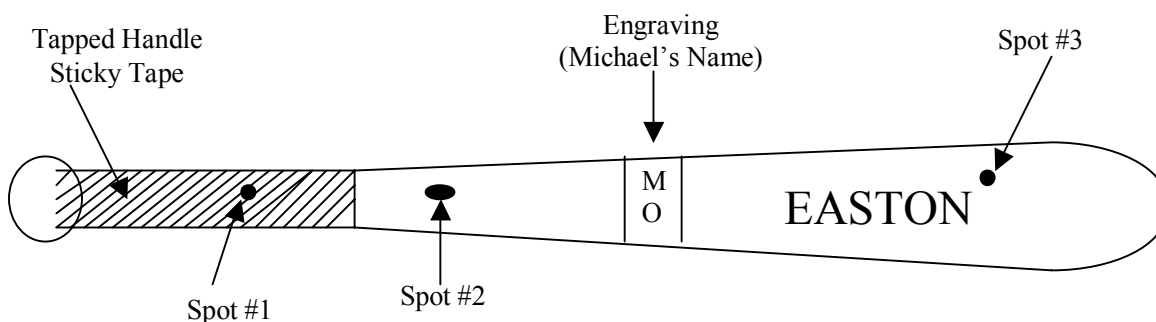


The “Alleged” Weapon



The alleged weapon used in the brutal beating of Annemarie Kotowski (victim) was, said by the police to be, a 34” aluminum baseball bat with Michael O’Laughlin’s name engraved on the barrel. Let’s go through the scenario to demonstrate how the baseball could not be the weapon as claimed by the police, and should have never been admitted into evidence at the trial.

According to the police they had the Agawam (MA) State Police Laboratory do presumptive tests on the three spots found on the bat. All three spots tested positive for presumptive testing. The chemist at Agawam double checked the bat before sending to the State Police DNA crime lab in Sudbury, MA.

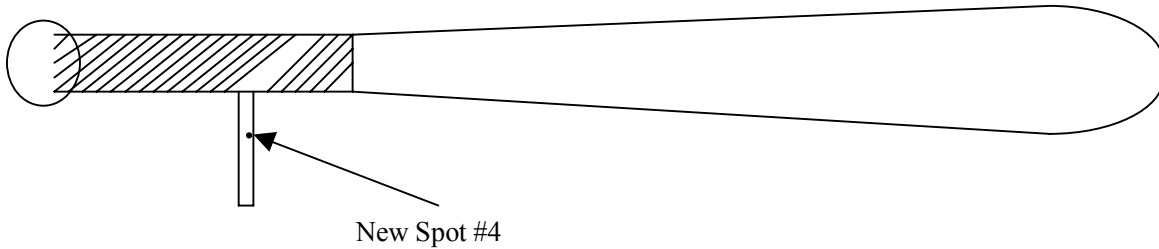
The chemist at Agawam said he only tested one spot for human blood which is Spot #2 the largest of the three spots. Before moving on to the Sudbury Lab let’s look at three questions concerning the testing done at Agawam:

1. If Spot #2 tested positive for human blood why didn’t they test it for blood type? This would have eliminated people right away (such as the victim).
2. Spot #2 was said to be $\frac{1}{2}$ ” x $\frac{3}{4}$ ”. The people at Agawam said it was too small to test further without damaging it. In fact $\frac{1}{2}$ ” x $\frac{3}{4}$ ” is a pretty big spot. So what was this spot too big or too small?
3. Why didn’t the people at Agawam take pictures of the spots? Aren’t pictures of evidence taken at all crime labs?

The bat now goes to the Sudbury Crime Lab. From November 20, 2000 until October 9, 2001 is how long they waited before the bat was tested at the Sudbury Lab. On October 9, 2001 they concluded that Spots #1 and #3 were not blood of any kind including human blood. However, the said Spot #2 is human blood. They tried to test that spot (#2) along with the victim’s husband’s blood, the victim’s fingernails, Michael’s finger nails on his left hand and everything else they said was blood. Everything was contaminated! On October 23, 2001 they tried to save the test but everything was completely destroyed.

