson Ter., Ridgewood, N.J.

MARITAL STATUS RACE MINIMUM 1-3 1-2 2-3 4-

M W

RELIGION TENT. PAROLE ELIG. DATE

2/8/34 C

Hasbrouck Heights, N.J.

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ARD

BY DATE 7/25/57

BERGEN COUNTY COURTS
PROBATION DEPARTMENT
SOCIAL INVESTIGATION.

Indictment or Accusation No.

L. VAN D. CHANDLER
Chief Probation Officer

COURT DATA

Court BERGEN COUNTY COURT
Judge ARTHUR J. O'BRIEN
Case No.
Defendant (correct name) EDGAR H. SMITH
Alias
Fingerprint classification
Date of arrest
Date of indictment May 13 - May 28, 1
Offense Homicide Murder Committed by one Person.
Date of disposition June 4, 1957
Manner of conviction
Plea Not Guilty
Verdict Guilty May 28, 1957 of Murder in First Degree.
Retract
Co-defendants
1.
2.
3.
4.
Counsel
Assigned
Retained John Solzer

b6
b7C

Time in jail until date of sentence 90 days
Bailed by
Amount
Complainant
Address
Disposition
Investigated by P.O.
Arresting Officer
Place of Arrest Mahwah, N.J.
Probation to begin
Probation to end
P.O. Assigned

PREVIOUS COURT--INSTITUTIONAL RECORD

Date	Place	Offense	Court	Disposition
December 21, 1948	Ramsey, NJ	Juvenile Delinquent	Juvenile	5 yrs.Probat

PERSONAL HISTORY

Age 23 Date of birth 2-8-1934 Place of birth Westbrook Heights Sex M Race W
Height 5'11" Weight 140 Color of hair brown Color of eyes blue Scars, etc. none
Present address Bo Ort's Trailer Camp, Mahwah How Long 3 months
Previous address 52 Elm Avenue, Ramsey, NJ How Long 7 years

Nationality Native Born Date arrived in U. S. Citizenship 1st paper
2nd paper
Religion Catholic Church none Attitude toward religion? poor
Married—single—widowed—separated—divorced Date of divorce Place of divorce
Place of marriage St.Elizabeths Episcopal Date June 9, 1956

FAMILY

NAME	KINSHIP	Age If Living	RESIDES	OCCUPATION
Alex Chupak	step FATHER		52 Elm Ave., Ramsey, NJ	Bendix Aviation
Mae	MOTHER		" " " " "	Housewife
[redacted]				
Edgar Smith	father	53	Divorced	

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b7C

SOCIAL INVESTIGATION (Continued)

FAMILY (cont'd)

Any member in conflict with law. If so when denies

If family broken, give cause and age of defendant at time

Cause divorce At age of Reared by mother and step-father

Economic status—comfortable—average—poor—dependent

Total property owned none Real estate none Thrift none Stock - B & L none Bank Account small Insurance

EDUCATION AND EARLY LIFE

Grade reached 10th year Grades repeated 7th Scholarship

Age left school 17 Grades skipped none Deportment

Last school attended Don Bosco, Ramsey Reads English yes Truant?

Principal or teacher Writes English yes Expelled

Type school attended (give names in sequence)

Public Private Vocational Retarded Institutional or Reformatory?

EMPLOYMENT - - OCCUPATIONAL HISTORY

Trade or profession Punch press operator Character of work Type of worker

Age began work 21 Regular Steady

Average wage earned per week Seasonal Casual x

Idle how long prior to arrest 1 day Skilled

Present employer or place of last position Unskilled x

Raco Seat Cover - Paresaus, NJ

Previous Employers

Name	Length of Employment	Person-in-charge	Reason for Leaving

Union affiliation United Steel Workers 3913 Paterson Social Security No. 147-26-2510

PERSONALITY MAKE UP

Physical defect?

Hereditary

Acquired deaf in left ear 10% disability

Social disease? denies

Organic disease? denies

Hereditary

Acquired

Mental condition

Intelligence

Superior

Average x

Retarded

Defective

Examination made

By whom

Hospital treatment (undergone or needed)

Attitude

Defiant x

Repentant

Indifferent

Responsive

RECREATION — HABITS — ASSOCIATES

Spare time activities—club membership, athletics, dance halls, social clubs, fraternal organizations

Use drugs denies How long

Immediate cause of delinquency Emotional Upset

Other cause

Gambles (type) denies

Intoxicants moderately

Criminal or idling associates?

Military service—Branch U.S.Marines Length of service 2yrs.8. Serial No. 1305436

Discharge Honorable (Medical)

Driver's License No. Auto Reg. No. Auto Ins. coverage

Sex habits — 1. Promiscuous 2. Occasional lapse 3. Morally Normal

Age first experience With whom

No. (1412)

County of Bergen

SHERIFF'S OFFICE

BERGEN COUNTY BUREAU OF IDENTIFICATION

Hackensack, New Jersey

The following is a transcript of the record as shown in the files of the County Bureau of Identification concerning the fingerprints of

NAME Edgar H. Smith

Date 5-29-57

FBI No. 3-11-57

SB No. 535015

Contributor	Name and Number	Arrest	Charge	Disposition
SO Hackensack, NJ	Edgar H. Smith #71443	3-6-57	Murder	

* Represents notations unsupported by Fingerprints.

BERGEN COUNTY PROBATION OFFICE

Special or Supplementary Investigation

June 4, 1957

L. VAN D. CHANDLER
Chief Probation Officer

SUBJECT Edgar H. Smith

DEPARTMENT OR JUDGE Bergen County Court — Arthur J. O'Dea

PROBATION OFFICER [redacted]

b6 b7C

RESUME OF STATE'S CASE:

At approximately 9:20 A.M. on the morning of March 5, 1957, this office was notified by the Mahwah Police Department that they had found the body of a missing girl, age 15, in the Sam Braen sandpit in Mahwah. The Prosecutor, [redacted] Chief Stewart and several Detectives and Investigators proceeded to the scene. The routine investigation began. Photographs were taken. [redacted] was notified, and the search began for known suspects. The Prosecutor's office then, in conjunction with the Mahwah and Ramsey police, set up a working quarters at the Mahwah station. All possible suspects, which included friends of the slain girl, Victoria Zielinski, 469 Wyckoff Avenue, Ramsey, were interrogated by [redacted] all through the afternoon of March 5th and until the early hours of March 6th. Then, after several leading factors were disclosed, Edgar Smith was taken to [redacted] office at 8 A.M. on March 6th, then to the Prosecutor's office where some questioning took place. At a point during the interrogation, defendant Edgar Smith broke down and cried, admitted hitting the girl with all his might, then asked to speak to a priest whom he named from the Don Bosco Institute. The Prosecutor granted this request and after the Priest left, a statement was taken from Edgar H. Smith in the presence of [redacted] the Prosecutor, a detective and a disinterested person who was called in from the lobby of the Court House and was in service as a Petit Juror that particular day. After a light lunch was held by all, Smith was taken to the scene of the crime, where he reenacted his actions on the night of March 4th when the girl disappeared. Smith showed the detectives the place in the woods where he had thrown the girl's pocketbook and books; where he had lost his shoe, and the two places he had parked his car before he went back to the trailer camp where he changed his clothing. His shoes and pants were recovered after being disposed of by Smith, and both had evidence of human blood. Many articles of evidence were collected and brought to the Edell Laboratory where they were held until the day of the trial.

INDICTMENT:

EDGAR SMITH, on or about March 4, 1957, in the Township of Mahwah, New Jersey, in the County of Bergen aforesaid and within the jurisdiction of this Court, did wilfully, feloniously and of his malice aforethought, kill and murder Victoria Zielinsky.

RE: SMITH, Edgar H.

N.J. STATUTE 2A:113-1 RECITES THAT: MURDER

If any person, in committing or attempting to commit arson, burglary, kidnapping, rape, robbery, sodomy or any unlawful act against the peace of this state, of which the probable consequences may be bloodshed, kills another, or if the death of anyone ensues from the committing or attempting to commit any such crime or act; or if any person kills a judge, magistrate, sheriff, coroner, constable or other office of justice, either civil or criminal, of this state, or a marshal or other officer of justice, either civil or criminal, of the United States, in the execution of his office or duty, or kills any of his assistants, whether specially called to his aid or not, endeavoring to preserve the peace or apprehend a criminal, knowing the authority of such assistant, or kills a private person endeavoring to suppress an affray, or to apprehend a criminal, knowing the intention with which such private person interposes, then such person so killing is guilty of murder.

N.J. STATUTE 2A:113-2 RECITES THAT: DEGREES OF MURDER

Murder which is perpetrated by means of poison, or by lying in wait, or by any other kind of willful, deliberate and premeditated killing, or which is committed in perpetrating or attempting to perpetrate arson, burglary, kidnapping, rape, robbery or sodomy, is murder in the first degree. Any other kind of murder is murder in the second degree. A jury finding a person guilty of murder shall designate by their verdict whether it be murder in the first degree or in the second degree.

PREVIOUS POLICE RECORD:

Complaint signed by [redacted] on December 7, 1948 against Edgar Smith, age 14 years, that he is delinquent in that on December 6th at about 5 P.M. he did jump out of a field to scare [redacted] b6 b7C

Defendant was placed on Probation on December 21, 1946 by the Honorable Thomas L. Zimmerman, Juvenile Court Judge, for a period of 5 years.

While on Probation the defendant had no serious behavior problems. He was inclined to be a troublesome boy in school but showed no further vicious tendencies. When he reached 18 years of age the defendant was discharged.

EMPLOYMENT RECORD:

Since being discharged from the U. S. Marines, the defendant has held several jobs, not staying long at any one particular place. He would loaf for a month or two between jobs before looking for another. His employers generally have stated, "defendant was unreliable and lazy".

RE: SMITH, Edgar H.

FAMILY HISTORY:

Edgar H. Smith, age 53, was born in Jersey City, New Jersey and separated from his wife when the defendant was 14 years of age. The divorce became legal in 1946.

Anna Smith Chupak, age 49, was born in Jersey City, New Jersey and is employed by the Eclipse Aviation Company of Teterboro, New Jersey. b6 b7C

[redacted]

Alex Chupak - step-father is 51 years of age, born in Wallington, New Jersey and is employed at the Eclipse Aviation Company of Teterboro, New Jersey.

The defendant's mother and step-father live in Ramsey, New Jersey. The defendant's family are of the Roman Catholic Faith.

PERSONAL HISTORY:

The defendant is 23 years of age having been born in Hasbrouck Heights, New Jersey on February 8, 1934.

[redacted] b6 b7C

The defendant, his wife and daughter, have occupied a trailer at Bogert's Trailer Camp in Mahwah, New Jersey since about January 1, 1957.

STATEMENT OF DEFENDANT:

The defendant, when interviewed at the jail, was asked if he would like to make a statement to the Court but he was not interested. He did say, however, that if the trial had not been held so quickly, he believes it would have been found that he is not the guilty one as found by the jury.

NAME: SMITH, Edgar H.

REPORT OF [redacted] b6 b7C

Report on Victoria:

[redacted]

SUMMARY REPORT OF [redacted] b6 b7C

"After a complete review of the history at hand in which he was charged on one occasion with Juvenile Delinquency for a Sexual Misdemeanor and was placed on probation by Judge Zimmerman, I feel we are dealing with a sociopathic personality who is legally sane and, in the absence of any history to the contrary, was sane at the time of the commission of the act as charged, is able to distinguish the nature and quality of his acts and distinguish between right and wrong."

/s/ [redacted]
March 8, 1957

SUMMARY REPORT OF [redacted]

"Throughout the interview there was intensive emotional fluctuation from blanching to dark congestion of the face. His hands were clenched so tightly into fists that the circulation was suspended. He cursed, using obscenities and gave every indication of ungovernable temper and state of fury if his path or will was crossed.

He made efforts to simulate falling asleep when significant questions were asked, to gain enough time to consider his answers. But, immediately upon termination of the interview, he jumped up and inquired about his lunch.

It is possible that his fury states might suppress temporarily the exact recollection of events. This is known as Ganser's Syndrome (some degree of amnesia and some disturbance of consciousness restricted to a highly emotionally charged events). Or, he might suffer from a kind of partial amnesia associated with a certain type of non-convulsive epilepsy.

The total impression, however, is that the individual is not suffering from a psychosis. The divergence in the story is not a genuine manifestation but is characterized strongly by fabricating tendencies."

/s/ [redacted] b6 b7C
Qualified Examiner - State of New York
[redacted] American Board of Psychiatry and Neurology
May 5, 1957

RE: SMITH, Edgar H.

ARMY RECORD:

This subject joined the Marine Corps in Paterson in 1952 and was sent to Parris Island in April of 1952. He left on furlough for about one month on June 6, 1952. He returned to service until August 5, 1952 with the rank of Private 2nd Class.

He signed up with the Parachute School at Quantico and stayed there until December 17, 1952 at which time he had 32 days leave and came home. He then returned to the Marine Air Force Station at El Toro, California where he remained until June, 1953. He was then sent to the Naval Air Station in Oahu, Hawaii where he remained for 1½ months and was then flown to Japan. On August 13, 1954 he was evacuated to Travis Air Force Base, Mare Island Naval Hospital where he remained one week and was then flown to San Antonio Air Force Hospital as his left ear was bothering him and he felt he was going deaf in both ears. He was examined at Mare Island Hospital for about one month and was then flown to the Naval Hospital in Philadelphia where he remained until November 1, 1954. He was then sent to the Philadelphia Naval Yard and was discharged on November 8, 1954.

He received a Medical Discharge because of his ears.

[redacted]
5-31-57

b6
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STATE OF NEW JERSEY
NEW JERSEY STATE PRISON
TRENTON 6, N. J.

DATE June 11, 1957

IN RE: * Edgar Smith

NUMBER 34837

BIRTHDATE 8 Feb 34

BIRTHPLACE Hasbrouck Heights, N.

RACE White

PRINCIPAL
St. Luke's High School
N. Franklin Turnpike
Hohokus, N.J.

GENTLEMEN:

THE ABOVE NAMED MAN, WHO WAS RECENTLY RECEIVED HERE, STATES THAT HE WAS A STUDENT AT THE ABOVE NAMED SCHOOL FROM 1951 TO 1952; THAT HE COMPLETED GRADE eleven - A, AND THAT HIS EDUCATION WAS TERMINATED BECAUSE he entered service

AN EFFECTIVE PROGRAM OF TREATMENT DEPENDS UPON THE GATHERING OF VERIFIED INFORMATION CONCERNING PREVIOUS EDUCATION, EMPLOYMENT AND DEPORTMENT. WE WOULD GREATLY APPRECIATE RECEIVING, IN THE SPACE PROVIDED, SOME BRIEF STATEMENTS CONCERNING THE CHARACTER OF HIS BEHAVIOR DURING THE PERIOD OF YOUR ACQUAINTANCE WITH HIM. THIS INFORMATION WILL BE TREATED CONFIDENTIALLY.

PLEASE DIRECT YOUR COMMUNICATION -- ATTENTION: THE UNDERSIGNED, DRAWER N, TRENTON, NEW JERSEY.

VERY TRULY YOURS,

LLOYD W. McCORKLE
PRINCIPAL KEEPER

[redacted] b6 b7C

[redacted] INDIVIDUAL TREATMENT

* Real Name: Edgar Herbert Benedict Smith Jr.

DATE STARTED SCHOOL Sep 17, 1951 DATE TERMINATED Nov. 31, 1951

REASON FOR LEAVING Went to work (according to our records)

HIGHEST GRADE COMPLETED No credit for any work at St. Luke's.

EVALUATION OF GRADES AND CHARACTER: Edgar's marks were [illegible] the [illegible] [illegible] [illegible] [illegible] at St. Luke's (in [illegible] his department). In the 2½ months he was here he was [illegible] 17½ days.

SIGNED: [redacted] b6 b7C

POSITION:

NEW JERSEY STATE PRISON
TRENTON 6, N. J.

DATE June 1', 1957

IN RE: Edgar Smith*

NUMBER 34837

BIRTHDATE 8 Feb 34

BIRTHPLACE Hasbrouck Heights, N

RACE White

SCHWEIFURTH FLORIST
63 North Van Dien Ave.
Ridgewood, New Jersey

GENTLEMEN:

THE ABOVE NAMED MAN, WHO WAS RECENTLY RECEIVED HERE, STATES THAT HE WAS EMPLOYED AS a green house man WITH YOUR FIRM FROM 1956 TO 1957, THAT HIS WAGES WERE $65. PER week DURING THIS PERIOD, AND THAT HIS EMPLOYMENT WAS TERMINATED BECAUSE OF his arrest.

AN EFFECTIVE PROGRAM OF TREATMENT DEPENDS UPON THE GATHERING OF VERIFIED INFORMATION CONCERNING PREVIOUS EDUCATION, EMPLOYMENT AND DEPORTMENT. WE WOULD GREATLY APPRECIATE RECEIVING, IN THE SPACE PROVIDED, SOME BRIEF STATEMENTS CONCERNING THE CHARACTER OF HIS BEHAVIOR DURING THE PERIOD OF YOUR ACQUAINTANCE WITH HIM. THIS INFORMATION WILL BE TREATED CONFIDENTIALLY.

PLEASE DIRECT YOUR COMMUNICATION -- ATTENTION: THE UNDERSIGNED, DRAWER N, TRENTON, NEW JERSEY.

VERY TRULY YOURS,

*Real Name: Edgar Herbert Benedict Smith Jr.

LLOYD W. McCORKLE
PRINCIPAL KEEPER

[redacted] b6 b7C

[redacted] OF INDIVIDUAL TREATMENT

DATE STARTED WORK November 26, 1956 DATE TERMINATED December 31, 1956

REASON FOR LEAVING Was absent without reason, so we told him that unless he would wo steadily he would have to leave.

POSITION HELD Greenhouse helper HIGHEST PAY RECEIVED $65. weekly.

SOCIAL SECURITY NUMBER 147-26-2510

EVALUATION OF WORK AND CHARACTER When he worked he did as he was told. But he missed too many days and had poor excuses for being absent.

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SIGNE[redacted]

POSITIO[redacted]

PLEASE USE REVERSE SIDE OF THIS SHEET IF NECESSARY

STATEMENT OF SERVICE
NAVMC 10301-PD

DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
WASHINGTON 25, D. C.

In Reply Refer to:
DGK-6-rwv
21 Jun 1957

FROM: Commandant of the Marine Corps (Code DGK)

NAME (Last, first, middle)	
SMITH Jr.,	Edgar Herbert
SERVICE NUMBER	TROOP REFERENCE
1305436	34837
DATE OF BIRTH	PLACE OF BIRTH (City, State)
8 Feb 1934	Hasbrouck Heights, N.J.

