

TRIAL AND ERROR: THE CASE OF SUSAN MAY

Scott Lomax



Susan May

Scott Lomax is a student at the University of Sheffield, England. He is studying Archaeology and Prehistory and writes about crime in his spare time.

**Legal Notes No. 041
ISBN 1 85637 574 9
ISSN 0267-7083**

© 2003: Libertarian Alliance & Scott Lomax

The views expressed in this publication are those of the author and not necessarily those of the Libertarian Alliance, its Committee, its Advisory Council, or its subscribers.

**Director: Dr Chris R. Tame
Deputy Director: Brian Micklethwait
Director of Communications: Dr Sean Gabb
Public Affairs Director: Dr Tim Evans
Editorial & Membership Director: Nigel Meek**

***Libertarian
Alliance***

For Life, Liberty, and Property

**Suite 35
2 Lansdowne Row
Mayfair
London
W1J 6HL**

**Telephone: 0870 242 1712
Email: admin@libertarian.co.uk
Website: www.libertarian.co.uk**

TRIAL AND ERROR: THE CASE OF SUSAN MAY

Scott Lomax

On the morning of 12 March 1992, Greater Manchester Police were informed of an incident at 24 Tandle Hill Road in Oldham. The house appeared to have been the target of a burglary as the scene had been disturbed, with drawers and cupboards having been emptied. The side door of the house was found open but the sitting room curtains were still drawn. The owner of the house, an elderly woman named Hilda Marchbank, had been found murdered on her bed, which was located downstairs. She had been viciously beaten around her head and face with the lower sections of her body being uncovered. She had then been smothered using a pillow.

Susan May, the victim's niece and carer, who had discovered the body at 09:30, told the police that she believed one or two chequebooks may have been stolen, but she was not sure as to what, if anything, had been taken. In fact, following the trial, a number of items that had belonged to Hilda's deceased husband were found in a skip. The evidence provided the impression that a burglary had occurred with the burglar(s) having killed Hilda. There were no signs of forced entry. However, strong evidence, which even seemed to convince the judge at Susan's trial, that Hilda frequently left her back door unlocked, was presented to the jury. It was therefore a *'distinct possibility'*, to use Mr Justice Hutchison's words, that entering the building was as easy as opening an unlocked door.

The police attempted to look for the burglar, arresting a number of suspects, but none were considered to be the individual responsible. After eighteen days of searching the police decided to turn to the easier solution: Susan was arrested in connection with the murder of Hilda Marchbank. It is true to say that the police often have the thought in their minds when investigating crimes that "justice must be seen to be done". Such a thought, along with the need for low crime figures, can lead to innocent people being charged with crimes. Under PACE (the Police and Criminal Evidence Act), an individual can be detained for twenty-four hours before they are either released or charged with the offence in question. Following the twenty-four hours, if the police acquire evidence, extensions can be requested. Susan was detained for twenty-four hours, and then a further thirty-six hours when a magistrate granted an extension. Susan May was then subsequently charged with her aunt's murder.

At trial it was stated that Susan was a *"devoted carer of her Aunt, whom she loved; whom she found a pleasure to look after; for whom she entertained nothing but sympathy and kindness, and she never did and never would have dreamt of doing away with her to get money."* Indeed, when they heard of Susan's arrest, eighty people who knew her immediately offered character refer-

ences. Could such a devoted woman commit such an evil deed?

The prosecution discussed the motive they believed caused Susan to kill her aunt. She would, they alleged, have benefited financially from Hilda's death, with her sister and herself inheriting the house which, when sold, would allow Susan to be able to spend money on her boyfriend. If correct, then the inheritance issue provides the motive to commit the crime. It is therefore important to note that Susan had Power of Attorney over her aunt and so could quite easily have sold the house, gaining all of the proceeds of the sale, as opposed to sharing them with her sister. Susan would also have been able to sell her aunt's shares. Susan's mother, whom she also cared for, owned three properties that could each have been sold. If greed on the part of Susan May provided the reason for her aunt's death then it would have been in her interests to avoid murder, thus gaining twice the amount of money and not committing any crime. The judge was fully aware of this, and he dismissed the view that Susan wished to kill for the money. It is unfortunate that the jury were never aware of this crucial issue.

The jury were presented with forensic evidence that 'proved' Susan's guilt. The police had found numerous stains on the walls of the scene of the crime. Exhibit JH1, the first stain, was a handprint that had one of Susan's fingerprints in. The prosecution stated that this stain must have been formed when her hand, stained with the blood of her murdered aunt, came in to contact with the wall. If correct this would be highly suggestive of her guilt. In reality the presence of the fingerprint merely links Susan to the scene of the crime: her aunt's home where she spent a significant period of her time. It does not necessarily link her to the crime.

Although Mr Carus, of the defence, had told the court that the stain was not certainly blood, Mr Hussein, the prosecution's expert witness, stated that tests using the application of a chemical produced the reaction one would expect if blood was present.