The prosecution (Commonwealth of Massachusetts), without telling Michael’s defense team (violation of chain of custody) took the bat from Sudbury and brought it back to

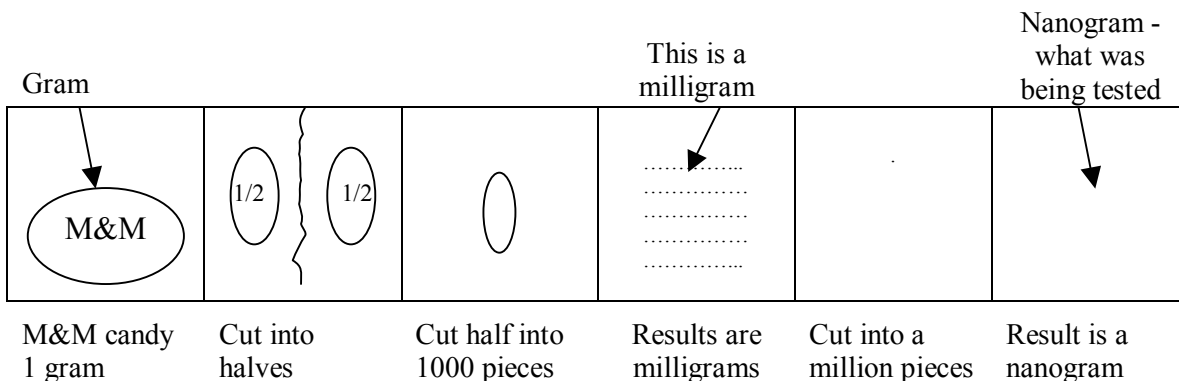
Agawam to have the bat checked again. They had it on a table in the Agawam Lab with the victim's comforter on the same table which is wrong. They took a mold of the barrel of the bat to see if the cast could show them if something on the bat did the damage to the victim's bed. They then put the bat on a lathe and sprayed it for presumptive testing again. When the chemist went over the bat with a microscope he couldn't find anything. He said he thought the chemical on the handle of the bat was reading positive so he unwrapped the tape until he could get to the spot and cut the tape off where the spot was testing positive. This happened in January 2002.



The chemist at Agawam cut the piece off and sent it back to the Sudbury Lab. They want the test the new spot right away but Michael's defense insisted that their DNA expert be present for the testing. Around January 15, 2002 Michael's DNA expert was present when a lab technician put the cutting of tape on an electronic high powered microscope. It was readily apparent that the cutting was not blood so Michael's DNA expert left the lab. The lab technician continued to test the tape and was running into much difficulty because the spot was only one (1) nanogram.

During the trial an analogy was given as to what a nanogram represented. They used an M&M candy as an example.

If you take an M&M it equals basically 1 gram. If you take the M&M and cut it in half (1/2), then take one of the halves and cut it into a thousand pieces you have a milligram. Then take one of the thousand pieces and cut it into a million pieces, one of those pieces is a nanogram.



(naked eye
can't see it)

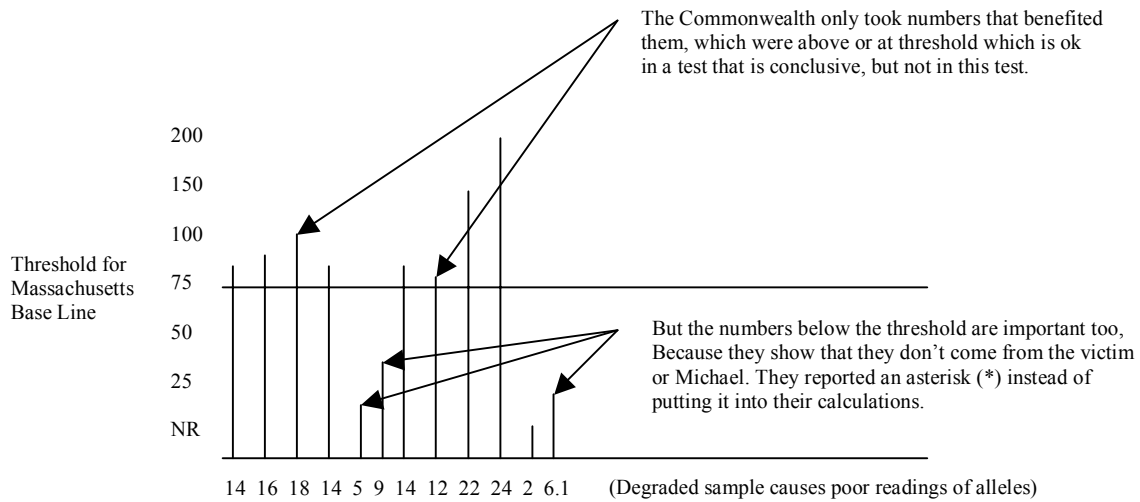
The nanogram they tested came back as more than one DNA and the mixture had to have both male and female DNA. What proved interesting is the mixture is at least two people. But it could be 3 people, 4 people, 5 people, even 6 and so on. Quite frankly there is no idea. All that is known is there has to be at least two people because there is a male and female component.

