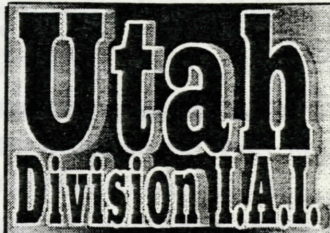


The Patent Print

Official Publication of
The Utah Division of the I.A.I.
Chartered 1989
International Association for Identification



The President's Message



I hope that everyone had a great holiday season. Now it is time to start a new year full of excellent training opportunities.

This year our spring training will be held in May. We are going to move the conference a little to the South this time. The date for the conference will be Thursday, May 4th beginning at 09:00. The subject for this years

conferences is going to be on

court room procedures and testifying. We are planning on having Paul Parker from the District Attorney's Office, who is a specialist in the field of Curriculum Vitae and Exhibits. Lunch will be provided by the I.A.I. Cost for the conference will be \$10.00 for members and

\$15.00 for nonmembers. Send registration to the secretary, Barbara Reed c/o Salt Lake County Sheriff's Office I.D. Section 437 South 200 East Salt Lake City, Utah 84111 or call 535-5955.

The spring training is going to be a pre-training for the fall conference. The fall conference is going to hopefully be a mock courtroom setting with prosecutors, defense attorneys, and hopefully even a Judge. This will be an excellent opportunity to brush up our skills in the courtroom. Hope to see you there. []

James May, President

PS. The Spring Training will be held in the Fred House Academy.

President: James May
Vice President: Jeff Itami
Secretary: Doug Huntsman
Treasurer: Barbara Reed
Newsletter Editor: LaMar Burns
Parliamentarian: Trent Grandy

Immediate Past President:
Kent Timothy

FOOTPRINTS: How many shoe prints can you discover at your crime scenes?

INSIDE THIS ISSUE

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DNA EVIDENCE

The following information taken from a pamphlet printed by the Nation Commission on the Future of DNA Evidence and the National Institute of Justice.

In 1996, Gerald Parker—then in a California prison on a parole violation stemming from a 1980 sentence for raping a child—was charged with the rapes and murders of five women between December 1978 and October 1979 and the murder of a fetus during a rape in 1980. DNA samples from the crime scenes were run through California's sexual assault/violent offenders database, and four of the cases were found to have been committed by the same perpetrator. After DNA tests linked Parker to the victims, he confessed to the crimes. He also confessed to a similar, fifth crime for which Kevin Green had been wrongly convicted and had served 16 years in prison.

Just as today's law enforcement officer has learned to look routinely for fingerprints to identify the perpetrator of a crime, that same officer needs to think routinely about evidence that may contain DNA. Recent advances in DNA technology are enabling law enforcement officers to solve cases previously thought to be unsolvable. Today, investigators with a fundamental knowledge of how to identify, preserve and collect DNA evidence properly can solve cases in ways previously seen only on television.

WHERE IS DNA CONTAINED IN THE HUMAN BODY?

DNA is contained in blood, seaman, skin cells, tissue, organs, muscle, brain cells, bone, teeth, hair, saliva, mucus, perspiration, fingernails, urine, and residue deposits from latent fingerprints, etc..

Evidence to the naked eye can be the key to solving a residential burglary, sexual assault, or child's murder. It also can be the evidence that links different crime scenes to each other in a small town,

within a single State, or even across the Nation.

The saliva on the stamp of a stalker's threatening letter or the skin cells shed on a ligature of a strangled victim can be compared with the suspect's blood or saliva sample. Similarly, DNA collected from the perspiration on a baseball cap discarded by a rapist at

one crime scene can be compared with DNA in the saliva swabbed from the bite marks on a different rape victim. []

Where can DNA evidence be found at a crime scene?

DNA evidence can be collected from anywhere. One murder case was solved when the suspect's dental impression mold was swabbed for saliva DNA residue and compared to the saliva swabbed

from a bite impression on the dead victim. So be creative and collect items that may contain trace residues., such as: cigarette butts, postage stamps, ski masks, hats, gloves, shoes, socks, etc..