However, the prosecution were wrong in their belief that the stain was of blood. Tests by Forensic Science Service Wetherby (police scientists), and Professor Brinkman (Europe's leading expert on blood analysis), have shown that it was not blood within which the fingerprint was found and therefore the prosecution's argument is now fundamentally flawed. There is now no forensic evidence linking Susan to the murder. Unfortunately the jury were not aware of the independent tests carried out on this stain since these were conducted following the conviction.

If responsible for the crime for which she was convicted Susan May must have had a large quantity of blood on her hands and numerous parts of her body. If she did not wash and get changed at her aunt's home then she would have driven to her own home still covered in blood. Thorough forensic tests were carried out on Susan's mini, the vehicle in which she had driven to her aunt's home on 11 March 1992. No traces of blood were found. Nor was any evidence found to substantiate the view that Susan could have washed and changed following the murder. If Susan had been covered in blood, then surely there would be evidence of this? It is suggestive that there is no such evidence.

Hilda Marchbank was killed, according to Dr Lawler who carried out the post mortem examination, between 21:00 and 03:00 the following morning, but most probably between 21:00 and midnight.

It is of importance to discuss Susan's known movements on the evening and night of 11 March. On this day Hilda had made multiple telephone calls to discuss her concerns regarding her front door key, which she could not find. Hilda had been unable to find the keys due to her poor sight. After Susan's mother had gone to bed, at around 20:30, she decided to pay her aunt a visit. The journey of just less than one mile, which was made in Susan's mini, would have taken approximately five minutes. Susan claimed that she left her own home at around 21:00.

According to her statement, Susan stayed with her aunt for approximately ten minutes. The door keys had been found beside the front door, where Susan liked to keep them. Hilda had a habit of keeping her keys in the front door lock. It is therefore known that Susan May was certainly at the crime scene at a time at which the crime could have occurred. However, the crime is as likely to have occurred close to midnight, as it is likely to have occurred close to 21:00.

Having left 24 Tandle Hill Road, she visited her boyfriend, Chris Ross, at his home. The visit had been prearranged so that she could take him to the Horton Arms public house. After fifteen minutes at his house, they left, stopping at the house of Stephen Horton, a friend of Ross, on the way to give him a lift. Horton told the court that there was nothing unusual about Susan's behaviour. Susan claims to have then gone straight home, saying goodnight to her daughter, Katy, when she arrived. Katy claimed that this occurred at around quarter to ten. Before she went to bed, Susan made a telephone call to a Mrs Briggs at some stage after 21:30, received a call from her boyfriend, and at around 23:45 received a telephone call from Sarah Buckley. She then retired for the night, with no evidence existing to suggest that she left the house until the following morning.

The sequence of events above leaves little room for a crime to have been committed by this woman. It can be argued that such a crime can be committed in such a short period. However, can a violent murder followed by the

disturbance of the scene, to forge an impression of a burglary, be committed in the few minutes that she was at her aunt's house? Can the murder, creation of the disturbance, and then the removal of blood from the killer's hands and clothing occur in such time? Realistically the answer is no. Yet, if Susan was responsible, she must have carried out all of these tasks in a matter of minutes.

Susan allegedly provided a damning piece of evidence to the police. Upon having had her fingerprints taken at the police station, the police claim that her daughter Katy wandered over to the car. As she did so Susan is said to have asked, "*Do you know the scratches on my aunt's face, can they get stuff from down your nails at forensic?*" It was believed that, as the scratches had not been publicised, only the murderer could possibly have know such a detail. Sergeant Rimmer, who had been asked the question, told Superintendent Kerr of the remark, and the comment was recorded in Rimmer's notebook.

It should be considered that it is possible that an officer had informed Susan of the scratches at some stage during the investigation. P.C. Ogden's notebook recorded that he had discussed the injuries Hilda had sustained, with Susan May.

It should also be noted that there is no evidence at all to prove that such a comment relating to the scratches was made. A common theme in this case is that the police lost and incorrectly filed sources of evidence. It is unfortunate that due to their lack of professionalism they lost the notebook in which the statement was recorded.

Katy May added weight to the view that no such comment had been made, when she testified to the effect that she had been with her mother all of the time and had not, as the police had claimed, walked over to her mother's car. She was certain that her mother had made no such comment.

A further point to note, with respect to the issue of the alleged remark, is that Susan had not been asked about her reference to the scratches until a magistrate had granted an extension. If she had made such a comment then it had no immediate effect, with her not being considered to be a suspect at this stage in the investigation. If it had been considered to be of importance then this piece of evidence would have been referred to at an earlier stage.

