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Police Science Notes

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POLICE SCIENCE NOTES

The Determination of Non-Paternity By Means of Blood Tests: A Case Report—The recent advances of medical research involving blood groups and the inheritance of blood grouping characteristics are gradually being accepted by the lower courts of this country as being thoroughly reliable. They have been so accepted by the medical profession of this country for several years and have been recognized by the courts of European countries (England, Ireland, Sweden, Norway, Denmark, Germany, Austria, Poland, Netherlands, Switzerland, Italy) for an equal period of time.

An interesting decision in point was handed down recently by the Allegheny County Court of Pennsylvania in the case of *Commonwealth ex rel. Antoinette Visocki v. Frank Visocki* which upheld the admissibility of blood grouping tests in the determination of non-paternity. (For a copy of the court's opinion the writer is indebted to Mr. Don F. D'Ivernois of Pittsburgh, Pa.).

The action was for non-support. Testimony brought out that the prosecutrix (age 20) and the defendant (age 42) were married on May 9, 1933. Testimony as to intercourse was in conflict, the husband stating that he had never had intercourse with his wife because on the evening of their wedding day he heard that she was pregnant. The wife testified that she had intercourse with her husband only once, on May 13th. They continued to live together for four months. It was conceded that the child was

born in wedlock seven months after conception, presumably as the legitimate offspring of the parents. To overcome this presumption, the defendant introduced medical testimony to show that there was no strain of his blood in the child and that he was not the child's father. Two physicians testified in his behalf that they had both conducted blood grouping tests of the mother, child, and defendant father; that the mother and child both belonged to Group 4 of the Moss scale, which is identical with Group O of the Landsteiner scale; that the defendant belonged to Group 1 of the Moss scale, which is identical with Group AB of the Landsteiner scale; that there are four blood groups into which all humans are classified; that these blood grouping characteristics are passed on by the parents to their offspring according to definite laws of inheritance; that these laws are well established and are based upon facts rather than upon theoretical considerations only; that blood grouping tests for the purpose of determining legitimacy may exonerate but can never incriminate an alleged father; that in about 14% of the cases, the blood groupings of the mother, child and alleged father fall into such classifications that from the laws of inheritance it may be definitely stated that the man could not be the father of the child; that if the child in this case (Ethel Visocki) was the child of the prosecutrix, Antoinette Visocki, the defendant would not and could not be the father of the child.

To contradict this evidence, the

Commonwealth called another physician to testify in regard to the use of blood tests in determining paternity. This witness stated that, "In my opinion, no such test is at all conclusive and as I see it in my reading of the literature and contact with my brother physicians, that no such theory or opinion is accepted; that in my opinion such a set of circumstances, the mother, Group 4 Moss, the child, the same group, and the father, Group 1 Moss, means nothing—not capable of any proof. These assertions regarding blood and blood typing in relation to paternity are theoretical."

The court in commenting upon the testimony stated, "In our opinion, comparing the positive, not to say aggressive, circumstantial, and particular testimony of the witnesses for the defendant with that of the witness for the prosecution, which seems to us to be more general, lacking in individual and concrete authority for his position, the strong weight of evidence uphold the contention of the defendant, who has sustained the burden which the law casts upon him, he being the husband of the woman who gave birth in lawful wedlock to a child, that he is not the father of the child." The case was dismissed.

This is one of the very few cases in this country, coming to the writer's attention, in which the use of blood group inheritance has been utilized to decide the main point at issue. In previously reported decisions, blood grouping evidence usually has been advanced as a side issue. Excellent reviews of these are to be found in 44 *Yale L. Jour.* 808 (1935), 32 *Mich. L. Rev.* 987 (1934), 20 *Cornell L. Quar.* 232 (1935). Also see Wigmore, *Evidence* (Supplement, 1934) §165a, 165b. In the case of *Commonwealth*