IDENTIFIED BY
- [ ] FINGERPRINTS
- [x] NAME ONLY
- [ ] NOT IDENTIFIED

ENLISTED RANK ABBREVIATIONS
- Pvt - Private
- Cpl - Corporal
- Sgt - Sergeant
- SSgt - Staff Sergeant
- TSgt - Technical Sergeant
- MSgt - Master Sergeant

KEY TO ABBREVIATIONS USED
- AOL - Absent Over Leave
- Art - Article
- AWOL - Absent Without Leave
- BCD - Bad Conduct Discharge
- CA - Civil Authorities
- C of G - Convenience of Government
- CONFM - Confinement
- CONV - Convicted
- DC - Dec- Court
- DD - Dishonorable Discharge
- DES - Desertion
- DIS - Discharge
- E of E - Expiration of Enlistment
- FRDENL - Fraudulent Enlistment
- GCM - General Court Martial
- GD - General Discharge
- HON - Honorable
- JAG - Judge Advocate General
- MS - Medical Survey
- NCO - Non-Commissioned Officer
- NIR - Next Interior Case
- OH - Office Hours
- PROB - Probation
- RED - Reduced
- REL ACDU - Released from Active Duty
- SCM - Summary Court Martial
- SENT - Sentence
- SPCM - Special Court Martial
- UA - Unauthorized Absence
- UCMJ - Uniform Code of Military Justice
- UD - Undesirable Discharge
- UNC - Under Honorable Conditions

SERVICE DATA						ACTIVE DUTY	
COMPONENT	FROM	TO	RANK	TYPE OF SEPARATION	REASON	FROM	TO
USMC	15Apr52	8Nov54	PFC	UHC	CofG	15Apr52	8Nov54

DECORATIONS AND AWARDS TO WHICH ENTITLED

No personal decorations

DATES OF SERVICE OUTSIDE THE CONTINENTAL LIMITS OF THE UNITED STATES

From 13 Jul 1953 to 4 Aug 1954

PARTICIPATED IN THE FOLLOWING BATTLES, ENGAGEMENTS, ETC.

Korean Area (dates not available)

[redacted] b6 b7C

OFFENSES AND REMARKS SHOWN ON REVERSE

TO: Mr. Lloyd W. McCorkle
Principal Keeper
New Jersey State Prison
Trenton 6, New Jersey

Head, DisPersUnit

RECORDS SERVICE SECTION
RECORDS BRANCH
BY DIRECTION OF THE
COMMANDANT OF THE MARINE CORPS

COURTS-MARTIAL AND/OR NON-JUDICIAL PUNISHMENT

TYPE	DATE	OFFENSE	SENTENCE/PUNISHMENT
OH	21Jun53	Failure to be at appointed place of duty	10 days restriction
SCM	11Dec53	Failure to be at appointed place of duty	confm at hard labor for 10 days, and forfeiture of $10.00
OH	1Mar54	Disobedience of orders	5 days extra police duty
SCM	6May54	Failure to obey a lawful order, and uttering a false statement	60 days restriction, and forfeiture of $76.00

☐ (Check if applicable)

The records of this Headquarters do not show that the within-named man has been discharged. In the event he is discharged as a result of his present status, separation documents will be forwarded to him. These documents will contain detailed information concerning his military record. In the event additional information is required by your office, it will be furnished upon further request. The request should not be forwarded for approximately 30 days after receipt of discharge certificate, in order that sufficient time may elapse for service records to reach this Headquarters.

NAVMC 10301-PD

SPF-265

*Letters of verification sent to: June 10th, 1957

NEW JERSEY STATE PRISON
Social History

Birthdate
Birthplace
Race
Crime
Sentence
County

No.: 34837 Name: Edgar Smith Date Received:

FAMILY

Relation	Name	Birthplace	Occupation	Residence
Father	Edgar Sr., 47	N.J.	Business Man	Richmond, Va.
Mother(Div)	Anna nee Murphy Chupak, 47	N.J.	Fact.Wrkr.	52 Elm Ave., Ramsey, N.J
[redacted]				
Self				
S/Father	Alex Chupak, 48	N.J.	Fact.Foreman	52 Elm Ave., Ramsey, N.J.
[redacted]				

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SCHOOLING

Dates attended	Name of School	Location	Highest Grade Completed	Reason For Leaving
1940-48	Various schools in the Ramsey area			
1948-50	Don Bosco High School, Ramsey, N.J.		Ten	Trans.
1950-51	Ramsey High School, Ramsey, N.J.		Eleven-B	Trans.
*1951-52	St. Lukes High School, Hohokus, N.J.		Eleven-A	Entered Service

POST-SCHOOL HISTORY

Date	Place	Occupation	Wage	Reason For Leaving
*1952-54	U.S. Marine Corp.	Corp. Parachute Rigger		Hon. Med.
1954-55	Unemployed five months			
1955	Singer Sewing Machine Co.,	Saleaman (3 months)	$65. wk	More money
1955	Bergen Lumber Co.,	Truck Driver (Six months)	$65. wk	Quit
1955-56	Various odd jobs as truck driver, Serv. Station Atndt., etc.			
1956	Continental Can Co., 297 Getty Ave., Paterson; N.J.	Press Opr.	$115. wk	G.L.O.
*1956-57	Sevelfurth Florist Van Dine Ave., Ridgewood, N.J.	Greenhouse man	$65. wk	Arrested

Typed by: [redacted] Interviewer [redacted] Date 7 June 57

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None

34837 Edgar Smith 6 June 57

RN Edgar Herbert Benedict Smith Jr.

Murder, 1st deg. Death

None

Not Guilty White

O'Dea 8 Feb 34

Bergen Hasbrouck Heights, N.J.

County Court X 23
23

1957 Married

5 Mar 57 Catholic

Mahwah, N.J. 439 Jackson Terrace
Ridgewood, N.J.

4 June 57

None

None

None Moderately None

147-26-2510

2 Hackensack, N.J.

1952 Veteran

[redacted] b6 b7C

439 Jackson Terrace, Ridgewood, N.J.

"I did not do it. I don't know how it happened."

NEW JERSEY STATE PRISON
TRENTON, NEW JERSEY

August 26, 1965

MEMORANDUM TO:

Mr. Howard Yeager, Principal Keeper

[redacted] Individual Treatment

[redacted] Classification Department

State Parole Board (5)

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RE: Edgar H. Smith NJSP #34837

We enclose herewith up-to-date copy (s) of Progress Report on the case of the above-named inmate who is confined to the Death House.

The last entry on the Progress for this inmate is dated

August 26, 1965

[redacted]

[redacted]

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BEST AVAILABLE COPY

[illegible]

[illegible]	[illegible] during the [illegible]
[illegible]	Notice of Appeal filed in [illegible] County [illegible]
[illegible]	[illegible]
[illegible]	[illegible]
[illegible]	[illegible]
[illegible]	Notice of Appeal [illegible]
[illegible]	[illegible] by above Denied.
[illegible]	[illegible]
[illegible]	[illegible]
[illegible]	[illegible]
[illegible]	[illegible]
[illegible]	[illegible]
[illegible]	[illegible]
[illegible]	[illegible]
[illegible]	[illegible]
[illegible]	[illegible]
[illegible]	[illegible]
[illegible]	[illegible]
[illegible]	[illegible] of Appeal filed with the N. J. Supreme Court [illegible] County Court on [illegible]/20/61. Appeal [illegible] Attorney. Notice of Appeal will stay [illegible]

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[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

4/[illegible] Application for Writ of Habeas Corpus denied on [illegible] by the Hon. Arthur J. D'Eca, Judge, Bergen County Court.

[illegible] Petition for leave to appeal from the Order of the Bergen County Court of March 2[illegible], 1965 and the application for a stay of execution were denied on April 1[illegible], 1965 by the Hon. Joseph Weintraub, Chief Justice, Supreme Court of New Jersey at Trenton.

4/[illegible]/65 Application to Supreme Court of New Jersey for Stay of Execution, dated 4/[illegible]/65.

Application [illegible] by the Hon. Joseph Weintraub, Chief Justice, Supreme Court of New Jersey at Trenton.

[illegible] Application [illegible] Stay of Execution, [illegible]

[illegible] Stay of Execution [illegible] Supreme Court of the [illegible]

[illegible] On June 15, 1965 [illegible] Supreme Court to [illegible] Stay of [illegible]

On June 2[illegible], 1965 the Order [illegible] the Execution was [illegible] by the Hon. William [illegible], Jr., Associate [illegible]

[illegible] beginning Monday August 23, 1965. The Death Warrant was signed July [illegible], 1965 by the Hon. Arthur J. D'Eca, Judge, Bergen County Court.

8/16/65 Stay of execution granted on August 13, 1965 by the Hon. Arthur S. Lane, Judge, U.S. District Court of New Jersey.

[illegible]

BEST AVAILABLE COPY

July 23 58

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[redacted] Director of Individual Treatment

[redacted]

Edgar Smith # 34837

In response to issue referred of 7/22/58 an attempt was made on this date to examine the above inmate. Edgar refused to respond in any manner. He called attention to the fact that he could not be forced to talk to anyone [illegible] to interview if [illegible] the situation by [illegible] his hand & saying, "goodbye".

In manner to seems to be demonstrating a kind of [illegible] hostility. It is speculative as to the extent his [illegible] [illegible] at ~~[illegible]~~ [illegible] his own psychological integrity.

On the basis of a [illegible] [illegible] it is impossible to draw any conclusions as to possible [illegible] [illegible]. It may be [illegible] he said that his judgment is [illegible] poor.

Respectfully [illegible]

[redacted]

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#34837 SMITH, Edgar

This 24 year old white male inmate, sentenced to be electrocuted next month after having been found guilty by jury of 1st degree Murder, was seen todat at the Trenton State Prison Death House for an up-to-date psychiatric examination. As soon as this Examiner walked in to the Death House he was informed by the institutional guard that Smith had declared emphatically that he would not speak to anyone. Notwithstanding, Smith's cell was approached and attempts to talk with him were made through the cell bars. At this point, inmate was standing close to the bars but upon seeing this Examiner approaching, he withdrew slightly, leaning up against his bedpost. He immediately made it clear that he didn't wish to discuss anything or answer any questions. When told that this was his prerogative, he appeared slightly less hostile than before, giving the impression that he was about to talk but instead suddenly turned back and withdrew further away, sitting on a chair along side his bed. He then said "you can't help me and I don't want to talk about anything. My lawyer said I mustn't talk to anybody about anything." This was followed by what could be best described as a slight sneer playing around his mouth. At this point, notwithstanding further efforts to make conversation, he remained completely negativistic and one could note that a tightening of the muscles around the lips as if he wished to control any impulse he might have to talk. After having told inmate "I wish you luck, Smith" to note any emotional reaction, this examiner waited about 30 seconds but inmate remained almost rigidly motionless in a sphinx-like attitude. When this

Examiner walked away from the bars of the cell, Smith bolted up from his chair, came to the bars and, with a tone of bravado and a smile playing around his lips, he directed the following words to a Lieut. who was counting some money "you finally made it, hey," which was followed by some chuckling.

Inmate was discussed with the Death House guard who expressed the personal opinion that Smith has always been a cooperative, pleasant and intelligent inmate. Throughout his stay, according to the guard, he has never lost his temper except on occasions when he would raise his voice to his parents ~~insighting~~ INCITING them to greater and more effective action on his case.

We certainly do not have excessive material to evaluate INMATE psychiatrically as noted in the above attitudes. All we can talk about are mostly subjective opinions and, to some slight extent, evaluation of some psychophysiologic reactions ~~as noted above~~. The impression was gained in the relatively short and unproductive interview that Smith was merely fighting against himself not to talk. The tightening of the lip muscles appeared to be a conscious control of a basic wish to relate to another human being, but against which he had been apparently conditioned by his private counsel. The almost flippant somewhat ~~facicious~~ FACETIOUS outburst directed towards the officer who had accompanied this Examiner to the Death House can be best described as an emotional defense against the inevitable which is a reaction that we note, in more severe proportions, in the so called Ganser syndrome (prison psychosis) in which dissociative ~~action~~ REACTION ~~of~~ the inmate has to convince himself that the situation is not ~~so hopeless as it is in reality~~ REAL, i.e. THAT HE WILL ELECTROCUTED. He accomplishes this by minimizing the

importance of the prevailing situations ~~by being possibly flippant and facetious~~ IN THE AFOREMENTIONED MANNER and by being nearly right but not quite so in answers to questions. As one can see, this is not a Ganser syndrome situation except that the facetious and flippant attitude is not concomitant with the reality situation.

[redacted] b6 b7C

N.J. State Diagnostic Center,
Menlo Park, N.J.

SMITH, Edgar

7-28-58 PSYCHIATRIC STUDY: This white male inmate is being re-examined today after he, allegedly, was given permission by his counsel to undergo a psychiatric examination which has been requested by the Governor's office.

As soon as he saw this Examiner, he smiled somewhat apologetically stating that he had not cooperated 5 days previously because he had understood that his lawyer didn't want him to talk to anyone. He then said that his lawyer had told him that he could talk with anyone "except the F.B.I." He added that he did not understand why he could not speak with the latter but just shrugged his shoulders, implying that legal matters were not his business. He then said "I got everything all straightened out now." Notwithstanding the surface friendliness and cooperativeness one could note some tension.

Smith related that his parents separated when he was about 4 or 5 years of age. They were later divorced. His natural father is living in Va. and, in so far as he knows, he has not remarried. The mother is living in N.J. She remarried in 1948. He is the youngest of 2 male siblings. He could not recollect too vividly his parent's separation nor the reason for it stating, "I was too young." Since he was 2 years old his mother has been working to support the family. The children were taken care of by a housekeeper whom he describes as a "German woman -- I remember her." As a child he was punished by his mother "with a belt" but could not remember his true feelings at the time. When asked if he ever became angry he stated, with a smile, "I guess every kid does." His deportment in school was "good and bad." He related, with a faint trace of expansiveness in his tone, that school work was "easy .. that's why sometimes I didn't do good." He went to catholic high school for 2 years. While in the Service he took what he described as an equivalency test for a high school diploma but 2 months after taking this

test he left the Service and "I never bothered to check back." Returning now to the time his mother was keeping company with the man she eventually married he could not remember much except that he liked the man and "he's a pretty smart guy, he taught me a lot," elaborating further, when asked, that this man was some sort of an engineer who presumably had taught him something about his profession. He could remember somewhat vaguely that his mother had gone out with the second husband for about one or two years before she married him. To this effect he said, "I saw the guy around a lot. ~~Shxxx~~ We used to go out together. I didn't think that they were getting married ... I was only 13 and it didn't mean much to me .. I didn't even know they got married." In so far as he could remember he never received any formal sex education from either one of his parents. He never mentioned his brother until he was specifically asked about him, at which he denied sibling rivalry. He commenced to masturbate at the age of 14 or 15 and here again memory seemed to fail him, this time becoming pensive and finally stating, when asked how he had learned about this activity, "I don't know .. just came natural." He had his first heterosexual experience at the age of 17 with a girl of about the same age. Further elaboration on this heterosexual experience consisted of "a line-up .. ~~xxx~~ there were about 6 or 7 guys ... one the guys knew the girl." His feelings in regard to this first experience were that he "felt fine." In regard to other boys engaging in sex with the same girl during that night his feelings were "it didn't bother me a bit." Following this experience he stated that heterosexual activity then became fairly regulnr. While in the Military Service, he had an affair with a 43 year old Filipino woman with whom he more or less lived together on and off. He said that he had had sexual experiences with many women who were much older than he but in so far as the Filipino woman was concerned he never thought "she was that old until after ~~xx~~ I met her and felt that she was probably somewhere in her 30's." ~~xxxx~~ but none the less continued this relationship for some time.

The manner in which he struck up a relationship with this Fillipino woman was "I inherited her from a sailor."

He met his present wife in September, 1955 and married her in June, 1956. He admitted to pre-marital relations and his feelings about this were "I felt fine." He described his wife [redacted] He got along with her very well and could not think of any serious discord between them. He denied extra-marital affairs and also felt that his wife has always been faithful to him. There is a daughter [redacted] born of this union. He considered the marital relationship quite compatible in every way. b6 b7C

At this point, emotionally charged material was asked and there could be noted a change in the emotional tone in Smith in that he became more tense and, at times, overtly angry. He was asked about the Sodomy charge in the court investigation report when he was 14 years of age regarding [redacted] b6 b7C He vehemently and angrily denied this stating "this girl had done this 3 or 4 times before. I don't know where [redacted] got that sodomy business. I was put on probation. The girl was a little wacky, I think. Maybe she was a little more than wacky .. she dreamt up those wild things. I was home with the family eating supper. I even remember what we ate that night. We had spaghetti that night." He was then asked about the present crime ~~to~~ AT which he blocked considerably, then appeared to become pensive, ~~then~~ said "you may think I'm wrong .. you may think I'm lying." He then became extremely circumstantial and evasive, going back to the time he confessed when first picked up by the police. In regard to this situation he verbalized intense hostility to the police who, throughout the interrogation would take photographs from his wallet, which they had in their possession, of his b6 b7C

wife and ask him "who's this whore" and later again "who's this prostitute while one cop was pushing me back on the chair all the time and I told 'em 'that's my wife.'" He then claimed that they continued to threaten him with "locking my wife up as a material witness and sending the kid to an orphanage." When asked why they would threaten him in this manner he said "to get me mad." At this point he went off the topic in issue stating that at the age of 15 years he was "beat up by a cop one night -- that doesn't make me very happy about cops .. I still don't like them .. I can't think of any people who do." When brought back to the crime proper he now admits making the statements of confession to the police and begins to talk about [redacted]. this kid is the closest thing to a psychopath you ever want to [redacted]." He begins to then relate in an extremely, circumstantial manner, that the aforementioned [redacted] had threatened the wife and child and he was frightened because of them, adding vaguely, in a manner that one could not understand if one did not know all the details of the crime "I wanted to make it vague enough and get him off the hook until I could make my wife safe." He explained this by giving in elaborate detail many examples of disorganized destruction and assaultive behavior on the part of [redacted] He finally concluded his harangue by stating "the guy was a real screwball." In regard to the victim proper and how he met her he stated that he had taken her to this isolated spot in his car "to talk about [redacted] and other guys in town." She then told him "my wife was fooling around with a friend of mine .. I can see how the story got around .. I always had this guy over the house all the time .... I admit I got pretty mad and I slapped her .. pretty hard and told her to get out .. it was only 1½ miles from town .. she got out.. that was about two or three minutes to 9 .. I saw this car -- the headlights -- didn't know the car was gonna stop there -- I knew the car had to stop when I leaned out the door and I saw the car stopped ... I was home a couple of minutes after 9 .. two hours befo

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she got killed." Smith knows the time she got killed from the medical examiner's report. To this effect he stated "the doctor said after he performed an autopsy that she was killed 12 hours before, give or take one hour and that would put the murder around 11 p.m. On The death certificate he said 10 p.m. but in court he said midnite too, going on interminably in a most circumstantial manner with the clear-cut purpose to prove that no matter what the doctor had said, he was right the first time or the second time and he surely was away from the scene much before she had presumably been murdered. At this point, he expressed intense hostility to the prosecutor whom he called "a politician" and who does not like inmate. He was asked if there were other people who did not like him, to which he answered "I don't enjoy too much popularity in my County," elaborating further that the reason for this was his "innocent" involvement in this case.

After Smith seemed to have exhausted himself emotionally in talking about [redacted] and the Prosecutor, he was asked whether he had ever been approached by homosexuals. Again, with what could be best described as mild expansiveness he stated, with a smile, "many times." He denied overt homosexual activity and when asked how he felt about homosexual men he said, "I hate em, yeah, I hate em." At this point, he was asked how he would conduct himself if the aforedescribed individual would persist in his advances, to which he answered "I would probably whop em." He then was asked what he thought of homosexuals to which he became quite pensive and then slowly answered "they're sick," again more pensive than before added "people should give them a break." He could not explain too well why he would "whop em" if he felt that they were "sick." In so far as his temper is concerned, he knows that he has a "low temper." He then, obviously, was asked whey he had become angry and slapped the Zielinski girl when she had

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reportedly told him about his wife's infidelity. He was not able to answer this immediately but again blocked considerably and, ~~the~~ following much thought, said "When I'm really mad, I just sit by myself and that's all ... I just withdraw like everybody does .. I don't like to fight."

