

CORNELL UNIVERSITY DEPARTMENT OF PUBLIC SAFETY

INVESTIGATION REPORT

OTHER AGENCY

CASE NO. 83-422

83-003451

1. C-1 COMPLAINANT (LAST NAME) Baker FIRST Richard MIDDLE J. DOB 12/4/53  
 ADDRESS 134 Judd Falls Road COUNTY Tompkins PHONE 257-2696  
 EMPLOYER 312-C Fernow Hall ADDRESS 256-3191 OCCUPATION Grad Student  
 PLACE OF OCCURRENCE "SPECIFIC LOCATION" 312-C Fernow Hall (east)  
 DATE REPORTED 3/5/83 DAY REPORTED Sat TIME REPORTED 1400 DATE OCCURRED 3/4-3/5/83 DAY OCCURRED Fri-Sat TIME OCCURRED 2400-1200  
 RECEIVED BY PO Bruene HOW RECEIVED In Person WEATHER  CLOUDY  CLEAR  RAIN  SLEET  SNOW  
 CHARACTER OF CASE Burglary

2. TYPE OF BLDG. Academic SECURED yes ENTRY   
 OCCUPIED unk EXIT   
 MODE OF ENTRY OR MANNER COMMITTED T-1 climbed over partition and removed P-1 & P-2  
 TOOL, WEAPON OR METHOD USED

3. CODE: STOLEN (S) USED IN CRIME (C) CRIM. MISCH. (M) RECOVERED (R) EVIDENCE (E) OTHER (O)

NO.	CODE	QTY.	DESCRIPTION	I.D. - SERIAL NUMBER	MONETARY VAL.
P-1	S	1	Biometry, 2 <sup>nd</sup> ed. by Robert R. Sokal & F. James Rohlf		31.95
P-2	S	1	The Life of Birds 3 <sup>rd</sup> ed. by Joel Carl Welty		22.45

4. V-1  USED IN CRIME  ACC. NON-MV  CRIM. MISCH.  STOLEN  RECOVERED  OTHER

DESCRIPTION - MAKE \_\_\_\_\_ YR. MFG. \_\_\_\_\_ REG. NO. \_\_\_\_\_ STATE \_\_\_\_\_

COLOR \_\_\_\_\_ BODY - MODEL \_\_\_\_\_ VIN - ID NO. \_\_\_\_\_

STOLEN MV - KEY IN IGNITION YES  NO   
 RECOVERED - RUNNING CONDITION YES  NO

5. W-1  USED IN CRIME  LAWFUL SURRENDER  UNLAWFUL POSS.  STOLEN  OTHER

REVOLVER  PISTOL  RIFLE  SHOTGUN  OTHER

MAKE - TYPE/MODEL \_\_\_\_\_ CAL.-GA. \_\_\_\_\_ OWNER OR REGISTRANT \_\_\_\_\_

SERIAL NO. \_\_\_\_\_ UNLOADED  LOADED  ADDRESS \_\_\_\_\_

FINISH: BLUE  SILVER  TOT. CAPACITY \_\_\_\_\_ PISTOL PERMIT NO. \_\_\_\_\_ DATE ISSUED \_\_\_\_\_

RDS. FIRED \_\_\_\_\_ COUNTY OF ISSUE \_\_\_\_\_

UNEXPENDED RDS. \_\_\_\_\_

6. D-1 TYPE DOCUMENT \_\_\_\_\_ NAME OF RECEIVER \_\_\_\_\_


REASON:  NO ACCT.  ACCY.  INSUFF. FUNDS  FORGERY

NAME OF MAKER - I.D. OR ADDRESS GIVEN \_\_\_\_\_ IDENTIFIABLE: YES  NO

BANK DRAWN ON - ADDRESS \_\_\_\_\_ DOC. NO. \_\_\_\_\_ PHOTO - SUSPECT YES  NO

DOCUMENT AMOUNT \_\_\_\_\_ MONEY, PROPERTY OR SERVICE OBTAINED \_\_\_\_\_

7. DESCRIBE OR LIST PHYSICAL DAMAGE OR ANY OTHER LOSS

 **COPY**

8. INSUR. PROPERTY INSURED YES  NO  NAME OF INSURER \_\_\_\_\_ AMT. INSURANCE \_\_\_\_\_ TOTAL VALUE 54.40

9. DISPOSITION

NO.	DATE	DISPOSITION

10. WITNESSES

NO.	NAME (LAST, FIRST, MIDDLE) - ADDRESS	AGE	DOB
WT-1			

MAY 11 11 11 AM '83  
DO NOT REMOVE

CODE: ASSAULT (A) HOMICIDE (H) SUICIDE (S) ATTEMPTED SUICIDE (AS)		NATURAL DEATH (ND) ACCIDENT VICTIM (AV) OTHER (O)									
V I C T I M	S-1	CODE	NAME (LAST, FIRST, MIDDLE) ADDRESS	SEX	AGE	DOB					
	NATURE OF INJURIES		HOSPITAL AND/OR PHYSICIAN								
	DATE OF DEATH		CORONER OR M. E.		AUTOPSY YES <input type="checkbox"/> NO <input type="checkbox"/>		PATHOLOGIST				
	KIN NOTIFIED YES <input type="checkbox"/> NO <input type="checkbox"/>										
V I C T I M	S-2	CODE	NAME (LAST, FIRST, MIDDLE) ADDRESS	SEX	AGE	DOB					
	NATURE OF INJURIES		HOSPITAL AND/OR PHYSICIAN								
	DATE OF DEATH		CORONER OR M. E.		AUTOPSY YES <input type="checkbox"/> NO <input type="checkbox"/>		PATHOLOGIST				
	KIN NOTIFIED YES <input type="checkbox"/> NO <input type="checkbox"/>										
V I C T I M	S-3	CODE	NAME (LAST, FIRST, MIDDLE) ADDRESS	SEX	AGE	DOB					
	NATURE OF INJURIES		HOSPITAL AND/OR PHYSICIAN								
	DATE OF DEATH		CORONER OR M. E.		AUTOPSY YES <input type="checkbox"/> NO <input type="checkbox"/>		PATHOLOGIST				
	KIN NOTIFIED YES <input type="checkbox"/> NO <input type="checkbox"/>										
T I T L E	12 CODE: UNK. SUBJ. (U) PERPETRATOR (P) DEFENDANT (D) WANTED-WARRANT (W) CRIM. SUM. (S) ACCOMPLICE (A) OTHER (O)										
	T-1	CODE	NAME (LAST, FIRST, MIDDLE) ADDRESS ALIAS	SEX	AGE	DOB					
	T-2		17 South Ave Ithaca NY								
	T-3										
W A N T E D	TITLE NO.		RACE	HT.	WT.	HAIR	EYES	CRIME	SECTION	LAW	
	JUDGE - NAME, ADDRESS AND TITLE								COUNTY	DATE ISSUED	EXTRADITE YES <input type="checkbox"/> NO <input type="checkbox"/>
	TITLE NO.		RACE	HT.	WT.	HAIR	EYES	CRIME	SECTION	LAW	
	JUDGE - NAME, ADDRESS AND TITLE								COUNTY	DATE ISSUED	EXTRADITE YES <input type="checkbox"/> NO <input type="checkbox"/>
N Y S P I R Y	NYSIS		NO.	FILE	DATE	STATION	CANCEL		NO.	DATE	
	INQUIRY		YES <input type="checkbox"/> NO <input type="checkbox"/>								
	NCIC		YES <input type="checkbox"/> NO <input type="checkbox"/>								
	IR		YES <input type="checkbox"/> NO <input type="checkbox"/>								
I D	PHOTOS TAKEN BY WHOM				DUSTED FOR LATENT PRINTS BY WHOM						
	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>				YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>						
O A	OTHER AGENCY NOTIFIED			RESPONDED	IF "YES" NAME OF PERSON IN CHARGE - IF "NO" NAME OF PERSON NOTIFIED						
	NONE			YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>							
S L A	IF INCIDENT OCCURRED WITHIN LICENSED S.L.A. PREMISES			OWNER'S NAME	BUSINESS NAME			LIC. NO.			
N A R R A T I V E	19 At approx 1400 hrs this date, while doing follow up work on CR # 83-421 (Burglary 312-F Fernow) this officer spoke with C-1. C-1 stated that upon his arrival to his office at approx noon this date he noticed the books on his shelf to be out of their normal order. Upon checking the shelf P-1 & P-2 were found to be missing. C-1 stated that he is positive the theft occurred sometime late Friday 3/4/83 to early Saturday 3/5/83 as he used P-1 on 3/4/83.										
	All indications are that T-1 entered the office by climbing over the partition from the open hall way.										
	20 1. Signature list from Triangle book shop (copy)										
E N C	SIGNATURE AND RANK			SHIFT	SHIELD NO.	APPROVED					
	Barbara Bourne			21	30	PA D O P			3/5/83		

CORNELL UNIVERSITY DEPARTMENT OF PUBLIC SAFETY

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OFFENSE Burglary PAGE 3

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1445 hrs 3/5/83

This officer spoke with Terry Hoover at Triangle Books to advise him of the stolen books. Mr. Hoover stated that both P-1 and P-2 were sold to him sometime before noon 3/5/83. Upon inspection of the books, the name Richard Baker was partially scratched out, establishing these books as P-1 & P-2. Mr. Hoover further stated that the subject who sold the books was tall, approx 5'11" - 6 ft med. build with sandy colored hair. Mr. Hoover stated he felt he would recognize T-1 should he see him again. Mr. Hoover also provided this officer with a copy of the sign-in log used when books are sold to Triangle. The signature was not legible but the initials were obviously K. V. In the margin of the page was the ID # 222416. Mr. Hoover stated that T-1 had produced a college ID, but could not remember which school.

1530 hrs 3/5/83

This officer checked the computer printout under the letter V to attempt to match the ID number. The result was the above listed information on T-1.

**MASTER FILE**  
**DO NOT REMOVE**

Barbara Bourne  
Investigating Officer

Date of Investigation 3/5/83

A.R.J. Smith  
Supervisor

Date of Approval 3/5/83


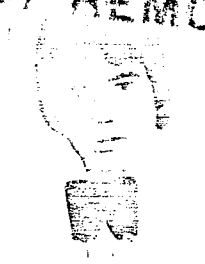
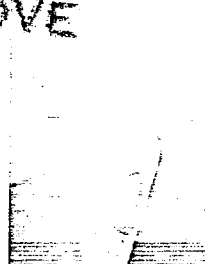





















End #1

CR # 83-422

- 22- x Matt Heyland
- 25- x Tony Samarod
- 17- x Beth Linton
- 1- John Higgins
- 10.50 x Benjamin Boddy
- 2- [Signature]
- 13- x Keith Horn
- 26- x John B. Hally
- 12- x Matthew Swery
- 20- Keith Horn
- 19- x Andrew L. Cannon
- 22- x Paul Harriott
- 14- x N Kazah
- 4.50 Gerald Meyer
- 2<sup>00</sup> x Cefia Mann
- 1<sup>50</sup> x [Signature]
- 224/6 28<sup>00</sup> x [Signature]
- 08124 43- x Janith S Harade
- 19- x Valeri Vergara

**MASTER FILE**  
**DO NOT REMOVE**

**ORIGINAL FILE**  
**DO NOT REMOVE**

<b>MARILYN J. TRIVENTI</b> Bergenfield, NJ Camping, Student Government	Pre-Vet				
<b>GLENN M. TROOST</b> Staten Island, NY Animals, Dancing	Pre-Law				
<b>GILBERT T.Y. TSO</b> Foster City, CA Debating, Math	Engineering, Economics				
<b>PHILIP W. TSUNG</b> Norwood, NJ Baseball, Chess	Chemistry				
<b>PENNY J. TUCKER</b> Skaneateles, NY Animals, Soccer	Pre-Vet				
<b>GLENN E. TUCKMAN</b> Norwalk, CT Music, Swimming	Hotel Administration				
<b>DEBORAH A. TUOHEY</b> N. Syracuse, NY Animals, Horseback Riding	Science				
<b>KEITH P. TURKEL</b> Scarsdale, NY Basketball, Soccer	Pre-Law				
<b>STEPHEN R. TURNBULL</b> Palo Alto, CA Camping, Publications	Engineering				
<b>JOHN J. TURNER</b> Port Washington, NY Animals, Running	Biological Sciences				
<b>SUSAN H. TYLER</b> LaJolla, CA Hiking, Student Government	Engineering				
<b>STEVEN W. TYNDALL</b> Boca Raton, FL Music, People	Science				
<b>RANDI S. URBAN</b> N. Woodmere, NY People, Publications	Business				
<b>OWEN URBAY</b> West New York, NJ Basketball, Scuba Diving	Pre-Med				
<b>DAWN C. VADNEY</b> Avon, NY Photography, Publications	Consumer Economics				
<b>JEFFREY L. VALLET</b> Endwell, NY Golf, Science	Pre-Vet				
<b>DAVID M. VANBUREN</b> Atlanta, GA Football, Travel	Hotel				
<b>GREGORY D. VANDUYNE</b> Savannah, NY Basketball, Chess	Pre-Med				
<b>KEVIN G. VANGINDEREN</b> Carmel, NY Animals, Baseball	Pre-Med				
<b>GERRIT VAN LOON</b> Cloverack, NY Skiing, Frisbee	Pre-Med				
<b>CATHERINE VARDAKIS</b> Elmira, NY Dancing, Languages	Business				
<b>SUSHEELA D. VASANI</b> New Canaan, CT Dancing, Gymnastics	Engineering				
<b>CAROLEEN L. VAUGHAN</b> Elmira, NY Dancing, Drama	Humanities				
<b>JOHN A. VAUGHAN</b> Edmond, OK Camping, Football	Engineering				

CORNELL UNIVERSITY DEPARTMENT OF PUBLIC SAFETY

SUPPLEMENTARY INVESTIGATION REPORT

OFFENSE Burglary PAGE 6

1640 hrs 3/5/83

This officer returned to Triangle Books and again spoke with Mr. Terry Hoover. This officer showed Mr. Hoover the enclosed 1979 picture of T-1. Mr. Hoover stated that although the hair is not the same, the facial features match. Mr. Hoover further stated he is certain that T-1 is the same subject who sold P-1 & P-2 to him earlier this date.

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**MASTER FILE  
DO NOT REMOVE**

Barbara J. Bourne  
Investigating Officer

PO

Date of Investigation 3/5/83

A. R. J. Lewis  
Supervisor

Date of Approval 3/6/83

CORNELL UNIVERSITY DEPARTMENT OF PUBLIC SAFETY

# SUPPLEMENTARY INVESTIGATION REPORT

OFFENSE Burglary PAGE 7

0730 hrs. 3/6/83

A check was made of the location file for additional thefts from Fernow Hall. The following cases were found:

83-303, 83-306, 83-311, 83-333, 83-339, and 83-368.

Prior to 83-303 there were no reported thefts from 1981-1983.

83-306, investigated by PO Wittner includes a receipt for the sale of four books to the Campus Store. This receipt shows an ID # of 22416.

(Note: T-1's ID number is 222416). PO Wittner indicated in his narrative that the clerk had not written down the full six digits of the subject's ID number. Further, the receipt shows an illegible signature of a subject with the initials K.V. A comparison was made of T-1's signature with that from the Campus Store receipt. While not identical the similarities, particularly in the formation of the K and the V, would indicate that both were made by the same individual.

