4 Blood Spatter: Sheppard

(From the book, Bodies of Evidence by Dr. Scott Christianson)

A brilliant criminalist devises new techniques to follow the killer’s bloody trail – and helps to free Sam Sheppard.

The blood was everywhere. Police arrived at the physician’s Bay Village, Ohio, home early on July 4, 1954, to find Mrs. Marilyn Sheppard in the upstairs master bedroom. Her body was lying in her bed in a pool of blood, her head battered by more than fifteen blows from an unidentified heavy object. A pillow on the bed showed a three-inch-long bloodstain. The walls of the master bedroom were spattered with blood. A trail of blood led down the stairs and onto the terrace.

Dr. Sam Sheppard, husband of the deceased, his face swollen and one of his vertebrae fractured, seemed disoriented from his ordeal. But there was no cut or blood spots on him.

He told the cops a harrowing story about how the previous night his wife’s screams had awakened him from his sleep on the downstairs daybed. He had rushed upstairs and entered the bedroom where he was struck on the head from behind. When he came to, he found his wife, dead, and panicked about their son, Sam, age seven. Then he realized the intruder was still in the house, so he gave chase onto the beach along Lake Erie. He caught a man and fought him, but the man knocked him out again. He described the stranger as tall with a large head and bushy hair.

The detectives didn’t believe Sheppard’s story, especially when they caught him in a lie. Upon learning that he had tried to conceal from them his adulterous affair with a medical technician, they considered him the prime suspect. Word went out that Sheppard had cheated on his pregnant wife and then killed her during a fight over his infidelity.

The Cleveland Press covered the story with fury, openly accusing Sheppard of murder in a barrage of editorials. Three weeks after the murder, Sheppard was arrested and charged with the crime. His trial turned out to be the worst media circus since the Lindbergh kidnapping. Everybody was posturing for the press. Somebody said the prosecution had charged him with murder, but proved only adultery, yet he was convicted. As the judge sentenced Sheppard to life imprisonment, he kept insisting he was innocent.

Shortly after they hauled him off to prison, his mother killed herself and his father dies. He considered suicide, but decided he had to prove to his son, their son, Sam, that he was innocent. Sheppard vowed to find the real murderer.

DR. KIRK

As Sheppard’s case went up for an appeal, his lawyer hired on the nation’s leading criminalists, Dr. Paul Leland Kirk of the University of California at Berkeley, to help them assess the evidence in order to reconstruct the murder. Kirk, an accomplished microchemist who has worked on the Manhattan Project that built the first atomic bomb, had later switched to criminalistics and recently published a leading textbook in the field. Kirk warned that he would conduct an independent and objective study. Then he started his analysis.
He was immediately shocked to find how badly the police had bungled much of the blood evidence from the crime scene. The authorities had minutely recorded hundreds of bloodstain patterns on the bedroom wall, but not attempted to analyze them. Neither had they tested the bloody trail leading from the bedroom through the living room and out on the terrace, nor had they grouped any of that blood. Kirk scoured the Sheppard home. He took blood samples from the bedroom walls. He vacuumed the carpets with a special sweeper equipped with a custom-made filter to trap minute particles. He removed various other samples from the house and grounds.

Having found no blood traces on the bedroom ceiling, Kirk reasoned that the murder weapon had been wielded in a more or less horizontal fashion that had kept the blood from flying up. This was evident from the blood splashes on the walls, some of which must have been flung from the murder weapon as it was swung backward and forward to make contact with the victim’s head. Other spatters had come directly from the woman’s head as it was being battered.

Based on the blood impression left on the pillow and the nature of the wounds to the victim’s head and other factors, Kirk’s experiments led him to conclude that the most likely murder weapon had been a blunt object, not a surgical instrument as the police claimed. Noting the blood drops that had been smeared into streaks on the right side of the victim’s bed, Kirk deduced that the murderer had landed his blows while standing between the twin beds. The blood-free areas on two of the walls suggested the murderer’s own body had blocked blood from splattering there.

Some of this information worked to Dr. Sheppard’s advantage. A killer standing in that position must have swung the murder weapon with his left hand, but Dr. Sheppard was neither left-handed or ambidextrous. Furthermore, the crime scene indicated that the murderer must have been thoroughly spattered with blood, yet Sheppard had been found to have no blood on his clothes, apart from a bloodstain on his trouser knee, which he said had occurred when he had knelt by the bed to take his wife’s pulse. After four months of evidence gathering and analysis, Kirk completed a 10,000-word affidavit. Some of his amazing findings included the following:

- The absence of blood on the ceiling indicated that the blows were made from horizontal, not upward, swings.
- The murder weapon was likely to have been less than a foot long, cylindrical in shape and relatively lightweight, like a metal flashlight. He noted that red lacquer paint that was found at the scene could have come from the murder weapon rather than from nail polish, since Marilyn was not wearing any fingernail or toenail polish at the time of her death. Kirk proved that it was in fact commercial lacquer used to paint hardware and metal.
- Two fragments of Marilyn’s upper front teeth had been found on the bed, but the autopsy did not detect any injuries to her face, indicating that she likely broke them when she bit her attacker. Dr. Sheppard did not have any such wounds.
- A large spot of blood found in the murder bedroom matched neither Dr. Sam’s nor Marilyn’s type. Kirk concluded it belonged to the murderer.
- Marilyn’s pajama pants had blood accumulated at the bottom, showing they had been pulled down before the murder and, therefore, Kirk theorized that the crime had started as a sex attack.
The three-and-one-half-inch tear on the right pocket of Dr. Sheppard’s pants extended directly downward from the pocket, indicating that somebody else had ripped the clothing, which was consistent with Shepherd's account.

