

National District Attorneys Association

Newsclips

September 21, 2012

Today's Clip Headlines

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Clip Synopses and Links

NPR

Crime Lab Scandal Rocks Massachusetts

Massachusetts is reeling from a massive scandal in its state crime lab. Details are still emerging about what officials call a "rogue chemist" who may have mishandled evidence in as many as 40,000 cases over 10 years.

It could mean the unraveling of countless convictions.

Even lawyers prone to hyperbole may not be overstating it when they call the scandal a catastrophic failure and unmitigated disaster.

"Any person who's been convicted of a drug crime in the last several years whose drugs were tested at the lab was very potentially a victim of a very substantial miscarriage of justice," says defense attorney John Martin.

He represents the man believed to be the first convict sprung because of the scandal. David Danielli walked out of prison Thursday after a judge agreed his guilty plea was undermined by questions about the evidence. Those same questions may also undermine efforts to retry him.

Even Martin concedes countless guilty people will probably go free.

Even prosecutors supported the defendant's release on Thursday, saying the Constitution demands it. And it's not the end of the fallout.

District Attorney Joe Early, head of the Massachusetts District Attorneys Association, says prosecutors will move on some cases even before defense attorneys ask.

“The DAs are used to putting people in jail. They’re not used to letting them out because of technicalities or mistesting. In that regard, a lot of people have some tough decisions to make,” Early says.

Massachusetts Attorney General Martha Coakley is investigating the chemist, Annie Dookhan, who’s accused of tampering with samples to make them weigh more, or even to test positive. She and three others have already lost their jobs, including Department of Public Health Commissioner John Auerbach, who says supervisors should have picked up on red flags.

<http://www.npr.org/2012/09/20/161502085/state-crime-lab-scandal-rocks-massachusetts>

The Republic

Former Clark County prosecutor suspended from practicing law following drug conviction

The Nevada Supreme Court has temporarily barred a once prominent Las Vegas prosecutor from practicing law following his guilty plea to a felony drug possession charge.

Justices unanimously agreed Thursday that David Schubert should be suspended. They referred the matter to the Nevada State Bar to determine the how long his suspension should last.

Schubert prosecuted high-profile drug cases, including plea deals with celebrities Paris Hilton and Bruno Mars.

Schubert resigned from the Clark County district attorney’s office after he was arrested in March 2011 with a \$40 rock of cocaine and an unregistered handgun in his car.

He pleaded guilty in September 2011. Schubert was sentenced to nine months in jail but remains free while he appeals that sentence.

Schubert was a Las Vegas prosecutor for 10 years.

<http://www.therepublic.com/view/story/47b7a405c1034c6c8fe723397c11b1ad/NV--Prosecutor-Drug-Charge>

North Jersey

N.J. Supreme Court reverses course on trying juveniles as adults

Last week, the New Jersey Supreme Court gave teens more protection when prosecutors seek to try them as adults.

But in a case the high court decided Thursday, the justices tilted the scale in the other direction, reducing the discretion judges have in deciding whether such cases should be tried in adult courts.

A four-justice majority ruled that a Middlesex County family court judge had “disregarded” the prosecution’s theory in the case of a complex family dispute in Woodbridge and that the teens should be tried as adults.

http://www.northjersey.com/news/Supreme_Court_reverses_course_on_trying_juveniles_as_adults.html

North Jersey

ACLU criticizes ‘harmful’ errors by N.J. prosecutors

Prosecutors across the state made 53 errors during trials that were harmful to defendants in recent years, according to a review by a civil liberties group, including a [Bergen County](#) assistant prosecutor who reportedly committed multiple errors over four trials.

The report, released this week by the American Civil Liberties Union of New Jersey, calls for increased oversight of county prosecutors by the state. ACLU researchers focused on cases between January 2005 and the end of May 2011 where allegations of prosecutorial error had been brought up on appeal.

Though the report found that appellate panels rejected 47 percent of error claims, courts found 229 instances of error. Of those, 53 were ruled harmful to defendants at trial.

http://www.northjersey.com/news/ACLU_criticizes_harmful_errors_by_NJ_prosecutors.html

Santa Fe New Mexican

Court ruling orders interlocks for drug-impaired drivers

People convicted of driving under the influence of prescription or illegal drugs must have an ignition interlock installed on their vehicles as required by New Mexico’s drunken driving law, although the devices don’t detect the use of drugs, the state Court of Appeals has ruled.

The court's precedent-setting ruling overturned a decision last year by a district judge in Santa Fe who determined that the ignition interlock requirement was unconstitutional for someone whose impairment was caused by drugs rather than alcohol.

<http://www.santafenewmexican.com/Local%20News/092112-IgnitionInterlocks-Drugs2ndLd-Writethru>

Charleston Gazette

Post-prison 'sorting' called key to W.Va. inmate overcrowding

West Virginia has done a poor job matching offenders to the right kind of supervision or services when placing them on probation, on parole or into a community-based corrections program, according to an initial finding from the ongoing study of the state's inmate crowding crisis.

This improper "sorting" plays a role in the growth of West Virginia's prison population when that supervised release is revoked, Carl Reynolds of the Justice Reinvestment Initiative said Thursday.

Reynolds helped update a group of state leaders at the Capitol Complex on the continuing study by the initiative, a project of the [Justice Center](#) at the nonpartisan Council of State Governments. It aims to address the state's at-capacity prisons and overcrowded jails without sacrificing public safety. The Justice Reinvestment Initiative has aided a number of states with their corrections issues. The West Virginia study is expected to provide policy recommendations in time for the 2013 legislative session.

<http://wvgazette.com/News/201209200181>

Houston Chronicle

DA wants to toss old blood evidence in DWI cases

Harris County District Attorney Pat Lykos wants to destroy 13,000 vials of blood used as DWI evidence, a move defense lawyers fear would hinder potential appeals and exonerations by making future testing impossible.

In a letter to the Texas attorney general earlier this month, Lykos asked for an opinion on what to do with blood evidence used in closed misdemeanor DWI cases so law enforcement agencies can make room for new evidence.

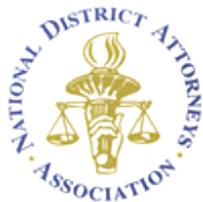
"These blood vials simply sit, unused and unwanted, in secure refrigeration units, taking up valuable space and requiring administrative oversight in perpetuity," Lykos said in a

statement. “This is a problem that is not going away.”

Lykos’ request for guidelines about discarding the evidence was met with hostility by defense lawyers, who cited recent exonerations and revelations about incorrect tests and negligent technicians at area labs to argue that destroying evidence could hurt both sides in the future.

While those cases have been decided and are now closed, defense lawyers say the evidence should be kept.

<http://www.chron.com/news/houston-texas/article/DA-wants-to-toss-old-blood-evidence-in-DWI-cases-3878821.php>



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