Three other areas that need to be considered and examined are:

1. Evidence Collection and Preservation,
2. Contamination (yours), and
3. Transportation and Storage.

Which will be discussed in forthcoming issues.

By: LaMar Burns



New Hearsay Rules Shorten Preliminary Hearings

By B. Kent Morgan
Deputy District Attorney

Perhaps, one of the most recent annoying duties required of a peace officer is enduring the unending wait to testify for a preliminary hearing. This delay is largely the result of the number of witnesses that must give evidence in even the simplest case to support a bind-over multiplied by the number of preliminary hearings that must be held each week. This insult is often compounded by a last minute stipulation to a witnesses' testimony or even a waiver of the defendant's counsel is aware of the evidence they will be facing. However, this relief usually arrives only after waiting several hours in the hall outside the courtroom.

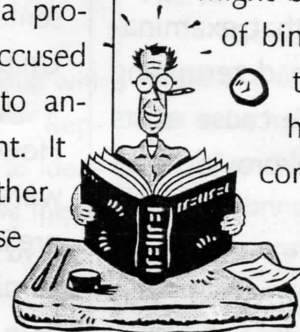
Recent Legislation has Created a Useful Tool for Presenting Some Written Statements Instead of Live Testimony at a Preliminary Hearing

There have been some recent changes in the law that may make this part of our jobs a bit easier. The purpose of the modern preliminary hearing is to provide a defendant charged with a serious offense with the protections associated with a grand jury's deliberations. The preliminary hearing process is designed to safeguard the accused against groundless and vindictive prosecution, thereby avoiding, both for the accused and the state, the expense and inconvenience of a public trial.¹ The function of the preliminary hearing or examination is not a trial in its ordinary sense nor is it a final determination of guilt. The preliminary hearing is a proceeding whereby an accused is discharged or held to answer, as the facts warrant. It seeks to determine whether there is probable cause for believing that a

crime has been committed and whether the accused is probably guilty, in order that he may be informed of the nature of such charge and to allow the state to take necessary steps to bring him to trial. Such a hearing also serves to perpetuate evidence and to keep the necessary witnesses within the control of the state.²

Because of the summary nature of a preliminary hearing, hearsay had long been recognized as a basis for sustaining a bind-over by a magistrate.³ In 1980, however Utah law was changed by a Utah Supreme Court opinion that for all practical purposes outlawed the use of any statement made outside of the preliminary hearing courtroom. The defendant was given the right to confront anyone who had any kind of evidence that might be used in support of binding him over for trial.⁴ Preliminary hearings become complex mini-trials.

In consideration of the legitimate





Bulletin from the IAI

As you all may or may not be aware that Jeff Itami, besides being our Vice President, is our Representative with the IAI. Jeff receives, via e-mail, news and information from the IAI.

I will be disseminating this information as I get it from him. The latest information from the IAI is that we adopt a policy of sponsoring membership in the IAI from other countries whom otherwise could not afford the cost of the membership. I think the actual letter states it better than I could.

Received from the IAI secretary, (IAISECTY@aol.com).

Many people involved in the forensic sciences outside the US are unable to become IAI members due to the relatively high cost of IAI Membership. Although dues are only \$50 USD for those outside the US, that amount is quite staggering for individuals, particularly those from third world countries. I regularly hear from non-US members regarding the hardship posed by annual dues and membership must often be dropped when agency sponsorship ceases.

In order to further the aims and goals of the IAI worldwide, I propose the following challenge to the divisions: each IAI Division to pay the dues of five non-US members, an annual expenditure of \$250. While not an insignificant amount it is difficult to imagine a better way to further the forensic sciences than to meet such a challenge.

Several years ago the New Jersey Division took the lead in this effort and sponsors five members from the Russia Division. New Jersey Division secretary Joe Taussi, sent a check a short while ago to pay those five memberships for 2000. I would like to take this opportunity to challenge each division to follow the lead of New Jersey and step up to the plate.