- Sand found in Sheppard’s pants pocket could only have gotten there by his lying in the water for at least an hour.

After the state courts rejected the appeal without even considering Kirk’s affidavit, Sheppard’s lawyer appealed the case to the U.S. Supreme Court, arguing in his petition for a writ of certiorari that Sheppard had been denied his right to a fair trial. (A writ of certiorari – Latin for “to be ascertained” – when granted means that a higher court will examine the decision of a lower court for legal error.) Although the Court declined to review the case, Judge Felix Frankfurter’s memorandum indicates that at least one justice thought that Sheppard’s trial had been conducted like “a Roman holiday.” When the Supreme Court denies such petitions, this explicitly does not mean that it has approved the lower court’s decision.

Everything changed when Sheppard’s family hired F. Lee Bailey, a brash young Boston Lawyer. Bailey filed a habeas corpus petition in federal court. District Judge Carl A. Weinman of the United States District Court for the Southern District of Ohio considered Bailey’s arguments and ruled that Sheppard’s 1954 conviction was a “mockery of justice” that violated his constitutional rights in five ways. Weinman called the Sheppard case a classic example of trial by newspaper. He ordered Sheppard released immediately on a $10,000 bond, pending trial.

Kirk testified effectively at Sheppard’s second trial in 1966. The three-week proceeding ended with Sheppard’s acquittal. But out of court, country officials continued to claim he was guilty. After the verdict, Sheppard sank into alcohol and drug abuse, ultimately becoming a professional wrestler. He dies, a broken man, of liver disease at age 46 (1970). But even then, the case didn’t end.

**SAM REESE SHEPPARD CONTINUES THE FIGHT**

In 1998 Sheppard’s son, Sam Reese Sheppard, sued the state of Ohio for $2 million for his father’s wrongful imprisonment. He hired some top lawyers and forensics experts to try to clear his father’s name and build a case against the man he considered his mother’s real killer. His reexamination featured new scientific techniques including DNA that hadn’t been available during the first two trials. But that state of Ohio waged a fierce battle in the same county where the first trials had occurred, determined to uphold its “good name.”

Based on new evidence, Sheppard’s attorney, Terry Gilbert, identified the real killer as Richard Eberling, a known criminal who had worked as a window washer at the Sheppard’s house before the murder. Gilbert claimed Eberling had been arrested in 1959 with a ring of Marilyn Sheppard’s in his possession;
Eberling had oddly volunteered to police that he had once cut himself and bled at the Sheppard home some time before the murder. Sam Reese Sheppard said he had interviewed Eberling in prison and came away convinced that he was involved in the murder. Eberling reportedly had confessed to another inmate that he had committed the Sheppard murder. But Eberling, a convicted murderer, had died in prison in 1998.

Sheppard’s team reconstructed a full-scale version of the family’s former home and furnished it down to the minutest detail, exactly as it had appeared in 1954. Their blood experts, Bart Epstein of Minnesota, who had studied under Paul Kirk and gained access to his original notes, set out to recreate and restudy Kirk’s landmark analysis. To conduct his blood spatter experiments, Epstein drew some of his own blood and used a specifically constructed device to replicate the original blood patterns. His analysis upheld many of Kirk’s original findings.

Dr. Cyril Wecht, the famed former Pittsburgh medical examiner, testified that the victim’s wounds were consistent with “blunt-force trauma” marks that would have been left by a 1950’s era metal flashlight – not from a sharp surgical instrument as the prosecution had claimed. Wecht also agreed with Kirk’s findings about the sexual assault. The legal team used Dr. Mohammad Ashraf Tahir, a forensic DNA specialist in Indianapolis, to attempt to test some of the surviving crime scene evidence. Tahir received a bloodstained wood chip that had been retrieved from the stairs of the Sheppard house, a section of blood-spattered flooring from the porch and a scraping from the closet door blood stain. He obtained Marilyn’s DNA from a few strands of her hair collected after the murder. To get Dr. Sheppard’s DNA, Sam Reese Sheppard granted permission to have his father’s body exhumed for tissue sampling. Tahir also had a small sample of Eberling’s blood available for DNA testing.

Tahir used a DQA1 test to assess the samples. He poured the DNA from each of the samples over a sensitized paper test strip that was printed with a set of numbers. Each number referred to the eight specific alleles the test can detect. Indicators turn blue when the test has detected a specific allele. A test of the wood chip found on the stairs, and the blood stain lifted from the porch, which the prosecution had contended had contained the victim’s blood, did not show Marilyn or Samuel Sheppard’s alleles. However, Richard Eberling allele matched one of the stains on the blood trail, and therefore, Eberling could not be excluded. As Tahir predicted, the sample from the largest bloodstain, the spot on the closet door, appeared to be a perfect mixture of Eberling’s blood and Mrs. Sheppard’s.

But the DNA Evidence against Eberling would not stand up to today’s DNA evidence requirements. Prosecutors downplayed the validity of the DNA tests as “mumbo jumbo,” saying the entire crime scene had been contaminated, as in the O.J. Simpson case. They insisted that Marilyn Sheppard’s damaged lower teeth proved she had been struck a hard blow to her mouth, not that she had broken a tooth from biting her assailant, pointing out that Sam Sheppard was a boxer capable of landing such a blow. In 2000 the civil court jury finally reached its verdict. It decided that Sheppard’s son had failed to meet the statute’s burden of proof in his wrongful imprisonment lawsuit. Once again, outstanding forensic evidence had failed to “clear” Dr. Sam Sheppard in the local community’s eyes.