

F S

LAW OFFICES OF
PHILIP J. BERG

555 Andorra Glen Court, Suite 12
Lafayette Hill, PA 19444-2531

PHILIP J. BERG
CATHERINE R. BARONE
BARBARA MAY

(610) 825-3134

FAX (610) 834-7659

NORMAN B. BERG, Paralegal [Deceased]

E-Mail: philjberg@gmail.com

December 10, 2010

Elaine M. Bixler
Secretary of the Board
**The Disciplinary Board of the
Supreme Court of Pennsylvania**
601 Commonwealth Avenue, Suite 5600
P.O. Box 62625
Harrisburg, Pennsylvania 17106-2625

RECEIVED

DEC 13 2010

Office of the
Secretary
The Disciplinary Board

Letter only by Fax (717) 231-3382.....Total = 1 Page

Re: **Berg, Philip J. – No. 208 DB 2010 - Atty. ID # 9867**


Dear Ms. Bixler:

Enclosed herewith is:

Petitioner Philip J. Berg's Response to Petition for Discipline
Original and three [3] copies – By United States Postal Service

Thank you.

Respectfully,



Philip J. Berg

PJB:jb

cc: Patricia A. Dugan
Disciplinary Counsel
**The Disciplinary Board of the
Supreme Court of Pennsylvania**
820 Adams Avenue, Suite 170
Trooper, Pennsylvania 19403
with one [1] copy – By United States Postal Service
Letter only by Fax (610) 650-8213



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Law Offices of:
PHILIP J. BERG, ESQUIRE
555 Andorra Glen Court, Suite 12
Lafayette Hill, PA 19444-2531
Identification No. 09867
(610) 825-3134

Respondent in Pro Se

**BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA**

OFFICE OF DISCIPLINARY COUNSEL,	:	
	:	
Petitioner,	:	NO. 208 DB 2010
	:	
vs.	:	
	:	
	:	Attorney Registration No. 9867
	:	
PHILIP J. BERG,	:	(Montgomery County)
	:	
Respondent.	:	
	:	

RESPONDENT, PHILIP J. BERG'S

ANSWER TO THE PETITION FOR DISCIPLINE

Now comes Respondent, Philip J. Berg, Esquire (hereinafter referred to as "Respondent")
in Answer to the Petition for Discipline and states:

GENERAL ALLEGATIONS

1. Respondent admits Petitioner's principal office is located at 601 Commonwealth Avenue, Suite 2700, P.O. Box 62485, Harrisburg, PA 17106 and is invested, pursuant to Rule 207 of the Pennsylvania Rules of Disciplinary Enforcement (hereinafter "Pa.R.D.E."), with the power and duty to investigate all matters involving alleged misconduct of any attorney admitted to practice law in the Commonwealth of Pennsylvania.

FILED

DEC 13 2010

Office of the Secretary
The Disciplinary Board of the
Supreme Court of Pennsylvania 1

2. Respondent, Philip J. Berg, Esquire, admits he was born April 13, 1944 and has been admitted to practice law in the Commonwealth of Pennsylvania since November 18, 1971. In addition, Respondent admits he maintains his office at 555 Andorra Glen Court, Suite 12, Lafayette Hill, PA 19444-2531, which is located in Montgomery County.

3. Respondent admits he is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court.

RESPONDENT'S ANSWER TO CHARGE

4. Respondent admits he spoke with Diana McCracken regarding a possible lawsuit against the Lancaster City Bureau of Police for an alleged warrant-less search and seizure that had occurred at her home on or about November 8, 2004. Respondent admits Ms. McCracken claimed to have been assaulted by one of the police officers during the alleged warrant-less search.

5. Respondent cannot admit or deny this statement, as Respondent is unaware when Ms. McCracken sent Respondent documents regarding the alleged illegal search and seizure that had occurred on November 8, 2004. Respondent did receive documentation from Ms. McCracken, however, Respondent did not receive the documentation until after the filing of the Civil Complaint on November 8, 2006.

6. Denied in part and admitted in part. Denied that Respondent met with Ms. McCracken in his office on November 8, 2006. Admitted in part that Respondent did agree to file a civil action against on Ms. McCracken's behalf in the U.S. District Court, Eastern District of Pennsylvania captioned *Diana McCracken v. Lancaster City Bureau of Police, Chief of Police, William M. Heim, Lieutenant, Peter Anders, Officer James Fatta, Officer George Bonilla, Special Emergency Response Team, "SERT", Lieutenant James Zahm, Officer B.*

MacFarland, Detective Breault, Manor Township Police Department, Officer Smith, Officer Roache and Sergeant McCrady. By way of further answer, Respondent agreed to file suit, however, the suit was filed based on Ms. McCracken's statements; Respondent had **not** received any of the documentation as promised prior to filing suit. In fact, all Respondent ever received from Ms. McCracken were her handwritten notes; a copy of the warrant for her husband's arrest; the Lancaster City Bureau of Police Report; Lancaster Bureau of Police Supplemental - Field Incident Report (Property Returned to Suspect through Attorney Goldberg); Commonwealth of Pennsylvania, County of Lancaster Receipt / Inventory of Seized Property; and the Application for a Search Warrant & Authorization with the Affidavit of Probable Cause. *See EXHIBIT "1"*. Respondent also received Ms. McCracken's handwritten notes from Karen M. McCarter, Secretary to Alan G. Goldberg, Esquire. *See EXHIBIT "2"*.

7. Admitted.

8. Admitted.

9. "a" through "d" are Admitted.

10. Admitted.

11. Admitted.

12. Admitted by way of further answer. At the time Respondent agreed to take Ms. McCracken's case, Ms. McCracken stated that her husband was arrested; law enforcement conducted an illegal search; and assaulted her (Ms. McCracken) in the process. Respondent informed Ms. McCracken that she would have to be able to substantiate her damages by way of physician and/or psychiatric reports, medical bills, medications, etc. At the time the suit was filed, Respondent was unaware that Ms. McCracken had granted permission to law enforcement to enter her premises; that her husband was arrested on allegations of stabbing another

individual, charges Mr. McCracken later plead guilty to; and that her husband had a prior violent conviction for Murder. In fact, it was not until after the suit was filed on behalf of Ms. McCracken that Respondent learned the reason for Mr. McCracken's arrest was due to the fact he had stabbed a man; Mr. McCracken was charged with two (2) felonies and five (5) misdemeanors, crimes which Mr. McCracken plead guilty to in 2006.

Respondent's paralegal at the time, Maria DiDonato left several messages for Ms. McCracken on December 14, 2006; December 22, 2006; and January 13, 2007. Ms. DiDonato never received a return call back. On January 17, 2007, Respondent's Assistant, Lisa Liberi sent a letter to Ms. McCracken regarding receiving Defendants Joint Motion to Dismiss and the lacking information Respondent's office had been attempting to obtain. *See* **EXHIBIT "3"**. Ms. Liberi requested that Ms. McCracken make an immediate appointment with Respondent as there were several issues to discuss. In particular, Respondent never received any medical provider's names, or any medical reports, medical bills or anything to substantiate any type of damages for emotional distress and/or assault; Respondent was never informed prior to filing suit that Ms. McCracken allowed the police to enter her home; and the fact that Ms. McCracken's husband was charged and plead to dangerous crimes with a past conviction for Murder. Noteworthy, facts which Respondent was not made aware of prior to initiating suit on Ms. McCracken's behalf.

As this Court is aware, law enforcement handle arrest warrants and searches of premises differently depending on the background of the "Defendant"; in this case, Mr. McCracken had a prior conviction for Murder and was now on charges for stabbing a man. Moreover, a search is **not** illegal if law enforcement personnel are allowed in by a party residing in the residence. *See* 4th Amendment to the United States Constitution.

Ms. McCracken was placed on notice that if she did not supply the required documents and did not make an appointment with Respondent, then Respondent would **not** be able to respond to the Defendants Joint Motion to Dismiss and the case would be dismissed. See **EXHIBIT "3" and EXHIBIT "4"**.

13. Admitted, by way of further answer, please see response to paragraph 12 above.

14. Denied. By way of further answer, Respondent's office notified Ms. McCracken that Respondent could not and would not answer the Defendants Joint Motion without the required documents, medical providers, medical records, medical bills, etc. proving damages and without a meeting with Ms. McCracken regarding the fact she allowed law enforcement into her premises; her husband's conviction from the arrest; and her husband's prior conviction; as there was no way to continue and succeed with the case without all of this documentation and information. Once Respondent received the Judge Stengel's Order dismissing the case, a copy of the Order was sent to Ms. McCracken. See **EXHIBIT "4" and EXHIBIT "5"**. As for Ms. McCracken's Appeal rights, there was absolutely no basis to appeal the Judge's decision to dismiss. There were **not** any provable damages, which Ms. McCracken failed to respond to and Ms. McCracken allowed law enforcement into her home for the search, to substantiate the case moving forward. Respondent would have withdrawn the lawsuit, but Defendants filed a Joint Motion to Dismiss before Respondent had the opportunity to withdraw it.

