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## Houston's Troubled DNA Crime Lab Faces Scrutiny

By NICK MADIGAN

**H**OUSTON, Feb. 8 — A DNA sample that helped convict a 16-year-old rape suspect in 1999 has been added to the mounting pile of evidence called into question in an investigation of the Houston Police Department's crime laboratory.

Prosecutors agreed on Friday to turn over DNA samples used against the rape suspect, Josiah Sutton, to another Houston laboratory for testing. It is the latest in a series of reviews of convictions that were based on DNA tests by the police laboratory.

Police officials suspended DNA testing at the laboratory after an audit completed in December found a host of problems with its methods, including poor calibration and maintenance of equipment, improper record keeping and a lack of safeguards against contamination of samples. Among other problems, a leak in the roof was found to be a potential contaminant of samples on tables below.

In response to the audit, the district attorney's office ordered a review of all convictions based on DNA evidence tested by the police laboratory. Prosecutors have so far looked into almost 90 such cases from the last two years, although it is too early to tell whether any convictions will be overturned as a result.

"I'm very excited about this," Carol Batie, Mr. Sutton's mother, said in an interview today. "I have faith that everything is going to clear up, because I'm 100 percent positive that he's innocent."

Mr. Sutton, who is serving a 25-year sentence, was convicted of raping a woman in October 1998 after she was taken from her apartment complex here by two men and later left in a field. Several days later, he and a companion were arrested, although only Mr. Sutton was charged.

During his trial, a police crime laboratory employee offered evidence to suggest that a DNA sample recovered by investigators was a precise match for Mr. Sutton's. Other DNA experts disagreed.

Dr. William C. Thompson, a criminology professor at the University of California at Irvine, said he had studied eight DNA cases processed by the Houston police, including Mr. Sutton's, and had found "serious shortcomings in all of them."

Mr. Sutton's case resulted in "outright misrepresentations of scientific findings," Dr. Thompson said.

"All of the errors seemed to conform to police theory in the case," he said. "It raises suspicions that it may be more than honest error."

Joe Laud, a police department spokesman, said the question of whether laboratory employees had been dishonest was "under review," along with the questions about competence.

Last month, T. N. Oettmeier, the assistant police chief, said his department was "aggressively pursuing the problems identified within the quality assurance audit."

"This department has a responsibility to assure that persons are not wrongly sent to prison based on inaccurate DNA testing and that predators are not inadvertently eliminated as suspects," Chief Oettmeier said.

Still, the unit has come under intense criticism.

"My opinion is that the Houston police DNA unit is either corrupt or incompetent, or both," said David Dow, a University of Houston law professor who represents death row inmates in federal appeals and who directs the Texas Innocence Network, which works to free people it believes are wrongly imprisoned.

Bob Wicoff, Mr. Sutton's lawyer, said that after the problems at the DNA laboratory were exposed, members of the jury that convicted Mr. Sutton came forward to say they would have acquitted him had they known about them in 1999.

Elizabeth Johnson, who established the DNA testing unit at the Harris County Medical Examiner's Office here 11 years ago and has been retained by Mr. Sutton's lawyer, said the sample offered by prosecutors as a precise match was in fact a mixture of DNA from at least two people.

"Anytime you have a mixture, you cannot say it's a precise match," Dr. Johnson said. "The testimony was misleading. There are horrendous technical errors throughout the whole case, but even if you accept their results, then their interpretation of those results is still wrong."