Testimony Before the Michigan House & Senate Joint Judiciary Committee
on Juvenile Sentencing in Michigan Following Miller
Tuesday August 27, 2013

Good morning. Thank you for allowing me the opportunity to address the Joint House & Senate Judiciary committee, the Michigan legislature & the citizens of Michigan.

My name is Ken Samborski. My son, Mason, was murdered by a 16-½ year old teen. Mason was a Public Safety Officer for the City of Oak Park. He was murdered in the line of duty. Mason was married to Sarah; they had a 1-year old daughter Madeline. The teen was tried as an adult, found guilty of 1st degree pre-meditated murder, murder of a peace office & 2-felony firearm charges. He received a mandatory sentence of LWOP. His direct appeal has yet to be heard. It includes a challenge to the constitutionality of the sentence. It is inevitable that a re-sentencing hearing will be held. I wish to share our story and comment on the proposed legislation in response to *Miller* before us.

Our ordeal began about 2:45 the morning of December 28th, 2008. My wife Joan, son Kurt & I were woken by a loud knock on our front door. I made my way down stairs. Kurt answered the door before I got there. He was alarmed. Sarah was at the door in the company of 2-Oak Park police officers. She was scared, shaking & frantic. The officers said that Mason had been shot & that we needed to get to the hospital right away. They came to take us there. I ran upstairs to tell Joan. She had already heard the news. She was very upset & panicked. Moments later we left with the officers.

It was a harrowing ride. We all feared the worst and desperately tried to calm & assure each other it wasn't so. The officers knew Mason was dead but spared telling us.

When we arrived at the hospital we were taken to a small softly lit room. A Doctor came in & greeted us. He was somber with terrible news to deliver. He told us Mason had been shot in the head & was dead. It all came crashing down. We didn't know what to say only that we wanted to see Mason.

We were escorted down a hall to the emergency room. It was lined with hospital personnel, Police & 1st responders. As we entered the room there lay Mason dead on a gurney. He was shot in the temple on the right side of his head. We'd later come to know that Mason was murdered by a teen to which he was giving a break.

The damage to Mason's head was extensive. The hospital staff carefully positioned & respectfully covered him so that we would not see it. Sarah with tears streaming ran to Mason hugging and kissing him. She sat by his side woefully sobbing holding his hand not letting him go. Joan overcome with emotion, sorrow & pain sickened by what she saw wretched at the sight. She tenderly caressed Mason sobbing mournfully "no not my Mason". Kurt repulsed, in shock, his eyes fixed on Mason cried silently from the depths of his heart. He ached for his dead brother who he deeply loved & admired. Natalie, our daughter, who a few days later gave birth to her first child, horrifically traumatized held tightly on to her unborn son. She painfully wailed sickened by what had happened to her brother. They were so close. It hurt so badly. Jeremy, Natalie's husband, distressed & besieged with emotion comforted Natalie as he wept for his dear friend. Beth & Steve, Sarah's parents, dearly loved Mason, he was family. They embraced him in agony and tearfully prayed as they sought to console Sarah.

It was all so shocking & sickening. I couldn't believe what was happening and didn't want to believe Mason was dead. I loved him so. I can remember thinking oh God why, why is this happening, please no, not my son. I kept wondering now what, where do we go from here, how will it be, praying for God's help. I was hoping maybe it wasn't real & that Mason would wake up. But he never would. So I kissed him good-bye and told him I love you. I will never forget that night.

We buried Mason 3-days later on New Years Eve. Picking his casket, deciding where he'd be buried, his funeral, it's all so vivid and dreadfully surreal. It will haunt me forever.

Over time we would learn the circumstances & details of Mason's murder. He made a traffic stop in the early morning hours of that fateful day. He did so as he left an apartment complex, which was the scene of a complaint for malicious destruction of property to resume his patrol. Other officers remained at the site continuing to investigate the complaint.

rear door & shattered a plate glass window along the way. At no time during the struggle had Mason un-holstered his gun. Mason sustained serious head injuries and was disabled from the fall. The teen was not injured. He took possession of Mason's gun. The teen's acquaintance witnessed it all and screamed at him repeatedly to stop. The teen ignored her pleas. He was set on killing Mason. As Mason lay on the floor the teen leaned over him, put the gun to the side of his head, pulled the trigger & executed him. Mason was in full uniform wearing a bulletproof vest. It was a terrifying scene. I can only imagine how horrific Mason's last moments of life must have been. I relive it everyday.