15. Respondent cannot admit or deny this statement, as Respondent is unaware of any such email and Respondent was unable to locate any such email. Respondent maintains all his emails and has emails going back to 2003.

16. Respondent cannot admit or deny this statement, as Respondent is unaware of any such email and Respondent was unable to locate any such email. Respondent maintains all his emails and has emails going back before 2006.

17. Respondent cannot admit or deny this statement, as Respondent is unaware of any such email and Respondent was unable to locate any such email. Respondent maintains all his emails and has emails going back to 2006.

18. Admitted, by way of further answer, Respondent called Ms. McCracken and left a message stating the case had been dismissed, and that a copy of the Order was sent to her. Respondent further stated if she had any questions or had not received the Order, to please contact his office.

19. Admitted. By way of further answer, Respondent called Ms. McCracken on Monday, June 23, 2008 and explained the law regarding the Tree and the Township. Respondent asked Ms. McCracken if she received the Order dismissing her case against *Lancaster, et al.* Ms. McCracken agreed that she had received the Order.

20. Admitted. Respondent did receive an email threatening to have Respondent reported to the Pennsylvania State Bar for the dismissal of her case. By way of further Answer, Respondent again called Ms. McCracken on February 11, 2009 and reminded her the case had been dismissed, that she stated she received the Order of dismissal from his office. Additionally, Respondent reminded Ms. McCracken that there was no illegal search, that she allowed the officers in and you cannot change your story to litigate a case, which does not have any merit.

21. Respondent cannot admit or deny this statement, as Respondent did not receive said email.

22. Denied.

23. Denied.

24. Respondent cannot admit or deny the totality of this statement. Respondent admits that Ms. McCracken sent him an email and that Lisa Liberi responded to Ms. McCracken. Respondent admits the email from Ms. McCracken threatened to report him to the Pennsylvania Supreme Court Disciplinary Board. Respondent cannot admit or deny Ms. McCracken statement that she sent an email to philjberg@obamacrimes.com as Respondent never received said email.

25. Admitted. By way of further answer, Ms. Liberi in her email to Ms. McCracken told Ms. McCracken that she recalled sending a letter to her regarding the challenges of the Motion to Dismiss. *See EXHIBIT "6"*.

26. Admitted. By way of further answer, Ms. McCracken also stated she had not received anything from Respondent's office except the papers to serve the Defendants with, *See EXHIBIT "7"*, which clearly was not the case as other writings referred to above: November 13, 2006 Ms. McCracken was sent the complaint; further communications to Ms. McCracken referred to in the Pennsylvania Disciplinary Board Complaint above include December 19, 2006; December 22, 2006 and June 20, 2008, which are now being admitted by Ms. McCracken. Furthermore, on February 25, 2009, Ms. Liberi called and left a message for Ms. McCracken stating a letter had gone out to her on January 17, 2007 with a copy of the Defendants Motion to Dismiss. Ms. Liberi's message also included that Respondent's office never received the letter back; Respondent's office never received any of the requested documents. Ms. Liberi never received a return call.

27. Respondent cannot admit or deny this statement, as Respondent did not receive this particular email directly and Ms. Liberi cannot locate said email in her email box.

28. Admitted.

29. Respondent cannot admit or deny this statement, as Respondent did not receive this particular email directly. However, Ms. Liberi never received an email from Ms. McCracken on March 3, 2009.

30. Denied.

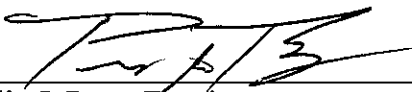
31. Denied.

31 (a) through (j) - Denied.

WHEREFORE, Respondent, Philip J. Berg, Esquire, prays that your Honorable Board deny Disciplinary Counsel, Patricia A. Dugan's request to appoint, pursuant to Rule 205, Pa. R.D.E., a Hearing Committee to hear testimony and receive evidence. Respondent further requests this Court to remand this Complaint to Ms. Dugan's Office for final disposition. If this Honorable Board should deny Respondent's request, then Respondent respectfully requests this Board to allow the Respondent, Philip J. Berg, Esquire, to file and contest this document and request a Hearing as the charges are totally unfounded.

Respectfully submitted,

Dated: December 10, 2010


Philip J. Berg, Esquire
Respondent in Pro Se
555 Andorra Glen Court, Suite 12
Lafayette Hill, PA 19444-2531
Identification No. 09867
(610) 825-3134

VERIFICATION OF PHILIP J. BERG

I, PHILIP J. BERG, ESQUIRE, am over the age of eighteen (18) and am the Respondent in the within action. I verify that the statements made in the foregoing are true and correct to the best of my knowledge, information and belief. The undersigned understands that the statements therein are made subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn falsification to authorities.

Dated: December 10, 2010



PHILIP J. BERG

Law offices of:
PHILIP J. BERG, ESQUIRE
555 Andorra Glen Court, Suite 12
Lafayette Hill, PA 19444-2531
Identification No. 09867
(610) 825-3134

Respondent in Pro Se

OFFICE OF DISCIPLINARY COUNSEL,	:	BEFORE THE DISCIPLINARY
Petitioner,	:	BOARD OF THE SUPREME
vs.	:	COURT OF PENNSYLVANIA
	:	
PHILIP J. BERG,	:	No. 208 DB 2010
Respondent.	:	Attorney Reg. No. 9867
	:	
	:	(Montgomery County)

CERTIFICATE OF SERVICE

The undersigned, Philip J. Berg, Esquire hereby certifies that on December 10, 2010, a true and correct original and copies of Respondent's Answer to the Petition for Discipline was served by United States Postal Service with postage fully prepaid upon the following:

Copy to:

Patricia A. Dugan
Disciplinary Counsel
District II
Office of Disciplinary Counsel
820 Adams Avenue, Suite 170
Trooper, PA 19403

Original and three [3] copies to:

Office of the Secretary
The Disciplinary Board of the
Supreme Court of Pennsylvania
Pennsylvania Judicial Center
601 Commonwealth Avenue, Suite 5600
P.O. Box 62625
Harrisburg, PA 17106-2625

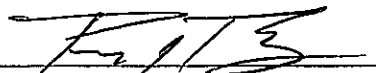

Philip J. Berg, Esquire

EXHIBIT "1"

Hello Mr. Berg,

Here is the information you asked me for. I'm sure the information you will be receiving from Karen will be in more detail but this is just something to get started with.

Please look on the Affidavit of Probable cause continued page that is attached... #'s 10.) and 11.) - this basically proves that they were in my house searching before there was a search warrant issued otherwise they would have not been able to know what was in my house to begin with and in what bedroom they were all in. My husband was arrested outside on the neighbors' lawn, NOT inside of my house. This all took place about 3:30 in the morning.

The S.W.A.T officer's name that held his assault weapon to my head was B. MacFarland - I remember this because it was on the back of his helmet that he was wearing.

The names of my children are as follows...

Pamela Hurwitz

Haelle Ann McCracken

D'Artagnan Jeannie Ann McCracken

My father's name is Thomas John McAllister - I do not speak with him anymore. In 2004 he contacted Verizon wireless about the unauthorized attempts to his voicemail but they informed him at that time that they could not release any information unless there was a subpoena (Sorry for the spelling). We never got a one because you are the only lawyer we have contacted about this.

The last time I spoke with Karen, she told me that they sent another request for my property to be returned to me - I believe that it's the 3rd attempt they have done and still we have not received any property back - this is also including property that they took and did not write down on the inventory list of what they took - I gave Alan Goldberg/Karen the list of property that I am missing that was never written down.

If there is anything else please contact me. I look forward to hearing from you about my case.

Thank-You again for your help,

Diana McCracken

484-461-1940 - home

717-380-4956 - cell

I am having a little bit of trouble sending these as attachment so you may want to print these out so you can be able to read them.

Commonwealth of Pennsylvania



APPLICATION FOR SEARCH WARRANT AND AUTHORIZATION

COUNTY OF Lancaster

Docket Number (Issuing Authority):

Police Incident Number: 0411-006420

Warrant Control Number: 0411-006420-1

Det. Sgt. Peter Anders

Lancaster Bureau of Police

735-3300

08 Nov 2004

AFFIDAVIT NO.