	BLUE			GREEN				YELLOW		
Test Site DNA	0351358	VWA	FGA	AMEL	0851179	021311	018351	055818	0135317	075820
Victim (AMK)	16 18	14 18	19 24	X X	11 13	30 33.2	17 18	10 11	9 13	8 10
Michael Cutting on Tape	14 16	15 17	22 25	X Y	13 14	30 30	16 18	11 12	11 12	7 8
Cutting on Tape	*16,17,18	****	**	X,Y	11,13,14	30 *	*	10,11**	NR	NR

* - means below threshold

NR – means No Result

As you can see there are some similar DNA between Michael and the victim. But it's not uncommon to have some numbers at a site. What is uncommon is if they were the same all the way across. Looking at the cutting on the tape there are quite a few *'s which means the Allele was present but it's below the threshold so they didn't write it in.



This is why the threshold is (150) and the FBI uses (200), because they want only conclusive tests. This test is far too inconclusive to convict someone for a crime.

Here is the resume of Michael's DNA expert and what he stated in an affidavit about the testing:

Professor of biology in the State University of New York, College of Environmental Science and Forestry in Syracuse. By reason of his training and research, he has expertise and has published in the fields of population genetics, statistics, and molecular genetics in general and associated with forensic typing. He is familiar with the molecular, probability, and statistical tools used in forensic DNA typing, specifically including RFLP and PCR techniques for nuclear and mitochondrial DNA typing. As part of his expertise, he has consulted on over 175 cases, with more than 98% being criminal and the rest paternity cases, in the past 11 years. He has reviewed the molecular and statistical methods used by numerous public and private forensic labs and thousands of autorads., PCR typing strips, electropherograms, and chromatographs associated with those labs validation and database studies as well as numerous casework files. He has statistically analyzed numerous RFLP and PCR databases. He has been asked to teach workshops on forensic DNA technology by a variety of groups. He has been qualified as an expert witness in population genetics, molecular genetics, statistics, and/or forensic DNA typing in more than 80 criminal courts in over 25 states, federal districts, and Canadian provinces. Both prosecutors and defense attorneys have called on him as an expert witness, with the majority being defense attorneys.

“I have been asked by the Public Counsel’s office to observe testing and review lab reports in the matter of Commonwealth vs. Michael O’Laughlin (suspect). I have done so and note that I both agree and disagree with the supplemental report dated April 22, 2002. I agree that most of the report accurately reflects the testing I observed and the conclusions I would have drawn. That report and the supporting case file also conclude that material from a baseball (softball) bat, designated Item 14, contained DNA that was a mixture of more than one individual and that the suspect and victim in this case could have been contributors to the observed mixture. They also note that about 50% of the people in the world would also be included as potential contributors based on the results of this testing. They note that there are alleles present below their threshold reporting values which are not used in their calculations, many of which would not exclude the victim or suspect. I agree with these methods and conclusions but would add that there are also alleles present below their reporting standards that could have NOT come from either the victim or the suspect This implies that some combination of alleles from the people contributing to the mixture observed in the evidence could result in a full conclusion of either the suspect or the victim. The only way one could rule this out is if the testing produced results that were sufficiently reliable that one could be certain that they had observed all the alleles and only the alleles deposited in the biological sample, and knew which alleles come from which individual.

Finally, I disagree that the threshold RFU of 75 used by the Massachusetts’s State Police Crime Lab (their protocol) is high enough to insure that the results in this instance are reliable. In contrast to their declared threshold other competent forensic laboratories require RFU’s > 150, the manufacturer’s recommended threshold, or even 200 RFU’s, before declaring inclusions (FBI Lab). I agree with the later that the problems associated with small degraded samples that give rise to the low RFU results are such that they risk producing severely compromised results that could give rise to numerous errors.” – End of affidavit.

The Commonwealth keeps saying it could be the victim's DNA and it could be the suspect's DNA. But there is strong evidence that it could NOT be the victim's DNA or the suspect's DNA.

There are four things to remember about the testing of this bat:

1. The police do NOT know whose blood was on the bat.
2. The police do NOT know whose DNA was on the bat.
3. The DNA on the bat was NOT blood. It could have been sweat, spit or anything else, but it was not blood.
4. The bottom line is the police have NO evidence the bat was the weapon used in this crime. There is much evidence that the bat was NOT the weapon.

One other very important thing to remember about this bat is that if the victim had bleed so profusely from her beating, as the police have stated, why wasn't there more than four tiny/small spots on the bat, of which only one of these spots was human blood and that spot was contaminated by the police crime lab?

If the judge in this case had allowed a Daubert/Lanigan hearing , as required by law (rule 702), and the test results were presented correctly, he would have no choice but to throw the bat out as the weapon used in this crime. And without the bat the Commonwealth had NO case against Michael O'Laughlin.