SB

95

LAWS OF ALASKA

2003

Source
SCS CSHB 49(JUD)

Chapter No.
_____

AN ACT

Relating to the deoxyribonucleic acid (DNA) identification registration system and testing; and providing for an effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

THE ACT FOLLOWS ON PAGE 1

AN ACT

Relating to the deoxyribonucleic acid (DNA) identification registration system and testing; and providing for an effective date.

*** Section 1.** The uncodified law of the State of Alaska is amended by adding a new section to read:

FINDINGS. The legislature finds that

(1) the deoxyribonucleic acid (DNA) identification registration system is an important tool in the investigation of crime, both in excluding innocent persons and in detecting repeat offenders;

(2) the inclusion of DNA samples from all persons who are convicted of a crime against another person or of any felony under AS 11 or AS 28.35 will greatly assist law enforcement agencies in solving crimes and detecting repeat offenders;

(3) cooperation between the state and other criminal justice agencies improves the detection of repeat offenders, the exoneration of innocent persons, the location of missing

persons, and the identification of unknown human remains; and

(4) the federal government is paying the costs of the DNA identification registration system.

* **Sec. 2.** AS 11.56.760(a) is amended to read:

(a) A person commits the crime of violating an order to submit to DNA testing if, when requested by a health care professional acting on behalf of the state to provide a blood sample, oral sample, or both, or when requested by a juvenile or adult correctional, probation, or parole officer or a peace officer to provide an oral sample, the person refuses to provide the sample or samples and the person [HAS BEEN]

(1) **has been** ordered to submit to DNA testing as part of a sentence imposed under AS 12.55.015; [OR]

(2) **has been** convicted of an offense that requires DNA testing under the provisions of AS 44.41.035**; or**

(3) is required to register as a sex offender or child kidnapper under AS 12.63.

* **Sec. 3.** AS 11.56.760(c) is amended to read:

(c) Violating an order to submit to DNA testing is a class **C felony** [A MISDEMEANOR].

* **Sec. 4.** AS 11.56 is amended by adding a new section to read:

Sec. 11.56.762. Unlawful use of DNA samples. (a) A person commits the crime of unlawful use of DNA samples if the person knowingly, without authorization under AS 44.41.035, possesses or allows another person access to (1) a blood, oral, or tissue sample collected for inclusion in the deoxyribonucleic identification registration system under AS 44.41.035, or (2) identification data or records derived from those samples.

(b) Unlawful use of DNA samples is a class C felony.

* **Sec. 5.** AS 44.41.035(b) is amended to read:

(b) The Department of Public Safety shall collect for inclusion into the DNA registration system a blood sample, oral sample, or both, from (1) a person convicted of a crime against a person [, (2) A PERSON CONVICTED OF BURGLARY] or a felony **under AS 11 or AS 28.35, (2)** [ATTEMPT TO COMMIT BURGLARY, AND

(3)] a minor 16 years of age or older, adjudicated as a delinquent for an act that would be a crime against a person [, A BURGLARY,] or a felony **under AS 11 or AS 28.35** [ATTEMPT TO COMMIT BURGLARY], if committed by an adult, **(3) a voluntary donor, (4) an anonymous DNA donor for use in forensic validation, forensic protocol development, quality control, or population or statistical data bases, and (5) a person required to register as a sex offender or child kidnapper under AS 12.63. The department also may collect for inclusion into the DNA registration system a blood sample, oral sample, or tissue sample from crime scene evidence or from unidentified human remains**. The DNA identification registration system consists of the blood, [OR] oral, **or tissue** samples drawn under this section, any DNA or other blood grouping tests done on those samples, and the identification data related to the samples or tests. Blood samples, [AND] oral samples, **and tissue samples** [FROM PERSONS] not subject to testing under this section, and test or identification data related to those samples, may not be entered into, or made a part of, the DNA identification registration system.

*** Sec. 6.** AS 44.41.035(c) is amended to read:

(c) The Department of Public Safety may [PROVIDE]

(1) **analyze** DNA **for** [ANALYSIS SERVICES TO] law enforcement agencies [THROUGHOUT THE STATE]; and

(2) **assist** [ASSISTANCE TO] law enforcement officials and prosecutors in the preparation and **use** [UTILIZATION] of DNA evidence for presentation in court.

*** Sec. 7.** AS 44.41.035(f) is amended to read:

(f) The DNA identification registration system is confidential, is not a public record under AS 40.25.110 - 40.25.140, and may be used only for

(1) providing DNA or other blood grouping tests for identification analysis;

(2) [LAW ENFORCEMENT PURPOSES INCLUDING] criminal investigations, [AND] prosecutions, **and identification of human remains**;

(3) statistical blind analysis; [OR]

(4) improving the operation of the system; **or**

(5) exoneration of the innocent.

*** Sec. 8.** AS 44.41.035(j)(1) is amended to read:

(1) "crime against a person" means **an** [A FELONY] offense, or **an** [A FELONY] attempt **or solicitation** to commit an offense, under AS 11.41 [, OTHER THAN AS 11.41.320, OR UNDER AS 11.46.400],

*** Sec. 9.** AS 44.41.035(j) is amended by adding a new paragraph to read:

(3) "convicted" means that an adult, or a juvenile charged as an adult under AS 47.12 or a similar procedure in another jurisdiction, has entered a plea of guilty, guilty but mentally ill, or nolo contendere, or has been found guilty, or guilty but mentally ill, by a court or jury, regardless of whether the judgment was set aside under AS 12.55.085 or a similar procedure in another jurisdiction or was the subject of a pardon or other executive clemency; a person is not "convicted" if the judgment against the person was reversed or vacated by a court.

*** Sec. 10.** AS 44.41.035 is amended by adding a new subsection to read:

(k) The Department of Public Safety may adopt regulations to carry out the purposes of this section.

*** Sec. 11.** AS 44.41.035 is amended by adding new subsections to read:

(l) The provisions of this section apply to a person from another state that this state has accepted under any interstate corrections or probation agreement or compact, regardless of whether the person is confined or released, if the person was convicted of an offense that is similar to an offense described in (b) of this section.

(m) The Department of Public Safety may not include in the DNA registration system a blood sample, oral sample, or tissue sample of the victim of a crime, unless that person would otherwise be included under (b)(1) - (5) of this section.

*** Sec. 12.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. The changes made by this Act apply to

(1) all convictions or adjudications of delinquency included under AS 44.41.035(b), as amended by sec. 5 of this Act, that

(A) occur on or after the effective date of sec. 5 of this Act;

(B) occurred before the effective date of sec. 5 of this Act if the person

is incarcerated or is under supervised probation or parole for the offense on or after the effective date of sec. 5 of the Act; and

(2) all persons required to register as a sex offender or child kidnapper under AS 12.63 before, on, or after the effective date of sec. 5 of this Act.

*** Sec. 13.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION: REGULATIONS. The Department of Public Safety may proceed to adopt regulations necessary to carry out the changes made by secs. 5 - 9 and 11 of this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of the statutory changes.

*** Sec. 14.** The uncodified law of the State of Alaska is amended by adding a new section to read:

INSTRUCTION TO COMMISSIONER OF PUBLIC SAFETY. The commissioner of public safety shall notify the president of the senate and the speaker of the house of representatives if, at any time after the effective date of sec. 1 of this Act, the federal government fails to pay the costs of the DNA identification registration system.

*** Sec. 15.** Sections 10 and 13 of this Act take effect immediately under AS 01.10.070(c).

*** Sec. 16.** Except as provided in sec. 15 of this Act, this Act takes effect July 1, 2003.

24-LS0528\G
Luckhaupt
2/24/05

CS FOR SENATE BILL NO. 95(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered:
Referred:

Sponsor(s): SENATOR BUNDE

A BILL

FOR AN ACT ENTITLED

"An Act relating to the collection of, and the use of reasonable force to collect, a deoxyribonucleic acid sample from persons convicted of or adjudicated delinquent for certain crimes."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

*** Section 1.** AS 44.41.035(b) is amended to read:

(b) The Department of Public Safety shall collect for inclusion into the DNA registration system a blood sample, oral sample, or both, from (1) a person convicted of a crime against a person or a felony under AS 11 or AS 28.35 **or a law or ordinance with elements similar to a crime against a person or a felony under AS 11 or AS 28.35**, (2) a minor 16 years of age or older, adjudicated as a delinquent for an act that would be a crime against a person or a felony under AS 11 or AS 28.35 [,] if committed by an adult **or for an act that would violate a law or ordinance with elements similar to a crime against a person or a felony under AS 11 or AS 28.35 if committed by an adult**, (3) a voluntary donor, (4) an anonymous DNA

donor for use in forensic validation, forensic protocol development, quality control, or population or statistical data bases, and (5) a person required to register as a sex offender or child kidnapper under AS 12.63. The department also may collect for inclusion into the DNA registration system a blood sample, oral sample, or tissue sample from crime scene evidence or from unidentified human remains. The DNA identification registration system consists of the blood, oral, or tissue samples drawn under this section, any DNA or other blood grouping tests done on those samples, and the identification data related to the samples or tests. Blood samples, oral samples, and tissue samples not subject to testing under this section, and test or identification data related to those samples, may not be entered into, or made a part of, the DNA identification registration system.

Sec. 2. AS 44.41.035 is amended by adding a new subsection to read:

(o) A juvenile or adult correctional, probation, or parole officer or a peace officer may use reasonable force to collect an oral sample for inclusion into the DNA registration system from a person required to submit to collection of a sample under this section, AS 12.55.015(h), 12.55.100(d), AS 33.16.150(a), or another law. The state, a municipality, a juvenile or adult correctional, probation, or parole officer, or a peace officer is immune from civil or criminal liability for using reasonable force to collect an oral sample from a person required to submit to collection of a sample for inclusion into the DNA registration system.

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

Frank H. Murkowski, Governor

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February 23, 2005

Senator Kim Elton
State Capitol Building
Juneau, Alaska 99801-1182

Re: SB 104 (PFD Fraud Unit/Crimes)
Our File: 773-05-0051

Dear Senator Elton:

You raised a question in the Senate State Affairs Committee hearing of February 22, 2005 regarding whether there is data to show a correlation between the commission of felony level property offense and the commission of offenses against a person or other felony level property offenses. I have consulted with the Criminal Division of the Department of Law in researching your question.

Enclosed is pie graph depicting the types and percentages of crimes solved as a result of collecting DNA from a person convicted of forgery in Virginia between 1996 and 2002. The data depicted in this pie graph was collected by Virginia Division of Forensic Science. Virginia passed legislation in 1990 requiring a DNA sample from all convicted felons. According to Virginia's Department of Criminal Justice Services website (www.dcjs.virginia.gov/forensic/information/dna.cfm), as of January 31, 2005, Virginia has had 2,204 'hits' based on the data compiled in their DNA Databank. From those 2,204 'hits' that resulted in crimes solved, 37 percent of the violent crimes solved were perpetrated by individuals with previous property crime convictions. Similar information was not readily available for the State of Alaska at this time.