The teen moved Mason from where he lay, shopped his limp, bloody, lifeless body retrieved his car keys & took Mason's cell phone. With them & Masons gun in hand the teen ran down the hall to where his acquaintance was standing. He gave her his coat then ran back past where Mason lay exiting the buildings rear door. The teen briefly reappeared, looked back into the hallway, took in the scene & fled. Moments later Officers arrived to find Mason dead on the floor.

The teen scaled a fence. He snagged his shirt on it and rushing from the scene he left it hanging there as he made off to his nearby vehicle and drove away. Along the way the teen used Mason's phone to speak with others as he further schemed to evade police, cover his tracks & destroy evidence. He would travel to a cross-town hotel scrub with bleach, put on fresh clothes & lay low. Eventually the teen met up with friends. Photos were taken of him proudly posing in bold defiance as a self-described "goon" with hands held in the shape of a gun. Later that day the teen would be in police custody. Masons gun & cell phone have never been found. Two years later the teen was tried, found guilty & sentenced as an adult to LWOP.

For us there is no more Merry Christmas, Happy New Year or Happy Birthday. Mothers Day, Fathers Day, other special events as well as little things that occur daily that used to bring a smile now bring about a profound sense of sadness. The happy moments we do have are bittersweet. We watch Mason's daughter Madeline growing up without him happy she's finding her way but heat broken it is not with Mason. You may think Madeline too young to miss her dad but she does dearly. She says he comes to her. It makes us cry. We are pained to see Sarah without Mason at her side; Mason's brother & sister, having to go forward in life without the loving

brother they deeply cherished; and our daughters children & sons to be growing up without Uncle Mason being there. No more Mason. He never comes by anymore. It's crushing. We all have such a large hole in our hearts & lives. A feeling of emptiness from missing that very special something that was Mason is always there. It is overwhelming.

At the end the trial we had every expectation that our sons murderer would serve his justly deserved sentence. We were relieved that aspect of our horrifying life-changing event was over. We had some peace & could begin to heal. But, with Miller that went away. We knew then that we'd have to face the matter of re-sentencing & be forced to relive our sons murder all over again, perhaps repeatedly so. However Miller also gave us hope that justice could still be served.

We had faith our legislators would retain LWOP sentencing true to Miller and that any alternative sentence would be respectful of the victims and their survivors. I applaud both the House & Senate bills for preserving the LWOP option. However alternative sentencing as proposed by the House woefully disregards the victims & their survivors, is charitable to those convicted of having murdered them and passes the buck to the courts.

To think that a person convicted as an adult of 1st degree murder could, at the discretion of the courts, serve 15 years or less and be eligible for parole every 2 years thereafter because they were under 18 when they murdered is outrageous. It's insensitive & abusive to victims, fails to reinforce the sanctity of life and undermines public safety. Retroactivity not ordered by Miller and currently a matter of debate in the lower courts, further injures those victims whose cases may be affected by the same.

To say it doesn't mean that those sentenced with the opportunity for parole will be paroled is shallow. I wonder how you might feel if it were your son who was murdered. We get no 2nd chance or subsequent opportunities. Nor does Mason. Dead is dead, gone forever. There is no opportunity for a fresh start or a way to undo or make right the harm caused. We have no hope in knowing that in 15 years or less & if not then every 2-years thereafter Mason will return or that our nightmare will be over. Yet under the House bills my sons murderer, who without regret, remorse or as much as a word to us, defiantly told the court his case would come back on appeal declaring to his family "it's not over" & we'll be "dancing in the rain", the same who lyricized his kill "I keep the 40 on my side"… "fuck the

cops"… "I'm a goon bitch"… "empty a clip & look them in the face and say it's over bitch, then scurried off like I ain't ever did shit" could be granted that opportunity. What we would get is a lifetime of grief forced to repeatedly relive Mason's murder while struggling to cope with it all. For Mason's murderer to now say he is remorseful and a changed man would be a slap in the face & just another deceitful attempt to escape punishment.