The books recovered at the Campus Store in conjunction with 83-306 resulted in cases 83-333, 83-339 and 83-368, all previously undetected thefts.

The theft reported in 83-303 occurred within the same time frame as 83-306 and its related cases.

The theft in 83-311 occurred on or about 2/3/83 from room 306 Fernow; the site of several of the other related thefts.

It should be noted that all of the thefts from Fernow during this period have been from normally unsecured rooms and offices easily accessible other than through their doors. Note: the 312 office complex can be easily accessed by climbing over the partitions between offices. Three of the thefts

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**MASTER FILE**  
**DO NOT REMOVE**

*Barbara Bourne*  
Investigating Officer

PO

Date of Investigation 3/6/83

*RJ Sims*  
Supervisor

Date of Approval 3/6/83

CASE NO. 83-422  
OTHER AGENCY 83-003451

# SUPPLEMENTARY INVESTIGATION REPORT

OFFENSE Burglary PAGE 8

have occurred in this complex (83-303, 83-421, and 83-422).

It is the opinion of this officer that all eight cases are related due to similarities of time span, type of items taken and general method of the thefts.

1130 hrs. 3/6/83

PO Wittner contacted via telephone. PO Wittner stated that at the time of the incidents in 83-306 the clerk at the Campus Store stated he could positively identify the subject who sold him the books should he see him again.

**MASTER FILE  
DO NOT REMOVE**

Barbara J. Bourne  
Investigating Officer

PO

Date of Investigation 3/6/83

S. R. J. Sims  
Supervisor

Date of Approval 3/6/83



Voluntary Statement

STATE OF NEW YORK

COUNTY OF Tompkins

CITY, TOWN, or VILLAGE OF Ithaca

Date 3/7/83 Time 9:30 AM Place TRIANGLE BOOK SHOP

I, TERRY HOOVER, am 40 years of age, born on JAN 6, 43,

my address is 38 SALG DR TRUMANSBURG, NY,

my occupation is ASS'T MGR, and degree of education is BS.

I have been duly warned by BJ Bourne, who has identified himself as Patrol Officer

that I do not have to make any statement at all, and that any statement I make may be used in evidence against me in a court of law, and that I have the right to talk to a lawyer for advice before making this statement. Without fear of threat of physical harm upon me or another person, I freely volunteer the following statement to the aforesaid person.

<sup>PH</sup> On Sat, March 5<sup>TH</sup>, a <sup>PH</sup> man came to Triangle Book Shop to sell books. The books were w/e, "Life of Birds", "Sokol" "Geometry", and Davis "Quant Models for Mgt." I bought the books and paid \$28<sup>00</sup> for them. I also ask for the sellers ID and made a note of the ID number beside his signature on one buy-back sheet. He was a moderately tall man with dark hair. Later, after the books were reported stolen, I was shown a picture by Cornell Safety from the freshman registry of the suspect. I was sure that it was the same man from whom I bought the above books.<sup>PH</sup>

**MASKED FILE  
DO NOT REMOVE**

I have read this statement consisting of 1 page(s) and the facts contained herein are true and correct. I have also been told and I understand that making a false written statement is punishable as a class A misdemeanor pursuant to section 210.45 of the Penal Law of the State of New York.

Subscribed and sworn before me  
this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

Affirmed under penalty of perjury  
this 7<sup>TH</sup> day of MARCH, 19 83

Signed by Terry Hoover

Page 1 of 1 page(s)

Title: \_\_\_\_\_

Witness: Barbara J Bourne

Witness: \_\_\_\_\_

# SUPPLEMENTARY INVESTIGATION REPORT

OFFENSE Burglary PAGE 9

0715 3/8/83

The results of this investigation to this point show that T-1

**MASTER FILE**  
**DO NOT DESTROY**

Kevin G. Vanginderen dob 10/23/61 (P)  
603 Winston Ct. Apt. #3  
Ithaca, NY  
Ag & LS '83  
CU ID 222416

**RIC**

is in some way involved with the following cases:

- 83-303 - Burglary from 312-C Fernow  
tape deck and calculator  
on or about 2/10-2/12/83
- 83-306 - Petit larceny from 207 Fernow  
2 text books on or about  
2/11/83
- 83-311 - Petit Larceny from 306 Fernow  
1 text book believed to have been  
taken on 2/2 or 2/3/83.
- 83-333 - Petit Larceny from 306 Fernow  
1 text book unknown date  
recovered in conjunction with 83-306
- 83-339 - Petit Larceny from 306 Fernow  
2 text books unknown date recovered  
in conjunction with 83-306
- 83-368 - Petit Larceny from 119 Fernow  
1 text book on or about 2/10/83  
recovered in conjunction with 83-306

Barbara J. Bourne  
Investigating Officer

Barton R. Ingersoll, Jr.  
Supervisor

Date of Investigation 3/8/83

Date of Approval 3/8/83

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CASE NO. 83-422  
OTHER AGENCY \_\_\_\_\_

### SUPPLEMENTARY INVESTIGATION REPORT

OFFENSE Burglary PAGE 10

- 83-421 - Burglary room 312-F Fernow  
1 stereo tape player/recorder on or  
about 3/5/83.
- 83-422 - Burglary room 312-C Fernow  
2 text books on or about  
3/5/83
- 83-426 - Burglary room 312-B Fernow  
4 text books on or about 3/5/83
- 83-446 - Pet. Larceny - room 308-Fernow  
1 textbook sometime during  
last 2 weeks. /jch

**MASTER FILE**  
**DO NOT REMOVE**

Barbara J. Bourse PO Date of Investigation 3/8/83  
Investigating Officer

Barton R. Ingersoll, St Date of Approval 3/8/83  
Supervisor

CASE NO. 83-422  
OTHER AGENCY

# SUPPLEMENTARY INVESTIGATION REPORT

OFFENSE Burglary PAGE 11

0730 3/8/83

This officer and PO Wittner responded to 17 South Ave and spoke with the House President. The House President stated that T-1 resided at 603 Winston Court.

0800

This officer and PO Wittner responded to the Winston Court Apt. Office at 103 Salem Dr. Mr. Lucente advised us that T-1 resided in Apt. 3 of bldg. 603.

MASTER FILE  
DO NOT REMOVE

0820

This officer and PO Wittner arrived at 603 Winston Ct. Apt. 3 to speak with T-1.

0825

T-1 was advised of his rights by PO Wittner and agreed to come to Barton Hall for further questioning.

0835

T-1 was interviewed by PO Wittner (refer to page 15) in the presence of this officer.

0850

T-1 orally admitted to several thefts of books, a calculator, and two tape decks from both Fernow and Bradfield. T-1 was again given his rights by this officer.

Barbara Bourne PO  
Investigating Officer  
Barton R. Ingersoll Lt.  
Supervisor

Date of Investigation 3/8/83  
Date of Approval 3/8/83

CASE NO. 83-422  
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### SUPPLEMENTARY INVESTIGATION REPORT

OFFENSE Burglary PAGE 12

**MASTER FILE**  
**DO NOT REMOVE**

0900

T-1 signed a Waiver of Rights form.  
T-1 then prepared a written statement confessing to the crimes.

0930

District Attorney Bucko notified at this time.

0950

This officer, PO Wittner and T-1 returned to his residence to pick up items T-1 stated he had obtained in other burglaries and had kept. T-1 signed a consent to Search Form.

Found in T-1's bed room were the following

- 1) TI 55 Calculator serial # 3896699 #83-240
- 2) Sanyo Tape recorder (cassette) #83-241
- 3) JVC stereo cassette player/recorder #83-236  
serial # 17631022

1000

Upon return to Barton Hall the above listed items were tagged as evidence (tag #s 83-236, 83-240, 83-241) and a receipt given to T-1.

1020

T-1 was fingerprinted and photographed by PO Wittner.

1035

T-1 interviewed by Lt. Boice, refer to encl. #6 for details

Barbara J. Bourne PO  
Investigating Officer

Date of Investigation 3/8/83

Barton R. Anderson, Lt.  
Supervisor

Date of Approval 3/8/83

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### SUPPLEMENTARY INVESTIGATION REPORT

OFFENSE Burglary PAGE 13

1145  
V.P. Gurowitz advised of this case by Capt. Murphy.  
1200

T-1 was transported to City Court for arraignment before Judge Ward. T-1 was released in his own recognizance to appear at a Preliminary Hearing in City Court on March 18, 1983.

T-1 remained with Ithaca Police Dept. Detectives for further processing.

**MASTER FILE**  
**DO NOT REMOVE**

1420

This officer and PO Wittner responded to 312-C Fernow Hall and spoke with C-1.

C-1 stated that he had at no time authorized T-1 to remove any items from his office.

C-1 was shown the items obtained at T-1's residence for possible identification. C-1 identified the calculator and the Sanyo tape deck as those that were taken from his office on or about 2/10/83. (Refer CR 83-303)

Enclosed is a signed statement to this effect from T-1.

1500

During the course of the interviews with T-1, T-1 repeatedly confessed to taking text books from room 411 Bradford Hall during the course of the past year.

Barbara J. Baum PO  
Investigating Officer  
Barton H. Ingersoll Lt.  
Supervisor

Date of Investigation 3/8/83  
Date of Approval 3/9/83

CORNELL UNIVERSITY DEPARTMENT OF PUBLIC SAFETY

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OFFENSE Burglary PAGE 14

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This confession establishes T-1 as the perpetrator of the following cases.

**MAILED FILE  
DO NOT REMOVE**

- 82-1670 - Petit Larceny from 411 Bradford  
3 text books unknown date
- 82-1685 - Petit Larceny 411 Bradford  
1 textbook on or about  
10/28 - 11/15/82.
- 82-1686 - Petit Larceny 411 Bradford  
3 text books on or about  
11/11 - 11/18/82
- 82-856 - Burglary 411 Bradford  
4 text books, 1 hand lens  
1 dissecting kit sometime  
during may 1982.
- 82-868 - Petit Larceny 411 Bradford  
7 text books, unknown date  
reported 6/4/82.

1530

Dean Drinkwater notified of this case by  
Lt. Boice

10  
3  
Recovery  
Value  
\$

Barbara J. Bourne PO Date of Investigation 3/8/83  
Investigating Officer

Barton H. Ingersoll Sr. Date of Approval 3/8/83  
Supervisor

# SUPPLEMENTARY INVESTIGATION REPORT

OFFENSE Burglary PAGE 15

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On ~~0835~~ hrs, 3-8-83, the defendant was interviewed by this officer about the books he sold over the past several weeks. He stated that he saw a list of books for sale in the laundry with a telephone number on it several weeks ago and that he called the number and arranged a meeting at Univ library with a hispanic male, bought books then resold them. He then said that he remembered the number on Friday and called again, met with the subject and bought the books in CR# 83-422, took them to triangle and sold them on Saturday.

This officer then asked the defendant how it was possible that he bought the books on Friday when C-1 stated that they were taken sometime late Friday night or Saturday morning. The defendant then admitted that he took the books from Fernow hall that he did not buy them. He said "I went into the rooms and took the books, stereo, calculator and tape deck. I am a poor student and sold the books to get money."

He was then asked about other thefts from Fernow hall and he stated that he took the books. He was then asked about the book thefts from Bradfield Hall for the period from 6-2-82 to 11-15-82. He said that he took the books. When asked how he gained access to the building he said that he had worked in the Lab (room 411) and was given a key to the building and the room, that when he quit no one asked him for the keys back. He was then asked how he got into Fernow Hall. He said that by using his key to the outside door to Bradfield and going into the basement that there is a tunnel that goes to Fernow and that the only door there has a crash bar on it. Once inside Fernow he went to the rooms and took the books.

**MASTER FILE**

Date of Investigation 3-8-83

**DO NOT REMOVE**

Date of Approval 3-8-83

Wayne L. Wiltrous

Investigating Officer

Barton A. Ingersoll

Supervisor



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OTHER AGENCY \_\_\_\_\_

### SUPPLEMENTARY INVESTIGATION REPORT

OFFENSE Burglary PAGE 16

The two Yale keys numbered BJ-1 and 6FX were taken as evidence and assigned evidence tag # 83-237. When asked why he took the books he stated again that he was just a poor student and that he took them to have money to live on and he took the stereo, tape deck and calculator for his own use. He wanted to know what took us so long to catch him, that he expected to be caught a year ago, and since he did not he continued by taking things from Fernow Hall.

**MASTER FILE  
DO NOT REMOVE**

Wayne L. Walthers  
Investigating Officer

Date of Investigation 3-8-83

Barton N. Ingersoll  
Supervisor

Date of Approval 3-8-83

CASE NO. 83-422  
OTHER AGENCY

# SUPPLEMENTARY INVESTIGATION REPORT

OFFENSE Burglary PAGE 17

The following enclosures are continued from page #1.

- #5. Voluntary statement from C-1
- #6. Interview of defend. by Lt. Boice
- #7. Advice of Rights form
- #8. consent to search form
- #9. Oral Admissions form
- 10. written Admissions forms.
- 11. Accusatory Instrument.
- 12. Affidavit of service form

**MASTER FILE  
DO NOT REMOVE**

*Closed refer to Ct.  
TOTAL CASE SENT TO I.P.D  
4/8/83 1700hrs  
(B)*

Barbara Boun PD  
Investigating Officer  
Barton R. Drysdale Jr.  
Supervisor

Date of Investigation 3/8/83

Date of Approval 3/27/83

CASE NO. 83-422  
OTHER AGENCY

# SUPPLEMENTARY INVESTIGATION REPORT

OFFENSE Burglary PAGE 18

1335 hrs., 3-9-83, Dawson Deanna K, 308 Fernow Hall reported that the text book, Natures + Properties of Soils, had been taken out of 308. CR # 83-446. This book has not been recovered.

0930 hrs, 3-10-83, this officer spoke with Hollenbeck, Lorraine A., Secretary, Plant Breeding, 252 Emerson Hall. Ms. Hollenbeck is in charge of key issue for Plant Breeding. Ms Hollenbeck said that the defendant was hired by Plant Breeding on 10-2-81 and worked untill 10-13-81. She said she could not be sure, but the records show that the defendant was terminated because of illness and she thought he was the one with mononucleosis. she also said that the defendant was issue the keys and that the department never asked for them back.

It is believed that the defendant was the perpetrator of the following thefts.

### Bradfield Hall

- 82-856
- 82-868
- 82-1670
- 82-1685
- 82-1686

### Fernow Hall

- 83-303
- 83-306
- 83-311
- 83-333
- 83-339
- 83-368
- 83-421
- 83-422
- 83-426
- 83-446

**DO NOT REMOVE**

In his statement to Lt. Boice ENC#6, page 4 of this report he admitted to burglarizing Bradfield Hall 3 or 4 times and Fernow Hall 3 times.

Wayne L. Wittner  
Investigating Officer

Date of Investigation 3-11-83

[Signature]  
Supervisor

Date of Approval 3-11-83

ENC #3

STATE OF NEW YORK

COUNTY OF Tompkins

CITY, TOWN, or VILLAGE OF Ithaca

Date 3/7/83 Time 7:30 AM Place TRIANGLE BOOK SHOP

I, TERRY HOOPER, am 40 years of age, born on JUN 6, 43,

my address is 38 SILEO DR TRAFALGAR NY,

my occupation is ASS'T MGR, and degree of education is BS.

