



CB04 Lessons Learned: The Exoneration of Robert Earl DuBoise

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Learning Overview: The goals of this presentation are to help attendees: (1) understand the factors that lead to wrongful conviction; and (2) understand how through a collaborative process the prosecution, defense, and forensic experts can search for the truth.

Impact on the Forensic Science Community: This presentation will impact the forensic science community by highlighting the numerous factors that led to the wrongful conviction and death sentence of a young man for a rape and murder he did not commit. Attendees will hear about how bitemark evidence triggered Robert's wrongful arrest and the impact of that conclusion on the rest of law enforcement's investigation, the role of the prosecution, defense, and forensic experts in the search for the truth, and what has happened in the aftermath of the exoneration.

In the early morning hours of August 19, 1983, a young woman's body was found behind a dentist's office in Tampa, FL. The victim was covered in blood and had a severely beaten face and jaw. The scene also indicated that the woman had been a victim of an actual or attempted sexual assault: she was lying on her back, nude except for a tube top that had been pulled over her chest, exposing her breasts.

The Hillsborough County Medical Examiner (ME) conducted an autopsy, and the cause of death was determined to be massive blunt force trauma to the head. During the autopsy, the ME noticed what he believed to be a bitemark on her left cheek. A dentist on contract with the ME's office also examined the injury on the victim's face and concluded it was a human bitemark. Lastly, the ME collected a rape kit.

Detectives interviewed a number of witnesses, but none offered a solid lead. With no eyewitnesses to the crime, police quickly focused on obtaining identifications from individuals. Robert was among those who provided an impression. A board-certified forensic odontologist examined the alleged bitemark and the impressions and concluded that Robert's teeth caused the mark. No other physical evidence connected Robert to the crime.

With its entire case resting on bitemark evidence as the case headed to trial, the State utilized a jailhouse informant to build its case. Ultimately, Robert was convicted of murder and attempted sexual assault. The jury recommended a life sentence but the judge overrode the jury's recommendation and sentenced Robert to death. The Florida Supreme Court subsequently vacated the death sentence.

Robert filed a motion for post-conviction DNA testing in 2006, but after a hearing, he was notified that the vast majority of the evidence in his case was destroyed in 1990—just five years after his conviction. In 2018, the Innocence Project began investigating Robert's case. Among the concerns was the use of bitemark evidence. In 2019, the Innocence Project contacted the Conviction Review Unit at the State Attorney's Office. Together they engaged in a collaborative process in a search for the truth. As part of this process, they had the bitemark evidence and testimony reexamined, and an independent examination by a forensic odontologist concluded that the mark on the victim's face lacked sufficient detail and that there is no scientific support that odontologists could reliably diagnose a bitemark. Moreover, the methodology used in the evidence collection, analysis, and comparison demonstrated bias and was not in keeping with techniques of the time. Additionally, despite claims that the rape kit was destroyed, slides created during the victim's autopsy were found—critically, semen was identified on the victim's vaginal smear slide, Robert was excluded, and there was a presumptive hit in the Combined DNA Index System (CODIS).

On September 14, 2020, Robert's conviction was vacated. The judge found that the newly discovered DNA evidence and the newly discovered evidence about the bitemark evidence each entitled Robert to relief and concluded that Robert was innocent.

Exoneration, Bitemarks, Duty to Correct