AGENCY

PHONE NUMBER

DATE OF APPLICATION

IDENTIFY ITEMS TO BE SEARCHED FOR AND SEIZED (be as specific as possible):

Any chrome or silver handguns, specifically but not limited to smaller caliber silver or chrome revolver or semi-automatic, including handgun ammunition and accessories such as clips holsters, handgun boxes, firearm permits. Any vest or coat with patches or markings containing initials or slogans for "Hells Angels" motorcycle club, specifically but not limited to a black leather or denim vest with such patches and insignia. Any papers, documentation, photographs or possessions connecting suspect Terence McCracken to the above motorcycle club. Any male worn clothing containing stains that may be blood. Any knife or cutting instrument. Cont.

SPECIFIC DESCRIPTION OF PREMISES AND/OR PERSON TO BE SEARCHED (Street and No., Apt. No., Vehicle, State Deposit Box, etc.):

ITEMS To be searched or seized: Also any newspapers or writings containing clipping of 04 Nov 2004 stabbing incident at Blue Star Hotel.

PREMISES to Be Searched: 1018 Williamsburg Rd. Lancaster, PA. This is a two story semi-detached single family dwelling with red brick facing in Manor Twp. There is the number "1018" on the mailbox and the curb in front of this residence. To include all curtilage and sheds on property. Also any persons within the property.

NAME OF OWNER, OCCUPANT OR POSSESSOR OF SAID PREMISES TO BE SEARCHED (if proper name is unknown, give alias and/or description):

Terence D. McCracken DOB: 04-18-64; SS#: 190-52-9495

VIOLATION OF (Describe conduct or specify statute):

Aggravated Assault, Terroristic Threats, Simple Assault [PA Crimes Code]

DATE(S) OF VIOLATION:

04 Nov 2004

Warrant Application Approved by District Attorney - DA File No.

(If DA approval required per Pa.R.Crim.P. 2002A with assigned File No. per Pa.R.Crim.P. 197)

Additional Pages Attached (Other than Affidavit of Probable Cause)

Probable Cause Affidavit(s) MUST be attached (unless sealed below) Total number of pages: 3

TOTAL NUMBER OF PAGES IS SUM OF ALL APPLICATION, PROBABLE CAUSE AND CONTINUATION PAGES EVEN IF ANY OF THE PAGES ARE SEALED

The below named Affiant, being duly sworn (or affirmed) before the Issuing Authority according to law, deposes and says that there is probable cause to believe that certain property is evidence of or the fruit of a crime or is contraband or is unlawfully possessed or is otherwise subject to seizure, and is located at the particular premises or in the possession of the particular person as described above.

Lancaster Bureau of Police

403

Signature of Affiant

Agency or Address if private Affiant

Badge Number

Sworn to and subscribed before me this 27th day of November 2004 Mag. Dist. No. 2-2-02

Signature of Issuing Authority

Office Address

(SEAL)

SEARCH WARRANT TO LAW ENFORCEMENT OFFICER:

WHEREAS, facts have been sworn to or affirmed before me by written affidavit(s) attached hereto from which I have found probable cause, I do authorize you to search the premises or person described, and to seize, secure, inventory and make return according to the Pennsylvania Rules of Criminal Procedure.

This Warrant shall be served as soon as practicable and shall be served only between the hours of 6AM to 10PM but in no event later than:

This Warrant shall be served as soon as practicable and may be served any time during the day or night but in no event later than:

7:00 P.M. o'clock 08 Nov 2004

* The issuing authority should specify a date not later than two (2) days after issuance. Pa.R.Crim.P. 2005(d).

** If the issuing authority finds reasonable cause for issuing a nighttime warrant on the basis of additional reasonable cause set forth in the accompanying affidavit(s) and wishes to issue a nighttime warrant, then this block shall be checked. Pa.R.Crim.P. 2006(g).

Issued under my hand this 27th day of November 2004 M. o'clock

Signature of Issuing Authority

Mag. Dist. or Judicial Dist. No.

Date Commission Expires

Title of Issuing Authority: [X] District Justice [] Common Pleas Judge []

For good cause stated in the affidavits(s) the Search Warrant Affidavit(s) are sealed by my certification and signature. (Pa.R.Crim.P. 2011)

TO BE COMPLETED BY THE ISSUING AUTHORITY



COUNTY OF Lancaster

Docket Number:
(Issuing Authority):

Police Incident
Number: 0411-006420

Warrant Control
Number: 0411-006420-01

PROBABLE CAUSE BELIEF IS BASED UPON THE FOLLOWING FACTS AND CIRCUMSTANCES:

1.) That at approximately 2241 Hrs., 04 November 2004, Officer Heather Hatfield of the Lancaster City Bureau of Police was dispatched to O'Halloran's Bar, 764 High St. for a subject who was just stabbed at the Blue Star, 602 W. King St. Lancaster, PA. That Officer Hatfield arrived at High St. and Fairview Ave. and located Gregory Spangler and Robert Wolf outside of the bar. Wolf was applying pressure to a wound that Spangler had to his left torso area. Spangler was transported to LGH by ambulance for medical treatment. Wolf was transported to PS by Officer Hatfield, and interviewed about the stabbing. That responding officers and detectives of Lancaster City Police also responded to the Blue Star Hotel (tavern) to check for other witnesses and for a crime scene. Officers and detectives were unable to locate a processable crime scene, but did locate witnesses Clayton Armstrong, and Herb Scivener. Both Scivener and Armstrong spoke to officers or detectives.

2.) Upon arrival at Lancaster General Hospital, Spangler was attended by E.R. physician Dr. Reihart, and Trauma surgeon Dr. Chory. These physicians determined that Spangler would undergo immediate surgery for a stab wound to Spangler's lower left torso, that had cut through muscle and into a cavity. Spangler was brought into the Operating Room, and had surgery to treat and close the wound. That Det. Sgt. Anders responded to the E.R., and spoke briefly to Spangler prior to his surgery. Spangler was agitated with police and medical staff. Sgt. Anders advised Sgt. Anders would handle the incident and talk to Spangler later.

3.) Sgt. Anders then spoke to Wolf at PS. Wolf had already spoken to Off. Hatfield. Wolf related that Wolf and Spangler had gone into the Blue Star to have a beer. Wolf related that within minutes of entering the bar, that a W/M/30's wearing a "Hell's Angel's" motorcycle gang vest approached Wolf, and confronted Wolf about whether Wolf had a problem. Wolf was wearing a "Support your Tribe" sweatshirt. The "Tribe" is a motorcycle associate of the "Pagans" motorcycle gang. Wolf related that the W/M/30's pushed a small silver handgun into his side, and told Wolf if Wolf was looking for trouble that he'd blow Wolf's fucking guts out. Wolf related that he feared he'd be shot. Wolf related that the W/M also told him to turn his sweatshirt inside out if he wanted to stay. Wolf related that he told the W/M he'd leave. Wolf related the W/M wearing Hell's Angel's apparel then confronted Spangler. Wolf heard the W/M tell Spangler that he'd stick Spangler if Spangler continued to be "smart." Wolf related that he walked out of the bar before Spangler and walked to Spangler's vehicle. Spangler arrived saying he was stabbed.

4.) That Wolf related that as he walked out of the bar a bystander told Wolf that the "guy" was Terence McCracken and that he was from Millersville. That Wolf related that after observing Spangler was stabbed, that Spangler and Wolf got into Spangler's van, a 1992 Dodge, which was parked in the 1st block of Old Dorwart St.. That Wolf related that he told Spangler that he'd need to go to the hospital. As they spoke, Wolf related that he observed the W/M/30's wearing the Hell's Angel's apparel had pulled aside of Spangler's van. The W/M was driving an older red SUV. Wolf related that the W/M leaned over the passenger side and pointed a handgun out the window toward Spangler and Wolf, then drove away.

That on 05 Nov 2004, Wolf identified Terence McCracken (DOB: 04-18-64) from a photo array presented by Sgt. Anders as the W/M who confronted him and Spangler and pointed the gun at them.

