

MOD-83-000025-A

Supplementary Witness Statement

(C.J. Act 1967, s. 9 MC Act 1980, ss 5A (3a) and 5B, MC Rules 1981, r. 70)

Statement of Anthony Peter Brian LARKIN MSc (Hons)

Age of Witness Over 18

Occupation Forensic Scientist

with

Forensic Alliance Limited

Culham Science Centre, Abingdon, Oxfordshire OX14 3ED

This statement, consisting of 8 pages each signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the 19th day of August 2004

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Qualifications and Experience

I hold a Bachelor of Science Degree with a double major in Biochemistry and Cellular and Molecular Biology and a Master of Science Degree with Honours in Forensic Science, both obtained from the University of Auckland, New Zealand. I hold a diploma of Bloodstain Evidence Interpretation achieved from Swinburne University of Technology, Melbourne, Australia. I have been a Forensic Scientist for seven years, working first for the Institute of Environmental Science and Research Limited, New Zealand. I was then employed by Forensic Alliance Limited, as a Forensic Scientist in June 2001. During these times, I have been to and examined several hundred crime scenes and have encountered the evidence types involved in this case on numerous occasions.

Case Reference Number: FAL - 04965 - 03

Royal Military Police Reference: 64658/03

Information Received

The information I have received alleges that on 11 May 2003, coalition forces attacked a number of unarmed Iraqi civilians. I understand that the victims are Nadhem IL MAHAMADAWI and Sougheir IL MAHAMADAWI, Kathim IL MAHAMADAWI, Dalal IL MAHAMADAWI and Athar IL MAHAMADAWI. It is my understanding that it is alleged that the victims were attacked and struck with rifle butts, helmets, fists and boots.

It is alleged that as a result of this incident Nadhem IL MAHAMADAWI suffered serious head injuries and that he later died en route to the Al Amarah Hospital.

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Inquiries made by officers from the Royal Military Police, identified that a patrol from 8 Platoon, 3rd Parachute Regiment was active in the area of Al U'Zayra village on the day of the incident.

Soldiers, S001, S003, S002, S007, S004, S005 and S006 were identified as members of this patrol.

This statement should be read in conjunction with my previous statement dated 1 July 2004.

Receipt of Items

On 26 May 2004, items MJS1 and MJS2, a dish-dasha and a pair of trousers, respectively, were received at the Forensic Alliance, Culham Laboratory from the Special Investigation Branch, Royal Military Police at Colchester, Essex.

I understand that these items were worn by Nadhem IL MAHAMADAWI and had been obtained from his mother, Jasm IL MAHAMADAWI.

Purpose of Examination

I understand that both these items were worn by the deceased, Nadhem IL MAHAMADAWI. I was asked to examine these items to collect cellular material which may contain DNA which could be used to determine a putative reference DNA profile for Nadhem IL MAHAMADAWI. I was asked to compare any STR profile obtained to an STR profile obtained from a bloodstain which was sampled from the butt of an SA80 rifle, item S004, taken from S004.

I was also asked to examine this item for the presence of non-visible bloodstaining in order to determine whether or not Nadhem IL MAHAMADAWI was bleeding whilst wearing these items.

Evidential Issues

Examinations in this case involved testing the item for the presence of semen, locating spermatozoa and sampling appropriate areas and forwarding these for STR analysis to determine a putative STR profile of Nadhem IL MAHAMADAWI. Another part of this examination involved the enhancement of non-visible bloodstaining using a chemical reagent called luminol. Details of these examinations are provided below.

Enhancement of non-visible bloodstains

Luminol is applied as a spray and reacts with blood to produce a blue-green glow that can be seen in darkened environments. Luminol is extremely sensitive and reacts with very small amounts of blood that have been diluted and bloodstaining that is not visible to the naked eye.

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Following luminol screening, positive areas are tested with other presumptive chemical tests for blood. When it is clear that bloodstains detected with luminol have come from an area of visible bloodstaining, these areas will be referred to as bloodstains. Areas that provide positive presumptive tests for blood, in the absence of a visual bloodstain, will be referred to as probable or possible bloodstains. A more detailed explanation of the demarcation between probable and possible bloodstaining and the tests used to identify areas of bloodstaining is provided in Appendix [2] of this statement.

