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## Staged Hunting Mishaps and Criminal Homicide

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In May 1988 a lesbian couple, camping along the Appalachian Trail were shot by a cave-dwelling mountain man who came across them engaged in intimate activity. One victim died at the scene and the other suffered serious injuries. When approached by the authorities the offender initially claimed the shooting had been a simple hunting accident. Had the offender not fired eight shots and left one victim alive, investigators might have believed his story.

Guns are dangerous weapons, hunting is a dangerous activity, and accidents happen. Every year hundreds of men, women and children across the country are killed or injured by shootings related to recreational hunting.<sup>1</sup> Many of these shootings result from negligence.<sup>2</sup> Others, however, are more equivocal. A conventional wisdom exists among hunters that true accidents rarely occur in the field and that many long-standing vendettas or sudden arguments are settled with firearms and staged to resemble a common hunting mishap. A survey of recent cases indicates that proponents of this view are at least partially justified in their assumption: some criminal homicides are committed under the guise of a hunting accident in order to mislead investigators.<sup>3</sup> Furthermore, when planning a homicide some offenders reportedly considered or discussed staging the crime as a hunting mishap, specifically because it would be so difficult to detect.<sup>4</sup> These cases demonstrate that the staged hunting accident is a very real phenomenon and one that may often go unnoticed. To prevent offenders from escaping prosecution, investigators should carefully consider the possibility of staging when examining allegedly accidental hunting-related shootings.

### What is Staging?

Staging is the practice of altering a crime scene to mislead investigators or conceal the true nature of the crime.<sup>5</sup> It remains one of the least studied aspects of crime scene analysis. Beyond case studies, very little research has been published on the subject.<sup>6</sup> As a result it is difficult to determine the frequency of staged crime scenes, but most sources indicate that staging occurs with some consistency.<sup>7</sup> Although in all cases of staging the offender strives to frustrate or misdirect the investigative process, Hazelwood and Napier argue that staging also serves as a form of game playing.<sup>8</sup> In this sense hunting lends itself to staging, since both activities involve elements of competition, stealth, and gamesmanship.

Most cases of staging involve an offender deliberately altering the crime scene to misdirect the investigation. For example, the offender may alter the scene to make the homicide appear to be a suicide,<sup>9</sup> an autoerotic death,<sup>10</sup> or the result of a sexual assault,<sup>11</sup> robbery or burglary gone bad.<sup>12</sup> The offender's goal is therefore to persuade investigators to look for a phantom offender or convince them that the victim died by his or her own hand. In a staged hunting accident, in contrast, the offender often admits the homicidal act, but attempts to negate the criminal intent by presenting the shooting as a socially acceptable mishap.

## **Hunting Mishaps**

Several hunting mishap scenarios exist. In the classic hunting mishap, the shooter either mistakes the victim for a game animal or fires on the victim while rapidly turning their weapon in the direction of a target, a phenomenon known as “swinging on game.”<sup>13</sup> In other situations a member of a hunting party improperly handles or maintains a firearm, resulting in an accidental discharge.<sup>14</sup> Finally, in at least one case the shooter jokingly pointed a rifle at a friend and, allegedly thinking the firearm was unloaded, pulled the trigger, causing the friend’s death.<sup>15</sup> Although all result from a certain degree of negligence, if not recklessness on the part of the shooter, the public tends to view the shootings as entirely accidental.<sup>16</sup> Such mishaps are sufficiently common in hunting communities that they tend to be accepted as a matter of course and in many jurisdictions successful prosecutions are rare.<sup>17</sup> This pervasive social acceptance makes hunting mishaps attractive to offenders planning a homicide.

