

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

**SUSAN CARNABY, INDIVIDUALLY AND AS
REPRESENTATIVE OF THE ESTATE OF
ROLAND CARNABY, DECEASED**

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CIVIL ACTION NUMBER H-08-1366

v.

**CITY OF HOUSTON, CHARLES FOSTER, AND
ANDREW J. WASHINGTON**

JURY TRIAL DEMANDED

DEFENDANTS' RULE 26(A) INITIAL DISCLOSURE

Defendants, City of Houston, Cecil Foster and Andrew J. Washington, file this, their Initial Disclosures pursuant to Rule 26A(1) and (2) of the Federal Rules of Civil Procedure.

1. Initial Disclosure

A. Name and, if known, the address and telephone number of each individual likely to have discoverable information relevant to disputed facts alleged with particularity in the pleadings, identifying the subjects of the information:

1. Susan Carnaby, Plaintiff
2. Robert A. Kouts
Attorney for Susan Carnaby in probate proceedings; Plaintiff's brother.
3. Officer Cecil Foster
c/o L.A. Teehan
Sr. Ass't City Attorney
900 Bagby, 4th Floor
Houston, TX 77002
832.393.6467
Defendant
4. Sergeant Andrew J. Washington
c/o L.A. Teehan
Sr. Ass't City Attorney
900 Bagby, 4th Floor
Houston, TX 77002
832.393.6467
Defendant

5. Officer C.H. Starks
c/o L.A. Teehan
Sr. Ass't City Attorney
900 Bagby, 4th Floor
Houston, TX 77002
832.393.6467

Officer Starks made the initial traffic stop of Deceased, for speeding.

6. Sergeant R. Hill
c/o L.A. Teehan
Sr. Ass't City Attorney
900 Bagby, 4th Floor
Houston, TX 77002
832.393.6467

Officer Starks consulted with Sgt. Hill, CID, during the Carnaby traffic stop. Sgt. Hill spoke by telephone with Mr. Carnaby during the initial traffic stop for speeding.

7. Officer F. Zavala
c/o L.A. Teehan
Sr. Ass't City Attorney
900 Bagby, 4th Floor
Houston, TX 77002
832.393.6467

HPD IAD officer. Mr. Carnaby called Senior Police Officer Zavala during the initial traffic stop for speeding. Officer Zavala also spoke with Officer Starks at this point in time. Mr. Carnaby called Officer Zavala back after he fled from the traffic stop initiated by Officer Starks.

8. Sergeant V. Brashear
c/o L.A. Teehan
Sr. Ass't City Attorney
900 Bagby, 4th Floor
Houston, TX 77002
832.393.6467

Sgt. Brashear is with the Major Offenders Police Impersonators Unit. Officer Starks also called Sgt. Brashear in an effort to determine whether Mr. Carnaby was impersonating an officer.

9. Dennis Franks
FBI

Special Agent Franks spoke with Mr. Carnaby during Mr. Carnaby's flight from HPD.

10. Sergeant J.T. Parker
c/o L.A. Teehan
Sr. Ass't City Attorney

900 Bagby, 4th Floor
Houston, TX 77002
832.393.6467

Sgt. Parker, with Sgt. T. Wyers, notified Mrs. Carnaby of the death of Mr. Carnaby.

11. Sergeant J.T. Wyers
c/o L.A. Teehan
Sr. Ass't City Attorney
900 Bagby, 4th Floor
Houston, TX 77002
832.393.6467
Sgt. Wyers, along with Sgt. Parker, notified Mrs. Carnaby of the death of Mr. Carnaby.
12. Sergeant J. Roberts
c/o L.A. Teehan
Sr. Ass't City Attorney
900 Bagby, 4th Floor
Houston, TX 77002
832.393.6467
Sgt. Roberts, along with Sgt. Munoz, attempted to interview Donna regarding Mr. Carnaby.
13. Sergeant P V. Munoz
c/o L.A. Teehan
Sr. Ass't City Attorney
900 Bagby, 4th Floor
Houston, TX 77002
832.393.6467
Sgt. Munoz, along with Sgt. Roberts, attempted to interview Donna regarding Mr. Carnaby.
14. Donna Baker
5400 Memorial # 601
Houston, TX 77007
Alleged fiancé of Mr. Carnaby
15. David Ryan
Attorney at Law
Houston, Texas
713.223.9898
Ms. Baker's attorney
16. Officer C.L. Scales
Senior Investigator
HPD
c/o L.A. Teehan

Sr. Ass't City Attorney
900 Bagby, 4th Floor
Houston, TX 77002
832.393.6467

Officer Scales conducted the homicide investigation

17. Officer R.P. Martinez
HPD
c/o L.A. Teehan
Sr. Ass't City Attorney
900 Bagby, 4th Floor
Houston, TX 77002
832.393.6467

Officer Martinez assisted in the homicide investigation

18. Officer D. C. Breaux
HPD
c/o L.A. Teehan
Sr. Ass't City Attorney
900 Bagby, 4th Floor
Houston, TX 77002
832.393.6467

Officer Breaux at scene of incident. Officer Breaux received Carnaby's clothing from Ben Taub General Hospital ER.

