

REVIEW OF AN UNSOLVED HOMICIDE CASE SCREENING FORM

You have been selected to undertake a review of an unsolved homicide. The review should be conducted in accordance with this 'Case Screening Form'. Once completed, the Case Screening Form will be forwarded to the Co-Ordinator, Unsolved Homicide Review Team, Homicide Squad, State Crime Command. Your assessment of the available evidence and recommendation is necessary to assist in determining opportunities for re-investigation

1. Location of Brief of Evidence.

The original investigation documents must be located. The current location of these documents may depend upon the date of the murder you are reviewing and who conducted the inquiry. If the investigation is relatively recent, it may still be stored at the Local Area Command, which had carriage of the matter. Inquiries which were conducted by the former Major Crime Squads and investigations that are considerably more historical, will most likely be located at the Corporate Archives Records Repository, Bridge St, Stanmore, Ph: 95198189.

A manual inspection of the investigation records must be conducted as experience has shown that in older cases, exhibits are sometimes stored in the boxes along with the documents.

Many investigations will be voluminous and the transport of the entire investigation to an LAC office may not be viable. Facilities exist at the Archives for the documents to be inspected and an inventory conducted. Depending on the type of investigation management used during the inquiry, the investigation may be reviewed electronically. All former TIMS inquiries located by the Investigative Systems Support Unit have been converted into E@gle.i investigations. Secondary investigations into the same murder may also be recorded on E@gle.i. To obtain 'read only' access to the investigation contact should be made with the SSU on E/N 53909.

Victim 1:

Name:	Scott Stuart MILLER		
Gender	Male	D.OB	27/7/75
Relative contact (if known)	Stuart Miller (father) [REDACTED] <i>Christine</i>		

Victim 2:

Name:	N/A		
Gender		D.OB	
Relative contact (if known)			

Homicide Details:

Time & Date	2 nd March 1997		
Location:	Sydney, Millers Point		
COPS Event/P40 No.	██████████	Attached	Y/N YES
Previous Investigation Name: (Strike Force/Task Force/Operation)	1. Suspicious death of Scott Miller 2. SF Corone 3. SF Lincoln		
Command in charge:	1. The Rocks 2. Crime Agencies 3. Crime Agencies		

2. Cause of death

If the Post Mortem results are not contained within the investigation documents, contact may be made with the relevant Coroner's Court. A request in writing with NSW Police letterhead must be forwarded to the Registrar of the court, outlining the information required.

Post Mortem Results:	Y/N YES		
Exhibits Retained:	Y/N	Location:	
Further Examination:	Y/N NO		
Comment: Cause of death – Multiple Injuries. Pathologist - Dr Duflou. The comments made by Dr Duflou were instrumental in the Coroner making a finding that the death was a homicide. Dr Duflou was of the opinion that all of the injuries were not consistent with a 'fall'. He suggested an assault followed by a fall.			

3. Investigation Records

Investigation Records relate not only to the statements taken from witnesses etc; but to all documents generated during the investigation. For investigations conducted prior to 1990 the investigation will be recorded by way of running sheets typed on occurrence pad forms. From about 1990 onwards, the TIMS system of investigation management was used. In 1999 the conversion to E@gle.i began.

Investigation Records Located:	Y/N: Partial
Comment: Only copies of statements located, crime scene photographs located. Original statements and TIMS disks not located at this stage.	

The majority of homicide investigations, which are over three years old, will have been presented as a brief of evidence for a Coroner's Inquest. This brief may be compiled separately from the investigation and the selection of statements may not be inclusive of all obtained during the investigation.

Inquest Brief	Y/N: YES
Comment: Copies only	

During the 1960's, 1970's and early 1980's, 'Investigation Resumes' were formerly completed by the Officer in charge of a homicide investigation which was not solved. It was a summary of the investigation, highlighting suspects, significant inquiries and evidence and was forwarded to the Superintendent of the Criminal Investigation Branch.

Investigation Resume:	Y/N: NO
Comment:	

Progress Reports have been used by the former Crime Agencies since 1997 and the State Crime Command since 2002. They are a monthly report submitted by the officer in charge of an investigation, detailing the progress of the inquiry and significant events. Copies are maintained by Operations Co-ordination, State Crime Command.