I have been duly warned by BJ Bourne, who has identified himself as Patrol Officer

that I do not have to make any statement at all, and that any statement I make may be used in evidence against me in a court of law, and that I have the right to talk to a lawyer for advice before making this statement. Without fear of threat of physical harm upon me or another person, I freely volunteer the following statement to the aforesaid person.

On Sat March 5<sup>th</sup> a man came to Triangle Book Shop to  
sell books. The books were w/ 1 copy of "Spherical Geometry,  
and Davis "Quant Models of Vorticity". I bought the books and  
paid \$8.35 for them. I checked the ID number and  
is a write of the ID number. I made his signature on one  
of my books about. He was a somewhat tall man with dark  
hair. Later, after the book was inspected, I was  
shown a picture by Co. #115 of the man  
resembling of the suspect. I was sure that it was the same  
man whom I bought the above books.

**MAILED FILE**  
**DO NOT REMOVE**

I have read this statement consisting of 1 page(s) and the facts contained herein are true and correct. I have also been told and I understand that making a false written statement is punishable as a class A misdemeanor pursuant to section 210.45 of the Penal Law of the State of New York.

Subscribed and sworn before me  
this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_

Affirmed under penalty of perjury  
this 7<sup>th</sup> day of MARCH, 19 83

Signed by Terry Hooper

Page 1 of 1 page(s)

Title: \_\_\_\_\_

Witness: Barbara Bourne

Witness: \_\_\_\_\_

DO NOT REMOVE FILE

STATE OF NEW YORK  
COUNTY OF TOMPKINS  
CITY, TOWN OR VILLAGE OF ITHACA  
Date 3/8/83 Time 9:10 AM Place Barton Hall  
I, Kevin G. Vanginderen, am 21 years of age, born on 10/23/61,  
my address is 603-3 Winston Court Apartments,  
my occupation is Student, and degree of education is college senior.  
I have been duly warned by Barbara J. Bourne, who has identified  
himself as Patrol Officer

that I do not have to make any statement at all, and that any statement I make may be used in evidence against me in a court of law, and that I have the right to talk to a lawyer for advice before making this statement. Without fear of threat of physical harm upon me or another person, I freely volunteer the following statement to the aforesaid person.

I, Kevin G. Vanginderen, admit to taking a few books, a calculator, and two small cassette decks from Fernow Hall. I will return the calculator and tape decks for I still possess them. I also admit entering a lab at Bradfield Hall for the purpose of taking a few textbooks. All of these textbooks were sold to the Campus Store and Triangle Book Store for cash. This cash allowed me to survive in poor times for I am an extremely poor college student deeply in debt with little other options.

OFFICER WITTNER: You stated that you took books from Bradfield Hall. How did you gain entrance to Bradfield and the labs?

VANGINDEREN: I had a key for the building and lab given to me when I had a lab job there two years ago and nobody asked for its return.

WITTNER: The only things you took out of Bradfield were the books?

VANGINDEREN: From that one lab.

WITTNER: You didn't take anything else?

VANGINDEREN: Not in Bradfield.

WITTNER: How did you gain entrance into Fernow Hall?

VANGINDEREN: A tunnel leading from the basement of Bradfield Hall to Fernow which is unlocked. I gained entrance through it.

WITTNER: The rooms you took the books from in Fernow -- were the rooms locked?

VANGINDEREN: No. The rooms I went into on the main corridor were unlocked. The ones at the ends of the corridor had spaces above the doors, which I

I have read this statement consisting of 2 page(s) and the facts contained herein are true and correct. I have also been told and I understand that making a false written statement is punishable as a class A misdemeanor pursuant to section 210.45 of the Penal Law of the State of New York.

Subscribed and sworn before me  
this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

Affirmed under penalty of perjury  
this 8th day of March, 1983

Signed by Kevin Vanginderen

Title: \_\_\_\_\_

Page 1 of 2 page(s)

Witness: H. W. G. Bourne

Witness: \_\_\_\_\_

STATE OF NEW YORK  
COUNTY OF TOMPKINS

MASTER FILE

CITY, TOWN, OR VILLAGE OF ITHACA

Date 3/8/83 Time 9:10 AM Place Boston

I, Kevin G. Vanginderen, am 21 years of age, born on 10/23/61

my address is 603-3 Winston Court Apartments

my occupation is Student, and degree of education is college senior

I have been duly warned by Barbara J. Bourne, who has identified himself as Patrol Officer

that I do not have to make any statement at all, and that any statement I make may be used in evidence against me in a court of law, and that I have the right to talk to a lawyer for advice before making this statement. Without fear of threat of physical harm upon me or another person, I freely volunteer the following statement to the aforesaid person.

jumped.

WITTNER: All the books you took last year and this year were sold to Campus Store and Triangle Book Store.

VANGINDEREN: Yes.

WITTNER: Not to a private individuals

VANGINDEREN: No.

I have read this statement consisting of 2 page(s) and the facts contained herein are true and correct. I have also been told and I understand that making a false written statement is punishable as a class A misdemeanor pursuant to section 210.45 of the Penal Law of the State of New York.

Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

Affirmed under penalty of perjury this 8th day of March, 19 83

Signed by Kevin Vanginderen

Page 2 of 2 page(s)

Title: \_\_\_\_\_

Witness: H. W. Bourne

Witness: \_\_\_\_\_

Voluntary Statement

**MAILED**  
**DO NOT REMOVE**

STATE OF NEW YORK  
COUNTY OF Tompkins

CITY, TOWN, or VILLAGE OF Ithaca

Date 3-8-83 Time 1420 Place Fernow Hall

I, Richard J. Baker, am 29 years of age, born on 12/4/53,

my address is 134 Judd Falls Rd., Ithaca, NY.

my occupation is Graduate Student, and degree of education is grad. student.

I have been duly warned by Wayne H. Wittner, who has identified himself as Cornell Patrol Officer.

~~that I do not have to make any statement at all, and that any statement I make may be used in evidence against me in a court of law, and that I have the right to talk to a lawyer for advice before making this statement.~~ Without fear of threat of physical harm upon me or another person, I freely volunteer the following statement to the aforesaid person.

RJB On 2/10/83, I was in my office working. RJB On that day, I used my TI-55 calculator and a Sanyo cassette tape deck I had borrowed. When I returned to my office on 2/13/83, both were missing. I reported the theft to Cornell Public Safety on 2/14/83. On 2/24/83, I again worked in my office. On 3/25/83, I returned to my office and found two books: Life of Birds, Wetly and Biometry, Sokol Rolf missing. I immediately reported these thefts to Public Safety. RJB

RJB At no time during this period had I given permission to anyone to borrow any of this material. RJB

RJB At ~2:20pm, Officers Bousne & Wittner brought in my tape player and calculator. I positively identified these as mine. RJB

I have read this statement consisting of 1 page(s) and the facts contained herein are true and correct. I have also been told and I understand that making a false written statement is punishable as a class A misdemeanor pursuant to section 210.45 of the Penal Law of the State of New York.

Subscribed and sworn before me  
this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

Affirmed under penalty of perjury  
this 8 day of March, 19 83

Signed by Richard J. Baker

Title: \_\_\_\_\_

Page 1 of 1 page(s)

Witness: Wayne H. Wittner

Witness: Barbara Bousne

Voluntary Statement

MASTER FILE  
DO NOT REMOVE

STATE OF NEW YORK

COUNTY OF Tompkins

CITY, TOWN, or VILLAGE OF Ithaca

Date 3-8-83 Time 1420 Place Fernow Hall

I, Richard J Baker, am 29 years of age, born on 12/4/53

my address is 134 Judd Falls Rd., Ithaca, NY

my occupation is Graduate Student, and degree of education is grad. student

I have been duly warned by Wayne H. Wittner, who has identified himself as Cornell Patrol Officer

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RJB At no time during this period had I given permission to anyone to borrow any of this material. RJB

RJB At ~2:20pm, Officers Bourne & Wittner brought in my tape player and calculator. I positively identified these as mine. RJB

I have read this statement consisting of 1 page(s) and the facts contained herein are true and correct. I have also been told and I understand that making a false written statement is punishable as a class A misdemeanor pursuant to section 210.45 of the Penal Law of the State of New York.

Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

Affirmed under penalty of perjury this 8 day of March, 1983

Signed by Richard J Baker

Title: \_\_\_\_\_

Page 1 of 1 page(s)

Witness: Wayne H. Wittner

Witness: Barbara Bourne



Interview of Kevin G. Vanginderen by Lt. William Boice, Public Safety, recorded by Joelle Munson, Public Safety, took place in the Major Investigations Office at 1035 hours, March 8, 1983. Lt. Boice began by having Vanginderen read his previous brief statement, which Vanginderen approved as correct and signed. Lt. Boice then began the following line of questioning: (B - Boice; V-Vanginderen)

B - Please state the facts in your own words.

V - About two years ago, I had a lab job at Bradfield Hall, which gave me a key to the building and Room 411. I noticed while I was working there that there were a lot of students that had books from courses they were no longer taking. I took some of these books and sold them to Campus Store and Triangle Book Store for \$10. I am only getting poorer as a college student. I have a job also but when I ran out of cash, I would go to the lab and take a few books. I would only get \$15 or \$20 for them at a time. I went to Bradfield a couple of times the last semester and a couple of times this year, only when I needed the cash. Last semester, they changed the lock to one of the labs. I noticed the tunnel to Fernow this semester and the door was unlocked as well as the rooms. It was the same as in Bradfield, with lots of books that people didn't need. I took a few of them. In one office, there was a calculator on a desk and cassette recorder; and in another room, there was a cassette deck. They were the only things besides books that I took.

B - What were the dates of your employment at Bradfield Hall?

V - Approximately October to December 1981 -- the first semester of my junior year.

B - You were employed on the fourth floor?

V - Yes, 411, I think.

B - When approximately did you find yourself in a position where you started stealing?

V - The next semester. I was amazed that no one asked for the key and I had noticed the books.

B - You did not commit any thefts in 1981?

V - No, only second semester.

B - Approximately when did you start?

V - It doesn't stick out.

B - I have one case here from June 1982 (CR82-856).

V - All the books may not have been discovered for a long time. I was not here over the summer. All the books were scientific.

B - This case occurred in May. Do you remember names and titles -- Principles of Plant Breeding and Plant Pathology?

V - They were all plant or scientific books -- all from labs or science offices.

B - Case 82-868 -- 8 books in Bradfield Hall, Room 411?

V - Yes

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INTERVIEW OF KEVIN G. VANGINDEREN -- March 8, 1983

Page 2

- B - List of books -- Breeding Field Crops, Soils and Soil Fertility, Mycogenetics, Statistics, Plant Pathology, Biochemistry, Toxins in Plant Disease, and Plant Breeding II.
- V - Sounds it.
- B - Case 82-1670 -- 411 Bradfield Hall -- three textbooks -- Property of Soil, Plant Structure and Function, and Plant Breeding -- November 1982?
- V - Sounds it.
- B - Case 82-1685 -- 411 Bradfield Hall -- November 1982 -- textbook -- Plant Mineral Nutrition?
- V - If they're from 411 ... don't know exact titles.
- B - Case 82-1682 -- three textbooks?
- V - (Nodded yes)
- B - Case 83-303 -- occurred February 10-12 -- Unlawful entry into Room 312C Fernow Hall in which a calculator, TI-55, and a Sanyo tape deck recorder were taken. Were you responsible for these?
- V - Yes, they have them. (*officers*)
- B - These are the two items that were recovered in your room?
- V - (Nodded yes) In the next room, there was another cassette deck.
- B - Case 83-306 -- 207 Fernow Hall -- occurred February 11, 1983 -- two textbooks?
- V - Yes
- B - Case 83-311 -- February 2 and 3 -- Room 306 Fernow -- Textbook -- Aquatic Chemistry?
- V - Not offhand; what room?
- B - 306
- V - I imagine.
- B - Case 83-333 - 306 Fernow -- Approximately middle of February?
- V - If the room is the same, they're probably just different discoveries of the same theft.
- B - One textbook -- Biological Science?
- V - (Nodded yes)
- B - Case 83-421 -- March 3-5 -- 312F Fernow -- JCV stereo cassette player recorder taken on a Burglary where the subject climbed over a partition. Are you responsible for this?
- V - Yes. It was the last theft at 2 AM Saturday.
- B - Case 83-422 - 312C Fernow -- March 4 and 5 -- Burglary -- theft of two textbooks -- Biometry and The Life of Birds. Do you remember these two?
- V - Sounds familiar.

**MASTER FILE  
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MASTER FILE

DO NOT REMOVE

INTERVIEW OF KEVIN G. VANGINDEREN -- March 8, 1983 Page 3

B - They were the two you sold to Triangle Book Store.

V - (Nodded yes)

B - Case 83-426 -- 312B Fernow Hall -- March 5 -- Burglary -- four textbooks stolen -- Resource Economics; Applied Theory of Price; The Way of Chung Tzu; Leisure -- The Basis of Culture. Are you familiar with this case?

V - Sounds familiar.

B - Where are these books now?

V - I have two paperbacks still. The others were sold to Campus Store and Triangle Book Store, I believe.

B - Have you stolen from any other building besides Bradfield and Fernow?

V - I only stole from buildings that I had access to. I'm not a nervy person. I only stole at night with a key. I didn't break down doors. The rooms were obviously open and vulnerable.

B - Do you know anything about the theft of a dollar bill changer at the Multi-Cat?

V - No

B - Do you know anything about tampering with an element analyzer on the 8th floor of Bradfield Hall?

V - Know nothing about it.

B - How about miscellaneous things like the theft of soda pop on the 8th floor of Bradfield Hall?

V - I was never on the 8th floor.

B - Your residence is 603 Winston Court, Apartment 3. No problems up there?

V - (Shook head no) I only took books that I figured people didn't need.

B - Can you explain to me why?

V - I currently owe the university approximately \$1,000, a fraternity \$700, and living expenses are high. I foresee myself graduating in debt. The job at Lynah's not enough -- I could go hungry. I have \$5 in my pocket now from the last books I sold. My bank account is empty. I feel remorse and yet I would not have eaten otherwise. A strange remorse -- I would not be at college. Tuition is up -- financial aid is down. I'm a graduating senior -- though not in an honest fashion.

B - Are you involved in any other activities?

V - No

B - Is your roommate involved?

V - No. Obviously, I took things that were there for the taking. I didn't break in. My friends are not like that.

INTERVIEW OF KEVIN G. VANGINDEREN -- March 8, 1983

Page 4

B - How many times do you think you burglarized offices?

V - Bradfield -- three or four times -- maybe a little more. Fernow -- three times.

B - Each time you entered Bradfield, did you use your key?

V - Yes

B - Was this after you were terminated from your job?

V - I was never officially terminated. I had a lab job with a loose schedule -- I came in when I wanted. I didn't come in any more because I didn't get along with my boss. I figured that they would have taken my key back -- they never asked for it.

B - You entered Fernow via the tunnel:

V - (Nodded yes) The unlocked door.

B - You entered offices by climbing over the doors?

V - No, open doors. I only climbed over two doors.

B - Which cases were those?

V - The tape decks and the calculator.

**MASTER FILE  
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ENC # 7 83-422

INTERROGATION; ADVICE OF RIGHTS

YOUR RIGHTS

**MASTER FILE  
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PLACE Benton Hall  
DATE 3/8/83  
TIME 0900

Before we ask you any questions, you must understand your rights.

