

DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO  1437 Bannock Street Denver, CO 80202	<b>COURT USE ONLY</b>
IN RE: STATE GRAND JURY, 2003-2004 TERM,	
KEN SALAZAR, Attorney General F. MICHAEL GOODBEE*, Deputy Attorney General MARLEEN LANGFIELD, Senior Assistant Attorney General  1525 Sherman Street, 5 <sup>th</sup> Floor Denver, CO 80203 (303) 866-5773 Registration Number: *19053	Case No.: 03CR0002  Ctrm.: 6
<b>GRAND JURY REPORT: INVESTIGATION OF MISSING GUERRA FILES</b>	

## I. INTRODUCTION

The Jefferson County Sheriff's Department (hereinafter "JCSO") was the primary investigating agency for the Columbine High School murders that occurred on April 20, 1999. The current Jefferson County Sheriff Ted Mink requested on October 29, 2003 that Attorney General Ken Salazar investigate the history of a newly found report related to Eric Harris. The majority of that investigation was conducted without the use of a grand jury. However, that investigation discovered the absence of a specific investigatory file relating to the preparation of a draft affidavit to search the Eric Harris residence over a year before the Columbine shootings. The Attorney General sought the use of a grand jury to further the investigation related to the missing file. On August 6, 2004, the grand jury formally convened and heard sworn testimony from eleven (11) witnesses. The following witnesses gave sworn testimony before the grand jury: Former Sheriff John Stone, Former Undersheriff John Dunaway, Former Division Chief John Kiekbusch, Former JCSO PIO Steve Davis; JCSO employees, Michael Guerra, Dennis Gerlach, Judy Searle, Ray Fleer, Jeff Shrader, Assistant District Attorney Kathy Sasak and Attorney General Investigator Michael Jones.

On August 19, 2004, after deliberation, the grand jury formally found that the certification and release of this report is in the public interest.

## II. SCOPE OF THE INVESTIGATION

The scope of the grand jury investigation was narrow. This inquiry focused specifically on what happened to the file and whether any criminal activity occurred in relation to the disappearance of the physical file and of the related computer files at the JCSO.

### **III. FINDINGS OF THE GRAND JURY**

The Grand Jury finds the following facts by a preponderance of the evidence:

#### **a) The Open Space Meeting**

A few days after the Columbine murders, a private meeting of high-ranking Jefferson County officials and law enforcement officials was held at the Jefferson County Open Space center. The meeting was called to discuss the Guerra draft affidavit; the potential liabilities of the document, and how to handle press inquiries that may arise concerning the document. A copy of the draft affidavit is attached. At that meeting it was agreed that the draft affidavit lacked the necessary probable cause to have supported the issuance of a search warrant by a judge. Based on discussions at the open space meeting the JCSO proceeded with the approach to not disclose the existence of the affidavit at a press conference.

Lt. Jeff Shrader drafted a prepared statement as a result of the open space meeting in anticipation of an impending press conference. That prepared statement referred to a follow-up investigation, but failed to specifically mention the Guerra draft affidavit. Two years later, the existence of the draft affidavit became known to the general public in April of 2001 when it was ordered to be released by a Jefferson County District Judge.

#### **b) The Press Conference**

On April 30, 1999, JCSO press information officer Steve Davis and Lt. John Kiekbusch spoke at a public press conference. At that press conference, Steve Davis read the statement prepared by Lt. Jeff Shrader. Lt. John Kiekbusch then answered various press questions. Limited information regarding the JCSO investigation into Harris in 1998 was given at the press conference. The existence of the Guerra draft affidavit was not revealed at the press conference.

#### **c) The Missing File and Computer File**

Although the majority of documents that made up the Guerra investigative file have been reconstructed, the actual file and Guerra's original notes still remain missing. In addition, while copies of the draft affidavit have been found, the computer files at the JCSO that contained the Guerra affidavit appear to have been deleted in the summer of 1999.