v. Zammarelli, 17 Pa. D. & C. 229 (1931) the defendant was charged with fornication and bastardy. To combat the latter charge, he called as a witness a medical expert who testified that he had made blood group tests of the mother, child, and defendant; that as a result of these tests it could be positively stated that the defendant could not have been the father of the child. No expert testimony was offered by the prosecution to rebut the blood group evidence, but the jury, nevertheless, found the defendant guilty. The court set aside the verdict, and granted a new trial to give the prosecution an opportunity to conduct tests to rebut the defense expert. In *State v. Damm*, 252 N. W. 7 (S. D. 1933), a man was charged with rape of a minor foster daughter. The defendant petitioned the court to order a blood grouping test of the mother, child, and himself. This request was denied by the court on the ground that the proposed test had not been established as thoroughly reliable and based upon unquestioned scientific facts. On appeal, this refusal to order the blood grouping test was held not to be an abuse of the court's discretion. This rather recent ruling is difficult to understand when the inheritance of blood grouping characteristics has been recognized by the entire medical profession for a period of years. *Buschel v. Manowitz*, 271 N. Y. Supp. 277, 272 N. Y. Supp. 165 (1934), was a suit for damages in an alleged carnal assault. The defendant moved the trial court to require plaintiff and her child to submit to blood grouping tests, which together with a blood grouping test of his blood would enable him to establish his innocence. From an order granting this motion, plaintiff appealed to the Ap-

pelate Division of the State Supreme Court. This court reversed the lower court, not on the ground that the blood grouping test was unreliable, but rather on strictly legal grounds. The court was of the opinion that the child was not a party to the case and therefore the court had no jurisdiction to order a test of the child's blood; that without such a test, a test of the blood group of the mother would be without significance in throwing light on the defendant's innocence or guilt. In this connection, see another New York case, *Taylor v. Diamond*, 269 N. Y. Supp. 799 (1934), in which it was held that "in the absence of statutory authority, the court of Special Sessions in a paternity proceeding may not compel blood tests to be taken."

In addition to the four blood groups, Landsteiner and his co-workers have established three sub-

group characteristics or agglutinogens (Forensic Application of Serologic Individuality Tests, 103 Jour. Amer. Med. Assn., 1041 (Oct. 6, 1934)) which, to avoid confusion, he classifies as M, N and MN. These are transmitted by the parents to their offspring according to the Mendelian law of inheritance—just as are the four main factors (O, A, B and AB). With just the four main blood groups, a wrongfully accused man has about one chance in seven of proving non-paternity (Hooker, S. B. and Boyd, W. C., 1 Am. J. Police Sci. 121 (1930). Also see article by same authors in 25 J. Crim. Law 187-205 (1934). By the use of the three additional subgroups of Landsteiner, this probability is increased to one chance in three or four. The blood group relationships possible between child, mother and father are given in the following tables:

TABLE I

Relationship of Main Blood Grouping Characteristics Existing Between Child, Mother, and Father

Child	Mother	Father	
		Possible	Excluded
O	O	O, A, B	AB
O	A	O, A, B	AB
O	B	O, A, B	AB
A	O	A, AB	O, B
A	A	O, A, B, AB	None
A	B	A, AB	O, B
A	AB	O, A, B, AB	None
B	O	B, AB	O, A
B	A	B, AB	O, A
B	B	O, A, B, AB	None
B	AB	O, A, B, AB	None
AB	A	B, AB	O, A
AB	B	A, AB	O, B
AB	AB	A, B, AB	O

TABLE II

Relationship of Landsteiner's Blood Sub-Groups (Agglutinogens) in Child, Mother, and Father

<i>Child</i>	<i>Mother</i>	<i>Father</i>	
		<i>Possible</i>	<i>Excluded</i>
M	M	M, MN	N
M	MN	M, MN	N
N	N	N, MN	M
N	MN	N, MN	M
MN	M	N, MN	M
MN	N	M, MN	N
MN	MN	M, N, MN	None

It is to be noted that if a child belongs to blood group O or AB, it is impossible for the mother to have group AB or O, respectively. Likewise, if a child has agglutinogens M or N, it is impossible for the mother to have the classification N or M, respectively. Where the alleged parents have blood group combinations of A and B or MN and MN, there is no point in determining the blood group characteristics of the child, since such combinations in the parents may produce children of any blood group and no exclusion of a putative father is possible.

It is of course understood that blood grouping tests can never prove that a certain man is the father of a child; they can only exclude a certain proportion of men who are falsely accused. Experience in European countries have indicated that about half of the men accused in bastardy cases are wrongfully charged—as proved by the blood grouping test (Landsteiner).

There are, of course, other applications of these blood grouping tests in medico-legal cases, apart from paternity and legitimacy tests. The classification of blood stains in homicide cases may definitely prove

that stains on the clothing of the accused could not have come from the blood of the victim. However, in view of the large number of bastardy cases, the difficulty of proof of fatherhood and the even greater difficulty of presenting an adequate defense against such accusation, the sure and conclusive proof of non-paternity afforded by blood grouping evidence should be made available in the courts of this country just as it has been utilized in European courts for some years.