Affidavit Continued

I, THE AFFIANT, BEING DULY SWORN ACCORDING TO LAW, DEPOSE AND SAY THAT THE FACTS SET FORTH IN THE AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

Affiant Signature: [Signature] Date: 05 Nov 04 Issuing Authority Signature: [Signature] Date: [Signature] (SEAL)

Commonwealth of Pennsylvania

COUNTY OF LANCASTER



APPLICATION FOR SEARCH WARRANT CONTINUATION PAGES

Docket Number

Police Incident

Warrant Control

(Issuing Authority):

Number: 0411-006420

Number: 0411-006420

Continuation of:

- Items to be searched and seized
- Description of premises/person(s) to be searched
- Owner/ Occupant
- Violations

5.) That on 05 Nov 2004, Sgt. Anders spoke to Spangler at LGH. That Spangler corroborated Wolf's account of the incident. Spangler related that after the W/M approached Wolf, that Spangler asked the W/M what's going on, and the W/M turned and stabbed Spangler. Spangler related that at first he thought he was punched, but later realized he was stabbed. Spangler related that after the stab, the W/M showed Spangler that he had a gun in the bar, causing Spangler to fear he'd get shot. Spangler tentively identified Terence McCracken (DOB:04-18-64) as being the W/M who stabbed him after observing a photo array.

6.) That witness Clayton Armstrong spoke to police and related that he was at the Blue Star with a W/M wearing a Hell's Angels jacket who Armstrong knows by the nickname of "Cracker." Armstrong related that he observed "Cracker" confront two W/M's inside the bar, then leave after the two W/M's. Armstrong related that he observed "Cracker" and the smaller W/M get loud with each other, but did not observe a stabbing.

That on 06 Nov 2004, Armstrong identified Terence McCracken from a photo array presented by Sgt. Anders as the W/M he knows as "Cracker" who confronted the two W/M's.

7.) That witness Herbert Scrivener spoke to Det. Sgt. Anders on 06 Nov 2004. That Scrivener related that he was at the Blue Star on the evening of 04 Nov 2004, when he heard one male tell another male, "you just stabbed me." That Scrivener described the male accused of doing the stabbing as a W/M/approximately 40 with long wavy blond hair, wearing a black leather vest with Scrivener believed said "Hells Angels" and an abbreviation (possibly SGT) for sergeant on the vest. Scrivener saw that the subject saying he was stabbed lifted his shirt and was bleeding from his left torso area. Scrivener identified Terence McCracken from a photo array presented by Sgt. Anders as being the W/M/approx. 40's who was accused of doing the stabbing.

8.) That based upon above information, your affiant charged Terence McCracken with Aggravated Assault, two counts of Terroristic Threats and three counts of Simple Assault before DJ Hartman, and an arrest warrant was issued by DJ Roth on 06 Nov 2004.

9.) That a search of PENN DOT records reveals that Terence McCracken has a photo drivers license which he signed, with the address of 1018 Williamsburg Rd. Lancaster (Manor Township), PA. That a check with Manor Township Police confirmed that their officers, including Off. Mark Burkholder is familiar with Terence McCracken and that Off. Burkholder related that McCracken is a Hells Angels member and lives at 1018 Williamsburg Rd. Lancaster PA, in Manor Township.

10.) That at approx. 0320 Hrs., 08 Nov 04 Terence McCracken was arrested at 1018 Williamsburg Rd. by Sgt. McCrady and Officer Roache. That during this arrest, officers observed in the master front bedroom a black shotgun, black in color small semiautomatic handgun with magazine, a stainless steel .38 caliber revolver, two folding knives, and a black and dark brown vest with "Hells Angels" patch affixed.

11.) That based upon the above information, your affiant requests that a search is issued for the search of 1018 Williamsburg Rd. Lancaster, PA for the items listed on items to be searched on application pages. Nighttime search is requested due to the residence being occupied by others at time of this application, pursuant to the arrest, and listed items to be searched for could be destroyed if not seized without delay.

I the affiant, being duly sworn according to law, depose and say that the facts set forth in the affidavit are true and correct to the best of my knowledge, information and belief.

Affiant Signature _____ Date 08 Nov 04 Issuing Authority _____ Date _____ Seal _____

Page 2 of 2 Pages

CONTINUATION

Report Number

← wrong 3:00am they called my cell phone!

At approximately 0400 hours, a telephone call was placed to Diana McCracken's cell phone and they were advised that the Police were outside and were in possession of a warrant for McCracken's arrest. McCracken was advised to exit the residence and to follow instructions of Police.

McCracken was observed by SERT members in the front bedroom on the second floor and further observed exiting the residence. McCracken was taken into custody at this time by members of the SERT team and transported from the scene immediately.

SERT members made contact with Diana McCracken at the front door of the residence. Initially she refused to comply by allowing SERT members access to the residence to clear the house for Officer Safety purposes. Police were going to be securing the residence for the execution of a search warrant.

Diana McCracken eventually complied with SERT members and the SERT team entered the residence.

I DID NOT COMPLY - I WAS THREATENED
Det Breault did proceed directly to the 2nd floor and entered into the front bedroom which is also the master bedroom. Immediately upon entering this room, Detective Breault observed a black in color "pistol grip" shotgun under the edge of the bed. Further observed were two handguns on the bedside table that was located between the bed and wall. These handguns were observed to be a silver in color revolver and a black/gray in color semi-automatic pistol. Det Breault also observed a spent shell casing on the dresser at the foot of the bed.

The remainder of the residence was checked and cleared. The house was then secured until the search warrant was brought to the residence by members of the Lancaster City Police Detective Division.

At approximately 0603 hours, members of the Lancaster City Police did execute a search warrant on the residence, which carries the address of 1018 Williamsburg Road. The search warrant was read to Diana McCracken by Detective Bonilla in Detective Breault's presence.

At approximately 0630 hours, Detective Breault did conduct a verbal interview with Diana McCracken.

The content of the interview is as follows:

Diana McCracken was asked if she was aware of the nature of the arrest warrant that had been issued for T. McCracken. She replied that had no knowledge of the warrant. She also indicated that she did not know T. McCracken had been in Lancaster City. Diana McCracken further stated that she was not aware that he had been in an altercation on Thursday evening (4 Nov 04) and stated that T. McCracken comes home every night. She also stated that she had not observed any blood on his clothing.

Diana McCracken was asked about T. McCracken's involvement with the Hell's Angels and she stated that he's only been a "member" for about a year. When asked how long he had been affiliated or had been "prospecting" with the gang, she replied that he's been doing things with the gang for a long time. She further stated that she doesn't know what he does and that she's not allowed to know and not allowed to ask questions. She indicated that the Hell's Angels aren't as bad as everyone says and that they "don't rape and kill" people. Diana McCracken mentioned that the Hell's Angels participate in the "Toys for Tots" campaign. When asked what "Chapter" T. McCracken is associated with she stated, "Philadelphia".

LANCASTER CITY BUREAU OF POLICE		Report Number
<input type="checkbox"/> Continuation	<input checked="" type="checkbox"/> Supplemental	0411-006420
Officer Name / Badge / Platoon Detective Breault / #20 / CID		Nature of Event: Aggravated Assault (Stabbing)

COPY

Suspect/Arrest: McCracken, Terence W/M/40
1018 Williamsburg Road, Lancaster, PA 17603
DOB: 18 Apr 64
* - Member of "Hells Angels" Outlaw Motorcycle Gang

Vehicle: Red in color Nissan Pathfinder, Sport Utility Vehicle

Victim/Witness: SPANGLER, Gregory Lester W/M/ 54
[REDACTED] Lancaster, PA 17601
DOB: [REDACTED]

Victim/Witness: WOLF, Robert W/M/51
[REDACTED] Lancaster, PA 17603

NOI: McCracken, Diana Elizabeth
1018 Williamsburg Road, Lancaster, PA 17603
DOB: 10 Jul 74

On Thursday, 04 November, 04 Lancaster City Police responded to a report of a stabbing that had occurred at "The Blue Star Inn", located at 602 W. King Street. Police were further directed to the area of St. Joseph's Street and Fairview Avenue to locate the victim (SPANGLER) who had left the scene.

Upon arrival, Police located SPANGLER who was suffering from a stab wound to the torso just below the rib cage on the left side of his body. SPANGLER was transported to Lancaster General Hospital for treatment/surgery.

Detective Sergeant Anders and Detective Breault proceeded to the hospital to speak with SPANGLER concerning the incident. Police were unable to obtain a lot of information from SPANGLER at this time due to his being taken into surgery. Det/Sgt Anders left a business card for SPANGLER so that he could make contact with Police at a later time.

Det/Sgt Anders developed McCracken as the suspect in this incident and did obtain a warrant for his arrest.

