

FACTS ABOUT THE FORENSIC EVIDENCE IN DANIEL HOLTZCLAW'S CASE

Prepared by: Peter Gill, Ph.D., Jane Goodman-Delahunty, Ph.D., J.D., Suzanna Ryan, M.S., Moses S. Schanfield, Ph.D., George Schiro, M.S., and Brent E. Turvey, Ph.D. (July 25, 2017)

- The DNA matching a 17-year-old's profile on the fly of Mr. Holtzclaw's uniform pants had a valid non-sexual explanation: non-intimate skin cell DNA indirect transfer (Trial Transcript "Tr" p. 4083).
- Detectives only collected Mr. Holtzclaw's uniform pants and belt (DNA Lab Report, June 19, 2014). They did not collect underwear and penile swabs that could have offered more data to test hypotheses.
- The State handled the evidence incorrectly. The interrogation video shows that a detective inserted his bare hand into the evidence bag. Two items, the uniform pants and belt, were packaged in that bag. Cross-contamination may have caused DNA to transfer to the fly of the uniform pants.
- The DNA from the fly of the uniform pants derived from at least 3 people (Tr. 4041). All four DNA samples included DNA from at least one male. The DNA did not come from semen (Tr. 4075). The analyst testified incorrectly that she found no evidence of male DNA in the two samples from inside the fly (Tr. 4072; qPCR Report). The male DNA supports the non-intimate DNA transfer scenario.
- Whether Mr. Holtzclaw was a contributor to the DNA samples is inconclusive based on the data. The State's analyst testified incorrectly that Mr. Holtzclaw was excluded as a contributor (Tr. 4072-73).
- No evidence of vaginal fluid was observed. The State's forensic analyst saw nothing suspicious – no visible stains or deposits – on the pants using a very bright light and a magnifying glass (Tr. 4084).
- The State's forensic analyst did not test the uniform pants for body fluids or view them with an Alternate Light Source that causes body fluids, including vaginal fluid, to fluoresce (Tr. 4078-79, 4084).
- The State's forensic analyst incorrectly testified that it was a "very good possibility" that DNA matching the 17-year-old's profile was likely to have transferred in vaginal fluid (Tr. 4073). A DNA profile alone does not inform about when, where, how, or why DNA transfer occurred.
- The prosecutor incorrectly stated in his closing argument that it was a "fact" that DNA from the walls of the teenager's vagina transferred in vaginal fluids (Tr. 4307). A basic tenet of science is that one cannot claim the presence of a substance for which one has not tested.
- Research shows that jurors often overvalue DNA evidence, even when it lacks probative value, especially in circumstantial cases (Findlay (2008) *Int'l J. of Law Crime and Justice* 36, 15-53).
- The misrepresentations of the DNA evidence impacted the verdicts. The two jurors who spoke to the press said the DNA evidence was crucial in their deliberations (KOKO 5 News, *Juror Speaks about Daniel Holtzclaw Trial*, Dec. 18, 2015; Susan Welsh *et al.*, *How the Daniel Holtzclaw Jury Decided to Send the Ex-Oklahoma City Police Officer to Prison for 263 Years*, ABC News, May 20, 2016). One juror explained the verdict by stating that they were told the DNA was in vaginal fluid (*Crime Watch Daily*, April 28, 2017), demonstrating that the jury was misled.