19. Officer R. Senegal
HPD
c/o L.A. Teehan
Sr. Ass't City Attorney
900 Bagby, 4th Floor
Houston, TX 77002
832.393.6467

Officer Senegal pursued the chase from a distance after it passed in front of him at the IH 45, US 59 & SH 288 interchange.

20. Officer J.P. Tyler
HPD
c/o L.A. Teehan
Sr. Ass't City Attorney
900 Bagby, 4th Floor
Houston, TX 77002
832.393.6467

Officer Tyler followed the chase at a distance in anticipation of the need for back-up. Officer Tyler was at the scene and observed Carnaby's actions. Officer Tyler called dispatch to send HFD.

21. Officer E. Termeulen
HPD/SWAT

c/o L.A. Teehan
Sr. Ass't City Attorney
900 Bagby, 4th Floor
Houston, TX 77002
832.393.6467

Officer Termeulen was at the scene of the incident and observed Carnaby's actions.

22. Sergeant J.T. Clarke
HPD/Major Offenders Division
c/o L.A. Teehan
Sr. Ass't City Attorney
900 Bagby, 4th Floor
Houston, TX 77002
832.393.6467

Sgt. Clarke made several telephone calls in an attempt to verify Carnaby's claim that he was employed with CIA.

23. Officer J.S. Hammerle
HPD/CSU
c/o L.A. Teehan
Sr. Ass't City Attorney
900 Bagby, 4th Floor
Houston, TX 77002
832.393.6467

Officer Hammerle processed scene of incident; Officer Hammerle took photos and videoed the scene.

24. Lt. Murray Smith
HPD
c/o L.A. Teehan
Sr. Ass't City Attorney
900 Bagby, 4th Floor
Houston, TX 77002
832.393.6467

Lieutenant Smith assigned officers to various aspects of the homicide investigation.

25. Kim Downs
HPD Firearms Lab
c/o L.A. Teehan
Sr. Ass't City Attorney
900 Bagby, 4th Floor
Houston, TX 77002
832.393.6467

Ms. Smith processed the weapons of the officers involved in the

incident.

26. Officer A.A. Palatino
HPD/CSU
c/o L.A. Teehan
Sr. Ass't City Attorney
900 Bagby, 4th Floor
Houston, TX 77002
832.393.6467

Officer Palatino processed the Carnaby vehicle.

27. Officer Mike Perez
HPD/CSU
c/o L.A. Teehan
Sr. Ass't City Attorney
900 Bagby, 4th Floor
Houston, TX 77002
832.393.6467

Officer Perez collected weapons and money from Carnaby vehicle.

28. Alfred G. Platt
Address unknown

Friend of "Tony Luciano" and VP of Houston Chapter of AFIO

29. Mike Spratt
Shawn Jorgenson
John Neil
John Cantu
HFD
c/o L.A. Teehan
Sr. Ass't City Attorney
900 Bagby, 4th Floor
Houston, TX 77002
832.393.6467

HFD/EMT personnel were dispatched and responded to the emergency call for this incident.

30. C. Ley, M.D.
Ben Taub General Hospital
Ben Taub Loop
Houston, TX 77030

Emergency room doctor who pronounced Carnaby dead upon arrival at hospital.

31. Kevin Lene, R.N.
C. Skains, R.N.

Sundrell Tabron, R.N.
Phillip Branch, R.N.
Ben Taub General Hospital
Ben Taub Circle
Houston, TX 77030

ER personnel when Carnaby arrived at hospital.

32. Officer H. Lara
HPD
c/o L.A. Teehan
Sr. Ass't City Attorney
900 Bagby, 4th Floor
Houston, TX 77002
832.393.6467

Officer Lara followed ambulance to hospital.

33. Officer M.H. Gee
HPD Digital Forensic Lab
c/o L.A. Teehan
Sr. Ass't City Attorney
900 Bagby, 4th Floor
Houston, TX 77002
832.393.6467

Officer Gee received digital property for examination.

34. Officer J.T. Smith
HPD
c/o L.A. Teehan
Sr. Ass't City Attorney
900 Bagby, 4th Floor
Houston, TX 77002
832.393.6467

Officer Smith examined cell phone (Blackberry).

