

Thursday, April 18, 2002

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DNA EVIDENCE: Officials admit error, dismiss case

LV lab put wrong name on sample

[By GLENN PUIT](#)
[REVIEW-JOURNAL](#)

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Authorities acknowledged Wednesday that a clerical error at the Las Vegas police forensics lab led to a man being jailed for a year for sex crimes he did not commit.

Lazaro Sotolusson was scheduled to be tried next month in two sexual assaults involving juvenile victims. Seemingly conclusive DNA evidence formed the heart of the prosecution's case, and Sotolusson faced multiple life terms if convicted.

But prosecutors dismissed the charges Wednesday, acknowledging that the police lab accidentally had placed Sotolusson's name on another man's DNA sample.

"Once it became clear that this guy was not the perpetrator, the intellectually honest thing to do was to rectify the wrong," District Attorney Stewart Bell said.

The error was detected by an expert retained by Deputy Public Defenders Brigid Hoffman and Darin Imlay.

The attorneys said Sotolusson maintained his innocence while spending about one year in the jail on the charges.

Imlay said Sotolusson was elated when he was told earlier this week that the DNA evidence had been discredited and that authorities were dismissing the charges.

"Obviously he was thrilled to death," Imlay said. "At the same time, he was saying 'I told you so.' "

The events that led to Sotolusson being wrongly accused date to last year at the North Las Vegas Detention Center. Sotolusson was housed at the jail on an allegation of immigration law violation, Hoffman said.

A cellmate accused Sotolusson of raping him, Hoffman said. Authorities investigated the allegations and took samples of both men's DNA to the police lab for analysis.

The DNA evidence for both men was profiled, and the profiles were entered into a lab computer, Hoffman said. While the DNA profiles were being entered, Sotolusson's name and the cellmate's name were switched accidentally.

"The problem is someone typed in the wrong name," Assistant District Attorney J. Charles Thompson said.

Authorities ran the DNA profiles belonging to the two men through a computer database to see whether they would match any DNA profiles gathered from unsolved crimes in the valley. Thompson said the results tied the DNA profile mislabeled as Sotolusson's to two unsolved sexual assaults.

Hoffman said the cases involved the abductions and sexual assaults of two juveniles at gunpoint in 1998 and 1999.

Because of the mistake, Sotolusson was charged with multiple felonies, including sexual assault and first-degree kidnapping in connection with the assaults on the two juveniles.

In a preliminary hearing, one of the female victims identified Sotolusson as her attacker. Sotolusson remained adamant that he was wrongly accused.

Hoffman and Imlay said authorities said the DNA evidence indicated the odds that Sotolusson was not the offender were 1 in 600 billion.

"It looked on its face to be very strong evidence," Hoffman said.

But with Sotolusson's proclamations of innocence, the deputy public defenders sought and received permission from Assistant Public Defender Ralph Baker to hire their own DNA testing expert.

Upon examining the handwritten notes and computer records from the police lab, forensic scientist Norah Rudin concluded Sotolusson's name had been transposed with the name of his former cellmate.

"We were lucky the public defender had the resources to hire an expert as good as Norah Rudin," Hoffman said.

Rudin and the defense attorneys then contacted the police lab, which agreed to obtain more samples and retest the evidence. On Saturday, officials with the lab notified Imlay they had confirmed that a mistake had been made.

"The lab certainly stood up and took responsibility," Public Defender Marcus Cooper said.

"Our expert had never come across anything like this," Hoffman said.

Authorities said they are investigating the likelihood that Sotolusson's former cellmate is the source of the DNA evidence in the unsolved rape cases.

That man, whose name could not be confirmed Wednesday, is serving a prison sentence in California for bank robbery, Thompson said.

Bell said that given the developments in the Sotolusson case, a question exists as to whether the old sexual assaults can be prosecuted.

"I'm told there may be some difficulty in prosecuting at least one of those cases," Bell said.

