

## Chapter 1

# Introduction

## Overview

Crime scene photography is one of the most important aspects of documenting crime scenes and evidence. Photographs are often used as courtroom exhibits to support witnesses' testimony and to prove or disprove issues or theories before the court. Photographs are of value as court exhibits, therefore the crime scene photographer's goal should be to take photographs that meet the requirements for admissibility in court.

## The Value Of Crime Scene Photography

It was a fairly quiet evening in the dispatch center until all at once the 9-1-1 calls started coming in. The callers reported hearing men shouting, then screams and someone calling out for help.

The police responded to find a bleeding man with several wounds caused by some type of cutting instrument. The victim said he was attacked by two men with a large knife or hatchet. He did not know who the attackers were; he did not get a look at their faces, it was dark and the attackers wore hooded sweatshirts.

A few minutes later and a few blocks away a police officer stopped two men wearing hooded sweatshirts. One had a cut on his hand. After the men gave conflicting statements regarding why they were in the neighborhood, and they could not explain the cut on the hand, they were taken into custody and transported to the police station.

A crime scene investigator was called to assist in the case. The investigator went to the crime scene to photograph the area, including bloodstain on the sidewalk. Next, a machete, found in the bushes a few yards away was photographed and collected as evidence. The investigator then proceeded to the emergency room to photograph the victim's injuries and collect his bloodstained clothing.

The next stop for the investigator was the police station. The investigator photographed the men in custody, one at a time. Photographs were taken to show their faces and the clothing they were wearing. The investigator observed bloodstain on their clothing and on their shoes. Several photographs were taken of the

bloodstain before the suspects' shoes and clothing were collected as evidence. The crime scene investigator also photographed the cut on the one suspect's hand.

The next day, in the laboratory, the crime scene investigator photographed each item of clothing that had been collected the night before. Close-up photographs were taken to show the presence and patterns of bloodstain. The machete was photographed to show its size and the location of bloodstain on its blade and handle.

Months later, after the victim's injuries had healed, the case went to trial. Even though the victim could not identify his attackers in court, the jury found both defendants guilty of aggravated assault. When interviewed by the news media, a juror said the jury was convinced the defendants were the attackers once the photographs of bloodstain on the defendants' clothing were displayed in the courtroom, and that the jury felt the victim's injuries had been severe after viewing the injury photographs.

As we can see from this example, photography is a valuable tool for recording crime scenes and explaining evidence to others. From documenting assault scenes to recording the detail of bloodstain and injuries, photographs can communicate more about crime scenes and the appearance of evidence than the written report.

## A Brief History of Crime Scene Photography

Photography has been an effective tool in the investigation of crime scenes for more than a century. While the French police began making daguerreotypes (an early form of photograph) for identifying known criminals in 1841, the first crime scene cameras were used as early as 1865. The first crime scene cameras were large, tripod mounted 8" x 10" glass plate negative cameras.

The first handheld camera, the Speed Graphic, was introduced in 1912 and became the camera of choice for crime scene photography. Photographs were taken with ambient light or by using flash powders (explosive powders that produced a great deal of smoke) until photoflash bulbs were developed in 1930.



Crime Scene Photography in 1867

Specialized evidence photography began in 1902 when photographs of bullets removed from a murder victim were matched with a photograph of a test bullet from a suspect's gun. In 1905 a camera was developed for close-up photographs of fingerprints; and in 1910 the first fingerprint photograph was used in court. Ultraviolet photography was used in 1934

to photograph bloody shoe prints at a crime scene. The photograph was accepted in court to link the suspect's shoes with the crime scene.

Black and white was the only film used for crime scenes and evidence photography until color photography was accepted in court in 1943.

Electronic flash became available in 1965 while Speed Graphic cameras were being replaced with medium format and 35 mm cameras. In the early 1970s police departments began using video cameras to document crime scenes.



Crime scene photographer with camera equipment typically used in the 1960s.

In the 1990s police departments began the move to digital photography for many crime scene and evidence applications. By the early 2000s practically all departments had moved to digital photography. Digital photography has many advantages over film-based photography. With a digital camera the photographer can review photographs as they are taken to ensure that exposure, lighting, sharpness and composition are optimal. With a digital camera there is no need to change rolls of film and many more images can be captured on a single memory card than on several rolls of film. Also, digital images can be enhanced more effectively than with traditional negative and print methods.

As cameras and lighting systems improved over the last century, crime scene photographers progressed from taking one or two photographs at major crime scenes in the late 1800's to taking numerous high quality photographs, even at minor crime scenes, today.

## Admissibility of Photographs In Court

One of most important reasons crime scene investigators photograph crime scenes and evidence is to later use the photographs in court. These courtroom exhibits are often used to support witness testimony and to prove or disprove issues or theories before the court. Therefore, a goal for each photograph taken is that the photograph will be admissible in court.

Over the years United States courts have ruled that there are three major points of qualification for a photograph to be admitted into court. All three points of qualification must be met or the photograph will be ruled inadmissible.

First, ***the object pictured must be material or relevant to the point in issue.*** This means the photograph must relate to testimony or a court presentation

at the time it is offered as a court exhibit. Unless the content of the photograph is relevant to the point in issue, it cannot be admitted into evidence.

Second, ***the content of the photograph must not appeal to the emotions or tend to prejudice the court or jury***. This means a photograph that is so terribly shocking that its use in the trial would cause the court or jury to make an unwarranted judgment cannot be admitted into evidence.