Each year a listing of divisions who meet this challenge will be published in the March/ April JFI. In addition, those divisions will be presented with a letter of recognition during the banquet at the Annual Conference.

This office will consult with the IAI's International Representative, Mike Carrick, to identify those individuals whose membership will be paid by the divisions with particular emphasis on funding memberships for offi-

cers and personnel who would otherwise not be able to afford membership. In addition, many of our members travel to foreign destinations, conduct instruction or otherwise come in contact with worthy candidates for membership. Those members are encouraged to submit names to this office for membership consideration under this program.

In addition to the divisions, individual members are encouraged to consider paying the dues of a non-US member candidate. Dues are not all that expensive and most of us have an extra \$50 to spare. []

Please forward your pros or cons for the support of assisting those who are less fortunate than ourselves to James May or Jeff Itami as soon as possible. The dues for membership is past due. Direct donations to the division IAI will be accepted.

FRENZY

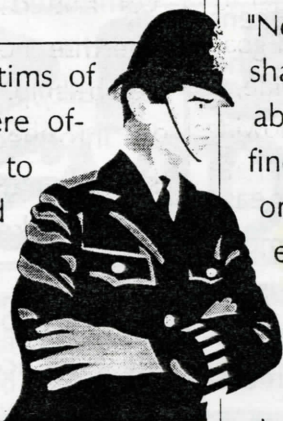
Some of you may have heard of a forensic science exposition to be held in Washington, D.C. next May called Frenzy. This event aims to bring together many parts of the forensic science community such as medical examiners, law enforcement personnel, laboratory



Continuation of New Hearsay Rules from page 3.

concern for victims of crimes who were often subjected to the ordeal and expense of having to testify numerous times in a single criminal case, Utah prosecutors, law enforcement and victim advocates embarked on a course designed to restore the original intentions of conducting a fair, but summary preliminary hearing. First, the State Constitution was amended to restrict the scope of a preliminary hearing. The Utah Constitution now states that, "Where the defendant is otherwise entitled to a preliminary examination, the function of that examination is limited to determining whether probable cause exists unless otherwise provided by statute."⁵

This sensible provision was followed by further constitu-



Scientific, laboratory, or forensic reports and records; can be used during preliminary hearings as valid hearsay evidence.

tional amendment providing, "Nothing in this constitution shall preclude the use of reliable hearsay evidence as defined by statute or rule in whole or in part at any preliminary examination to determine probable cause or at any pretrial proceeding with respect to release of the defendant if appropriate discovery is allowed as defined by statute or rule."⁶

Since Utah has long had a generous discovery rule,⁷ as effort was made to enact a statute at the same time as the constitutional amendment to define reliable hearsay as information worthy of confidence, including any information whose use at sentencing is permitted by the United States Constitution.⁸

However, these provisions were never accepted by the preliminary hearing courts to admit any kind of hearsay other than that admitted under the

formal Rules of Evidence.⁹

On April 1, 1999, the amended Utah Rules of Evidence went into effect. Reliable hearsay for the purpose of a preliminary hearing is now admitted and defined as including: (1) hearsay evidence admissible at trial under the Utah Rules of Evidence; (2) hearsay evidence admissible at trial under Rule 804 of the Utah Rules of Evidence, regardless of the availability of the declarant at the preliminary examination; (3) evidence establishing the foundation for or the authenticity of any exhibit; (4) **scientific, laboratory, or forensic reports and records**; (5) medical and autopsy reports and records; (6) a statement of a non-testifying peace officer to a testifying peace officer; (7) a statement made by a child victim of physical abuse or a sexual offense which is promptly reported by the child victim and recorded in





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analysis, prosecutors, defenders to discuss matters of mutual interest and cooperation. The IAI is participating in the event and will set up an exhibit booth, distribute information and participate in several events, panel discussions that are still in the planning phase. The IAI is also participating with ASCLD, ASCLD-LAB, AAFS, NFSTC and NCFS in planning for this event. Frenzy is also designed to bring buyers and sellers of forensic equipment in a forensic science trade show. More information will follow as details become available. Please call or e-mail me if you would like more information on Frenzy.