Progress Reports:	Y/N: NO
Comment:	

Post Operational Assessments are the current replacement for an Investigation Resume. They are submitted by the Officer in Charge of the investigation to Operations Co-ordination, State Crime Command, at the completion of an investigation.

Post Operational Assessment:	Y/N: YES
Comment: Termination Report for SF Lincoln obtained. Little mention of Miller other than NP130 mentioned as possible suspect but no evidence to charge.	

4. Coroner's Inquest

Details of Coroner's Inquests, including Coroner's Findings, may be obtained from the Registrar of the relevant Coroner's Court by submitting a request in writing with NSW Police letterhead.

Coroner's Inquest Held:	Y/N: YES	Date: 7/10/1997
Court: Glebe	Coroner: Mr John Abernethy	
Findings: That Scott Miller died on the 2 nd of March 1997 at Sydney of multiple injuries inflicted by a person or persons unknown. As to the identity of the person or persons who inflicted the injuries and the precise manner in which such injuries were inflicted the evidence adduced does not enable me to say.		

5. Original Case Officer

Attempts should be made to locate and interview the original Case Officer even if they are no longer employed by the NSW Police Department. In the event that they are not located, another senior investigator from the inquiry should be approached. A list of investigators significantly involved in the investigation should be compiled.

OIC Name:	Mick LANE	Interviewed:	Y/N: Yes
Serving Member:	Y/N: YES	Location: Westmead. Detectives Training Course	
Comment: 2 nd Investigation – Det Sgt Ken Desmond (now retired) 3 rd Investigation - Det Insp WayneHayes, Det Sgt Mal Lanyon			

Other Investigators:

Name:	Current Location:

6. Weapons

The Ballistics Unit, Sydney Police Centre has a large store of firearms, ballistic material and exhibits with ballistic damage held in their office from historical murders. For other weapons see point 7.

Type:	N/A	
Recovered:	Y/N:	Location:
Further Examination	Y/N:	
Action:		
Comment:		

7. Exhibits

The original Exhibit Book is obviously the best place to begin to track the movement and location of exhibits. Many homicide exhibits however were never entered into Station exhibit books as they were recovered from crime scenes by Crime Scene Officers and entered into Registers at the particular office at which the Officer was attached. From there, many were forwarded to DAL and other experts. Inquiries have revealed that there is still a large store of exhibits held at the CSU Satellite Offices. DAL are in possession of thousands of samples taken from exhibits for the period 1986 –1997. These samples were not analysed and a DNA sample placed on the data-base. From 1997, all DNA profiles obtained from samples were placed on the data-base.

Attempts should be made to locate all exhibits and determine what examinations have already taken place. Annexure 'A' should be completed.

Annexure A completed:	Y/N: YES	Annexure A attached:	Y/N: YES
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8. Fingerprints

There was no electronic fingerprint data-base in existence prior to 1987. All fingerprints were categorised and searched manually. When the data-base was created, there was no back-capture of fingerprints. Fingerprints retrieved from homicide crime scenes were collected and filed in unsolved homicide files at the Fingerprint Latent Unit – Major Crime. These files are still retained at this section. Contact can be made with Det Sgt Woods on E/N 79435 for information relating to cases prior to 1987. For cases occurring after 1987 results can be viewed through FCSR.

Fingerprints Available:	Y/N: NO
Fingerprint Case Number:	
Person Identified:	
Comment:	

9. Witnesses

UNDER NO CIRCUMSTANCES ARE WITNESSES TO BE CONTACTED AS PART OF THE REVIEW PROCESS

Witnesses are not to be contacted during this process, as the relationship between witnesses and suspects is not always known. The relationship between them may have changed over time and there is the possibility that the suspect may be alerted to a renewed investigation.

Also, it will not be desirable to raise the hopes of relatives, secondary victim's etc; that their matter will be re-investigated when it may be the case that nothing further can be done.

Witness lists must be extensive however inquiries will only need to relate to witnesses who provide significant evidence. Inquiries regarding witnesses should be confined to COPS, Intelligence Reports, RTA, Electoral Roll, Registry of Births Deaths & Marriages etc.