You have the right to remain silent.

Anything you say can be used against you in court.

You have the right to talk to a lawyer for advice before we ask you any questions and to have him with you during questioning.

If you cannot afford a lawyer, one will be appointed for you before any questioning if you wish.

If you decide to answer questions now without a lawyer present, you will still have the right to stop answering at any time. You also have the right to stop answering at any time until you talk to a lawyer.

WAIVER OF RIGHTS

I have read this statement of my rights and I understand what my rights are. I am willing to make a statement and answer questions. I do not want a lawyer at this time. I understand and know what I am doing. No promises or threats have been made to me and no pressure or coercion of any kind has been used against me.

Signed *Kevin Vangard*

Witness *Barbara J. Bourne*

Witness *Wayne A. Witt*

Time 0900

CONSTITUTIONAL RIGHTS

CONSENT TO SEARCH

The right of the people to be secure in their papers, houses, persons and effects, against unreasonable searches and seizures shall not be violated and no warrants shall issue but upon probable cause supported by oath or affirmation and particularly describing the place to be searched and the persons or things to be seized. (Fourth Amendment to the Constitution of the United States.)

I, Kevin G. Vanginderen, having been informed of my Constitutional Rights not to have a search made of the premises hereinafter mentioned without a search warrant and of my right to refuse to consent to such a search, hereby authorize Wayne Wittner and Barbara Bourne, Officers of the Cornell University Safety Division to conduct a complete search of my residence located at 603 Winston Ct. Apts. Apt #3. These officers are authorized by me to take from my residence any letters, papers, materials or other property which would be considered contraband.

This written permission is being given by me to the above named officers voluntarily and without threats or promises of any kind, to commence at 0950 on 3-8-83 and to conclude by 0952 on 3-8-83.

**MASTER FILE  
DO NOT REMOVE**

Kevin G. Vanginderen  
Signature

Wayne Wittner  
Witness

Barbara Bourne  
Witness

MASTER FILE  
DO NOT REMOVE

NOTICE OF INTENT TO USE ADMISSIONS  
SCHEDULE A

\*\*\*\*\*

ORAL ADMISSIONS

Date: 3-8-83

Time: 0900 hrs.

Place: Barton Hall

Made To: Wayne L. Wittner

Substance of Admissions: "I went into the rooms and took the books, ~~and~~ stereo, calculator, and tape deck. I am a poor student and sold the books to get money"

Date:

Time:

Place:

Made To:

Substance of Admissions:

Date:

Time:

Place:

Made To:

Substance of Admissions:

NOTICE OF INTENT TO USE ADMISSIONS  
SCHEDULE B  
\*\*\*\*\*  
WRITTEN ADMISSIONS  
(Including Preliminary Oral Admissions)

Date: 3/8/83 Time: 0910

Place: Barton Hall

Made To: Barbara J. Bourne

Copy attached as Exhibit encl. #4 CR 83-422

Date: Time:

Place:

Made To:

Copy attached as Exhibit \_\_\_\_\_

**MASTER FILE  
DO NOT REMOVE**

Date: Time:

Place:

Made To:

Copy attached as Exhibit \_\_\_\_\_

Date: Time:

Place:

Made To:

Copy attached as Exhibit \_\_\_\_\_

STRICT ATTORNEY  
TOMPKINS COUNTY  
CA. NEW YORK 14850



THE PEOPLE OF THE STATE OF NEW YORK

- VS -

ACCUSATORY INSTRUMENT

Kevin G. Vanginderen DOB 10/23/61  
Defendant

**WAS FILED  
DO NOT REMOVE**

ACCUSATION

BE IT KNOWN THAT, by this Accusatory Instrument, Barbara Bourne  
as the Complainant herein, accuses Kevin G. Vanginderen  
the above named Defendant, with having committed the offense of  
Burglary in the third Degree  
in violation of the Section 140.20, Subdivision of the Penal Law  
of the State of New York, ~~Violation~~ ~~Misdemeanor~~ a Class D Felony.

FACTS

On or about the 5th day of March 1983, the said defendant did, in the City of Ithaca, County of Tompkins, New York, did knowingly enter or remain unlawfully in a building, to wit: defendant entered at approx. 2:00AM room 312C Fernow Hall, Tower Road, Cornell University, City of Ithaca, N.Y., to commit the crime of larceny therein by stealing books, with said office space belonging to Richard J. Baker, with all action by defendant without authorization, are contrary to the provisions of the Statute in case made and provided.

The above allegations of fact are made by the Complainant herein:

upon direct knowledge  
XXXXX upon information and belief, with the sources of Complainant's information and the grounds for his belief being investigation of case (Cornell) 83-422 and sworn confession of defendant  
WHEREFORE, Complainant prays that a warrant be issued for the arrest of the said defendant.

Barbara Bourne  
Complainant

NOTICE  
(Penal Law, Section 210.45)

IT IS A CRIME, PUNISHABLE AS A CLASS A MISDEMEANOR UNDER THE LAWS OF THE STATE OF NEW YORK, FOR A PERSON, IN AND BY A WRITTEN INSTRUMENT, TO KNOWINGLY MAKE A FALSE STATEMENT, OR TO MAKE A STATEMENT WHICH SUCH PERSON DOES NOT BELIEVE TO BE TRUE.

Affirmed under penalty of perjury this 8th day of March, 19 83. Sworn to before me this day of 19.

OR

Barbara Bourne  
Complainant  
Judge or Justice, Desk Officer or Superior, or their authorized person.

FILED IN CASE # 83-422

NOTICE

To: Kevin G. Vanginderen

D.O.B. 10/23/61

PLEASE TAKE NOTICE that you have been arrested for the commission of the crime of Burglary in the third degree, a felony, in the City/Town/Village of Ithaca in Tompkins County, New York. Because this is a felony matter, a Tompkins County Grand Jury will hear evidence relating to the incident which served as the basis for your arrest upon this charge. If the Grand Jury finds that there is sufficient evidence, an indictment may be returned against you.

Pursuant to Section 190.50 of the Criminal Procedure Law of the State of New York, you have the right to appear before the Tompkins County Grand Jury considering your case and give testimony in your own behalf under a waiver of immunity.

If you wish to so give evidence on your own behalf before the Grand Jury, please serve upon me a written notice pursuant to Section 190.50 stating your desire to so give evidence. That notice should be served upon me immediately (if you wish to testify) as a Grand Jury may consider your case at any time without further notice, regardless of the action taken by the Court in which you now appear. That notice must contain an address to which you want me to send notice of a time for you to appear as a witness before the Grand Jury (if there is more than one such address, please provide all such addresses on your written notice). Thereafter, I will notify you relative to a time for your appearance.

JOSEPH JOCH Benjamin Bucko
Tompkins County District Attorney
Tompkins County Court House
Ithaca, New York 14850
(607) 273-2080

MAILED
DO NOT REMOVE

ADMISSION OF SERVICE

I acknowledge that I received a copy of this notice from Barbara Bourne on the 8th day of March, 19 83.

Kevin Vanginderen

AFFIDAVIT OF SERVICE

STATE OF NEW YORK :
COUNTY OF TOMPKINS: SS.

Barbara Bourne, being duly sworn, deposes and says that on the 8th day of March, 19 83, I served a copy of the notice set forth above upon Kevin G. Vanginderen, the defendant charged with felony set forth herein, at the time of his arraignment before Honorable Court of the Court.

Barbara Bourne

Sworn to before me this 8th day of March, 19 83.

19 83

Barton R. Ingersoll
Notary Public

BAKTON R. INGERSOLL
Notary Public, State of New York
No. 4703936
Qualified in Tompkins County
Expires March 30, 19 84

CASE NO. 83-422  
OTHER AGENCY Burglary

### SUPPLEMENTARY INVESTIGATION REPORT

OFFENSE Burglary PAGE 13

09/08/83 - Contacted ADA Mulvey regarding the return of evidence in the Vanginderen case. Per ADA Mulvey, County Court had previously dismissed the grand jury indictment based on a typographical error, to wit: Vanginderen indicted on Burglary 3rd and Criminal Possession of Stolen Prop. 2nd but DA's office presented it as Burglary 2nd. ADA Mulvey advised that Vanginderen plead guilty in City Court of Criminal Possession of Stolen Property 3rd Degree - Class A Misdemeanor and was given a conditional discharge.

09/08/83 + 09/09/83 - all evidence was returned to respective owners.

**MASTER FILE**  
**DO NOT REMOVE**

H. W. G. Boice  
Investigating Officer

Date of Investigation 09/22/83

Supervisor

Date of Approval **EXHIBIT F, PAGE 39**

CP# 85-722

To: Kevin G. Vanginderen D.O.B. 10/23/61

PLEASE TAKE NOTICE that you have been arrested for the commission of the crime of Burglary in the third degree D

Ithaca, a felony, in the City/~~XXXXXX~~ Ithaca of Ithaca in Tompkins County, New York. Because this is a felony matter, a Tompkins County Grand Jury will hear evidence relating to the incident which served as the basis for your arrest upon this charge. If the Grand Jury finds that there is sufficient evidence, an indictment may be returned against you.

Pursuant to Section 190.50 of the Criminal Procedure Law of the State of New York, you have the right to appear before the Tompkins County Grand Jury considering your case and give testimony in your own behalf under a waiver of immunity.

If you wish to so give evidence on your own behalf before the Grand Jury, please serve upon me a written notice pursuant to Section 190.50 stating your desire to so give evidence. That notice should be served upon me immediately (if you wish to testify) as a Grand Jury may consider your case at any time without further notice, regardless of the action taken by the Court in which you now appear. That notice must contain an address to which you want me to send notice of a time for you to appear as a witness before the Grand Jury (if there is more than one such address, please provide all such addresses on your written notice). Thereafter, I will notify you relative to a time for your appearance.

~~JOSEPH JOCH~~ Benjamin Bucko  
Tompkins County District Attorney  
Tompkins County Court House  
Ithaca, New York 14850  
(607) 273-2080

**ADMISSION OF SERVICE**

I acknowledge that I received a copy of this notice from Barbara Bourne on the 8th day of March, 19 83.

Kevin Vanginderen

**AFFIDAVIT OF SERVICE**

STATE OF NEW YORK :  
COUNTY OF TOMPKINS: SS.

Barbara Bourne, being duly sworn, deposes and says that on the 8th day of March, 19 83, I served a copy of the notice set forth above upon Kevin G. Vanginderen, the defendant charged with felony set forth herein, ~~at the time of his arraignment before Honorable~~

~~of the~~ ~~XXXXXX~~ ~~COURT~~

Barbara Bourne

Sworn to before me this 8th day of March, 19 83.

Barton R. Ingersoll  
Notary Public

BARTON R. INGERSOLL  
Notary Public, State of New York  
No. 4708935  
Qualified in Tompkins County  
Term expires March 30, 19 84

# SUBPOENA

FILE NO. 03-117

## In the Name of the People of the State of New York

TO RICHARD BAYNE, 134 Sedgwick Hills Road  
312 C ~~Town~~ 6-3191

YOU ARE HEREBY COMMANDED to appear before a Grand Jury held in and for the County of Tompkins and State of New York at the Grand Jury Room in the Tompkins County Court House in the City of Ithaca in the County of Tompkins and State of New York on Tues., May 24, 1983 at 2:30 P.M. as a witness in an investigation regarding

SEVT. VANSINDEN,

and to also appear as aforesaid on any recessed or adjourned date of the said investigation, and for a willful failure to so appear you will be deemed guilty of a Criminal Contempt of Court and will be liable for the punishment provided therefor by law.

Dated at the City of Ithaca in the County of Tompkins and State of New York this 20th day of May, 1983.

*Benjamin Bucks*  
District Attorney of Tompkins County RCM/okl

NOTICE — You should appear promptly at the time set in the Subpoena, and you may report to the District Attorney's Office rather than waiting in the public corridor outside the grand jury room, if you desire. The grand jury does not always meet in the same place. You should also turn in your subpoena to the District Attorney's Office for reimbursement of your mileage expenses. This Subpoena is hereby continued until such time as you are expressly discharged by the District Attorney, an Assistant District Attorney, or the Court.

REPORT OUTSIDE THE GRAND JURY ROOM  
OR TO THE DISTRICT ATTORNEY'S OFFICE  
AND REMAIN AVAILABLE UNTIL DISCHARGED.

STATE OF NEW YORK :  
COUNTY OF TOMPKINS : ss

### AFFIDAVIT OF SERVICE

I, the undersigned, being duly sworn, do hereby state that I served a true copy of the within subpoena upon the person named therein at 1020 <sup>PM</sup> ~~AM~~ on 5.20.83 at FEDDOW HALL in the City/Town/Village of ITHACA in the County of TOMPKINS and State of N.Y.

*Richard Schuman*

Sworn to before me this 20TH

day of MAY, 1983  
*David R. Fisher*  
Notary Public

DAVID R. FISHER  
Notary Public, State of New York  
No. 4708934  
Qualified in Tompkins County  
Term expires March 30 1984

RETURN THIS COPY OF SUBPOENA TO DISTRICT ATTORNEY AT LEAST 24 HOURS BEFORE RETURN DATE WITH AFFIDAVIT SERVICE COMPLETED.

# SUBPOENA

FILE NO. ....

## In the Name of the People of the State of New York

TO LT. W. H. BAKER, CLERK

YOU ARE HEREBY COMMANDED to appear before a Grand Jury held in and for the County of Tompkins and State of New York at the Grand Jury Room in the Tompkins County Court House in the City of Ithaca in the County of Tompkins and State of New York on May 20, 2003 at 11:52 A.M./P.M. as a witness in an investigation regarding

KEVIN VANGLADEN

and to also appear as aforesaid on any recessed or adjourned date of the said investigation, and for a willful failure to so appear you will be deemed guilty of a Criminal Contempt of Court and will be liable for the punishment provided therefor by law.

Dated at the City of Ithaca in the County of Tompkins and State of New York this 20th day of May, 1903

Bryan Bucko  
District Attorney of Tompkins County

NOTICE — You should appear promptly at the time set in the Subpoena, and you may report to the District Attorney's Office rather than waiting in the public corridor outside the grand jury room, if you desire. The grand jury does not always meet in the same place. You should also turn in your subpoena to the District Attorney's Office for reimbursement of your mileage expenses. This Subpoena is hereby continued until such time as you are expressly discharged by the District Attorney, an Assistant District Attorney, or the Court.

REPORT OUTSIDE THE GRAND JURY ROOM OR TO THE DISTRICT ATTORNEY'S OFFICE AND REMAIN AVAILABLE UNTIL DISCHARGED.

STATE OF NEW YORK :  
COUNTY OF Tompkins : ss

### AFFIDAVIT OF SERVICE

I, the undersigned, being duly sworn, do hereby state that I served a true copy of the within subpoena upon the person named therein at 11:52 (A.M./P.M.) on May 20, 2003 at Barton Hall in the City/Town/Village of Ithaca in the County of Tompkins and State of New York

Sworn to before me this 20<sup>TH</sup>

day of MAY, 1903  
David R. Fisher  
Notary Public

DAVID R. FISHER  
Notary Public, State of New York  
No. 4708934  
Qualified in Tompkins County  
Term expires March 30, 1904

RETURN THIS COPY OF SUBPOENA TO DISTRICT ATTORNEY AT LEAST 24 HOURS BEFORE RETURN DATE WITH AFFIDAVIT SERVICE COMPLETED.

