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THE SHEPPARD PROJECT: An Overview

Prepared for AMSEC

INTRODUCTION: THE SHEPPARD STORY

In the early morning hours of July 4, 1954, Marilyn Sheppard was murdered in her bed in Bay Village, Ohio, a suburb of Cleveland. Her husband, Dr. Sam Sheppard, immediately became the one and only focus of the investigation. The investigation was marked with errors and omissions, but was fueled by a rabid press that -- in front page editorials -- demanded day after day that Dr. Sheppard be charged and convicted. The trial commanded massive national and international publicity, equalling, even exceeding the coverage of the Lindbergh kidnapping case. In December, 1954, Dr. Sheppard was convicted of second degree murder.

One of the most popular television series ever, The Fugitive, relied upon the Sheppard case for its inspiration. But unlike the fictional Dr. Kimball, Dr. Sam -- as he was called -- was sentenced to life in prison. For ten years, he was incarcerated. Shortly after conviction, Dr. Sam's mother committed suicide; his father died within another week; and his former father-in-law committed suicide a few years later.

Sheppard's attorneys began a series of appeals, raising arguments of: new evidence discovered by criminologist Dr. Paul Kirk; suppressed evidence; and massive press coverage that interfered with the right to a fair trial. All appeals were denied. Finally, a fresh young F. Lee Bailey entered the case and filed a new action in federal court based on the excessive publicity. In 1966, the United States Supreme Court ruled 8-1 in Sheppard's favor, citing "massive, pervasive, prejudicial publicity", and calling the trial a "carnival" in which "bedlam reigned." In a precedent-setting move that has been cited 1400 times in reported cases since then, fair trial-free press guidelines were established.

In a second trial in 1966, Sheppard was acquitted. Still, he was never vindicated in the public mind, and died four years later, a broken man. And the critical question was never answered: Who Murdered Marilyn Sheppard? That was finally left to the couple's only child, a son who was seven at the time of the murder -- Sam Reese Sheppard.

Over the years, suspicion was cast on several players, some now deceased. One who was not considered at the time came into the fore only of late -- a man now in prison for the 1980s murder of an elderly woman in Ohio. This man, Richard Eberling, it turned out, had been the window washer at the Sheppard home.

B. THREE SHEPPARD PROJECTS

Three projects are linked in this contemporary excursion into the Sheppard case.

- 1) **THE BOOK:** Cynthia L. Cooper and Sam Reese Sheppard have contracted

with Northeastern University to publish a book about the reinvestigation of Marilyn Sheppard's murder. For a modest advance, Northeastern University will publish a hardback book, tentatively titled Justice Awakens. Paperback, film/video, and 'other nation' publication rights are still in the offing. A British agent and a Hollywood agent are currently handling various aspects of the book. As part of a special agreement with Northeastern, the publisher agrees to hire a public relations firm to promote the book. This involves talk shows and other appearances.

This book is discussed in greater depth, below.

2) **THE 'SECOND' BOOK:** Cooper and Sheppard are writing a second book, also to be published by Northeastern University Press. This book "Private Lives, Public Actions: The Sheppard Case" will have at its core six to eight essays by "experts" on areas of criminal justice, society or the media, as related to the Sheppard case. The book will also contain personal letters and diaries of Dr. Sheppard. An extremely small advance is to be paid to the authors, and the publisher will have hardcover and paperback rights.

Some aspects of this book are described below.

3) **THE LAWSUIT:** An Ohio attorney, Terry Gilbert, is preparing a lawsuit on behalf of Samuel Reese Sheppard against the State of Ohio. The lawsuit calls for damages for wrongful incarceration, for which Dr. Sheppard and his family have never been compensated. The lawsuit is being brought under an Ohio law which, on its face, does not exceed the statute of limitations. The law itself is particular in its proof demands -- the incarcerated person must first be found 'innocent' under a civil standard; then a determination on the award of damages follows. Potential damages in this case are in the millions. Attorney Gilbert is working pro bono at this point.

C. A BRIEF OUTLINE OF 'THE BOOK'

The main book upon which Sheppard and Cooper are collaborating will be an exploration of the reinvestigation of the murder of Marilyn Sheppard. The book has five parts:

PART ONE -- Leads the reader into Sam's decision to undertake a reinvestigation into his mother's murder 35 years after the incident, and describes how he teams up with an elderly investigator in Ohio who offers to work on the case.

PART TWO -- Describes the original incident in five sub-parts: a) The backgrounds of Dr. Sam and Marilyn Sheppard; b) The murder; c) The investigation, its omissions, and the charging of Dr. Sam under media pressure and the trial; d) The entry of Dr. Paul Kirk, F. Lee Bailey and the appeals; e) The retrial and aftermath of the case.

PART THREE -- Establishes the parameters of the reinvestigation and how the alteration of key elements in the original case, such as the weapon, the blood spots, psychological profiles, change the understanding of the case.

PART FOUR -- Here is the heart of the book, in which four scenarios for the murder are discussed, including: a) Wedler, a Florida convict who confessed to Erle Stanley Gardner; b) Dr. Hoversten, a house guest who is now deceased; c) the Houks, neighbors who were under considerable suspicion -- the parents (contemporaries of Dr. and Mrs. Sheppard) are deceased; two children are alive; d) Richard Eberling, the former window washer who may have been involved in other murders; notable is the fact that

there has been no serious official investigation of Eberling for the Sheppard murder.

PART FIVE -- The book comes to resolution, including some analysis of what went wrong and why and the efforts of Sam to find healing.

As noted above, PART FOUR is the critical element of the book, particularly from the investigative point of view. Evaluating new and old suspects has involved gathering information scattered around the country, conducting interviews, searching for documents, digging up new information and locating persons with evidence.