On Sunday, 7 Nov 04 at approximately 2300 hours, Detective Breault was contacted and directed to respond to the area of 1018 Williamsburg Road as McCracken had been observed within his residence. Det Breault is a team leader with the Lancaster County SERT Team.

Upon arrival, Det Breault and Det Berkihiser established a perimeter around the residence with SERT members and relieved Manor Twp Police of their positions. At this time, a tactical plan was developed to take McCracken into custody.

Supplemental Approved By:	NCIC Entry / Cancellation By:	Page 1 of 3
---------------------------	-------------------------------	-------------

11/8/04 - At approx. 3am Officer Smith called my cell phone # 717-917-3681 (I did not have a working home phone) for Terry, stating that he had a warrant for his arrest & they were outside the house. Officer Smith instructed Terry to get up, get dressed and go to the front door. We both got up & I followed Terry downstairs, all this time Terry was still on the phone with Officer Smith. When Terry opened the front door & the police could see us, Officer Smith instructed Terry to give me the phone & come out slowly hands in the air. When Terry walked outside with his hands up the officers instructed him to throw a bull horn to turn around with his back facing the police & walk backwards to them to be arrested. Hearing how loud they were at that time in the morning I asked Officer Smith if they had to be so loud because I have neighbors sleeping & was there really a need for the bull horn since Terry was fully co-operating with the officers. Terry was arrested on my neighbors front lawn. At approx 3:30am while I was on the cell phone with Officer Smith still Terry was already arrested and gone from the house - SWAT Officers came up to my front door telling me they were coming in. I questioned Officer Smith if I had to let them in because they did not have a warrant to come in my house. He told me that it was my choice to

let them in or not - that he could not give me any legal advice. I repeated everything Officer Smith told me to the officers outside my house - at that time. Officer B. MacFarland pointed his assault weapon to my head telling me they were coming in whether I wanted them to or not. I repeated this back to Officer Smith as the SWAT officers came in my house pushing me up against my love seat holding my left hand/arm behind my back - leaving my right arm free while I spoke to Officer Smith telling him what was happening + asking what is going on and where is the search warrant. While my 3 daughters were sleeping in their room, they woke my father up by pointing their assault weapons at his head. They (the officers) us in the livingroom for 2 1/2 hours, until Lancaster County City Police were able to get the search warrant at approx 6am Monday morning. During the 2 1/2 hour wait - Two (2) male Manor township police officers were in my home watching us. One (2) male officer was upstairs on the 2nd floor searching around and informed the other male officer that was standing at my front door that there were children in the one bedroom. I informed the officers that they were my daughters and I'd like them to stay asleep because they had school in the morning. While one + my dad were being detained in the livingroom we were not allowed in

Any other room in the house without the officers' permission. When Lancaster City Police arrived with the search warrant for my home at approx 6am - I had to sign a paper stating my house was being searched & I was there. I did not receive a copy of this (I'm not sure if I should've or not - I don't know how that works.) During the search of my home, me & my father had to stay in the livingroom. At one point my father hearing that I was upset & crying because the officers told me that Terry stabbed someone & they have witness' to this that he was going to jail for a long time. My father asked the officer who was in charge the officer told him to be quiet when my father asked the officer again who was in charge the officer threatened my dad telling him if he doesn't be quiet he'd be in cuffs next. When other officers asked me if I knew anything about this I told them that I didn't know anything they told me they didn't believe me & I was lying & I was gonna be arrested. During the time they were searching upstairs - we were not allowed in the rooms they were searching - an officer tried to access my father's voicemail code by using his cell phone which was in the small bedroom. My father found this out when he tried to use his phone to check his messages & he got a message/recording saying there were 3 unauthorized

tries on his voicemail. My father contacted Verizon and they are checking into it. When they went to search my kids room - they were still sleeping - my oldest daughter woke up to strange men in her room & scared her, she came to tell me and the officers had at that time told me I had to wake the rest of my kids up. They all finally left about 1:14pm Monday.

* My father was told by Verizon on Thursday 12-2-04 that Verizon could not give him that information unless they receive a subpoena (sic) for the information. At this time he is more concerned about Terry's situation.



Commonwealth of Pennsylvania

SS:

COUNTY OF LANCASTER

815626
WARRANT
OF ARREST

4/15/04

To any authorized person:

In the name of the Commonwealth of Pennsylvania, you are commanded to take into custody

(name) TERENCE D. McCRACKIN

(address) 1018 WILKESBARRE RD LANCASTER, PA 17603
if the defendant be found in said Commonwealth, and bring the defendant before us at

(address) 39 W. CHESTNUT ST LANCASTER PA

to answer the Commonwealth or LANCASTER CITY RECORDER upon the complaint or
citation of DET. SGT. PETER ANDERSON (Political subdivision)

charging the defendant with AGGRAVATED ASSAULT, TERRORISM, SIMPLE ASSAULT and further to be dealt with according to law, and for such purposes this shall be your sufficient warrant.

WITNESS the hand and official seal of the issuing authority on this 06 day of Nov

2004

(SEAL)

Signature

Magisterial District No. _____

Citation No. _____

SUMMONS NO. _____

Docket No. _____

Amount required to satisfy sentence:

Fine \$ _____
Costs \$ _____
TOTAL \$ _____

Amount needed to satisfy collateral: \$ _____

WARRANT RETURN

OS Nov 2004

FRANCIS McCLAREN

[Faint, illegible text]

[Handwritten signature]
FRANCIS McCLAREN

[Faint, illegible text]

[Faint, illegible text]

SUPPLEMENTAL - FIELD INCIDENT REPORT
LANCASTER BUREAU OF POLICE

TYPE OF REPORT Aggravated Assault (Stabbing) Reportable Miscellaneous

Log # 0411-006420

Juris# 36301

SUBMITTED BY: Det. Sgt. Peter Anders

VICTIM NAME: Gregory Spangler

SUSPECT CHECKED NCIC:

WAS WARRANT FILE CHECKED:

CANCELLED NCIC

PLACED INTO NCIC BY: _____

DATE: _____

ADDITIONAL VEHICLES SHEET ATTACHED:

EVI FORM COMPLETED: (LIST EVIDENCE IN NARRATIVE)

ADDITIONAL PERSONS SHEET ATTACHED:

ARREST/BOOKING COMPLETED:

ADDITIONAL PROPERTY SHEET ATTACHED:

CONTINUATION REPORT ATTACHED:

SUSPECT (Charged/Arrested): MCCRACKEN, Terence D. W/M/40

AKA: "Cracker"

1018 Williamsburg Rd.

Lancaster, PA 17603

DOB: 04-18-64; SS#: 190-52-9495

OLN: PA/21430505

PROPERTY RETURNED TO SUSPECT THROUGH ATTORNEY GOLDBERG.

15 Mar 2004;

EVIDENCE: 1.) Following Evidence returned to McCracken via Attorney Alan Goldberg:

- 1.) Black H.A.T-Shirt "Support Berdoo" missing tag.
- 2.) White long sleeve H.A. shirt "Cracker's Angels" missing tag.
- 3.) Red H.A. long sleeve "Lynn Mass: XL shirt
- 4.) XL black H.A. T-shirt "Winston Salem" shirt
- 5.) XL white H.A. "Free John Bart" shirt
- 6.) XL black H.A. "Support 3rd St. Crew" shirt
- 7.) L black HA "Support Big Red Machine Phila" shirt
- 8.) XL black HA "Support 81 Omaha" shirt
- 9.) XL black HA "Support Merciless" sweatshirt
- 10.) XL red HA "Support Red & White Maryland" sweatshirt
- 11.) Med white HA "Cracker's Angel" shirt
- 12.) Large white HA "Cracker's Angel" shirt
- 13.) XL black HA "Support Red & White NYC" shirt
- 14.) XL black HA "City of Brotherly Love" shirt
- 15.) XL black HA "Support Red Machine Phila" shirt
- 16.) Med white HA "Cracker's Angel" shirt
- 17.) L black HA "Cracker's Angel" shirt
- 18.) XL black HA "Support 81 3rd St. Crew" shirt
- 19.) L black HA "Support 81 Winston Salem" tank top
- 20.) XL white HA "Long Island 10 year" shirt
- 21.) XL black HA "HA New Roc City" shirt
- 22.) L white HA "Cracker's Angel" long sleeve shirt
- 23.) M gray HA at pants "New Roc City"
- 24.) Size 40 black leather jacket "Red and White Supporter"

