

CRIMINAL LAW JOURNAL

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EDITORIAL

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ARTICLES

TEN THINGS ABOUT DNA CONTAMINATION THAT LAWYERS SHOULD KNOW

Kirsten Edwards

This article is designed to alert lawyers to the potential fallibility of DNA results and the frequency of cases of contamination and other laboratory (hereafter “lab”) error. It warns against complacency and blind acceptance of lab results and the testimony of lab staff in court, as well as encouraging lawyers to carefully and critically scrutinise DNA results. Practical examples are given of known cases of contamination and lab error; so too the experience of overseas forensic scandals and the lessons that can be drawn from them. The article includes a detailed checklist of issues to be considered for lawyers working on cases involving DNA.....71

INDEFINITE AND PREVENTIVE DETENTION LEGISLATION: FROM CAUTION TO AN OPEN DOOR

Bernadette McSherry

Until 2004, the High Court displayed a cautious approach to both indefinite and preventive detention legislation. The majority High Court decision in *Fardon v Attorney-General (Qld)*, upholding the *Dangerous Prisoners (Sex Offenders) Act 2003* (Qld), has opened the door to the enactment of preventive detention regimes for the protection of the community. This article provides an overview of the High Court’s approach to indefinite and preventive detention legislation and argues that the latter undermines the traditional principles of criminal process because it breaches the principle of legality, the principle against double punishment and the principle that criminal detention should only follow a finding of guilt. From a policy perspective, a cautious approach to such legislation should be taken.....94

APPLYING SWAFFIELD PART II: FAKE GANGS AND INDUCED CONFESSIONS

Andrew Palmer

A recent article in this journal dealt with a number of cases in which intermediate appellate and trial courts had applied the High Court's decision in *R v Swaffield; Pavic v R* (1998) 192 CLR 159; 96 A Crim R 96 to a range of investigative methods and contexts. Unfortunately, at the time of publication, a number of suppression orders prohibited the discussion of the most controversial of these methods; these suppression orders have now been lifted. As a consequence, an eighth proposition can now be added to the seven contained in Part I of this article. That proposition is as follows: inducting a suspect into a fake criminal network in order to induce an admission to another crime is apparently acceptable and will not result in that admission being excluded from evidence..... 111

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