His feelings about the present situation were "it stinks ... that's the only word I got to describe the whole business .. I know how wrong they are." He added too that he does not wish a commutation of sentence but does not hope in clemency. He just wants another trial "You see, I would have to divorce my wife if I went in the population (with a commutation to a life sentence) and I don't want that." He added that he just wants "time" so that he may work with his lawyer for a new trial.. Although he would feel bad if he were turned down for more time he added, when asked, "I'm pretty sure we have enough time to get a stay." ~~At this point~~ Here inmate was told that the interview was basically over and if he wished to ask any questions or add anything further to what he had already related to this Examiner, he stated "All I know is I didn't do it .. this is not a sex crime like people think ... from the way the brassiere was (elaborating that he ~~had got to~~ HAS ARRIVED AT these conclusions ~~according to~~ AFTER VIEWING photos ~~which~~ AND court proceedings furnished him by his lawyer .. "that brassiere was pulled accidentally." This was followed by an extremely circumstantial account of how the blood had stained the brassiere. At this point he unexpectedly ~~changes~~ ADDS TO the story as told above, stating that prior to his leaving the scene where the murder allegedly took place he saw the victim "running away from him [redacted] .. he was pretty P.O.'d in the first place and I put her in the car .. she had a gash (points to his own head on the right side towards the occipital-parietal region) .. that's how I got blood in the car and on my pants .. now she had her nails bitten off.. the doctor

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said it in court .... [redacted] came and took her out of the car." He now states that he had forgotten to add this to his statement as above and it was at this point that he did leave the scene. "Twenty-five minutes later" he saw [redacted] in town who threateningly told him "to keep my mouth shut. I asked him where she was and how she was. He told me to keep my mouth shut and she would be alright." He then was told again that the interview was over and we were about to leave. ~~At this point he~~ Again he appears to become pensive and continues "I could take everything the prosecutor said and by his own evidence prove it never happened." His feelings in regard to the whole situation are "I feel pretty lousy about the whole thing ... she was a pretty nice kid."

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EVALUATION: Throughout the psychiatric study, one could note a steady pattern of mental mechanisms such as evasiveness, extreme circumstantiality and basic inability to deal with emotionally charged situations concerning his past life. Mechanisms such as repression, detachment and withdrawal are utilized by him to a pathologic degree in a vain effort that he may be less emotionally traumatized. In this manner, he handles unresolved conflicts consisting mostly of unconsciously interpreted rejection on the part of the mother figure with consequent hostility displaced to female figures in general. Much lag of maturation in psychosexual development is exhibited by extreme confusion in his sexual role identification with intense ambivalence in his feelings about homosexuals as noted above. Pathognomic acting-out of the unresolved relationship with mother are his many heterosexual experiences with older females. Latent deviant drives stemming from the lack of adequate masculine identification threaten to surface constantly. Frustration tolerance is quite low, notwithstanding his opinions to the contrary. Interesting in this regard is his unfortunate use of the expression "low temper" possessed by him. Because of the above psychopathology any

aspersion or doubt cast upon his masculinity can precipitate disorganized explosive outbursts of a physically violent nature.

The overall picture, from a dynamic viewpoint, is that of a poorly integrated personality structure in an individual who utilizes psychological mechanisms in an extremely pathologic manner.

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BESTAVAILABLE
COPY

39837

Psych Diag.
Work Up.

39837 SMITH, Edgar Psychiatric

REASON FOR EXAMINATION: Edgar Smith is a 23 year old white male convicted of sexual murder of a fifteen year old girl and condemned to death. He was examined for routine purposes as a new admission prior to the prison as well as for re-evaluation of mental status and possible uncovering of the dynamics of the offense.

PRESENTING PROBLEM: He was arrested on March 6, 1957. At the police station he broke down, cried, admitted hitting the victim with all his might, and then asked to see a priest. When taken to the scene of the crime he re-enacted his actions. He showed the place in the woods where he had parked his car before he went back to the trailer park and changed his clothing. His shoes and pants had evidence of human blood. The girl had the following injuries:

Total crushing of skull and decerebration.
Right breast chewed teeth bites around nipple.
Left eye was totally destroyed.
Both upper and lower jaws fractured with most of teeth loose and a few missing.
(Excerpt from police record).

FAMILY HISTORY: His father is 53 years old, separated from the patient's mother when Edgar was fourteen years of age. Divorce became final in 1946. His mother, 44 years old, has remarried. [redacted] b6 b7C

PERSONALITY: He was born February 2, 1934. He went to public school in [illegible] Heights as well as to a Catholic high school. He [illegible] the third year in high school and quit after an argument with the principal. He then went to California and upon returning to New Jersey he joined the [illegible] a few other friends. He records from the Marine Corps and was [illegible] time. According to the police state and his record was probably [illegible] he himself admits to two summary court martials [illegible] that he [illegible] and on the second [illegible] to [illegible] troubling. He was honorably discharged [illegible] 1953 with a [illegible] This, he claims, was complicated with [illegible] and accurate. To him, evidence [illegible] the article. [illegible] was not his present wife). Upon his [illegible] left in three months since he was unsuccessful at selling. A week later he [illegible] driving a truck and remained on the job for four to five months. When the [illegible] came he decided to go to Florida. In December of 1955 he went back to driving a truck which he drove until January of 1956 when he again left his job. At that time he severed relations with the girl to whom he was engaged and started courting with his wife. He met his wife-to-be at a program party to which he had not been invited, but to his own words, he "invited himself". He was married in June of 1956 after approximately nine months of courtship and according to her the marital relationship was good. A child was born to the couple in January, 1957. At the time of his arrest he had been working for a florist for a period of two months.

PAST HISTORY: It is reported that in December 6, 1948, at the age of fourteen years he turned out of a field to scare [redacted] b6 b7C He was put on probation for [illegible]

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PAST HISTORY: period of five years. He was not considered a serious behavior problem since then.

In school he might have had minor difficulties but nothing to suspend him indefinitely. On his jobs he occasionally had arguments with employers and he admits that he was asked to leave at least one job.

PSYCHIATRIC EVALUATION: He was examined in the death house in his cell. [redacted] b6 b7C [redacted], the prison psychologist, was present. We entered the cell Edgar changed his prone position to upright and apparently was glad to have people talk to him. He was rather friendly, spoke freely, coherently and relevantly. There was no evidence of delusional production nor of hallucinatory experiences. In spite of the easy flow of speech there was a great deal of reservedness and one had the feeling that although he spoke, he did not open for inspection his innermost self. His speech was frequently interspersed with a smile which while not necessarily inappropriate in character, reminded one more of people of individuals under tension, ill-at-ease, to cover up their inner feelings. He attempted to display an air of indifference with some bravado, yet his strong emotions were in evidence through occasional outbursts in his own way. Finally, as we were leaving, he asked whether he would see us again. When I told him I was leaving the country for a period of six weeks he expressed disappointment and with some emotion he said, "I hope you will find me here". It was obvious throughout the whole interview that he was acutely aware of the fact that he was in the death house condemned to die but he mastered the anxiety connected with his situation by an air of indifference and bravado. Although he did not readily reveal his innermost feelings exactly, a need for human contact and dependency was revealed in his eagerness for interview a desire to see the examiner again. He revealed a feeling of disappointment over the previous psychiatric examinations which in his mind lasted only a few minutes. He expressed some ambivalence over his lawyer. He said, "My lawyer told me not to talk without him being present. I pay him enough. He don't want to take his money." He spoke of it, in reality, he wanted to talk to someone but had to obey the lawyer's orders. He actually seemed his personality in good emotional order and did not go in the least in relation to his family, his service career, etc. He, however, spoke the lack of feelings for other people. He claimed he never felt lonely, he had a bunch of friends, he got along with his mother, father, stepfather, he was not angry with anybody, but one full of these statements was disclosed in the V.A.T. Letter which was emotionally colored and shows a truer picture of his interpersonal relationships. (See Inner the V.A.T. Stories). At this point we will review the account of his predecessors.

When asked why he went AWOL he answered: "I don't know. Just to have a good time. I was out dancing...I had a lot of money which I won at gambling. ($300 in poker $500 in bingo). I drank...I was supposed to come back but I continued drinking. I slept up to 3?!. I thought I wanted another day so I didn't return. I felt I might as well splurge. I hadn't had such money for a long time".

"After discharge from the service I worked a little, took time off, worked a lit and again took time off. I spent money on clothes...I bought a lot of clothes for girl I was going with and for myself".

When asked whether he wanted to "splash" to prove he was a big shot, he said no, "just liked to splash and to spend".

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PSYCHIATRIC INTERVIEW: Then he claimed he was only 21 years old, but no place up by being a lifeguard. He felt he was too young at the time to settle down and "I was happy". (The [illegible] was [illegible] emotion was repented in his account). When asked what about the girl he [illegible] discharge from the service, he answered that they did not get along. [illegible] asked of his jobs he said he was never fired, but on one job they asked him to leave. (Incidentally, describing his life, there was a note of [illegible]). When asked why he was asked to leave, he said, "I was not working too hard. It was cold in the winter, and I sat near by the fire when looking for a truck, so that the [illegible] told me to leave. When asked whether he gave any responsibility, he answered "I was a lone run. I had no one but myself". (Notice "No one but myself", the right mean feeling of isolation, not [illegible]). He made [illegible] his mother's divorce, her remarriage, his relationship with his [illegible] questions as to whether they got along, he would always say yes, but [illegible] asked to describe the relationship, it would appear that he [illegible] his brother for a long time, [illegible] father for a very [illegible]. When asked whether his mother liked his [illegible], he answered, "I was thought about it". Inadvertently he revealed that he could have had [illegible] the [illegible] mother, since she asked him to come home early but he [illegible] he admitted that he had a "whole bunch of [illegible]", he said [illegible] heterosexuality, and although he did not [illegible] himself as a [illegible], he [illegible] liked to be by himself and power over the providing of life.

He revealed that he read Aristotle and [illegible] he [illegible] had a very understanding of these philosophers. He spoke [illegible] Christ [illegible] concerned with his problems such as [illegible] born, etc.

He claimed that he never felt people looked at him or made fun of him, he never felt [illegible]; he revealed no psychosis or [illegible]. In the past [illegible] had headaches on one [illegible] with phlegm, and dizzy spells [illegible] ability to concentrate, no palpitations [illegible] no [illegible].

As far as his needs were concerned, he claimed he did get enough [illegible] but he [illegible] sex life, but [illegible] and with the [illegible] he never thought of committing suicide, but he [illegible] people [illegible] it is that it took a great deal of [illegible] to [illegible] and he [illegible] the question, in it house or in it chicken to commit suicide. It must be [illegible] been asked whether it takes [illegible] to kill somebody else, he answered, [illegible] conditions. [illegible] not this question. I don't know [illegible] what I am doing. There is no reason for [illegible] to do [illegible].

When asked about sexual experience, he said he never was a lover of girls, that he had first sex relations at the age of fifteen or sixteen years, that he never had potency difficulties, and that when he was his wife he courted her vigorously. His marriage, he claimed, was happy and good.

At that time we cautiously approached the present offence. He was told that he did not have to answer any questions and he was told that everything he said was recorded in order to report to the prison authorities and possibly even to the Governor. He said, "I know it". He revealed that he knew the girl since she was going with a boyfriend of his. When asked whether the girl had a good reputation, he said yes and no. Then he said that he went to the gas station to

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31837 SMITH, Edgar Psychiatric

PSYCHIATRIC EXAMINATION: gasoline and when he drove home he saw her walking. At this point he lay down and he said, "I'm not supposed to tell you all this. My lawyer told me not to tell". His need to tell, however, was so terrible that he continued in spite of this statement and he said: "She turned to me...I turned around, took her into the car. She asked me for a ride home. Then she asked me to turn in to a place. She told me she heard my wife was fooling around. I got mad. Immediately, the fellow she was going with came along and I left." When asked, "Did she make you mad?" he said, "Yes...what she told about my wife. If someone told the same about your wife, wouldn't you get mad? Guys hang around and talk. She took it seriously. I didn't believe it. I knew it wasn't true. I was sorry that someone said it".

When asked whether he thought that he might have avoided the crime and forgot it, he answered no. It was felt that he was not ready to disclose more detail and I proceeded to turned from the crime to his childhood to which he replied, but here again, when asked whether mother treated him right, he said she did.

PSYCHOLOGICAL EXAMINATION: Psychological tests were administered by Mr. Oldre and will be reported separately. However, a preliminary report is in order.

When asked to draw a human figure, he drew a female with protruding breasts. Then he drew a male who looked very dependent and childish. When asked what the boy was doing, he said he was about nineteen or twenty years old and he was a country boy or a truck driver. The woman was nineteen or twenty years old and a housewife (another place he was placing himself into the picture). When asked what he was in the picture, he said he was "a truck on his house or his car", (probably describing his own library). On the Children's Figure A, he said the boy was paralyzed in the middle, didn't know why he started on it, but he will practice because his parents will want him to do so. He didn't know whether it was a girl or a boy but he thought it was a girl...and she was dead in her family room (he was crying)...all check up...she will get over it. Since a girl she will not think about it". When asked who died, he said probably her father. (I had a distinct impression he was unconsciously projecting his own feelings about himself and his wife). In another picture the girl was crying because she had crime in her room". (Further, that her mother had died in a car accident). "It could be like the other pictures and suddenly died or maybe a boyfriend broke a date". On CAT, he saw a woman being shocked. The boy just walked in.

It may be his mother or grandmother. He told her he married a girl from the other side of the tracks. He will be disinherited. They will have a daughter and name it after his mother. On 7 BM he said "he looks like a doctor or a scientist. This is his assistant. He expells an experiment to the young man. It is a cure for some kind of a disease, maybe cancer. It is not going to work. They will just continue trying." To the card 8 BM he responded: "Well, this is a boy in college studying to be a doctor, this is a rifle. He is training to be a great surgeon but he will never make it. He will wind up to be a different kind of a doctor. He will not be good enough, he will just remain a country doctor." When presented the card 13 MF he became uneasy. He said, "Hard to make a story. I don know. Looks like he probably killed her, and he looks sad about it. (On the card 13) a woman lies naked on the bed and a man stands nearby covering his eyes. To the card 19 he responded, "I don't

PSYCHIATRIC EXAMINATION: . know. I can't figure it out, he will probably get caught and be shot. Maybe they'll cook him." Card 20 - "guy standing in the street, looks like some bum leaning against a lamp post. I can't see anyone with him. It's downtown New York maybe waiting for a bus, what will happen; not much.

9-24-57 Between the last and this interview the examiner was away on a trip abroad. Prior to leaving Smith on June 18th, he was told that he would be seen again upon my return. He then said, "I hope you will find me here," intimating that he might be executed by that time. He recognized the examiner and apparently was pleased to converse. He revealed that he usually slept the whole day, kept awake at night and he had visits by mother and wife since at night he could listen to the music on the radio, which he preferred to the day program. He said he had an appeal and when cautiously inquired about the case he said, "I told you before I didn't do it.". When said that he might have done it and forgotten, he answered emphatically, "No, the girl's family doesn't believe I did it." He spoke about a boy named [redacted] who would now be [redacted] played basketball, baseball, drank together or played cards. He became acquainted two years ago. [redacted], according to [redacted] was taking out the victim of the murder. In speaking about the girl he said that she was a young girl, that he met her the first time last fall. The girl allegedly was trying to date with one of his friends. She asked him about this boy. He spoke about school and in addition she also knew his wife. Then, in talking about the night of the incident, he said the following: His wife was away at her mother since she had to see her family doctor. He had to go to the gas station and upon returning he saw her walking on the road. He offered her a ride. He said that everybody gives everyone else a ride in his community and there was nothing unusual in this. He said, "Other guys give my wife a ride." Then, according to him, the girl said that she wanted to talk to him. She allegedly told him that she was truant from school, that her father reprimanded her. She also allegedly asked him to take another road and while driving, "she took me for a big brother. Then I stopped the car and asked what she wanted to tell me." After that, according to Smith, she allegedly told him that she had heard from other fellows in town that Mrs. Smith was going out with other men. Then, "I got mad and slapped her in the face. I told her to go out. She got out of the car to go home. Meanwhile, another car with a fellow [redacted] stopped and pulled up to her. I was in the car. I saw them both walking up to me and I waited. I saw her head out on the right side. I asked what happened. [redacted] said she was running and fell down. I offered to take her to the doctor but [redacted] pulled her out of my car and went away with her I then left. I went home,- then I left for town and forty-five

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34837 SMITH, Edgar Psychiatric

PSYCHIATRIC EXAMINATION: minutes later I saw him [redacted] in town. He told me to keep my mouth shut. I asked him why. He said if not something will happen to my wife and kid. Next day I heard over the radio about the murder. I didn't trust this guy more than a rattlesnake. He thinks he is a big man. I think something is wrong with him any how. A few years ago he was driving with a bunch of guys, he stopped the car and beat the hell out of a kid. Each time you look at him he fights. Once he lost in a pool game and smashed the cue sticks. Once a kid ran into him and he wanted to beat the kid up. In a restaurant he threw around mustard and coke because he was angry. He's just kind of a guy you don't know what he will do. Two years ago he threatened to kill the doctor when the doctor told him to leave. He took his car and drove over the doctor's flower bed." The information presented above is not exactally a verbatum report, but close to it. When asked about his relationship with his wife he said that the relationship was fine. Later, in discussing his experiences in the Marines, he revealed that he had two or three Court Martials for going AWOL. He did it because "I do what I want to do, when I want to do it." One of these AWOL's took place in the following circumstances: "I had a few drinks, decided not to come back, and that's it." He didn't go back for five days. During the five days he drank, he went swimming, he had women. During the interview he mentions death. He said that his best friend shot himself. In general, he spoke about life as being peculiar. He also said that he like to read Plato's Republic because it was different. Yet, in discussing Plato, it appeared that he knew very little about him. He also mentioned Plato's Phaedo, in which the death of Socrates was described. Then he spoke about re-incarnation, about his interest in what makes people tick and things of that sort, not really showing deep understanding of the material of the discuss. In speaking about religion he said he was a Catholic but he didn't go to Church because there was too much ceremony. Then again he went into verbo philosophizing about religion and he said, "I ha an awful lot of time to do nothin'." He reported that in service he was considered anti-social and therefore was locked up in an Army Hospital in Hawaii. He saw a doctor and a Chaplain, stating that he felt miserable. This lasted for about eight or nine day. Between 1952 and 1954, according to him, he had a perfect record and was a "good boy" but then "all of a sudden I started getting in trouble. Trouble found me. Probably I was tired sitting in the same place. I was restless. I was with the same people too long. I felt beat and tired."

10-7-57 He looked depressed. He said he didn't feel like talki He had no visits recently. He claimed that he smoked three packs of cigarettes a day. When told that last time he fe like talking to the examiner he answered, "I changed my mind. I had a board meeting, me, myself and I, and we all decided that I

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PSYCHIATRIC EXAMINATION: would not talk." A short while later he said, "I was thinking about your coming back. I'm telling you things and you don't tell me anything. It's like buying a book and not reading it." When again the problem of the murder was taken up and he said that he left the girl with a man he mentioned in the last interview; that he was accused because a bat was found which belonged to this man, and in general "I said too much already." I am a smart cookie, I never get excited. When the Judge said chair I was not excited. I am too damn intelligent for that." He seemed to be somewhat hostile. At this time Sputnick #1 was circulating around the earth and he made mention of the fact that "Russians were smart" because in Russia a man on top says what to do." When told that he could not adjust to the Military Service with such a set-up he muttered, contemptuously, that he did not talk to subs. but only to captains and Gols. In general, at this interview he seemed worried about his sentence, was somewhat irritable and deteriorated in his appearance.

