

[Material that is irrelevant to Los Tocayos Carlos and contains sensitive personal information about one or more persons has been removed.]

MEMORANDUM

To:	DeLuna Team
From:	Sita Sovin, Lauren Eskenazi Capital Case Project
Date:	September 16, 2004
Re:	Mary Ann Benavides Interview September 15, 2004 <i>Carlos DeLuna</i>

We spoke with Mary Ann from 6:40 pm to 7:30 pm on Wednesday, September 15, 2004 at her home at:

[Material removed]

DOB: 10/18/1962

When we arrived at the house Mary Ann was not home. We spoke with her husband, Ruben, who was very friendly. He told us that Mary Ann would not want to speak with us as she had spoken with several people throughout the years and was trying to put the entire incident behind her. As we talked to Ruben, Mary Ann drove up. Mary Ann reiterated that she preferred not to be bothered about this case any further, but agreed to talk to us briefly. Because one of Ruben's family members was in the hospital in ICU, the interview was cut short when Ruben, Mary Ann and their children left to go to the hospital.

Before Mary Ann arrived, Ruben told us about the Casino Club which he had been to twice in his life. He states that the crowd at the Casino Club was rough. Once when he went, he was "jumped" because he and his friends danced with some girls who were at the club. Ruben also explained that gangs did not "represent" back then - but that groups of men still hung out together and protected their territory and one another which is what was happening at the Casino Club.

Photograph of Carlos Hernandez

We showed Mary Ann the photograph of Carlos Hernandez, his brother Frankie, and the unnamed pregnant woman. Mary Ann identified the man on the right (CH) as Carlos DeLuna. She said the eyes looked the same. The dark hair was similar. However, she noted that Carlos DeLuna was heavier than the man in the photograph and said that CDL had a rounder face than the man in the photograph. Mary Ann states that from a distance one might confuse CH with CDL.

Carlos DeLuna's Statements

Mary Ann knew Manuel DeLuna. They went to school together. Carlos DeLuna did not go to school with them. Mary Ann did not know why Carlos DeLuna did not go to the same school.

Mary Ann immediately told us that Carlos DeLuna lied about the skating rink. She believes he lied because his statements to the police contain information that is over 10 years old. For example, at the time of the crime - Mary Ann's family did not own a Pinto - as claimed by CDL. Mary Ann's mother owned a yellow and brown (paneling) Pinto when Mary Ann was around 14 or 15 years old - maybe younger (she was around 21 at the time of the crime). In addition, in DeLuna's statement DeLuna describes Mary Ann as thin. However, Mary Ann was not thin at the time of the crime. She was 7 months pregnant.

Mary Ann tried to guess why DeLuna would give identifying

information that was over 10 years old to the police. She guessed that DeLuna must have assumed that the police would not have a way to verify his statement. She further suggests that CDL may have assumed that she and her sister (Linda) were no longer around.

The daughter born just after the crime was born on 04/01/1983.

Mary Ann met her husband Ruben when she was 16 years old. Her family drove the Pinto at that time. Back then her family lived on Elgin Street.

At the time of the crime, Mary Ann had not seen CDL in 10-12 years.

The investigators (police/DA investigators) told Mary Ann "we know he's [CDL] lying, but we need you to testify." The investigators said that CDL was lying about other things. Specifically, that he was lying about all kinds of alibis. [JSL to Sita by email on 9/16:

Sita: Did Mary Ann mention "Carlos Hernandez" specifically as one of the alibis about which the police told MAB that CDL was lying. On the phone, you had mentioned that as something the police had said. Oops, see below.]

Mary Ann said the skating rink, "Skate Land" on SPID was closed in 1983. [CDL referred to Gulf Skating Rink - not Skate Land]

Carlos Hernandez

Mary Ann did not know Carlos Hernandez before the trial/crime. Her sister Linda now (not then) knows that CH was "bad news."

During the time of trial, Mary Ann received a call in the early morning. She was asleep when the phone rang. She heard a recording which indicated the call was from a jail/prison. The caller identified himself as Carlos Hernandez. Mary Ann hung up the phone and never spoke to the caller. She cannot recall

whether the call was before or after the trial.

[Follow-up: We will return to Mary Ann to determine whether the call was made before or after trial. Perhaps focusing on the birth of Mary Ann's first child, DOB 04/01/1983, will help Mary Ann remember when the call was made.]

Mary Ann only learned recently that CH is Priscilla's uncle. "That family is bad."

The Investigators

The investigators told Mary Ann that CDL was using CH as an alibi. The investigators told Mary Ann that they knew Carlos DeLuna was lying and that she did not have to worry. Mary Ann was told that Carlos DeLuna had lots of alibis and that Carlos Hernandez was one of them. After the trial, Mary Ann read the newspaper and learned that Carlos Hernandez and Carlos DeLuna may have both been at the crime scene together.

Mary Ann thought that there was a video of the crime. Then she remembered that they "caught it on the telephone call [911]."

[Follow-up: we need to identify the investigators who spoke with Mary Ann. Seems that police persuaded Mary Ann that CDL was guilty and then got her to cooperate. While Mary Ann may not have been at the skating rink - it is possible that the police prompted Mary Ann to fabricate the shower and/or the date of the shower. If so, the photograph may just be a photo with family members/friends and may not have been taken on the date of the crime. If this is true, Mary Ann and Linda may fear retaliation/prosecution from the police for fabricating

evidence and/or giving perjured testimony. Nevertheless, we thought we could use the police misconduct/mistake angle to re-engage Mary Ann in the case.]

[We also need to find out whether the investigators told Mary Ann there was a video of the crime/gas station?]

[THEORY: POLICE ARREST CH IN APRIL OF 1983 (THIS HAPPENED, WE KNOW) AND ASK HIM ABOUT MARY ANN B. AND COMPARE HIS PRINTS TO THOSE AT SCENE; THEY TELL HIM ABOUT CDL SAYING HE WAS WITH M.A.B. HE THEN CALLS M.A.B. FROM JAIL, PERHAPS TO SCARE HER.]

Manuel DeLuna

Manuel used to be sweet. Then he married Linda, Mary Ann's sister. When asked to describe Manuel, Mary Ann's family (Mary Ann, Ruben and their three children) all in unison replied that he was a "con artist and compulsive liar."

Rosemary DeLuna

Mary Ann said that Rosemary gave her dirty looks when they were in grade school together. Mary Ann never knew why Rosemary did this. Mary Ann did not know whether Rosemary and Dora were friends. Mary Ann thought that Dora was Beto Vela's cousin - rather than sister.

Carlos DeLuna

Mary Ann only met Carlos DeLuna one time. Mary Ann was with Manuel and Linda at the Casino Club when Mary Ann met Carlos DeLuna for the first and only time. Manuel told Mary Ann and the group that his brother is "crazy." Mary Ann saw Carlos DeLuna wearing a long black coat. He looked scary.

Newspaper Mistake

Mary Ann read a newspaper article which, incorrectly, stated that CDL and Mary Ann were on a date on the night of the crime. This was upsetting to her. Mary Ann is lucky that she did not have a jealous husband and did not have to worry about her husband believing the lies in the paper. **[Why would jealousy be an issue if Ruben, her husband, was at the shower with her?]**

Mary Ann's Father Knew Victim's Father

Mary Ann's father lived down the street from the victim's parents. Mary Ann's father was friends with the victim's father. Mary Ann's father heard about the crime.

[What did the police tell the victim's family about the crime/suspects? It is possible that the victim's father relayed this to Mary Ann's father who then told Mary Ann and/or Linda. Additional taint.]