The grand jury acknowledges the forthright testimony provided by current JCSO officials and the Assistant District Attorney. However, the absence of these particular files is troubling for the grand jury because the open space meeting focused on these documents and at the press conference there was no mention of them. The absence of any file that should have been located in Records, the working file and the associated electronic files is also troubling.

Other issues of concern were revealed in testimony. According to sworn testimony Undersheriff Dunaway, who had just joined the department with Sheriff Stone assigned the Columbine investigation to Lt. John Kiekbusch. In September of 1999, Lt. Kiekbusch directed his assistant to attempt to "find" the Guerra file and a related file by thoroughly searching the computer network as well as physical records. Without explanation, he directed that the assistant keep the search secret from the officers whose files she was seeking. The assistant found this to be suspicious. Contacting the officers would be the first logical step in finding the documents. When, after an extensive search, the assistant advised Lt. Kiekbusch that she could not find the files, he appeared "somewhat relieved".

In late 2000, the assistant described a second incident in which Lt. Kiekbusch asked the assistant to shred a large pile of copies of Columbine related reports. The assistant did not find the request unusual at the time because she assumed that all of the documents were copies and Lt. Kiekbusch was in the process of preparing to leave the office.

The topic of the open space meeting, the press conference omissions and the actions of Lt. Kiekbusch raise suspicions to the grand jury about the potential that the files were deliberately destroyed. Kiekbusch had little specific memory regarding these events. However, Kiekbusch denied any involvement with the destruction of either file.

Former Sheriff Stone took office in January 1999; the Columbine murders occurred four months into his tenure and thus had no knowledge regarding the Guerra file prior to his tenure. He stated that he was not at the open space meeting, did not recall reviewing the press statement prepared by Lt. Shrader, and knew nothing about the Guerra file and it's disappearance.

#### IV. CONCLUSION

All of the witnesses who testified before the grand jury denied knowledge regarding how these files may have disappeared, and denied involvement. Given this, the grand jury cannot determine whether the absence of all original official records, any handwritten notes, the complete working file and all electronic documents is tied to a particular person or the result of a particular crime.

In order to indict the grand jury must be presented evidence that a prosecutable crime was committed, and that a specific individual or individuals committed that crime. That threshold standard was not met, based on the evidence and testimony before the grand jury.

Accordingly, based on the grand jury investigation, there is insufficient evidence to indict.

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COURT, JEFFERSON COUNTY, COLORADO

INVESTIGATOR MIKE GUERRA, being duly sworn upon oath says:

That the foregoing offense(s) alleged was committed of this affiant's own personal knowledge, and the facts stated therein are true.

Your affiant is of lawful age and a sworn peace officer of the Jefferson County Sheriff's Department, Golden, Colorado, in the County of Jefferson.

Your affiant states that the following facts are true and based upon his/her personal knowledge, as a result of his/her conversations with the persons named herein and reviewing their written reports.

On March 31, 1998, your affiant met with Investigator John Hicks and Investigator Glenn Grove of the Jefferson County Sheriff's Department. Investigator Hicks advised your affiant he met with Mrs. Judy Brown reference Eric David Harris, aka: Reb Doomer, who had been making threats on the Internet to her son, Brooks Brown. Investigator Hicks gave your affiant copies of this information, consisting of 12 pages retrieved from Eric David Harris's web site (<http://members.aol.com/rebdoomer/index.html>). Eric David Harris is known personally to Brooks Brown.

Your affiant read through the information and found that Harris describes building pipe bombs using materials such as pyrotechnics powder and fuse from commercial fireworks that he had disassembled.

Harris labeled the devices as "Atlanta" and "Pholus" and describes each as being 1 1/4 inch by six inch PVC pipe. Harris describes another device, "Peitro", as one inch by six inch PVC pipe and "Pazzie" as 3/4 inch by five inch PVC pipe. Harris states each is packed with powder from fountains, mortar shells and crackling balls, and each has a +14 inch mortar shell type fuse.

