

National District Attorneys Association

Newsclips

February 20, 2013

Today's Clip Headlines

High Court Rules On Detaining Suspects, Sniffer Dogs

**Department of Justice and National Institute of Standards and Technology
Announce Launch of National Commission on Forensic Science**

**Maine Supreme Judicial Court says prostitutes and customers have no expectation
of privacy when meeting for sex.**

State program to seize illegal guns gaining notice

A New Crime, but Convictions Are Elusive

Detroit Tops The 2012 List Of America's Most Dangerous Cities

Colorado may not be reviewing all child abuse deaths, experts say

House committee OKs raising daily juror pay to \$50

Legislation seeks to block federal gun laws on Kansas firearms

O'Malley agrees to tougher gun prohibition aimed at the dangerously mentally ill

**Michigan's sex offender registry would put more crimes involving minors online
under advancing legislation**

Missouri bill would imprison legislators proposing gun control

Panel declines to back increased staffing for Montana public defender's office

Once again, Martinez vows veto of bill allowing criminal records to be cleared

Clip Synopses and Links

NPR

High Court Rules On Detaining Suspects, Sniffer Dogs

The U.S. Supreme Court handed police one victory and one loss on Tuesday. In one decision, the justices limited the power of police to detain people who are away from their homes when police conduct a search. And in a second case, the justices ruled that drug-sniffing dogs don't have to get every sniff right in order for a search to be valid.

The Supreme Court has long held that when police execute a search warrant, they may detain anyone found on the premises while the search is conducted. The purpose is to protect the officers' safety during the search and to prevent potential suspects from fleeing or destroying evidence.

<http://www.npr.org/2013/02/19/172431555/latest-supreme-court-decisions-give-police-one-victory-one-loss>

U.S. Department of Justice

Department of Justice and National Institute of Standards and Technology Announce Launch of National Commission on Forensic Science

The U.S. Department of Justice and the U.S. Department of Commerce's National Institute of Standards and Technology (NIST) announced today the establishment of a National Commission on Forensic Science as part of a new initiative to strengthen and enhance the practice of forensic science.

The National Commission on Forensic Science will be composed of approximately 30 members, bringing together forensic science service practitioners, academic researchers, prosecutors, defense attorneys, judges and other relevant stakeholders to develop policy recommendations for the Attorney General. The commission will consider guidance on practices for federal, state and local forensic science laboratories developed by groups of forensic science practitioners and academic researchers administered by NIST.

"Forensic science is an essential tool in the administration of justice and needs to be continually evaluated as science progresses," said Deputy Attorney General James M. Cole. "Forensic science helps identify perpetrators, convict the guilty, exonerate the innocent, and protect public safety. This initiative is led by the principle that scientifically valid and accurate forensic analysis strengthens all aspects of our justice system."

<http://www.justice.gov/opa/pr/2013/February/13-dag-203.html>

Maine Supreme Court

Maine Supreme Judicial Court says prostitutes and customers have no expectation of privacy when meeting for sex.

Third party can record the sexual activity without violating Maine's privacy law.

Places of prostitution and people who knowingly frequent them to engage a prostitute are not sanctioned by society. Accordingly, it is objectively unreasonable for a person who knowingly enters a place of prostitution for the purpose of engaging a prostitute to expect that society recognizes a right to be safe from surveillance while inside

http://www.courts.state.me.us/opinions_orders/supreme/lawcourt/2013/13me21st.pdf

Los Angeles Times

State program to seize illegal guns gaining notice

By law, Alexander Hernandez should have surrendered his gun to the state of California three years ago after a judge issued a restraining order against him for alleged domestic violence.

He didn't.

So one night recently, when the 26-year-old was at home in Whittier with his toddler, eight armed agents from the California Department of Justice banged on his door and took it from him.

Agents found the loaded .45-caliber handgun in a safe by his bed. Hernandez, who told the agents he had forgotten that he was supposed to turn in the weapon, was arrested on suspicion of illegally possessing a handgun, records show.

California has the nation's only program to confiscate guns from people who bought them legally but later became disqualified. During twice-weekly sweeps over the last five years, agents have collected more than 10,000 guns.

<http://www.latimes.com/news/local/la-me-gun-recovery-20130219,0,5853388.story>

The New York Times

A New Crime, but Convictions Are Elusive

New York's law, like dozens of choking statutes across the nation, is popular with law enforcement officials. In 2011 in New York City, 1,458 domestic violence assaults that would have been considered misdemeanors under the old law — more than 9 percent of

them — were charged as felony strangulation.

But second-degree strangulation — choking to the point of injury, impairment, stupor or unconsciousness — can leave ambiguous marks or no marks at all, making it tricky to prove. “If you don’t know how to follow the bread crumbs it’s very easy to miss,” said Gael Strack, chief executive of the National Strangulation Training Institute, an anti-domestic-violence group based in San Diego. Of the thousands of defendants charged in New York City, fewer than 20 have gone to trial, state officials said. Experts say that thousands of police and medical professionals around the country have not been trained on how to execute the new statutes.

