Factual and Legal History:

Facts from the 1980 Investigation and 1981 Jury Trial

The CAO Team reviewed the procedural and appellate history of the conviction of Larry Griffin to understand the value, accuracy and freshness of the questions raised in the LDF report.

Procedural history of the criminal charges leading to Larry Griffin's conviction[12]:

Officers from the St. Louis Metropolitan Police Department responded to a shooting at Sarah and Olive on June 26, 1980. The corner of Sarah and Olive was notorious for drug activity in the City of St. Louis. Once there, officers determined two people were shot -- one was dead and another injured. Following department procedure, the officers called Homicide Detectives to handle the investigation. According to the information gathered by the detectives Quintin Moss, Wallace Conners and Peter Robinson stood near the corner of Sarah and Olive when a car with three black males drove-by and opened fire. Quintin Moss was dead on the scene. Wallace Conners was injured, shot in the back in the buttocks area. Peter Robinson had fled.

At the scene, they located an individual who initially identified himself as Robert Flanagan and who was later identified for court purposes as Robert Fitzgerald.[13] Fitzgerald was interviewed shortly after the shooting at the Homicide office. Detectives believed he witnessed the shooting. He asserted he could identify one of the two shooters -- but not the second shooter

[12] The procedural history only includes facts known during that period in the criminal justice process. No new information acquired by the CAO Team is included in this section.

[13] Robert Fitzgerald was the witness' true legal name. While he was in the witness protection program, he was identified initially as Robert or Jerry Flannagan.

or the driver. Fitzgerald viewed several mug shots. He identified Larry Griffin as one of the shooters.[14]

Using details and a license plate given by Fitzgerald, a description of the car was broadcast over the radio. The abandoned car was located within 3 hours of the shooting. Detectives drove Fitzgerald by the car. He positively identified it as the car he saw in the drive-by. The car also contained physical evidence that eventually was linked to the shooting of Quintin Moss. The car was officially registered to a "Ricky Thomas." Repair bills in the names of Ronnie Thomas and Ricky Thomas were located in the car. A court paper issued to Reggie Griffin, nephew of Larry Griffin, also was found in the car.

Detectives in the Ninth District and the TACT Unit had separate confidential informants who contacted them. One informant explained that there was a split in the former Haymon drug group. The informants said the Griffins were looking for Quintin Moss and the people the Griffins held responsible for the death of Dennis Griffin. The informant indicated that these individuals had shot at Quintin the month before. The detectives reminded Homicide of the arrest of Larry Griffin and Reggie Griffin for shooting at Quintin Moss and Robert Campbell. Another informant for different detectives called and explained that the Griffins were the ones responsible for killing Quintin Moss. An anonymous caller told the Detectives that Reggie and Larry Griffin were the ones responsible for Moss' death.

Based on the photo spread identification of Larry Griffin by Fitzgerald, and the physical evidence located, and information from two confidential informants, wanteds for the arrest of Reggie Griffin, Larry Griffin, Ronnie Thomas-Bey and Gary May were broadcast for their alleged involvement in the murder of Quintin Moss. Gary May was arrested for Murder and

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[14] Based on informant information, Homicide detectives included in the array of six mug shots, two pictures of the other suspects in addition to Larry Griffin: Gary May and Reggie Griffin.

Assault 1st Degree on June 27, 1980. Reggie Griffin was arrested on June 30, 1980 for Murder and Assault 1st Degree. Larry Griffin was arrested on June 30, 1980 for Murder and Assault 1st Degree. Ronnie Thomas-Bey was arrested for Accessory Before the Fact on July 1, 1980. All asserted their Fifth and Sixth Amendment rights and refused to make a statement.[15]

Detectives assigned to the investigation placed both Reggie and Larry Griffin in a physical lineup together in a six-person line up. The lineup was photographed for future reference. No witness was available to view the lineup at that time.