## **Types of Staged Hunting Mishap**

A review of known hunting-related criminal homicides reveals three types of incident. The most common and most difficult to detect are deliberate, premeditated homicides in which the offenders planned in advance to stage the event as a hunting accident. These are similar to conventional staging cases in that the offender and the victim were usually relatives, friends, or business partners. In many of these incidents the actual shooter was coerced or manipulated by a third party, often a female relative or intimate partner. A smaller percentage of staged hunting mishaps involve an unpremeditated but intentional shooting, which the offender presents to the authorities as an accident. The shooter in these cases tends to shoot the victim for intruding on private property or hunting territory over which the shooter feels a sense of ownership. The last, and easiest to detect, are spontaneous shooting sprees that occur in the field, but which the shooter did not initially intend to stage as an accident. In these cases, the staging occurs after the shooting and is often little more than a defense against the criminal charges.

## **The Detection of Staging**

Investigators who encounter a staged crime scene often report that they immediately sensed something amiss.<sup>18</sup> This stems from the fact that the offender’s behavior at the scene was deliberate and calculated to look like something other than what it was, rather than simply being part of the offender’s MO and signature.<sup>19</sup> This often creates inconsistencies. For example, in a staged burglary the offender might empty out drawers without rifling through the contents. Similarly, an offender might position furniture and other objects in a way that creates the impression of a struggle, but which closer examination reveals to be inconsistent with an actual physical confrontation. Whenever an investigator senses something amiss or inconsistent, the crime scene should be considered equivocal and possibly staged.<sup>20</sup>

## **Indicators of a Staged Hunting Mishap**

Researchers have developed a variety of questions designed to detect criminal homicides staged suicides, burglaries, or sexual assaults.<sup>21</sup> Unfortunately, none of these lines of inquiry address the particular facts present in most staged hunting mishaps. Therefore investigators need to ask a different set of questions when determining whether a hunting mishap was, in fact, a criminal homicide.

1. Were the injuries consistent with a hunting mishap? True hunting accidents rarely involve more than one shot or more than one victim and almost always involve a hunting rifle or shotgun. Any time there are more than one victim, the victim was shot more than once, the location of the wound is inconsistent with an accidental shooting, or the victim was shot with a type of weapon not associated with hunting, investigators should regard with skepticism a claim of accident.
2. Were the circumstances surrounding the shooting consistent with a hunting mishap? In a staged hunting mishap the offender will often claim he mistook the victim for a game animal.

In situations where the victim's choice of clothing, the weather, and the terrain were not conducive to such an error, the likelihood of an accidental shooting is diminished. The origin of the shot can also help determine whether the death was accidental or intentional, since it may demonstrate inconsistencies in the shooter's story.

3. Was the shooter's reported behavior before and after the shooting consistent with an actual mishap? As in most staging cases, the offender in a staged hunting accident will often attempt to misdirect the investigation through their behavior during interactions with the authorities.<sup>22</sup> Excessive remorse or cooperation can be used to hide an offender's actual role in the killing and support the claim of accident.<sup>23</sup> In some staged hunting mishaps, in contrast, the offender appears cocky and boastful. This may stem in part from an instinct to brag about accomplishments in the field. It may also result from a belief that the hunting accident scenario precludes any possibility of a murder conviction.
4. Was the forensic evidence consistent with the shooter's story? In even the most meticulously planned staged homicide, elements of the forensic evidence may be inconsistent with the shooter's version of the events. In one case a specific type of mud found on the offender's clothes proved that she stole the murder weapon from the camp site of another hunting party.<sup>24</sup> These inconsistencies may be essential in establishing the intentional nature of the shooting.
5. Were there motives for a homicide? As with any homicide, understanding the offender's motive is critical to investigating a staged hunting mishap. Offenders who stage the killing of a spouse as a hunting accident may do so to collect an inheritance or life insurance policy or because of an extramarital relationship. In some cases the shooter may be a third-party to the dispute, who was manipulated into helping commit the homicide. In such situations, establishing a relationship between the shooter and a spouse, relative, friend or associate may be a critical component of the investigation. It should also be noted that in some instances the motive was as simple as the victim intruding on the shooter's personal hunting grounds or disrupting the shooter's hunting routine. In these situations investigators should look for a history of mental illness or chemical dependency which could lead to an impulsive shooting.