On February 15, 1998, at 4:00 p.m. there was a report of a pipe bomb placed in the field near Garrison and Field street county of Jefferson State of Colorado. Investigator Glenn Grove, of the Jefferson County Bomb Squad, was dispatched to that location. Investigator Grove arrived, located and rendered the device safe. Investigator Grove described the device as a 1 1/4 inch by six to eight inch PVC pipe, with a red fuse. Contained in the pipe was a gray, flaky powder. These items are consistent with material found in the type of commercial fireworks Harris described as components of his explosive devices.

The size is consistent with the devices labeled by Harris as "Atlanta" and "Pholus".

Statements contained in the documents received from Mrs. Brown from <http://members.aol.com/rebdoomer/index.html> are as follows:

"Philosophy So that's the only way to solve arguments with all you fuckheads out there, I just kill ! God I cant wait till I can kill you people. Ill just go to some downtown area in some big ass city and blow up and shoot everything I can. Feel no remorse, no shame. Ich sage FICKT DU! I will rig up explosives all over a town and detonate each one of them at will after I mow down a whole fucking area full of you snotty ass rich mother fucking high

Subscribed and sworn to before me.

Dated \_\_\_\_\_

Notary Public

Expiration date:

INVESTIGATOR MIKE GUERRA, being duly sworn upon oath says:

That the foregoing offense(s) alleged was committed of this affiant's own personal knowledge, and the facts stated therein are true.

strung godlike attitude having worthless pieces of shit whores. i don't care if I live or die in the shoot out, all I want to do is kill and injure as many of you pricks as I can, especially a few people. Like brooks brown".

Based on the aforementioned information your affiant respectfully requests the court issue a search warrant for the residence located at 8276 South Reed Street, County of Jefferson, State of Colorado, described as :

single family dwelling, situated on the north side of S. Reed Street. The residence is wood and brick constructed consisting of blue painted siding, gray wood trim and a wood shingel roof.

for the purpose of searching for the following:

materials, components, literature, books, video tapes, and any drafts, or notes pertaining to manufacture of pyrotechnic devises, improvised or commercial explosives. Electronic mail messages which were sent or received from the address to establish ownership; paper work which show's ownership of occupancy of the residence.

\_\_\_\_\_  
Subscribed and sworn to before me.

Dated \_\_\_\_\_

\_\_\_\_\_  
Notary Public

Expiration date: \_\_\_\_\_

**Foreperson Certification**

I, Lynette Griggs, the Foreperson of the 2003-2004 Statewide Grand Jury, in accordance with § 16-5-205.5(4)(b), do hereby certify that:

(I) The certification of public interest by the grand jury complies with the provisions of § 16-5-205.5(5)(c); and

(II) The report is based on facts revealed in the course of the grand jury investigation and is supported by a preponderance of the evidence; and

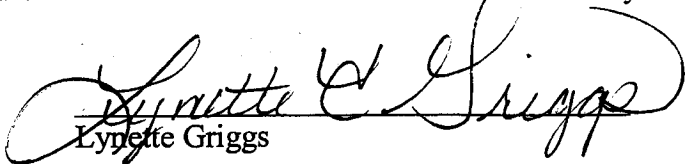
(III) The report does not contain material the sole effect of which is to ridicule or abuse a person or business or to subject such person or business to public disgrace or embarrassment; and

(IV) The report does not contain material that is personal in nature that does not relate to any lawful inquiry; and

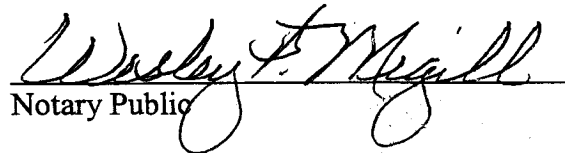
(V) No confidentiality agreement will be violated and the identity of no confidential informant will be disclosed in making such grand jury report public; and

(VI) The filing of such report as a public record does not prejudice the fair consideration of a criminal matter.