C. W. MUEHLBERGER.

Polygraph Admitted as Evidence—

As the result of a stipulation and agreement entered into between prosecution and defense counsel in a recent Wisconsin case, Judge Clayton F. Van Pelt of the Eighteenth Judicial Circuit of that state admitted in evidence so-called "lie-detector" records, together with expert testimony concerning their interpretation. The instrument used in making the tests is known as the Keeler Polygraph, and the examination of the defendants was made by Professor Leonarde Keeler of the Scientific Crime Detection Laboratory, who also testified and ex-

plained the records to the jury.

The importance and significance of this case should not be overestimated. It does not imply complete judicial recognition of such evidence, and it is not "as acceptable in court as finger-print evidence," as some newspaper reports have indicated. Were it not for the stipulation the presiding Judge probably would not have permitted this evidence to go to the jury. Then it must also be remembered that such evidence was merely used for its corroborative effect, and not as the sole indication of guilt. Considered in this light, however, it is a very important step in the right direction.

The defendants, Cecil Loniello and Tony Grignano, were accused of assault with intent to kill, and were found guilty of "assault regardless of human life in a manner evincing a depraved mind without any premeditated design to effect death."

A subsequent issue of this Journal will contain an article describing the details of the case and the results of the Polygraph examinations. Photographs of the Polygraph records will also appear.

For a discussion of the legal aspects of Polygraph evidence see volume 24 of this *Journal*, pp. 1140-1153. A general discussion of the technique of conducting Polygraph tests may be found in Volume 25 at p. 153. Also see an illustrated article in Volume 40 of the *Scientific Monthly* at p. 81 (January, 1935).

Firearms Identification Decision—The following opinion was rendered recently by the Supreme Court of Missouri in *State v. Markel*, 77 S. W. (2d) 112 (Mo. 1934). "Error

was assigned to the admission of evidence of a ballistic expert, who testified to the effect that the bullet taken from the head of the deceased was shot from appellant's pistol. That such evidence is admissible is now fairly well settled by the weight of authority. This question was fully discussed in a recent case by this court in *State v. Shawley*, 67 S. W. (2d) 74. The evidence was held to be competent. The point is ruled against appellant upon the authority of that case." (The case was reversed and remanded for a new trial upon other grounds.)

Finger-Print Testimony—The Division of Investigation has prepared and published a suggestion form of testimony to be used in introducing latent finger-print evidence in court. It was prepared for the benefit of law enforcement officers and agencies who are interested in the "questions and answers sometimes given at court trials where such evidence is presented." The testimony is based upon a supposititious case involving the introduction of latent finger-print evidence. See vol. 4, No. 2 of *Fugitives* (Feb. 1, 1935).

In Search of the Firearm—"Police '13-13'" has published two articles of a series entitled "In Search of the Firearm" by Colonel Calvin Goddard. They contain some very valuable information for the firearms expert. See January and February numbers for 1935.

Delaware County Police School—Swarthmore College, of Swarthmore, Pennsylvania, is sponsoring a Police School, which was scheduled to begin on March 5th and end on

May 28th. The course requires "48 hours of class work, or outside work, and will be covered in 12 weeks, 4 hours each week." Police officers and industrial police of Delaware County and other men interested in police work as a profession, are eligible, and also high school graduates not having police experience.

The staff of instructors consists of "police officers and others especially qualified by experience and education." The Division of Investigation of the U. S. Department of Justice, the Pennsylvania State Police, and the Pennsylvania State Highway Patrol and the District Attorney of Delaware County were expected to cooperate in providing instructors.

The curriculum includes lectures in the following subjects: "Elementary English and Preparation of Written Reports"; "Marksmanship, Weapons, and Equipment"; "Physical Fitness and Handling Prisoners"; "Communication"; "Fingerprints and other Latent Evidence"; "Criminal Law, Evidence and Preparing Cases for Court"; "Files and Records"; "Patrolling and Observation"; "Traffic"; "First Aid"; "Crime Prevention"; "The Police Profession".

The School is under the directorship of Professor Thomas A. Meryweather, of Swarthmore College.

Course in Police Administration—Ohio State University, at Columbus, Ohio, is scheduled to conduct a "Third Short Course in Police Administration," during the period of March 18th to the 23rd.