# SUBPOENA

FILE NO. 03-1132

## In the Name of the People of the State of New York

TO BARBARA BOURNII, CUPP

YOU ARE HEREBY COMMANDED to appear before a Grand Jury held in and for the County of Tompkins and State of New York at the Grand Jury Room in the Tompkins County Court House in the City of Ithaca in the County of Tompkins and State of New York on Thursday, May 24, 1983 at 2:50 A.M./P.M. as a witness in an investigation regarding

KEVIN VANSTANDEN

and to also appear as aforesaid on any recessed or adjourned date of the said investigation, and for a willful failure to so appear you will be deemed guilty of a Criminal Contempt of Court and will be liable for the punishment provided therefor by law.

Dated at the City of Ithaca in the County of Tompkins and State of New York this 20th day of May, 1983

*Bryan A. Buck*  
District Attorney of Tompkins County

NOTICE — You should appear promptly at the time set in the Subpoena, and you may report to the District Attorney's Office rather than waiting in the public corridor outside the grand jury room, if you desire. The grand jury does not always meet in the same place. You should also turn in your subpoena to the District Attorney's Office for reimbursement of your mileage expenses. This Subpoena is hereby continued until such time as you are expressly discharged by the District Attorney, an Assistant District Attorney, or the Court.

REPORT OUTSIDE THE GRAND JURY ROOM  
OR TO THE DISTRICT ATTORNEY'S OFFICE  
AND REMAIN AVAILABLE UNTIL DISCHARGED.

STATE OF NEW YORK :  
COUNTY OF TOMPKINS : SS

### AFFIDAVIT OF SERVICE

I, the undersigned, being duly sworn, do hereby state that I served a true copy of the within subpoena upon the person named therein at 3 ~~PM~~/P.M. on 5/21/83 at CORNELL PUBLIC SAFETY in the City/Town/Village of ITHACA in the County of TOMPKINS and State of New York

*Elbert J. Smith*

Sworn to before me this .....  
day of ....., 19.....

Notary Public

RETURN THIS COPY OF SUBPOENA TO DISTRICT ATTORNEY AT LEAST 24 HOURS BEFORE RETURN DATE WITH AFFIDAVIT SERVICE COMPLETED.

# SUBPOENA

FILE NO. ....

## In the Name of the People of the State of New York

TO WAINO WATNER, WIGG

YOU ARE HEREBY COMMANDED to appear before a Grand Jury held in and for the County of Tompkins and State of New York at the Grand Jury Room in the Tompkins County Court House in the City of Ithaca in the County of Tompkins and State of New York on May 20, 1983 at 4:25 A.M./P.M. as a witness in an investigation regarding

ROBERT WATNER

and to also appear as aforesaid on any recessed or adjourned date of the said investigation, and for a willful failure to so appear you will be deemed guilty of a Criminal Contempt of Court and will be liable for the punishment provided therefor by law.

Dated at the City of Ithaca in the County of Tompkins and State of New York this 20 day of May, 1983.

Bryan Beck  
District Attorney of Tompkins County

NOTICE — You should appear promptly at the time set in the Subpoena, and you may report to the District Attorney's Office rather than waiting in the public corridor outside the grand jury room, if you desire. The grand jury does not always meet in the same place. You should also turn in your subpoena to the District Attorney's Office for reimbursement of your mileage expenses. This Subpoena is hereby continued until such time as you are expressly discharged by the District Attorney, an Assistant District Attorney, or the Court.

REPORT OUTSIDE THE GRAND JURY ROOM  
OR TO THE DISTRICT ATTORNEY'S OFFICE  
AND REMAIN AVAILABLE UNTIL DISCHARGED.

STATE OF NEW YORK :  
COUNTY OF TOMPKINS : ss

### AFFIDAVIT OF SERVICE

I, the undersigned, being duly sworn, do hereby state that I served a true copy of the within subpoena upon the person named therein at 4:25 A.M./P.M. on 5/20/83 at G-11 BARTON HALL in the ITHACA (date) (place) in the County of TOMPKINS and State of NEW YORK

Robert J. Traub, Jr. LT #11

Sworn to before me this 20<sup>th</sup>

day of MAY, 1983  
David R. Fisher  
Notary Public

DAVID R. FISHER  
Notary Public, State of New York  
No. 4708934  
Qualified in Tompkins County  
Term expires March 30, 1987

RETURN THIS COPY OF SUBPOENA TO DISTRICT ATTORNEY AT LEAST 24 HOURS BEFORE RETURN DATE WITH AFFIDAVIT SERVICE COMPLETED.



Dist. Atty. File # 83-1136  
TOMPKINS COUNTY GRAND JURY  
Originally Convened 4/25/83  
Reconvened \_\_\_\_\_

STATE OF NEW YORK  
COUNTY COURT COUNTY OF TOMPKINS

-----  
THE PEOPLE OF THE STATE OF NEW YORK

vs.

KEVIN VANGINDEREN

GRAND JURY  
MINUTES

Indictment Number \_\_\_\_\_  
-----

Grand Jury Convened by HON. BETTY D. FRIEDLANDER, County Court Judge  
Present at Grand Jury proceedings were witnesses named herein and the  
following persons:

ROBERT C. MULVEY, ESQ.,  
Assistant District Attorney

CAROL DICKINSON,  
Foreman

DOROTHY M. BURDORF,  
Stenographer

Grand Jurors

THE DISTRICT ATTORNEY OF TOMPKINS COUNTY  
Tompkins County Court House Ithaca, New York, 14850 (607) 274-5461

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I N D E X

<u>Witness</u>	<u>Page</u>
Instructions	3, 22
Barbara Bourne	6
Wayne Wittner	11
William G. Boice	13
Richard Baker	18

E X H I B I T S

<u>Grand Jury Exhibit No.</u>	<u>Page Marked</u>
1	3
2 Transcript of Interview w/Vanginderen	3
3 Statement	3

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Grand Jury Exhibits 1, 2 and 3  
marked for identification.

MR. MULVEY:

Good afternoon. This is  
the case of People versus Kevin  
Vanginderen, O.K., and your charge  
sheets show one count of burglary  
in the third degree. I would like  
you to change that to two counts  
of burglary in the third degree,  
and I will read the law to you  
now.

Section 140.20 of the  
Penal Law defines burglary in  
the third degree as follows:  
A person is guilty of burglary in  
the third degree when he knowingly  
enters or remains unlawfully in a  
building with intent to commit a  
crime therein.

I will read you the defini-  
tion of a building. The defini-  
tion is its ordinary meaning to  
you as far as what a building is,  
but it goes further to say: Where  
a building consists of two or

Instructions

1 more units separately secured  
2 or occupied, each unit shall be  
3 deemed both a separate building  
4 in itself and a part of the main  
5 building. Now, in this case  
6 there may be testimony about  
7 office space within a building.  
8 I would ask you to consider that  
9 as a separate unit within a build-  
10 ing and, therefore, also a build-  
11 ing under this definition.

12 Now, Enter or Remain

13 Unlawfully is defined as follows:  
14 A person enters enters in premises --  
15 unlawfully in or upon premises when  
16 he is not licensed or privileged  
17 to do so. A license or privilege  
18 to enter or remain in a building  
19 which is only partly open to the  
20 public is not a license or privilege  
21 to enter or remain in that part of  
22 the building which is not open to  
23 the public.

24 Now, there may or may not  
25 be testimony about public access

Instructions

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to a part of this building. So  
I would like you to keep that in  
mind.

Are there any questions on  
the law or the definitions?

Barbara Bourne

1           BARBARA BOURNE, called as a witness and  
2 being duly sworn by Carol Dickinson, Foreman  
3 of the Grand Jury, testified as follows:

4           EXAMINATION BY MR. MULVEY:

5           Q     Would you state your name and address  
6                   for the record, please?

7           A     Barbara J. Bourne, 1380 Coddington Road,  
8                   Brooktondale, New York.

9           Q     Are you employed, Barbara?

10          A     Yes, I am.

11          Q     And where are you employed?

12          A     Cornell University, Department of Public  
13                   Safety.

14          Q     And what is your position there?

15          A     Patrol officer.

16          Q     Were you so employed in February and March  
17                   of 1983?

18          A     Yes, I was.

19          Q     Did you have occasion to make the acquaintance  
20                   of a gentleman by the name of Kevin Vanzinderen?

21          A     Yes, I did.

22          Q     Could you please tell the Grand Jury the  
23                   circumstances involved leading up to your  
24                   acquaintance with him?

25          A     March 5th, on a Saturday. I received a

1 complaint of a theft from Fernow Hall.  
2 It was on the third floor, and a  
3 gentleman by the name of Paul Sheppard  
4 was the first complaint I got. He had  
5 a JVC stereo taken from his locked office  
6 sometime between Friday night and Saturday  
7 morning. There are other offices in the  
8 area, and the indication from what evidence  
9 was available was that the person had  
10 climbed over the partitions between the  
11 offices. There is a space of about one  
12 and a half feet to two feet. Somebody  
13 could have climbed over. So I left a note  
14 for the other graduate students in that  
15 office to contact me as they came in.  
16 About 2:00 o'clock in the afternoon I spoke  
17 with Richard Baker. He had noticed the  
18 two textbooks were missing about the same  
19 time. It's normal procedure, when we get  
20 textbook thefts, to report it to Triangle  
21 Book Store, and I spoke with the manager,  
22 Mr. Terry Hoover. He stated that he had  
23 the two books that Mr. Baker had reported  
24 stolen, and that someone had sold them back  
25 to him. I went down to Triangle and spoke

1 with him in person. He showed me the list  
2 where they -- when they buy books, the person  
3 that sells them signs it, and they have to  
4 show some form of I.D. He showed me the  
5 name on the page with the I.D. number next  
6 to it, and he gave me a copy, photostat  
7 copy of it. The I.D. number was legible,  
8 but the signature wasn't. The only thing  
9 you could really make out was the first  
10 initial was "K," and the last initial was  
11 "V." What I did then was, I went to our  
12 computer printout of all the students  
13 listed and looked under the last names  
14 beginning with the letter, "V," and I found  
15 Kevin Vanginderen, and the I.D. number  
16 matched exactly. At that point I was made  
17 aware by some other officers who were on  
18 duty -- I don't recall exactly who it was --  
19 that Officer Wittner had investigated a  
20 similar incident that had taken place in  
21 February. I went to our files and pulled  
22 out the cases from that and found there a  
23 signed receipt from the Cornell Campus  
24 Store with a signature not identical, but  
25 the formulation of the "K" and "V" were



1 so similar I was convinced it was the same  
2 individual. The person in the Campus  
3 Store had written the I.D. number in-  
4 correctly. They put down five digits  
5 instead of the usual six, but the five digits  
6 they put down were exactly the same as five  
7 of the six of Mr. Vanginderen's I.D. number.

8 Q O.K., and what did you do then?

9 A We found a copy of the 1979 Cornell Freshman  
10 Register. We only knew Mr. Vanginderen was  
11 a Senior. The only picture we could find  
12 of him was in the 1979 Freshman Register.  
13 I took that book down to the Triangle Book  
14 Store and showed it to Mr. Hoover and asked  
15 him if there was anyone on the page, the two  
16 pages there, he would recognize. He pointed  
17 to Mr. Vanginderen's picture and said, "The  
18 hair is different, but the facial features  
19 are the same, and I'm quite certain it's  
20 the same person."

21 Q Did there come a time when you approached  
22 Mr. Vanginderen about these incidents?

23 A Yes. On Tuesday, the 8th, myself and Officer  
24 Wittner. At that time we had thought that  
25 Mr. Vanginderen lived on -- in one of the

Barbara Bourne

1 fraternities, and we went down to the  
2 fraternity and spoke to the House President.  
3 It was determined he no longer lived there;  
4 he lived in Winston Court Apartments. We  
5 went there and spoke with the manager of  
6 the apartments and found he lived in 603,  
7 Apartment 3. It was about 8:00 o'clock in  
8 the morning, 8:00, 8:30. We knocked on  
9 the door; spoke with Mr. Vanginderen. We  
10 read him his rights, told him what we were  
11 inquiring about and asked him to come to  
12 Barton Hall for some further questioning.  
13 Q O.K., and did there come a time when other  
14 members of the department interviewed  
15 Mr. Vanginderen?  
16 A Yes. At first it was myself and Officer  
17 Wittner, with Officer Wittner doing the  
18 questioning for the most part. I was  
19 there as a witness to the interview.  
20 When Mr. Vanginderen started confessing,  
21 we read him his rights again, and it just  
22 went on. Eventually Lieutenant Poice  
23 also interviewed Mr. Vanginderen, which  
24 produced a sworn statement from Mr. Vanginderen.  
25 Q O.K. Are there any further questions for  
26 Officer Bourne? Thank you.

Wayne Wittner

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WAYNE WITTNER, called as a witness and being duly sworn by Carol Dickinson, Foreman of the Grand Jury, testified as follows:

EXAMINATION BY MR. MULVEY:

Q Could you state your name and address for the record, please?

A Wayne Wittner, 15 Meadow Drive, Freeville, New York.

Q And are you employed, Mr. Wittner?

A Yes. Cornell University Department of Public Safety as a patrol officer.

Q Were you so employed in March of 1983?

A Yes, sir, I was.

Q Did you have occasion to make the acquaintance of a Kevin Vanginderen?

A Yes, sir.

Q Could you please briefly tell the Grand Jury the circumstances involved with your meeting Mr. Vanginderen?

A When I came to work at 7:00 o'clock in the morning, Officer Bourne informed me that she had found a possible subject of the book thefts out of Fernow Hall. At that time the address that we had for him was 17 South Ave. We went over at that time, and

1 the House President told us that he lived  
2 in Winston Court Apartments. We went there  
3 to his apartment and spoke with the gentle-  
4 man. At that time I read him his Miranda  
5 warnings and asked him about the books.  
6 He told me at that time that he had bought  
7 them from a hispanic in front of the  
8 libraries on the campus. So we then took  
9 him back to Barton Hall. I started question-  
10 ing him at that time about the thefts, and  
11 he broke down and admitted to taking the  
12 books, and I quote, "I went into the rooms  
13 and took the books, stereo, calculator and  
14 tape deck. I am a poor student and sold  
15 the books to get money."

16 Q Did you have any further conversation  
17 with him?

18 A At that time I did not.

19 Q O.K.

20 A Officer Bourns and Lieutenant Boice finished  
21 up with him at that time.

22 Q O.K. So Lieutenant Boice conducted a further  
23 interview.

24 A Yes, sir.

25 Q Are there any questions for Officer Wittner?

26 Thank you, sir.

William G. Boice

1            WILLIAM G. BOICE, called as a witness and  
2 being duly sworn by Carol Dickinson, Foreman of  
3 the Grand Jury, testified as follows:

4            EXAMINATION BY MR. MULVEY:

5            Q     Would you state your name for the record,  
6                    please?

7            A     William G. Boice, B-o-i-c-e.

8            Q     Are you employed, sir?

9            A     I am, sir.

10          Q     Where are you employed?

11          A     Cornell Public Safety. I'm a Police Lieutenant  
12                    in charge of major investigations.

13          Q     O.K., Lieutenant, were you so employed on  
14                    March 8, 1983?

15          A     Yes, sir.

16          Q     O.K. Do you recall conducting an interview  
17                    with a man by the name of Kevin Vansinderen  
18                    that day?