One has to wonder whether the police concocted the statement in order to create incriminating evidence, and then conveniently lost the notebook within which the statement had been allegedly recorded. The issue is certainly highly questionable. The public do not like to believe that dishonesty exists within the police force. It should therefore be mentioned that the Senior Investigating Officer in the murder investigation, Superintendent Kerr, was found guilty of malpractice, both by his own force and the Police Complaints Authority, as a result of his handling of Susan's interviews. The jury were not aware of the integrity of this officer.

It has been said that there were no suitable suspects to substantiate the original belief that the nature of the incident had been one of burglary, which had led to murder. The belief that a burglar could not have committed the crime, and therefore by the process of elimination Susan May must have committed the crime, is false. A number of pieces of information, none of which have been accounted for, can be used to support the argument that it was a burglar, or burglars, who committed the crime.

At some stage after around 01:00 a witness observed a dark red car, within which were three individuals, cruising around the vicinity of the crime scene. A second witness, Hilda Marchbank's next door neighbour, also observed a red car at between 01:00 and 01:30. He reported that no one was inside the vehicle, which was parked outside Marchbank's house, although its engine was running and he could hear voices. The vehicle was stationary for fifteen minutes before being driven away.

It must be remembered that the crime was committed between 21:00 and 03:00. If the person/people responsible for the vehicle were law-abiding citizens with nothing to fear then why have they never come forward? With the definite presence of at least one unidentified individual in the immediate vicinity of the crime scene, at a time at which the crime could have been committed, then one has to wonder whether that person had some involvement in the incident.

A further piece of information, which can be used to support the claim that a burglar committed crime, is that provided by a witness known as 'K.B.' This witness informed the police that her brother, known as 'B.B.', a known violent burglar, had spoken of the murder prior to Susan having discovered the body! He had visited his sister at 08:30 to sell her some jewellery that had belonged to an old woman. Whilst with his sister he asked, *"Have you heard about that old woman who has been battered to death in Royton?"* Again the jury heard nothing of these details because the police had incorrectly filed the statement and therefore it was unavailable for use by the defence.

Forensic evidence, in the form of fibres found on the victim's hand, suggests that her murderer was not Susan May. The clothing fibres, which were light coloured and red, were found not to match any of Susan's clothing or the victim's clothing or bedding. Their source remains unknown but they must originate from the killer's clothing. The jury did not hear this because the police had incorrectly filed this exhibit under 'hairs'.

Two weeks prior to Hilda's murder, a house located four miles away was broken into. The occupier was viciously beaten by the burglars who wished to know where her money was. The men were wearing light coloured socks on their hands. It should be pointed out that the prime suspect in the burglary had been considered to be a *'strong suspect'* by the police, in the murder of Hilda Marchbank. The *'strong suspect'*, known as 'M.R.', two days after Hilda's murder, almost killed a middle-aged man whose house he

broke into. The man had been kicked in his head repeatedly. The suspect was convicted of this crime.

Two days after Hilda's murder, 'M.R.', who owned a brown or rust coloured car and had access to a red car, allegedly attempted to confide to a woman he knew of something which was deeply troubling him. Although she did not listen to what he had to say, his demeanour is consistent with that of a man responsible for a great crime. It must be remembered that this was a violent man and so for him to be worried indicates the seriousness of what he wished to discuss. The statement, the woman provided to the police, read, *"I could see that he was not his usual self, he appeared agitated and nervous, so I went down and opened the front (door) where we remained talking. He asked to be let into the pub, but I told him no. There was some conversation about his work, and then he said something to the effect, "I've got to tell you something." I told him not to tell me anything and that I wasn't interested and he said again, "You don't understand, I've really done it this time." I again told him that I did not want to know anything. He was obviously upset and his eyes filled up he gestured with both hands and then walked away. I went back into the pub and that was the last time I saw him."*

Two unidentified footprints, and a mark from an item of footwear, were found at the scene of the crime. It had been raining on the night on which the murder was committed and so therefore the footprints are of great importance since it is likely they originated from this time. The footprints were located in the kitchen porch, where the murderer entered the house, and the mark was left on a wardrobe that had been emptied out. The police interviewed a violent criminal regarding the footwear mark. This was because he had left a similar mark elsewhere. He informed the police that since Hilda's murder he had disposed of his shoes.

In addition to the footprints and footmarks, two unidentified fingerprints were found. The first was found at the top of Hilda's staircase. The second was found on a kitchen wall beside the door that led to the room in which Hilda was murdered.

It must be pointed out that Hilda Marchbank had few visitors and therefore the presence of the unidentified prints is highly suggestive that an unknown assailant(s) was/were responsible for the crime for which Susan May is currently serving a life sentence.

I ask you, as Mr Justice Hutchison asked the members of the jury at Susan's trial, to consider when looking at the 'evidence' used to convict Susan May, *"Is there some other possible explanation, some possible innocent explanation, for this piece of evidence or does it point inexorably towards guilt?"* If it does not point inexorably towards guilt, then is it not right to believe that a grave miscarriage of justice could have occurred here?