APPROVED BY: _____

DATE: _____

FIELD INCIDENT SUPPLEMENT CONTINUATION REPORT

LOG# _____

- 25.) Size M Avanti black leather HA jacket "Red & White Supporter"
- 26.) Red "Support 81 Omaha" hat
- 27.) "Red and white York County" spit or coffee mug
- 28.) Numerous Newspaper articles regarding HA
- 29.) Court documents relating to McCracken's prior murder conviction.
- 30.) VHS movie "Hells Angels on Wheels"
- 31.) Book "Hells Angels" by Yves Levigne
- 32.) Book "Hells Angel" by Ralphy Barfer
- 33.) 2002 & 2003 HA calendars.
- 34.) Open box of Glad sandwich bags
- ✓ 35.) Blue scissors
- ✓ 36.) Black rubber handle asp.
- 37.) Numerous miscellaneous newspaper clippings and computer printouts.
- 38.) "What's A HA" paper.
- 39.) Black chain wallet containing.
 - 1.) Waypoint Check card to suspect
 - 2.) Registration card for 2003 Harley PA Reg CTY68
 - 3.) Seven photographs
 - 4.) Numerous HA "business" type cards
 - 5.) Wawa pre-paid
 - 6.) Business card Attorney Sciolla -- Philadelphia
 - 7.) Belvedere beer chip
 - 8.) Aetna and Progressive Insurance cards
 - 9.) RS Club Woodlyn PA membership card
 - 10.) Aunt Kathy's phone number.
- 40.) Compaq Presario 5000 Serial # CT:532920H4DLU812 computer.
- 41.) Compaq computer monitor Model: MV920. Serial # 005GA23NA561.
Computer has sticker "Warning Pagans can be killed or injured". And
"Support your local Hells Angels Philadelphia PA".

NOTE: McCracken's valid PADriver's License and a black Hell's Angel baseball cap were returned to McCracken on 14 Mar 05.

NOTE: Arizona Driver's License #B12959773 is not being returned due to Commonwealth restrictions on possessing multiple DMV licenses.

I attorney Alan Goldberg sign that I am taking possession of the above property for my client Terence "Lil cracker" McCracken. I have been retained as counsel for open charges filed by Lt. Anders for McCracken, and items are turned over with approval of D.A. Eakin.

Signed: _____

Date: _____

Wit: Lt. Anders

NC
MCR

NO

Commonwealth of Pennsylvania



RECEIPT / INVENTORY OF SEIZED PROPERTY

COUNTY OF Lancaster

Docket Number (Issuing Authority):	Police Incident Number: 0411-006420	Warrant Control Number: 0411-006420-01
Date of Search: 08 Nov 2004	Time of Search: 0600	Inventory Page Number: 1 of 1 Pages
Sgt. Peter Anders	Lancaster City Bureau of Police	403

The following property was taken / seized and a copy of this Receipt / Inventory with a copy of the Search Warrant and affidavit(s) (if not sealed) was

personally served on (name of person) DIANA McCARDEN

was left at (describe the location)

Item Number	Quantity	Item Description	Make, Model, Serial No., Color, etc.
1	1	Mossberg Pistol Grip Shotgun, Box UMS90214, 12 GA, MOD 835	
2	5	Multi-Mag, Under Bed, Second Floor	
3	5	Light Target Load 12 GA Shotgun Shells from Shotgun	
4	1	.38 Hollow Point Bullets, from handgun	
5	1	Taurus .38 Special Ser SH56026; Chrome, on nightstand SW corner of bed	
6	1	"KOSTER" Orange Handle Knife, Lockblade, SW night stand beside bed	
7	1	"Forest Army" Yellow Handle Lockblade Knife, SW nightstand beside bed	
8	7	Bayco Arms .380 Auto, Blk. Ser 1321891, Nightstand SW corner of bed, w/ mag charged	
9	2	"Hells Angel" Insignia Stickers, Top Left Dresser Drawer, East Side Wall	
10	4	Inside Right Pocket, (4) Photos of Hells Angels	
11	1	Diary from SW night stand	
12	1	Black Leather Vest, Colors, Hells Angel Insignia Outside Back Closet Door	
13	1	KOSTER Orange Handle Knife, Lockblade, SE corner night stand	
14	3	.38 Special Bullets, Federal, Top Left Dresser Drawer	
15	1	Box Am. Eagle .22 Cal Bullet, (2) in Box, Dresser Top	

I/we do hereby state that this inventory is to the best of my/our knowledge and belief a true and correct listing of all items seized, and that I/we sign this Receipt / Inventory subject to the penalties and provisions of Title 18 Pa.C.S. 4904(b)-Unsworn Falsification to Authorities.

	JAMES V. FATTA	LCPO	31
Signature of person Issuing Receipt / Inventory	Printed Name	Affiliation	Badge or Title
	GEORGE D. DRILLY	LCPO	704
Signature of Witness	Printed Name	Affiliation	Badge or Title
	JAMES V. FATTA	LCPO	31
Signature of person making Search	Printed Name	Affiliation	Badge or Title

Commonwealth of Pennsylvania



RECEIPT / INVENTORY
OF SEIZED PROPERTY

COUNTY OF Lancaster

Docket Number (Issuing Authority):	Police Incident Number: 0411-006420	Warrant Control Number: 0411-006420-02
Date of Search: 08 Nov 2004	Time of Search: 0600	Inventory Page Number: of 1 Pages
Sgt. Peter Anders	Lancaster City Bureau of Police	403

The following property was taken / seized and a copy of this Receipt / Inventory with a copy of the Search Warrant and affidavit(s) (if not sealed) was
 personally served on (name of person) DIANA MCCracken
 was left at (describe the location) _____

Item Number	Quantity	Item Description	Make, Model, Serial No., Color, etc.
16	1	BYCO 380 AUTO, SER 1321840, PURSE OF DIANA. SIDE POCKET, WEST SIDE OF BED, (1) MAGAZINE, 6 BULLETS.	
17	9	PHOTOS OF HELLS ANGELS, PURSE OF DIANA	
18	1	PA FIREARMS LICENSE TO DIANA MCCracken, PURSE	
19	1	PAIR BLUE HANDLE SCISSORS "DECAHANT", TOP DRAWER, S.W. NIGHTSTAND	
20	1	PAIR BLACK HANDLE SCISSORS "SCUNEL" w/SHARPENED TOP DRAWER S.W. NIGHT STAND	
21	1	MALLS WALLET w/CONTENTS OF "HELLS ANGELS" PHOTOS, TERESA MCCracken ID + PERMIT - GOOD, S. EAST SIDE NIGHTSTAND	
22	1	LETTER OF DIRECTIONS TO LODGE ISLAND CLUBHOUSE, TOP DRAWER, S.E. BLD NIGHTSTAND	
23	1	PHOTO, FORGOTTEN, HELLS ANGEL VEST.	
24	1	SHIRT, WHITE, FEMALE, "CRACKER'S ANGEL", "81", "EFC", BEDROOM CLOSET DRESSER TOP BY CLOSET	
25	many	GUN + HELLS ANGEL DOCUMENTS, TOP DRAWER DRAWER, S.W. CLOSET WHITE STAND	
26	4	CONFUSION FRICTIONS, PHOTOS, BEDROOM DRESSER TOP BESIDE TV	
27	1	HELL ANGEL PURSE DOORWAY, JEWELRY BOX DRESSER	
28	1	"GAWD", 177, PERMIT GUN, S.W. NIGHTSTAND	
29	1	19 JUNE 03, JOURNAL/DIARY TOP NIGHTSTAND, DRESSER DRAWER, BEDROOM	
30	7	(6) FEMALE SHIRTS (1) PAIR PANTS, FEMALE CLOTHING APPAREL "CRACKER'S ANGEL", "HELLS ANGELS", DRESSER DRAWER	

I/we do hereby state that this inventory is to the best of my/our knowledge and belief a true and correct listing of all items seized, and that I/we sign this Receipt / Inventory subject to the penalties and provisions of Title 18 Pa.C.S. 4904(b)-Unsworn Falsification to Authorities.

