



NEW YORK STATE SENATOR

John J. Bonacic

Bonacic: Senate Expands Dna Testing

JOHN J. BONACIC January 31, 2012

| ISSUE: **CRIME**

DNA Testing Can Exonerate the Innocent and Help Convict the Guilty

The State Senate passed legislation (S.5560a) today, co-sponsored by Senator John Bonacic, which would expand DNA testing to all Misdemeanors and Felony violations of New York's penal law.

New York's DNA database became operational in 1996. Since that time, it has helped identify the perpetrators in more than 10,000 crimes. "As a former prosecutor, I know that eye witness testimony, often relied upon, is not always reliable. DNA testing is. DNA testing will lead to more convictions, and help ensure the innocent are exonerated," Senator Bonacic said.

DNA samples taken from those convicted of minor crimes, can lead to solving major crimes. "As law enforcement has said, today's petit larceny offender can be tomorrow's armed robber, which can lead to homicide," Senator Bonacic said.

According to the State Division of Criminal Justice Services, the use of DNA has led to dozens of convictions across Orange, Sullivan, and Ulster Counties – as well as one exoneration. "Imagine how many more violent crimes we can solve in the future, by expanding the DNA database. This integral tool will help us prosecute crime in the 21st century, and potentially solve crimes leftover from the 20th century at the same time," concluded Senator Bonacic.

Yesterday, Governor Cuomo's Acting Commissioner of Criminal Justice, Sean Byrne, testified in front of the Senate Finance Committee Below are some examples of cases which the use of DNA evidence have helped lead to convictions in from Orange, Sullivan, and Ulster Counties.

###

James Babcock – cold-case murder

On April 27, 1990, the body of Elaine Ackerman was discovered in her Town of Deerpark home.

The medical examiner determined that Ms. Ackerman had been strangled and her throat was slashed. During the course of the initial investigation, an individual confessed to the killing, but his case was dismissed after DNA evidence cleared him. The case remained unsolved for nearly 20 years.

In 2009, James Babcock was convicted of DWI in Orange County and his DNA profile was entered into the Databank. Babcock's DNA appeared to match unknown DNA originally seized at the crime scene, and further investigation resulted in both a DNA match and admissions by Babcock. After being indicted for second-degree murder, Babcock pleaded guilty to first-degree manslaughter and received a state prison sentence of 8 1/3 to 25 years in state prison.

Dennis Sweeney – cold-case murder

On May 10, 2004, at approximately 9:45 a.m., an intruder armed with a pistol entered the DiBrizzi residence in Newburgh through an open garage door. Upon entering the residence, the perpetrator was confronted by Nicholas DiBrizzi, and they began to struggle. During the struggle the defendant shot Nicholas DiBrizzi in the chest and leg. When Cosimo DiBrizzi, Nicholas' father, responded to the commotion, the intruder shot the elder DiBrizzi twice,

striking him in the abdomen and hand and killing him. During the struggle with the victims a piece of chewing gum was knocked from the perpetrator's mouth. A DNA profile was obtained from the chewing gum and entered into the Databank. In 2008, Dennis Sweeney was convicted of the crime of fourth-degree grand larceny, and because of this conviction, he was required to provide a DNA sample. That same year, there was a match developed from the DNA profile from the chewing gum and that of Dennis Sweeney. An Orange County jury convicted Sweeney of first-degree murder and attempted first-degree murder, and he was sentenced to life in prison without possibility of parole, as well as 25 years to life to run consecutively.

Christopher Rion – burglary

Blood from a window broken was found in the course of a residential burglary. There was a DNA hit on Christopher Rion, who had 13 prior arrests for misdemeanors, including convictions on petit larcenies, attempted petit larceny and third-degree burglary, for which he provided a DNA sample. But for the felony conviction, there would be no DNA in the system and this crime would have gone unsolved.

Jermaine Davis – home invasion burglary

In 2010 four masked men, two armed with handguns, committed a home invasion where a young couple and their infant child were present. The female victim was pistol whipped, resulting in a broken orbital socket. No leads. We receive a DNA hit from Chapstick left in the driveway. Approximately a year later as a result of Jermaine Davis' arrest and conviction on an attempted murder charge in Orange County, the DNA profile developed from the Chapstick comes back a match to Davis. This led to the arrest and conviction of three of the four defendants on first-degree robbery charges. An interesting note: no weapons were recovered from the Ulster County home invasion. There was a weapon recovered from the Orange County case attempted murder, which was checked against each of the defendants. No match. However, there was an unknown Jane Doe DNA sample from the barrel; we compared it with the victim in the home invasion and got a match.

Rommal Bennett – cold-case murder

Nearly 18 years of mystery ended when Rommal Bennett pleaded guilty in August 2004 to the 1986 murder of the owner of a diner in Monticello. A cold hit to the national DNA Database system, linked Bennett to the DNA profile recovered from a cigarette butt found in a beer bottle at the victim's residence and crime scene. The cigarette butt was analyzed by the New York State Police Forensic Investigation Center in Albany; Bennett's DNA profile was put into the national DNA database by a forensic laboratory in Minnesota based on a 1994 conviction for a sex offense in that state.

Source: <http://www.criminaljustice.ny.gov/forensic/dna-convictions-map.htm>