Witness:	Location:	How Located:	Relevance
Shawn Kelly		RTA	Friend of deceased, with him on night of death
Nathan White		RTA	Friend of deceased, with him on night of death
Stephen Swart		COPS	Manager of Observer Hotel. Refused service to

			deceased due to level of intoxication.
Jade Carter		RTA	Resident of Millers Point. Last person to see deceased alive.

10. Suspect/s**UNDER NO CIRCUMSTANCES ARE SUSPECTS TO BE CONTACTED AS PART OF THE REVIEW PROCESS**

Inquiries regarding the location and status of suspects should be confined to those listed above. Of particular importance to the Review is the fact whether suspects have been charged with other offences since the original investigation (particularly sexually related offences). If suspects are identified, a current profile is to be completed listing address, phone number, intelligence reports, marital status, associates, employment and any other relevant information. Checks should be confined to COPS, Intelligence Reports, RTA, Electoral Roll, Registry of Births Deaths & Marriages etc.

Suspect Identified:	Y/N: YES	Profile attached:	Y/N:
Name: NP130	DOB:	CNI:	Status: In custody for unrelated murder.
Comment: NP130 's girlfriend mentioned an incident of assault in the area but could not identify Miller as the victim. This was the only 'evidence' obtained – see Synopsis for further detail.			

Suspect Identified:	Y/N:	Profile attached:	Y/N:
Name:	DOB:	CNI:	Status:
Comment:			

11. Synopsis:

A synopsis of your review should be completed detailing the circumstances of the murder, lines of inquiry and any known suspects.

Synopsis:

The deceased, Scott Stuart MILLER, was a 21 year old male who grew up in Orange and had recently moved to Sydney to begin a Science degree at University. On the evening of Saturday the 1st of March 1997, he began drinking with a number of friends in the Eastern Suburbs. The group then moved on to watch the Gay Mardi Gras in Darlinghurst, then to The Rocks where they drank at the Observer Hotel. The group became separated and the deceased and another friend were refused service due to their level of intoxication. The deceased then separated from this friend about 1.30am and his whereabouts are unknown until 2.30am when a witness saw him wandering towards Millers Point. At this time she states he appeared drunk and lost. This was the last sighting of the deceased. His body was located at the Patrick Container Terminal on the following Monday by workmen. The body was located under a 10 metre cliff and the cause of death was multiple injuries. He had a blood alcohol reading of .22.

1st Investigation: The death was investigated by Det Mick Lane of The Rocks Police and treated as suspicious due to concerns from the Crime Scene Officer and the Pathologist. The CSU was concerned that there were blood spots on the deceased's back/shoulder and there was no evidence of disturbance at the top of the cliff. Also the fact that the deceased's wallet contained no money or credit cards. The pathologist was concerned that the injuries were not atypical of a fall but still stated they could have been caused as a result of a fall. He stated that the head injuries may have been caused by a blunt object such as a length of timber and the stomach injuries by kicking. Suicide was ruled out as a theory. No evidence of an assault was discovered and it was the investigator's opinion that the death was accidental. They believed the deceased was trying to find his way to the Sydney Casino, which is visible from the top of the cliff. The deceased had gone to the Casino the previous Thursday after a night out in town. A subsequent Coroner's Inquest ruled the death to be a homicide caused by unknown person/s. Subsequent investigations included a story on 'Australia's Most Wanted' but failed to uncover any evidence.

2nd Investigation: After the Coroner's Inquest, the deceased's mother wrote to the Coroner with concerns about the original investigation. The letter was forwarded to Crime Agencies via the Coroner and SF Corone was established to investigate certain avenues of the original investigation. The investigation was conducted by Det Sgt Ken Desmond. Sgt Desmond interviewed further witnesses that were not spoken to during the initial inquiry. He also arranged for DNA testing of the back of the deceased shirt. This blood proved to be that of the deceased. Det Sgt Desmond was of the opinion that the death was accidental.