I further certify that the decision to issue this report was arrived after deliberation and with the assent and agreement by at least nine members of the 2003-2004 Statewide Grand Jury.

  
Lynette Griggs

Subscribed and sworn to before me in the County of Denver, State of Colorado, this 19<sup>th</sup> day of August, 2004.

  
Notary Public

My commission expires:

9-4-06

**Prosecutor Certification**

I, F. Michael Goodbee, prosecuting attorney in the above matter, in accordance with § 16-5-205.5(4)(b), do hereby certify that:

(I) The certification of public interest by the grand jury complies with the provisions of § 16-5-205.5(5)(c); and

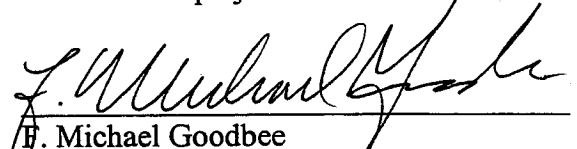
(II) The report is based on facts revealed in the course of the grand jury investigation and is supported by a preponderance of the evidence; and

(III) The report does not contain material the sole effect of which is to ridicule or abuse a person or business or to subject such person or business to public disgrace or embarrassment; and

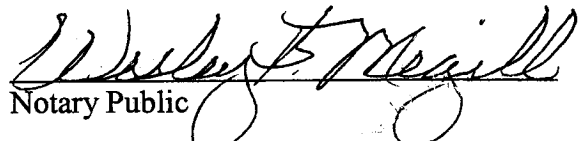
(IV) The report does not contain material that is personal in nature that does not relate to any lawful inquiry; and

(V) No confidentiality agreement will be violated and the identity of no confidential informant will be disclosed in making such grand jury report public; and

(VI) The filing of such report as a public record does not prejudice the fair consideration of a criminal matter.

  
F. Michael Goodbee

Subscribed and sworn to before me in the County of Denver, State of Colorado, this 19<sup>th</sup> day of August, 2004.

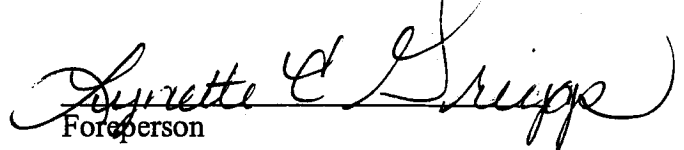
  
Notary Public

My commission expires:

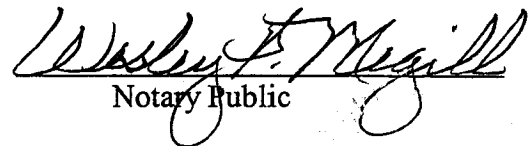
9-4-06

DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO  1437 Bannock Street Denver, CO 80202 <hr/> IN RE.: THE 2003-2004 TERM OF THE STATEWIDE GRAND JURY,	     <p style="text-align: center;">▲ COURT USE ONLY ▲</p>
KEN SALAZAR, Attorney General F MICHAEL GOODBEE, Deputy Attorney General 1525 Sherman Street, 5 <sup>th</sup> Floor Denver, CO 80203 (303) 866-5773 Registration Number: 19053	Case No.: 03CR0002  Ctrm.: 6
<b>CERTIFICATION OF PUBLIC INTEREST</b>	

We, the 2003-2004 Colorado Statewide Grand Jury hereby certify that we have determined by an affirmative vote of at least nine jurors that the preparation and release of a report related to the investigation into the missing Guerra file is in the public interest as defined at § 16-5-205.5, C.R.S.

  
 Lynette C. Grupp  
 Foreperson

Subscribed before me in the City and County of Denver, State of Colorado, this 19th day of August 2004.

  
 Wesley F. McGill  
 Notary Public

My commission expires: 9-4-06




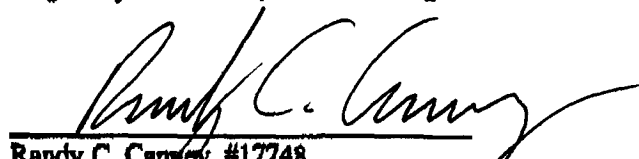
<p>DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO</p> <p>1437 Bannock Street Denver, CO 80202</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p> <hr/> <p>Case Number: O3 CR 002</p>
<p>IN RE: STATE GRAND JURY, 2003-2004</p>	
<p>Attorney: Randy C. Canney Attorney at Law 1733 High Street Denver, CO 80218 (303)388-5014 Atty. Reg. #17748</p>	
<p><b>RESPONSE OF JEFF SHRADER TO GRAND JURY REPORT AND WRITTEN NOTICE AUTHORIZING RELEASE OF THIS RESPONSE AS A PUBLIC RECORD</b></p>	

Jeff Shrader hereby provides the following response to the Grand Jury Report, and further authorizes that the entire response may be released as a public record with the Grand Jury Report:

Response of Jeff Shrader

To fully understand the situation relating to the press release drafted by Mr. Shrader, it is important to set forth relevant matters that occurred at the "Open Space" meeting. Specifically, at that meeting both Jefferson County Attorney Frank Huffless and Jefferson County District Attorney Dave Thomas concluded and opined that Mike Guera's "draft affidavit" failed to establish probable cause. The "draft affidavit" was clearly an investigative work in progress and not a final legal affidavit designed to be presented to a Judge. In drafting the press release, Mr. Shrader gave due deference to the conclusions of these officials.

  
\_\_\_\_\_  
Jeff Shrader

  
\_\_\_\_\_  
Randy C. Canney, #17748  
Attorney for Jeff Shrader

DISTRICT COURT, CITY AND COUNTY OF  
DENVER, COLORADO

Court Address: 1437 Bannock Street  
Denver, Colorado 80202

**IN RE: STATE GRAND JURY, 2003-2004 TERM**

Attorney: Jeffrey A. Springer  
Name: Springer and Steinberg, P.C.  
Address: 1600 Broadway, Suite 1200  
Denver, Colorado 80202  
Phone Number: (303) 861-2800  
FAX Number: (303) 832-7116  
E-mail: [law@springer-and-steinberg.com](mailto:law@springer-and-steinberg.com)  
Atty. Reg. #: 6793

**▲COURT USE ONLY ▲**

Case Number:

**03CR002**

**OBJECTION BY JOHN KIEKBUSCH TO GRAND JURY REPORT  
RE: MISSING GUERRA FILES**

John Kiekbusch, as a person named in the Grand Jury Report, by and through his counsel Jeffrey A. Springer, hereby objects to the Report pursuant to C.R.S. § 16-5-205.5 as follows:

1. Mr. Kiekbusch objects to the Grand Jury Report to the extent that the report implies that he tried to coverup or, in any way, hide or destroy any records, including the so called "Guerra file."

2. While Mr. Kiekbusch cannot specifically respond to the conclusory statement that for some unknown reason an assistant thought he appeared "somewhat relieved" when the files could not be found, he unequivocally denies any involvement in any effort to hide or destroy any records including the Guerra file.

3. The shredding by the assistant was a routine procedure within the Sheriff's Office, precipitated, in this case, by Mr. Kiekbusch being transferred to the Support Services Division. The documents shredded would have been drafts or copies of documents pertaining to a variety of different law enforcement matters and certainly did not include original Columbine related records.

4. Finally, Mr. Kiekbusch objects to the Grand Jury Report to the extent it is based exclusively on conjecture and speculation about matters occurring nearly five years ago. Mr. Kiekbusch adamantly maintains that he did absolutely nothing improper concerning the Columbine investigation and that he had nothing whatsoever to do with any missing files or documents.

