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Now comes the affiant who swears to the following. I William Fogerty am a Boston Police Detective assigned to the Homicide Unit of the Boston Police Dept. I have been a police officer for twenty four years. I have been rated a detective for the past sixteen years. I have been assigned to the Homicide Unit for six years. During my police career I have been involved in over one hundred homicide investigations, including bombing and arson investigations.

On Monday 10-28-91 I was one of numerous Homicide Investigators assigned to investigate the Homicide of Jeremiah Hurley. Jeremiah Hurley was a Boston Police Officer assigned to the Boston Police Special Operations Bomb Squad. His duties included responding to calls of suspicious objects that may be explosive. On 10-28-91 at about 11:55A.M. Officer Hurley with Officer Frank Foley responded to 39 Eastbourne St. in Roslindale to investigate a suspicious object. Once there, Officers Hurley and Foley were met by the E433 a marked police unit, and the occupant of 39 Eastbourne St, a Mr. Tom L. Shay, who lives with his girlfriend Mary Flanagan who owns the residence. The officers were directed to the driveway of 39 Eastbourne St. where they observed an object black in color. The object was described by Mr. Shay, who had reportedly already handled it, as being about 10 to 12 inches long, 5 to 6 inches wide and 1 inch thick. Mr. Shay stated that the object had several magnets on one side with two donut shaped circles about 3 or 4 inches in diameter on one side and a black box about 2 inches by 4 inches by 2 inches on the other side. This black box had a wire coming out of it and running towards the end of the wooden piece that it was attached to. The object had two magnets that had been removed or fallen off while Mr. Shay was handling it.

While the two Officers from the Bomb Squad were examining the above described device it exploded. The two Officers were removed to Brigham and Womens Hospital where Officer Hurley died as a result of his wounds at 7:22PM 10-28-91, and was pronounced by Dr. Neil Fine. Det. Fogerty along with other homicide investigators responded to 39 Eastbourne St. arriving at about 1:00P.M.

The initial observations in the area of the detonation shows that the explosion went in a 360 degree circle. The explosion occurred in the rear of the driveway between a white Chevrolet Ma. Reg. A60443 and a 1969 Grey GTO Pontiac, unregistered which were parked in the driveway. The explosion blast traveled towards the rear of the driveway up to and beyond the garage which is behind the grey Pontiac, as evidenced by the existence of fragmentation particles fanning in that direction. The explosion also traveled towards and over the 6 foot fence

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into the rear of the yard behind the house and to the left of the above mentioned garage. The explosion also traveled forward towards the front of the street, as evidenced by the existence of fragmentation particles fanning in that direction. The fragmentation particles also were observed fanning towards and into the adjoining house at 35 Eastbourne St. as evidenced by an unexploded detonator stuck into the side of the house.

As part of the investigation, Agents from the Bureau of Alcohol, Tobacco and Firearms were called in for consultation. Agent Wayne M. Miller, who has over ten years experience in that agency, told Det. Fogerty that an explosion of the demonstrated power, which he observed evidence of, would probably cause fragments and other evidence to travel minimally one hundred feet. The exact dimensions of the lot at 39 Eastbourne were not measured to minimize any contamination of the crime scene. Det. Fogerty would estimate the lot at 39 Eastbourne to be 70 feet wide and 90 feet deep.

The aforementioned white Chevy, step van, Mass Reg:A60443, showed evidence of damage from the blast at the rear of the van, specifically a broken lens cap. The aforementioned, unregistered Pontiac GTO, showed evidence of damage from the blast to the front of the vehicle.

Agents from ATF have agreed to give expert consultation. As part of their consultation, in order to adequately investigate the explosion area, soil sifting to a depth of 5 inches is necessary. It is also the collective opinion of Agent Miller and other ATF agents consulted that evidence of an explosive device might have fanned into the above mentioned garage, Chevy stepvan and Pontiac GTO. Agent Miller informed Det. Fogerty that in his cursory examination of the blast area he saw evidence of wood and metal fragments, wires, batteries, timers, blasting caps, nails, and other fragmentation particles. It was also his opinion that a device of this type would leave evidence of explosive material such as black powder, smokeless powder, dynamite, plastic explosive, or similar material, and clocks, screws, tape, and fabric.