<i>[Signature]</i>	JAMES V. FRATA	LCPD	31
Signature of person Issuing Receipt/Inventory	Printed Name	Affiliation	Badge or Title
<i>[Signature]</i>	GEORGE D. BANILLA	LCPD	704
Signature of Witness	Printed Name	Affiliation	Badge or Title
<i>[Signature]</i>	JAMES V. FRATA	LCPD	31
Signature of person making Search	Printed Name	Affiliation	Badge or Title

Commonwealth of Pennsylvania



**RECEIPT / INVENTORY
OF SEIZED PROPERTY**

COUNTY OF Lancaster

Docket Number
(Issuing Authority):

Police Incident
Number: 0411-006420

Warrant Control
Number: 0411-006420-02

Date of Search:
08 Nov 2004

Time of Search:
0600

Inventory Page Number:
1 of 1 Pages

Sgt. Peter Anders

Lancaster City Bureau of Police

403

The following property was taken / seized and a copy of this Receipt / Inventory with a copy of the Search Warrant and affidavit(s) (if not sealed) was

personally served on (name of person)

was left at (describe the location)

Item Number	Quantity	Item Description	Make, Model, Serial No., Color, etc.
31	1	SHARPE'S OFFICE, LAW CO., RECEIPT, SW. NIGHT STAND	
32	1	UTILITY KNIFE, TOP RIGHT DRESSER DRAWER, BEDROOM	
33	1	ARIZONA DRIVER'S LICENSE, TERENCE McCRAKER, TRAVELER BOX, w/ (3) PATCHES	
34	13	MALE T-SHIRTS, "HELL'S ANGEL", "81" S, DRESSER DRAWER	
35	2	MATE SWEATSHIRTS, "HELL'S ANGEL'S", DRESSER DRAWER	
36	-	HELL'S ANGEL STICKERS, SW NIGHT STAND	
37	SEVERAL	COMPUTER PRINTOUTS, PASSWORDS, "81" S ON FLOOR BESIDE BED	
38	1	GREEN PILEY PAPERWEIGHT "H.A." FLOOR BESIDE	
39	1	RED PILEY LIST OF H.A. MEMBERS + CLUBHOUSE TOP OF DRESSER IN WHITE BASKET	
40	1	RED "81" GUMMA BASEBALL HAT, TOP OF DRESSER, WHITE BASKET	
41	1	LETTER TO "CRACKER" WRESTLING SEIZED FROM "HELL'S ANGEL" VHS, HISTORY CHANNEL, SHEET BEDROOM	
42	1	HELL'S ANGEL PATCHES, CLOSET, BLUE BASKET.	
43	2	SILENCE / DISCHARGED SHELL CASINGS, IN PARKER PEN CASE ON DRESSER	
44	17	WEAPON'S TRANSFER KIT, PURSE FROM CLOSET	
45	1	BAG CONTAINING TAPES GUN BOX. 38, CLEANING KIT, ACCESSORIES, CLOSET BEDROOM	

I/we do hereby state that this inventory is to the best of my/our knowledge and belief a true and correct listing of all items seized, and that I/we sign this Receipt / Inventory subject to the penalties and provisions of Title 18 Pa.C.S. 4904(b)-Unsworn Falsification to Authorities.

Signature of person Issuing Receipt / Inventory	James V. Fatta	LCPD	3/
Signature of Witness	George D. Baulin	LCPD	1/11
Signature of person making Search	James V. Fatta	LCPD	3/

Commonwealth of Pennsylvania



**RECEIPT / INVENTORY
OF SEIZED PROPERTY**

COUNTY OF Lancaster

Docket Number
(Issuing Authority):

Police Incident
Number: 0411-006420

Warrant Control
Number: 0411-006420-01

Date of Search:
08 Nov 2004

Time of Search:
0600

Inventory Page Number:
1 of 1 Pages

Sgt. Peter Anders

Lancaster City Bureau of Police

403

Affiant

Agency or Address if private affiant

Badge No.

The following property was taken / seized and a copy of this Receipt / Inventory with a copy of the Search Warrant and affidavit(s) (if not sealed) was

personally served on (name of person)

DIANA MCCracken

was left at (describe the location)

Item Number	Quantity	Item Description	Make, Model, Serial No., Color, etc.
47	7	(6) Boxes, (1) BAGGIE, ASSorted AMMO, .22, .38s, SHOTGUN, CIGARET SHELFS, BEDROOM & CLOSET, 9m x 10m	
48	1	BLACK HANDLE LOCKING BLADE KNIFE, Dressing Room	
49	1	Man's ANGEL AIRWAY PATCH, BRIMS BLAZER, Box in CLOSET	
50	1	MAXIMUM PACKET OF MUGGER CHARGES = FIREARMS REQUEST in SEXUAL SAFE FROM CLOSET	
51	8	PICTURES FROM MIDDLE PHOTO ALBUM in SEXUAL SAFE	
52	many	LOANSIONS OF OMS ARTICLES, CLOSET	
53	4	PHOTOS FROM PICTURE FRAME LIVING ROOM UNIT-2000 SILE	
54	2	BLK LINGERIE JKT, "81" "1A", FEMALE, DRESSING ROOM CLOSET	
55	1	Man's ANGEL VIDEO TAPE KIDS, LIVING ROOM	
56	1	Man's ANGEL BOOP, LIVING ROOM, BEHIND SIDE OF SOFA	
57	1	BLACK HANDLE LOCK BLADE KNIFE, SHED	
58	(2)	Man's ANGEL CIGARETTES, KITCHEN CABINET BANISTER	
59	6	(4) PAIRS, (5) BOXES KNIFE, KITCHEN, BANISTER	
60	1	(1) BLK SWEATSHIRT, "81" MAN'S, PG SHIRT "81" BANISTER	
61	(3)	(3) BOXES 35 AMMO, AAA BATTERIES, DRESSING ROOM CLOSET, BANISTER, HALL	
62	1	Man's FEMALE LOCK KNIFE, DRESSING ROOM, BANISTER	
63	1	BLACK WAGON "PASSPORT" HOODS & H.A. TIES/PANTS, FLOOR FROM BURN	
64	many	SEXUAL SAFE PICTURES, FLOOR FROM BURN, BANISTER	

I do hereby state that this inventory is to the best of my knowledge and belief true and correct listing of all items seized, and that I have signed this Receipt / Inventory in accordance with the provisions and requirements of Title 18 Pa.C.S. 4904(b) - Unsworn Falsification to Authorities.

Signature of person Issuing Receipt / Inventory: [Signature] Printed Name: JAMES V. FAUER Affiliation: LEAD Badge or Title: 31

Signature of Witness: [Signature] Printed Name: George D. Bonilla Affiliation: Lancaster Badge or Title: 5701

Signature of person making Search: [Signature] Printed Name: JAMES V. FAUER Affiliation: LEAD Badge or Title: 31

EXHIBIT "2"

LAW OFFICES
GOLDBERG, KNISELY & BEYER
40 EAST GRANT STREET
LANCASTER, PENNSYLVANIA 17602

HOWARD F. KNISELY
ALAN G. GOLDBERG
ROBERT D. BEYER

(717) 393-2500
FAX (717) 393-2747

TELECOMMUNICATION COVER SHEET

TO: Philip J. Berg, Esquire
FAX: 610-834-7659
FROM: Karen M. McCarter,
Secretary to Alan G. Goldberg, Esquire
OF: Goldberg, Knisely & Beyer

PHONE NUMBER: (717) 393-2500

DATE: November 7, 2006

RE: Diana McCracken

TOTAL NUMBER OF PAGES (INCLUDING COVER): 5

WILL ORIGINAL FOLLOW: NO

MESSAGE: Attached are the notes from Diana McCracken regarding the incident on November 8, 2004. I understand that she dropped off copies of the criminal complaint, search warrant & affidavit of probable cause. If we can be of further assistance, please do not hesitate to give us a call.