3rd Investigation: SF Lincoln was established to investigate the murder of [1304] in 1997. In 1999 [NP130] was charged with this murder. His former girlfriend, [1305], was interviewed and she related a story whereby she and [NP130] had been drinking in The Rocks in March 1997. She went outside the Pub to a park to throw up and a male fitting the description of Miller approached her and started talking to her. [NP130] came out of the Pub, abused her and started pushing the male. [1305] went around the corner and [NP130] returned shortly afterwards. He stated he had stabbed the male and thrown him over a cliff. Further interviews established that the park near the Pub is the same park that has access to the cliff Miller was found beneath. [1305] was shown a video line-up, which included Miller but stated she could not identify anyone as the person [NP130] had the confrontation with. She also made no mention of the fact the night was Mardi Gras night. The only evidence indicating [NP130] is a suspect is the incident relayed by [1305]. It should be noted that after the discovery of Miller's body, a thorough search of the park was conducted. [1305] states that on two occasions she threw up in the park on the night she was there. The discovery of vomit would have been noted by CSU Officers during their search. [NP130] is 158cm tall.

12. Recommendation:

You must submit a recommendation on the potential for any further investigation, including the scope of any subsequent investigation eg; opportunity for DNA link, potential for Undercover Operative to be employed, witnesses to be reinterviewed due to change of circumstances. If you recommend that further investigation should take place, list the most appropriate contact person should be listed.

Recommendation:

FORENSIC REVIEW.

A re-examination of the crime scene and the victim's injuries should be conducted to establish if the death was accidental. The Coroner may then issue a finding of 'death by misadventure'.

Points of Issue:

The victim's injuries which bled could only have occurred where he was found. No blood was located at the top of the cliff or the surrounding area. The blood was 'pooled' and no splatter marks were located which would indicate the use of a weapon to inflict them.

The re-investigation determined that no pedestrian or vehicular access could have been gained to the Terminal itself, meaning the deceased could not have been assaulted somewhere else and been carried in. He therefore must have come over the cliff to his final resting spot.

The crime scene photographs show green ivy and a tree branch next to the deceased. Ivy and similar trees to the branch are located on the cliff but are not seen anywhere else along the base of the cliff.

The CSU Officer was concerned about the position of the body, in that it was prone and not 'bunched' or 'contorted'. The position of the body is not unusual. Both the initial and secondary examinations by CSU of the park at the top of the cliff failed to locate any damage to the fence or fauna. The fence is 2.3mts tall and considering it has a barbed wire top, it would make it extremely unlikely that the deceased, who weighed 87kg, was lifted over the fence by other persons. The CSU officer states that a tree next to the fence on the top of the cliff supported his own weight (100kgs). This tree is next to a portion of the fence where the barbed wire has come away from the top of the fence. On the Terminal side of the fence is a ledge, which is 1mt wide and covered in Ivy. This ledge is 1.8mts below the ground level of the park side of the fence. This would mean that the distance from the top of the fence to the ledge is almost 4mts. In the poor light and in a state of intoxication the deceased may not have realised that the ledge was lower than the ground level of the park. The injuries to the deceased's stomach/organs may have been caused from landing on the ledge, or the edge of it, on his stomach. Of considerable note are the injuries to the deceased's neck. They appear to be scratches/grazes flowing in a vertical direction and would support the theory that the deceased slid over the ledge on his stomach before falling to the ground. The injuries to the neck could not have been caused from the impact with the ground.

Whilst two examinations were made of the crime-scene, in particular the fence, it appears that no examination was made of the victim's clothing. An examination of the victim's shoes and other clothing may provide evidence of barbed wire punctures.

REVIEWER'S CERTIFICATION

I certify that the review has been conducted thoroughly and I have accessed all available documents and exhibits. I understand that I will not be involved in any investigation arising out of my recommendations.

Signature: Name: *Adam Barwick*Rank: *Detective Sergeant*

LAC:

Date: *21.4.4***CO-ORDINATOR'S CERTIFICATION**

I certify that sufficient time and opportunity has been provided to the case reviewer to conduct the attached review. I am satisfied that the reviewer has accessed available documentation and agree with their recommendations.

Signature:

Name:

Rank:

Position:

Date: