



### F18 “With Friends Like These...” Revisiting a Homicide Case Replete With a Bite Mark

*Bruce R. Wiley, DMD\*, Big Horn County Sheriff Department, 337 Greybull Avenue, PO Box 206, Greybull, WY 82426; and Robert C. Byrd, DDS, PO Box 6789, Sheridan, WY 82801-7106*

After attending this presentation, attendees will recognize the importance of striving for perfection while gathering evidence in a bite mark case. Attendees will also be introduced to an example of a homicide case where the forensic odontologist might have been utilized for more than merely identifying the perpetrator of the bite injury, as was done in these proceedings.

This presentation will impact the forensic science community by illuminating the fact that the forensic odontologist can be an important adjunct of the crime scene investigation team.

Locating elk hunting camps in Wyoming is amongst the most sacred of traditions for families, especially in the Big Horn Mountains. Generation after generation has laid claim to and improved upon the location of their family hunting camp, much as their ancestors had “proven up” their familial homestead. Families and friends have thrived in their celebrated, and much anticipated, annual treks up the sides of the mountains to collect their game for the winter pantries; and several have perished, never to return.

David Lawrence Palan and Michael Thomas Fleming fast became best friends when they first met while attending the same elementary school in the second grade. For over thirty years, their families had grown close as well, with hunting being only one of the many activities in which they shared and unified their friendship. They had staked their claim to the location of their camp many years prior to this noteworthy hunting season and this particular hunting episode could well split the families apart.

In October 1996 the annual ceremonial of pitching camp, consuming vast quantities of beer, and surveying their assigned hunting grounds for any and all signs of wildlife had commenced. Many hopeful hunter friends attended during the previous days to erect the encampment and had since returned home. These other eager game seekers had employment priorities and awaited their time away from their employment so that the hunting could be enjoyed at a later date.

On the evening of October 19, 1996, David Palan, Michael Fleming, and Frank Fleming, Michael's father, happened to pass each other on the road leading to camp. Mr. Fleming was headed up to camp after acquiring provisions in town. David and Michael were headed down to the Hyattville Bar at the bottom of the mountain for a beer and to watch an exotic dancer perform. Dad later testified that they had left in good spirits.

Apparently, the combination of spirits imbibed at the local watering hole and harsh words toward each other led to successive altercations back at camp. Although Frank Fleming was sleeping in a camper adjacent the camp tent, he reported hearing shouting by both David and Michael, upon their return. Mr. Fleming stated that he went back to sleep, concerned about the few short hours of sleep that remained prior to awakening for their first day of hunting.

Apparently, the boys were only slightly inebriated, but their derogatory insults and constant verbal chastising led to an initial wrestling match outside the tent in the cold snow. David Palan testified that he had Michael Fleming in a “scissors hold.” Fleming reportedly tried “gouging out” Palan's eyes, so Palan bit Fleming on the arm.

Tired and cold, the two returned to the tent to stoke the fire and warm themselves. The verbal banter recurred while sitting next to the woodstove. During the second wrangling a new .45 Ruger Blackhawk single action revolver, reportedly securely holstered on David Palan's right hip, was somehow cocked and discharged. Michael Fleming caught the bullet slightly above the left eye and was mortally wounded.

This case will be presented to expose the necessity of precision in evidence gathering should the investigator be called to testify. In addition, the investigators of this incident might have chosen to use the forensic odontologist in interpreting the bite mark evidence in relation to the potential crime. In this case, the odontologist was engaged primarily to identify the perpetrator of the bite.

#### **Bite Mark, Homicide, Investigation**