

## **A CAUTIONARY TALE: STEPHAN COWANS AND BOSTON POLICE LATENT PRINT UNIT**

**<http://www.clpex.com/TheDetail.htm>**

**This article lays out the steps taken by Boston Police following the release from prison of Stephen Cowans who had been wrongly convicted of murder following a fingerprint identification error. It shows what can be done by authorities not afraid to grasp the nettle and take on the hard options rather than the easy way out.**

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**Jennifer Hannaford Director of the Boston Police Latent Print Unit brings us details about the units Latent Print Unit accreditation process.**

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### **Accreditation of the Boston Police Department Latent Print Unit by Jennifer Hannaford**

The Boston Police Department was established as the first Police Department in the nation in 1854. It was comprised of a Chief of Police, 2 Deputy Chiefs, 8 Captains, sixteen Lieutenants, 6 Detectives and 250 Patrolmen. The Headquarters was located at the old courthouse in Court Square but relocated in 1865 to City Hall on School Street.

The first semblance of an "Identification Unit" was established in 1860 when an actual "Rogues' Gallery" of 100 pictures of known criminals was created. A photo of each offender was maintained in the gallery. A brief description of the "rogue" was included on the back of his or her photo. According to our records, by 1906, the Rogues' Gallery contained over 23,000 photographs, with over 16,000 of them bearing Bertillon measurements. The year 1906 also marked the first time that the department used fingerprint records for exemplar-to-exemplar comparisons. Twelve identifications were made that year.

By the 1920s Identification Unit was reportedly in such poor operating condition that it required a significant overhaul. The estimated project cost was between \$35,000 to \$40,000. The Bureau of Records director, James T. Sheehan, was sent to Washington and Philadelphia to see implementations of the Rene-Harvey system. Sheehan and eight Boston Police Officers spent time at MIT learning the conversion process. By 1934 when Sheehan implemented improvements locally, J. Edgar Hoover reportedly stated that, "The Boston Police Department has the finest department of ballistics and bureau of identification in the nation."

In 1925 Headquarters was moved to a newly constructed building at 154 Berkeley Street on Pemberton Square. However, through the 1980s and part of the 1990s, the Identification Unit was housed in the Back Bay station's basement. It was described as a windowless room constructed of cinderblock. It lacked ventilation, and few wanted to work there.

In 1997, Police Headquarters again moved to its new state-of-the-art building at One Schroeder Plaza. It was at this point that the Identification Unit finally moved with the department. That same year, Police Officer Gregory Gallagher chased a suspiciously acting man into a Roxbury neighborhood backyard. A scuffle ensued, during which the officer lost control of his 9mm Glock service weapon. The assailant, fleeing to a nearby home, shot and wounded Gallagher once in the buttock and once in the officer's vest. Entering the nearby home, the assailant then held a mother and two of her children hostage. While there, he drank water from a Mason jar. In addition to the jar, a sweatshirt and baseball cap, reportedly left behind by this subject, were collected as evidence. A technician from the Boston Police Department recovered a print from the Mason jar, and identified it as originating from Stephan Cowans. Cowans was convicted in 1998 of armed assault with intent to murder, home invasion, and related charges. He was sentenced to prison for 35 to 50 years.

Attorneys for the Innocence Project had DNA from the brim of the cap, rim of the Mason jar, and a portion of the sweatshirt tested. The profiles developed for all three were consistent: the DNA did not match Stephan Cowans. The Suffolk County District Attorney's Office stated the case would be retried based on compelling evidence, to include that print which had been originally identified. Technicians from the Boston Police Department and the Massachusetts State Police reexamined the print and determined it did not originate from Cowans. The District Attorney's Office reversed its decision. The conviction was thrown out. On the 23<sup>rd</sup> of January 2004, Stephan Cowans walked out of prison a free man.

However, while Cowans was behind bars, Cowan's mother, whom he considered his greatest support, died just four months before his release. His request to attend her funeral was denied. Cowans also claimed he had contracted Hepatitis C during his incarceration.

In 2006, Cowans received 3.2 million dollars, one of the largest wrongful conviction settlements ever paid by the City of Boston. Cowans was the 141<sup>st</sup> individual in the United States and the eighth in Massachusetts to be exonerated through DNA analyses between 1989 and 2006. After 6.5 years in prison Cowans was a free man. Sadly, less than two years after his release, Stephan Cowans was found murdered in his Randolph area home; his body discovered on October 26, 2007. This is still an ongoing investigation.