Sotolusson remains charged with sexual assault in connection with the former cellmate's allegation. Sotolusson is expected to appear this morning before District Judge Valorie Vega for proceedings related to that case.

Several officials familiar with the case said prosecutors are considering dismissing that charge too.

Bell said despite the jailing of a man for a year on crimes he did not commit, the dismissal of the charges showed the criminal justice system in Clark County works.

"Through the system, charges that once looked appropriate were weeded out," Bell said.

Cooper said the work of Hoffman, Imlay and Rudin probably saved an innocent man from spending the rest of his life in prison.

"It would have been very easy for them to say 'Why even bother?' " Cooper said. "But they were concerned about their client, and they decided to go the extra mile. That ended up proving an innocent man was wrongly accused."

A supervisor at the police lab Wednesday referred all questions on the matter to police Deputy Chief Ray Flynn. Flynn, in training meetings all day Wednesday, tried to return a phone message but could not be reached later.

Thompson said that a review of procedures at the police lab has been undertaken because of the mistake and that changes are being made to "see that this never occurs again."

Prosecutors and defense attorneys differed Wednesday as to whether the Sotolusson case should affect any other local criminal cases involving DNA evidence.

"Despite the credibility commonly afforded to these (DNA) test results, this demonstrates there is always the possibility of human error," Cooper said.

Thompson said that a clerical error was behind the mistake in the Sotolusson case and that the DNA testing done at the police lab is not in question.

"There is nothing wrong with the actual testing," Thompson said.

This story is located at: http://www.lvrj.com/lvrj_home/2002/Apr-18-Thu-2002/news/18551966.html

Friday, April 19, 2002

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POLICE FORENSICS: DNA mix-up prompts audit at lab

More than 270 DNA tests to be reviewed

By GLENN PUIT
REVIEW-JOURNAL

Authorities are reviewing hundreds of DNA tests at the Las Vegas police forensics lab following the discovery of a clerical error that placed an innocent man in jail for nearly a year.

The announcement of an audit of more than 270 DNA tests was just one of several developments Thursday in the case of Lazaro Sotolusson. Sotolusson has been cleared in three separate sexual assaults since authorities learned his name mistakenly was placed on another man's DNA profile at the police forensics lab.

"During the past year, we hoped and knew that justice would prevail," Sotolusson's father, Raymon Soto Rodriguez, said Thursday morning of his son's plight. "We believe in justice in American courts."

On Wednesday morning, District Judge Joseph Bonaventure dismissed two sexual assault cases against Sotolusson. The dismissals came once prosecutors acknowledged the lab had switched the labels on the DNA profiles of Sotolusson and Joseph Coppola.

In court Thursday morning, a third sexual assault case was dismissed by District Judge Valorie Vega, who ordered Sotolusson released. Sotolusson, a native of Cuba, was expected to be transferred to the custody of the Immigration and Naturalization Service sometime Thursday.

Authorities confirmed that Coppola is a prime suspect in two of the three sexual assaults Sotolusson once was charged with.

"He is a potential defendant," Chief Deputy District Attorney J. Charles Thompson said of Coppola. "A decision has not been made as to whether or not to charge him."

The bizarre case's origins date back a year, when Sotolusson was housed in the same cell with Coppola at the North Las Vegas Detention Center. Sotolusson, who sought political asylum in the United States with his parents when he was 13, was being held at the detention center by the INS because of a prior conviction for aggravated stalking.

Coppola, meanwhile, was awaiting sentencing in a federal bank robbery case.

While in the jail cell together, Coppola accused Sotolusson of raping him, Thompson said. Police took body fluids from both men and took them to the Las Vegas police forensics lab for profiling.

Thompson said the lab properly profiled the samples. But while entering the details of those DNA profiles into a computer, a lab technician accidentally switched the men's names, Thompson said.

The DNA profiles were then sent through a computer database, which matches DNA profiles of suspects with DNA profiles recovered at unsolved crime scenes in the region. Authorities said Coppola's DNA, mistakenly labeled as Sotolusson's, came back as a match with two unsolved sexual assaults of Las Vegas teens.