19          A     Yes, sir.

20          Q     Will you please briefly tell the Grand Jury  
21                    the substance of that interview?

22          A     Approximately 9:10 in the morning Officer Bourne  
23                    stated that she had -- well, in the course of  
24                    the investigation she had interviewed Kevin,  
25                    and he admitted to several larcenies and

1 several burglaries in offices in Fernow  
2 and Bradfield Hall.  
3 Q There was a transcript made of that inter-  
4 view?  
5 A Yes, sir.  
6 Q Do you have a copy of that with you?  
7 A Yes, sir.  
8 Q O.K. I'm going to briefly show you Grand  
9 Jury Exhibit 2 and ask you to identify that  
10 for us.  
11 A It's a question and answer interview I  
12 conducted with Kevin at approximately 10:35  
13 on March 8th.  
14 Q O.K. Do you have a copy of that with your  
15 own packet of papers?  
16 A Yes, sir.  
17 Q O.K. I would like you to open that up and  
18 look at it, if you will, Lieutenant. I  
19 direct your attention to the lower portion  
20 of Page 2 of that transcript, specifically  
21 the second to last question on that page.  
22 Would you please tell us or read that question  
23 to the Grand Jury?  
24 A The question I posed to Kevin regarding Case  
25 Number 83-421 occurring March 2 to March 5,

William G. Boice

1 312F Fernow Hall, involving JVC cassette  
2 stereo player recorder which was taken on  
3 the burglary where the subject climbed over  
4 a partition, and I asked, "Are you responsible  
5 for this?" and Kevin responded, "Yes. That  
6 was the last theft on 2:00 A.M. on Saturday."

7 Q So did you determine what day it was in  
8 March that he committed that burglary?

9 A I don't recall specifically the date that  
10 the burglary occurred. The report came  
11 sometime within the 3rd to the 5th. So  
12 whichever Saturday fell on March 3rd was  
13 it.

14 Q I'm going to direct your attention to  
15 further up on that page, about one-third  
16 of the way down, where it begins,  
17 "Case 83-303." Will you please read that  
18 question to the Grand Jury?

19 A Again, I was questioning. I asked of Kevin  
20 regarding Case 83-303, occurring sometime  
21 between February 10 and February 12, 1983,  
22 regarding unlawful entry into Room 312-C,  
23 Fernow Hall, in which a calculator, a  
24 Texas Instrument, TI 55, and a Sanyo  
25 tape deck recorder were taken. I asked

William G. Boice

1 him specifically, "Were you responsible  
2 for these items?" and he responded,  
3 "Yes, they have them," and indicated that  
4 the officers had them.

5 Q O.K., Lieutenant, did -- I would like you  
6 to look in your packet and tell us if you  
7 have a copy of Grand Jury Exhibit 3.

8 A Yes, sir.

9 Q O.K. I would like you to open up to  
10 that page.

11 A O.K.

12 Q Will you identify that for us?

13 A It's a written statement voluntarily given  
14 by Kevin at approximately 9:10 A.M.,  
15 morning of March 8, in my office.

16 Q O.K. Will you read the first line of  
17 Mr. Vanginderen's statement to us?

18 A "I, Kevin G. Vanginderen, admit to taking  
19 a few books, a calculator and two small  
20 cassette decks from Fernow Hall."

21 Q O.K. I direct your attention to the fourth  
22 line up from the bottom, beginning, "Wittner."  
23 Will you please read that for us?

24 A "Wittner: How did you gain entrance into  
25 Fernow Hall? Vanginderen: A tunnel leading



1 from the basement of Bradfield Hall to Fernow,  
2 which is unlocked. I gained entrance through  
3 it. Wittner: The room you took the books  
4 from in Fernow, were the rooms locked?  
5 Vanginderen: No. The rooms I went into  
6 on the main corridor were unlocked. The  
7 ones at the ends of the corridor had spaces  
8 above the doors, which I jumped."  
9 Q O.K. I have no further questions for  
10 Lieutenant Boice. Do any of the Grand  
11 Jurors have any questions? Thank you,  
12 sir.

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Richard Baker

1           RICHARD BAKER, called as a witness and  
2 being duly sworn by Carol Dickinson, Foreman  
3 of the Grand Jury, testified as follows:

4           EXAMINATION BY MR. MULVEY:

5           Q     Would you state your name and address for  
6 the record, please, sir?

7           A     Richard Baker. My home address is  
8 134 Judd Falls Road, Ithaca.

9           Q     O.K. Are you employed, sir?

10          A     I'm a graduate student at Cornell University.

11          Q     O.K., Mr. Baker, did there come a time  
12 when you made a report to the Cornell Public  
13 Safety regarding some items that were miss-  
14 ing from your offices?

15          A     Yes. I made a report on February 14th that  
16 some items were missing.

17          Q     Can you tell us where your office is  
18 located?

19          A     My office is 304G Fernow Hall. It's --

20          Q     O.K. Can you tell us what those offices  
21 are for?

22          A     They're solely for graduate students,  
23 the entire third floor.

24          Q     O.K. Can you tell us what you keep  
25 in that offices?

Richard Baker

1 A All the material that's associated with  
2 my studies, my books, papers, other items  
3 that you use.

4 Q In February what items did you notice  
5 missing?

6 A On February 13th I noticed that my cal-  
7 culator, TI 55, and a cassette tape deck  
8 that I borrowed were missing.

9 Q O.K. Did there come a time in March when  
10 you noticed anything missing from your  
11 office?

12 A Yes. Again on March 5th I found that there  
13 were some books missing.

14 Q O.K. Did you report that to the Cornell  
15 Public Safety?

16 A Yes, I did.

17 Q O.K. Do you keep your office locked?

18 A Yes, I do, always.

19 Q O.K. So when you leave your office on  
20 a daily basis, you lock it as you leave.

21 A Yes.

22 Q Do you know a man by the name of Kevin  
23 Vanginderen?

24 A No, I don't.

25 Q O.K. Had you ever given Kevin Vancinderen

1 permission to be in your office between the  
2 dates of February 10th, 1983 and February 12th,  
3 1983?

4 A No.

5 Q O.K. I ask you the same question for March 5,  
6 1983.

7 A I never did, no.

8 Q So you never gave him permission to be  
9 there on that date either.

10 A No.

11 Q O.K. Is that a public building?

12 A In what sense do you mean public?

13 Q Is it -- are the main doors to the building  
14 open at all times to the public?

15 A During the daytime they are. At night  
16 they're locked.

17 Q How does one gain access to the building?

18 A Only with a key.

19 Q O.K., and how do you obtain that key?

20 A Through the Administrative Manager of  
21 the apartment.

22 Q I see. Well, I have no further questions  
23 for Mr. Baker.

24 JUROR: Were your items ever  
25 recovered?

Richard Baker

1 A Yes, they were.

2 JUROR: From Vanginderen or  
3 you don't know where?

4 A To the best of my knowledge they were  
5 recovered by Public Safety from him, yes.

6 Q Any more questions? Well, thank you, sir.  
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Instructions

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MR. MELVEY:

I would ask you to separate the two counts for the following dates. I believe you heard testimony based on Mr. Vanginderen's admission that he made entry between the dates of February 10 and February 12, 1983. I would ask you to consider that as one date for a burglary. I would also ask you to consider March 5 as another date for Count 2 for burglary. You recall there was testimony regarding his statement that he made an entry on March 5. So those are the two counts. Any questions? O.K.  
Thank you.

CERTIFICATION

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I, Dorothy M. Burdorf, duly appointed Grand Jury Stenographer, County of Tompkins, State of New York, do certify that in such capacity I took the minutes of the County Court Grand Jury convened on April 25, 1983, in the within matter of The People of the State of New York against KEVIN VANGINDEREN; that I have transcribed the same, and the foregoing is a true copy of such transcript, to the best of my ability, and of the whole thereof.

Dorothy M. Burdorf

file

83-1136

RECEIVED/SENT  
TOMPKINS COUNTY  
DISTRICT ATTORNEY

ADAMS, THEISEN & NASH

MAY 25 3 48 PM '83

ATTORNEYS AND COUNSELORS AT LAW  
301 THE CLINTON HOUSE  
103 WEST SENECA STREET  
ITHACA, NY 14850

HENRY W. THEISEN  
RALPH W. NASH  
STEPHEN M. BOWMAN

ARMAND L. ADAMS  
1911-1983

607-272-3442

May 25, 1983

Hon. Benjamin J. Bucko  
Tompkins County District Attorney  
Tompkins County Courthouse  
Post Office Box 326  
Ithaca, New York 14850

Re: People v. Vanginderen

Dear Ben:

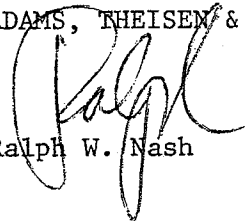
My client has asked me again whether there is any possibility of his meeting with you personally on this matter in an effort to resolve it. If such is not possible, he would like to be arraigned as soon as possible, so that it will interfere minimally with his employment.

Thank you for your attention to this matter.

Yours very truly,

ADAMS, THEISEN & NASH

Ralph W. Nash



RWN/dh

Ralph — 5/27/83

The matter has been presented to the grand jury and the indictment will be handed up next Tuesday.

Ben



83-1136

STATE OF NEW YORK  
COUNTY COURT : COUNTY OF TOMPKINS

-----  
THE PEOPLE OF THE STATE OF NEW YORK,  
  
Plaintiff

INDICTMENT

vs.

Index No. 83-46

KEVIN G. VANGINDEREN,

Defendant  
-----

COUNT I

The Grand Jury of the County of Tompkins and State of New York, by this Indictment, hereby accuses KEVIN G. VANGINDEREN of the crime of BURGLARY IN THE SECOND DEGREE in violation of Section 140.25 of the Penal Law of the State of New York, committed as follows:

Between the hours of 12:00 A.M. on February 10, 1983 and 11:59 P.M. on February 12, 1983, the exact time and date being unknown, at Fernow Hall in the City of Ithaca, County of Tompkins and State of New York, the said KEVIN G. VANGINDEREN did knowingly enter or remain unlawfully in said building with intent to commit a crime therein.

COUNT II

The Grand Jury of the County of Tompkins and State of New York, by this Indictment, hereby accuses KEVIN G. VANGINDEREN of the crime of BURGLARY IN THE SECOND DEGREE in violation of Section 140.25 of the Penal Law of the State of New York, committed as follows:

Between the house of 12:00 A.M. and 11:59 P.M. on March 3, 1983, the exact time being unknown, at Fernow Hall in the City of Ithaca, County of Tompkins and State of New York, the said KEVIN G. VANGINDEREN did knowingly enter or remain unlawfully in said building with intent to commit a crime therein.

Signed this 7th day of June, 1983 in the City of Ithaca, County of Tompkins and State of New York.

s/Carol T. Dickinson

s/Benjamin J. Bucko

FOREMAN

DISTRICT ATTORNEY

DISTRICT ATTORNEY  
TOMPKINS COUNTY  
HACA, NEW YORK 14850

RECEIVED/SENT  
TOMPKINS COUNTY  
DISTRICT ATTORNEY

JUL 15 1 29 PM '83

STATE OF NEW YORK  
COUNTY COURT : COUNTY OF TOMPKINS

THE PEOPLE OF THE STATE OF NEW YORK, :

-vs- :

NOTICE OF MOTION

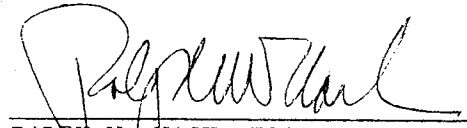
KEVIN G. VANGINDEREN, :

Indictment No. 83-46

Defendant. :

PLEASE TAKE NOTICE that upon the annexed Affidavit of Ralph W. Nash, sworn to the 15th day of July, 1983, the Exhibits attached thereto and all prior proceedings herein, the undersigned will move this Court at a Criminal Motion Term thereof to be held on the 1st day of August, 1983, at 9:30 A.M., or as soon thereafter as counsel may be heard for Orders on behalf of the Defendant (A) for dismissal of the indictment as defective; (B) for inspection of the Grand Jury minutes and for dismissal of the indictment for legal insufficiency of the evidence; (C) for dismissal in the interests of justice; (D) for suppression of the statements allegedly made by Defendant; (E) for discovery pursuant to a Demand to Produce; and (F) for such other and further relief as to this Court may seem just and proper.

DATED: July 15, 1983



RALPH W. NASH, ESQ.  
Attorney for Defendant  
Office and P.O. Address:  
ADAMS, THEISEN & NASH  
301 The Clinton House  
103 West Seneca Street  
Ithaca, New York 14850  
Tel.: (607) 272-3442

TO: HON. BENJAMIN J. BUCKO  
Tompkins County District Attorney  
Office and P.O. Address:  
Tompkins County Courthouse  
Post Office Box 326  
Ithaca, New York 14850

ADAMS & THEISEN • ATTORNEYS AT LAW • ITHACA, NEW YORK

STATE OF NEW YORK  
COUNTY COURT : COUNTY OF TOMPKINS

THE PEOPLE OF THE STATE OF NEW YORK :

-vs- :

KEVIN G. VANGINDEREN, :

Defendant. :

AFFIDAVIT

Indictment No. 83-46

STATE OF NEW YORK )  
 ) SS:  
COUNTY OF TOMPKINS )

ADAMS & THEISEN · ATTORNEYS AT LAW · ITHACA, NEW YORK

RALPH W. NASH, being duly sworn, does depose and say:

1. That he is the attorney for the Defendant herein and is fully familiar with the facts and circumstances of this case.

2. That the Defendant was arraigned on the above numbered Indictment on June 10, 1983, and entered a plea of not guilty to both counts of the Indictment at that time.

3. At arraignment, your deponent was directed to file pre-trial motion papers on or before July 15, 1983, making the motions returnable at the next appropriate motion term of this Court.

MOTION TO DISMISS INDICTMENT AS DEFECTIVE:

4. Indictment No. 83-46 charges the Defendant with two counts of Burglary in the Second Degree upon identical factual allegations that the Defendant "did knowingly enter or remain unlawfully in said building (Fernow Hall) with the intent to commit a crime therein."

5. Said factual allegation does not substantially conform to the requirements for indictments as provided in the Criminal Procedure Law

6. As can be seen by Exhibit "A" attached hereto, no factual allegation consistent with the crime charged can be made

MOTION TO INSPECT THE GRAND JURY MINUTES AND DISMISS INDICTMENT  
ON GROUND OF INSUFFICIENCY OF GRAND JURY EVIDENCE:

7. Count I of the Indictment alleges that the Defendant committed a burglary sometime within a 72-hour period commencing at midnite on February 10, 1983, and concluding at one minute to midnite on February 12, 1983. It appears therefrom that no evidence was introduced to the Grand Jury as to the actual entry of and/or failure to leave Fernow Hall of the Defendant.

8. As appears from Exhibit "A" attached hereto, Fernow Hall was open to the public during most of the period in which it is alleged that the burglary occurred.

9. Upon information and belief, therefore, it is contended that no evidence was submitted to the Grand Jury that the Defendant did knowingly enter or remain unlawfully in Fernow Hall as alleged in the Indictment.

10. Upon the aforesaid information, the People could not meet its burden of proof upon the charge stated in Count I of the Indictment or any lesser included charge thereof

11. Upon the same argument, the People likewise could not meet its burden of proof upon the charge stated in Count II of the Indictment or any lesser included charge thereof

MOTION TO DISMISS IN THE INTERESTS OF JUSTICE:

12. At the time of his arrest in this matter, Kevin Vanginderen was a senior at Cornell University. He has subsequently graduated and is looking for permanent employment.

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13. During his entire attendance at Cornell University Kevin was beset by economic problems, which said problems do not justify any wrongdoing, but do offer some explanation thereof. Your deponent believes that this case presents an excellent opportunity for a dismissal in the interests of justice, (if this Indictment is not dismissed because of the foregoing legal contentions), because of the following factors which are arranged in the order provided by Criminal Procedure Law §210.40:

(a) The offense involved constitutes at most a petty theft with no overtones of threat to persons or their residences, or unlawful entry into any building.

(b) The harm caused by the offense is limited to the transitory loss of personal property of minimal value.

(c) The evidence of guilt of a burglary as charged in the Indictment is minute, while the evidence of a petty theft rests solely upon the admission of Defendant, which may be ruled inadmissible.

(d) The Defendant Kevin Vanginderen has no prior criminal record, nor as can be seen by Exhibit "B" attached hereto, any record of wrongdoing at Cornell University. He has worked to the best of his ability to obtain a college diploma from Cornell University and he has worked to support himself with very limited assistance from his parents during this period. See Exhibit "B" and "C".

His character is such that he suffers sincere remorse for any theft he may have committed, and it is certainly to be expected that a recurrence of such activity will never happen; this, without the necessity of imposing a criminal conviction and attendant punishment. A criminal conviction will have prohibitive effect on Kevin's future at this critical time of seeking employment after graduation. His Indictment in this matter has already caused him considerable problems in this regard.

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It is submitted that the circumstances of this case and the character of the Defendant made this case an ideal one for diversion referral, which was denied by the District Attorney's Office.

(e) Your deponent believes that the law enforcement officials at Cornell University unfairly and unconstitutionally wrested a confession from Defendant by arresting him at his residence in the early morning hours and threatening to prosecute him for several serious thefts at Cornell University if he did not make a full confession. In addition, it appears that the District Attorney's Office has over-indicted Kevin based upon the facts of this case.

(f) No positive purpose and effect can be visited upon the Defendant by a felony sentence in this matter. Kevin's character is such that it has reacted tremendously to the shame and indignity of a publicized arrest and prosecution. To visit upon him the stigma of a felony conviction at this critical time of his life would serve no useful purpose and would only show vindictiveness and failure to make even the most basic observations regarding human behavior.

(g) It is respectfully contended that the public does believe that "the quality of mercy is not strained." It is respectfully submitted that the public is in favor of a first-time offender with an otherwise unblemished and exemplary record getting a break. To brand every first-time offender as a criminal would be counter-productive. The impact of a dismissal upon the confidence of the public in the criminal justice system would be salutary.

(h) There would be no adverse impact of a dismissal on the safety or welfare of the community. Dean Drinkwater, who speaks on behalf of the Cornell community, certainly evidences no concern on this matter and recommends liberal treatment of Kevin's case. Considering Kevin's character as therein attested and proven by his past conduct, no negative impact exists.

Based upon all of the foregoing, your deponent believes that a dismissal in the interests of justice is indeed appropriate in this case, if this Indictment is not for other reasons dismissed.

MOTION FOR SUPPRESSION OF STATEMENT:

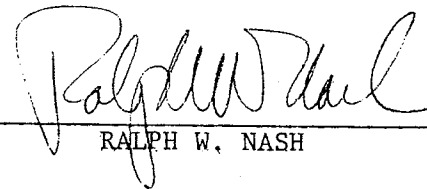
14. If the Indictment is not dismissed in this matter upon the foregoing motions, your deponent does request a hearing to determine the admissibility of certain statements allegedly made by the Defendant herein.

15. That your deponent has been served with a notice of intent to use admissions, the original of which has been filed in the County Clerk's Office and it is as to these alleged statements that your deponent requests an Order of Suppression upon the basis that they were unconstitutionally obtained from the Defendant, and/or taken from the Defendant after he had been unconstitutionally arrested or otherwise restricted in his freedom.

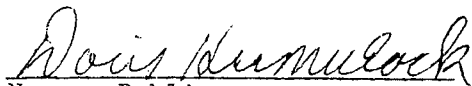
MOTION FOR DISCOVERY:

16. Attached hereto and made a part hereof, as Exhibit "D", is the Demand to Produce made pursuant to CPL §240.20. While I do not anticipate that the People will refuse to comply with these demands, I here incorporate these Demands in order that they may be before this Court for a ruling pursuant to CPL §240.40 in the event of the People's refusal.

17. Your deponent reserves the right to amend or supplement this motion if made necessary or appropriate by future disclosure by the District Attorney.

  
RALPH W. NASH

Sworn to before me this  
15th day of July, 1983.

  
Notary Public

DORIS HUMMELOCK  
Notary Public, State of New York  
111 Hudson Street  
New York, N.Y. 10013

ADAMS & THEISEN - ATTORNEYS AT LAW - ITHACA, NEW YORK

STATE OF NEW YORK  
COUNTY COURT : COUNTY OF TOMPKINS

THE PEOPLE OF THE STATE OF NEW YORK :

-vs- :

KEVIN G. VANGINDEREN, :  
Defendant. :

AFFIDAVIT

Indictment No. 83-46

STATE OF NEW YORK )  
 ) SS:  
COUNTY OF TOMPKINS )

ELIZABETH DEMPSEY, being duly sworn, does depose and say:

1. That she is the Administrative Manager of the School of Natural Resources at Cornell University in Ithaca, New York.

2. That Fernow Hall, located on the campus of Cornell University in Ithaca, New York is operated within the College of Agriculture and Life Science by the School of Natural Resources, which is a statutory college under the jurisdiction of the State of New York.

3. That Fernow Hall contains academic offices, classrooms and laboratories only and contains no residential areas for either student or faculty living.

4. That Fernow Hall is open to the general public on weekdays during the academic school year from the hours of 6:00 A.M. to 5:00 P.M. daily.

5. That there were no academic vacation periods on Thursday, February 10, 1983; Friday, February 11, 1983; or Thursday, March 3, 1983, and Fernow Hall was open to the general public from the hours of 6:00 A.M. to 5:00 P.M. on those days.

*Elizabeth Dempsey*  
ELIZABETH DEMPSEY

Sworn to before me this

21<sup>st</sup> day of June, 1983.

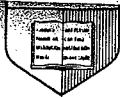
*Ralph W. Nash*  
Notary Public

**RALPH W. NASH**  
Notary Public, State of New York  
No. 02 NA 4660490, Reg. in Tompkins County  
My Commission Expires March 30, 1984

**EXHIBIT F, PAGE 76**

ADAMS & THEISEN • ATTORNEYS AT LAW • ITHACA, NEW YORK





OFFICE OF THE DEAN OF STUDENTS  
103 BARNES HALL  
ITHACA, NEW YORK 14853  
(607) 256-4221

26 April, 1983

Ralph W. Nash Esq.  
Adams, Theisen & Nash  
301 Clinton House  
103 West Seneca Street  
Ithaca  
New York 14850

Dear Mr. Nash:

I am happy to comply with your request for a general letter of reference concerning Kevin Vangideren, who is currently a Senior in the College of Agriculture and Life Sciences.

I have known Mr. Vangideren for nearly three years as a result of inquiries he made concerning eligibility for student employment. Our acquaintance has not been regular in that he appears to have had no difficulties as a student and has not had to use the resources of the Dean of Students office. Consequently, I have asked about his status and am informed by College officials that he has made steady progress towards his degree and has a sound record in terms of behavior.

At the time of our initial discussion, I was impressed by his concern that he should be able to find employment at Cornell and be able to underwrite some of his educational costs--in short, to stand on his own two feet. Family circumstances made it necessary that he should do so, and he showed initiative in pursuing all options. From recent conversations, I gather that family financial constraints are still a problem--I know that these constraints are real--and contributed to his actions.

Mr. Vangideren seems to me to be a generally well-balanced young man, not an outstanding scholar, but a person who has worked at his studies and who has participated in normal campus activities. He seems to recognize that what he did was wrong and has been very open in confronting the extent of his error, although it would have been easy for him not to do so. This openness is in character and coincides with my earlier impressions of him.

Please do not hesitate to call me if you have further questions.

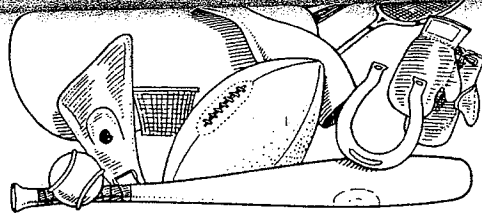
Sincerely,

David Drinkwater  
Dean of Students.

STATE UNIVERSITY  
DEPARTMENT OF PHYSICAL EDUCATION AND ATHLETICS  
INTRAMURAL DIVISION

HELEN NEWMAN HALL

256-2315



RECEIVED

MAR 25 1983

ADAMS & THEISEN

March 24, 1983

ALAN E. GANTERT, Director

MARIA L. WEST,  
Associate Director

Mr. Ralph Nash  
Attorney at Law  
103 W. Seneca Street  
Ithaca, New York 14850

Dear Mr. Nash:

This letter is in answer to your request that I state in writing that Kevin G. Vangindren has been employed in this department for the past several years as an Equipment Manager for Intramural Ice Hockey and Box Lacrosse.

Sincerely yours,

Maria L. West  
Associate Director of Intramural Sports

mlw:m

Exhibit "C"

STATE OF NEW YORK  
COUNTY COURT : COUNTY OF TOMPKINS

THE PEOPLE OF THE STATE OF NEW YORK :

-vs-

DEMAND TO PRODUCE

KEVIN G. VANGINDEREN,

Indictment No. 83-46

Defendant.

TO: HON. BENJAMIN J. BUCKO  
Tompkins County District Attorney

ADAMS & THEISEN - ATTORNEYS AT LAW - ITHACA, NEW YORK

Pursuant to CPL §240.20, DEMAND is herewith made that you supply or make available to the undersigned for inspection, photographing, copying and/or testing the following property:

(a) Any written, recorded or oral statement of the Defendant, and of a Co-Defendant to be tried jointly, made, other than in the course of the criminal transaction, to a public servant engaged in law enforcement activity or to a person then acting under his direction or in cooperation with him;

(b) Any transcript of testimony relating to the criminal action or proceeding pending against the Defendant, given by the Defendant, or by a Co-Defendant to be tried jointly, before any Grand Jury;

(c) Any written report or document, or portion thereof, concerning a physical or mental examination, or scientific test or experiment, relating to the criminal action or proceeding which was made by, or at the request or direction of a public servant engaged in law enforcement activity, or which was made by a person whom the Prosecutor intends to call as a witness at trial, or which the People intend to introduce at trial;

(d) Any photograph or drawing relating to the criminal action or proceeding which was made or completed by a public servant engaged in law enforcement

EXHIBIT "D"

activity, or which was made by a person whom the Prosecutor intends to call as a witness at trial, or which the People intend to introduce at trial;

(e) Any other property obtained from the Defendant, or a Co-Defendant to be tried jointly, and any property which will be alleged was stolen by Defendant.

(f) Any tapes or other electronic recordings which the Prosecutor intends to introduce at trial, irrespective of whether such recording was made during the course of the criminal transaction;

(g) Anything required to be disclosed, prior to trial, to the Defendant by the Prosecutor, pursuant to the constitution of this State or of the United States;

(h) The approximate date, time and place of Defendant's arrest.

DEMAND is further made that any refusal to supply any of the demanded material be made in writing setting forth the grounds for such refusal pursuant to CPL §240, and that a copy of such writing be served upon the undersigned and filed with the Court within ten (10) days from receipt by you of this Demand.

DATED: July 15, 1983

RALPH W. NASH, ESQ.  
Attorney for Defendant  
Office and P.O. Address:  
301 The Clinton House  
103 West Seneca Street  
Ithaca, New York 14850  
Tel.: (607) 272-3442

ADAMS & THEISEN • ATTORNEYS AT LAW • ITHACA, NEW YORK

"D-2"

STATE OF NEW YORK  
COUNTY COURT : COUNTY OF TOMPKINS

THE PEOPLE OF THE STATE OF NEW YORK :

vs. :

MEMORANDUM OF LAW

KEVIN G. VANGINDEREN, :

Indictment No. 83-46

Defendant. :

MOTION TO DISMISS INDICTMENT AS DEFECTIVE

Criminal Procedure Law §210.20(a) provides for dismissal of an indictment or any count thereof upon the ground that "such indictment or count is defective, within the meaning of section 210.25." Criminal Procedure Law §210.25(1) provides that an indictment or count thereof is defective when "it does not substantially conform to the requirements stated in article two hundred." Criminal Procedure Law §200.50(7) provides that the indictment must contain with respect to each count, "facts supporting every element of the offense charged and the defendant's commission thereof."

Indictment No. 83-46 charges the Defendant with two counts of Burglary in the Second Degree upon identical factual allegations that the Defendant "did knowingly enter or remain unlawfully in said building (Fernow Hall) with the intent to commit a crime therein." Said allegations are insufficient and render the indictment defective for failure to allege an element of the offense of Burglary in the Second Degree, to wit: that the building is a dwelling. Penal Law §140.25. Without such allegation and proof thereof, a defendant cannot be convicted of the crime of Burglary in the Second Degree. See Practice Commentaries to McKinney's Penal Law §140.25 p. 46-48 main volume.

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Recent Court of Appeals decisions relaxing standards for allegations to support an indictment have not altered the necessity for an indictment to comply with CPL §200.50 nor the necessity of alleging in the indictment every material element of the crime charged. See People v. Iannone 45 NY2d 589 at page 598 where the requirements of CPL §200.50 are specifically approved as fulfilling the constitutional protections of prosecution by indictment; and at page 600 wherein the Court states that "an indictment will be jurisdictionally defective if... it fails to allege that a defendant committed acts constituting every material element of the crime charged."

It is clear from the indictment that the People did not allege the material element of the crime of Burglary in the Second Degree that the building entered was a dwelling. It is also clear from the Affidavit attached to the Defendant's motion papers as Exhibit "A" that no allegation could in fact be made, as no one dwells in Fernow Hall. Further, the indictment cannot be amended to allege the charge of Burglary in the Third Degree for two reasons. First, the People have not so moved. Criminal Procedure Law §210.25(1). Secondly, an indictment may not be amended "for the purpose of curing: (a) a failure thereof to charge or state an offense; or (b) legal insufficiency of the factual allegations." CPL §200.70(2). This, of course, accords with the holding in Iannone, supra, that an indictment defective in these regards is jurisdictionally defective.

MOTION TO INSPECT THE GRAND JURY MINUTES AND  
DISMISS INDICTMENT ON GROUND OF INSUFFICIENCY OF GRAND JURY EVIDENCE

CPL §210.20(1)(b) provides that an indictment or any count thereof may be dismissed upon the ground that "the evidence before the grand jury was not legally

sufficient to establish the offense charged or any lesser included offense."

Both Burglary in the Second Degree and Burglary in the Third Degree require that a person "knowingly enters or remains unlawfully in a building with intent to commit a crime therein." Penal Law §140.25 and §140.20. As can be seen from the indictment and the Affidavit attached to Defendant's motion papers as Exhibit "A", the People have failed to allege and provide proof, prima facie, that Defendant knowingly entered or remained unlawfully in Fernow Hall, which is an essential element of the crime of burglary. People v. Letko 60 AD2d 661, reversed on other grounds 47 NY2d 257; and People v. Miles 85 AD2d 610 (2nd Dept., 1981).

It seems clear that the indictment in this matter could support only a charge of larceny in Fernow Hall. Larceny is not a lesser included offense of burglary. Rather criminal trespass is. See Practice Commentaries to McKinney's Penal Law §140.20 and §140.25, main volume. Larceny is not a lesser included offense of burglary since it is possible to commit a burglary without committing a larceny (a building may be entered with intent to commit a crime without committing a larceny). CPL §1.20(37) and People v. Brown 53 NY2d 979(1981).

MOTION TO DISMISS IN THE INTERESTS OF JUSTICE

Defendant's affidavit and supporting exhibits provide ample support for a dismissal in the interests of justice in this case, if the indictment is not dismissed for other reasons. Such a dismissal has "a respected place in common law... its thrust, even to the disregard of legal or factual merit, has been "to allow the letter of the law gracefully and charitably to succumb to the spirit of justice." People v. Rickert 58 NY2d 122(1983). It is respectfully contended

that the facts of this case do not warrant a felony conviction for Kevin G. Vanginderen and the effects of same would not be salutary. It is precisely the blanket policy of the District Attorney's Office and the failure to consider individual factors which warrants judicial correction in this matter. See Rickert, supra. A hearing is respectfully requested upon this motion. People vs. Clayton 41 AD2d 204 (Third Dept., 1973).

---

ADAMS, THEISEN & NASH  
Ralph W. Nash, Esq. of Counsel  
Attorneys for Defendant  
Office & P.O. Address:  
301 The Clinton House  
Ithaca, New York 14850  
(607)-272-3442

ADAMS & THEISEN · ATTORNEYS AT LAW · ITHACA, NEW YORK



THE DISTRICT ATTORNEY OF TOMPKINS COUNTY

Tompkins County Courthouse  
P.O. Box 326  
Ithaca, New York 14851-0326  
(607) 274-5461

BENJAMIN J. BUCKO  
District Attorney

July 21, 1983

Assistant District Attorneys:

Frank Smithson  
William A. Lange, Jr.  
John Alden Stevens  
Robert C. Mulvey  
Pamela A. Clermont

Ralph Nash, Esq.  
The Clinton House  
Ithaca, NY 14850

Re: People v. KEVIN G. VanGINDEREN  
Indictment No. 83-46  
Our File No. 83-1136

Dear Ralph:

Enclosed please find the People's Answering Affidavit with respect to the above entitled matter.

By copy of this letter I have today filed the original of the same with the Tompkins County Clerk.

Very truly yours,

*Robert C. Mulvey*  
ROBERT C. MULVEY, ESQ.  
Assistant District Attorney

RCM/dk1

Enclosure

cc: Tompkins County Clerk

STATE OF NEW YORK  
COUNTY COURT : COUNTY OF TOMPKINS

-----  
THE PEOPLE OF THE STATE OF NEW YORK,  
Plaintiff

ANSWERING AFFIDAVIT

vs.

Index No. 83-46

KEVIN G. VanGINDEREN,

Defendant  
-----

STATE OF NEW YORK :  
: ss.  
COUNTY OF TOMPKINS :

ROBERT C. MULVEY, being duly sworn, deposes and says:

1. That he is an Assistant District Attorney in and for the County of Tompkins and State of New York and he makes this Answering Affidavit in response to the Defendant's Notice of Motion returnable on August 1, 1983.

SUFFICIENCY OF INDICTMENT

2. That your deponent denies the allegations set forth in Paragraphs 4 and 5 of Attorney Nash's Affidavit and submit that both counts of the Indictment are sufficient pursuant to the requirements of the Criminal Procedure Law.

3. That the definition of a building as set forth in Article 140 of the Penal Law establishes that a factual allegation consistent with the crime can be made.

SUFFICIENCY OF GRAND JURY EVIDENCE

4. That the evidence presented to the Grand Jury with respect to both Counts I and II consisted of full and detailed admissions by the Defendant corroborated by the testimony of others.

5. That "Exhibit A" submitted by the Defendant is irrelevant to this prosecution inasmuch as the burglaries occurred in locked, private offices within Fernow Hall. The Defendant may request a Bill of Particulars to amplify the Indictment. Further, the Defendant is fully aware of the nature of the charges against him by virtue of his detailed confession.

6. That Attorney Nash has failed to set forth the grounds for his information and belief as set forth in Paragraph 9.

INTERESTS OF JUSTICE

7. That the People oppose dismissal of the Indictment in the interests of justice.

8. That an "explanation" for wrongdoing is insufficient unless it constitutes actual physical duress, coercion or insanity. The allegation that the Defendant suffered from economic duress and therefore deserves sympathy while attending one of the most expensive private universities in the United States is ludicrous. Adjudication of felony charges with respect to a Cornell student must be based on the same factors as those applied to other criminals in Tompkins County.

9. That the full confession was obtained by law enforcement officials in full compliance with constitutional standards and was not "unfairly and unconstitutionally wrested" from Defendant.

10. The District Attorney's Office has not over-indicted Mr. VanGINDEREN as is shown in the evidence presented to the Grand Jury.

11. The District Attorney's Office is not vindictive and it is submitted that Attorney Nash's sworn allegations in that regard and his allegations about "failing to make even the most basic observations regarding human behavior" are highly inappropriate and should be stricken from the record of this case.

STATEMENT

10. The People consent to an immediate Huntley Hearing so that the case can go to trial forthwith.

DISCOVERY

11. a) Previously provided.  
b) Not applicable.  
c) Not applicable.  
d) Not applicable.  
e) A notice pursuant to Section 450.10 of the Penal Law was made and the Defendant and his attorney has failed to take any steps to inspect, photograph or appraise the property. Thus, the deponent requests an Order permitting return to the lawful owners.

- f) Not applicable.
- g) The deponent is fully aware of the prosecutor's continuing duty to disclose such material.
- h) Arrest: 3/8/83  
9:00 A.M. (approximately)  
Ithaca, New York

*Robert C. Mulvey*  
 \_\_\_\_\_  
 ROBERT C. MULVEY

Sworn to before me this  
 21st day of July, 1983.

*Dorothy K. Lisk*  
 \_\_\_\_\_  
 NOTARY PUBLIC

DOROTHY K. LISK  
 Notary Public, State of New York  
 No. 4733815  
 Qualified in Tompkins County  
 Term Expires March 30, 1984

VAN SINDEREN

MOVE TO

AMEND INDICTMENT → FROM B<sup>2</sup> TO

- 1) instructions to Grand Jury were for B<sup>3</sup>
- 2) facts can only show B<sup>3</sup>
- 3) CPL 200.70 only has amendments which changes the theory of prosecution as reflected in evidence before Grand Jury which filed it  
TAYLOR 43 AD2d 519 (1973)  
~~trial~~ Court amend to charge crime other than found by grand jury

ERROR (OBVIOUS)

NOT

INADVERTENT CITATION OF STATUTE  
NO PREJUDICE

RECEIVED/SENT  
TOMPKINS COUNTY  
DISTRICT ATTORNEY

ADAMS, THEISEN & NASH

AUG 4 2 14 PM '83

ATTORNEYS AND COUNSELORS AT LAW  
301 THE CLINTON HOUSE  
103 WEST SENECA STREET  
ITHACA, NY 14850

ARMAND L. ADAMS  
1911-1983

HENRY W. THEISEN  
RALPH W. NASH  

---

STEPHEN M. BOWMAN

607-272-3442

August 3, 1983

Hon. Benjamin J. Bucko  
Tompkins County District Attorney  
Post Office Box 326  
Ithaca, New York 14850

Re: People v. Kevin G. Vanginderen

Dear Ben:

This letter will confirm my telephone message of yesterday, wherein I indicated that Kevin will agree to plea to a misdemeanor in City Court in lieu of having this matter re-submitted to another Grand Jury, upon condition that the People agree to recommend no harsher penalty than probation upon his plea.

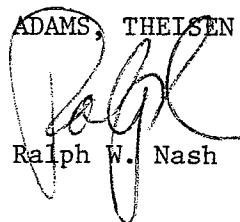
I am enclosing a copy of my proposed Order submitted to Judge Kepner today. I will be on vacation until August 15, but have several other matters pending that morning. Kevin and I would like to appear in City Court on Monday, August 22, for purposes of the aforementioned plea. If this is agreeable, I will make arrangements with City Court.

Regarding the actual charge which Kevin will plead to in City Court, I suggest either Criminal Trespass 3° or Petite Larceny. I note that Criminal Trespass 2° requires entry into a dwelling.

Thank you for your attention to this matter.

Yours very truly,

ADAMS, THEISEN & NASH



Ralph W. Nash

RWN/dh  
Enclosures

83-1734

RECEIVED/SENT  
TOMPKINS COUNTY  
DISTRICT ATTORNEY

AUG 4 2 14 PM '83

ARMAND L. ADAMS  
HENRY W. THEISEN  
RALPH W. NASH

**ADAMS & THEISEN**  
ATTORNEYS AND COUNSELORS AT LAW  
THE CLINTON HOUSE, SUITE 301  
103 WEST SENECA STREET  
TELEPHONE (607) 272-3442

ITHACA, NEW YORK 14850

August 3, 1983

Hon. George S. Kepner, Jr.  
Otsego County Office Building  
Cooperstown, New York 13326

Re: People v. Kevin G. Vanginderen  
Tompkins County Indictment No. 83-46

Dear Judge Kepner:

Please find enclosed proposed Order in this matter, pursuant to your Decision after oral argument at a Tompkins County Motion Term on August 1, 1983, in Ithaca, New York. I have provided a stamped, self-addressed envelope for your convenience in returning the signed Order.

Thank you for your attention to this matter.

Yours very truly,

ADAMS, THEISEN & NASH

Ralph W. Nash

RWN/dh  
Enclosures

cc: Hon. Benjamin J. Bucko ✓



RECEIVED/SENT  
TOMPKINS COUNTY  
DISTRICT ATTORNEY

STATE OF NEW YORK  
COUNTY COURT : COUNTY OF TOMPKINS

AUG 4 2 14 PM '83

THE PEOPLE OF THE STATE OF NEW YORK :

-vs-

ORDER

Indictment No. 83-46

KEVIN G. VANGINDEREN, :

Defendant. :

The Defendant having duly moved this Court at a Motion Term thereof, held in and for the County of Tompkins on August 1, 1983, for an Order dismissing the Indictment herein upon the ground that it is defective under the Criminal Procedure Law, and having duly presented his Notice of Motion and Affidavit of Ralph W. Nash, Esq., duly verified July 15, 1983,

And the People having opposed said motion at said time and duly presented their Answering Affidavit of Robert C. Mulvey, Esq., duly verified July 21, 1983, and oral argument having been had at such Motion Term, and the Defendant having presented his Memorandum of Law thereon, and a Decision having been rendered at the conclusion of oral argument; now, after due deliberation, upon motion of Ralph W. Nash, Esq., attorney for Defendant, it is hereby

ORDERED that Indictment 83-46 charging the Defendant Kevin G. Vanginderen with two counts of Burglary in the Second Degree is DISMISSED as being defective under the Criminal Procedure Law, with leave to the People to re-submit the matter to another Grand Jury of this Court.

ENTER,

GEORGE S. KEPNER, JR.,  
Acting Tompkins County Judge

DATED: August , 1983

Cooperstown, New York

ADAMS & THEISEN - ATTORNEYS AT LAW - ITHACA, NEW YORK

OFFICE OF SUPREME AND COUNTY COURT CLERKS  
STATE OF NEW YORK COUNTY OF TOMPKINS  
320 NORTH TIOPA STREET  
ITHACA, NEW YORK 14850

NANCY M. JOCH  
CLERK COMBINED COURTS

PUBLIC SAFETY

SUPREME COURT  
COUNTY COURT

APR 11 1985

CORNELL

Sir:

Please take notice that the within is a true copy  
of an Order duly entered in the Office of the Clerk of  
Tompkins County.

Dated: March 5, 1985

Nancy M. Joch  
Chief Clerk III  
County of Tompkins  
320 North Tioga Street  
Ithaca, New York 14850

- (X) To the Commissioner of Division of Criminal Justice Services
- (X) To the Commissioner of Cornell Safety Police Department
- (X) To the Commissioner of Department of Correction Department of Correction
- (X) To the District Attorney of Tompkins County
- (X) To the Sheriff of Tompkins County
- (X) To the Clerk of the Ithaca City Court
- To \_\_\_\_\_

Check One:  CPL 160.50 (ACD) Seal Order (F/P will be retained\*)  
 CPL 160.50 Seal Order  
 CPL 160.55 Seal Order

COURT: County Court - Tompkins County

COURT ADDRESS: 320 North Tioga Street. Ithaca. New York 14850

DEFENDANT'S NAME: Kevin G. VanGinderen

DEFENDANT'S ADDRESS: \_\_\_\_\_

NYSID NUMBER: 5037768 J ARREST DATE: 3-8-83 DOB: 10-23-65 SEX: M

DOCKET/INDICTMENT/CASE NUMBER TO BE SEALED: 83-46

ARREST CHARGES TO BE SEALED: Burglary, Second Degree (2 counts)

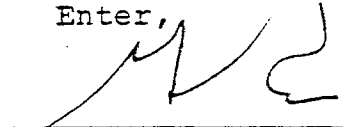
RELATED DOCKET/INDICTMENT/CASE NUMBER NOT TO BE SEALED AND FINAL DISPOSITION:

\_\_\_\_\_  
\_\_\_\_\_

- To Commissioner of Division of Criminal Justice Services
- To Commissioner of Cornell Safety Police Department.
- To Commissioner of \_\_\_\_\_ Dept. of Correction
- To District Attorney of Tompkins County.
- To Sheriff of Tompkins County.
- To Clerk of the \_\_\_\_\_ Court.
- To Federal Bureau of Investigation

The above captioned criminal action having on August 4, 1983, been terminated in favor of the above named defendant in accordance with Section 160.50 or 160.55 of the Criminal Procedure Law and it appearing that no other criminal action or proceeding is pending against that person, it is ordered that every photograph, photographic plate or proof and all palmprints, and fingerprints, and all duplicates taken pursuant to Article 160 of the Criminal Procedure Law in regard to this action or proceeding be returned to such person or the attorney who represented him.\* Departments or Agencies who transmitted or otherwise forwarded copies of such to any agency of the United States or any other state or jurisdiction outside New York State shall request in writing that all copies be returned to the police department or law enforcement agency which transmitted or forwarded them and upon such return said department or agency shall return them as provided above. All official records and papers relating to the arrest or prosecution BE SEALED and not made available to any person or public or private agency, except as provided in section 160.50 (1) (d).

DEFENDANT'S ATTORNEY: \_\_\_\_\_  
Ralph Nash, Esq.  
ATTORNEY'S ADDRESS: The Clinton House  
Ithaca, New York 14850

Enter,   
\_\_\_\_\_  
(JUDGE ~~XXXXXX~~)  
George S. Kepner, Jr.  
Acting Tompkins County Judge

COURT SEAL