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## Expert Opinion of Michael Sobel

Michael N. Sobel

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Bill,

here's the  
remaining expert  
report ~~from~~  
from Terry.

-Dear.

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Expert Opinion:  
Forensic Aspects of the Marilyn Sheppard Homicide

The homicide case surrounding the death of Marilyn Sheppard on 4 July 1954 in Bay Village, Ohio has long been subject to extensive conjecture and controversy. In October 1998, I was engaged by Attorney Terry Gilbert to evaluate some of the records and evidence relating to this case. Among the materials received for examination were:

1. A copy of the Affidavit of Dr. Paul Leland Kirk (1955).
2. A copy of the Official Autopsy Protocol for Marilyn Reese Sheppard from the office of S.R. Gerber, M.D., Coroner, Cuyahoga, Co., Ohio.
3. A copy of Richard Eberling's A & ID Record cards dated 1956 & 1959 from the Bay Village Police Department.
4. Four (4) 35mm color transparency photographs (duplicates) of the inside of the left wrist of Richard Eberling taken at his autopsy in 1998.

My evaluations and hypotheses resulting from a review of these materials shall be discussed below in summary fashion.

**1. DENTAL AND TOOTH ISSUES:**

In 1955, Dr. Paul Kirk, a well-known criminalist at the University of California-Berkeley, was asked by the Sheppard Family to investigate and evaluate the forensic evidence relating to the Marilyn Sheppard homicide. Among his findings were opinions relating to the fractured anterior teeth of the victim. Dr. Kirk felt that the fractured teeth recovered from the crime scene indicated that the victim had bitten the attacker during their struggle, and that these broken teeth were the direct result of that bite.

In addition, Dr. Kirk set up an *in vitro* experiment to demonstrate that the victim's teeth could be fractured in the manner observed only by the victim biting the attacker. Further strengthening his argument, Dr. Kirk pointed out the absence of any description of lacerations to the victim's lips, as might be noticed if the victim

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were hit by a blunt object during a life or death struggle. In actuality, the official Autopsy Protocol states in item 24 (under "individual injuries"):

*"There is a crusted abrasion measuring 1 x 1/2 " on the buccal surface of the mucosa of the lower lip."*

As a Forensic Odontologist with over 29 years of experience, I feel that the victim's upper anterior teeth were more likely to have been fractured by trauma to these teeth during a violent physical encounter, wherein the anterior teeth were struck by a blunt object. During a violent struggle, in at least a significant portion of the time, the lips are usually pulled back, mainly exposing the teeth, which then may be traumatized without many injuries occurring to the lip surfaces.

The *in vitro* demonstration produced by Dr. Kirk to show the relationship of biting force trauma to the fracturing of extracted tooth specimens is based in a non-dentist's misunderstanding of the actual anatomic support mechanism of teeth in their sockets within the jaws. Mounting extracted teeth in holes "...drilled in a heavy brass bar... filled with molten 'Woods' metal..." which then solidified around the teeth does not duplicate the periodontal fibers and soft tissues which attach the teeth to mandibular and maxillary bone in life conditions (*in vivo*). The force systems and cleavage angles of actual tooth and bone and soft tissue relationships were therefore not, in my opinion, accurately duplicated by Dr. Kirk's demonstrations in fracturing the teeth in his model. I therefore place more credence in my experiential belief that Marilyn Sheppard's anterior teeth were fractured by traumatic blow(s) during her attack and not by biting her attacker.

## 2. UPPER EXTREMITIES INJURY PATTERNS:

An interesting pattern evolves in analyzing the injury patterns of the right and left upper extremities of Marilyn Sheppard.

The official autopsy report in items 27 through 33 (under "individual injuries") describes injuries to the right upper extremity, while item 34 describes the only injury to the left upper extremity. Item 35 observes:

*"There is a partial avulsion of the fingernail of the left 4th finger with the root of the nail exposed."*

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Reconstruction of the events of the crime scene based on this information would lead one to believe that the victim attempted to ward off the left handed attacker's blows with her right upper extremity. Meanwhile, the victim's left hand was trying to grasp the attacker's hand with the weapon, and, in doing so, gouged the wrist of the attacker with the fingernail of her left 4th finger, causing it to partially avulse. This injury to the left wrist of the attacker would have resulted in copious bleeding and would help to explain the large spot of blood found on the wardrobe door adjacent to the victim's bed. This spot of blood was tested by Dr. Kirk and found to be human blood not belonging to either Dr. Sam Sheppard or Marilyn Sheppard.

At this point it should be noted that an "A & ID Record" from the Bay Village Police Department for Richard George Eberling, indicating (by age and birthdate) a date in 1959, described a 1/2 inch scar on the inside of the left wrist. In July, 1998, after the death of Richard Eberling, an autopsy was performed on his body. Photographs of Eberling's left wrist were obtained under court order. These photographs showed a scar on the inside of the left wrist which was not indicative of a bite mark, but rather of a longitudinal gouge pattern.

### 3. CONCLUSIONS:

In summary then, I believe that Marilyn Reese Sheppard, while being attacked on her bed, attempted to ward off the left handed blows of a blunt instrument used by her attacker with her right arm. Accordingly, the victim received injuries described in the Autopsy Protocol mainly to her right upper extremity and not the left. While defending in this manner, she attempted to grasp the wrist of the attacker's left arm with her left hand, gouging the attacker's left wrist with the fingernail of her 4th finger left hand. This is the victim's avulsed fingernail described in the Autopsy Protocol.

Dr. Sam Sheppard had no such wounds observed or described in Dr. Kirk's Affidavit. However, there was a 1/2 inch scar of the inside of Richard Eberling's left wrist described in an arrest record by the Bay Village, Ohio Police Department in 1959. In addition, the photographs received from the 1998 autopsy of Richard Eberling showed a similar scar on the inside of his left wrist. I believe that the Richard Eberling 1959 police scar description and the photographs I examined from Richard Eberling's autopsy in 1998 are consistent with each other. These

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observations fit the plausible theory relating to events at the time of Marilyn Sheppard's attack, and are consistent within reasonable scientific certainty to observations of similar longitudinal fingernail marks I have seen in other like cases.

I also believe that the fractures of Marilyn Sheppard's anterior teeth were not the results of her biting her attacker, but caused by blunt force trauma during her beating. Although Dr. Kirk's findings should not be ruled out completely, I feel that my theories are more dentally plausible.

*NOTE: The conclusions reached in this report are based on assessments of information available to the undersigned at this time, and are subject to change with the availability of additional information and retesting.*

Report Submitted By:



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