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Hopefully, this information will answer your question and demonstrate the value of collecting DNA samples from all felony offenders. If you need additional information, please contact me at 465-4132.

Sincerely,

SCOTT J. NORDSTRAND
ACTING ATTORNEY GENERAL

By:

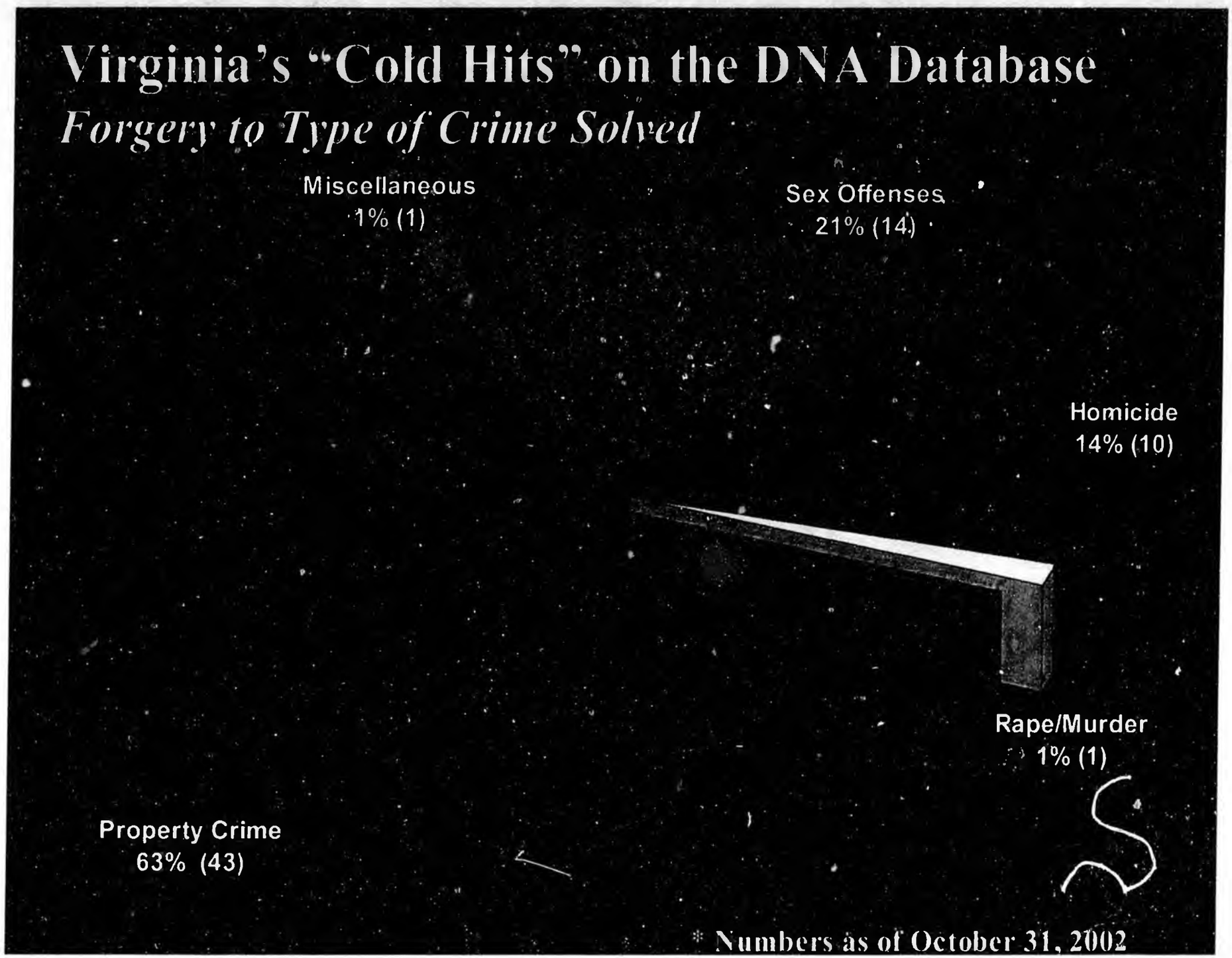
Chris Poag
Assistant Attorney General

Enclosure

cc: David Marquez, Department of Law, Civil Division
Deborah Behr, Department of Law, Civil Division
Sharon Barton, Department of Revenue, Permanent Fund Dividend Division
Kevin Jardell, Office of the Governor, Legislative Office
✓Senator Gene Therriault, chair Senate State Affairs Committee
Senator Thomas Wagoner, Co-chair Senate State Affairs Committee
Senator Charlie Huggins, Senate State Affairs Committee
Senator Bettye Davis, Senate State Affairs Committee

Virginia's "Cold Hits" on the DNA Database

Forgery to Type of Crime Solved



Numbers as of October 31, 2002

JULY 02

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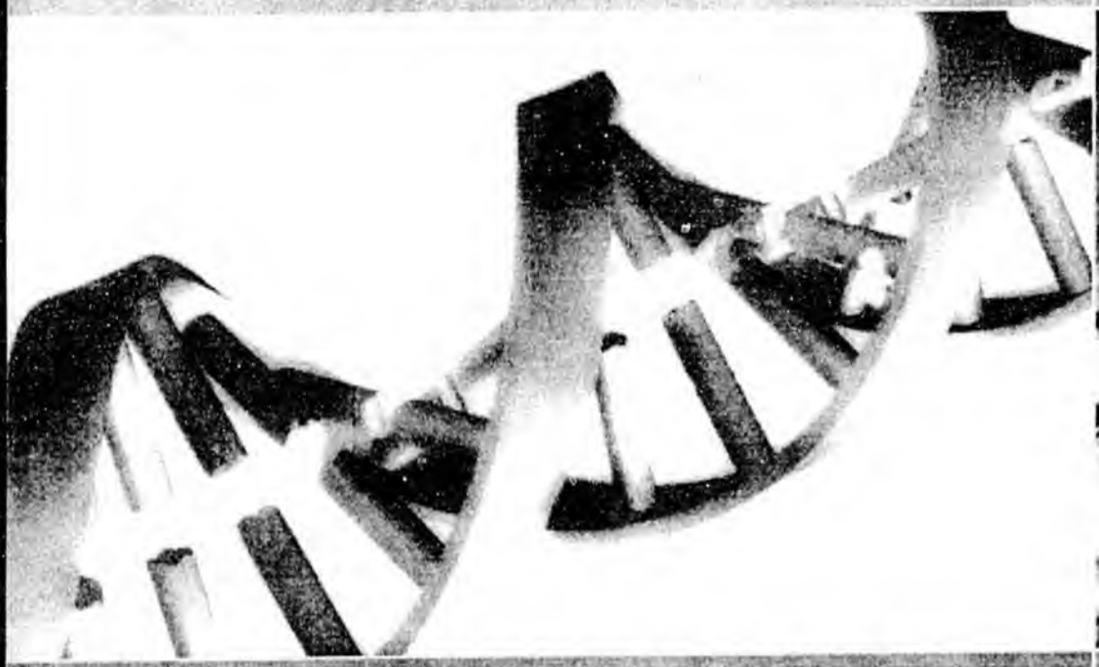
Special REPORT



Using DNA to Solve Cold Cases

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This and other publications and products of the U.S. Department of Justice, Office of Justice Programs and NIJ can be found on the World Wide Web at the following sites:

Office of Justice Programs
http://www.ojp.usdoj.gov

National Institute of Justice
http://www.ojp.usdoj.gov/nij

JULY 02

Using DNA to Solve Cold Cases

NCJ 194197

NIJ

Sarah V. Hart
Director
National Institute of Justice

National Commission on the Future of DNA Evidence

In 1995, the National Institute of Justice (NIJ) began research that would attempt to identify how often DNA had exonerated wrongfully convicted defendants. After extensive study, NIJ published the report *Convicted by Juries, Exonerated by Science: Case Studies in the Use of DNA Evidence to Establish Innocence After Trial,* which presents case studies of 28 inmates for whom DNA analysis was exculpatory.

On learning of the breadth and scope of the issues related to forensic DNA, the Attorney General asked NIJ to establish the National Commission on the Future of DNA Evidence as a means to examine the most effective use of DNA in the criminal justice system. The Commission was appointed by the NIJ Director and represented the broad spectrum of the criminal justice system. Chaired by the Honorable Shirley S. Abrahamson, Chief Justice of the Wisconsin Supreme Court, the Commission consisted of representatives from the prosecution, the defense bar, law enforcement, the scientific community, the medical examiner community, academia, and victims' rights organizations.

The Commission's charge was to submit recommendations to the Attorney General that will help ensure the best use of DNA as a crimefighting tool and foster its use throughout the entire criminal justice system. Other focal areas for the Commission's consideration included crime scene investigation and evidence collection, laboratory funding, legal issues, and research and development. The Commission's working groups, consisting of commissioners and other experts, researched and examined various topics and reported back to the Commission. The working groups' reports were submitted to the full Commission for approval, amendment, or further discussion and provided the Commission with background for its recommendations to the Attorney General.

By nature of its representative composition and its use of numerous working groups, the Commission received valuable input from all areas of the criminal justice system. The broad scope of that input enabled the Commission to develop recommendations that both maximize the investigative value of the technology and address the issues raised by its application.

Commission members

Chair

The Honorable Shirley S. Abrahamson
Chief Justice
Wisconsin Supreme Court

Members

Dwight E. Adams
Director
Federal Bureau of Investigation Laboratory

Commission staff

Crime Scene Investigation Working Group

The Crime Scene Investigation Working Group is a multidisciplinary group of criminal justice professionals from across the United States who represent both urban and rural jurisdictions. Working group members and contributors were recommended and selected for their experience in the area of criminal investigation and evidence collection from the standpoints of law enforcement, prosecution, defense, the forensic laboratory, and victim assistance.

DNA has proven to be a powerful tool in the fight against crime. DNA evidence can identify suspects, convict the guilty, and exonerate the innocent. Throughout the Nation, criminal justice professionals are discovering that advancements in DNA technology are breathing new life into old, cold, or unsolved criminal cases. Evidence that was previously unsuitable for DNA testing because a biological sample was too small or degraded may now yield a DNA profile. Development of the Combined DNA Index System (CODIS) at the State and national levels enables law enforcement to aid investigations by effectively and efficiently identifying suspects and linking serial crimes to each other. The National Commission on the Future of DNA Evidence made clear, however, that we must dedicate more resources to empower law enforcement to use this technology quickly and effectively.

Using DNA to Solve Cold Cases is intended for use by law enforcement and other criminal justice professionals who have the responsibility for reviewing and investigating unsolved cases. This report will provide basic information to assist agencies in the complex process of case review with a specific emphasis on using DNA evidence to solve previously unsolvable crimes. Although DNA is not the only forensic tool that can be valuable to unsolved case investigations, advancements in DNA technology and the success of DNA database systems have inspired law enforcement agencies throughout the country to reevaluate cold cases for DNA evidence. As law enforcement professionals progress through investigations, however, they should keep in mind the array of other technology advancements, such as improved ballistics and fingerprint databases, which may substantially advance a case beyond its original level.

Chair

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Introduction

In 1990, a series of brutal attacks on elderly victims occurred in Goldsboro, North Carolina, by an unknown individual dubbed the "Night Stalker." During one such attack in March, an elderly woman was brutally raped and almost murdered. Her daughter's early arrival home was the only thing that saved the woman's life. The suspect fled, leaving behind materials intended to burn the residence and the victim in an attempt to conceal the crime. In July 1990, another elderly woman was brutally raped and murdered in her home. Three months later, a third elderly woman was raped and stabbed to death. Her husband was also murdered. Their house was burned in an attempt to cover up the crime, but fire/rescue personnel pulled the bodies from the house before it was engulfed in flames.

When DNA analysis was conducted on biological evidence collected from vaginal swabs from each victim, authorities concluded that the same perpetrator had committed all three crimes. However, there was no suspect.

For 10 years, both the Goldsboro Police Department and the crime laboratory refused to forget about these cases. With funding from the National Institute of Justice, the crime laboratory retested the biological evidence in all three cases with newer DNA technology and entered the DNA profiles into North Carolina's DNA database. This would allow the DNA profile developed from the crime scene evidence to be compared to thousands of convicted offender profiles already in the database.

In April 2001, a "cold hit" was made to the perpetrator's convicted offender DNA profile in the database. The perpetrator had been convicted of shooting into an occupied dwelling, an offense that requires inclusion in the North Carolina DNA database. The suspect was brought into custody for questioning and was served with a search warrant to obtain a sample of his blood. That sample was analyzed and compared to the crime scene evidence, thereby confirming the DNA database match. When confronted with the DNA evidence, the suspect confessed to all three crimes.

Mark Nelson, special agent in charge of the North Carolina State Crime Laboratory, said, "Even though these terrible crimes occurred more than 10 years ago, we never gave up hope of solving them one day."

Every law enforcement department throughout the country has unsolved cases that could be solved through recent advancements in DNA technology. Today, investigators who understand which evidence may yield a DNA profile can identify a suspect in ways previously seen only on television. Evidence invisible to the naked eye can be the key to solving a residential burglary, sexual assault, or murder. The saliva on the stamp of a stalker's threatening letter, the perspiration on a rapist's mask, or the skin cells shed on the ligature of a strangled child may hold the key to solving a crime.

In Austin, Texas, for example, an investigator knowledgeable about DNA technology was able to solve the rape of a local college student. Having read about the potential for obtaining DNA evidence from the ligature used to strangle a victim, the investigator requested DNA testing on the phone cord used to choke the victim in his case. He realized that in the course of

choking someone, enough force and friction is applied to the rope or cord that the perpetrator's skins cells may rub off his hands and be left on the ligature.

The investigator's request paid off in an unanticipated way. In spite of the attacker's attempt to avoid identification through DNA evidence by wearing both a condom and rubber gloves, a reliable DNA profile was developed from the evidence. During the struggle, the attacker was forced to use one hand to hold the victim down, leaving only one hand to pull the phone cord tight. The attacker had to grab the remaining end of the cord with his mouth, thereby depositing his saliva on the cord. Although the developed profile came from saliva rather than skin, DNA not only solved the case in Austin, but also linked the perpetrator to a similar sexual assault in Waco.

The successful review and investigation of unsolved cases require cooperation among law enforcement, the crime laboratory, and the prosecutor's office.

Without the investigator's understanding of DNA technology and where DNA might be found, the case may have gone unsolved. The successful review and investigation of unsolved cases require the same basic elements as the investigation of new cases: cooperation among law enforcement, the crime laboratory, and the prosecutor's office. Investigators should be aware of technological advances in DNA testing that may yield profiles where previous testing was not performed or was unsuccessful. The crime laboratory can be essential to the preliminary review of unsolved cases, for example, by providing investigators with laboratory reports from previous testing and consultation regarding the investigative value of new DNA analysis techniques and DNA database search capabilities. Additionally, the prosecutor's office should be involved as soon as a case is reopened so that legal issues are addressed appropriately. It is also extremely important that case reconstruction considers the victim or victim's family and the importance of finality to closing a case.

Although DNA is not the only forensic tool available for the investigation of unsolved cases, advancements in DNA testing and the success of DNA database systems have inspired law enforcement agencies throughout the country to reevaluate cases previously thought unsolvable. The purpose of this report is to provide law enforcement with a practical resource for the review of old, cold, or unsolved cases that may be solved through DNA technology and DNA databases. "The Long and Short of DNA" and "How Can DNA Databases Aid Investigations?" will educate the reader about the science and technology of DNA testing and DNA databases. "Practical Considerations" provides important background information on legal and practical considerations regarding the application of DNA technology to old, cold, or unsolved cases. Finally, a step-by-step process is provided to help investigators select cases that would most likely be solved with DNA evidence. As investigators advance through this process, they should also keep in mind the array of other technology advancements, such as improved ballistics and fingerprint databases, that may benefit their investigation.

Advancements in DNA technology

Advancements in DNA analysis, together with computer technology and the Combined DNA Index System (CODIS),[1] have created a powerful crimefighting tool for law enforcement. CODIS is a computer network that connects forensic DNA laboratories at the local, State, and national levels. DNA database systems that use CODIS contain two main criminal indexes and a missing persons index. When a DNA profile is developed from crime scene evidence and entered into the forensic (crime scene) index of CODIS, the database software searches thousands of convicted offender DNA profiles

(contained in the offender index) of individuals convicted of offenses such as rape and murder. Similar to the Automated Fingerprint Identification System (AFIS), CODIS can aid investigations by efficiently comparing a DNA profile generated from biological evidence left at a crime scene against convicted offender DNA profiles and forensic evidence from other cases contained in CODIS. CODIS can also aid investigations by searching the missing persons index, which contains DNA profiles of unidentified remains and DNA profiles of relatives of those who are missing. Because of the recidivistic nature of violent offenders, the power of a DNA database system is evident not only in the success of solving crimes previously thought unsolvable, but perhaps more importantly, through the *prevention* of crime.

When properly documented, collected, and stored, biological evidence can be analyzed to produce a reliable DNA profile years, even decades, after it is collected. Just as evidence collected from a crime that occurred yesterday can be analyzed for DNA, today evidence from an old rape kit, bloody shirt, or stained bedclothes may contain a valuable DNA profile. These new analysis techniques, in combination with an evolving database system, make a powerful argument for the reevaluation of unsolved crimes for potential DNA evidence.

Knowledgeable law enforcement officers are taking advantage of powerful DNA analysis techniques by investigating crime scenes with a keener eye toward biological evidence. The same new approach being applied to crime scene processing and current case investigation can be applied to older unsolved cases. Law enforcement agencies across the country are establishing cold-case squads to systematically review old cases for DNA and other new leads. This report will serve as a resource to assist law enforcement with maximizing the potential of DNA evidence in unsolved cases by covering the basics of DNA analysis and its application to forensic casework. The report will also demonstrate how DNA database systems, advancing technology, and cooperative efforts can enhance unsolved case investigative techniques.

New laws

Advancements in DNA technology have led to significant changes in many States' statutes, which may affect the manner in which unsolved cases are investigated, filed, and prosecuted. Advancements in the technology have been so significant that laws are being created, amended, and even repealed to take advantage of its ability to identify and convict the guilty and exonerate the innocent. Laws regarding DNA admissibility in court, its use in post-conviction appeals, the creation and expansion of databases, and the extension or elimination of statutes of limitation are examples of the quickly evolving impact of DNA on the criminal justice system. Given the legal changes occurring throughout the country, constant contact and consultation with the local prosecutor is critical not only for the investigation of older cases but for all cases in which DNA may be relevant evidence.

Statutes of limitation

Statutes of limitation may be one of the most difficult issues to overcome when examining older cases. Statutes of limitation establish time limits under which criminal charges can be filed for a particular offense. These statutes are rooted in the protection of individuals from the use of evidence that becomes less reliable over time. For example, witnesses' memories fade as time goes by. However, although some evidence, such as eyewitness accounts, can lose credibility over time, DNA evidence has the power to determine truth 10, 15, even 20 years

The power of a DNA database system is evident not only in the success of solving crimes previously thought unsolvable, but through the prevention of crime.

The reliability of DNA technology may necessitate the reevaluation of statutes of limitation.

after an offense is committed. States are beginning to realize that the reliability of DNA technology may necessitate the reevaluation of statutes of limitation in the filing of cases.

Database expansion

The use of DNA evidence and convicted offender DNA databases has expanded significantly since the first U.S. DNA database was created in 1989. Although State and local DNA databases established in the early 1990s contained only DNA profiles from convicted murderers and sex offenders, the undeniable success of DNA databases has resulted in a national trend toward database expansion. All States require at least some convicted offenders to provide a DNA sample to be collected for DNA profiling and, in 2000, the Federal Government began requiring certain offenders convicted of Federal or military crimes to also provide a DNA sample for the criminal DNA database. Recognizing that the effectiveness of the DNA database relies on the volume of data contained in both the forensic index (crime scene samples) and the convicted offender index of CODIS, many States are changing their database statutes to include less violent criminals. Many States are enacting legislation to require all convicted felons to submit a DNA profile to the State database. The tendency for States to include all convicted felons in their databases dramatically increases the number of convicted offender DNA profiles against which forensic DNA evidence can be compared, thus making the database system a more powerful tool for law enforcement.

New legal approaches

DNA technology and DNA databases have encouraged the development of new approaches to old cases. One such approach is the filing of charges by "John Doe" warrant. These warrants are based on the unique DNA profile obtained from the analysis of unsolved crime scene evidence. Although John Doe warrants are traditionally filed based on the physical description or alias of an unnamed suspect, investigators and prosecutors are now filing charges using the suspect's DNA profile as the identifier. This innovative approach has allowed charges to be filed that toll and permit old cases to be prosecuted when the person matching the John Doe DNA profile is identified. John Doe DNA warrants are one way to permit cases to remain active, allowing them the chance to be solved through the DNA database in the future.

The Long and Short of DNA

DNA is the fundamental building block for an individual's entire genetic makeup. It is a component of virtually every cell in the human body, and a person's DNA is the same in every cell. That is, the DNA in a person's blood is the same as the DNA in his skin cells, saliva, and other biological material.

DNA analysis is a powerful tool because each person's DNA is unique (with the exception of identical twins). Therefore, DNA evidence collected from a crime scene can implicate or eliminate a suspect, similar to the use of fingerprints. It also can analyze unidentified remains through comparisons with DNA from relatives. Additionally, when evidence from one crime scene is compared with evidence from another using CODIS, those crime scenes can be linked to the same perpetrator locally, statewide, and nationally.

If biological evidence is available for testing or retesting in unsolved case investigations, it is important that law enforcement and the crime laboratory work together to review evidence.

DNA is also a powerful tool because when biological evidence from crime scenes is collected and stored properly, forensically valuable DNA can be found on evidence that may be decades old. Therefore, old cases that were previously thought unsolvable may contain valuable DNA evidence capable of identifying the perpetrator.

Similar to fingerprints

DNA is often compared with fingerprints in the way matches are determined. When using either DNA or fingerprints to identify a suspect, the evidence collected from the crime scene is compared with a "known" standard. If identifying features are the same, the DNA or fingerprint can be determined to be a match. However, if identifying features of the DNA profile or fingerprint are different from the known standard, it can be determined that it did not come from that known individual.

DNA technology advancements

Recent advancements in DNA technology have improved law enforcement's ability to use DNA to solve old cases. Original forensic applications of DNA analysis were developed using a technology called restriction fragment length polymorphism (RFLP). Although very old cases (more than 10 years) may not have had RFLP analysis done, this kind of DNA testing may have been attempted on more recent unsolved cases. However, because RFLP analysis required a relatively large quantity of DNA, testing may not have been successful. Similarly, biological evidence deemed insufficient in size for testing may not have been previously submitted for testing. Also, if a biological sample was degraded by environmental factors such as dirt or mold, RFLP analysis may have been unsuccessful at yielding a result. Newer technologies could now be successful in obtaining results.

Newer DNA analysis techniques enable laboratories to develop profiles from biological evidence invisible to the naked eye, such as skin cells left on ligatures or weapons. Unsolved cases should be evaluated by investigating both traditional and nontraditional sources of DNA. Valuable DNA evidence might be available that previously went undetected in the original investigation.

If biological evidence is available for testing or retesting in unsolved case investigations, it is important that law enforcement and the crime laboratory work together to review evidence. Logistical issues

regarding access to and the cost of DNA analysis will be a factor, as well as issues that relate to the discriminating power of each technology and that might affect the outcome of the results. Laboratory personnel can also provide a valuable perspective on which evidence might yield valuable and probative DNA results. Finally, if previously tested biological evidence produced a DNA profile but excluded the original suspect, revisiting those "exclusion" cases in the context of comparing them with DNA databases might prove to be very valuable to solving old cases.

If the convicted offender or forensic index of CODIS is to be used in the investigative stages of an unsolved case, DNA profiles must be generated using STR analysis.

PCR analysis

PCR (polymerase chain reaction) enhances DNA analysis and has enabled laboratories to develop DNA profiles from extremely small samples of biological evidence. The PCR technique replicates exact copies of DNA contained in a biological evidence sample without affecting the original, much like a copy machine. RFLP analysis requires a biological sample about the size of a quarter, but PCR can be used to reproduce millions of copies of the DNA contained in a few skin cells. Since PCR analysis requires only a minute quantity of DNA, it can enable the laboratory to analyze highly degraded evidence for DNA. On the other hand, because the sensitive PCR technique replicates any and all of the DNA contained in an evidence sample, greater attention to contamination issues is necessary when identifying, collecting, and preserving DNA evidence. These factors may be particularly important in the evaluation of unsolved cases in which evidence might have been improperly collected or stored.

STR analysis

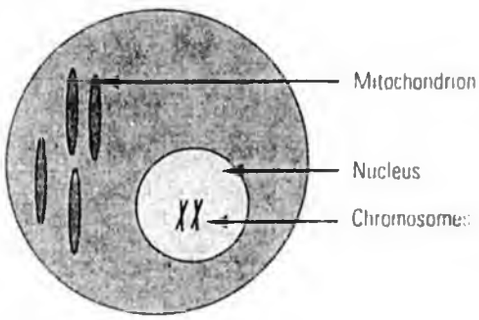
Short tandem repeat (STR) technology is a forensic analysis that evaluates specific regions (loci) that are found on nuclear DNA. The variable (polymorphic) nature of the STR regions that are analyzed for forensic testing intensifies the discrimination between one DNA profile and another. For example, the likelihood that any two individuals (except identical twins) will have the same 13-loci DNA profile can be as high as 1 in 1 billion or greater. The Federal Bureau of Investigation (FBI) has chosen 13 specific STR loci to serve as the standard for CODIS. The purpose of establishing a core set of STR loci is to ensure that all forensic laboratories can establish uniform DNA databases and, more importantly, share valuable forensic information. If the forensic or convicted offender CODIS index is to be used in the investigative stages of unsolved cases, DNA profiles must be generated by using STR technology and the specific 13 core STR loci selected by the FBI.

Mitochondrial DNA analysis

Mitochondrial DNA (mtDNA) analysis allows forensic laboratories to develop DNA profiles from evidence that may not be suitable for RFLP or STR analysis. While RFLP and PCR techniques analyze DNA extracted from the nucleus of a cell, mtDNA technology analyzes DNA found in a different part of the cell, the mitochondrion (see exhibit 1). Old remains and evidence lacking nucleated cells—such as hair shafts, bones, and teeth—that are unamenable to STR and RFLP testing may yield results if mtDNA analysis is performed. For this reason, mtDNA testing can be very valuable to the investigation of an unsolved case. For example, a cold case log may show that biological evidence in the form of blood, semen, and hair was collected in a particular case, but that all were improperly stored for a long period of time. Although PCR analysis sometimes enables the crime laboratory to generate a DNA profile from very degraded evidence, it is possible that the blood and semen would be so highly degraded that nuclear DNA analysis would not yield a DNA profile. However, the hair

shaft could be subjected to mtDNA analysis and thus be the key to solving the case. Finally, it is important to note that all maternal relatives (for example, a person's mother or maternal grandmother) have identical mtDNA. This enables unidentified remains to be analyzed and compared to the mtDNA profile of any maternal relative for the purpose of aiding missing persons or unidentified remains investigations. Although mtDNA analysis can be very valuable to the investigation of criminal cases, laboratory personnel should always be involved in the process.

Exhibit 1. Cell diagram



Y-chromosome analysis

Several genetic markers have been identified on the Y chromosome that can be used in forensic applications. Y-chromosome markers target only the male fraction of a biological sample. Therefore, this technique can be very valuable if the laboratory detects complex mixtures (multiple male contributors) within a biological evidence sample. Because the Y chromosome is transmitted directly from a father to all of his sons, it can also be used to trace family relationships among males. Advancements in Y-chromosome testing may eventually eliminate the need for laboratories to extract and separate semen and vaginal cells (for example, from a vaginal swab of a rape kit) prior to analysis.

Cooperative efforts with the crime laboratory are essential to deciding which analysis methods will be most valuable in a particular case. It is important to note, however, that while RFLP and mtDNA testing may be valuable to the investigation of an old case, current DNA databases are being populated with DNA profiles that are generated using STR analysis. RFLP and mtDNA profiles are not compatible with the convicted offender or forensic indexes of CODIS.[7]

How Can DNA Databases Aid Investigations?

The development and expansion of databases that contain DNA profiles at the local, State, and national levels have greatly enhanced law enforcement's ability to solve cold cases with DNA. Convicted offender databases store hundreds of thousands of potential suspect DNA profiles, against which DNA profiles developed from crime scene evidence can be compared.

Success Story

A "forensic hit" occurred in the National DNA Index System (NDIS) that linked a dead Florida man's DNA profile to eight serial unsolved rapes in Washington, D.C. and three offenses in Florida.

In 1999, Leon Dundas was killed in a drug deal. Investigators remembered Dundas refusing to give a blood sample in connection with a rape investigation in 1998. They were able to obtain Dundas' blood sample through the medical examiner's office and forwarded it to the DNA lab at the Florida Department of Law Enforcement. Dundas' DNA profile was compared with the national forensic index and a match was made between Dundas and DNA evidence from a rape victim in Washington, D.C.

The FBI then entered DNA evidence from additional unsolved rapes committed in Washington. Dundas' DNA matched seven additional rapes in Washington and three more in Jacksonville, Florida. Police in Washington said that without DNA, they would have never identified Dundas, who had no prior recorded history of violent crime.

Given the recidivistic nature of many crimes, such as sexual assault and burglary, a likelihood exists that the individual who committed the crime being investigated was convicted of a similar crime and already has his or her DNA profile in a DNA database that can be searched by CODIS. Moreover, CODIS also permits the cross-comparison of DNA profiles developed from biological evidence found at crime scenes. Even if a perpetrator is not identified through the database, crimes may be linked to each other, thereby aiding an investigation, which may eventually lead to the identification of a suspect.

What is CODIS?

CODIS is a computer software program that operates local, State, and national databases of DNA profiles from convicted offenders, unsolved crime scene evidence, and missing persons. Every State in the Nation has a statutory provision for the establishment of a DNA database that allows for the collection of DNA profiles from offenders convicted of particular crimes. CODIS software enables State, local, and national law enforcement crime laboratories to compare DNA profiles electronically, thereby linking serial crimes to each other and identifying suspects by matching DNA profiles from crime scenes with profiles from convicted offenders. The success of CODIS is demonstrated by the thousands of matches that have linked serial cases to each other and cases that have been solved by matching crime scene evidence to known convicted offenders.

The missing persons index consists of the unidentified persons index and the reference index. The unidentified persons index contains DNA profiles from recovered remains, such as bone, teeth, or hair. The reference index contains DNA profiles from related individuals of missing persons so that they can be periodically compared to the unidentified persons index. All samples for this index are typed using mtDNA and STR DNA analysis (if possible) to maximize the power of advancing technology.

The offender index contains DNA profiles of individuals convicted of certain crimes. The forensic index contains DNA profiles obtained from crime scene evidence.

How does CODIS work?

CODIS uses two indexes to generate investigative leads in crimes for which biological evidence is recovered from a crime scene. The convicted offender index contains DNA profiles of individuals convicted of certain crimes ranging from certain misdemeanors to sexual assault and murder. Each State has different "qualifying offenses" for which persons convicted of them must submit a biological sample for inclusion in the DNA database. The forensic index contains DNA profiles obtained from crime scene evidence, such as semen, saliva, or blood. CODIS uses computer software to automatically search across these indexes for a potential match.

A match made between profiles in the forensic index can link crime scenes to each other, possibly identifying serial offenders. Based on these "forensic hits," police in multiple jurisdictions or States can coordinate their respective investigations and share leads they have developed independent of each other. Matches made between the forensic and convicted offender indexes can provide investigators with the identity of a suspect(s). It is important to note that if an "offender hit" is obtained, that information typically is used as probable cause to obtain a new DNA sample from that suspect so the match can be confirmed by the crime laboratory before an arrest is made.

LDIS, SDIS, and NDIS

CODIS is implemented as a distributed database with three hierarchical levels (or tiers)—local, State, and national. All three levels contain forensic and convicted offender indexes and a population file (used to generate statistics). The hierarchical design provides State and local laboratories with the flexibility to configure CODIS to meet their specific legislative and technical needs.

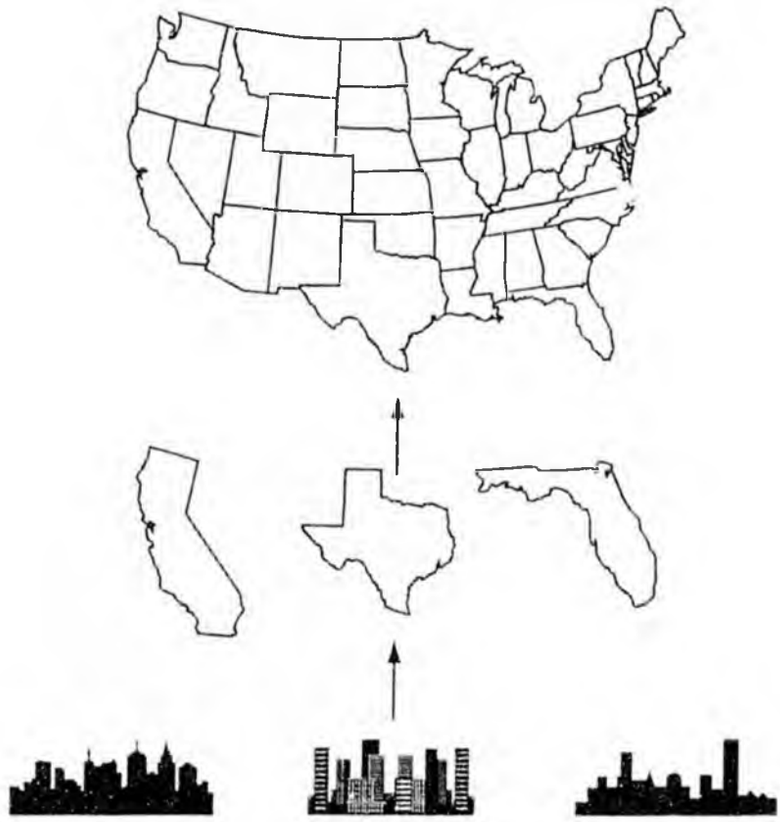
A description of the three CODIS tiers follows (see exhibit 2).

- Local. Typically, the Local DNA Index System (LDIS) installed at crime laboratories is operated by police departments or sheriffs' offices. DNA profiles originated at the local level can be transmitted to the State and national levels.
- State. Each State has a designated laboratory that operates the State DNA Index System (SDIS). SDIS allows local laboratories within that State to compare DNA profiles. SDIS also is the communication path between the local and national tiers. SDIS is typically operated by the agency responsible for implementing and monitoring compliance with the State's convicted offender statute.
- National. The National DNA Index System (NDIS) is the highest level of the CODIS hierarchy and enables qualified State laboratories that are actively participating in CODIS to compare DNA profiles. NDIS is maintained by the FBI under the authority of the DNA Identification Act of 1994.

Limitations of using the DNA database

The more data contained in the forensic and offender indexes of CODIS, the more powerful a tool it becomes for law enforcement, especially in its application to unsolved case investigation. However, because many jurisdictions are in the process of developing and populating their DNA databases, convicted offender and forensic casework backlogs have been created over time and continue to grow for several reasons. First, as States recognize the crime-solving potential of DNA databases, they continue to expand the scope of their convicted offender legislation, which increases the number of

Exhibit 2. CODIS tiers



samples to be collected and analyzed by the DNA laboratory. As a result, more than 1 million uncollected convicted offender DNA profiles are "owed" to the system.

An equally important but more difficult problem to quantify is that of unprocessed casework that contains biological evidence. This casework backlog may include nonsuspect or unsolved cases that could be analyzed and solved as a result of advancements in DNA technology.

Convicted offender backlogs

Although all 50 States have passed DNA database legislation, many States have backlogs of convicted offender samples that have been collected but have not yet been analyzed. Although Federal funding has played an important role in reducing existing backlogs, the crimefighting potential of DNA has prompted many States to revise their statutes to require nonviolent convicted offenders to provide a DNA sample for analysis and upload into CODIS. The trend toward expanding convicted offender DNA statutes to include nonviolent offenders has significantly increased the number of DNA samples requiring collection and analysis. Although the success of using the DNA database as a crime-solving and crime-prevention tool can easily be demonstrated once convicted offender backlogs are reduced, it should be recognized that new backlogs

are instantly created by the passage of expanded DNA legislation laws. Convicted offender backlogs are an ongoing logistical issue that can compound the complexity of investigating cold cases by using the DNA database.

Forensic casework backlogs

Addressing issues that affect the efficient and effective use of DNA databases in the United States is complicated further by the existence of casework backlogs. This refers to biological evidence in perhaps tens of thousands of criminal cases, including violent and nonviolent crimes, that has not been tested or retested for DNA.

Unprocessed rape kits are a clear example of this kind of backlog. Despite the established fact that rape typically yields biological evidence, as of October 1999, at least 180,000 rape kits remained on shelves across the country, unprocessed, because no suspects have been identified. The DNA evidence from these and other criminal cases often is not analyzed and entered into the DNA database because forensic laboratories have to prioritize their work and cases scheduled for trial take precedence over cases in which no suspect is known. In most jurisdictions, nonsuspect criminal cases that contain biological evidence are not being analyzed and entered into the DNA database. In many jurisdictions, DNA from crime scenes is still primarily used to prosecute offenders, not to investigate crimes. The convicted offender backlog and limited resources for casework going to trial preclude State forensic laboratories from analyzing all biological evidence for DNA, which in turn prevents law enforcement from being able to realize the full crime-solving potential of CODIS.

The backlog of forensic cases has practical consequences for most law enforcement agencies in the United States. Laboratory capacity limitations result in the ability to process crime scene samples from only the most serious of offenses. More and more, however, agencies such as those in the United Kingdom are discovering the value of DNA technology in solving property crimes. Blood left on a broken apartment window or saliva found on a discarded beer bottle can be used to identify burglars, and the skin cells rubbed off onto the steering wheel of a stolen vehicle can solve car thefts. However, as long as forensic laboratories remain able to process only the most serious cases, the full potential of DNA technology to solve crime will remain untapped.

Practical Considerations

Local prosecutors can provide valuable insight into legal issues. Victim/witness units or advocates can help locate, educate, and encourage witnesses. Consultation with representatives from the crime laboratory is critical.

A broad range of considerations must be made long before any DNA testing is actually attempted in older, unsolved cases. These include—

- Legal considerations, such as the application or expiration of statutes of limitation.
- Technological considerations, such as the nature and condition of the evidence as originally collected, stored, and in some instances, subjected to other forensic tests.
- Practical considerations, such as the availability of witnesses in the event DNA testing would identify a suspect and lead to an arrest and a trial.
- Resource issues, such as the time and money available for investigation and forensic analysis.

The nature and scope of these issues require that any approach to reexamining old cases for potential DNA evidence be collaborative, whether by an individual investigator or by a specialized unit developed specifically for cold case review. Local prosecutors can provide valuable insight into legal issues that might prevent or help a future prosecution. Victim/witness units or advocates can provide valuable assistance with locating, educating, and encouraging witnesses. Consultation with representatives from the crime laboratory is critical to ensuring that potential DNA evidence can be successfully analyzed.

Evidence considerations

When collecting unsolved case evidence from storage facilities, the case investigator should be ready to handle all types of packaging disasters. Evidence may be stored in heavy-duty plastic bags, stapled shut as the past form of "sealing." Multiple items may be sealed in one plastic bag, or even unpackaged in large, open, cardboard boxes. Unprotected microscope slides from medical facilities might also be found as a result of investigating old cases. No attempt should be made on the part of the investigator to separate and repackage evidence. The condition and position that the evidence has been stored in could provide valuable clues to the forensic scientist for testability of evidence. Only when evidence is found unpackaged should the investigator properly package and label the item(s) to minimize the possibility for contamination from that point forward. It is important that any evidence items are handled minimally and only by individuals wearing disposable gloves. As always, it is also very important that all actions taken as a result of opening, evaluating, packaging, or repackaging evidence are documented thoroughly in the case folder.

Degraded evidence

Prior to the frequent use of DNA technology, biological evidence may have been collected and stored in ways that were not necessarily the best methods for preserving samples for future DNA testing. For example, evidence containing biological fluids that were originally collected for ABO Blood Typing analysis or other serology methods may have been packaged or stored in ways that can limit DNA testing. Some methods of collection and storage may promote the growth of bacteria and mold on the evidence. Bacteria can seriously damage or degrade DNA contained in biological material and inhibit the ability to develop a DNA profile; however, evidence can still sometimes yield DNA results. For example, PCR technology can allow the laboratory to develop profiles

from some moldy biological samples, whereas other evidence may fail to yield a usable DNA profile, even when no mold is visible. Therefore, close consultation with the laboratory is important to determine the type of DNA testing most likely to yield results on the available evidence.

Contamination issues

Because of the particularly sensitive nature of DNA technology, the potential contamination of evidence should be carefully considered. Technologies used to analyze evidence prior to the forensic application of DNA were not always sensitive to contaminants. Evidence in older cases may have been collected in ways that lacked appropriate contamination or cross-contamination safeguards, which can make the DNA results less useful or even misleading. In these cases, clarifying results by identifying the contributor of an additional profile can determine whether the DNA results may now be used. When a mixture is detected, a careful reconstruction of the evidence collection, storage, and analysis process must be undertaken. It may be determined that DNA profiles will be required from on-scene officers, evidence technicians, or laboratory scientists who had access to the evidence for comparison with evidence results. In these instances, proper chain-of-custody reconstruction is critical

Evidence Handling Recommendations

- Wear gloves. Change them between handling each item of evidence.
- Use disposable instruments or clean instruments thoroughly before and after handling each evidence sample.
- Avoid touching the area where you believe DNA may exist.
- Avoid touching your face, nose, and mouth when examining and repackaging evidence.
- Put dry evidence into new paper bags or envelopes; do not use plastic bags.
- Do not use staples.
- If repackaging of evidence is necessary, consult with laboratory personnel.

It is also important to avoid contamination when handling biological evidence during the course of the current review. If evidence that may contain biological material is already sealed, do not reopen it before sending it to the laboratory. (See Evidence Handling Recommendations.)

Legal considerations

Numerous legal issues might arise when examining older cases for potential DNA evidence. These issues are most likely jurisdictionally specific and may differ from State to State. Although most jurisdictions maintain no statute of limitation for filing charges in a homicide case, States can vary widely in the time allowed for filing charges in other cases, such as rape and other sexual assault crimes. Furthermore, in recognition of DNA technology's ability to solve old cases, many States are extending or even eliminating statutes of limitation for certain crimes.

Chain of custody

When a case remains unsolved for a long period of time, evidence is usually handled by an increased number of individuals. Many unsolved cases to be reviewed for DNA evidence may have been previously reinvestigated or handled by several different investigators as a result of new leads or periodic, systematic reviews. Furthermore, as cases age, the likelihood increases that evidence may be moved to new or remote storage locations as evidence from newer cases fills police department shelves.

Many cases may also have had evidence submitted to the laboratory for various forms of forensic testing. Evidence in older cases may have been submitted for standard serological testing, but can now be tested for DNA with much greater success. Hair previously submitted for standard microscopic hair analysis may now

be submitted for mtDNA testing. As with all criminal investigations, chain-of-custody issues are critical to maintaining the integrity of the evidence. In all cases, the ultimate ability to use DNA evidence will depend on the ability to prove that the chain of custody was maintained.

Statutes of limitation

One of the first issues to address when reviewing an unsolved case is whether the statutes of limitation on a case have run out. Several considerations arise when addressing a statute of limitation issue. Good communication between law enforcement and local prosecutors is critical when examining these legal questions.

Changes in statutes. Advances in DNA technology and the creation of DNA databases are leading many criminal justice professionals to rethink time limits placed on the filing of criminal charges. Because biological evidence can yield reliable DNA analysis results years after the commission of a crime, many State legislatures have begun to extend, and in some cases eliminate, the statutes of limitation for some crimes and in certain circumstances. Many States have extended the length of time for which a complaint can be filed, other States have eliminated statutes of limitation for certain crimes, and some legislation is retroactive.

Exceptions to statutes. Exceptions often exist under existing and new statutes. Under such exceptions, time can be added to the statute of limitation, giving police the legal authority to arrest even if it appears as though the statute has run out. For example, many jurisdictions have exceptions for a suspect's flight from jurisdiction. In a case for which there is a 5-year statute of limitation, if the government can prove that the suspect has been absent from the jurisdiction for 2 years, the State can still file against the suspect for up to 7 years after the commission of the crime. Exceptions also exist for cases in which child victims are assaulted by a family member, which can be valuable in the context of a current investigation.

Victim and witness considerations

Another important consideration to be made early in the process is the willingness of victims and witnesses to proceed. Although many victims may continuously monitor the progress of their investigations, some choose to detach from the process over time. Reinvestigating a case may cause renewed psychological trauma to the victim and victim's family. It should not be assumed that victims and witnesses, even if they were eager to pursue the case when it occurred, are still interested in pursuing the case. A phone call from an investigator years later may not be a welcome event. Whenever possible, enlist the aid of victim service providers. If a new officer is handling the investigation, enlisting the assistance of the original investigator to make the first contact with the victim may also be helpful.

The older a case is, the more difficult it may be to locate witnesses. However, early identification of victim and witness availability may ultimately save significant resources. Consultation with prosecutors is mandatory when considering whether a witness would be necessary at trial.

It should not be assumed that victims and witnesses are still interested in pursuing the case. Whenever possible, enlist the aid of victim service providers.

Statute of Limitation Recommendations

- Know the original statute of limitation.
- Determine whether the law has changed regarding time limits for filing. If so, is the law retroactive?
- Determine whether there are exceptions to the statute.
- Consult with the prosecutor.

Identifying, Analyzing, and Prioritizing Cases

Good communication between police, laboratories, and prosecutors can help identify and convict serious offenders and save valuable time and resources.

Whether the process of reviewing unsolved cases is initiated by a single officer or by a specialized unit, it must ultimately be a team effort. At all stages of the process, investigators should avail themselves of the scientific advice of the laboratory and the legal expertise of the local prosecutor's office. Close consultation with the laboratory can ensure that evidence integrity is maintained and that limited laboratory resources are allocated effectively. Similarly, prosecutors can help identify issues that might occur at trial if a suspect is identified and arrested upon successful DNA testing. Good communication between police, laboratories, and prosecutors can help identify and convict serious offenders and save valuable time and resources.

Identify potential cases for review

An initial step in the DNA review of unsolved cases is to identify cases that might be amenable to DNA testing. While the cases considered for this kind of review will vary from jurisdiction to jurisdiction, it is important to define minimum requirements that will likely benefit from this approach. Issues such as statutes of limitation and solvability factors should be thoroughly examined in cooperation with a prosecutor and the forensic laboratory to establish guidelines for case selection. It also will be important to identify the ultimate goals of the program so that the selection criteria can be tailored to meet those specific goals.

Cases that could benefit from a review for potential DNA evidence can be identified from numerous sources. In some instances a single police officer or investigator may remember an unsolved case from years ago. In some departments a formalized cold-case unit may systematically review cases for the potential of DNA testing. Other cases may be identified by coordinated, interdepartmental efforts, victims or witnesses who have heard about the potential of DNA evidence, and laboratories taking inventory of their storage facilities. If a department is pursuing a systematic review of cases, either by one or two officers or by a formal unit, there are many sources that can be consulted for valuable investigative information, such as—

- Autopsy, laboratory, prosecutor, and local agency logbooks.
- Retired investigators.
- Computer databases.

Identify statute of limitation issues

Statute of limitation issues might affect the ultimate ability to prosecute a case. Cases should be preliminarily reviewed by investigators in conjunction with the prosecutor's office to identify which prosecutions would be barred by the statutes of limitation. If the goal of the unsolved case review program is to obtain convictions and statutes of limitation have expired on a particular case, a department may wish to save its resources for cases likely to yield convictions. However, if the goal of the program is to solve and close unsolved cases regardless of whether a conviction could be obtained, a jurisdiction may decide to review all cases that qualify under its guidelines. This is an important consideration in the context of investigating serial offenders whose criminal acts might span the course of years or decades.

Define categories of cases—solvability factors

Because the number of cases that qualify for reinvestigation might be very large, it may be beneficial for a jurisdiction to define cases according to several solvability factors. Solvability factors include facts and circumstances of a case that influence the likelihood that it might be solved through advancements in DNA technology. For example, a high probability exists that analysis of nonsuspect rape kits will yield valuable DNA results. Profiles generated as a result of DNA analysis can now be entered into CODIS, which can solve a case by matching to a convicted offender, or aid investigations by linking serial rapes to each other. Additionally, if an unsolved murder case contains biological evidence foreign to the victim that did not produce viable results from ABO blood typing or RFLP DNA analysis, evidence could be reanalyzed with the more discriminating and powerful STR technology. It is also important to recognize and sort out cases that might not be as likely to be solved with DNA technology. An example might be an unsolved drive-by homicide because the perpetrator most likely would not have left biological evidence at this kind of crime scene.

Case review—establish priorities

Once solvability factors and statute of limitation issues are addressed, it is important to continue the process by identifying the cases to be reviewed first. To preserve investigative resources when considering a larger number of unsolved cases for review, jurisdictions may prioritize according to the likelihood that cases will be solved or the likelihood that investigations will be aided. In establishing this priority, the following criteria can be considered.

- How many qualifying cases are there?
- Where are the case files located?
- Are case summaries available?
- How many cases will be assigned to an investigator?

To establish an investigative hierarchy, qualifying cases should be reviewed by experienced, proficient investigators. A checklist can be used throughout the review process so that managers can decide which cases will be worked first. A checklist can also provide review process consistency throughout the agency. (See Sample Checklist at the end of this report.) The following categories may serve as a model for a hierarchy in prioritizing cases:

- There is a known suspect and physical evidence appears to have been preserved in a manner consistent with successful DNA testing and use of CODIS.
- There is no known suspect but physical evidence has been preserved in a manner consistent with successful DNA testing and use of CODIS.
- There is no known suspect and evidence was collected and preserved in a manner that may make it difficult to obtain a DNA profile.

Locating case files, obtaining evidence logs, and other documentation

Locating the case file and original evidence for the investigation may be a challenging endeavor. Changes in personnel, procedure, and facilities and the passage of time may complicate the process. When searching for a case file or evidence, an investigator may need to look in numerous

places. Potential locations include, but are not limited to, the following:

- Police department property rooms (case files, evidence logs, whole evidence).
- Property warehouses (case files, evidence logs, whole evidence).
- Public crime laboratories (previously tested/submitted evidence, lab reports).
- Private laboratories (previously tested evidence, lab reports).
- Hospital/medical facilities (rape kits, medical reports, slides).
- Coroner/medical examiners' offices (autopsy reports).
- Courthouse property rooms.
- Prosecutors' offices (previous trial or suspect investigation).
- Retired investigators' files (case notes and details not contained in file).
- Other investigating agency offices (investigative leads—serial offender).

Forensic testing reports and previously tested evidence

Because advancements in DNA technology enable laboratories to successfully analyze old evidence that might have been improperly stored or subjected to previous forensic analysis, it will be very valuable to locate any and all forensic reports that were produced as a result of previous analysis and/or testing. ABO blood typing, microscopic hair analysis, RFLP DNA analysis, or fingerprint analysis (among others) might have been performed in the course of the original investigation. The original case file should indicate whether and which types of forensic analysis were attempted. These reports also serve to memorialize proper chain of custody. Cooperation with the crime laboratory is crucial to locate and interpret existing forensic reports and to determine whether evidence would be amenable to reanalysis with new DNA techniques.

Many combinations of options are available to investigators and laboratory personnel if biological evidence was available and previously tested. Exhibit 3 may serve to help investigators as they work with the laboratory to discuss options throughout the course of the investigation.

Locate biological evidence

When reviewing the case file for potential DNA evidence, it is important to know what kinds of evidence may yield a DNA profile. Given the power and sensitivity of newer DNA testing techniques, DNA can be collected from virtually anywhere. Only a few cells can be sufficient to obtain useful DNA information to help solve a case. Exhibit 4 identifies some common items of evidence that may have been collected previously but not analyzed for the presence of DNA evidence. Remember, if a stain is not visible it does not mean that there are not enough cells for DNA typing. Further, DNA does more than just identify the source of the sample; it can place a known individual at a crime scene, in a home, or in a room where the suspect claimed not to have been. It can refute a claim of self-defense and put a weapon in the suspect's

DNA Can Do More . . .

. . . than identify a suspect. It can also—

- Place a known individual at a crime scene.
- Refute a claim of self-defense.
- Put a weapon in a suspect's hand.
- Change a suspect's story from an alibi to one of consent.

hand. It can also provide irrefutable evidence that can change a suspect's story from an alibi to one of consent.

Evaluate for probative DNA evidence

On completion of reviewing the case file, reports, and evidence in consultation with the laboratory, it will be necessary to identify which evidentiary items will be amenable to DNA analysis. Consultation with the laboratory will be essential to determine the likelihood of obtaining results from DNA analysis, and consultation with a prosecutor is very important to determine which evidence will be probative to the case. Building the new investigation on cooperative efforts between the laboratory and prosecutor can save valuable resources, develop leads, and identify previously overlooked evidence that may yield a DNA profile.

Continue investigative protocol

If DNA analysis is to be conducted, it may be important to obtain reference samples from prior suspects, and it might be necessary to be creative when obtaining these samples. While a biological sample in the form of blood or saliva can be obtained voluntarily through a consent form, a standard reference sample might already exist if previous forensic analysis,

Exhibit 3. Investigative options

Test conducted	Original results	Original interpretation	Options for investigators
RFLP, PCR	Obtained profiles	No suspects identified	Is the original extract remaining? 1 If so, retest using STR technique and submit to CODIS 2 If not, reextract the original sample using STR technique and submit to CODIS.
RFLP	Inconclusive or no results obtained	Sample size may have been insufficient or not concentrated enough	Is the original extract remaining? 1 If so, retest using STR technique and submit to CODIS 2 If not, reextract the original sample using STR technique and submit to CODIS
PCR	Inconclusive or result intensity below "S" and "C" dots	Sample size may have been insufficient	Is the original extract remaining? 1 If so, retest using STR technique and submit to CODIS 2 If not, reextract the original sample using STR technique and submit to CODIS
Conventional serology (ABO, secretor status, enzymes such as EsD, PGM, GLO I, EAP, ADA, AK)	Obtained a type in these systems	Poor statistics and no searching capability	If original evidence still exists, extract the sample using STR technique and submit to CODIS
None		1 Limited sample size 2 No suspects, did not process further 3 No request at the time of analysis	If original evidence still exists, extract the sample using STR technique and submit to CODIS

such as serological testing, was performed during the course of the original investigation.

Additionally, elimination samples from anyone who had lawful access to the crime scene, such as family members, may be required if the laboratory determines that there is more than one DNA profile present in the evidence sample. Early identification of the location and status of persons who might be requested to submit an elimination sample could save valuable time and resources if the laboratory needs such information. Consultation with the laboratory is essential to properly coordinating this process.

Follow agency procedures for submitting the DNA profile to CODIS

On successful laboratory analysis resulting in a DNA profile developed from crime scene evidence, existing and/or new suspect DNA profiles should be compared with the evidence profile. If the laboratory determines a match between a suspect and the evidence, the prosecutor's office should be consulted on how to proceed. However, if a match is not found, agency procedures should be followed, in accordance with the crime laboratory, to submit the crime scene evidence DNA profile into CODIS.

Exhibit 4. Common items of evidence

Evidence	Possible location of DNA on the evidence	Source of DNA
Baseball bat	Handle	Skin cells, sweat, blood, tissue
Hat, bandanna, or mask	Inside surfaces	Sweat, hair, skin cells, dandruff, saliva
Eyeglasses	Nose or ear piece, lens	Sweat, skin cells
Facial tissue, cotton swab	Surface	Mucus, blood, sweat, semen, ear wax
Dirty laundry	Surface	Blood, sweat, semen, saliva
Toothpick	Surface	Saliva
Used cigarette	Cigarette butt (filter area)	Saliva
Used stamp/envelope seal	Moistened area	Saliva
Tape or ligature	Inside or outside surface	Skin cells, sweat, saliva
Bottle, can, or glass	Mouthpiece, rim, outer surface	Saliva, sweat, skin cells
Used condom	Inside/outside surface	Semen, vaginal or rectal cells
Bed linens	Surface	Sweat, hair, semen, saliva, blood
"Through and through" bullet	Outside surface	Blood, tissue
Bite mark	Surface of skin	Saliva
Fingernail/partial fingernail	Scrapings	Blood, sweat, tissue, skin cells

Note: When reviewing evidence, it is important to maintain chain of custody, consult with laboratory personnel, and take all appropriate precautions against contamination, including wearing gloves and changing them between handling of different pieces of evidence.

Because CODIS contains hundreds of thousands of convicted offender DNA profiles, it is possible that the person who committed the unsolved crime being investigated was convicted of a qualifying offense that required submission of a DNA profile to the database. If that person has not previously been convicted of a qualifying offense, especially in light of expanding database law, it is possible that they will be convicted in the future. Further, because the forensic index of CODIS contains thousands of crime scene evidence profiles, the investigation could be aided if a match is made to another forensic DNA profile already in the database. Finally, an investigator should not assume that a new DNA profile generated from unsolved case evidence and submitted to the laboratory for entry into CODIS will be compared with every possible convicted offender or crime scene index profile. The investigator may need to proactively request that his CODIS administrator search the new profile against the local, State, and national DNA databases.

Prepare a John Doe warrant

CODIS is a powerful crime-solving and crime-prevention tool, but many cases will not be solved as a result of entering a DNA profile into the forensic index of the database. Additionally, many cases will have statute of limitation issues that might prevent the prosecution of the case if a match is not determined in a timely manner. Therefore, if no offender match occurs in cases in which statutes of limitation are an issue, consideration may be given, in consultation with the prosecutor, to preparing a John Doe warrant. These types of warrants can identify the perpetrator according to his or her DNA profile. The 13-loci profile generated by the crime laboratory should be clearly printed on the face of the warrant. The John Doe warrant is not novel; however, the unconventional method of describing an individual by his or her DNA profile may allow for prosecution of a case if a DNA match is determined in the course of future investigations or as a result of the CODIS system being populated with more convicted offender and forensic DNA profiles.

Notes

1 CODIS uses two indexes—the forensic index and the offender index—to generate investigative leads in crimes where biological evidence is recovered from crime scenes. The forensic index contains DNA profiles of biological crime scene evidence and the offender index contains DNA profiles of individuals convicted of a qualifying offense.

2 CODIS has a missing persons index that exclusively contains mtDNA profiles; the convicted offender and forensic indexes of CODIS exclusively contain STR DNA profiles.

Sample Checklist

- Identify potential cases.
  - Identify any statute of limitation issues (consult with prosecutors).
  - Define case categories according to solvability factors.
- Prioritize cases (consider solvability factors).
- Locate and review the case file; obtain evidence logs and other documentation such as laboratory and autopsy reports.
- Locate previous forensic testing reports and location of previously tested evidence. For example—
  - Blood previously ABO typed.
  - Hair analyzed microscopically.
  - Fingerprint evidence.
- Locate crime scene evidence containing biological material.
- Evaluate the case and evidence for potential probative DNA. Be sure to—
  - Consider all evidentiary possibilities.
  - Take appropriate precautions against contamination.
- In consultation with the laboratory and prosecutors, submit appropriate (probative) evidence to the laboratory for testing.
- Continue investigative protocol. If needed, obtain reference samples from suspects—
  - Voluntarily using a consent form.
  - By using a previously obtained sample (e.g., if a reference sample was used for standard serological testing).
- Identify witness issues—
  - Legal availability.
  - Willingness to proceed.
  - Location.
- If a profile does not match suspect profiles, follow agency procedures for submitting the evidence profile to CODIS.
- If no offender match occurs in cases in which statutes of limitation are an issue, prepare a John Doe warrant.

About the National Institute of Justice

NIJ is the research, development, and evaluation agency of the U.S. Department of Justice and is solely dedicated to researching crime control and justice issues. NIJ provides objective, independent, nonpartisan, evidence-based knowledge and tools to meet the challenges of crime and justice, particularly at the State and local levels. NIJ's principal authorities are derived from the Omnibus Crime Control and Safe Streets Act of 1968, as amended (42 U.S.C. §§ 3721–3722).

NIJ's Mission

In partnership with others, NIJ's mission is to prevent and reduce crime, improve law enforcement and the administration of justice, and promote public safety. By applying the disciplines of the social and physical sciences, NIJ—

- Researches the nature and impact of crime and delinquency.
- Develops applied technologies, standards, and tools for criminal justice practitioners.
- Evaluates existing programs and responses to crime.
- Tests innovative concepts and program models in the field.
- Assists policymakers, program partners, and justice agencies.
- Disseminates knowledge to many audiences.

NIJ's Strategic Direction and Program Areas

NIJ is committed to five challenges as part of its strategic plan: 1) *rethinking* justice and the processes that create just communities; 2) *understanding* the nexus between social conditions and crime; 3) *breaking* the cycle of crime by testing research-based interventions; 4) *creating* the tools and technologies that meet the needs of practitioners; and 5) *expanding* horizons through interdisciplinary and international perspectives. In addressing these strategic challenges, the Institute is involved in the following program areas: crime control and prevention, drugs and crime, justice systems and offender behavior, violence and victimization, communications and information technologies, critical incident response, investigative and forensic sciences (including DNA), less-than-lethal technologies, officer protection, education and training technologies, testing and standards, technology assistance to law enforcement and corrections agencies, field testing of promising programs, and international crime control. NIJ communicates its findings through conferences and print and electronic media.

NIJ's Structure

The NIJ Director is appointed by the President and confirmed by the Senate. The NIJ Director establishes the Institute's objectives, guided by the priorities of the Office of Justice Programs, the U.S. Department of Justice, and the needs of the field. NIJ actively solicits the views of criminal justice and other professionals and researchers to inform its search for the knowledge and tools to guide policy and practice.

NIJ has three operating units. The Office of Research and Evaluation manages social science research and evaluation and crime mapping research. The Office of Science and Technology manages technology research and development, standards development, and technology assistance to State and local law enforcement and corrections agencies. The Office of Development and Communications manages field tests of model programs, international research, and knowledge dissemination programs. NIJ is a component of the Office of Justice Programs, which also includes the Bureau of Justice Assistance, the Bureau of Justice Statistics, the Office of Juvenile Justice and Delinquency Prevention, and the Office for Victims of Crime.

To find out more about the National Institute of Justice, please contact

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Municipality of Anchorage

4501 Brigow Street • Anchorage, Alaska 99507-1599 • Telephone (907) 786-8500 • http://www.muni.org

Mayor Mark Begich

Anchorage Police Department

February 15, 2005

Senator Con Bunde
State Capitol, Room 506
Juneau, AK 99801-1182

Senator:

I support the idea of SB 95, Reasonable Force DNA Collection, to better equip law enforcement in the identification, apprehension and conviction of those who commit serious crimes against the citizens of our state.

DNA forensic evidence has helped resolve such crimes as sexual assault and homicide, and the conviction of those responsible not only promotes a feeling of safety in the community but also provides closure to the victims and families of victims.

I have two pending cases, one of which is a homicide and the other a sexual assault which, I am told by the State Crime Lab, were committed by the same suspect. Unfortunately, CODIS, the DNA data bank, does not have the available match to provide us with a name yet. Experience tells me that this rapist and murderer, more than likely, committed other crimes. The enhancement of this statute, the Reasonable Force DNA Collection, would more rapidly develop the database and with our diligence, we'd be in a better position to stop that suspect before he victimizes yet again. This is just one example, and undoubtedly, other Alaskan law enforcement agencies would have similar examples of crimes that could be more easily and quickly solved with the passage of the Reasonable Force DNA Collection bill.