35. Lieutenant A.W. Harris
HPD Homicide Division
c/o L.A. Teehan
Sr. Ass't City Attorney
900 Bagby, 4th Floor
Houston, TX 77002
832.393.6467

Lieutenant Harris received open records requests for dash camera video from local news stations.

36. Lieutenant R. Walker
HPD Homicide Division

c/o L.A. Teehan
Sr. Ass't City Attorney
900 Bagby, 4th Floor
Houston, TX 77002
832.393.6467

Lt. Walker verified there was no video from HPD helicopters.

37. Sergeant Robin Nassif
HPD Helicopter Division
c/o L.A. Teehan
Sr. Ass't City Attorney
900 Bagby, 4th Floor
Houston, TX 77002
832.393.6467

Sgt. Nassif informed Lt. Walker there were no helicopter video tapes of the incident.

38. Officer G.W. Smith
HPD
c/o L.A. Teehan
Sr. Ass't City Attorney
900 Bagby, 4th Floor
Houston, TX 77002
832.393.6467

Officer Smith conducted investigations related to the incident and spoke with potential witness Jim Sullivan.

39. Jim Sullivan
Valero station
5802 Memorial Drive
713.777.0251
713.367.0435

Mr. Sullivan imparted information to Officer Smith regarding the deceased's actions one day prior to the shootings.

40. Sergeant R.B. Hill
HPD/Criminal Intelligence Division
c/o L.A. Teehan
Sr. Ass't City Attorney
900 Bagby, 4th Floor
Houston, TX 77002
832.393.6467

Sergeant Hill took a phone call, on the date of the incident in question, from Officer Starks during the traffic stop, and spoke with Mr. Carnaby on Officer Starks' telephone.

41. W. Stuart North
Assistant General Counsel
Central Intelligence Agency
703.874.3131
Mr. North corresponded with Lieutenant Walker, denying Carnaby was, or ever had been, employed with CIA.
42. Officer M.W. Sallee
HPD
c/o L.A. Teehan
Sr. Ass't City Attorney
900 Bagby, 4th Floor
Houston, TX 77002
832.393.6467
Officer Sallee was at scene of incident.
43. Sergeant E.B. Robinson
HPD/Traffic Division
c/o L.A. Teehan
Sr. Ass't City Attorney
900 Bagby, 4th Floor
Houston, TX 77002
832.393.6467
Sergeant Robinson was at the scene of the incident.
44. Lieutenant R. Upton
HPD/Traffic Division
c/o L.A. Teehan
Sr. Ass't City Attorney
900 Bagby, 4th Floor
Houston, TX 77002
832.393.6467
Lieutenant Upton was at the scene of the incident.
45. Captain G.J. Fremin
HPD/Special Operations
c/o L.A. Teehan
Sr. Ass't City Attorney
900 Bagby, 4th Floor
Houston, TX 77002
832.393.6467
Captain Fremin was at the scene.
46. Sergeant R. Hill
HPD/CID
c/o L.A. Teehan

Sr. Ass't City Attorney
900 Bagby, 4th Floor
Houston, TX 77002
832.393.6467

Sergeant Hill was at the scene.

47. Captiain L.A. Bender
HPD
c/o L.A. Teehan
Sr. Ass't City Attorney
900 Bagby, 4th Floor
Houston, TX 77002
832.393.6467

Captain Bender was at the scene.

48. Sergeant J. Chomiak
HPD/Public Affairs
c/o L.A. Teehan
Sr. Ass't City Attorney
900 Bagby, 4th Floor
Houston, TX 77002
832.393.6467

Sergeant Chomiak was at the scene.

49. Officer G. Ortiz
HPD/Public Affairs
c/o L.A. Teehan
Sr. Ass't City Attorney
900 Bagby, 4th Floor
Houston, TX 77002
832.393.6467

Officer Ortiz was at the scene.

50. Officer G. Guerrero
HPD Academy
c/o L.A. Teehan
Sr. Ass't City Attorney
900 Bagby, 4th Floor
Houston, TX 77002
832.393.6467

Officer Guerrero was at the scene.

51. Assistant Chief V. King
HPD/Tactical Support
c/o L.A. Teehan
Sr. Ass't City Attorney

900 Bagby, 4th Floor
Houston, TX 77002
832.393.6467

Assistant Chief King was at the scene.