Sotolusson subsequently was charged with multiple felonies in the those assaults and in the allegations of the jailhouse assault on Coppola.

Just three weeks before Sotolusson's trial, however, a forensic science expert retained by Clark County Deputy Public Defenders Brigid Hoffman and Darin Imlay discovered the error. This week, the forensics lab acknowledged the mistake, and prosecutors immediately sought to dismiss the charges stemming from the two assaults against the teens.

In court Thursday, Chief Deputy District Attorney Thomas Carroll sought the dismissal of charges stemming from allegations of the jailhouse rape, saying the victim has "credibility problems."

"He's now a prime suspect in several sexual assaults," Carroll said of Coppola.

Coppola, 31, pleaded guilty to one count of bank robbery with a deadly weapon for a crime that occurred in 1999. U.S. District Judge Roger Hunt sentenced him in July to 51 months in prison. He currently is serving that time in a federal prison in California. Court records indicate he had a gambling problem. His projected release date is Jan. 21.

It is not clear, however, whether Coppola ever will be charged in the sexual assaults against the Las Vegas teens. In one of those cases, a victim already made a courtroom identification of Sotolusson as her attacker.

Las Vegas police Deputy Chief Ray Flynn said Thursday that the department is in the midst of an intensive review of procedures surrounding DNA testing at the forensics lab. Although the error appears to be a clerical mistake, Flynn said police are reviewing the procedures surrounding all of its prior DNA testing to make sure there were no other mistakes.

"On a cursory look, it appears it was a transcriptional error," Flynn said. "And so far we know that the actual bench work and testing was correct. But to ensure the credibility of our lab, we are auditing all 273 prior DNA cases."

Those cases date back to January 1997, when DNA testing at the lab started. The audit will take about four weeks.

"We are also doing an internal investigation into what went wrong and why it went wrong," Flynn said. "We will be installing additional procedures to make sure this doesn't happen again."

Flynn said if the investigation concludes the mistake was a clerical error, lab technicians will be given additional training. If, for some reason, the error is attributed to an intentional act, disciplinary proceedings will result.

"We will do everything necessary to ensure the credibility of our lab, which has a great reputation," Flynn said. "It is nationally recognized and many of our key people teach forensics in the university system and are certified nationally. We are taking this extremely seriously."

This story is located at: http://www.lvrj.com/lvrj_home/2002/Apr-19-Fri-2002/news/18561051.html

Wednesday, May 15, 2002

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Changes proposed in DNA handling

Mislabeled sample nearly sends wrong man to prison for life

By GLENN PUIT
REVIEW-JOURNAL

Las Vegas police are recommending some sweeping changes to the way DNA tests are handled in Southern Nevada following a police clerical error that nearly landed a wrongly accused man in prison for life.

Deputy Chief Ray Flynn said a recently completed internal review of the case of Lazaro Sotolusson has confirmed what was previously suspected, that Sotolusson's name was mistakenly placed on the DNA profile of another man by the police forensics lab in 2001.

The mistake led to Sotolusson being wrongly charged with at least two rapes that were dismissed after the error was detected.

But in addition to confirming the error, the police review also found that forensics lab safeguards aimed at catching such mistakes failed, Flynn said. For example, Flynn said that after the DNA testing in the Sotolusson case was complete, two police lab employees reviewed the findings and did not detect the error.

"Our first review did not catch the transcriptional error," Flynn said. "During a final review, the error also was not caught."

Flynn said, given this, police are now proposing a series of changes to how DNA tests are handled and documented at the police crime lab. Among the series of recommendations that are expected to be implemented by police is the requirement that each DNA test be closely scrutinized for paperwork or transcriptional errors.

Police also are exploring whether to computerize the entire process of documenting DNA tests at the forensics lab. Doing so would help prevent any more mistakes like the one made in the Sotolusson case, Flynn said. "The most important thing is to insure the credibility of our crime lab, which has always held an excellent reputation," Flynn said.