10-29-57 Further deterioration in appearance was noticed. An underlying depression could be detected. However, he always presented a front of bravado and related to the examiner in such a way that on one hand he acted as if I were indifferent to him, while at the same time pleading to let the examiner into his cell. This was done and the conversation continued while both the examiner and the inmate were locked in together in that cell. Although the content of the discussion was not revealed, a great hunger for human contact could be felt. Sitting with someone together in the cell was to him a treat, since it gave him an opportunity to be in closer human contact with a human being. Still, he was reluctant to open up and relate freely and he also hatched his emotions attempting to preserve rather indifferent and perhaps boisterous appearance.

11-8-57 It was reported to this examiner that although Smith claimed that it was indifferent to him whether I came or not, he asked an officer why I was not there when I missed a planned interview. As of this date, I found him again sleeping I had, more preoccupied with his sentence than previously. He started the interview with a statement that all this was not helping him. I told him that his responses to T.A.T. tests would indicate poor relationship with mother. He denied it. When I spoke about his father and attracted his attention to the fact the father never wrote to him or visited him, he answered that his father had left the family when he was just a baby and that it was quite natural not to be interested. At that point I saw, for the first time, the strong emotion being repressed with eyes getting moist and he said that his little daughter was [redacted] b6 b7C at his arrest and should he die she would not care for him.

PSYCHIATRIC EXAMINATION: he would have no meaning to her. When again asked to draw the picture of the H.P.T. test he said jokingly he did not remember how a house and a tree looked since he had not seen these objects for a long time. Then again he drew a tree and a house, which indicated great sensitivity and human figures, which would indicate basic weakness and dependency needs. His wall of the cell was plastered with pictures of his wife and baby and in displaying the photographs one could detect a feeling of affection for them. He also drew flowers and rabbits, which he colored with matches, since he did not have crayons. His pictures were well done and showed an innate talent for drawing. When I indicated that he drew well and I was interested in his pictures, he offerred a picture of a rabbit to me, saying I could take it with me. He said he would not give the picture of the rose but when the door of the Death House opened to let me out he changed his mind and said I could also take the rose. At this point I felt I was establishing the genuine rapport and that my visits had a great meaning to him. This probably is due to the tremendous need for human contact. It is believed that as of this date he still struggled with a need for self-revelation and free interpersonal exchange. Yet, he continued putting up a front of indifference although through his drawing discussions and inter-personal exchange he couldn't help but his true sensitivity break through.

[redacted] (mso) b6 b7C

12-2-57 RE-EXAMINATION: He is examined at 1:30 p.m. Lies in bed unshaven, seems to be disgruntled, now he appreciates the visit, gets up, puts on his pants, sailor, and the pictures he drew during the past 2 weeks which incidently are drawn with great precision and sensitivity. He likes to draw boats as well as houses. Then he says he has a confession to make. A few weeks ago he claims that his court record had been sent back he still has the court record and he wouldn't show it to me because his lawyer told him not to show it to anyone. He says "I didn't to hurt your feeling therefore I told you that I sent it away. the lawyer will let me show it to you I will do it. I don't care I have to obey orders." He still denies his offenses. When asked about the frightening of a little girl when he was 15 years old reported in the record) he claims that he never saw the girl and that the girl was telling tales on other boys. He also reveals he was truant in school because he liked to go to the airport and watch planes but always truant in company of other boys. He asked me whether I was ever truant in school? I told him that only once. He then laughed and said this was due to my european upbringing dicating that European boys were handled roughly by their father

12-2-57 RE-EXAMINATION CONT'D: In discussion of his sexual interes and sexual life he reveals that he started having sex relations with women at age of 15 years, that he never had potency difficulties and he states that he heard of men that could not have an erection but has never been his weakness. W. asked whether he ever was afraid of women he again replies with a short laughter stating "afraid of what, they don't bite". His read material consist in reading a dictionery. He occasionally looks at the books which are brought to the death house as inmates reading material. Most of the books have the following titles: (1) The si of Eros (2) Women without Love (3) The Dark Urge (4) Shriek with Pleasure (5) God of Hate etc. He makes a joke of that account and said that it was brought by the Chaplains for the religious purpose All and all he accepts me more and more as a person with friendly a tent and he responds to my visits with presenting me with pictures. He constantly has a feeling that if he were not in the death house fighting for his life he would disclose a great deal about his life himself. Instead of being somewhat facetitious and evasive in the beginning he now alternates between earnestness, friendliness and evasiveness. Actually what is happening in the interviews now is t one observes in psychotherapy i.e. the rapport is being established between the inmate and examiner.

emm [redacted] 12-2-57 b6 b7C

12-2-57 RE-EXAMINATION: Smith sent a message to me through an officer asking not to see him until he sees his lawyer. On the surface it would seem that he is afraid to commit himself in talking to me but in reality he is now fighting a positive transference relationship. People who are basically on the defensive fear crumbling of these defenses through positive relationship. This ambivalence toward me was exhibited in many ways, for instance, at the last interview he said that he had told me a lie since he had not sent his case memorial back to the lawyer. The lawyer had told him not to show it to us. Then he added, "I didn't want to hurt your feelings," thus indicating that the relationship established between us implies "feelings" and that whatever he does in relationship to me must be important to me. Also, in drawing his pictures he would let me take a few of his pictures with me but some of them he would retain, stating he wants them, and then he would say, "no, you take them," thus withholding and giving. I believe that throughout his whole life he had never entered into close meaningful relationship with anybody, and that later on he assumed a supercilious "wise guy" attitude in order to defend himself against the painful relationship. He is basically afraid to confide in others although he wants to do it. The reason he is afraid is essentially the feeling of being hurt by rejection after showing confidence. Now it is getting clearer in my mind how a crime of this nature could have happened. I conjecture that the relationship with this girl presented a threat to his ego-defenses. I don't think that actually it was a quarrel about

12-2-57 RE-EXAMINATION: (CONT'D) intercourse or something of that sort but some remark, some statement pertaining to himself as a human being or as a male. This remark probably brought to the surface some of his uncomplimentary hidden feelings of himself which produced an intolerable anxiety with complete loss of control. This explains the mutilation of the body. In other words, I do not accept the theory of just killing a girl because she refused intercourse but an emotional interplay which resulted in a devastating outburst of anger and anxiety. In that case, it would look more like a second degree murder without premeditation.

[redacted] - (mr - 12-3-57) b6 b7C

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NEW JERSEY STATE PRISON
CLASSIFICATION DEPARTMENT

MEDICAL-PSYCHIATRIC ADMISSION AND PROGRESS REPORT

NO. [illegible] NAME [illegible] PAGE NO. [illegible]

[illegible]

[illegible]

April 12, 1971

Re: Edgar Smith #34837

[redacted]

Division Correction and Parole
Department Institutions and Agencies
State Office Building
Trenton, New Jersey

b6
b7C

Dear [redacted]

Attached you will find a copy of a report submitted by [redacted], of our medical staff, concerning the above-named inmate, in response to your letter of March 24, 1971.

b6
b7C

Sincerely yours,

H. Yeager
Principal Keeper

HY[redacted]
Attach.

cc: [redacted] with all material.

State of New Jersey

DEPARTMENT OF INSTITUTIONS AND AGENCIES

P. O BOX 1237 TRENTON 08625

March 24, 1971

Re: Edgar Smith, NJSP 34837

Mr. Howard Yeager
Principal Keeper
N.J. State Prison
Trenton, N.J.

Dear Mr. Yeager:

Forwarded herewith is copy of a letter dated March 18 addressed to Commissioner McCorkle by the above-named with respect to his allegation of lack of adequate medical care with particular reference to chronic headaches.

I will appreciate it if you will advise us promptly of the current situation and the treatment which is contemplated, if any, in this situation.

Sincerely yours,

[redacted] b6 b7C

Division of Correction and Parole

[redacted] 8
Att.

RECEIVED
MAR 25 1971
OFFICE OF PRINCIPAL KEEPER
N.J.S[redacted]

Correspondence to [redacted]
reply 3/26/71

APR 7 1971
IN OFFICE
DIRECTOR OF INDIVIDUAL
TREATMENT
RECEIVED
MAR 26 1971
IN OFFICE
DIRECTOR OF INDIVIDUAL
TREATMENT

March 24, 1971

Re: Edgar Smith, NJSP 34037

Mr. Howard Yeager
Principal Keeper
N.J. State Prison
Trenton, N.J.

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Sincerely yours,

[redacted]
Division of Correction and Parole

b6
b7C

[redacted] 8
Att.

RECEIVED
MAR 30 1971
OFFICE OF THE WARDEN
N.J.S.P.-TRENTON

March 25, 1971

Mr. Edgar Smith
No. 34837
N.J. State Prison
Trenton, N.J.

Dear Mr. Smith:

We have your letter of March 18, 1971, referred here by the Office of the Commissioner.

We are asking the institutional authorities for a complete report on the matter you bring to attention in your letter and will be in touch with you again as soon as it is received.

Sincerely yours,

[redacted]
Division of Correction and Parole

b6
b7C

[redacted]:8

cc: Mr. H. Yeager - NJSP, Trenton

RECEIVED
MAR 25 1971
N.J.S.P. TRENTON

March 18, 1971

Dr. Lloyd W. McCorkle
Commissioner, New Jersey Department
of Institutions and Agencies
State Office Building
Trenton, New Jersey

RECEIVED
MAR 25 1971
State of New Jersey
N.J.S.P.-TRENTON

Dear Dr. McCorkle:

For the record, I should like to advise you of the following information:

In the early part of 1969, in approximately January or February of that year, and following a long period of complaints of chronic headaches, I was examined by a doctor in the prison hospital. A series of X-rays were made of my skull and para-nasal sinuses, and I was advised by the doctor that I had "vascular headaches," for which I was given medication for a period of about one month. At the end of that period of medication I was again examined and given still another type of medication for a period of one month. The condition remained unchanged, but the examinations and treatment ended. Immediately thereafter, and through my attorney, Stephen F. Lichtenstein, of Trenton, I arranged for a [redacted], also of Trenton, to examine the X-ray plates made in the prison hospital. b6 b7C

As a result of his examination of the X-ray plates, furnished to him at my request, [redacted] found that I had an unidentified type of growth in the upper right antrum. [redacted] concluded that the growth could be a cyst, polyp, or mucocele, and he measured its dimensions at 26 x 33 mm. [redacted] findings were made known to [redacted] who immediately arranged for the X-ray plates and [redacted] report to be examined by a [redacted] from New York City.

[redacted] examination confirmed [redacted] report. [redacted] concluded that the unidentified growth could be the cause of the chronic headaches. He b6 b7C

recommended two forms of treatment including surgery, which he stated was the only method of determining whether the growth was malignant.

[redacted] reports were given to me in June or July of 1969, and I immediately made their contents known to the then-medical director at the prison, a [redacted] read the reports, returned them to me, and angrily condemned doctors who made diagnoses by "remote control" or "osmosis." b6 b7C

In about August of 1970, following several complaints to a [redacted] of the prison staff, a new series of X-ray plates was ordered and made that same day for comparison with the first set. Then, over a period of several months, whenever I had occasion to speak with [redacted] I asked him if he had examined the August X-rays. I was never able to obtain a direct answer from him, but finally he did tell me that inmates are never notified when X-rays are "negative." He did not state directly that he had examined the August X-rays, or that he had found them "negative." He had, however, examined the reports of [redacted] and knew of their findings from the original set of X-rays. b6 b7C

On December 20, 1970, with the headaches persisting and the time approaching for me to attend a lengthy and tedious federal habeas corpus hearing, I wrote a letter to Stephen F. Lichtenstein, setting forth substantially the foregoing information. Copies of that letter were sent to the Warden and the prison medical director. The only reply I received was a note from the Chief Deputy Warden, stating that the escort officers who would take me to court would take a bottle of aspirin with them.

In February, 1971, Stephen F. Lichtenstein phoned the Chief Deputy and requested that a new series of X-rays be made for examination by [redacted] That telephone call was confirmed by a letter from Mr. Lichtenstein to the Chief Deputy. b6 b7C

After waiting several weeks, and on March 14th, 1971, I wrote to the Chief Deputy and asked why the X-rays had not been made as requested. I stated that, if necessary, I would obtain a court order authorizing the making of the X-rays.

On March 16th, the Chief Deputy responded to my letter, advising me that a court order would be necessary. Immediately, I advised my attorney of the need for a court order, advised him that I would personally make the application, naming the Commissioner of Institutions and Agencies, the Warden and the Medical Director as respondents, and requesting that a full report of the facts be supplied the court by said officials.

In addition, I sent Mr. Lichtenstein originals and copies of all medical reports and correspondence concerning this matter, including the letter of December 20th, for the purpose of Xeroxing for filing with the application for the court order.

On March 18th, following my letter to Mr. Lichtenstein, and without explanation, I was summoned to the prison hospital and a new set of skull and sinus X-rays were made. I was not told for what purpose they were being made, whether for the prison medical department or in compliance with my request that they be supplied to [redacted] b6 b7C

As stated at the outset, this letter is written for the record, so that the Commissioner will be familiar with the facts of this matter, should I decide to go ahead with the application for a court order naming the Commissioner as respondent. A copy of this letter will be filed with any such application.

Respectfully,

Edgar Smith

Edgar Smith
34837--3 wing
State Prison
Trenton

cc: File

April 12, 1971

Re: Edgar Smith #34837

File

Stephen F. Lichtenstein, Esquire
685 Parkway Avenue
Trenton, New Jersey

Dear Mr. Lichtenstein:

Attached you will find a copy of a report submitted by [redacted], of our medical staff, concerning the above-named inmate, in response to your letter of March 23, 1971. b6 b7C

Sincerely yours,

H. Yeager
Principal Keeper

HY:[redacted]
Attach.
cc: [redacted] with all material. b6 b7C

SPF-47A

NEW JERSEY STATE PRISON
TRENTON, NEW JERSEY
INTER-DEPARTMENTAL CORRESPONDENCE

DATE: April 5, 1971

TO: Mr. H. Yeager, Principal Keeper

FROM: Medical Department

SUBJECT: Re: Edgar Smith
N.J.S.P. #34837

RECEIVED
APR 7 1971
OFFICE OF PRINCIPAL KEEPER
N.J.S.P.-TRENTON

This is in reference to the correspondence with Coleman, Lichtenstoin, Levy & Segal, Law Offices, dated March 23, 1971, concerning the above inmate. I would like to inform you that x-rays of the skull and paranasal sinuses were taken recently. The x-rays were evaluated by [redacted] at our Hospital with the consent of our [redacted] on April 1, 1971 at 2:45 P.M. b6 b7C

Medical Report of above named inmate: Past history, according to our medical records, show patient had Otitis Externa of the right ear in July 1967, for which he was treated symptomatically by [redacted] Later on he was repeatedly complaining of headaches accompanied by recurrent episodes of earaches. Therefore, x-rays of the skull and paranasal sinuses were taken on several occasions. The radiological findings of which were as follows: b6 b7C

(1) X-ray taken on February 4, 1969 shows:

Skull - negative.

Sinuses - There is a soft tissue shadow arising from the floor of the right antrum. This has a sharply defined upper border.

(2) X-ray taken on August 20, 1969 shows:

No appreciable change from previous report of February 4, 1969.

Impression: Mucocele or polyp in the right antrum.

(3) X-ray taken on March 18, 1971 shows:

There is no change in the findings compared to previous x-rays.

[redacted] treated the above inmate repeatedly for his complaints of ear and headaches. Besides above patient is seen daily by our sick-call physician, which is a routine procedure for Wing 3 inmates. b6 b7C

On August 20, 1970, I personally examined the inmate who still

complained about pain in the right ear, and he was treated for this condition. This time successfully.

Further Physical Examintion of the above named on April 3, 1971 revealed the following:

General health condition good, no obvious abnormal signs. Blood Pressure 125/80, pulse 72, respiration 20, temperature 98.

Head: On examination of the ears by Otoscope, no evidence of any pathology was found.

Transillumination of the sinuses-paranasal cavities. The right antrum appears somewhat smaller than the left and there is an elevation of the right antrum floor, which may be considered to be fluid, mucocele or small wide-based polyp.

Mouth: All upper teeth are missing (extracted approximately 3 years ago) otherwise, of normal findings.

Nasal Cavities: Slightly deviated septum. No remarkable obstruction of the nasal passage.

Neck: No enlargement of mandibular glands or thyroid. The trachea in the midline and no evidence of lymphadenography.

Thorax:

Lungs: Clear to auscultation and percussion.

Heart: R.S.R.-no murmur, no gallops. Clinically not enlarged. Blood Pressure-see above.

Extremities: Upper and lower - no obvious pathology.

CNS: All superficial and deep reflexes intact, no visible atrophy of the muscles or abnormal function.

Conclusion:

Based on physical examination and x-ray findings, the inmate's present complaints about intermittent moderate pain arising from the right cheek radiating to the supraorbital region behind the eye, into the forehead and continuing to the right

temporo-occipital region of the head, could be the sequelae of chronic maxillary sinusitis, which by aggravation may stimulate recurrent colds. This condition may be due to accumulation of fluid, a mucocele or polyp.

Although x-rays of the sinuses if the most valuable single diagnostic aid, it is not infallible, since fluid, polyps or mucocele cannot be differentiated by this means.

Suggested therapy:

(1) Aspiration and bacteria study and, if necessary, anti-bacterial treatment.

(2) Sinus irrigation with Emzyme pancreatic dornase, strepto-kinase like aerosol, etc.

(3) Displacement suction.

(4) In most cases a treatment is not necessary.

However, if there is no response to prolonged conservative therapy, surgery may have to be considered, but the final decision on surgery I will leave up to [redacted] b6 b7C

[redacted]

[redacted]
cc: [redacted]
File

LAW OFFICES

COLEMAN, LICHTENSTEIN, LEVY & SEGAL

HAROLD D. COLEMAN
STEPHEN F. LICHTENSTEIN
PAUL G. LEVY
HANK Z. SEGAL

685 PARKWAY AVENUE
TRENTON, N.J. 08618
(609) 883-2700

March 23, 1971

Warden Howard Yeager, Chief Keeper
New Jersey State Prison
Third and Federal Streets
Trenton, New Jersey

RE: Edgar Smith

Dear Warden Yeager:

I understand the requested X-rays have been taken of Edgar Smith. I would like them to be examined by [redacted] [redacted] Please advise me when the X-rays will be sent to [redacted] for his examination.

b6
b7C

Very truly yours,

COLEMAN, LICHTENSTEIN, LEVY & SEGAL

Stephen F. Lichtenstein

SFL [redacted]

cc: [redacted]
Mr. Edgar Smith

b6
b7C

RECEIVED
MAR 24 1971
OFFICE OF THE CHIEF KEEPER
N.J.S.P.-TRENTON

LAW OFFICES
COLEMAN, LICHTENSTEIN, LEVY & SEGAL

HAROLD D. COLEMAN
STEPHEN F. LICHTENSTEIN
PAUL G. LEVY
MARK Z. SEGAL

605 PARKWAY AVENUE
TRENTON, N.J. 08618
(609) 883-7700

RECEIVED
MAR 22 1971
IN OFFICE
DIRECTOR OF INTERNAL TREATMENT

March 18, 1971

RECEIVED
MAR 19 '71

Warden Howard Yeager, Chief Keeper
New Jersey State Prison
3rd and Federal Streets
Trenton, New Jersey

Re: Edgar Smith 34537

Dear Warden Yeager:

I would appreciate your requesting your Medical Department to get in touch with me immediately concerning X-rays.