As with Mason's murder we have no control over what may finally be legislated. The peace we gained in sentencing is in the hands of others. Every aspect of our lives has been damaged as a result of the sickening crime perpetrated against our son. We did not ask for this. The wanton deliberate act of another has forced us to live with its dreadful impact for the rest of our lives.

1st degree murder is an utterly heinous crime for which there should be no tolerance. Every murderer leaves many victims in their wake suffering for a lifetime. It is fair to the victims and our communities that those who commit murder should serve a life sentence as well. I don't agree with Miller however I must accept that in addition to LWOP it requires an alternative sentence with the opportunity for parole be available.

I do not know what types of evidence the court may be allowed to use or what their criteria might in deciding on the presence of the mitigating factors called out by Miller. Or how the court will determine if their presence is sufficient enough to mitigate the sentence to something less than LWOP, or if one factor is more significant than another. What are the criteria that must be met to establish a factors presence, how much more is needed to establish it is significant enough to have a mitigating effect, does one factor carry more weight than another, how so? These issues need to be resolved to ensure fairness of process & to avoid legislating from the bench. But the question remains if not LWOP how much time in the alternative should one who committed 1st degree murder when younger than 18 serve before they receive an opportunity for parole?

An alternative term of years should not be a subjective matter left to the sole discretion of judges to decide based on their own perceptions & opinions of the situation. The courts are to rule on the basis of law, not create it. It is up to the legislature to establish law with firm, objective, unambiguous sentencing guidelines for the courts to follow. Whatever the legislature sees fit to enact I would hope it be victim centered and that the

sentence for 1st degree murder be certain, severe in length & clear to all. Given the appallingly reprehensible nature of murder, the harm caused to victims & society a mitigated sentence of 45 years minimum time served for 1st degree murder as called for by the Senate is far more fitting than the ambiguously defined, offender centered House version.

Clearly Miller ruled that the impacts of family & home environments as well as the influence of others on those convicted of murder committed when younger than 18 are mitigating factors to be considered for sentencing purposes. If we are going to mitigate away the consequences of murder on the basis of these "attendant characteristics of youth" then we must also dutifully enforce & fortify our civil & criminal sanctions against those who failed them. It seems reasonable that parents or guardians of those who commit 1st degree murder when younger 18 that neglected their parental duties & responsibilities as well as those who exploited, coerced, manipulated or otherwise corrupted them be exposed to the full extent of the law. I urge such provisions be contained within final legislation.

Furthermore when it comes to the murder of law enforcement officers, firefighters, first responders & the like we must recognize that beyond the irrevocable harm caused that person & their survivors, the communities they serve as well as the institutions empowered by us to ensure a safe, law abiding, peaceable society have been damaged as well. In such instances if not LWOP additional time served beyond the minimum for murder is reasonable & necessary to preserve our right to safety. Anything less undermines law & order in our society. For the sake of public safety & in support of those who risk their lives for it I call upon our legislature to include a provision in the law that calls for their murderers to serve an additional 15 years minimum consecutive to the minimum term for murder prior to having an opportunity for parole.

Finally with regard to retroactivity there is no justice in going beyond *Miller*. To do so otherwise would only bring hope to killers & further despair to victims. There may be a time when the Supreme Court so orders it. Until that happens please refrain from overreaching and allow the victims their peace.

Before concluding I'd like to say what a disgusting affront this matter of re-sentencing is to those of us who lost loved ones at the hand of a murderous teen. My son is dead. His murderer, represented by one of the

foremost defense attorneys in America, was waived, tried as an adult, found guilty & sentenced to LWOP. Yet I must still fight for justice for my son & peace for my family. In a disturbing & perverted way his murderer & those like him are becoming viewed as the victim. Never mind what they did, whom they killed or the casualties they left behind. I guess the dead are out of sight out of mind. It sickens me. What a sad commentary on life today. What have we become? A child, that's what some would call my sons killer. Really? A child? What 16-½ year-old puts a gun to the head of a cop, pulls the trigger & executes him? A child too young to understand what he was doing or what the consequences would be? No I don't think so. Don't be fooled by those who say otherwise. You know better, so did he as do those like him.