Semen in clothing

Semen is a mixture of seminal fluid and spermatozoa (although not all semen will contain spermatozoa). Semen is often found in the underpants and on the inside front of lower clothing worn by men. Spermatozoa will persist in clothing even after washing. As such if an item of clothing, such as trousers, are worn by one person regularly then it may be possible to locate areas of semen staining or areas of where sperm have not been washed from the clothing and by sampling appropriate areas such as the groin area of trousers a DNA profile of the regular wearer of the item of clothing can be obtained.

Use of Assistants

In undertaking the work connected with this case, I was assisted by trained members of staff. Their involvement is outlined in the Forensic Examination Record (APBL101), which is attached to this statement. A full record of the work undertaken is contained within case notes made at the time of the examination and these are available, for inspection if necessary, at the laboratory.

Results of examinations

Item MJS1 was a long dish-dasha. A bloodstain was present on the front left of this item, however this was not sampled. A large tear ran from the base of a row of buttons on the chest area to the bottom of this item. This damage appeared recent, however I cannot exclude the possibility that this damage may have been the extension of old damage. The material of this garment was lightweight so in my opinion, not much force would be required to inflict this damage.

Item MJS2 was a pair of trousers of a similar material to the dish-dasha. There were no areas of recent fabric damage on the trousers.

Both of these items were treated with luminol to reveal non-visible bloodstaining that may be present on these items. Large areas of possible bloodstaining were detected on the front and back of the dish-dasha. The possible bloodstaining appeared to be concentrated around the left shoulder area and also down the left side of the front and back of the item. If it is accepted that this possible bloodstaining originated from Nadhem IL MAHAMADAWI, this in my opinion, indicates that Nadhem

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IL MAHAMADAWI had indeed been bleeding whilst wearing this item. I cannot specifically relate the deposition of this bloodstaining to the alleged incident, however these results show that bloodstains were present on this item, which had been washed out since their deposition and prior to my examinations.

Areas of possible bloodstaining were detected on the front and back of the trousers, item MJS2, on both thigh areas and also on the hem of the right leg. Again this indicates that bloodstains had been deposited on this item which had been washed out since their deposition and prior to my examinations.

The front of the groin area of the trousers was sampled and cellular material was extracted from this area. Sperm were observed in this extract. This extract was submitted for STR analysis and a full STR profile was obtained from the sperm which matched the STR profile of the bloodstain which was tested from the butt of the SA80 rifle, item S0042, taken from S004. There was no indication of another person's DNA being present in this sample.

The STR profile obtained from this semen indicated that this semen could have come from the son of Jasm IL MAHAMADAWI and Abdullah MANAA.

If it is accepted that the semen tested from the trousers, item MJS2, did indeed come from Nadhem IL MAHAMADAWI and that this STR profile can be used as his reference STR profile I can make the following observation regarding the bloodstain tested from the butt of the SA80 rifle, item S0042:-

I have considered the possibility that the blood tested from the SA80 rifle, item S0042, taken from S004 did not originate from Nadhem IL MAHAMADAWI and that the match observed was co-incidental. I estimate that the probability of obtaining this matching STR profile if the blood tested came from another person who is not related to Nadhem IL MAHAMADAWI, is less than 1 in 1 billion (a billion is a thousand million).

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Conclusions

[My opinion as to the strength of the DNA evidence is provided here for the benefit of the prosecution and defence. In the event of a not guilty plea, all the words within these square brackets should be deleted from my statement to avoid contravening the Court of Appeal ruling in Doheny (1997).

In expressing the evidential significance of my findings, I have used the following scale: no scientific support, limited, moderate, moderately strong, strong, very strong and extremely strong scientific support.]