Following his release, accounts of the case led to questioning the validity of fingerprint comparisons in general, the motivation of the technicians who made the erroneous identification, and the condition of the BPD Latent Print Unit in particular. Further questions about the quality of the unit were a constant source of news in the Boston newspapers. The May 6, 2004 *Boston Herald* article, "Misfits Dumped into Key Cop Unit," commented that the unit was "The Land of Misfit Toys," a place where officers with a documented history of trouble, such as drug and alcohol abuse, were exiled.

Then Commissioner, Kathleen O'Toole, vowed to address the issues. She cooperated with an investigation into what had gone wrong in the Cowans' case with the Attorney General's Office. In the end, a grand jury had determined it could not find the proof of intent required to allow a charge of perjury against the officer who had initially made the identification nor against the officer who had verified print.

Even so, Commissioner O'Toole sought help from an outside expertise, Ron Smith and Associates (RS&A), to assess the personnel who were still performing work in the Latent Print Unit. The two examiners involved in the Cowans' case were no longer working in the unit by this time.

The RS&A report was based on an assessment of personnel that included tests and individual interviews. The report detailed a troubled unit. "Survival instead of success," "absence of involvement and administrative supervision from upper management," "excellence is not expected, therefore not achieved," "many suspect identifications are not being made which could, and should, be made..." and "ACE-V methodology not being followed..." are just some of the observations documented by the assessment team.

Within a week of the report's release, the Commissioner shut down the unit. She reported that it would take years to get the sworn individuals "up to speed." The Department ultimately negotiated with involved unions to hire trained civilians. RS&A were contracted as lab consultants to address the issue of backlog during the unit's period of closure.

This was no conflict of interest. The consultants were critical to maintaining the unit's continued output of casework and assisting with the selection criteria and interviewing process of the six civilians that would make up the new unit. On site, Robert Garrett led the RS&A team, whose work was conducted over a combined period of time totaling 27 weeks. Two examiners were brought in for two-week intervals to tackle the backlog. At the project's end, the interim team had processed 1,243 cases and examined 10,282 items.

The goal was not only to restructure the unit, but build it anew, with the opportunity to have inspection of the operation by the American Society of Crime Laboratory Director's Laboratory Accreditation Board (ASCLD/LAB).

I was hired as the director, joining the Boston Police Department in October of 2005. Senior Criminalists Rachel Lemery and Ioan Truta, and Criminalists Andy Rietnauer and Kristen Tolan started in November of that year. Jason Galle would join the team in June of 2006. Ron Smith and Associates completed their on site work in December 2005, and the new all civilian crew officially opened as an operating unit in January 2006.

Lemery, Truta and I were the only experienced examiners at this time. We had inherited a backlog of cases and were addressing many new cases as they were submitted to the unit. Tolan and Reitnauer addressed evidence storage issues, "clean-up" projects and training from the two Senior Criminalists.

In the first two years, the hours were long and the commitment from these individuals was tireless. We had all walked into a job where none of us had a working knowledge of how the unit had previously functioned. It was a period of creativity and tremendous teamwork among a group united in the task of wringing order from chaos.

I addressed the design of protocols immediately. None had existed to this point, or at least none had been located. Without protocols to define our work, nor to protect our examiners

and our work product, I knew we would not be able to establish a solid foundation. There was no need to reinvent the wheel. I had taken some of the Vermont Forensic Laboratory's protocols Lemery and I had designed three years prior. We based those largely on the Latent Print operations of the Oakland Police Department Criminalistics Section and the New Hampshire State Police Forensic Laboratory. For consistency within the Forensic Group we used the procedures of the Boston Police Department's Crime Laboratory, which was ASCLD/LAB accredited in 2002. We then layered in our operation's directives appropriately. The new protocols were projected against ASCLD/LAB criteria and informed by guidelines from the Scientific Working Group for Friction Ridge Analysis Science and Technology (SWGFAST).

I am proud to report that the Boston Police Department Latent Print Unit successfully achieved accreditation from ASCLD/LAB on October 15, 2009.

I am often asked what special instrument we purchased or what "magic bullet" allowed us to achieve success. There was none. The department's current status was achieved through a commitment by its members, its administration and through teamwork. We used resources wisely, sought assistance from our community, and chose from operations that had already demonstrated levels of superior service.

Boston led the nation in establishing the first police department. This department created one of the earliest identification units in the nation, and it was recognized for its excellence. We at the Boston Police Department wish to continue striving for excellence and hope to serve as an example to latent print units enduring similar challenges.

*Far-stretching, endless Time,  
Brings forth all hidden things,  
And buries that which once did shine.*

*The firm resolve falters, the sacred oath is shattered;  
And let none say, "It cannot happen here."*

*Sophocles*

Special thanks to Margaret Sullivan Records Manager & Archivist of the Boston Police Department