We must not minimize, excuse, or treat lightly those who murder. Do not underestimate the life long tragic impact that murder has on its victims & society. Or add to it by mitigating away the deservedly harsh consequences for it. You must send a strong message. Put the victims first. Have the courage to do so. If not and God forbid that if some day you find yourself in my shoes you may then understand why I feel as I do & come to regret you hadn't.

I appreciate the time you've given me. Thank you for your attention & thoughtful consideration.

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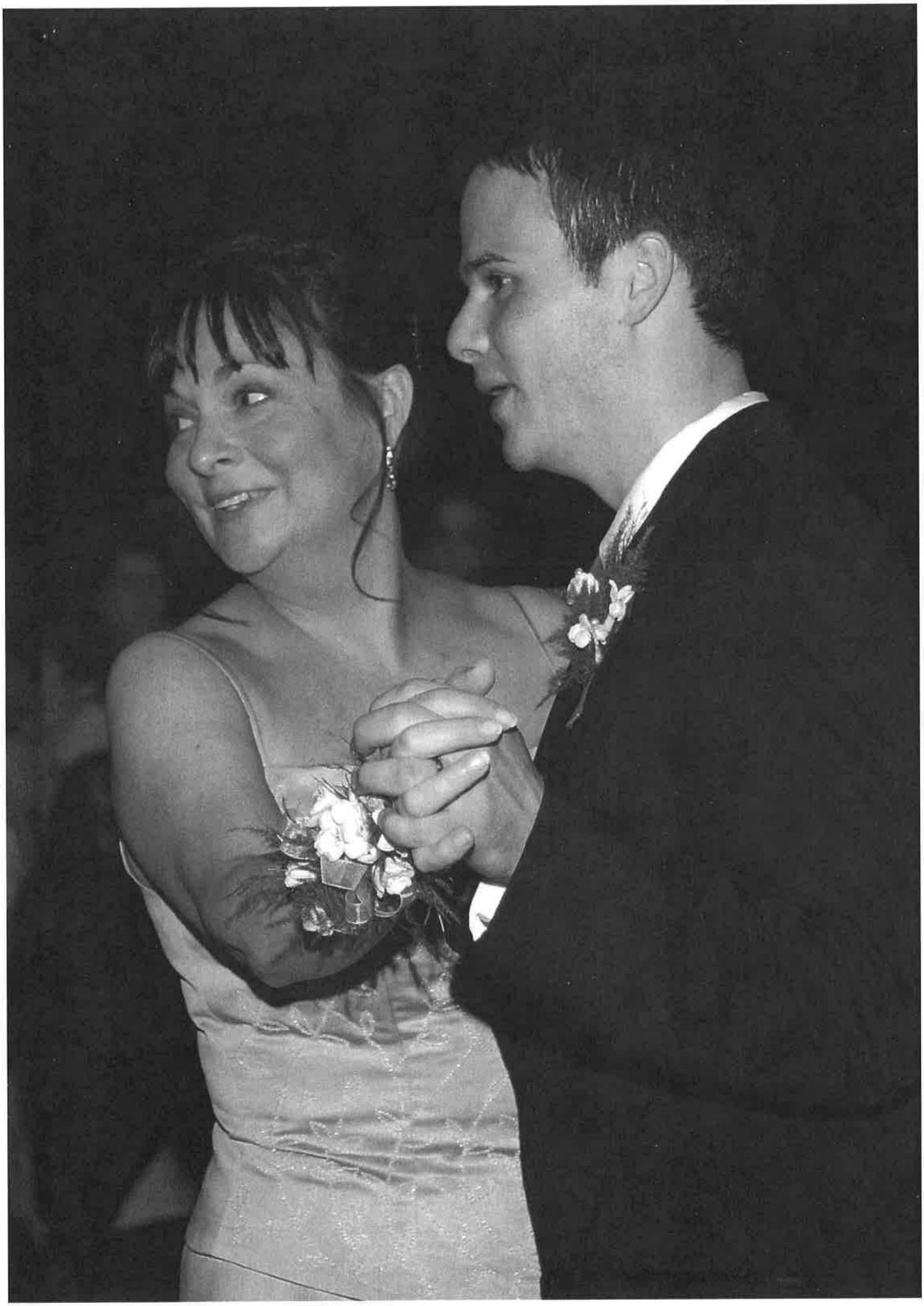
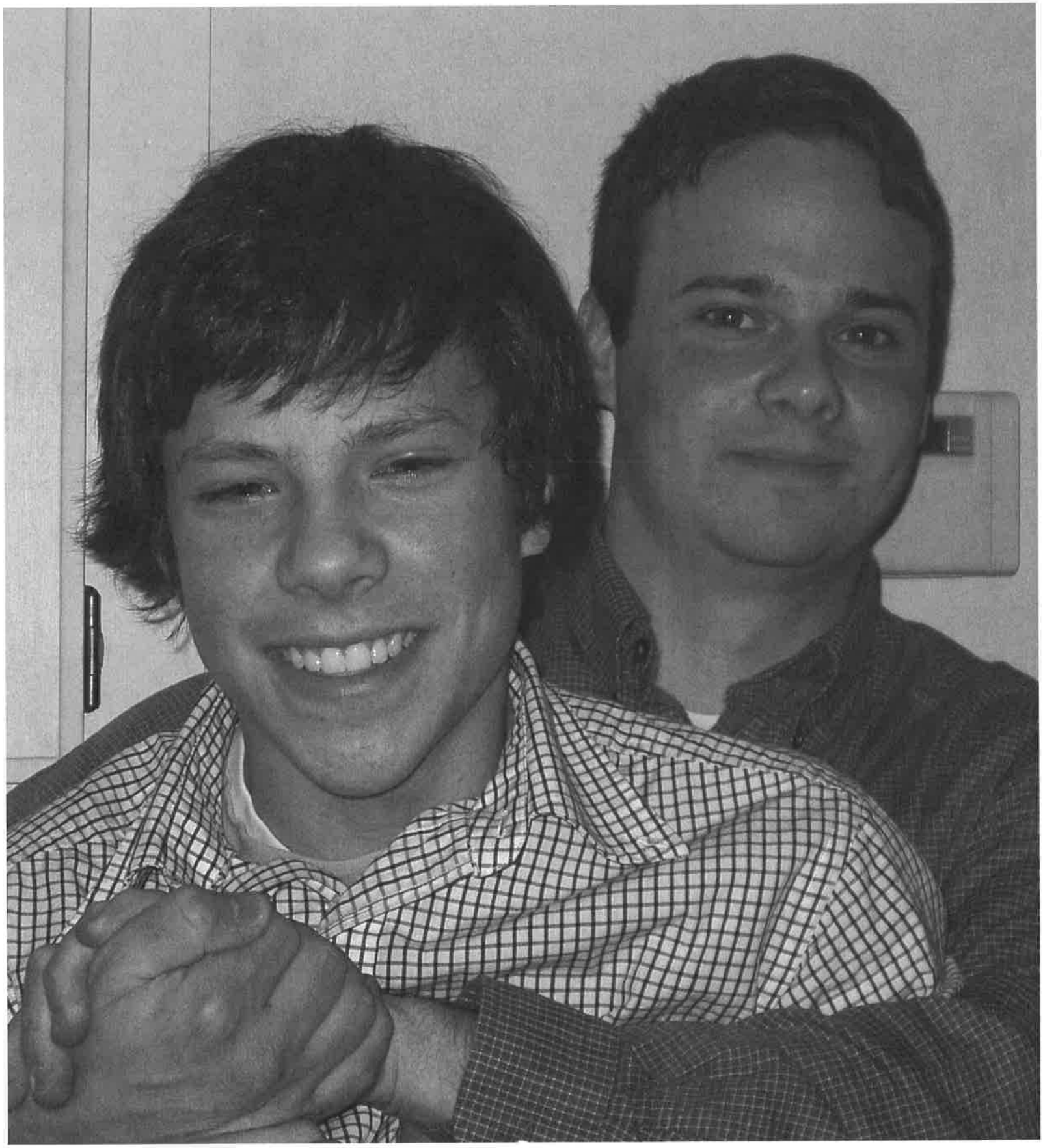
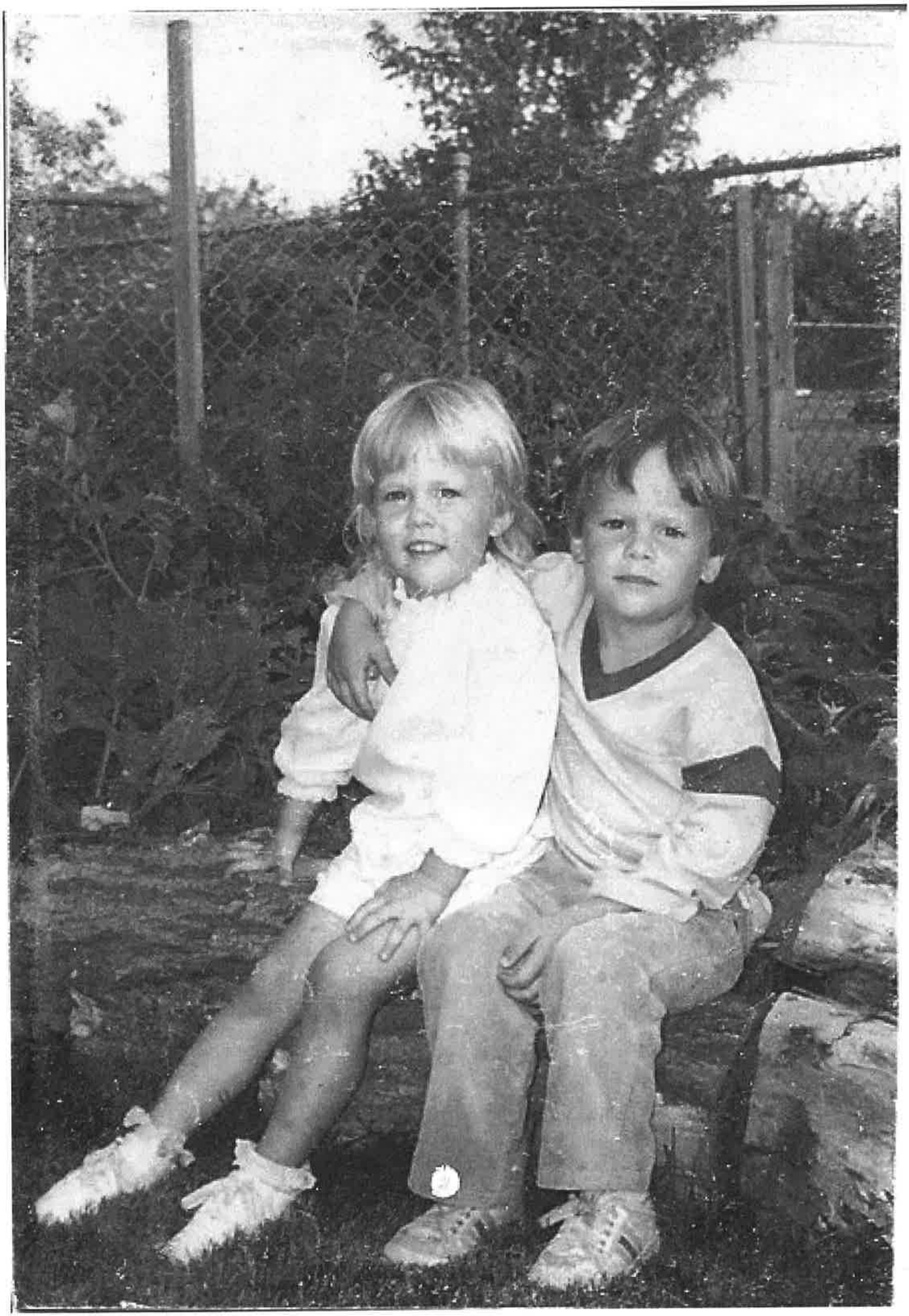
OAK PARK
PUBLIC SAFETY
M. SAMBORSKI