Thank you.

Very truly yours,

COLEMAN, LICHTENSTEIN, LEVY & SEGAL

Stephen F. Lichtenstein

SFL

b6
b7C

cc: Edgar Smith

BEST AVAILABLE COPY

March 16, 1971.

RE: #34837 - SMITH, Edgar

Stephen P. Lichtenstein, Esquire
New Offices
COLIMAN, [illegible], LEVY & SEGAL
[illegible] Parkway Avenue
Trenton, New Jersey 08618

Dear Mr. Lichtenstein:

This is to acknowledge your letter of March 3, 1971 and to advise that it is being forwarded to our Medical Department for its information and attention.

Very truly yours,

[illegible]
Principal Teacher

HY: [redacted]
cc: File

b6
b7C

P.S. [redacted] Please pursue and advise when the x-rays are available for review by [redacted]

[redacted]
of Individual Treatment

LAW OFFICES

COLEMAN, LICHTENSTEIN, LEVY & SEGAL

HAROLD D. COLEMAN
STEPHEN F. LICHTENSTEIN
PAUL G. LEVY
MARK Z. SEGAL

685 PARKWAY AVENUE
TRENTON, N.J. 08618
(609) 883-7700

March 3, 1971

Warden Howard Yeager, Chief Keeper
New Jersey State Prison
3rd and Federal Streets
Trenton, New Jersey

#34837

Attention: Chief Edmonds

Re: Edgar Smith #

Dear Chief Edmonds:

This is to confirm my telephone conversation with you several days ago when I requested new x-rays be taken of Edgar Smith for examination by his [redacted] The x-rays should be of the skull and paranasal sinuses. You will recall that [redacted] examined prior x-rays of Mr. Smith and the purpose of the new x-rays would be to see if there has been any change with regard to [redacted] prior findings. If there are any problems with regard to this request, please let me know.

b6
b7C

Very truly yours,

COLEMAN, LICHTENSTEIN, LEVY & SEGAL

Stephen F. Lichtenstein

Stephen F. Lichtenstein

SFL[redacted]

cc: [redacted]
Edgar Smith

b6
b7C

RECEIVED
MAR 4 1971
OFFICE OF PRINCIPAL KEEPER
N.J.S.P. - TRENTON

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO

PROBATION OFFICER'S REPORT

THE PEOPLE OF THE STATE OF CALIFORNIA

vs.

EDGAR HERBERT SMITH, JR.

COURT No. CF. 38916	DEPT. & JUDGE SC-28 Harelson
DA FILE No. A17321	ATTORNEY T. Ryan
HEARING DATE 4-21-77, 9 a.m.	PROBATION OFFICER [redacted] VVP
	PROB. CASE No. A- 537 625

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b7C

Name _____ AKA Michael Mason (Include maiden and former married names)

Address Last: 1070 Del Mar Avenue, Chula Vista, CA. ZIP 92011 Phone None

Sex M Age 43 Birth Date 2-8-34 Birth Place Hasbrook Heights, New Jersey

Cauc. ☒ Cau-Mex. ☐ Negro ☐ Oriental ☐ Other _____ Driv. Lic. - ☐ DL 254

Ht. 6' Wt. 175 Eyes Blu Hair Brn Other Identifying Data _____ Scars, tattoos, amputations, etc.

Trade Writer Union Am. Fed. Radio Artists, etc. Soc. Sec. No. 147-26-2510

Dates & Branch of Service USMC 1952-1954 Rank Cpl. Type of Discharge Hon. Ser. No. 130 55 536

Duty Station - ☐ 208

OFFENSE INFORMATION

Charge(s) Kidnapping for Ransom (209 PC) Count One, Attempt/Murder (664/187 PC) Count Two, Attempt/Robbery (662/211 PC), Assault to Murder (217 PC) Count Three Date Offense Committed 10-1-76 Date Convicted 3-31-77 How? Court

Status Custody Days in Jail This Case _____ Investigating Arresting Agency SDSO Date ~~XXXXXXX~~ Information Filed 11-12-76

FBI No. _____ CH No. _____ SDPD No. _____ SDSO No. _____

Obtained Last Entry ☐ _____ Obtained Last Entry ☐ _____ OTHER PD No. _____

CUSTODY DATA:

On 10-13-76 the defendant was arrested in Las Vegas. At sentencing he will have spent 190 days in custody.

COURT RELATED DATA:

On 3-31-77 the defendant was found guilty by verdict of Court of Kidnapping for a Robbery (209 PC), Count One; Attempted Murder (664/187 PC), Count Two; Assault With Intent to Commit Murder (217 PC), Count Three and Attempted Robbery (664/211 PC), Count Four. The Court found the armed allegation as defined by Subdivision(f) of Penal Code Section 3024, within the meaning of Penal Code Section 12022 to be true under Counts One, Two, and Four. The Court further found that the defendant has suffered one prior felony conviction.

CODEFENDANT STATUS:

[redacted] b6 b7C

THE OFFENSE:

The following information is derived from investigation reports prepared by the Sheriff's Department, the District Attorney's Office, the FBI, transcript of the preliminary examination and information contained within the files of the District Attorney:

On 10-1-76, [redacted] victim, [redacted] had been paid and let off work early. She had gone shopping and was walking back to Ratner's at 5 p.m. returning to meet her husband who was waiting in the back parking lot. As she walked past a side loading dock type area she first heard an automobile approaching slowly from behind. Not paying attention, the vehicle soon pulled in front of her and promptly made a semi-U turn to block her path. The defendant exited the vehicle with a knife in his hand, mumbled something and quickly got behind her, putting the knife to her throat. When he told her to get in the car she protested and he told her to shut up, not to scream, and to get in the car. He had a cold look on his face. He forced her into the car, entered behind her and held her hands together while taping them behind her back. Again, he admonished her not to be stupid and to keep her mouth shut. She continued to ask what he wanted from her to which he responded, "I'm going to get your money and stick that knife in you." The knife had a six inch blade. He began driving with one hand while holding the knife at her stomach with his arm around her. As they drove through the front parking lot they passed a red car and the victim broke the passenger portion of the windshield with her foot attempting to gain the occupant's attention. At this, the defendant slapped her in the face, b6 b7C

pulled her down and sat on her face. When she reported being unable to breathe the defendant remarked, "You can breathe. You're talking to me, aren't you?" The defendant proceeded to drive southbound on Interstate 5 while the victim again tried to kick at one of the windows. He told her to keep her legs down or he was going to stick the knife in her stomach. Subsequently, she was able to remove the tape from her hands and pushed herself away from him. She made frantic efforts as she attempted to gain control of the vehicle and to stop it. While she had both hands on the wheel she felt the knife enter her right side and observed the defendant sticking the knife into her. However, she did not feel any pain. The knife blade had fully penetrated her body and she was unsuccessful at attempts to remove it. Not feeling any pain she resumed her struggle over control of the vehicle causing it to wander about the roadway and gaining the attention of many witnesses. However, the defendant managed to take the Chula Vista Main Street exit and was attempting to turn west toward a deserted area when the victim managed to turn it in the opposite direction. She had intended to run the car off the embankment and down toward the freeway, however, the defendant stepped on the brake to avoid this. At the moment she saw a flower boy and called for help while the defendant attempted to regain control of the vehicle while pulling her toward him. She managed to open the passenger door with her bare foot. The defendant, who still had a hold of the knife, had to let it go to shift gears and in these moments the victim managed to slide from the car onto the pavement. A young man approached her and at her request was able to retrieve her purse from the defendant's vehicle. The defendant then drove from the scene.

Witnesses who had observed the incident came to the victim's aid including a D.E.A. agent who radioed for an ambulance. When police arrived they were able to obtain the vehicle's license number and a description of the defendant. It was learned that the vehicle was registered in his wife's name.

During testimony, [redacted] testified that he had removed the knife from the victim's right side during surgery. The knife had entered the right side between ninth and tenth ribs, had traversed the right chest cavity, had passed through the diaphragm and upper most portion of the liver. It then re-entered the diaphragm and stopped just short of the pericardial-sac. Her right lung collapsed after surgery. b6 b7c

On 10-4-76 police were able to interview the defendant's wife. She seemed to be evasive and reported not knowing he had been in any trouble. At 12:40 p.m. [redacted] contacted the Sheriff's notifying them he had been in contact with the defendant and was encouraging him to surrender. b6 b7c

By contacting various persons acquainted with the defendant it was learned that the defendant had hidden the car and had contacted [redacted] requesting she drive he and his wife to a restaurant to meet [redacted] In the car he told them he had offered the victim a ride and had planned to take her money. After meeting with the attorney he spoke with [redacted] and obtained a $100 loan which he picked up the following day. [redacted] took the suspect's vehicle in for auto repairs. Recovery of the vehicle revealed amounts of dried blood and some of the victim's hairs were recovered. Edgar Smith spent the weekend at a friend's home [redacted] and seemed to be in a normal mood. She loaned him $200 and drove him to the L.A. Airport on Tuesday (10-5). He had stolen two of her credit cards. He flew to Pennsylvania using the AKA Michael Mason. During subsequent phone conversations from New York [redacted] inquired about the defendant's trouble and he replied in effect, "I was only going to rob her." On 9-30-76 the defendant had contacted an editor at the San Diego Tribune regarding publication of an article. He spoke of his need for employment and commented he had a job offer out-of-state but his wife desired to stay here. He appeared to be getting somewhat desperate.

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On 11-8-76 [redacted] was interviewed by [redacted] He had been contacte by Smith on 10-5-76. Smith reported being in trouble and that the fingernail scratch on his face was part of it. He obtained a $100 loan and later received permission to use [redacted] New York apartment. Smith subsequently drove [redacted] vehicle without permission and took five blank checks, a camera and coat. On 10-8-76 he contacted Stewardess [redacted] and posed as a DEA agent in trouble. He said he was collecting on old debts and those who couldn't pay cash were giving him their credit cards. He inquired about purchasing airline tickets on a Gulf card [redacted]. Later that day, [redacted] learned that Smith had received $1,000 from his mother and aunt. On 10-13-76 he called [redacted] secretary, was laughing and in good spirits, and left a Las Vegas phone number and name of Mason. [redacted] contacted authorities and the defendant was arrested in his hotel room by the FBI.

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During a line-up on 10-21-76, six witnesses and the victim positively identified the defendant. Two witnesses tentatively identified him.

DEFENDANT'S STATEMENT:

The defendant's written statement is attached to the report.

On his probation questionnaire he wrote:

> "I regard myself as a mentally disordered sex offender and I desire to be so evaluated and committed as such."

During interview the defendant appeared to be a rather introspective individual who portrayed himself as a mentally disordered sex offender and repeatedly returned to the theme of his need for treatment. He

commented that this offense seems to be a repeat of the 1957 offense and that he was intent upon raping [redacted] During the two months preceding this offense he had inadvertently entered a pornographic magazine store looking for a New York newspaper. He began looking at the magazines and this seemed to release his compulsion to rape. He found and carefully explored an isolated area near Chula Vista off I-5 with very dense underbrush. He planned the act in his mind and had obtained an old military belt inscribed with a name. He carried this in his car intending to tie his victim with it. He began looking for girls in the Clairemont Mesa area and picked up numerous hitchhiking high school girls. However, he was either seen, or traffic was too heavy for him to accomplish abduction. His intended victims were from 17 to 20 years of age. After many repetitions he determined it would be impossible to successfully transport a victim to his planned rape site and he stopped picking up hitchhikers. He then focused on a Clairemont Boulevard Veterinary watching this for numerous days to determine the staff routine. He intended to rape a young receptionist and actually approached her to do so but again decided the situation was not perfect. During the subsequent three weeks he remained at home giving little thought to rape. b6 b7C

On the day of the instant offense, Smith was scheduled to have lunch with [redacted] but instead ate lunch with his wife and drank a beer. Returning home after taking her to work he drank another beer and then decided to drive to the Chula Vista library. Until then, "It was an easy day." As he drove..."All of a sudden there was that lady all by herself in an empty parking lot and I went after her." He had seen her exit the bus, thought she was 19 to 20 and dressed provocatively. She was walking toward a semi-secluded area so he began following her driving past. He thought she was heading to the red vehicle but when she passed this, he entered the parking lot, noted no one present, and found the "situation that I had fantasized." He drove behind her as she walked then pulled in front of her to catch her in the loading dock type area. He exited the car, told her something "lull her." He had the kitchen knife in his hand. "The knife was just a scare tool. Something to gain immediate cooperation. If I had had a gun I would have used a gun." Several days before this he had used the knife to install a radio speaker. He admits keeping the tape in the vehicle specifically to use to bind the victim's hands. b6 b7C

Thereafter, "I just forced her into the car" telling her to keep her mouth shut and she wouldn't get hurt. He pushed her across the seat, entered and when she asked why he again told her to shut up and that he was only going to take her money. She began pleading not to be hurt and he reassured her to calmness gaining her cooperation in taping her wrists. He began driving while holding the knife to her stomach with his arm over her shoulder.

As they drove past the parked vehicle the victim began screaming and she broke the windshield surprising the defendant. He hit her in the face with his elbow, stopped the car, and pulled her onto the seat. His only concern was how he would explain the broken windshield to his wife. He held the knife to her stomach and demanded she shut up. Later in the interview, he commented that at this point he had actually shoved the victim toward the door but in her frantic resistance she actually pulled back toward him. He held her at knife-point as he drove on to the freeway and does not recall sitting on her head "but it's possible."

"From that point on the only thing I can truthfully say about everything that happened is that neither of us can recall what happened. I didn't have what I wanted, a compliant, complacent, cooperative woman. I had a fight. I was scared and she was scared. She was hysterical...I wasn't far from it. All I wanted to do is get her to the place I had picked but I couldn't control her somehow." She sat up, took a hold of the steering wheel, and the car began traveling "all over the road." From there he does not know how or when she was stabbed and he does not recall doing this himself. In fact, he is not even certain he had the knife in his hand. The car had stalled on the freeway and he had to pick the keys from the floor with his right hand. She never gave any indication of being hurt until the last moment. If he did stab her, he did not do this intentionally. "I had no reason to stab [redacted] A dead [redacted] was no good to me. I wanted her alive. I didn't want a dead woman bleeding all over the front seat of my car. I didn't know she was stabbed." b6 b7C

He had taken the exit toward his selected rape site but at the intersectic the victim gained control of the vehicle. It stalled and the defendant's attention was recalled to re-starting it and leaving the area as he knew he had been seen by many witnesses. He considered himself identified and briefly returned to his apartment to change clothes. He drove to a store, parked the car and wiped the blood away with a towel. During this, he threw away his sunglasses, her glasses, his clothing, and apparently his uncashed VA check. He looked for the knife, didn't find it and from the amount of blood in the car he knew she had been injured but he didn't know how. He called [redacted] to learn the victim's injuries and later obtained a ride from [redacted] to the restaurant. There he conversed with [redacted] who would not believe his story about an attempt robbery. This scared him and ultimately he decided to run. b6 b7C

He took [redacted] credit cars only for ID purposes. He traveled to the east coast and there, received the $100 loan from [redacted] He took his camera and checks. He used one of the checks to pay [redacted] vehicle garage fees, drove the car out of town, but returned it. The other check was found in his jail property. He states [redacted] recovered his camera but he would have hocked it had he needed the money. He had gone to find the Zielinski grave evidently intending to confront who he really b6 b7C

was. Unable to find it, he subsequently determined to turn himself in. He contacted [redacted] hoping to obtain an airline pass to San Diego. He then telephoned a Canadian friend who agreed to help him arrange a meeting with [redacted] in San Francisco on the following day. He received $1,000 from his aunt and mother and began taking available flights toward the west coast. He arrived in Las Vegas, there were no available flights, and he spent the night there. He unsuccessfully attempted to reach his Canadian friend. Later, he attempted to telephone [redacted] and thereafter was arrested by FBI agents.

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Regarding the victim he remarked, "It's kind of a self-serving thing to say I wish it didn't happen. But what else can I say." He added that beyond her repaired physical injuries she had sustained mental scars and this was of greater concern to him. Contrary to the Zielinski matter he had to face his victim in court and this brought home the seriousness of his actions. He had to consider what he had done to her, himself, and his friends. "I have hurt and disappointed a lot of people. That is probably the thing that will hurt me more than anything else." Cares for people he didn't have before.

Smith reports he suffers from a psycho-sexual problem noting that at age 13 he attempted his first molest. He reports sustaining a compulsion to rape which is impulsive in nature occurring only when the situation presented is right. He can go for long periods of time without these urges but at other times this is all he can think of. More often, when unemployed, "I get this urge to do something undefined." This urge to rape seems to be all encompassing, blotting out the reality of what he is doing or any concern for his behavior or the victim's well-being. "You do it and nothing else matters. You shut off the world and other considerations." When compelled he persistently calculates the possibility of committing rape and "I look at women in terms of rape." However, he wants his victim to be alive and responding during the act beyond which he has no determined conclusion. He believes rape somehow releases his feelings of anxiety and frustration while robbing the victim of her dignity. Now, however, he has determined to face himself and if possible overcome this aberrant behavior through psychotherapy. Realizing he cannot continue to live a lie, he determined to assert his guilt of the Zielinski murder. Toward this end, he urges that the Court institute MDSO proceedings and that he receive treatment at Atascadero. If successful, both he and society will win but both will lose if he is incarcerated at Folsom. If incarcerated there, he intends to persist in appealing his conviction until it's overturned. However, "What I'm asking for, what I want to do scares me a hell of a lot more than Folsom does. It will be a thousand times more difficult than anything I have ever done in my life. To confront me. To literally kill the 43-year-old Smith and start all over and that is a hell of a lot tougher than sitting in a cell and watching colored TV."

PRIOR RECORD:

Clearances with FBI, CII, and local law enforcement agencies reveal the following prior record of convictions for the defendant:

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b7C

During the probation interview the defendant admitted to the existence of a juvenile record and this was discussed with him. He reported that at age 13 or so he had [redacted] He jumped from the bushes, and blocked her path, and forced her to the ground [redacted] After persistent pleading and promising she wouldn't tell, he let her go with the admonition that he would kill her if she told. Police arrived at his home ten minutes later to discover him eating dinner. He was taken into Juvenile custody and on 12-26-46 he was placed on five years probation which was terminated upon his 18th birthday. There were no serious behavior problems but he was inclined to be troublesome at school.

3-5-57	Sheriff's Office, Hackensack, New Jersey	Murder, First Degree	Sentenced to Death

In 1971, his conviction was set aside and on 12-6-71 he plead guilty to Second Degree Murder and was re-sentenced to 25 to 30 years with the balance of sentence suspended and the defendant was placed on four years formal probation. His probation was transferred to San Diego in October of '74 and he was supervised without violation until probation expired on 4-26-76.

In this matter the defendant [redacted] after apparently making sexual advances toward her. In his defense he accused [redacted] During interview the defendant admitted to committing this crime and confirmed that she began struggling after he had made sexual advances toward her. She escaped but fell while running and did not resist as he returned her to the vehicle. [redacted] Due to the darkness, he did not see what he had done. It came to be "...something that happened but really didn't happen because I (his normal person) didn't do it." He passed his guilt onto others after his mother suggested he could not have really done this. During his subsequent appeal this victim became "just a name" and the legality of his conviction presided over the reality of his guilt.