In the time between when the car was identified by Fitzgerald, the wanteds were sent out and the time the individuals were arrested, Fitzgerald, a witness under federal witness protection, had left Missouri for Florida. He temporarily was unavailable as he was out of state. When the police presented each of the charges to the Circuit Attorney's Office for review and a formal charging decision, Fitzgerald was unavailable to view a physical line-up or to be interviewed by a prosecutor.

At the time, Detectives requested warrants against all suspects for the murder of Quintin Moss, the essential eyewitnesses were unavailable to the Circuit Attorney's Office and the Police Department. Assistant Circuit Attorney Ed Bippen reviewed the evidence and did not charge Reggie Griffin, Gary May or Ronnie Thomas-Bey. When the cases were brought to him for review, there was no witness identification of any of them. However, the Detectives had an identification of Larry Griffin by the witness – Robert Fitzgerald. Consequently, Griffin was charged with Murder in the First Degree with instructions to the Detectives to produce the witness for grand jury. When the original date for the Grand Jury hearing arrived, Fitzgerald could not appear. The case was dismissed by the State on August 8, 1980.

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[15] Because of the assertions of their Constitutional Rights, the CAO Team refrained from interviewing the primary suspects even 26 years later absent their waiver of these rights or the suspects approaching the State. Only Ronnie Thomas-Bey spoke to the State.

Larry Griffin was arrested for the unrelated murder of Sylvester Crawford in December of 1980. Assistant Circuit Attorney James Sullivan charged Larry Griffin with the murder of Sylvester Crawford. During the interim, Robert Fitzgerald had returned to the State of Missouri. Fitzgerald was readily available as a witness thereafter. He was interviewed by the Circuit Attorney's Office. He confirmed his identification of Larry Griffin. Assistant Circuit Attorney Gordon Schweitzer[16] presented the testimony of Fitzgerald on the same date as the evidence involving the murder of Sylvester Crawford. The grand jury returned indictments against Larry Griffin for both murder cases on January 29, 1981. Assistant Circuit Attorney Gordon Schweitzer filed the indictments with the court. Larry Griffin was arraigned on the charges in both separate cases in February 1981.

The original prosecutor assigned to try both the Crawford and the Moss murder cases was Assistant Circuit Attorney Michael Fagan. Given his caseload and his prosecution of Reggie Griffin on an unrelated robbery, the cases against Larry Griffin were reassigned to Special Assistant Circuit Attorney Gordon Ankney. After review of the Moss case, review of the murder of Sylvester Crawford and Larry Griffin's entire criminal background, the murder cases were submitted to Circuit Attorney George Peach for consideration of the death penalty. Circuit Attorney Peach decided to seek the death penalty in both murder cases.

Larry Griffin hired private counsel Frederick Steiger to defend him against both murder accusations. The trial against Larry Griffin for the murder of Quintin Moss proceeded first. The trial date was originally set for March of 1981. However, that month extensive publicity surrounding the murder of a State's witness against Reggie Griffin immediately before his own

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[16] Former Assistant Circuit Attorney, Gordon Schweitzer was interviewed. He does not recall whether he actually presented the case himself. The internal notes of the Office reflect his name on the docket information in the file. His name was on both murder cases as the Grand Jury attorney who would have presented the cases. He was the only attorney assigned to Grand Jury duties at that time.

trial on a robbery caused Larry Griffin's attorney to request and obtain a continuance due to negative publicity.[17] In addition, the State requested and obtained permission to take the deposition of the State's eyewitness Robert Fitzgerald to preserve his testimony in the event he should suddenly become unavailable to testify.

The trial began on June 22, 1981 and lasted six days. Twenty-eight witnesses testified in total for both parties.[18] Preliminary matters in the trial included a hearing on a motion to suppress. The primary investigating detective, Michael Indelicato, and Robert Fitzgerald testified during the hearing as to the circumstances surrounding Fitzgerald's identification of Larry Griffin. At the hearing, both indicated that Fitzgerald was shown six mug shot pictures, including photographs of Gary May, Reggie Griffin and Larry Griffin. He identified only Larry Griffin as a shooter. After cross-examination by Frederick Steiger and arguments for the suppression of the identification, the trial court judge overruled the motion to suppress.

In front of the jury, the State called 16 of the 28 witnesses in its case-in-chief. The State first called two members of Quintin Moss's family: his mother, Missouria Moss, and one of his sisters, Patricia Moss. His mother testified as to a May 13, 1980 shooting attempt against her son during which Robert Campbell was also injured. She recounted various statements of her son about that shooting. She also testified as to threats she received at her home against her family for their participation in the prosecution of Larry Griffin and as to the death of Dennis Griffin. Patricia Moss testified only that she had been to the scene and identified her brother's body. She did not mention any other information. She was not asked additional questions.

The State introduced evidence that the weapons located in the car were connected to the shooting of Quintin Moss. One weapon was a .30 caliber carbine rifle. The other was a .38

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[17] See St. Louis Post Dispatch newspaper clippings on the murder of the witness against Reggie Griffin.
[18] See Appendix for witness chart.

caliber revolver. The scene near Quintin Moss contained projectiles and spent cartridges of both calibers. The State also introduced evidence of the items in the car used in the shooting and that the car was identified itself. The car, which was traced to a Ricky Thomas, contained repair bills from J.C. Penney's, receipts for towing and storage in the names of Ronnie and Ricky Thomas respectively. It also held court receipts in the name of Reggie Griffin, a red and white cap [later identified by Detective Andre Jones] and an empty .30 caliber shell casing.

The State's evidence regarding the prior shooting incident involving Quintin Moss included information on the detention of Larry and Reggie Griffin for that shooting on May 13, 1980. Quintin Moss did not assist in that prosecution and charges were never pursued. Robert Campbell, who was standing near Moss, was shot in the legs. Detective Nick Frederickson explained that later on May 13, 1980, he saw Larry and Reggie Griffin in a car matching the description of the car from the earlier shooting incident involving Quintin Moss and Robert Campbell. The description was for a black-over-brown, 1960's Cadillac with two black males. The Court admitted evidence that there was no identification by Campbell of either Griffin as the shooter in that incident when they were taken to the hospital for Campbell to view. The Court also permitted the hearsay statements of Quintin Moss that he had been shot at during that incident. The Court allowed the hearsay statements of Robert Campbell immediately after he was shot including his description of the car and its occupants as excited utterances. Robert Campbell did not testify at trial.

The evidence concerning that first shooting came through the testimony of Missouria Moss, Det. Nick Frederickson and Police Officer Thomas Murphy – all over the defense's objections and motions to exclude the evidence. Each testified as to the excited utterances of

Moss and Campbell. Moss' statements were offered by his mother. Campbell's statements came thorough the testimony of Frederickson and Murphy.

Peter Robinson was also present at the time Quintin Moss was killed on June 26, 1980. According to the testimony of Detective Indelicato, Peter Robinson had been standing near Moss when Moss was shot on June 26, 1980. Robinson admitted to Indelicato that he had fled in an interview in 1980. Peter Robinson did not testify for the State. The defense did not request Peter Robinson be produced as a witness.[19]

Wallace Conners, the second person shot when Quintin Moss was killed, did not testify for the State at any stage. He did not appear in the Warrant Office. He did not testify at trial. He was never requested by the defense or Larry Griffin personally. Robert Campbell, the victim of the first attempt against Quintin Moss in May 1980, did not testify for the State. The defense made a motion to exclude his testimony and any reference to that first shooting attempt. The Court denied the defense motion ruling instead that the prior action was admissible.

The primary State's witness was Robert Fitzgerald. Fitzgerald testified that he witnessed the shooting of Quintin Moss by Larry Griffin. In court, he identified Larry Griffin as one of the shooters. He stated that he had been in the neighborhood to drop off his friend Carl and Carl's young daughter when the car broke down. He indicated that his car was on the same side of the street but a distance east from where Quintin Moss was standing and sitting. He explained it was obvious that Quintin Moss was dealing drugs. He said he was repairing the car when the shooting took place. Fitzgerald claimed to have been on the passenger side of his car facing the direction of Quintin Moss when the shooting began. He testified that he shielded the young child while watching the shooters' car drive by. Fitzgerald said that one individual was shooting a rifle from the rear passenger seat and another was shooting a revolver from the front passenger

[19] See Appendix - Haymon Drug Faction organizational chart.

seat. Fitzgerald explained that he had an unobstructed view of the front passenger of the car both when that person shot Moss and as the car passed Fitzgerald's car. He denied having a view of the faces of either the driver or the second-shooter. He also testified that he provided the license plate of the car used in the shooting. He was cross-examined extensively about his motives for being in the area of Sarah and Olive. He repeatedly denied that he was in the area to buy drugs.

Detective Andre Jones testified that he was on his way to work around 4:00 pm on June 26, 1980 when he drove by a residence at 3656 Cook -- a few blocks from Olive and Sarah. This location was a known storage location for weapons and narcotics. He saw three black males – one of whom he knew as a "police character." He recognized this individual as "a Griffin," a second person with a red and white ball cap and a third person carrying what appeared to be a firearm of some type. He circled the block to get another look but the three men were gone. When he got to work that evening, he learned of the shooting. He identified a mug shot of Larry Griffin as one of the individuals he saw on Cook around 4 pm on June 26. He identified the Defendant at trial as one of the people he saw on Cook. At trial, he identified the .30 caliber rifle recovered from the car as similar to the one he saw with the three men. He identified the red and white ball cap from the car as similar to one he saw on the head of one of the men with the defendant around 4 p.m. on Cook.

At trial, Larry Griffin's counsel 1) attacked the credibility of Fitzgerald and 2) asserted an alibi defense. The credibility of Fitzgerald was attacked through the testimony of individuals from the area of Sarah and Olive who claimed to have seen Fitzgerald purchasing drugs on dates before Moss' murder. The defense also presented witnesses who claimed to know Fitzgerald and to have learned from him ways to hide track marks and evidence of personal drug use by Fitzgerald. This directly contradicted his denial of drug use at the time of the offense.

Larry Griffin's alibi defense came through his sister's live-in boyfriend, Gilbert Greenlee.[20] Greenlee testified that he knew Larry Griffin was at home because that day Greenlee had sold a canoe through an ad in the "Trading Times," a local paper. He said he marked the date of the sale in his calendar as a matter of course. Greenlee testified that Griffin had been home on June 26, 1980 to handle the call and was present for the sale at 5:00 pm that date -- in the same time frame as the Quintin Moss shooting in another part of the City. Greenlee explained he called on June 27, the day after the sale, and reported the sale to the paper so the ad would stop running. In rebuttal, the State produced a representative from the "Trading Times." She testified that Greenlee called them and notified them on June 26 of the canoe sale the day before; thus, leading to the inference that Greenlee's canoe sale was not the date of shooting but the day before.[21]

Larry Griffin had a Constitutional right not to testify on his own behalf at this murder trial. He exercised that right and did not testify. Had he testified, the jury would have learned during the guilt phase of the trial of his extensive criminal history. Thus, by not testifying, the jury considering his guilt did not know his criminal history.

On June 27, 1981, the jury returned a verdict of guilty on all counts and recommended the death penalty. Judge Gallagher denied Larry Griffin's motion for new trial. He sentenced Larry Griffin to death on August 7, 1981. It should be noted that on August 3, 1981, Larry Griffin pled guilty to the murder of Sylvester Crawford.

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[20] Johnnie Warner is the sister of Larry Griffin. She is the mother of Reggie Griffin. She was the live-in girlfriend of Gilbert Greenlee.

[21] In a 2007 interview with the CAO Team Gilbert Greenlee insisted that Larry Griffin was at Peggy Court at the time of the Quintin Moss murder. He however, changed his statement claiming now that he had called the Trading Times to cancel his ad before actually selling the canoe because he anticipated the actual sale-taking place. This directly conflicts with at least two of his prior statements – that he cancelled his ad with Trading Times after the sale.