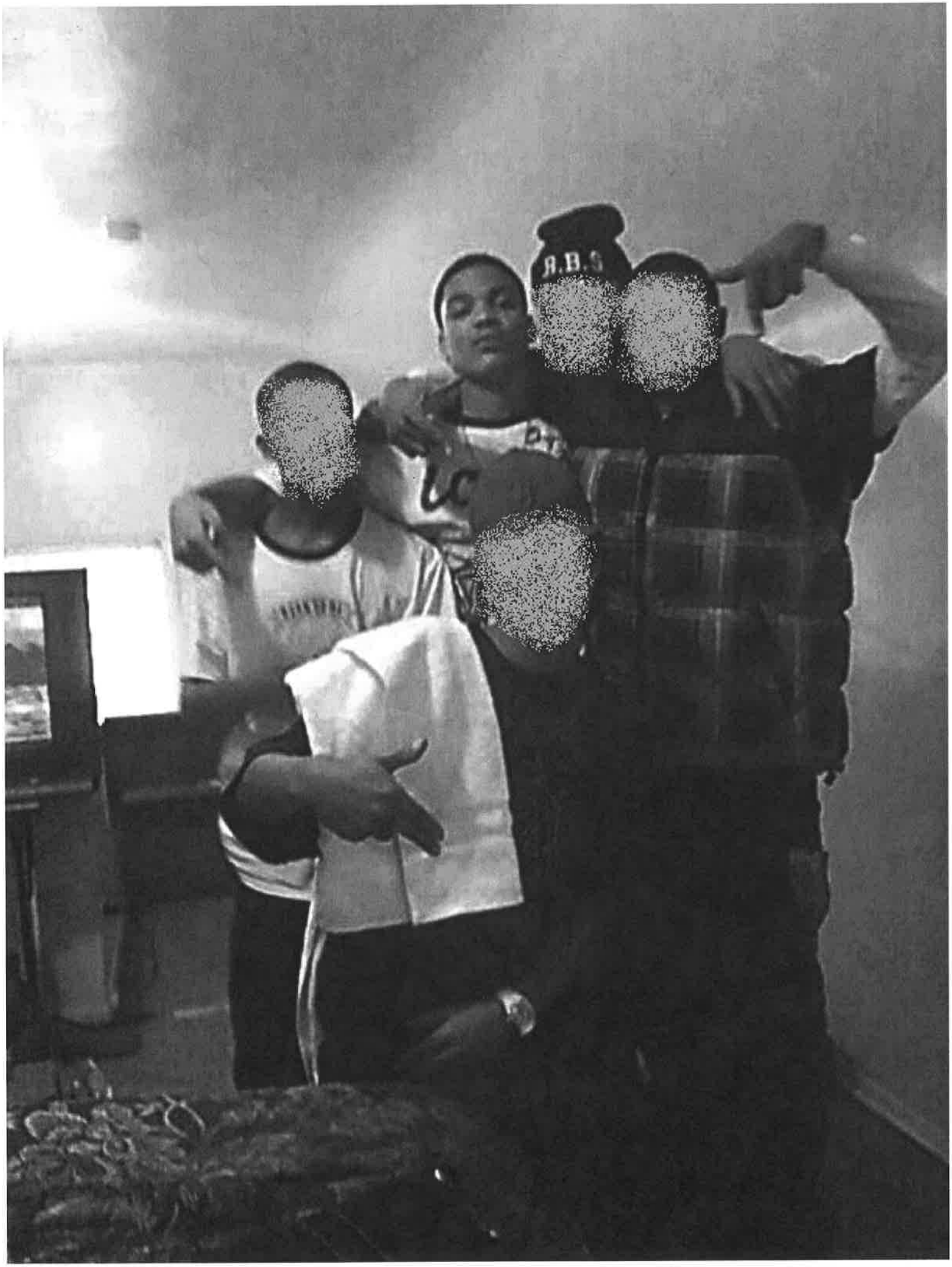
SOUTH OED







MASON JAMES
SAMBORSKI
APR. 10, 1980
DEC. 28, 2008
BELOVED HUSBAND,
FATHER, SON,
BROTHER, FRIEND
WILLIAM
SEPT. 26, 1898
JAN. 16, 1973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