MONTANA
INNOCENCE
PROJECT

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SENATE JUDICIARY
EXHIBIT NO. 3
DATE 2/20/09
BILL NO. SJ29

Written Testimony of Jessie McQuillan,
Executive Director of Montana Innocence Project

Re: SJ 29, Requesting an Interim Study to Examine Preservation of Biological Evidence by State & Local Law Enforcement Agencies
Before the Montana Senate Judiciary Committee, Feb. 20, 2009

Summary of Testimony

• Current Montana law only requires that biological evidence be preserved for 3 years, and only if it is obtained in connection with a felony conviction—for instance, it doesn't address the preservation of DNA evidence from unsolved crimes. Without better preservation requirements, the power of DNA technology is rendered useless.

• While the State Crime Lab has adopted its own policy to permanently retain samples of evidence received from law enforcement agencies (and SB 447 may codify that practice), most evidence returns to the local agencies that submitted it.

• A large amount of potentially probative evidence is not submitted to the State Crime Lab & is thus samples of it won't be retained by the state. For instance, sexual assault kits containing biological evidence are returned to local agencies that may not preserve this evidence long-term.

• Preservation practices vary greatly among Montana's cities & counties—some follow the state law and dispose of evidence after 3 years, while others keep evidence longer because they know it may prove important years later.

• The interim study proposed by SJ 29 would bring together stakeholders—including the Dept. of Justice, local law enforcement agencies, victims' rights representatives, tribal governments, the Office of Public Defender, and an organization such as the Montana Innocence Project—to assess the current status of DNA evidence preservation & find ways to improve practices throughout the state.

• Examining this issue at the statewide level will help Montana ensure that it adequately preserves valuable biological evidence that can help solve crimes & settle claims of innocence. It will also provide an opportunity to update policies with the goal of saving law enforcement recourses, personnel hours & storage space. Other states have recently made similar efforts, benefitting public safety, victims' groups, advocates for the wrongly convicted & law enforcement alike.