I have made the following assumptions when making my conclusions:-

- That item MJS2 were the trousers regularly worn by Nadhem IL MAHAMADAWI;
- That the semen located in the groin area of these trousers originated from Nadhem IL MAHAMADAWI;
- That the STR profile obtained from the semen is indeed the STR profile of Nadhem IL MAHAMADAWI.

I have considered the possibility that the blood tested from the SA80 rifle, item S004², taken from S004, did not originate from Nadhem IL MAHAMADAWI and that the match observed was co-incidental. I estimate that the probability of obtaining this matching STR profile if the blood tested came from another person who is not related to Nadhem IL MAHAMADAWI as being less than 1 in 1 billion.

[In my opinion the STR profiling results provides **extremely strong scientific support** for the assertion that the blood spot tested from the rifle, item S004², originated from Nadhem IL MAHAMADAWI.]

The presence of non-visible possible bloodstaining on the dish-dasha and the trousers, item MJS1 and MJS2, respectively, shows that Nadhem IL MAHAMADAWI, if this is his blood, has been bleeding whilst wearing these items. I am unable to state that this is definitely blood on the dish-dasha and I cannot state from whom it originated. I also cannot state if these possible bloodstains were a result of the injuries he sustained during the alleged assault on 11 May 2003.

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Appendix [1]

STR profiling

STR (Short Tandem Repeat) profiling is a form of DNA analysis. DNA is a complex chemical found in most cells of the human body. It carries genetic information that determines the physical characteristics of a person. This information is carried in coded form and half is inherited from each parent. Except in the case of identical twins, each person's DNA is unique, although STR profiling does not enable us to analyse every part of an individual's DNA. Each person's DNA is the same in all their cells so DNA recovered from blood cells will be the same as cellular DNA from hair roots, saliva or semen.

STR profiling uses the technique of DNA amplification in which specific areas of DNA are targeted and copied many times.

In this case a technique called SGM Plus was used. The STR profiles were produced by amplifying eleven different areas of DNA. Ten of these areas contain an STR. These are called D3, VWA, D16, D2, D8, D21, D18, D19, THO1 and FGA. The eleventh area, known as amelogenin, indicates the sex of the donor. These regions are used to produce an STR profile that appears as a series of peaks. A person will have two peaks for each STR, one inherited from each parent. If the same peak is inherited from both parents then only one peak will be observed. The positions in which these peaks appear can be measured and have been found to vary widely between individuals.

A statistical estimate can be made of the significance of a match in the circumstances of the case. This is done by estimating the probability of occurrence of each peak in the STR profile and using a formula to multiply these probabilities together. This is known as the product rule calculation. The estimates of peak probability are increased to allow for possible associations between peaks and within populations, using established methods.

There are three databases available to refer to when estimating the probability of occurrence of an STR profile. These are taken from the White Caucasian, Afro-Caribbean and Indo-Pakistani populations of this country. Where the racial origin of the person who left the body fluid is not known then the most conservative of the results obtained from the three databases is quoted.

As DNA is inherited related persons are more likely to have similar STR profiles than those who are unrelated.

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Appendix [2]

Probable Vs Possible Blood and the Presumptive Tests for blood used in this case

Some of the examinations used in this case involved the enhancement of non-visible bloodstaining with the use of a chemical reagent called luminol. Luminol is applied as a spray and reacts with blood to produce a blue-green glow that can be seen in darkened environments. Luminol is extremely sensitive and reacts with very small amounts of blood that have been diluted and bloodstaining that is not visible to the naked eye.

The identification of blood is based on the visual appearance of a bloodstain (i.e. red-brown colour) and a positive presumptive test for blood. A presumptive test for blood means that if a positive result is obtained, the stain tested is presumed to be blood, but this is not proof that it is.

In this case the presumptive tests for blood that have been used are the Kastle-Meyer test (KM) and also Hemastix (a test pad). The KM test is a two stage chemical test, whilst Hemastix is a one stage chemical test where the reagent is bound into the test pad. Luminol is sprayed onto target areas to detect non-visible bloodstaining, as such there can be no identification of blood based on its visual appearance. If there are no visible bloodstains in the areas tested I have had to rely on the presumptive tests for blood only, including luminol.