D. A LOOK AT THE 'SECOND' BOOK

Building on the fact that the Sheppard case is one of the few in American history to achieve both incredible public prominence and great legal prominence (whoever heard of Miranda before the Supreme Court heard his case), the second book allows Cooper and Sheppard to select six to eight experts on topics which they have chosen. Each expert will contribute an essay, approximately 20 pages in length.

Those topics are:

- a) Media
- b) Police Science and Forensic Investigation
- c) Jury Science
- d) Criminal Procedure
- e) Forensic Science and Psychology
- f) Cultural Mores and the Law
- g) Sociology of Injustice and the Community
- h) Victims

E. POSSIBLE ROLE OF AMSEC

The great need for an investigative group is to search out certain information pertaining to the four suspects that will be considered in 'The Book.' For each suspect, pieces of information need to be gathered and documented.

For example, since blood analysis was critical in this case -- some analysis showed that the blood of a third person was found in the house -- it is important to know if the suspect-under-consideration had blood of a similar type.

Background information about certain suspects will be needed, including criminal records, claims made, medical records, finances, family genealogy, marriages, deaths, and the like. Because no official government agency is pursuing an investigation, much has been left at sea.

In addition, certain information or theories supplied by the elderly investigator in Ohio need to be verified for reliability and accuracy. Forensic scientists at John Jay College of Criminal Law have offered to review some forensic materials (pro bono) if sufficient documentation is gathered for them.

Most importantly, the information in the case needs to be collated and organized into a cohesive format, as it would for a trial or other public presentation.

F. PAYMENT POSSIBILITIES FOR AMSEC

Because of the worldwide attention to the Sheppard case, and the recent prominence of The Fugitive movie, the Sheppard case is hot. For an investigative group to step in and contribute to the solving of the case could offer it a coup of great proportions. The greatest payment possibilities lie in our willingness and ability to help AMSEC exploit public relations possibilities connected with the case and the publication of the book or production of a film or video.

There are many ways in which these efforts could be exploited, and some are suggested below:

1. **Credit:** The authors are fully willing to credit investigators within the very text of the book. In fact, the story of 'The Book' is very much reliant upon telling readers how information was gathered and to what use it came. This is an important point because the authors in this case have truth and accuracy as goals and reject egocentric and self-congratulatory aims.

2. **Public Appearances:** The publisher has expressed an enormous interest in having an investigator available for talk shows and other public promotion opportunities. The elderly investigator who has participated in the case declines to make appearances. As noted earlier, part of the contractual commitment by the publisher in order to secure the rights to the book was to hire a top-notch public relations firm, an usual step for any publisher and one that can insure the book's public acceptance.

3. **Articles:** The investigative group could write (or alternatively Cooper could write) and place articles in various publications, using the Sheppard case as an example of its investigative proficiency. An article for a financial journal, for example, might be: "Tracking Down a Buried Past."

4. **Brochures, Literature:** The investigative group could a) use the Sheppard case as the centerpiece of various direct marketing appeals; b) call upon author Cooper to assist in the preparation of marketing materials, newsletters, slide or video programs.

5. **Seminars:** The investigative group could use this material to develop seminars for clients or potential clients. Sam Reese Sheppard, who often speaks at schools and conferences, could be a drawing card at various programs, if arrangements were made for him to appear.

6. **'Second Book':** Pending final approval, the investigative group could be selected as one of the essayists for the prestigious 'second book', which because of its publication by a respected press well-known for its criminal justice titles, would offer eminence and public presence and provide innumerable opportunities for promotion in various ways (i.e. reprinting for distribution to potential clients.) If pursued, the group could write an essay or could potentially call upon Cooper or Sheppard for writing assistance. For authorship, a modest fee will be paid by the publisher.

7. **Endless Possibilities:** To show that possibilities for this project to garner public attention abound, the investigative group might even consider using the authors to write a book of its own -- a popular item today. Such a book might be "Trace Your Case"; "Before You Sign"; "Know Your Partner -- Business or Otherwise"; "Finding Who Done It"; and so on. Endless ...

The possibilities for direct financial remuneration, eschewing the public relations

route, must be tied to future payments. Neither author has the ability to pay investigative fees, nor do our other associates. However, future payment of reasonable investigative fees could be flexibly arranged and: 1) Paid upon award of damages in the lawsuit; 2) Paid from sales of future rights in 'The Book.'

CONCLUSION: WHY TO JOIN HANDS

The Sheppard case has consistently been one of the most exciting and fascinating of modern times. In "The Defense Never Rests", F. Lee Bailey quotes from an Ohio Judge who noted "Mystery and murder, society, sex, and suspense were combined in this case in such a manner as to intrigue and captivate the public fancy to a degree perhaps unparalleled in recent annals."

The Sheppard case, most recently revived by the highly-acclaimed The Fugitive movie, continues to draw enormous attention and fascination. The injection of a new, viable suspect only adds further intrigue, more suspense. The authors, while mining the interest in the case, have also taken care to do so in a classy way -- avoiding the tabloid brand press which it could easily attract. The choice of a top-quality university publisher adds enormous credibility to the project.

In order to tell the story well, investigative assistance is clearly and dearly needed -- and that will be one of the clinching factors in the success of the book. For a forward-thinking investigative group such as AMSEC, participation in the Sheppard case would be historic, offer unique promotional possibilities, attract directed public attention, and would be, no doubt, utterly interesting.

We think the possibility of working with a top-notch investigative firm such as AMSEC will enhance our work, just as the efforts of the agency will be enhanced by it. There is every reason to join hands in this exciting project.