Choking, experts say, is one of the most pervasive forms of domestic violence, with its overtones of power and control, and one of the best predictors of more serious violence. “A woman who has been choked is seven times more likely to be the victim of a domestic violence homicide later,” Ms. Strack said. Until the new law, though, unless it resulted in serious physical injury, like brain damage, choking could be classified no higher than misdemeanor assault, which carries a maximum sentence of one year but rarely draws more than a few months. In recent years, choking assaults have drawn the attention of lawmakers across the country. New York is one of 30 states that have criminalized that kind of assault.

Under New York’s law, second-degree strangulation is a Class D felony, calling for at least two years in prison — the same as second-degree assault, which requires infliction of serious physical injury.

http://www.nytimes.com/2013/02/17/nyregion/choking-someone-is-now-a-felony-but-convictions-are-elusive.html?ref=nyregion&_r=0

Forbes

Detroit Tops The 2012 List Of America’s Most Dangerous Cities

The best crime news out of Detroit these days is that the rate of violent crimes – murder, rape, robbery and aggravated assault – fell 10% last year to 2,137 per 100,000 residents. That’s still more than five times the national average and more than enough to make Detroit America’s Most Dangerous City for the fourth year in a row.

To construct the list, we ranked U.S. cities with a population over 200,000 according to their violent crime rate as reported by the FBI’s Uniform Crime Reports database. These preliminary 2011 statistics come with more caveats than the black-box warning on a dangerous chemotherapy agent, and the FBI says they shouldn’t be used to compare one city with another. Differences in police reporting standards, urban borders and economics can make it tricky to compare densely populated Detroit, say, with sprawling Houston. We used cities instead of larger metropolitan statistical areas, which gave the disadvantage to older cities with tighter boundaries.

But consistency also means something, and the Top 10 cities on this list all display a lot of consistency both in their stubborn crime rates and their ranking on individual crimes like murder and rape. No. 2 St. Louis, for example, ranks fourth nationwide in murders, fifth in robberies and third in violent assaults. Detroit has lost more than 200,000 residents since 2001, yet it racked up 344 murders last year, compared with 395 a decade ago. The Motor City's murder rate is second only to New Orleans among cities over 200,000 population (Flint, Mich. narrowly beats Detroit among all cities, with a murder rate of 52 per 100,000). Higher rates of other violent crimes put it at the top of the list.

<http://www.forbes.com/sites/danielfisher/2012/10/18/detroit-tops-the-2012-list-of-americas-most-dangerous-cities/>

Denver Post

Colorado may not be reviewing all child abuse deaths, experts say

An unknown number of child-maltreatment deaths probably go without individual review — and in some cases are unaccounted for — by Colorado's parallel systems for investigating child abuse and neglect fatalities, national experts say.

Colorado has a unique two-tier system, with fatality reviews housed in both the Colorado Department of Human Services and the Colorado Department of Public Health and Environment. But failure to integrate parts of the two reviews is potentially stalling some efforts to implement data-driven system improvements and prevention recommendations, said Theresa Covington, executive director of the National Center for the Review and Prevention of Child Deaths.

The Department of Human Services, which reviews an average of 12 deaths a year, investigates only if the child died of abuse or neglect and had had contact with the child welfare system.

The Department of Public Health reviews an average of 350 child deaths each year, but even so, deaths that could be maltreatment — such as a child who dies of an untreated medical complication — are not included. Last year, the department went from reviewing the deaths individually to examining the cases by type of death — ranging from accidental to homicide — and using that data to find trends.

http://www.denverpost.com/news/ci_22624955/colorado-may-not-be-reviewing-all-child-abuse

Idaho State Journal

House committee OKs raising daily juror pay to \$50

After 45 years of paying jurors no more than \$10 daily, Idahoans called for jury duty could soon be paid up to \$50 for each day they serve in court.

The House Judiciary, Rules and Administration Committee voted unanimously to advance legislation Tuesday that gives county commissioners the option to boost juror pay. People who serve a half day would get \$25, up from \$5 under current law.

http://www.idahostatejournal.com/news/state/article_61c04d30-a9ac-57d7-a435-fe39e0138725.html

Lawrence Journal-World

Legislation seeks to block federal gun laws on Kansas firearms

Secretary of State Kris Kobach on Tuesday urged passage of a bill that he said would protect Kansas gun owners from federal restrictions, and he welcomed a possible legal battle over the measure all the way to the U.S. Supreme Court.

“It is a fight worth having,” Kobach told the House Federal and State Affairs Committee during a hearing before a standing-room-only crowd of gun owners.

http://www2.ljworld.com/news/2013/feb/19/legislation-seeks-block-federal-gun-laws-kansas-fi/?kansas_legislature

Washington Post

O’Malley agrees to tougher gun prohibition aimed at the dangerously mentally ill

Maryland Gov. Martin O’Malley’s (D) administration will bow to mounting opposition from members of his own party and back significantly tougher rules to get guns out of the hands of the dangerously mentally ill, administration officials said Tuesday.