The KM test is quite specific for blood but not as sensitive as the Hemastix and luminol tests i.e. KM cannot detect the same dilutions of blood as the Hemastix and luminol tests. The Hemastix test is not as specific for blood as KM, but it is far more sensitive to blood than KM, but not as sensitive as luminol.

Once a non-visible stain is located with luminol it is further tested with the KM and Hemastix tests.

If the Hemastix test is positive then the stain is defined as 'possible blood'.

If it is KM positive then the stain is defined as 'probable blood'.

The demarcation of possible vs probable blood is therefore based on the specificity of the tests as described above. No further tests can be conducted on the areas of non-visible bloodstaining to confirm that stains were definitely blood, because of the reporting guidelines, requiring the visual appearance of blood. Therefore my opinion and conclusions are based on the detection of these stains with luminol (which in itself is quite specific) and also the other presumptive tests discussed above.

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Appendix [3]: Table of STR profiling results

ITEM	STR PROFILE											PROFILE MATCHES	PROBABILITY OF OBTAINING MATCH (▼)	
	D3	VWA	D16	D2	AMEL (+)	D8	D21	D18	D19	THO 1	FGA			
Submitted item														
MJS2 Trousers Semen	16, 17	14, 17	11, 12	17, 17	X, Y	13, 13	29, 30.2	12, 13	12, 12	7, 9	21, 23	Nadhem IL MAHAMADAWI	Less than 1 in 1 billion**	

**See text for caveats attached to this result

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[Redacted Signature]

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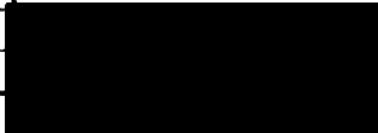
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FORENSIC EXAMINATION RECORD

The following work was carried out by trained staff at my request using established procedures.

I reviewed the progress of the work, issued fresh instructions as appropriate and checked the findings. A case file, comprising notes made at the time of the examinations, represents a full record of the contributions of assisting members of staff.

NAME	OUTLINE OF WORK UNDERTAKEN
M MackENZIE	Examination of items and preparation of STR samples
J SMITH	Photography of items on mannequin
P ELSMORE M PATTALWAR R SHERWOOD	STR analysis
EXHIBIT NUMBER	APBL.101

POLICE REFERENCE	64658/03		
POLICE OFFICER IN CASE	Captain Sean HENDY		
FORCE, STATION & DIVISION	Royal Military Police	Colchester	SIB
CASE TYPE	Murder		
LABORATORY REFERENCE	FAL - 04965 - 03	E	SIGNATURE 
FORENSIC SCIENTIST	Anthony Larkin (MSc - Hons)		
DATE	19 August 2004		

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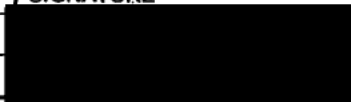
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DISCLOSURE SCHEDULE A (Sensitive Material)

LABORATORY USE ONLY		C.P.S. USE ONLY		
SENSITIVE MATERIAL – DO NOT DISCLOSE A tick (✓) in the left hand box indicates that material in this case, which is believed to be sensitive, is in the possession of Forensic Alliance.		COMMENT	SENSITIVE MATERIAL AGREED Yes/No	COURT APPLICATION Yes/No
DESCRIPTION				
<input checked="" type="checkbox"/>	Intelligence Information			
<input checked="" type="checkbox"/>	Records concerning other suspects			
<input checked="" type="checkbox"/>	Records concerning <i>modus operandi</i>			
<input checked="" type="checkbox"/>	Case conference notes			
<input checked="" type="checkbox"/>	Notes of conversations and correspondence with police			
<input checked="" type="checkbox"/>	Notes of conversations and correspondence with CPS			
<input checked="" type="checkbox"/>	Confidential commercial information			
<input checked="" type="checkbox"/>	Administration e.g. estimates, time sheets, invoices etc.			
<input checked="" type="checkbox"/>	Other (specify):			