Among the various lectures listed are the following: "Apparatus and Methods Used in the Detection of Deception" by Dr. Samuel Renshaw

and assistants; "Use of Ultra-violet Ray in Crime Detection" and also "Spectrographic Analysis" by Dr. M. L. Pool; "Physiological Chemistry as an Aid to Crime Detection" by Dr. Clayton Smith; "Medical Aspects of Police Work" by Dr. Marshall Best; "Fingerprints and Fingerprint Identification" by H. G. Robinson; "The Significance of Ballistics in Crime Detection" by David Cowles; "The Significance of Crystallography in Crime Detection" by Dr. W. J. McGaughey; "The Significance of Metallurgy in Crime Detection" by Dr. D. J. Demorest; "Scientific Equipment for Police Departments" by B. H. Barker; "The Use of Chemistry in the Solution of Crimes" by Wallace W. Brode.

Virginia Police Instructors' Training School—"The third Virginia Police Instructors' Training School was held in Richmond during the week of November 12, under the direction of Captain Albert B. Moore of the New York State Police. Representatives of the United States Department of Justice, the Virginia Alcoholic Beverage Control Board, the State Legislative Drafting Bureau, and a local attorney assisted in the instruction. This was the concluding course for instructors in the three-year standard police school curriculum. The instructors will shortly open the schools which are conducted on a zone basis for all officers throughout the commonwealth. These schools have reached over one thousand police officers and have raised police standard appreciably. The schools are sponsored by the Virginia Police Executives' Association in conjunction with the League of Virginia Municipalities and the State Division of Trade and Industrial

Education." Excerpt from Police Chiefs' News Letter of January, 1935.

The Division of Investigation—In an address delivered before the Chamber of Commerce of the State of New York, on February 7, 1935, J. Edgar Hoover made a brief and interesting comparison between the U. S. Division of Investigation and the Scotland Yard of London. Mr. Hoover said: "We have heard many times that a much desired object would be to transfer Scotland Yard to the United States. With all necessary obeisance to that great organization, I must say that we have something better than Scotland Yard in our own Division of Investigation. Our men are more highly educated. They are more highly trained. They are experts in trailing men and women of criminality from one end of the possessions of the United States to the other. Scotland Yard, when all is said and done, is merely the municipal police force of the city of London with an area of 700 square miles. It has 19,769 officers. The Division of Investigation has a maximum of 598 field officers, less than one-thirtieth the force of Scotland Yard. Within the last year, more desperate criminals have been caught, convicted, or killed while resisting arrest than in an entire decade of Scotland Yard's history and this over a combined area of more than three million square miles.

"It is true that Scotland Yard gave to law-enforcement agencies the Henry System by which fingerprinting became a tremendous force in the apprehension of criminals. Today, Scotland Yard has 500,000 fingerprints in its criminal files. The Division of Investigation has 4,800,-

000 sets of fingerprints in its files while every day there rolls in an additional 2,800, meaning that at least six times every minute during the working hours, the fingerprint card of some arrested man goes into the permanent files from which it never can escape. This is the biggest repository of criminal information in the world. Through its facilities of more than 7,300 contributing agencies, it acts as a constant protector for the American people." (See San Francisco Police and Police Officers' Journal for February, 1935.)

International Society for Personal Identification—The following communication was received recently from Mr. Charles H. Sheraton:

"It may be of interest for you and your readers to hear something of the testimonial dinner given Dr. Henry P. de Forest, who at the request of Colonel Willis Ogden back in 1902 officially opened the first finger-print bureau in the United States (Civil Service Bureau in New York City for examination of candidates 1902-3).

"The dinner was held in the Spanish room of the Hotel McAlpin in New York City and included all the known members of the old International Society for Personal Identification, Inc., and their guests. That means of course all the New York City members of the I. S. for P. I. . . .

"Guest speakers were Commissioner of Correction MacCormick, District Attorney Elvin N. Edwards of Nassau County, Dr. E. M. Hudson, Dr. Theron W. Kilmer, Captain Zwirz, New York City Police Dept. (Bureau of Identification), Rutherford B. Lewis, and Gertrude Sullender.

"Inside the menu of each guest was a miniature copy of the first individual ever fingerprinted, officially, in the East and as far as I know, in the United States, the party in question being a retired city fireman (Retired 1928) by the name of James Johnson who was fingerprinted by Dr. de Forest on Dec. 13th, 1902.

"During the dinner Johnson was brought in and his prints taken by

G. Tyler Mairs of the City Magistrates Court. These will be reproduced and each guest and member of the I. S. for P. I. will be sent a copy as a remembrance of the rather historical occasion, from a fingerprint point of view.

"The slogan of the old Society 'A National Bureau of Identification' to include every one in the United States was endorsed by every Speaker."