2000 Conference

Divisions, please note the following; if you plan to exhibit at the conference in Charleston, please get in touch with Jim Murray no later than June 1, 2000, to reserve a place to set up your table, booth or whatever you have. There is no charge for this service but it is necessary to have advance notice of who is coming, what size table(s) are required so appropriate arrangements can be made and a space

reserved for you. Jim can be reached at (407) 568-7436 or by e-mail at: **conference@the iai.org.**

Please also note that Conference Planner, Candy Murray, will make room reservations for the Board Chair, President, Legal Counsel, Editor and Executive Secretary along with conference staff. Everyone else, board members, officers etc. should contact the hotel directly make their own reservations. Please consult page 27 of the 1999 Membership Directory for hotel information, phone numbers, and rates.

The Board meeting is scheduled to begin at 8:30 a.m. on Friday, July 21, 2000 so if you need to attend that meeting. Please make arrangements accordingly.

LEO (Law Enforcement Online)

Some of you may be familiar with the FBI's law enforcement information service, LEO. Included in that private, dial up information service for law enforcement, is a gateway to many special interest groups (SIGS as the FBI calls them). While in San Antonio, contact was made with the people who

run LEO and the IAI will shortly appear as a SIG on the LEO system.

Anyone working in law enforcement who has access to LEO will be able to access IAI information directly from LEO. It will also be possible to promote IAI initiatives, training, membership etc. through LEO and reach a very targeted audience of over 20,000 law enforcement personnel. More information will be forthcoming as the details are worked out as the IAI's presence is established.

2000 Membership Directory

The 2000 Membership Directory was mailed out and you should have received it by now. []





accordance with Rule 15.5 of the Utah Rules of Criminal Procedure; (8) a statement of a declarant that is written, recorded or transcribed verbatim which is under oath or affirmation, or pursuant to a notification to the declarant that a false statement made therein is punishable; or (9) other hearsay evidence with similar indicia or reliability, regardless of admissibility at trial under Rules 803 and 804 of the Utah Rules of Evidence.¹⁰

It is the subdivision providing for the admission of a statement made by a declarant who is informed that his statement may be punishable that will serve as a great advantage to law enforcement. A statute corresponding to this provision has been enacted that makes it a Class A misdemeanor for anyone, after appropriate notification, to make a false statement that they do not believe to be true and believe will be used at a preliminary hearing. The statute further provides that an admonition to the following effect is sufficient; "You are notified that state-

ments you are about to make may be presented to a magistrate or judge in lieu of your sworn testimony at a preliminary examination. Any false statement you make and that you do not believe to be true may subject you to criminal punishment as a class A misdemeanor.¹¹

The sensible use of these court rules and statutes can save the time and expense of needlessly calling witnesses at a preliminary hearing who offer nothing more than undisputed factual information.

It is important to not only have the person making the statement acknowledge that they understand the consequences of making a false statement by signing just below the warning, but that the officer taking the statement further verbally inform the witness of the consequences.

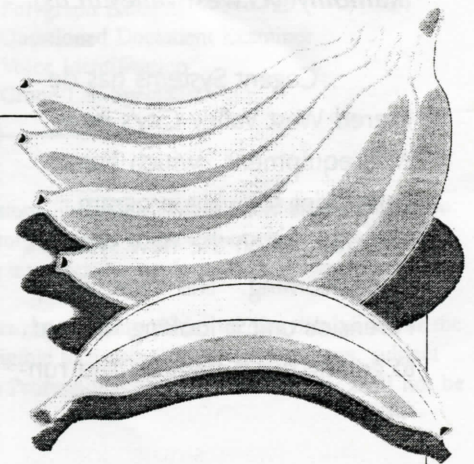
Conclusions:

Considerable effort has been expended in changing the Utah Constitution, court rules and state legislation in order to permit a written statement to

be used in a preliminary hearing instead of calling a live witness to testify.