CPS REFERENCE	
REVIEWING LAWYER	
DATE REVIEWED	

CONTINUATION SHEET	YES / NO
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POLICE REFERENCE	64658/03		
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DISCLOSURE SCHEDULE B (Non – Sensitive Material)

LABORATORY USE ONLY		C.P.S. USE ONLY			
UNUSED MATERIAL		* (D) Disclose (C) Copy (W) Withhold			
A tick (✓) in the left hand box indicates that material in this case, which is provisionally deemed non-sensitive, is held by Forensic Alliance.					
DESCRIPTION		D*	C*	W*	REASON FOR NON – DISCLOSURE
X	Records of information gathered at the scene				
✓	Records of continuity of items				
✓	Dates of examinations				
✓	Details of packaging and sealing of items				
X	Records of material not examined				
✓	Examination records of work carried out at the laboratory				
X	Draft statements				
✓	Documentation of procedures and technical methods				
✓	Databases and surveys (specify): SGM+ Database				
✓	Records of work done by assistants and checkers				
X	Other (specify):				

REVIEWING LAWYER	
DATE REVIEWED	

CONTINUATION SHEET	YES / NO
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POLICE REFERENCE	64658/03		
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FORENSIC SCIENTIST	Anthony Larkin (MSc – Hons)		
DATE	19 August 2004		

S003 [redacted], S001 [redacted], S002 [redacted], S007 [redacted], S004 [redacted], S005 [redacted] Alliance

DNA EXTRACTS DESTRUCTION NOTICE

DNA Extracts* created in the above case have been retained at this laboratory and will be destroyed in accordance with the 'Retention Of Case Material, Memorandum of Understanding' unless Forensic Alliance is specifically notified to the contrary. To increase the retention period (by 3 years) please sign below and return this form or write to Forensic Alliance. DO NOT assume that Forensic Alliance has received this request unless a signed receipt is returned to you. Contact Forensic Alliance directly if a receipt is not received.

*A full list is available on request

Forensic Alliance, F5 Culham Science Centre, Abingdon, OXON, OX14 3ED

RETENTION PERIOD: 3 Years* 7 Years* 30 Years*	DATE TO FREEZER:
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*Select as required

<p>Customer Use</p> <p>I wish to increase the retention time of the DNA extract for this case by 3 years.</p> <p>Signed.....</p> <p>Print Name..... Rank..... Date.....</p>
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<p>Forensic Alliance Use</p> <p>I confirm that Forensic Alliance has received your request and the retention period will be extended until:</p> <p>(mm/yy).....</p> <p>Signed.....</p> <p>Print Name..... Date.....</p>
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To extend this period any further requests should be made in writing to Forensic Alliance.

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DATE	19 August 2004		

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EXPERT WITNESS AVAILABILITY

Please note that owing to previous commitments the forensic scientist detailed below will not be available to attend court on the dates indicated

JANUARY 2005							FEBRUARY 2005							MARCH 2005							
8	9	10	11	12	13		1	2	3	4	5	6	7	1	2	3	4	5	6	7	
		17	18	19	20	21	8	9	10	11	12	13	14	8	9	10	11	12	13	14	
22	23	24	25	26	27	28	15	16	17	18	19	20	21	15	16	17	18	19	20	21	
29	30	31					22	23	24	25	26	27	28	22	23	24	25	26	27	28	
							29							29	30	31					
APRIL 2005							MAY 2005							JUNE 2005							
1	2	3	4	5	6	7	1	2	3	4	5	6	7	1	2	3	4	5	6	7	
8	9	10	11	12	13	14	8	9	10	11	12	13	14	8	9	10	11	12	13	14	
15	16	17	18	19	20	21	15	16	17	18	19	20	21	15	16	17	18	19	20	21	
22	23	24	25	26	27	28	22	23	24	25	26	27	28	22	23	24	25	26	27	28	
29	30						29	30	31					29	30						
JULY 2005							AUGUST 2004							SEPTEMBER 2004							
1	2	3	4	5	6	7	1	2	3	4	5	6	7					4	5	6	7
8	9	10	11	12	13	14	8	9	10	11	12	13	14	8	9	10	11	12	13	14	
15	16	17	18	19	20	21	15	16	17	18	19	20	21	15	16	17	18	19	20	21	
22	23	24	25	26	27	28	22	23	24	25	26	27	28	22	23	24	25	26	27	28	
29	30	31					29							29	30						
OCTOBER 2004							NOVEMBER 2004							DECEMBER 2004							
1	2	3	4	5	6	7	1	2	3	4	5	6	7	1	2	3	4	5	6	7	
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22	23	24	25	26	27	28	22	23	24	25	26	27	28								
29	30	31					29	30													

