



Jurisprudence Section - 2016

F25 From Crime Scene to Hipster Haven: Solving a Rape on Manhattan's Lower East Side

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After attending this presentation, attendees will understand how cold case trials reflect changing crime patterns in gentrified neighborhoods.

This presentation will impact the forensic science community by illustrating cold case investigation and trial tactics and by showing how one suspect who was initially implicated by a “voice lineup” was exonerated by Restriction Fragment Length Polymorphism (RFLP) and a second suspect was implicated by newer DNA techniques.

Today, Manhattan's Lower East Side has the reputation for putting the “hip” in “hipster,” but in the 1990s it was a neighborhood in transition; landlords who couldn't pay taxes abandoned tenement properties to squatters who lived without electricity, heat, and water. Throughout the 1990s, the 7th Precinct on the Lower East Side was among the top ten precincts citywide for homicides, cocaine use, and drug arrests.

In 1995, Susan A. was a 22-year-old college graduate from Maryland who made ends meet by working in a downtown bookstore. She lived in a third-floor apartment of a five-story brick walkup on Clinton Street on the Lower East Side, just two blocks from the police station.

As Susan came home from work late one April night, a huge man pushed in behind her as she put her key in the vestibule door. Shoving from behind, he threatened to kill her and pushed her up the stairs. He forced her to bring him to her apartment, but as they stood in the hall, he heard her roommates inside. He shoved her further upstairs to the rooftop, where he tied her scarf around her eyes as a blindfold, and sodomized her repeatedly. Then he put his hands around her throat and choked her to unconsciousness. When she regained consciousness, her nightmare had not ended; he turned her over and raped her, insisting she tell him how much she loved it. After rifling through her wallet, he ordered her to remain where she was, still blindfolded, for 20 minutes while he escaped.

Susan waited in fear until she was sure he was gone, then went home and called police. A rape kit was collected at the hospital, and Susan received assorted medications, to prevent sexually transmitted disease and pregnancy as well as the HIV “cocktail.” Police asked Susan to view a suspect lineup in another 7th Precinct case, but she demurred as she had been blindfolded. Detectives conducted a “voice” lineup where suspects repeated threats the rapist had made. Susan identified a suspect, but RFLP testing by the Federal Bureau of Investigation (FBI) exonerated that man.

Susan's rape kit was tested years later as part of the New York Police Department (NYPD) Backlog Project, yielding a mixed male and female profile. The male profile hit to Tony Harrison in the Combined DNA Index System (CODIS); he was a predicate felon previously convicted of two robberies and a rape and sodomy. A second swab was taken from both Susan and the defendant; hers to compare to the female fraction to make sure the kit was intact and his to confirm the CODIS match.

The trial was comparable to a made-for-TV movie: the defendant, who had a long history of malingering, at 6'4" and weighing 300 pounds, appeared to fall into a dead faint during jury selection. An Emergency Room (ER) physician in the jury pool told the judge the defendant was faking it. When Emergency Medical Team (EMT) personnel hoisted him onto the gurney, he opened one eye, snagged a bag of cookies he had left on the defense table, and put them on the stretcher. After being “cured,” the defendant refused to enter the courtroom. Every day the judge invited Mr. Harrison to attend his trial; every day he declined.

Jurors heard about RFLP and Short Tandem Repeat (STR) DNA testing, and a forensic pathologist who specialized in strangulation cases testified concerning the risk of death posed by the victim being choked to unconsciousness—recently, New York's legislature made choking a crime. Tony Harrison was convicted and sentenced to seven consecutive 25-year sentences. Unhappy with that result, he has made post-conviction motions alleging, among other things, that the “mixture” on the rape kit swab proved there was another assailant and that CODIS and laboratory officials violated confidentiality laws by informing prosecutors and police of the DNA match. Those motions have been denied; Harrison remains in prison.

DNA, Cold Case Rape, Gentrification

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