In order to take advantage of this tool, law enforcement officers will need to adhere to all of the formalities associated with these statements.

If we, as law enforcement strictly comply with the reasonable requirements of these procedures, further simplification of the criminal process can be foreseen on the horizon. The point of all of these procedures is to find the truth, not to place form over substance or just make the government expend resources. []



Can you get latent fingerprints from a banana? Have you ever retrieved latent prints for food items or unusual places? Write and let me know so we can publish it in the Patent Print.



The Editor's Corner

Kent Timothy is still in the hospital and is progressing as expected. He had the bone marrow transplant on the 9th of February and as of the 29th the marrow has not been rejected. His body seems to be accepting it. He however is very weak and will gain strength as time goes by. I will let you all know of any changes. Kent logs into the West Valley City e-mail system from his hospital room and reads his e-mail. I know he would be glad to hear from any and all of you, (ktimothy@ci.west-valley.ut.us).

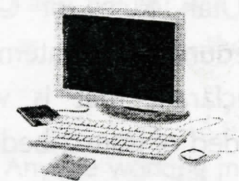
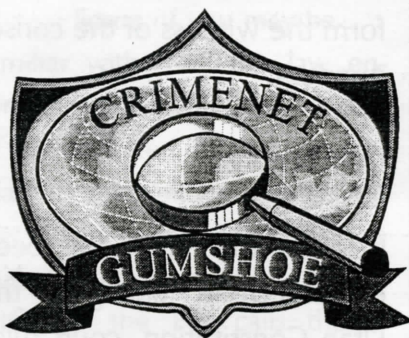
Cogent Systems has delivered West Valley City's new AFIS equipment, which has a palm print software program. The training on the new system is forthcoming. The West Valley Forensic's unit is looking forward to getting this system up and running.

I would be more than pleased if you, out there, would send me some material for articles. Salt Lake City Police has

sent in several articles for prior issues and it is greatly appreciated.

Scott Spjut just came out of the processing room and discovered a latent print on the telephone line that was cut in a home invasion case. The width of the line is just over 3/16". The task now is to match up to the suspect or victim. We do have a name on the suspect. This is an active case so that is the limit of what I can say about it.

I have been processing materials in the LAB full time at West Valley Police since 1996. I have done my share of processing of bullets and cartridges. About two weeks ago I matched a latent from the curved surface of the top bullet which was found in the magazine of a 9mm Sig Sauer, (10 pts). This is very exciting work and we need to hear from you and your case work.



A FRIENDLY REMINDER TO ALL I.A.I. MEMBERS....

Yearly membership dues of \$15.00 are always due in February.

I have heard from many members so far, but if I haven't heard from YOU yet, please remit your check soon

- payable to I.A.I. C/O Barbara Reed @ Salt Lake Co. Sheriff's Office Crime Lab.

437 South 200 East
Salt Lake City, Ut. 84111
535-5955 or 325-8199

We are expecting another great year and we want you to join us. Feel free to recruit a friend, too!

Thanks in advance for your prompt attention

Barbara



The Bulletin Board

Utah I.A.I Spring Training Conference

"Court Room Procedures and Testifying"
at The Fred House Academy

May 4th, 2000 (9:00 A.M.) ----- Paul Parker, District Attorney's Office

"Success Instead of Survival"

Court room testimony techniques.
Lakewood, Colorado

May 22-23, 2000 ----- Ron Smith

The "Palm Print Symposium"

Identification of Palm Prints.
Laramie, Wyoming

May 24-26, 2000 ----- Ron Smith



The International Association for Identification
Utah Division of I.A.I.
Chartered 1989



West Valley City Police Department
Forensic Services Unit, % L.A.Burns
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