However, one of Sotolusson's attorneys said Tuesday that a mistake like the one made in Sotolusson's case should never have been possible. "I think it's appalling that the lab has not been reviewing for text or transcriptional errors in the past," said Clark County Deputy Public Defender Brigid Hoffman. "We are talking about testing in cases where the results can lead to someone facing life in prison, or even a death sentence."

The recommended changes to procedure at the forensics lab DNA Testing Unit come nearly a month after authorities acknowledged the Sotolusson error, the origins of which stem from an incident last year at the North Las Vegas Detention Center.

At the time, Sotolusson was housed in the North Las Vegas jail because of a prior criminal record that includes a conviction for aggravated stalking. Although he had served out his sentence for this crime, such a serious criminal record gave the Immigration and Naturalization Service the right to take him into custody while they determined whether he should be allowed to remain in the United States. Sotolusson is a native of Cuba.

Joseph Coppola, his cellmate at the North Las Vegas jail, then accused Sotolusson of sexual assault, and an investigation into the allegations led to the collection of DNA samples from both men.

The samples were taken to the police crime lab, where Flynn said the labels on the two men's DNA were accidentally switched. Police then ran the two DNA profiles through a lab computer, and the computer matched Sotolusson's mislabeled DNA with DNA evidence gathered from two previously unsolved rapes in the valley.

Authorities have said they now believe it was Coppola's DNA that matched the DNA from the unsolved crimes, although no charges have been filed against Coppola.

Unaware of the mistake, prosecutors proceeded to charge Sotolusson with both of the unsolved rapes and also with the sexual assault on Coppola. But in April all charges against Sotolusson were dropped after a DNA expert hired by Hoffman and Deputy Public Defender Darin Imlay discovered the clerical mistake.

Las Vegas police Lt. Jeff Carlson said last week that police are planning new DNA tests in the case in an effort to identify potential suspects in the old rapes.

And, despite being cleared of all charges, Sotolusson remains in jail. He is currently housed at the Las Vegas city detention center while immigration officials once again determine what to do with him.

Flynn said that immediately after the mistake was found, police ordered that every DNA test ever conducted at the lab be retested. That lab audit is pending.

Also, Flynn said police Capt. Tom Hawkins initiated an intensive review of how such a mistake could have happened. Based on that investigation, Flynn said police are considering implementing the following changes:

- Including an added level of review at the DNA testing unit to check for plain text or transcriptional errors. Flynn said while this was done previously, reviews of DNA testing results usually focused on whether there were scientific errors instead of paperwork errors.
- Implementing a requirement mandating a second DNA test on a sample prior to a profile being entered into computer databases to search for matches with unsolved crimes.
- Exploring a way to automate the transcription process of entering DNA profiles into a computer.

"We are taking this review and audit seriously, and I think it shows the professionalism of good people who work in that unit," Flynn said.

This story is located at: http://www.lvrj.com/lvrj_home/2002/May-15-Wed-2002/news/18751101.html

Las Vegas SUN

May 23, 2002

Audit calls for changes in police DNA lab

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LAS VEGAS SUN

An audit of Metro Police's DNA lab following a typographical error that wrongfully accused a man of two rapes found some "sloppy work" but no mistakes that led to other wrongful charges, officials told the Sun on Wednesday.

In an internal audit started April 18, police reviewed 254 cases from 2001 and this year where DNA testing proved useful in a case. The audit, which was finished Friday, also looked at the lab's procedures for conducting the testing.

The audit, which will conclude with a written report to be finished Friday, calls for changes in the the lab's DNA testing procedure, including a document review of each case on the paperwork, cases that have a DNA match to an unsolved crime in a database being tested a second time and finding a computer program for DNA reports to reduce the amount of transcription by analysts.