It is this affiant's opinion and the collective opinion of other Homicide Investigators and consulted ATF agents that issuance of a search warrant for the lot at 39 Eastbourne St. excluding the house itself but including the entire lot, the assigned garage, the Chevrolet Step Van, and the Pontiac GTO will produce evidence which will further aid in identifying the exact make-up of the explosive device which caused the death of Officer Jeremiah Hurley.

The attached map is hereby incorporated by reference

1. Now comes the affiant who swears to the following. My name is William Fogarty. I am a Boston Police Detective assigned to the Boston Police Homicide Unit. On 10/29/91 at approximately 9:30 AM, Judge Maria Lopez of the West Roxbury District Court issued three search warrants on which I was the affiant. The affidavit in support of those warrants, which consisted of three pages, is hereby incorporated by reference. It shall be heretofore referred to as the "affidavit."

2. Thomas Shay, first referred to in paragraph 2 of the "affidavit", is the registered owner of a black, 1986 Buick Century, four door sedan, with a Massachusetts registration number of 125-LLO, and a Vehicle Identification Number of 1G4AL19R3G6415738.

3. Shay told this affiant on 10/28/91, that he left his home at 39 Eastbourne on Sunday, 10/27/91, at about 8 AM. He drove to the Malden area, then to visit someone at the Chelsea Soldiers' Home, then to a doughnut shop in South Boston, then to Castle Island, finally returning home at about 11:30 AM. This trip was made in the above mentioned ~~area~~. When he returned home, his usual parking space in front of his home was occupied. Therefore, he backed the Buick up and into his driveway. From the street, the driveway is sloped upward at approximately a 20% slope until it suddenly crests and levels off approximately 12 feet in from the sidewalk. While Shay was backing the Buick up, he heard a scraping noise. He characterized the car as "bottoming out." Shay then got out of his car and looked underneath it from the rear. He observed no damage or anything unusual. About fifteen minutes later, Shay drove the Buick forward out of the driveway. Again, he heard the same noise which he characterized as "bottoming out." He then parked the Buick in the customary space directly in front of his house. Shay then looked up into his driveway and noticed the suspicious object referred to in paragraph 2 of the "affidavit."

4. After the explosion referred to in paragraph 3 of the "affidavit", Boston Police assigned to the Bomb Unit, had the Buick lifted up with the aid of a tow truck for the purpose of determining whether there were any more devices still underneath. There were none. However, they did notice under the area of the front driver's side, markings on the undercarriage consistent with the "magnets" Shay described, as referred to in paragraph 2 of the "affidavit." Furthermore, they noticed "scraping" marks along the undercarriage from the purported point of ~~impact~~ + towards the rear of the car.

On Saturday November 8, 1991 Team # 5 with members of the A.I.F. including Tom Waskom from the Washington D.C. lab, conducted intensive interviews with Sgt. Thomas Crevin and Ptl. Denise Kraft about their separate and collective memories of the device that they observed on 10/28/91.

As a result of the above interviews a wooden box was constructed which they attached 2 speaker magnets and 17 small round magnets that were the same type as those recovered at the bomb site.

The above box was taken to the site, shown to Thomas Shay Sr., who had an opinion that the box was twice the thickness that he had observed. Mr. Shay showed the Detectives the dept he believed the box to be, it was then marked. Mr. Shay then explained the dimensions of the smaller box underneath. The box the Detectives had was about the same height as the two boxes that Mr. Shay was describing. The difference being that the Detectives box was all the same height, where as Mr. Shay and the Police Officers were describing a large and a small box.

The box with the magnets was affixed to Mr. Shays Black Buick and a series of back ups and drive outs of his driveway were conducted. This event was memorialized with extensive video and still photographs.