Third, ***the photograph must be free from distortion and not misrepresent the scene or the object it purports to reproduce***. This means photographs admitted into evidence must be true and accurate representations of the crime scene or evidence. Distorted or misleading photographs cannot be admitted into evidence.

As you consider these three major points of qualification needed for photographs to be admitted in court, you will notice that the first two points of qualification are not the crime scene photographer's responsibility. The trial attorneys will decide whether or not to use a photograph and when they will attempt to introduce it as evidence. Then it is up to the judge to rule if the photograph is material or relevant to the point in issue. If an attorney argues that a photograph will prejudice the jury, it is up to the judge to rule if the photograph will be admitted.

The third point of qualification, ***the photograph must be free from distortion and not misrepresent the scene or the object it purports to reproduce***, is an issue that relates directly to the crime scene photographer. All the photographs taken by the crime scene photographer must be true and accurate representations of the crime scene or evidence, since all photographs have the potential of being used in court.

The type or style of photography used in photographing crime scenes and evidence is called technical photography. Crime scene photographers must take high quality technical photographs to insure the photographs can be used in the investigation and ultimately in court. In the next chapter technical photography will be discussed in more detail.

Some people who read the second point of qualification of a photograph in court (the content of the photograph must not appeal to the emotions or tend to prejudice the court or jury) may wonder if crime scene photographers should avoid taking photographs that could be ruled inadmissible. The answer is, of course, no. The crime scene photographer must photograph every scene thoroughly, showing every detail necessary to document the crime scene and evidence, including the gruesome aspects of abuse and murder.

There have been times in history when gruesome photographs were ruled inadmissible. In fact, as recently as the early 1970's, crime scene photographers used black-and-white film to photograph bloody crime scenes because color photographs were too shocking to be admitted in court. However, in recent years few photographs have been ruled inadmissible due to their shocking content. In the late 1980's, the author was the lead crime scene investigator in a spree homicide case. The suspect attacked four victims in a period of five days, beating three of them to death with a hammer. When the case went to trial, the District Attorney presented as evidence several photographs of the victims and bloody crime scenes. The defense attorneys objected to the use of the photographs on the grounds that the photographs were too shocking for the jury to arrive at a fair verdict. The judge overruled the objection stating "I believe the jury needs to understand the brutality of these crimes."

### **Admissibility of digital photographs**

When digital imaging is considered for law enforcement, concern over the admissibility of digital photographic evidence in court is often raised. The fact that digital photographs are more easily altered than film-based photographs is usually cited. Some even believe digital photographs are not admissible in court.

This is simply not true. Digital photographs are admissible in court. The Federal Rules of Evidence allow the use of digital images as do the rules of evidence in most states. Also, several court decisions, including the *State of Washington vs. Eric Hayden* (1995), have accepted the use of digital photographs in court. In Hayden's homicide trial the defense specifically objected to the use of digital photographs on the grounds that some of the digital images were manipulated. The court authorized the use of digital imaging and the defendant was found guilty. In 1998 the Appellate Court upheld Hayden's conviction on appeal. Another case of note is the *State of California vs. Phillip Lee Jackson* (1995), in which a police department used digital image processing on a fingerprint in a double homicide case. When the defense asked for a hearing to challenge the use of digital processing, the court ruled a hearing was unnecessary because digital processing was a readily accepted practice in forensics and that new information was not added to the image.

Some people also have a concern that digital images can be altered. Fortunately, modern digital cameras provide the ability to identify if an image has been altered. Digital cameras record information about the picture elements along with date and time the photograph was taken, and camera identification and settings (shutter speed, aperture, ISO, flash settings, etc.). This information, also known as metadata, is stored as part of the image in a collection of data fields called the file header. This metadata will show that an image is original and authentic.

## Testifying in Court

All it takes for a photograph to be admitted into court (after it passes the three points of qualification previously discussed) is for someone, under oath, to say the photograph is a fair and accurate representation of whatever the photograph shows. In fact, you do not have to testify or even be present in court for your photographs to be admitted as evidence.

If you do testify in court concerning your crime scene or evidence photography, you will be testifying either as an expert witness or a non-expert witness. An expert witness is a person who has a level of knowledge, training and experience which creates an understanding of facts that are outside the abilities of the average individual. An expert witness may state opinions about the meaning of facts, even though the expert may not have observed the events. For example, a crime scene investigator who has been qualified as an expert witness in arson investigations may state opinions about the cause of a fire. Non-expert witnesses are limited to testifying about facts they observed and may not give their opinions on the meaning of those facts.

## Becoming an expert witness

To be an expert witness, you must be qualified by the court. During the trial the District Attorney will make a motion to qualify you as an expert and ask you questions regarding the extent of your knowledge, training and experience. During the qualification process you should state something like “my knowledge of photography is limited to what I must know to perform my duties as a crime scene technician.” This is because photography is a vast field and it is unlikely the average crime scene photographer will have knowledge and training to be qualified as an expert in photography. To be qualified as an expert in photography, you might be required to discuss your training in physics and chemistry, as well as answer questions on the design of lenses, composition of film emulsion, and chemistry of development. Instead of attempting to be qualified as an expert in photography, you should be qualified as an expert in crime scene identification or in crime scene photography.

## Summary

Today’s crime scene photographers have the some of the best tools and technology available for documenting crime scenes and evidence. Quality photographs taken by investigators can be used in investigations to apprehend suspects and to convict them in court.