52. David Addler
713.666.7576
Former CIA officer who offered opinions regarding authenticity of Carnaby's plaques.
53. M. Stuart North
Assistant General Counsel
Central Intelligence Agency
Washington D.C.
703.874.3131
Mr. North communicated with Lt. R. Walker regarding Carnaby's alleged connections with the CIA.
54. Custodian of Records
Houston Police Department
1200 Travis
Houston, TX 77002
Will authenticate business records.
55. Custodian of Records
Houston Fire Department
500 Jefferson Blvd.
Houston, TX 77002
Will authenticate business records.
56. Assistant District Warren Deepram
Harris County District Attorney's Office
1201 Franklin Street, Suite 600
Houston, TX 77002
713.755.7077
ADA Deepram investigated this case for possible criminal charges.
57. Alan Helfman
Address and telephone number unknown
Friend of the deceased.

B. A copy of, or a description by category and location of, all documents, data compilations, and tangible things that are in the possession, custody, or control of the party and that the disclosing party may use to support its claims or defenses, unless solely for

impeachment:

1. HPD Property Room List, Bates stamped carnaby000001-000011
2. HPD Homicide Division Investigation, Bates stamped carnaby000012-000364
3. Houston Fire Department incident report, Bates stamped carnaby000365-000380.
4. Cassette tape of S.O. Dispatch 04.29.08, Bates stamped carnaby000381-000382
5. Cassette tape - 911 Calls - 04.29.08, Bates stamped carnaby000383-000384

Defendants make all non-privileged documents available to Plaintiff for copying (at Plaintiff's expense) and/or inspection at a mutually convenient time, and after entry of a protective order, at the office of the City Attorney, 900 Bagby, 4th Floor, Houston, TX 77002. Defendants note that Plaintiff is already in possession of the HPD Property Room List document Bates stamped carnaby000001-000011.

2. Disclosure of Expert Testimony

1. Houston Police Department Custodian of Records
1200 Travis St.
Houston, TX 77002

The custodian has personal knowledge of the authenticity of Houston Police Department records kept in the ordinary course of business.

2. Houston Fire Department Custodian of Records
500 Jefferson Blvd.
Houston, TX 77002

The custodian has personal knowledge of the authenticity of Houston Fire Department records kept in the ordinary course of business.

3. Assistant Chief Michael Dirden
Houston Police Department
c/o Legal Services Unit
1200 Travis St., 16th Floor
Houston, TX 77002
713.308.1660

Assistant Chief Dirden is an employee of the City of Houston. He may have factual knowledge and/or opinions of the facts made the basis of this lawsuit.

In addition to providing factual testimony concerning the incident made the basis of this lawsuit, he may provide opinions and factual testimonies concerning the policies and practices of the Houston Police Department, the officers' responses to relation to the incident made the basis of this suit including, but not limited to, the actions and/or good faith of the officers involved. Assistant Chief Dirden is an in-house expert whose expertise is the result of experience, education, and training. Assistant Chief Dirden has not been specifically retained by the City or the Defendant officers for this lawsuit and/or paid for his expertise. Consequently, this expert should be treated as an ordinary witness for purposes of discovery. *Virginia Electric & Power Co. v. Sun Shipbuilding of Dry Dock Co.*, 68 F.R.D. 397, 407 & 408 (E.D. Virginia, 1974).

4. Harris County District Attorney's Office
Assistant District Warren Deepam
1201 Franklin Street, Suite 600
Houston, TX 77002
713.755.7077

The District Attorney's Office investigated the incident made the basis of this lawsuit and may have factual knowledge and/or opinions of the facts made the basis of this lawsuit.

5. Defendants, City of Houston, Officer Foster and Sergeant Washington reserve the right to call un-designated rebuttal expert witnesses whose testimony cannot be foreseen until the time of trial in this matter. Defendants further reserve the right to call any and all experts designated by other parties who, at the time of trial have been de-designated, or who have been designated by parties that are no longer part of the lawsuit at the time of trial. Defendants also reserve the right to supplement their Initial Disclosure as the need arises in the future.

Respectfully submitted,

By: /s/ L.A. Teehan

L.A. TEEHAN
Senior Assistant City Attorney
TBN: 19759300
Federal I.D. No. 22292
P.O. Box 368
Houston, Texas 77001-0368
832.393.6467
832.393.6259- Facsimile

ATTORNEY-IN-CHARGE
FOR DEFENDANTS THE CITY OF
HOUSTON, ANDREW WASHINGTON
AND CECIL A. FOSTER

OF COUNSEL:

Arturo Michel
CITY ATTORNEY

CERTIFICATE OF SERVICE

I, L.A. Teehan, hereby certify that on the 25th day of July, 2008, a copy of the foregoing **Defendants' Initial Disclosures** was served upon the following parties via certified mail, return receipt requested:

Randall Kallinen
Attorney at Law
Castle Court
Houston, TX 770
Via DC e-file system
Attorney for Plaintiff

 /s/ L.A. Teehan
L.A. TEEHAN