### Successful Prosecutorial Strategies

When presented with a hunting-related shooting death, a prosecuting attorney faces a number of challenges. While shootings involving multiple victims or shots may be relatively straightforward, the successful prosecution of a well-staged homicide may hinge on subtle inconsistencies in the defendant's version of events. Prosecutors should build their cases carefully, paying particular attention to forensics. Hunting accidents remain part of our national vocabulary and prosecutors should avoid relying on circumstantial evidence or inferences of intent. Because jurors may be acculturated to accept the inevitability of accidental shootings during hunting season they may be reluctant to deliver a verdict of guilty on charges of intentional criminal homicide. Establishing the shooter's motive may therefore be essential if the prosecution seeks a conviction on charges of intentional criminal homicide.

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<sup>1</sup> In 2007 the Hunter Incident Clearinghouse listed 239 hunting-related shootings nationwide, of which 19 resulted in a fatality. See Hunting Incident Clearinghouse, <http://6fbd21e64bc817fd097aa54148bd3dab37bc10ee.gripelements.com/documents/Incidents/HIC2007summary.pdf> (last visited Jun. 19, 2009).

<sup>2</sup> See Sam Tauschek, *The Most Dangerous Game*, SPORTS AFIELD, Feb. 1, 2001, at 68.

<sup>3</sup> See *Cable v. State*, 2005 WL 994748 (Tex. Crim. App., Apr. 28, 2005); *State v. Schleicher*, 672 N.W.2d 550, 552 (Minn. 2003); *Commonwealth v. Scher*, 803 A.2d 1204, 1209 (Penn. 2002); *People v. Moilanen*, 1996 WL 33362153 (Mich. App., Aug. 2, 1996); *Nichols v. State*, 624 So.2d 1328, 1333 (Ala. Crim. App. 1993). See also Torsten Ove, *Authorities Charge 3 With Homicide in Warran County "Hunting Accident," Police: Women Wanted Estranged Husband Killed*, PITTSBURGH POST-GAZETTE, Dec. 9, 2008, at B1; *Hunting Accident Now Murder Investigation*, WSAZ.COM, Nov. 7, 2008, <http://www.wsaz.com/news/headlines/34080724.html> (last

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visited Jun. 15, 2009); Maryclaire Dale, *Lincoln Woman Gets Life Term for Persuading Nephew to Kill Her Husband*, CHARLESTON GAZETTE (WV), Oct. 28, 1997, at 1C.

<sup>4</sup> See *Commonwealth v. Levanduski*, 907 A.2d 3, 10 (Penn. 2006) (noting that the defendant and her accomplice “discussed staging a drug overdose, a hunting accident, or a suicide.”). See also *Incest Pair Sentenced in Failed Murder Plot*, CLEV. PLAIN DEALER, Nov. 20, 1995, at 14A (describing a plot by a grandfather and granddaughter involved in an incestuous relationship to stage the murder of the granddaughter’s husband as a hunting accident); Reynold Joseph, *NH Woman Accused in Contract Murder Plot*, WBZ.COM, Dec. 6, 2007, <http://www.wbz.com/pages/1294070.php>? (last visited Jun. 17, 2009).

<sup>5</sup> BRENT TURVEY, *CRIMINAL PROFILING: AN INTRODUCTION TO BEHAVIORAL EVIDENCE ANALYSIS* 249 (2002); VERNON GEBERTH, *PRACTICAL HOMICIDE INVESTIGATION* 20 (3rd ed.1996); JOHN E. DOUGLAS, ANN W. BURGESS, ALLEN K. BURGESS & ROBERT K. RESSLER, *CRIME CLASSIFICATION MANUAL: A STANDARD SYSTEM FOR INVESTIGATING AND CLASSIFYING VIOLENT CRIME* 251 (1992) [hereinafter “CRIME CLASSIFICATION MANUAL”].