**DATED** this 1<sup>st</sup> day of September, 2004.

Respectfully submitted,

SPRINGER AND STEINBERG, P.C.

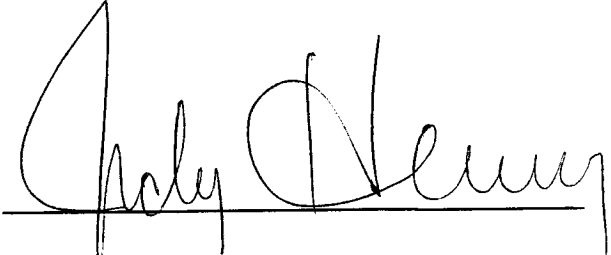
By: 

Jeffrey A. Springer, Reg. No. 6793  
Attorneys for John Kiebusch

**CERTIFICATE OF SERVICE**

I hereby certify that on this <sup>2<sup>nd</sup></sup> 1<sup>st</sup> day of September, 2004, I served a true and correct copy of the foregoing **OBJECTION BY JOHN KIEKBUSCH TO GRAND JURY REPORT RE: MISSING GUERRA FILES** by causing same to be hand delivered to the following:

Marleen Langfield  
Colorado Attorney General's Office  
1525 Sherman Street  
Denver, Colorado 80203

  
\_\_\_\_\_

DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO Court Address: 1437 Bannock Street Denver, Colorado 80202		
<b>IN RE: STATE GRAND JURY, 2003-2004 TERM</b>		
Attorney: Jeffrey A. Springer Name: Springer and Steinberg, P.C. Address: 1600 Broadway, Suite 1200 Denver, Colorado 80202 Phone Number: (303) 861-2800 FAX Number: (303) 832-7116 E-mail: <a href="mailto:law@springer-and-steinberg.com">law@springer-and-steinberg.com</a> Atty. Reg. #: 6793	<hr/> <p style="text-align: center;"><b>▲ COURT USE ONLY ▲</b></p> <hr/> Case Number:  <p style="text-align: center;"><b>03CR002</b></p>	
<b>WRITTEN NOTICE AUTHORIZING RELEASE OF RESPONSE</b>		

John Kiekbusch, by and through his counsel Jeffrey A. Springer, hereby authorizes release of his whole response to be made public if the Grand Jury Report in this matter is released to the public.

Mr. Kiekbusch does not waive his objections to the Grand Jury Report by agreeing to have his response made public.

**DATED** this 1<sup>st</sup> day of September, 2004.

Respectfully submitted,

SPRINGER AND STEINBERG, P.C.

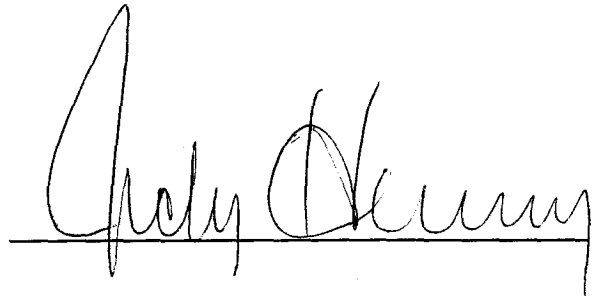
By: 

Jeffrey A. Springer, Reg. No. 6793  
 Attorneys for John Kiekbusch

**CERTIFICATE OF SERVICE**

I hereby certify that on this ~~1<sup>st</sup>~~<sup>2<sup>nd</sup></sup> day of September, 2004, I served a true and correct copy of the foregoing **WRITTEN NOTICE AUTHORIZING RELEASE OF RESPONSE** by causing same to be hand delivered to the following:

Marleen Langfield  
Colorado Attorney General's Office  
1525 Sherman Street  
Denver, Colorado 80203

A handwritten signature in cursive script, appearing to read "Andy Deery", is written over a horizontal line.