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b7C

SOCIAL FACTORS:

The 43-year-old twice married father of one is the second of two sons born to his parents whose marraige ended in divorce five years later. Throughout World War II, he was raised amongst various relatives, primarily by his aunt, in Jersey City. Early on he began to have difficulty. He truanted for 30 days while in the third grade and after returning to live in his mother's home he was placed in an orphanage as "a way of getting me out of everybody's hair." From there he ran to his grandmother's home after a male custodian attempted to molest him and threatened his life. At age 12 he committed a residential burglary and at 14 years he was arrested for Attempted Forcible [redacted] At the direction of Juvenile authorities he subsequently attended a Catholic prep school for two years, apparently repeated the seventh grade, and ultimately became resentful of the religious regimen. Thereafter he attended three public schools to play football and once changed his name for that purpose. b6 b7C

He described his upbringing as "loose" remarking that he was "bounced around" and only his aunt showed real concern. He reports intermittent periods of conflict with his mother whom he describes as "the grand dame" type while remarking she used an alias when visiting him at jail during the 1957 trial. He sees her as a manipulative individual who imposed strong admonishments against sex. She has recently severed contact with him. He had little contact with his father and upon his mother's remarriage in 1948, a poor relationship developed with his stepfather.

At age 17, he dropped out of high school to join the Marine Corps after his 18th birthday. During his two-month, eight year enlistment he was UA for five days, broke another soldier's jaw while fighting and incurred several minor military code violations. During his second year he was diagnosed as a schizophrenic and later re-diagnosed as an anti-social person. Medically discharged in November of '54 where, at his mother's urging, he began seeking work. From then until 1957 he worked at approximately nine jobs as a laborer. He had lost his job due to a lack of transportation on the day preceding the Zielinski killing.

Smith married [redacted] in June of '56 and their [redacted] However, he did not love his first wife and spent most of his nights out drinking with peers. "I'm a gas station kid, even today that's what I still am." His wife divorced him and her new husband adopted their child. b6 b7C

The defendant spent 14½ years on Death Row after being convicted of bludgeoning Vicki Zielinski to death. There, he became well-versed in law, took correspondence courses, obtained his GED and wrote his first book. After numerous appeals and facing 14 dates of death he was released

on probation on 12-71. Upon his release the relationship he had established with [redacted] while in prison led him to mis-perceive himself as a celebrity and [redacted] seemed to use him as a show piece Pygmalion. Smith loved this life. "The gas station kid's dream." He spent the money from his subsequent publications and lectures liberally while traveling extensively. But the "whole thing was a lie." Although he was not ready to face his culpability for the Zielinski murde he found himself socially pressured to sustain its denial. Since Neverbe of '72 he has had little contact with [redacted] "...I wasn't interesting anymore and we just drifted apart." b6 b7C

Smith spent his first two post-release years in the northeastern U.S. where he wrote three books, lectured, and occasionally traveled to San Diego with [redacted] Living in Richmond Park, N.J. in 1973 he frequented a bar nicknamed the "Zoo," was largely unemployed, and met [redacted] In April of '74 they moved to San Diego to escape conflicts over Smith's notoriety and married on New Year'. Eve that year. He remained unemployed until September of '75 when he worked four months for a local advertising firm until it folded. From 1-76 to 6-76 he worked as a public relations director for the S.D. Bicentennial Exposition earning $650 per month. He then returned to the east for two months, worked in advertising public relations and thereafte resumed living in Chula Vista. He remained unemployed supported through Unemployment Benefits and his $128 per month VA Benefit check awarded for a service-connected hearing disability. During the months preceding this offense his wife had obtained employment at a local bank and began attend: college. b6 b7C

In the future he intends to resume his writing career and look forward to reuniting with his wife. They have a compact that he will meet and cope with his present dilemma in a straight-forward and honest manner.

ADDITIONAL INFORMATION:

During interview [redacted] confirmed that she had met him in 1973 and they rapidly established a good friendship. He never entrusted his personal thoughts to her and while he generally seemed to be a normal individual he evidenced "some sort of emotional thing" and frequently seem preoccupied with internal conversation to exclude the interaction of othe He rarely lost his temper but if she struck him playfully he would strike her back quite hard. As well, his friendships seemed to be superficial, lacking in significant interpersonal trust, but he sought out friendships working hard to earn them through performing favors. [redacted] Preceding the offense he seemed to begin reacting in a withdrawing manner, stayed up late at nights. [redacted] Since the instant matter he has confided that he was concerned that she did not find him attractive. [redacted] notes a b6 b7C

dramatic change in [redacted] and it is this metamorphosis of wanting to change his life that gives her hope for the future. She strongly urges the Court to institute MDSO proceedings so that he can obtain needed counseling. He has shown remorse for the consequences his acts have brought others to bear. b6 b7C

[redacted] was contacted on the defendant's behalf. [redacted] He knows him reasonably well in regards to the instant offense, his personal feelings, and his feelings about his crime. He remarked that this defendant is clearly intelligent, articulate, and totally in touch with reality which seems inconsistent with the context of his crime. Immediately after the instant offense he was "totally defensive" and spoke of surrendering himself. He insisted his motive was robbery but [redacted] concluded it was rape with the possible existence of a murder motive. However, since then the defendant has undergone "an incredible change." He has performed significant introspection and dislikes the person he found himself to be. He is absolutely motivated to succeed with MDSO therapy and no matter what the sentencing outcome he should receive the proper counseling. Mr. [redacted] remains uncertain as to whether the defendant should ever be released to society again but "he's trying now, he really is." In view of Smith's jail beating and other reports that there will be further attempts on the defendant's life, [redacted] believes that the defendant's custody should be outside of this state. b6 b7C

[redacted] was also interviewed. He remarked that the defendant always seemed to be a friendly individual who went out of his way to help others. He never became upset nor was he heard to speak a harsh word. Smith lived with his family for several months and always conducted himself in a proper manner with respect to their teen-age daughter. He was a moderate drinker who seemed to need the ego fulfillment of being the center of attention. [redacted] found it very difficult to believe that he had committed this offense. b6 b7C

Telephone contact with New Jersey [redacted] was made. [redacted] knew Vicki Zielinski, [redacted] During his youth the defendant was known as a "wild but likeable kind of fellow." However, during his contacts with the defendant [redacted] he has determined Smith to be a very devious and cunning person in addition to his psychological and criminal problems. He notes he shifted the blame for the Zielinski murde to his [redacted]. He believes the defendant should be incarcerated at prison and states, "There's no reasonable basis to believe he will ever not be a risk to society." b6 b7C

Response to a reference letter forwarded to Playboy Magazine on the defendant's behalf has not been received.

Defense Attorney Thomas Ryan provided the psychiatric evaluation of the defendant by [redacted] dated 3-22-77. This has been attached to the probation report. b6 b7C

Through a contact interview with [redacted]

EVALUATION:

The defendant appears to be a sophisticated, highly intelligent individual who seems to be in good contact with reality. However, throughout his lif he has demonstrated a marginal, self-serving adjustment to the demands of society concomitantly demonstrating little regard for the propriety or consequences of his acts. Now, he reports undergoing a metamorphic change in personality, becoming forthright and determined to achieve rehabilitati through treatment as an MDSO. This claim of aberrent sexual drives is supported by the available psychiatric evaluation which also comments upon the clarity of his introspection. However, his utility of these resources and his ultimate objective do not seem focused toward rehabilitation but his efforts are manipulations of all the persons now interacting with him in an attempt to achieve his desired sentencing. It seems unfortunate that Mr. Smith has not yet recognized that his manipulations of others serve as a manipulations of himself to further ingrain his anti-social, aberrent and violent behavior characteristics. The strength of this personality characteristic and determination with which he holds to it indicate that commitment as an MDSO would achieve little rehabilitative benefit and would probably serve to reward the success of his manipulation

Throughout interview, Mr. Smith attempted to diminish the seriousness of his violent acts portraying them as inadvertent or uncontrolled consequenc of his compulsive behavior. However, the context of the '57 murder and apparent ease with which he stabbed [redacted] clearly indicate an individual who presents a very serious life-threatening posture towards b6 b7C

society which presides over any aberrent sexual orientation he may sustain. It is apparent that Mr. Smith must be excluded from society through incarceration for the maximum term possible.

RECOMMENDATION:

That probation be denied.

Respectfully submitted,

[redacted]

Chief Probation Officer

By:

[redacted] b6 b7C

Deputy Probation Officer II

Approved [redacted] Supervisor

I have read and considered the foregoing report.

JUDGE OF THE SUPERIOR COURT

DM:vvp

987.8 PC FINANCIAL EVALUATION:

Department of Revenue and Recovery has investigated and recommends repayment of court-appointed attorney fees pursuant to 987.8 PC at the rate of $ 0 per month beginning _____, total amount to be set by further order of the Court.

On his declaration of financial status the defendant failed to report his VA Benefits of $128 per month. As the outcome of this sentencing would seem to carry significant custodial provision it would appear that a portion of his VA Benefits can be utilized to make reimbursement for attorney's fees.

RECEIVED MAR 24 1977

[redacted]

b6
b7C

Practice Limited to Psychiatry [illegible] Fourth Avenue San Diego [illegible]

March 22nd, 1977

Thomas J. Ryan, Attorney at Law
Suite 1300
110 West C Street
San Diego, CA 92101

Dear Mister Ryan:-

Many thanks to you for the confidence you expressed in me via your request that I evaluate your client, Edgar Smith. I further appreciate the order you obtained from the Superior Court (CR 38916) which allowed me access to the San Diego County Jail where, on February 3rd, 1977, I saw Mister Smith in a clinical interview lasting for an hour and fifteen minutes. I also am grateful to you for having sent me copies of his biography, prepared by him for the examining psychologist, [redacted] and the printed biographical sketch which appeared in Contemporary Authors. Finally, I appreciate the opportunity to have seen the report by [redacted] of the battery of psychological tests performed upon Mister Smith, dated March 14th, 1977. The conclusions expressed herein are based mainly upon my own clinical interview, although I have read and digested the other material. I am pleased to note that the report by [redacted] is, for the most part, in complete agreement with my own clinical findings.

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Mental status examination per se of Mister Smith reveals a husky, well-developed, healthy-appearing white male who looks his stated age of 43. Personable and gracious in the interview setting, he relates with excellent verbal fluency and facility, using a vocabulary and abstract conceptualizations which indicate an intelligence level well within the normal range -- and probably at least high normal. Affect is generally appropriate to the verbal content expressed, and he is somewhat depressed. The depression is mainly centered about his current legal situation, but at times he verbalizes feelings of shame and guilt over the conduct of his life, and about his impulsivity about which he is free to speak at length. There is no free-floating anxiety. Thought processes, themselves, are unremarkable; he is neither hallucinatory nor grossly delusional, and the train of associations is logical, coherent, relevant and chronological. Memory is intact. Judgment is often under the aegis of his remarkable impulsivity. At times, he appears to be working very hard to impress a listener with his sincerity -- he "oversells himself" at those times, and often perseverates on the topic of his recognition that he is mentally sick and in need of considerable treatment. There are no mental signs of organic central nervous system disease.

Mister Smith says that he thinks he should have seen a psychiatrist a long time ago. ".....I suppose I have problems, but verbalizing them is something else....." He told me that he was charged with kidnapping, assault with a deadly weapon, and attempted murder. He states that he is guilty of kidnapping but not for the purpose of robbery, as charged. He goes on, "I wanted to rape her, but the evidence points to attempted robbery. It's much easier to say to a woman that she's going to be robbed and not raped." He wanted to rape the woman because she was attractive and alone. He says that he often had the impulse to do so with many other women, but that he had always been able to control it, or, at other times other things intervened. He tells me that he has spent the major portion of his life lying to psychiatrists, psychologists, lawyers ".....and everyone. I've always known I've had sexual problems -- since childhood. In high school, I saw myself as sexually inadequate. I didn't make out like the other guys. I never really have communicated well with any woman other than my wife. She's the only person I ever cared for in my whole life, and I think she's the only one who cares about me!"

In his biographical notes, and in [redacted] report, considerable space is devoted to Mister Smith's background and history. I have read this material and it is similar to that which he told me. Because of this, I see no need to repeat this here. Suffice it to say that he spends a great deal of time painting himself as a young man who developed the need to overcompensate for feelings of male inadequacy and for feelings of a lack of a strong male identification. He expresses much resentment toward the Roman Catholic Church which, he says, adversely influenced him during his childhood and youth. I must say that he makes an excellent case for himself. Certainly, he spells out convincing psychodynamics, and there is really no internal logical contradiction to anything he says. The problem is that he is using all of this knowledge not for any real insightful change but rather for manipulative purposes. This has been characteristic of most of his life's activities. This is a man with extraordinary intelligence, sensitivity and perceptive capacity, and he uses all of this to get around people. His tales of his impulsivity are probably correct, and I have no doubts about his intent to rape the young lady in question. Characteristically, of course, he blames the situation -- "This time, there were no restraints!" He says that he was feeling quite depressed at the time because he and his wife were having financial problems. He wanted to write for the San Diego Union. He says, "I wanted to make it on my own. There isn't a better writer in town....." His feeling discouraged and helpless (castrated?) certainly fits in well with his other descriptions of himself at times during which his impulsivity comes to the fore. He appears to be a man with very shaky controls over impulses which must be considered very dangerous. They are the expressions of feelings of considerable hostility toward women, perhaps seen as the extension of his own mother with whom he had a grossly abnormal relationship (cf [redacted] report). In his own comments to me, he pointed out how women had always been a disappointment to him; they never approached his fantasies about them.

b6
b7C

b6
b7C

My clinical opinion of Mister Smith is that he falls within the purview and definition provided by this State's Welfare and Institutions Code for what is termed a mentally disordered sex offender. His proclivities toward hostile acting out toward women are sometimes held in check by himself or by circumstances; at other times, such as in the present instance, he gives vent to those hostile impulses. Hishistory indicates to me that the pattern is an old, longstanding one. He describes "molesting" a pre-pubescent girl when he was in his early adolescence, trying to [redacted] b6 b7C Certainly, youthful experimentation is hardly uncommon, but when force is applied the situation changes.

Diagnostically, my impression is that he represents an antisocial personality. There is considerable dangerous potential within him.

Thank you once again for having referred him to me. I hope that the information contained within this report is helpful to all considering his case.

[redacted] b6 b7C

[redacted]

SAN DIEGO COUNTY JAIL

Edgar Smith

(Inmate's Name)

291343 2X

(Booking Number) (Cell-Block)

IT IS IMPORTANT for the person receiving this letter to read the opposite side.

Applicant's Statement: Page 1

I was charged with, among other offenses part of the same act, kidnapping for the purpose of robbery. (209 P.C.) At trial, under oath, I admitted that I committed the kidnap but maintained it was for the purpose of rape. I was found guilty of all charges. I do not seek probation. My past record shows a juvenile offense (1948) of molesting a young girl, and in 1957 was convicted of first degree murder for the killing during a rape attempt of a 15-year old girl. That conviction was reversed (1971) and I entered a plea of "no defense", was judged guilty of second degree murder and placed on probation. My probation was transferred to San Diego in 1974 and completed in 1976 with no violations or allegations of violations.

It is my belief, the belief of my attorney and the court-appointed psychiatrist and psychologists who examined me that I am a Mentally Disordered Sex Offender, and that a penitentiary sentence at this time would serve no purpose and solve none of my sexual problems. My desire is to be sent before the Sexually Psychiatric Board for evaluation and recommendation. My wife, incidentally, is also undergoing psychiatric counselling so as to better understand my problems

SAN DIEGO COUNTY JAIL

IT IS IMPORTANT for the person receiving this letter to read the opposite side.

(Inmate's Name)

(Booking Number) (Cell-Block)

I am prepared to discuss my problems with you and at length in a personal interview. I need help. I want help. I want to be a human being again. It does not seem possible I can receive that help in a penitentiary, hence my desire to be sent to a place where people like myself are understood, accepted, and given the opportunity to become whole again. I know and accept, as does my wife, that such a process may take many years.

Additionally, and confidentially, an attempt was made last week in the County Jail to kill me because of the sexual crimes I confessed at trial. I have been told, and I believe, that if sentenced to the penitentiary it will be the equivalent of a death sentence.

In conclusion, I do not seek freedom. I seek only to be recognized for what I am and to be sent where I can be helped to help myself.

Edward [illegible]

4-7-77

1 Procedural rights -- I believe you've had e-
2 nough hearings, you've been involved with the process
3 for awhile (inaudible) your terms together, if you're
4 both satisfied that your procedural rights have been
5 met?
6 MR. CLARK: We are not satisfied, Mr. Chairman,
7 and I'd like to make a preliminary objection, if I might.
8 BOARD MEMBER [redacted] Okay. b6 b7C
9 MR. CLARK: I want to make sure that we have
10 clear record.
11 I've read some of the transcripts that have
12 come back from these lifer hearings, and I'm a little
13 bit shocked to find out that almost every other ques-
14 tion and response has the word "unintelligible" behind
15 it.
16 So, I want to speak very slowly and clearly,
17 and make sure that we get a clear record in this case.
18 Our objection is to the reception, admissi-
19 bility, reliability, relevancy, and competency of [redacted] b6 b7C
20 [redacted] (phonetic) interoffice correspondence, which
21 uses the word "assessment."
22 And it was apparently offered by the District
23 Attorney as a psychological report, in opposition to the
24 CDC staff reports by the nine members of the board's
25 Psych Council.

1 The basis of our objection is several.
2 First of all, this is in Professions Code,
3 Section 2903, says that "no person may represent himself
4 as a psychologist, unless he is licensed by the State."
5 I requested a licensed private investigator,
6 [redacted] (phonetic), and I'll be happy to provide b6 b7C
7 the Board with his telephone number and particulars, to
8 determine if [redacted] was qualified to submit a
9 report to the board.
10 He determined that [redacted] was not qua-
11 lified, in that he didn't have a valid State license,
12 he was not an applicant for a license, and as you can
13 see from his resume, he doesn't provide us with any of
14 his educational background.
15 That information on the licensing was checked
16 through [redacted] b6 b7C
17 [redacted] in Sacramento, and his telephone
18 number is [redacted] and the Board can certainly
19 independently verify that information, if they so choose.
20 I will readily admit that there are certain
21 exceptions to the licensing statutes of our state, par-
22 ticularly for governmental employees.
23 However, it's our contention that [redacted] b6 b7C
24 activities fall outside of any of the exceptions created
25 by Business and Professions Code Section 2909, ad sec

1 (phonetic) the Health and Safety Code 1277, and Welfare
2 and Institutions Code, Section 5600.2.
3 We cannot tell from [redacted] resume, as b6 b7C
4 I mentioned before, what his educational achievements
5 are, if any, whether or not he is, in fact, a doctor at
6 all.
7 The preliminary report that I received from
8 Investigator [redacted] reveals that [redacted] may have b6 b7C
9 attended either United States International University,
10 or the College of Professional Psychology in San Diego.
11 And he is this morning, as we talk, attempting
12 to verify attendance, completion of any degrees, status
13 of accreditation, if any, of those institutions, and
14 will be providing that information to us telephonically
15 this morning.
16 Besides the lack of qualifications of [redacted]
17 or [redacted] to make a report, his report lacks suf- b6 b7C
18 ficient indicia (sic) of reliability, in that he never
19 interviewed Mr. Smith himself as part of his so-called
20 assessment.
21 Reports based upon documents that we do not
22 have copies of, and that were not part of the trial of
23 the commitment offense, also greatly disturb us.
24 Furthermore, his report is based, in part, on
25 documents and reports that were ordered barred from the

1 New Jersey case by Judge Gibbons (phonetic), which de-
2 cision, incidentally, was ultimately affirmed by our
3 United States Supreme Court.
4 Of course, this Board is well aware that we
5 are entitled to copies of all of the documents which
6 are to be -- which are not confidential, and which will
7 be considered by it, in rendering its decision.
8 And we know that that rule is codified in
9 California Administrative Code Section 2235.
10 Lastly, we would argue that the prosecutor
11 is without authority to hire or utilize outside psy-
12 chologists, consultants, or experts to impeach the
13 Department's own trained staff, without providing the
14 inmate with an opportunity to cross-examine such person
15 such person as to their qualifications and the basis
16 for their statements under oath.
17 For each and all of those reasons, I would
18 move that [redacted] report, and all the materials b6 b7C
19 that were supplied by the District Attorney's Office
20 be stricken.
21 BOARD MEMBER [redacted] Okay.
22 [redacted]
23 Well, let me just say that the
24 assessment that is given by [redacted] was as much
25 of a summary of the background information as it was a

1 psychological opinion on his part.

2 [redacted] has testified numerous times b6 b7C

3 as [redacted]

4 We felt it was proper to assist the board in

5 terms of developing an overall picture of Mr. Smith

6 during his last thirty-five years of criminal activity.

7 And I felt that this report was a proper sum-

8 mary to do so. The reports that are attached thereto

9 we felt were corroborative of his report -- supportive

10 of his report, and necessary for you, in order to de-

11 termine Mr. Smith's prior background, his prior psy-

12 chiatric evaluations, and his prior criminal activity,

13 and the circumstances surrounding the 1957 murder.

14 I -- we'll submit it on that.

15 PRESIDING MEMBER [redacted] Okay. Well, what b6 b7C

16 I need to know right now is that, is he employed by the

17 District Attorney's Office, or is he just a consultant

18 (inaudible)?

19 [redacted] b6 b7C

20 [redacted]

21 [redacted]

22 [redacted]

23 [redacted]

24 PRESIDING MEMBER [redacted] Well, what I'm say-

25 ing -- does he work with the D.A.'s Office?

Killer freed in N.J. is up for parole in Calif.

Edgar Smith in strong bid to get out

By Michael J. Kelly
Record Staff Writer

A lawn mower hums next to a ranch home. Pink roses and a cedar bush flourish beneath a small maple tree.

Amid this suburban Mahwah setting, nothing remains of the isolated sandpit where Edgar H. Smith Jr. killed a 15-year-old high school cheerleader, Victoria Zielinski, 31 years ago, beating her with a baseball bat and smashing her skull with a 44-pound rock.

Wednesday, at a California prison, law enforcement authorities plan to evoke that bloody scene in an effort to block Smith's parole from a life sentence for the 1976 kidnapping and attempted murder of a San Diego woman.

The battle over Smith's freedom pits prosecutors who feel that he will be violence-prone if turned loose, against mental health experts, who contend that he has curbed his dangerous side.

At issue, say both sides, are fundamental questions of American justice: How much punishment fits a crime, and when, if ever, is a criminal a safe bet to return to free society?

In New Jersey, the mere mention of Smith's name stirs bitterness and fear that he is destined to repeat his criminal past if he gets out of prison.

"Give him time, he'll be Jack the Ripper," said Harold N. Springstead, a former Bergen County assistant prosecutor who worked on the Smith case.

See **KILLER** Page A-3

KILLER

From **KILLER** Page A-1

Smith's ex-wife, Paige Hiemier of Ridgefield Park, has joined the effort to block Smith's parole by sending a letter to the California Board of Prison Terms asking that he be kept behind bars.

"I think he's really dangerous. He's a sociopath," said Hiemier, 34, who married Smith when she was 20. She is a nurse at a New York City hospital and writing a book about her four-year marriage to Smith, which ended in divorce in 1978.

"Once he's gets frustrated or things don't go his way, he takes it out on innocent people," she said in a recent interview. "I don't think he can be rehabilitated."

On New Jersey's death row for 14 years for murdering Zielinski, of Ramsey, on March 4, 1957, Smith wrote a best-selling book and became a cause célèbre of the Sixties movement to ban capital punishment. In 1971, he was freed after a federal judge

Edgar H. Smith Jr. in 1957

ruled that investigators had improperly obtained his confession to Zielinski's murder.

But five years later, Smith landed in a California prison after abducting and trying to kill Lefteria Lisa Ozbun, a 33-year-old San Diego seamstress.

Now 54, Smith has put together a strong parole application, authorities say.

"We're worried he's got a chance to get out," said Richard J. Neely, the San Diego assistant district attorney who prosecuted Smith. "It's going to be hard to keep him in. We've got to battle."

One reason for worry, Neely said, is that psychiatric examinations offer mixed views of Smith's rehabilitation.

Two 1987 California prison psychiatric reports, obtained by The Record, say Smith has changed and received high marks for his job as a prison clerk. One report described him as "psychiatrically a good candidate for parole." Another said his "violence potential" was "well below average for the prison population and average to below average for free society."

But other prison reports obtained by The Record describe Smith as "manipulative" and having made "only short-term gains in managing stress in a nondestructive manner."

Perhaps the most damaging evaluation of Smith is the most recent.

A 90-day psychiatric study completed June 15 diagnosed Smith as continuing to have "conflicts which could lead to re-

o get out," said Richard the San Diego assistant ttorney who prosecuted It's going to be hard to in. We've got to battle." eason for worry, Neely that psychiatric exami- offer mixed views of rehabilitation.

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lay psychiatric study June 15 diagnosed continuing to have which could lead to re-

currences of his violent behavior with women." The report, which describes him as "a man with a long history of parental, primarily maternal, rejection," recommends that Smith enroll in therapy programs and undergo periodic psychiatric evaluations.

"This is only my guess, but the circumstances would indicate that he's going to do some more time," said Larry Kamien, a spokesman at the California Men's Colony-East, the medium-security prison at San Luis Obispo.

"He'll get out eventually. We may be able to keep him another four, five, or six years," said Raymond M. Cameron, a staff psychologist for the San Diego District Attorney's office.

At the colony, Smith is not known for his New Jersey past. Kamien, for example, did not know Smith wrote books or was on death row. "He's not one of our famous prisoners here," Kamien said.

Meanwhile, Smith appears hard at work planning a life as a free man. With his wife, Beverly Bevans, he founded Travel Plus in Santa Clara, Calif., which specializes in charter trips to international horse races.

In 1987, Smith sent a letter to California parole authorities to explain why he was a good candidate for parole. In the letter, a copy of which was obtained by The Record, Smith said Travel Plus "showed a small profit on gross sales of approximately $250,000" in 1986. Smith said in the letter that he contributed $14,000 of his own money to the business and that he continues to donate his monthly $310 veteran's disability check, which he gets for injuries from his Marine Corps service in the 1950s.

In the letter, Smith said he would "assume direct management of office operations" of the travel agency if he were paroled.

"I am equally proud," he wrote, "of my own efforts to plan a future beyond the next few days or weeks, which has been my past perspective."

Smith turned down a written invitation to be interviewed by The Record. His lawyer, Curtis Clark of San Luis Obispo, also declined to comment, saying Smith had ordered him not to talk to the media.

Smith's 56-year-old wife also refused to comment. Authorities say she met Smith when her son, serving a term for robbery, shared a cell with him. Smith's brother, Richard C. Smith of Allendale, and his mother, Ann Chupak of Vero Beach, Fla., also declined to comment.

Zielinski's father died several years ago. Her mother could not be reached for comment.

ROBERT S. TOWNSEND/THE RECORD

Ronald E. Calissi, author of a book about the Victoria Zielinski murder, at the Mahwah site where it happened.

Smith filed 19 appeals to avoid the electric chair, twice getting reprieves only hours before his scheduled execution. From the prison cell once occupied by the Lindbergh baby killer, Bruno Richard Hauptmann, Smith wrote the best seller "Brief Against Death," in which he denied killing Zielinski.

Smith also caught the fancy of conservative columnist William F. Buckley Jr., who regularly exchanged letters with Smith and lauded him as a "national asset" for his witty and lawyerly attempts to prove his innocence.

In 1971, as part of a plea bargain to get out of prison after federal Judge John J. Gibbons ordered that he get a new trial or be turned loose, Smith admitted killing Zielinski. But Smith, on Buckley's public television show, later recanted, saying his admission was merely a way to placate New Jersey authorities and get out of prison.

Buckley, who refused to comment on the parole hearing, cut his ties to Smith after Smith changed his story again during the San Diego kidnapping trial and confessed that he had killed Zielinski.

Smith's habit of changing his story shows that he "is a remorseless killer," said Ronald E. Calissi, the director of the Bergen County Police and Fire Academy and the son of Guy Calissi, the late former prosecutor who gained a conviction against Smith in 1957.

Ronald Calissi, the author of a 1972 book about the Zielinski murder, wrote last month to the California Board of Prison Terms, charging that Smith is a "menace to society."

"The guy is a liar. He's going to kill again," said Calissi. "It's about time we woke up and decided the guy isn't going to get freedom. He should have been condemned to death."

But a few people, such as 77-year-old private investigator A. D. Nicol of Little Ferry, say Smith should never have been imprisoned for Zielinski's murder.

"I actually don't believe Edgar did it," said Nicol, who testified in Smith's defense in 1957 and investigated the case for nine years without pay.

Nicol, who lives on a houseboat in the Hackensack River, has a theory for Smith's confession to the killing.

"I think he was just looking for publicity."

August 3, 1988

JAMES ROWLAND, Director
Department of Corrections
630 K Street
Sacramanto, California
94283-0001

Dear Sir:

I am a life term prisoner, currently housed at CMC-East. My county of commitment is San Diego. My attorney of record is Curtis L. Clark, 972 Santa Rosa Street, San Luis Obispo, California. Telephone: 805-544-2889.

My most recent Board of Prison Terms appearance was scheduled for July 13, 1988. Just prior to that time, I was contacted by a newspaper reporter from New Jersey, a [redacted] who requested that I consent to an interview. I refused. [redacted] then sought to interview my wife and my attorney, both of whom also refused. However, during the course of one conversation with my attorney, [redacted] revealed that he had obtained copies of various psychological evaluations done over recent years by CDC staff personnel, for the use of the BPT. Included in those reports was a Category "X" evaluation done less than two (2) months ago at San Quentin. [redacted] cited the confidentiality of sources in refusing to state how he had obtained those reports from my Central File.

b6
b7C

On July 14, 1988, [redacted] wrote an article for THE RECORD, a Hackensack, New Jersey newspaper. In that article, [redacted] quoted directly from the abovementioned psychological evaluations, and also quoted from other Central File and BPT materials, including a document written by me for the BPT.

b6
b7C

There are, as I see it, two possible sources for the confidential materials obtained by [redacted] (1) He could have received them from a CDC employee with access to Central Files; or (2) he could have obtained them from the San Diego District Attorney, who is provided those materials by the Classification and Parole Representative on behalf of the BPT.

COPY

It is my belief, based on prior experience, that the material was most probably supplied to [redacted] by the San Diego District Attorney's Office. I have attached copies of correspondence indicating the ethical standards previously observed by that office in this case. It is worth noting that the so-called [redacted] was also interviewed and quoted in the July 14th article by [redacted] and the District Attorney's Office continues to allow him to present himself as a "staff psychologist for the San Diego District Attorney's Office." b6 b7C

I am requesting that this matter be referred to the Investigations Unit to determine the identity of the person(s) responsible for providing [redacted] with confidential documents that are the property of the Department of Corrections, and which are covered by the California Privacy Laws. The Director's authority in this matter is contained in both the Penal Code relating to Correctional Records, and in Title 15, Division 3, Chapter 1, Director's Rule 3361(c), which states in part "...*records of mental health diagnosis, evaluation, and treatment prepared or maintained by the department shall remain the property of the department and are subject to all applicable laws governing their confidentiality and disclosure....*"

Copies of the July 14th newspaper article may be obtained from my attorney of record.

Copies of this letter are being sent to the persons listed below.

I am requesting that my attorney advise me as to what civil legal action might be available to me in this matter.

Very truly yours,

Edgar H. Smith

cc: Curtis L. Clark, Attorney at Law
[redacted] CMC/East
[redacted] Correctional Counselor I
File

b6 b7C

Encls. (2)

COPY

EDGAR H. SMITH
B-82784 ROOM 6311
POST OFFICE BOX 8101
SAN LUIS OBISPO, CALIFORNIA
93409-0001

August 3, 1988

Psychology Examining Committee
Board of Medical Quality Assurance
DEPARTMENT OF CONSUMER AFFAIRS
1430 Howe Avenue
Sacramento, California
95825

COPY

Dear Sirs:

On July 14, 1986, I filed a letter/complaint with your department concerning a [redacted] who had been presented to the California Board of Prison Terms by the San Diego County District Attorney as his *"staff psychologist."* (See attached letter copy.) b6 b7C

On February 26, 1987, [redacted] of your department, wrote a letter to the District Attorney, informing that official that [redacted] was not licensed to practice psychology in California. [redacted] also sent the District Attorney a Certificate of Non-Licensure pertaining to [redacted] b6 b7C

Please be advised that on July 14, 1988, in an article in THE RECORD, a Hackensack, New Jersey newspaper, [redacted] was interviewed and again presented himself as *"a staff psychologist in the San Diego District Attorney's Office."* Also interviewed in the same article was a [redacted] b6 b7C

I assume your department will take the appropriate action. A copy of the newspaper article may be obtained from my attorney, Mr. CURTIS L. CLARK, 972 Santa Rosa Street, San Luis Obispo, California. Tel. 805-544-2889.

Very truly yours,

Edgar H. Smith

STATE OF CALIFORNIA—STATE AND CONSUMER SERVICES AGENCY GEORGE DEUKMEJIAN, Governor

DEPARTMENT OF Consumer Affairs

BOARD OF MEDICAL QUALITY ASSURANCE

1430 HOWE AVENUE
SACRAMENTO, CA 95825

February 26, 1987

MAR 06 1987
C.M.C. Post

[redacted] b6 b7C

Office of the District Attorney
101 W. Broadway, Ste. 1440
San Diego, CA 92101

Dear [redacted]

Enclosed is a copy of a complaint received by the Psychology Examining Committee from EDGAR SMITH, JR. The complaint is concerning a psychological assessment of Mr. Smith apparently submitted to the California Board of Prison Terms by your office. The assessment was allegedly performed by [redacted] who is described in your letter of June 18, 1986 to the California Men's Colony in San Luis Obispo as your staff psychologist. b6 b7C

The Psychology Examining Committee has reviewed this information and they have asked me to bring to your attention that according to their records, [redacted] is not licensed to practice psychology in California. Enclosed is a Certification of Non-Licensure executed by the Committee's staff. We have also confirmed that [redacted] is not licensed with the Board of Behavorial Sciences Examiners in any capacity. b6 b7C

Assuming that this notice will serve the informative purpose for which it was intended, the Committee has advised me to close this case.

Thank you for your consideration of the above information.

[redacted] b6 b7C

CONSUMER SERVICES REPRESENTATIVE
DIVISION OF ALLIED HEALTH PROFESSIONS

cc: Edgar Smith, Jr.

enclosure - Certification of Non-Licensure

[redacted]

EDGAR H. SMITH, JR.
B-82784 Room 6326
Post Office Box 8101
San Luis Obispo, California
93409-0001

July 14, 1986

GRIEVANCE COMMITTEE
State Bar Association of California
555 Franklin Avenue
San Francisco, CA 94102

Dear Sirs:

On June 18, 1986, [redacted] sent to the California Board of Prison Terms, at the California Men's Colony, San Luis Obispo, what he purported to be a psychological assessment or evaluation of me. The report was prepared for the District Attorney by a man the District Attorney described in a cover letter as "my staff psychologist, [redacted] b6 b7C

The report submitted by [redacted] through the District Attorney, challenged a report of a Department of Corrections Psychiatric Council, consisting of six (6) Staff and Senior Psychologists and Psychiatrists employed the by the Department of Corrections. The [redacted] report contained both a psychological diagnosis and personality assessment, as well as a prediction of future violence potential based upon psychological factors. However, [redacted] had not interviewed me for his report, nor had he ever laid eyes on me in his life. Yet he attempted to make a psycholigical/personality assessment contradicting the evaluations of the Department of Corrections licensed psychologica psychiatric staff. Moreover, [redacted] used materials upon which to base his conclusions which were over 29 years old, and which had been barred from any such use by a Federal Court, a fact fully known to the District Attorney. b6 b7C

Shortly after receiving a copy of the [redacted] report, I retained a private investigator [redacted] of San Jose) to conduct an investigation into the background of the so-called [redacted] The Board of Medical Quality Assurance was contacted and informed us that there was no [redacted] licensed to present himself as a psychologist ir the State of California. Further investigation failed to reveal any background to indicate an educational or professional background in the field of psychology for [redacted] We were unable to verify his b6 b7C

claimed Ph. D.

On the basis of the investigation, my attorney, Curtis L. Clark, of San Luis Obispo, appeared with me before the Board of Prison Terms on July 1, 1986, and he objected to the introduction of the [redacted] report. Board of Prison Terms counsel was consulted and, on advice of counsel, the Board of Prison Terms rejected the report. b6 b7C

I have discussed this matter with the psychological/psychiatric staff here at the California Men's Colony, and they were unanimous in recommending that I file a complaint with the Board of Medical Quality Assurance. That complaint has been filed this date.

I note that the Board of Prison Terms rejection of the [redacted] report was based in part on Section 5068.5 P.C., as well as our objection to the District Attorney's deliberate use of materials barred from such use by a Federal Court. U.S. ex rel SMITH v. N.J.,336 F. Supp. 1287, at 1304-05; 451 F.2d 165; Cert. Den. 404 U.S. 859. b6 b7C

Attached you will find a copy of the District Attorney's cover letter describing [redacted] as "staff psychologist, [redacted] b6 b7C

This letter is an advisement to the Bar Association for such action as the Association may find appropriate. It is my belief that even had [redacted] been a licensed psychologist, it was inappropriate for the District Attorney to supply him with materials the District Attorney knew were barred by Federal Court order for such use, and to seek to introduce those materials as part of the [redacted] report.

Very truly yours,

EDGAR H. SMITH, JR.

Encls. (1)

cc: Curtis L. Clerk
Attorney at Law
972 Santa Rosa Streeet
San Luis Obispo CA 93401

EDGAR H. SMITH, JR.
B-82784 Room 6326
Post Office Box 8101
San Luis Obispo, California
93409-0001

July 14, 1986

Department of Consumer Affairs
Board of Medical Quality Assurance
1430 Howe Avenue
Sacramento, California 95814

Dear Sirs:

On June 18, 1986, [redacted] b6 b7C sent to the California Board of Prison Term, at the California Men's Colony, San Luis Obispo, what he purported to be a psychological assessment or evaluation of me. The report was prepared for the District Attorney by a man the District Attorney described to the Board of Prison Terms as "my staff psychologist, [redacted]

The report submitted by the District Attorney directly challenged a report of a Department of Corrections Psychiatric Council, which consisted of six (6) Staff or Senior Psychologists and Psychiatrists employed by the Department of Corrections. The report by [redacted] b6 [redacted] contained a psychological diagnosis and a prediction of b7C future violence potential. However, the so-called "Doctor" had not interviewed me for his report, and to the best of my knowledge had never in his life laid eyes on me. Yet he attempted to make a psychological/personality assessment contradicting the evaluations of the Department of Corrections licensed psychiatric/psychological staff. Moreover, he used materials upon which to base his report which were over 29 years old, and had been barred from any such use by a Federal Court.

Your office was contacted to determine the credentials of [redacted] b6 [redacted] and an examination of his background was conducted by a b7C private investigator. [redacted] of your office was contacted. It was determined that [redacted] was not licensed by the State of California (or anywhere else that we could determine) to conduct himself or present himself as a psychologist. While he claimed a Ph. D. for himself, we were unable to determine whether it was a

legitimate degree, or in what discipline it was earned. For those reasons, and based in part on Section 5068.5 P.C., counsel for the Board of Prison Terms barred the admission of the [redacted] report. b6 b7C

I have discussed this matter with psychiatric/psychological staff at the California Men's Colony, and they were unanimous in recommending that I inform your Agency of the attempt by the District Attorney to present [redacted] as a psychologist, and of [redacted] attempt to conduct and present himself as such. I was advised that your Agency would notify the appropriate Agency in San Diego County

Attached you will find a copy of the letter from the District Attorney to the Board of Prison Terms, in which he identifies [redacted] as "my staff psychologist, [redacted]

Very truly yours,

Edgar H. Smith, Jr.

Encls.(1)

U.S. Department of Justice

Federal Bureau of Investigation

In Reply, Please Refer to
File No.

11000 Wilshire Boulevard
Los Angeles, California 90024
September 26, 1988

Curtis L. Clark, Esquire
Attorney at Law
972 Santa Rosa
San Luis Obispo, California 93401

RE: EDGAR SMITH
CDC # B-82784

Dear Mr. Clark:

Your letter and enclosure were received at Santa Maria, California, on September 26, 1988. A report concerning this matter is being prepared and will be submitted to the Civil Rights Division, United States Department of Justice, Washington, D. C., and to the United States Attorney, Central District of California, Los Angeles, California, with in a matter of days. We note that Edgar Smith was transferred to the California Medical Facility, Vacaville, California, on September 1, 1988.

The Federal Bureau of Investigation (FBI) does not set the agenda for activities of the Civil Rights Division, United States Department of Justice, therefore we know not if they will take any action regarding this matter or if you will receive any timely communication from them.

We will soon close this investigative file and no further action will be taken unless the Department of Justice subsequently request some additional activity.

Sincerely yours,

LAWRENCE G. LAWLER
Special Agent in Charge

[redacted] b6 b7C

By: [redacted]
Supervisory Senior Resident Agent

1 - Addressee
1 - Los Angeles (187-23)
(WCC-4/SMRA) (P)
RJL:kbg
(2)

187-23-3

FD-263 (Rev. 4-30-85)

FEDERAL BUREAU OF INVESTIGATION

REPORTING OFFICE	OFFICE OF ORIGIN	DATE	INVESTIGATIVE PERIOD
LOS ANGELES	LOS ANGELES	9/27/88	9/2/88 - 9/26/88

TITLE OF CASE	REPORT MADE BY	TYPED BY
RON GALASSI; EDGAR H. SMITH, aka Edgar H. Smith, Jr., Edgar Smith, Edgar Herbert Smith, Edgar Herbert Smith, Jr., Prison Number B-82784 - VICTIM	SA [redacted]	kbg
	CHARACTER OF CASE PRIVACY ACT OF 1974 (CRIMINAL)	

b6
b7C

REFERENCE: Los Angeles airtel to the Bureau (FD-610) dated 9/2/88.

- C -

ADMINISTRATIVE:

A copy of this report is provided to the Sacramento Division as the alleged victim of this matter is now housed at the California Medical Facility, Vacaville, California, and the DEPARTMENT OF JUSTICE may request additional investigation.

APPROVED LGL/AR SPECIAL AGENT IN CHARGE

DO NOT WRITE IN SPACES BELOW

COPIES MADE:

3 - Bureau (Enc. 1)
1 - USA, Los Angeles (Enc. 1)
1 - Sacramento (INFO)
1 - Los Angeles (187-23)
(AP-1/SMRA) KBG

SEARCHED
INDEXED
SERIALIZED
FILED

Dissemination Record of Attached Report				
Agency				
Request Recd.				
Date Fwd.				
How Fwd.				
By				

Notations

187-23-4

FOIA/PA
Do Not Destroy Serial
Prior To 11-15-94
File No. 190-2589

COVER PAGE

-A*-

FBI/DOJ

FD-204 (Rev. 3-3-59)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to: 1 - USA, Los Angeles

Report of: SA [redacted] Office: Los Angeles b6 b7C
Date: 9/27/88

Field Office File #: 187-23 Bureau File #:

Title: RON CALASSI;
EDGAR H. SMITH, Prison Number B-82784 - VICTIM

Character: PRIVACY ACT OF 1974 (CRIMINAL)

Synopsis:

By letter dated August 28, 1988, State of California inmate EDGAR H. SMITH, Prison Number B-82784, then housed at the CALIFORNIA MENS COLONY (CMC), San Luis Obispo, California, claimed himself to be the victim of a violation of the Federal Privacy Act of 1974 in that a psychiatric evaluation done while he was in the UNITED STATES MARINE CORPS was illegally provided to the Board of Prison Terms (Parole Board) opposing his release on parole. Inmate SMITH claims the psychiatric report done by the military was a confidential document protected from release. CURTIS L. CLARK, Esquire, Attorney, San Luis Obispo, California, represents inmate SMITH and provided documentation concerning this matter which is being enclosed separately to the Civil Rights Division, UNITED STATES DEPARTMENT OF JUSTICE.

- C -

Enclosure:

Enclosed to the Civil Rights Division, UNITED STATES STATES DEPARTMENT OF JUSTICE, Washington, D. C., and to the United States Attorney for the Central District of California, Los Angeles, California are background documents provided by CURTIS L. CLARK, Esquire, Attorney at Law, 972 Santa Rosa, San Luis Obispo, California 93401.

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

FBI/DOJ

Details:

This inquiry is based upon a letter received from inmate EDGAR H. SMITH, Prison Number B-82784, then housed at the CALIFORNIA MENS COLONY, San Luis Obispo, California, which is set forth as follows:

August 28, 1988

Special Agent in Charge
Federal Bureau of Investigation
2739 Santa Maria Way
Santa Maria, California

Dear Sir:

I am a life term prisoner at the California Men's Colony. I am also a veteran of the U.S. Marine Corps (SS #1305436) discharged in 1954.

On July 12, 1988 I was scheduled for a parole hearing at the California Men's Colony. The day prior to that, my attorney informed me that the Board of Prison Terms had received a letter from a private citizen from New Jersey, a Mr. RON CALISSI, who was opposing the granting of a parole date to me. Attached to Mr. Calissi's letter to the Board of Prison Terms was a copy of a psychiatric evaluation done of me at Tripler Army Hospital, Oahu, Hawaii, while I was on active duty with the Marine Corps.

My attorney objected to the admission of the documents, but the Board of Prison Terms nevertheless accepted and filed them.

The psychiatric report is a confidential military document covered by the Federal Privacy Act. Without my written consent, which I have not given, it may not be released to any private citizen, nor to any agency such as the Board of Prison Terms.

It is my request that this letter be referred to the appropriate Field Office or Agency for investigation as to how the confidential military record was obtained by Mr. Calissi, and whether legal action would be appropriate.

A copy of the psychiatric report and additional information may be obtained from my attorney, CURTIS L. CLARK, 972 Santa Rosa Street, San Luis Obispo (805) 544-2889.

Very truly yours,

Edgar H. Smith B-82784
Room 6311
Box 8101
San Luis Obispo, California 93409-0001

cc: Curtis L. Clark
Board of Prison Terms

1
LA 187-23
RJL:kbg

AT SAN LUIS OBISPO, CALIFORNIA:

On September 2, 1988, telephone inquiry to Attorney CURTIS L. CLARK, San Luis Obispo, California, determined that he represents SMITH and supports the claim of Privacy Act violation. CALISSI was identified as the son of SMITH's prosecutor for murder in New Jersey during 1957. Many documents used at that trial, including the military psychiatric document in question, were ordered to be suppressed by the United States Supreme Court. Attorney CLARK has established that CALISSI has involved himself in a conspiracy with the District Attorney prosecutor in San Diego, California, to keep SMITH from receiving a parole date. Other pseudo psychiatric documents prepared by an unlicensed individual were submitted by the San Diego prosecutor. A newspaper reporter is also involved; CALISSI may have written a book concerning SMITH.

Attorney CLARK will provide documents to the Federal Bureau of Investigation (FBI) regarding this matter.

SMITH, a white male, born February 8, 1934, in New Jersey, FBI Number 519 813 C, Social Security Account Number 147-26-2510, is housed at the CALIFORNIA MENS COLONY, a State of California prison at San Luis Obispo, California. He is serving a San Diego County Superior Court life sentence rendered 1977 for Kidnapping for Ransom, Attempted Murder, Attempted Armed Robbery, and Assault with Intent to Murder. His previous conviction was for Murder at Hackensack, New Jersey, during 1957.

On September 9, 1988, records of the CALIFORNIA MENS COLONY were reviewed and they indicate that inmate EDGAR SMITH, Prison Number B-82784, was transferred to the CALIFORNIA MEDICAL FACILITY, Vacaville, California, on September 1, 1988. The prison file concerning inmate SMITH is currently held at the CALIFORNIA MEDICAL FACILITY.

CURTIS L. CLARK
ATTORNEY AT LAW
(805) 544-ATTY
(805) 544-2889

972 SANTA ROSA
SAN LUIS OBISPO, CALIFORNIA 93401

P. O. BOX 1578
SAN LUIS OBISPO, CALIFORNIA 93406

September 22, 1988

[redacted]

b6
b7C

Federal Bureau of Investigation
Santa Maria Branch
P. O. Box 1159
Santa Maria, CA 93456

RE: Edgar Smith
CDC No. B-82784

Dear [redacted]

I apologize for the amount of time it has taken for me to respond to your inquiry concerning Edgar Smith, but, as you know, I have been involved in a lengthy criminal trial which just ended.

Enclosed you will find copies of certain documents, some of which have illegally been offered as evidence at Mr. Smith's Board of Prison Terms hearings, as well as distributed to reporters and other "interested" parties. These documents include the following:

1. A complete copy of the various documents sought to be introduced by [redacted] Said documentation includes military, medical and psychological records. Also included is a report by a [redacted] which was based in part on the aforesaid privileged documentation.

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2. A copy of the relevant pages concerning an objection I made to the introduction of said materials at Mr. Smith's July 1, 1986, Board of Prison Terms hearing.

3. A copy of a newspaper article from The Record, a newspaper in the New Jersey area, which shows that [redacted] was the unlawful recipient of privileged materials from Edgar Smith's files.

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4. A copy of letters dated August 3, 1988, by Mr. Smith to the Department of Consumer Affairs and the Department of Corrections complaining about [redacted] continued misrepresentations of [redacted] as a psychologist and the disclosures of privileged information to The Record.

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5. Various letters subsequent to the 1986 hearing in complaint and response concerning [redacted] and the utilization of materials previously sealed by federal court order.

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Thank you for your time spent in investigating these flagrant violations of Mr. Smith's civil rights. It appears to me that both Messrs. [redacted] and Calissi are the principal sources of the unauthorized disclosures as a result of their own personal and other motivations.

b6
b7C

If you should have other questions regarding this matter, please feel free to contact my office.

Sincerely,

LAW OFFICE OF CURTIS L. CLARK

Curtis L. Clark

Curtis L. Clark

CLC/[redacted]
Enclosures
cc: Mr. Edgar Smith

b6
b7C

U.S. Department of Justice

Federal Bureau of Investigation

In Reply, Please Refer to
File No.

11000 Wilshire Boulevard
Los Angeles, California 90024
September 26, 1988

Curtis L. Clark, Esquire
Attorney at Law
972 Santa Rosa
San Luis Obispo, California 93401

RE: EDGAR SMITH
CDC # B-82784

Dear Mr. Clark:

Your letter and enclosure were received at Santa Maria, California, on September 26, 1988. A report concerning this matter is being prepared and will be submitted to the Civil Rights Division, United States Department of Justice, Washington, D. C., and to the United States Attorney, Central District of California, Los Angeles, California, with in a matter of days. We note that Edgar Smith was transferred to the California Medical Facility, Vacaville, California, on September 1, 1988.

The Federal Bureau of Investigation (FBI) does not set the agenda for activities of the Civil Rights Division, United States Department of Justice, therefore we know not if they will take any action regarding this matter or if you will receive any timely communication from them.

We will soon close this investigative file and no further action will be taken unless the Department of Justice subsequently request some additional activity.

Sincerely yours,

LAWRENCE G. LAWLER
Special Agent in Charge

b6
b7C

By: [redacted]

Supervisory Senior Resident Agent

LA 187-23

Persons for the Civil Rights Division, UNITED STATES DEPARTMENT OF JUSTICE, to notify concerning this matter are:

1. EDGAR SMITH, Inmate, Prison Number B-82784, CALIFORNIA MEDICAL FACILITY, Post Office Box 2000, Vacaville, California 95696.

2. CURTIS L. CLARK, Esquire, Attorney at Law, 972 Santa Rosa, San Luis Obispo, California 93401.

187-23-5

SEARCHED ____ INDEXED ____
SERIALIZED ____ FILED ____

FEB 26 1969

FBI — LOS ANGELES

EDGAR H. SMITH

B-82784 P-102-L
POST OFFICE BOX 2000
VACAVILLE, CALIFORNIA
95696-2000

January 26, 1989

United States Department of Justice
FEDERAL BUREAU OF INVESTIGATION
11000 Wilshire Boulevard
Los Angeles, California 90024

Dear Sirs:

Pursuant to my Freedom of Information - Privacy Acts request, your office provided me with a copy of the investigative report resulting from my letter of August 28, 1988 to the Santa Maria Field Office. Your Field Office File #187-23 was indicated on the report. The covering letter indicated a File #190-2589.

I wish to correct an incorrect statement on page four of the report, first paragraph, which is apparently the report of your Santa Maria Field Office Special Agent. He states:

> "Many docments used at that trial, **including the military psychiatric document in question,** were ordered to be suppressed by the United States Supreme Court." [Emphasis supplied.]

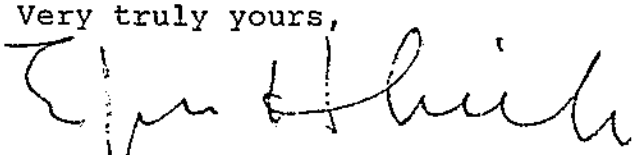
That statement is incorrect. The military psychiatric document was not among the documents admitted at the trial referred to -- which took place in 1957. It is not one of the documents suppressed by the Supreme Court for the simple reason that it was never in evidence. And because it was not in evidence, it was not a matter of public record.

My letter of August 28th to the Santa Maria Field Office was directed specifically to the question of how Mr. Calissi obtained the confidential military psychiatric report, which is a protected document under the Federal privacy Acts. As noted in that letter, I never gave my consent to the

release of that confidential federal document to Mr. Calissi, and my only assumption can be that he obtained it by some unauthorized means. It is to that point I wished to direct the investigation, and to that point that any further action on the part of the Civil Rights Division should be considered. What Mr. Calissi did with the document is not an issue. How he obtained the confidential federal document is an issue.

I would appreciate your making this correction and/or clarification of your report a part of the file in this matter, and that copies be forwarded to the agencies and departments provided with copies of the report.

Very truly yours,

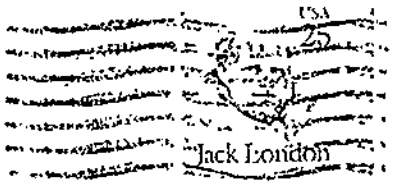


EDGAR H. SMITH

cc: Curtis L. Clark
Law Offices
972 Santa Rosa Street
San Luis Obispo CA

EDGAR H. SMITH
B-82784 P-102-L
BOX 2000
VACAVILLE CA 95696-2000

AP-1



UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
11000 WILSHIRE BOULEVARD
LOS ANGELES, CALIFORNIA
90024

FD-263 (Rev. 4-30-85)

FEDERAL BUREAU OF INVESTIGATION

REPORTING OFFICE	OFFICE OF ORIGIN	DATE	INVESTIGATIVE PERIOD
LOS ANGELES	LOS ANGELES	2/21/89	2/6/89

TITLE OF CASE	REPORT MADE BY	TYPED BY:
RON CALASSI; EDGAR H. SMITH, aka Edgar H. Smith, Jr., Edgar Herbert Smith, Edgar Herbert Smith, Jr., Prison Number B-82784 - VICTIM	SA [redacted]	kbg
	CHARACTER OF CASE PRIVACY ACT OF 1974 (CRIMINAL)	

b6
b7C

- C -

APPROVED LGL/AP SPECIAL AGENT IN CHARGE

DO NOT WRITE IN SPACES BELOW

COPIES MADE:
3 - Bureau
1 - USA, Los Angeles
(Attn: AUSA [redacted]) 2/27/89
1 - Sacramento
1 - Los Angeles (187-23) (AP-1/SMRA)

b6
b7C

C
6
AP

187-23-6

DISSEMINATION RECORD OF ATTACHED REPORT				
Agency				
Request Recd.				
Date Fwd.				
How Fwd.				
By				

Notations

SEARCHED
INDEXED
SERIALIZED
FILED

COVER PAGE

FD-204 (Rev. 3-3-59)

UNITED STATES DEPARTMENT OF JUSTICE
Federal Bureau of Investigation

Copy to: 1 - USA, Los Angeles
(Attention: AUSA [redacted]

b6
b7C

Report of: SA [redacted] Office: LOS ANGELES
Date: 2/21/89

Field Office File #: 187-23 Bureau File #:

Title: RON CALASSI;
EDGAR H. SMITH, Prison Number B-82784 - VICTIM

Character: PRIVACY ACT OF 1974 (CRIMINAL)

Synopsis: EDGAR H. SMITH, the victim concerning this matter, obtained copy of previously submitted report regarding this matter under Freedom of Information Act request and takes exception to portion thereof. SMITH's letter correcting previously submitted information is set forth.

- C -

Details:

In a letter dated January 26, 1989, postmarked January 27, 1989, inmate EDGAR H. SMITH, Prison Number B-82784, currently housed in a State of California prison at Vacaville, California, corrects an inaccurate paragraph previously submitted report concerning this matter. The previous report was dated September 27, 1988. The letter is set forth as follows:

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

Edgar H. Smith B-82784 Room 6311
Box 8101
San Luis Obispo CA 93409-0001

SANTA BARBARA CA 931 3B
PM
29 AUG
1988

Bread Wagon 1880s
25 USA
ALWAYS
USE ZIP CODE

CONFIDENTIAL

SPECIAL AGENT IN CHARGE
FEDERAL BUREAU OF INVESTIGATION
FIELD OFFICE
2739 SANTA MARIA WAY
SANTA MARIA, CALIFORNIA

Routing Slip
0-7 (Rev. 5-19-88) (Copies to Offic[illegible]ecked)

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☐ ASAC, Brooklyn-Queens (MRA)

TO: LEGAT,

2-21-89
Date

RE: Ron Calissi, ET AL;
(Edgar Herbert Smith, Jr - victim
187-23* 11/88
LA file 187-23

☑ For information ☐ Retention optional ☐ For appropriate action ☐ Surep, by _____

☐ The enclosed is for your information. If used in a future report, ☐ conceal all sources, ☐ paraphrase contents.

☐ Enclosed are corrected pages from report of SA _____ dated _____.

Remarks:

187-23-8

INDICES SEARCHED:

MANUALLY mjs

FOIMS mjs

SEARCHED mjs INDEXED ____
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FEB 24 1989
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LA 187-23-9

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SEP 26 1988

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[redacted]

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