<sup>6</sup> *Id.*

<sup>7</sup> TURVEY, *supra* note 5, at 249 note 1.

<sup>8</sup> Robert R. Hazelwood & Michael R. Napier, *Crime Scene Staging and Its Detection*, 48 *INTERNAT’L J. OFFENDER THERAPY & COMP. CRIMINOLOGY* 744, 745 (2004).

<sup>9</sup> Vernon Geberth, *The Staged Crime Scene*, L. & ORDER, Feb. 1996, available at <http://www.practicalhomicide.com/Research/staging.htm> (last visited Jun. 16, 2009). There have also been a handful of cases where a suicide was staged as a homicide. See Thomas W. Adair & Michael J. Doberson, *A Case of Suicidal Hanging Staged as a Homicide*, 44 *J. FORENSIC SCI.* 1307 (1999).

<sup>10</sup> Hazelwood & Napier, *supra* note 8.

<sup>11</sup> J. Reid Meloy, *Spousal Homicide and the Subsequent Staging of a Sexual Homicide*, 47 *J. FORENSIC SCI.* 395 (2002).

<sup>12</sup> David Kihara & Carri Geer Thevenot, *Man Who Claimed Home Invasion Arrested on Charges of Killing Wife, Another Man*, LAS VEGAS REV.-J., Jan 08, 2009, available at [http://www.lvrj.com/news/breaking\\_news/37286229.html](http://www.lvrj.com/news/breaking_news/37286229.html) (last visited Jun. 15, 2009).

<sup>13</sup> TIMOTHY J. LAWHERN, *HUNTING ACCIDENT REPORT 2007* (2007), available at <http://dnr.wi.gov/org/land/wildlife/harvest/reports/accident07.pdf> (last visited Jun. 19, 2009); 2002 TEXAS HUNTING ACCIDENTS ANALYSIS 3 (2002), available at [http://www.tpwd.state.tx.us/publications/pwdpubs/media/pwd\\_rp\\_k0700\\_1124\\_2002.pdf](http://www.tpwd.state.tx.us/publications/pwdpubs/media/pwd_rp_k0700_1124_2002.pdf) (last visited Jun. 19, 2002).

<sup>14</sup> *Id.*

<sup>15</sup> *Man Believed Accidentally Shot Dead by Friend Dies*, WCCO.COM, Jan. 27, 2008, available at <http://wcco.com/local/royalton.man.shooting.2.638933.html> (last visited Jun. 11, 2009).

<sup>16</sup> Many “accidents” result from self-destructive or violent personality types engaging in reckless behavior. See PAUL C. HOLINGER, *VIOLENT DEATHS IN THE UNITED STATES: AN EPIDEMIOLOGIC STUDY OF SUICIDE, HOMICIDE, AND ACCIDENTS* 27-29 (1987); ALBERT P. ISKRANT & PAUL V. JOLIET, *ACCIDENTS AND HOMICIDE* 46 (1968).

<sup>17</sup> John F. Decker, *Don’t Forget to Wear Hunter Orange (or Flack Jacket): A Critique on the Lack of Criminal Prosecution of Hunting “Accidents”*, 56 *S.C. L. REV.* 135, 172 (2004).

<sup>18</sup> *CRIME CLASSIFICATION MANUAL*, *supra* note 5, at 253.

<sup>19</sup> *Id.*

<sup>20</sup> Geberth, *supra* note 9.

<sup>21</sup> See TURVEY, *supra* note 5, at 254-255.

<sup>22</sup> *CRIME CLASSIFICATION MANUAL*, *supra* note 5, at 252.

<sup>23</sup> *Id.*

<sup>24</sup> See Raymond C. Murray, *Collecting Crime Evidence from the Earth*, 50 *GEOTIMES* 18 (Jan. 2005).



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