Under the governor’s modified plan, Maryland would adopt a law similar to one passed in Virginia after the 2007 massacre at Virginia Tech that would prohibit anyone involuntarily committed to a public or private mental health facility for any length of time from purchasing a gun.

http://www.washingtonpost.com/local/md-politics/omalley-agrees-to-tougher-gun-prohibition-aimed-at-the-dangerously-mentally-ill/2013/02/19/a3eb9720-7acd-11e2-a044-676856536b40_story.html

MLive.com

Michigan's sex offender registry would put more crimes involving minors online under advancing legislation

A bill that would lead to more sex offenders being listed on Michigan's public online registry continues to advance in the Legislature.

The Michigan House, by a 106-3 vote, approved a bill Tuesday that would lead to more offenders being listed in the public domain. The Senate unanimously approved the bill earlier this year. If the Senate concurs as expected with changes made by the House, the bill would then head to Gov. Rick Snyder for his consideration.

The legislation would expand the state's public online registry to include some additional crimes that involved minors – crimes now listed on the portion of the sex offender registry available only to police. The offenses covered include some so-called “Tier I” crimes -- those that involve offenders convicted of a single crime involving minors.

Specific offenses that would be added to the website include knowingly possessing child pornography, indecent exposure when the victim is a minor, and surveillance of a minor who is undressed or wearing only undergarments in a situation where he or she has a reasonable expectation of privacy.

http://www.mlive.com/politics/index.ssf/2013/02/sex_offender_registry_michigan.html#ncart_river

The Kansas City Star

Missouri bill would imprison legislators proposing gun control

A Missouri lawmaker is proposing to send colleagues to prison for introducing gun control legislation — a plan even its sponsor acknowledges has no chance of passage.

Rep. Mike Leara, a St. Louis County Republican, said Tuesday that his bill is a statement of principle. It would make lawmakers guilty of a felony punishable by up to four years in prison if they introduce legislation restricting gun rights.

<http://www.kansascity.com/2013/02/19/4075002/missouri-bill-would-make-introducing.html>

Missoulian

Panel declines to back increased staffing for Montana public defender's office

A legislative budget panel Tuesday declined to endorse the Bullock administration's proposal to greatly increase staff at the overburdened public defender's office.

The panel's inaction on the Bullock proposal to add 37 new positions to the Office of Public Defender comes four days after the office announced it will start taking formal steps to restrict its caseload in its Helena region.

In a letter to the budget panel dated Friday, Richard "Fritz" Gillespie, a Helena attorney who chairs the Public Defender Commission, said hundreds of open cases, a lack of money and other factors have forced the public defender's office to notify courts in Lewis and Clark, Jefferson and Broadwater counties that it must limit new cases it can accept. Caseloads are becoming so large that the office can't effectively represent its clients, who are poor people who can't afford attorneys in criminal cases, he said.

Yet the chairman of the budget panel said Tuesday he's not convinced that adding new attorneys to the public defender's office will solve its problems.

http://missoulian.com/news/state-and-regional/montana-legislature/panel-declines-to-back-increased-staffing-for-montana-public-defender/article_3d3e69fc-7aec-11e2-8e7c-001a4bcf887a.html

Santa Fe New Mexican

Once again, Martinez vows veto of bill allowing criminal records to be cleared

A bill that would allow certain criminal records to be expunged in cases involving identity theft or wrongful arrest is zipping through the Senate. Senate Bill 294, sponsored by Senate Majority Leader Michael Sanchez of Belen, has made it through Senate committees without opposition and is on the Senate floor agenda for Wednesday.

But when Gov. Susana Martinez — who vetoed an identical bill last year — was asked whether there was anything the Legislature could do to the bill that could get her to sign it, she had a concise answer: "No."

Sanchez said Tuesday he received many requests for the bill from people who have been wrongfully convicted or have had old misdemeanor arrests haunt them for decades. One man who contacted him, Sanchez said, was convicted of a petty misdemeanor shoplifting charge when he was 18. Though he's now in his 30s, that case still comes up on employment background checks and has cost him job opportunities, Sanchez said.

The governor, a former prosecutor, has argued that not everyone who isn't convicted of a criminal charge is innocent. Sanchez, a defense lawyer, said Tuesday, "Not everyone who is charged is guilty."

His bill would allow a person's public criminal records to be expunged after a hearing before a district judge. The person would have to convince the judge that he or she was a victim of identity theft or wrongful arrest, or that one year has passed after a dismissal or release without conviction on any alleged misdemeanor or felony charge.

<http://www.santafenewmexican.com/Local%20News/022013xgrEXPUNGE#.USUUQaXRfHh>



Upcoming Courses

To see a full list of our upcoming courses, their dates, summaries and registration forms, please visit http://ndaa.org/upcoming_courses.html

Member Benefits

New NDAA membership benefits available: http://ndaa.org/join_ndaa.html

Need Case Assistance?

NDAA can help. Send a message to NDAA's prosecutor assistance e-mail address and we will get your request to one of our program specialists or out to prosecutors around the country. E-mail jhemphill@ndaa.org