"We found some typos, misspellings and grammatical mistakes along with initials (of lab technicians) in the wrong places, but we are confident there are no people in jail wrongfully accused because of an error," Deputy Chief Ray Flynn said. "There was some sloppy work, but there was no sloppy science."

The audit came after a lab mistake put Lazaro Sotolusson's name on the DNA profile of another man last year. The DNA profile matched evidence collected in two unsolved rapes in the Las Vegas Valley through a computer database and led to Sotolusson being charged.

The charges were dismissed in April after an independent DNA consultant hired by the public defender's office found the mistake. But Public Defender Marcus Cooper said because Metro's lab made the mistake there should be an outside independent audit conducted.

"That's like (Arthur) Andersen doing their own auditing of themselves and saying their practices are aboveboard," Cooper said. "I think after this kind of error an independent firm should come in and conduct an audit to avoid the appearance that you might try to conceal some negative findings." Cooper wants a full review including a review of past cases. "It's frightening to think how close this man (Sotolusson) came to spending the rest of his life in jail," Cooper said. "The stakes here are much too high for Metro to do its own audit. In my opinion they need to undergo an independent audit to assure this community."

Flynn said the National Forensic Science Technology Center will review the lab in June. The review was scheduled in March before the mistake in the Sotolusson case was found.

"(The lab) made a mistake, but the mistake was sloppy clerical work not science. We have addressed the issues," Flynn said. "How we treated the (Sotolusson) case and admitted the mistake should add to the public's confidence in us. We admitted to the mistake and are making changes."

The mistake in the Sotolusson case was found in an independent review of the evidence by California-based forensic DNA consultant Norah Rudin. The review almost didn't happen because the public defender's office couldn't initially get the money. But deputy public defenders Darin Imlay and Brigid Hoffman, Sotolusson's attorneys in the rape cases, were able to get the testing done. Rudin said she caught the mistake only after going back and comparing the original data and realizing the DNA profile that was matched to the rape cases was not the same as Sotolusson's original DNA profile. "I started from the original data and looked at my findings and reread it and reread it again. The DNA was perfectly fine; the names on the samples got switched," she said. "If I hadn't looked at the original data, I likely wouldn't have found the mistake. That's one of the reasons that I always look at the original data." Rudin said sometimes laboratory analysts can become too complacent about the paperwork involved, and in Metro's lab there appears to be too many handwritten transcription involved in lab work. "They didn't do anything intentionally wrong. They made a mistake," said Rudin, who has worked with several police departments' DNA labs and has co-authored a book on DNA forensic analysis. "I believe every case needs to be reviewed by an independent analyst."

The lab mistake stems from an allegation made by a cellmate that Sotolusson sexually assaulted him. Immigration and Naturalization Service was holding Sotolusson in the North Las Vegas jail after he completed his sentence on aggravated stalking.

Samples were taken from both men for DNA testing. The samples were then run against a computer database of DNA profiles of unsolved cases and the match was found in the unsolved rape cases. But Sotolusson's name was transposed onto the DNA profile of the cellmate. Police believe the cellmate, Joseph Coppola, has the DNA that matches the unsolved rape cases, but he has not been charged. The case against Sotolusson involving Coppola's allegations in the jail also were dropped. Sotolusson remains in the Las Vegas jail held by the INS. His current attorney, Barry Levinson, said a civil lawsuit against Metro is expected to be filed in the coming weeks in federal court in Las Vegas. The lab analyst who made the mistake and the supervisor who did not catch the mistake during a review were not disciplined, Flynn said. He said the issue was not violating department policy, but a mistake. Rudin has reviewed the Metro DNA

lab results in the past and has had some "minor disagreements on interpretation" of results but has never found an error like the one in the Sotolusson case. "It was a horrible mistake that they are taking the steps to correct and I think it would be foolish to vilify them to the point where no one trusted them again," Rudin said. "I've reviewed a lot of labs and they are one of the better ones."

This story is located at::

<http://www.lasvegassun.com/sunbin/stories/archives/2002/may/23/513486431.html?sotolusson>

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