**IF YOU DO NOT RECEIVE ALL OF THE PAGES,
PLEASE CALL US AS SOON AS POSSIBLE AT (717) 393-2500.**

11/8/04 - At approx. 3am Officer Smith called my cell phone # 717-917-3681 (I did not have a working home phone) for Terry, stating that he had a warrant for his arrest & they were outside the house. Officer Smith instructed Terry to get up, get dressed and go to the front door. We both got up & I followed Terry downstairs, all this time Terry was still on the phone with Officer Smith. When Terry opened the front door & the police could see us, Officer Smith instructed Terry to give me the phone & come out slowly hands in the air. When Terry walked outside with his hands up the officers instructed him to throw a bull horn to turn around with his back facing the police & walk backwards to them to be arrested. Hearing how loud they were at that time in the morning I asked Officer Smith if they had to be so loud because I have neighbors sleeping & was there really a need for the bull horn since Terry was fully co-operating with the officers. Terry was arrested on my neighbors front lawn. At approx 3:30am while I was on the cell phone with Officer Smith still - Terry was already arrested and gone from the house - SWAT Officers came up to my front door telling me they were coming in. I questioned Officer Smith if I had to let them in because they did not have a warrant to come in my

let them in or not - that he could not give me any legal advice. I repeated everything Officer Smith told me to the officers outside my house - at that time Officer B. MacFarland pointed his assault weapon to my head telling me they were coming in whether I wanted them to or not. I repeated this back to Officer Smith as the SWAT Officers came in my house pushing me up against my love seat holding my left hand/arm behind my back - leaving my right arm free while I spoke to Officer Smith telling him what was happening & asking what is going on and where is the search warrant. While my 3 daughters were sleeping in they're room, they woke my father up by pointing they're assault weapons at his head. They (the officers) was in the livingroom for 2 1/2 hours until Lancaster County City Police were able to get the search warrant at approx 6am Monday morning. During the 2 1/2 hour wait - Two (2) male manor township police officers were in my home watching us. One (2) male officer was upstairs on the 2nd floor searching around and informed the other male officer that was standing at my front door that there were children in the one bedroom. I informed the officers that they were my daughters and I'd like them to stay asleep because they had school in the morning. While one & my dad were being detained in the ~~livingroom~~ we were not allowed in

Any other room in the house without the officers' permission. When Lancaster city Police arrived with the search warrant for my home at approx 6am - I had to sign a paper stating my house was being searched & I was there. I did not receive a copy of this (I'm not sure if I should've or not - I don't know how that works.) During the search of my home, me & my father had to stay in the living room. At one point my father hearing that I was upset & crying because the officers told me that Terry stabbed someone & they have witness' to this that he was going to jail for a long time - my father asked the officer who was in charge the officer told him to be quiet when my father asked the officer again who was in charge the officer threatened my dad telling him if he doesn't be quiet he'd be in cuffs next. When other officers asked me if I knew anything about this I told them that I didn't know anything they told me they didn't believe me & I was lying & I was gonna be arrested. During the time they were searching upstairs - we were not allowed in the rooms they were searching - An officer tried to access my father's voicemail code by using his cell phone which was in the small bedroom. My father found this out when he tried to use his phone to check his messages & he got a message/recording saying there were 3 unauthorized

tries on his voicemail. My father contacted Verizon and they are checking into it. When they went to search my kids room - they were still sleeping - my oldest daughter woke up to strange men in her room & scared her, she came to tell me and the officers had at that time told me I had to wake the rest of my kids up. They all finally left about 1:14pm Monday.

* My father was told by Verizon on Thursday 12-2-04 that Verizon could not give him that information unless they receive a subpoena³¹ for the information. At this time he is more concerned about Terry's situation.

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11/16/04- At approx 4:45pm an officer from Manor Township (female - 1st name Diane) came to my house, spoke to my dad requesting that I contact Det. Anders. I called Det. Anders and left a message on his voicemail at 5:29. Stating that I was contacted by a Manor-Township officer & she left your number for me to contact you - please contact me back in what this is regarding & left my #.

11/17/04- Det. Anders called & said he wanted to return my car & there were a few things he wanted to discuss. Approx an hour later he was at my house - to return my car. He informed me that he spoke with my landlord and that I was gonna be getting evicted from my home. Anders said that he asked my landlord if he had an attorney & my landlord said yes Anders advised my landlord to go through his landlord to evict me. Anders told me that he told the landlord that he wants it done sooner than later, that he doesn't want this whole case to drag out. He said he was just giving me the "heads up" about being evicted.

11/19/04- At Approx 1:30pm I spoke to John Green and Joan from Turkey Hill Dairy. They informed me that Terry had reached his maximum amount of days off and due to his attendance he was fired. They also informed me that Terry had 32 hours of overtime available and they would give him a check for those hours the following Friday. Because of him being fired our health insurance would expire 12/1/04.

11/19/04- At 1:45pm - While I was on the phone with Terry, Det. Anders came to my door to hand deliver me eviction papers from a lawyers office - Young and Young on behalf of my landlord. "To quit and vacate the property in 5 days" or court eviction will pursue. While Det. Anders was at my door Terry insisted on speaking with him - I gave Det. Anders the phone & Terry asked what he was doing in my house - Anders replied that he wasn't in my house (I was standing in my front doorway while Det. Anders was on the front step to the door.) Anders stated to Terry that he was dropping something off to me - Terry replied with - then give it to her & leave. At that time Anders gave me the papers & left.

EXHIBIT "3"

COPY

LAW OFFICES OF
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January 17, 2007

Mrs. Diana McCracken
1018 Williamsburg Road
Lancaster, Pennsylvania 17603

Re: *McCracken v. Lancaster City Bureau of Police, et al*, Case No. 06-cv-4958-LS

Dear Mrs. McCracken,

As you are aware, Mr. Berg filed suit on your behalf against several Defendants regarding the November 2004 incident. Mr. Berg filed the suit on November 08, 2006, in order to preserve your rights as the statute of limitations was about to run out. Prior to the suit actually being filed, Maria DiDonato, Paralegal to Mr. Berg, contacted you and informed you we were in need of a full description of your medical and psychiatric issues as a result of the search and arrest of your husband, including names and addresses of your medical providers treating you as a result of the incident; medical reports; and any medical diagnosis'. To date, we have not received any of this information.

Ms. DiDonato left several messages for you regarding the requested materials, but to date, has not heard back from you.

As Mr. Berg explained to you, Mr. Berg must be able to prove damages based on your alleged injuries. In addition, it has come to Mr. Berg's attention that you in fact allowed the law enforcement personnel to enter your home and conduct the search prior to the search warrant being served. This is not considered an illegal search.

The Defendants served us yesterday, January 16, 2007, with a Joint Motion to Dismiss you're above referenced lawsuit.

January 17, 2007

In order to properly respond to the Defendants Motion to Dismiss, it is imperative that we receive from you, the items described above, including your medical providers names and addresses; medical reports; any medical diagnosis'; names and addresses of your doctors you have been seeing regarding the alleged mental anguish claims; medical reports; medical diagnosis'; A copy of the Defendants Joint Motion to Dismiss is attached hereto for your review.

We have twenty [20] days from January 16, 2007 in order to respond to the Defendants Joint Motion to Dismiss. However, we are unable to respond without receiving the requested items and documentation from you. If we do not receive the requested items and information from you by Friday, January 26, 2007, then Mr. Berg will not have time to review the material and determine if there is enough to pursue your claims. Thus, without said material, we will be unable to respond to the Defendants Joint Motion to Dismiss.

As Mr. Berg explained to you, Civil Rights cases are extremely difficult to win. Law Enforcement agencies have immunity which bar many claims. As Mr. Berg also explained, in order to win on Civil Rights Claims, Mr. Berg must be able to show the Officers and/or Agents operated outside the scope of their authority or they were not properly trained, in your case, with the search of a home. More importantly, as Mr. Berg explained, for Equal Protection of the Law claims, you must be able to show you were treated differently then others in the same or similar situations. In addition, Mr. Berg must be able to substantiate your "assault" and "psychological and emotional problems"; and the other injury claims.

Based on the information given to Mr. Berg by you, and due to the late date in which you came to Mr. Berg, Mr. Berg filed the suit on November 08, 2006 in order to protect your rights as the statute of limitations expired on the same date, November 8, 2006. In order for Mr. Berg to be able to make a determination on whether he can overcome the Defendants Joint Motion to Dismiss, we must have the requested documentation. Otherwise, Mr. Berg is unable to properly respond to the Defendants Motion and this office will not be filing a response to the Defendants Motion to Dismiss. If Mr. Berg does not respond, the Defendants Motion will be considered unopposed and the Court will grant the Defendants Joint Motion, and dismiss your case.

It is imperative that you call and make an appointment with Mr. Berg to discuss all the options prior to January 26, 2007. Mr. Berg also needs to discuss with you your husband's prior Murder conviction and the charges your husband was charged with, which he plead guilty to. This is extremely important. Mr. Berg was unaware of Mr. McCracken's murder conviction prior to filing suit, and he was unaware that your husband was being accused of stabbing another individual, this can impact the case.

Mrs. Diane McCracken
Page Three of Three

January 17, 2007

As stated, if we do not hear from you, and you have not made an appointment with Mr. Berg, Mr. Berg cannot and will not answer the Defendants Joint Motion to Dismiss and your case will be dismissed. Otherwise, if Mr. Berg files and argues claims that do not exist, then he is at risk of being sanctioned and the both of you can be Ordered to pay Defense Counsel's Attorney Fees and Costs.

We look forward to hearing from you. Please do not hesitate contacting our office should you have any questions or concerns.

Respectfully,



Lisa Liberi
Assistant to Philip J. Berg, Esq.

LL:s
Enclosures

cc: File