

CONCORD MONITOR

Published on the *Concord Monitor* (<http://www.concordmonitor.com>)

Print this Page

My Turn: Why is the state in such a rush to destroy evidence?

By PAUL J. CIOLINO

For the Monitor

Tuesday, February 24, 2015

(Published in print: Tuesday, February 24, 2015)

More than half of all the states in the United States have passed legislation that mandates the automatic preservation of evidence upon conviction of a defendant.

The laws vary depending on the state, in restricting both the time frames for retention of the evidence and for which crimes the evidence must be retained. Many require evidence be retained until the person has completed his or her entire sentence. And yet, inexplicably, the state of New Hampshire has denied a petition to retain evidence in one of two capital cases, even as the appropriateness of the death penalty is being decided in the other.

In terms of administration of justice, these laws are critically important, as we have seen just how crucial DNA evidence has become in proving guilt – and innocence.

Since the introduction in 1989 of DNA evidence as an empirically sound forensic tool in U.S. courts, we've also witnessed vast improvements in DNA testing. Since 2004, a state of New Hampshire statute requires that biological material obtained in connection with a criminal or delinquency investigation or prosecution be preserved for five years from the date of conviction or adjudication, or as long as any person connected with that case or investigation remains in custody, whichever is longer.

In the last decade, the state of New Hampshire has tried two capital murder cases for the first time in 75 years. Both resulted in conviction, although only in one case was the death penalty imposed, that of Michael Addison.

Last month, there were oral arguments before the New Hampshire Supreme Court on the question of whether Addison's death sentence was appropriate and just, and part of the comparison was to the capital case of Jay Brooks, which resulted in the jury giving a life sentence.

It seems incomprehensible that as all the questions surrounding these cases – and especially one in which the harshest penalty has been imposed – that the state would be in a rush to destroy evidence. The question is: Why? Although a jury reaches its verdict behind closed doors, the administration of justice should be an otherwise transparent process. Court proceedings are, after all, held in public. The state of New Hampshire should answer this question: In whose interest is it to rush to destroy evidence in a capital case when so much is at stake?

(Paul J. Ciolino is a private investigator and lives in Chicago.)

Source URL:<http://www.concordmonitor.com/home/15722761-95/my-turn-why-is-the-state-in-such-a-rush-to-destroy-evidence>