This witness is frequently required at court to present forensic evidence. For an up-to-date record of availability please contact Forensic Alliance:

Contact Address: F5 Culham Science Centre, Abingdon, OXON, OX14 3ED
 Telephone Number: 01235 551800
 Fax Number: 01865 407431

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S001

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FORENSIC FEEDBACK FORM For The Attention of the Investigating Officer

Forensic Alliance is working to assist your force in monitoring the effectiveness of forensic submissions and to enable the comparison of the service and results from forensic providers with regard to quality and value. In order to provide this information and to continue to improve our performance we need just a few minutes of your time to complete this form and send it to The Head of Sales and Marketing, by freepost to FREEPOST (SCE12949), Forensic Alliance Ltd, F5 Culham Science Centre, Abingdon, OX14 3ED or by Fax: on 01865 407431

How would you rate the apparent usefulness of the forensic evidence in this case? (Please tick box)		<input type="checkbox"/>
1	Very Useful	Forensic evidence was conclusive or provided extremely/very strong support. Sufficient to charge alone or with other limited evidence. Used to eliminate a suspect or redirect the investigation
2	Useful	Forensic evidence was strong, moderately strong or moderate. Sufficient to charge or eliminate with other supporting evidence.
3	Limited Use	Forensic evidence provided only limited support. Insufficient evidence to support charge, or to eliminate by itself or with other evidence
4	No Value	Forensic evidence provided no assistance to the investigation
5	Intelligence	Forensic evidence provided links between incidents, potential value if a suspect is found, provided information which has the potential to help identify the offender.
How would you rate the overall service that you received from Forensic Alliance in this case?		
6	Excellent	7 Good
8	Acceptable	9 Poor
If poor please state major failing:		
Did you receive the forensic evidence when you needed it / on the date agreed with the scientist?		
11	Yes	12 No
Was the forensic statement/report clear and easy to understand?		
13	Yes	14 No
Comments:		

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DATE	19 August 2004		

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ITEMS CONSTITUTING A HEALTH HAZARD

Some items* constituting a health hazard related to the above case have been retained at this laboratory and will be destroyed in accordance with 'ACPO/FSS Memorandum of understanding' unless Forensic Alliance is specifically notified to the contrary.

Contact Details: Forensic Alliance,
F5 Culham Science Centre,
Abingdon,
OXON,
OX14 3ED

Telephone Number: 01235 551800

Fax Number: 01865 407431

*A full list is available on request

RETENTION PERIOD: 30 Years

DATE TO FREEZER:

POLICE REFERENCE	64658/03		
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DATE	19 August 2004		

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S006 [redacted]

DNA 2 DESTRUCTION NOTICE

In accordance with the 'Retention Of Case Material, Memorandum of Understanding' DNA extracts created in the above case will be retained at this laboratory.

All unopened or unexamined DNA2 items will be returned.

All DNA2 item remnants* will be destroyed unless Forensic Alliance is specifically notified to the contrary by return of this form.

Contact Details: Forensic Alliance,
F5 Culham Science Centre,
Abingdon,
OXON,
OX14 3ED

Telephone Number: 01235 551800

Fax Number: 01865 407431

*A full list is available on request

Customer Use

I wish to have all DNA 2 item remnants for this case returned

Signed.....

Print Name..... Rank..... Date.....

POLICE REFERENCE	64658/03		
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