Sincerely,

Walt Monegan
Chief of Police

WM/ta

Community, Security, Prosperity

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Preventable Crimes : case studies on the potential of DNA technology to reduce crime

Chautauqua County

On the morning of November 25, 1998, a woman was confronted by a rapist in her home in Jamestown, Chautauqua County. In June 2001, a Chautaugua County Probation officer secured a DNA sample from Andrew Tehoke who was serving a probation term for a 2000 Burglary 3rd conviction. Tehoke's DNA profile hit against the DNA profile developed from forensic evidence recovered in connection with the 1998 sexual assault and he was subsequently convicted of the offense.

Erie County

A DNA Databank hit linked Lamont Coleman, a man with a history of sex offenses, with the sexu female professor which took place on March 31, 2000. The attack occurred in the same building campus where, in 1987 another female professor had been assaulted. Coleman was convicted of attack and his DNA profile was entered in the State's DNA Databank. It matched with the physic recovered at the scene of the 2000 assault. Coleman was a national fugitive for two years and li FBI's Most Wanted list prior to his capture in July, 2002.

Following a DNA Databank hit in April 2000, Ishmael Saladeen was indicted for the 1982 murder old male and an 84 year-old female who were killed during a robbery in a photography studio in the commission of this crime, the owner of the studio and five other victims who entered the sto and robbed. The elderly female was strangled to death and the male victim fatally shot. One of t victims was also raped and sodomized. The surviving victims all had a caustic solution splashed apparently in an effort to blind them and prevent identification of the perpetrator. With the adve DNA Databank, the Erie County Department of Central Police Services Forensic Science Laborato the perpetrator's DNA profile from evidence recovered from the victim who was sexually assault 1982 attacks. Within a year of these crimes, Saladeen was convicted for a separate incident of t Attempted Murder in the Second Degree and sentenced to a lengthy prison term. Pursuant to th amendments to the DNA database law, a DNA specimen was collected from Saladeen and his DN found to match the DNA profile of the perpetrator of the sexual assault. The Statute of Limitatior the indictment of the defendant on the rape and sodomy charges; however, as a result of him b the photography studio scene through the sexual assault evidence, Saladeen was convicted in a December 11, 2001 for Murder in the Second Degree.

Madison County

In 1992, the small village of Cazenovia (20 miles east of Syracuse) was celebrating the Fourth o carnival. A 15 year old boy left the restaurant where he worked to meet his parents for the festi five minute walk along a wooded footpath to meet his parents, the boy was abducted, sexually a murdered. His body was discovered in Cazenovia Lake the next day. Thousands of leads were pu the country (given the fact there were so many transient people in town that weekend of the car February 2001, the case was solved when forensic evidence recovered from the victim was found DNA profile sample of Jeffrey Clark. Clark's DNA specimen had been collected for inclusion in the based on his conviction for Sodomy 1st in 2000. Clark subsequently entered a plea of guilty to th murder.

Monroe County

In November 2002 a man was killed during a failed burglary when he woke up to the sounds of home. The victim approached the intruder and during the ensuing struggle managed to call polic mortally wounded. Police arrived to find the victim but no suspect in the house. Crime scene tech collected 10 blood samples from the Gates, NY home, 9 of which matched the victim, but the ter was loaded into the State DNA Databank in January 2003. This sample returned a hit on Bryan R

had been required to submit a sample for inclusion in the databank for a previous Burglary convi result of the 1999 amendments to the DNA Databank law. Armed with this information police co Hawkins, who denied involvement in the murder, to request that he submit a sample for confirm Hawkins agreed and upon testing, the sample matched the DNA found at the scene. Subsequent police were able to find two witnesses that remembered seeing Hawkins with a cut finger on the Homicide occurred. Hawkins is now serving a term of 25 years to life for the 2nd degree murder

Because of the variation in the ages of the victims and the modus operandi, investigators were u there was a connection between three sexual assaults that occurred between 1997 and 1999 in Rochester, New York. In 2000, DNA testing of physical evidence recovered at the scenes of thes indicated that one suspect had committed the three crimes. In one of the cases, a 4 year old girl from her home during the night, molested and left on a residential street miles from her home. I case, a 10 year old girl was beaten and raped by an intruder in her home. In the third case, a 6 woman was raped, beaten and robbed in the parking lot of her apartment building. In March 20 sample from Robert Griffin was taken as a result of his recent conviction for Attempted B rglary entered into the State DNA Databank. Griffin's DNA profile matched the DNA profiles developed sexual assaults. Griffin was convicted of these assaults following a jury trial.

New York City

On January 5th 2004 a serial rapist was sentenced to 35 years in prison for a series of robberies assaults covering 5 months and 3 boroughs. The attacker, Tyrone Williams, started his crime spr 2003 by following a woman into an apartment complex in Chelsea where he robbed and sodomi days later he then followed three more women into an apartment building in the Bronx raping 2 and sexually assaulting the third. The following week Williams returned to Chelsea where he foll women in to an apartment, raping one victim and robbing victims number fie and six. Williams t to Manhattan raping one victim in a stairwell in Mid-April 2003 followed by a second Manhattan early part of May 2003. The evidence collected at the scenes of these vicious attacks was quickly the New York City Office of the Chief Medical Examiner and submitted for a search early in 2003 arrested by the New York City Police Department the day they were notified of his DNA hit. Willi required to provide a DNA sample for the NYS DNA Databank following a 2000 conviction for an burglary.

One early morning in October 2000, a young financial analyst on her way to work in midtown Ma pulled into a freight elevator and viciously choked, raped and beaten. The victim bit her assailan to bleed onto her jacket. A DNA profile was developed from the blood stain by the New York City Medical Examiner Forensic Biology Laboratory and entered into CODIS. The profile from the crim against the DNA profile of Richard Navas. He was subsequently arrested and convicted for Rape Assault.

In the early morning hours of December 21, 1999, as an NBC Producer walked home from her jo Manhattan, she was confronted by a man who threatened to kill her. He pulled her into an open raped her. She lured him to an ATM machine by offering him money, hoping to capture his pictu security camera. Unfortunately, the perpetrator could not be identified in the ATM photo. Two m attack, a DNA specimen was collected from Lashange Legrand who was on parole for Attempted Robbery 1st. His DNA specimen had been collected under the 1999 amendments database law. When his DNA profile was entered into the state DNA Databank, it matched with recovered from forensic evidence collected from the scene of the 1999 attack. Legrand subseque to the rape.

In 1998, a female employee of a major department store had gone into the stock room of the st a robe. The assailant choked her and proceeded to rape her. Using the pin of her employee badg stabbed him which caused him to bleed onto the robe and card board that covered the floor. Sut rape, the rapist fled the stock room covering his face so that he could not be identified on a secu April 2002, the DNA profile developed from the blood stain hit against the DNA profile of Joe Fel provided a DNA sample for inclusion in the Databank in February 2002 when he was committed Department of Correctional Services for Burglary 3rd. On April 15, 2003, Felder was convicted at Rape 1st.

In November1995, a woman was abducted, raped and terrorized in an apparent attempt to get about drug dealers that the perpetrators viewed as competition. She was unable to identify her DNA profile was developed from forensic evidence recovered from the scene and, when entered found to match the DNA profile of Kyle Hardison. Hardison's DNA specimen had been collected a amendments to the state DNA database law as a result of a Robbery conviction. He was subsequ of First Degree Rape and First Degree Sodomy.

In 1991, a 17-year-old girl Harlem girl was sodomized, raped and robbed in New York City. Due limitations of DNA science at the time of trial, DNA could not be extracted from the rape kit evid his arrest and subsequent prosecution for these crimes, a Manhattan man was convicted after a sentenced to 20 to 40 years incarceration. Recently, advances in DNA science enabled law enfor

thorities to conduct a new test on the evidence in the case, and a DNA profile from that evider to the databank in April of this year. A subsequent comparison of the crime DNA to the DNA of tl Manhattan man proved that, in fact, he had not committed the crime for which he was incarcera DNA was then searched against the DNA databank, and matched to another incarcerated felon w sample was added to the databank as a result of the 1999 expansion. Sadly, the existing statute has expired for these crimes, thereby hindering the prosecution of the true perpetrator. However the databank to exonerate the innocent, as well as implicate the guilty, is made abundantly clear and the need to eliminate the statute of limitations for such violent crimes is reaffirmed.

Onondaga County

In November 1975 a woman was found murdered on the shores of Otisco Lake just outside Syra to her body police found the business card of a Madison, NY cabinetmaker, Donald Sigsbee. Sigs prime suspect for a number of years in the rape and stabbing death of the victim but police we positively connect him to the crime. In 1975 the use of DNA evidence had yet to be conceived, b diligence of a single State Police forensic scientist, a sample of the semen from the crime scene as a microscope slide. That thoughtfulness led to the DNA profile that matched the DNA of Sigsb a discarded drinking straw. Now 28 years later the family of the victim has their justice and a fin for the death of a loved one. Sigsbee now faces a mandatory minimum of 15 years to life in pris

In December, 1999, an individual broke into Onondaga County home of an 80 year old woman a sodomized her. She was unable to identify her assailant. Forensic evidence recovered at the scer was analyzed and the resulting DNA profile entered into the DNA Databank. The profile was foun DNA profile of Sean Coyne who was on probation for an Attempted Robbery 2nd conviction. He h required to provide a DNA specimen as a result of the 1999 amendments to the DNA database la

Sullivan County

Nearly 18 years of mystery ended when Rommal Bennett pleaded guilty in August of 2004 to the of the owner of a diner in Monticello. A cold hit in CODIS, the national DNA Database system, lin the DNA profile recovered from a cigarette butt found in a beer bottle at the victim's residence. butt was analyzed by the New York State Police Forensic Investigation Center in Albany. Bennett was put into the national database by the forensic laboratory in Minnesota based on a 1994 conv offense.

Westchester County

Thirsty? Apparently Angelo Powell was following an October 2003 burglary where he thought it a help himself to a soda from the victim's home. That thirst was the final straw in a string of burgl Powell had committed during his 25 year career as a criminal. The DNA that he left on the rim of bottle was compared to the NYS DNA Databank and hit against a sample Powell provided in 200(a conviction for Burglary in the Second Degree. Based upon the DNA evidence left behind and ac had no legitimate reason to be in the home of the victim, Powell pleaded guilty and was sentenc to life as a persistent violent felony offender.

The first match against the State DNA Databank solved a 21-year-old murder in Westchester Co of 1979, a 22-year-old woman was brutally stabbed to death in her Mt. Vernon apartment. The p apparently cut himself in the commission of this offense. Bloodstains found at the scene of the c preserved and DNA analysis was performed in 2000 by the Westchester County Forensic Science The resulting DNA profile was uploaded to the State's DNA Databank and found to match the DN Walter Gill. Mr. Gill was serving time in State prison for robbery, an offense that did not require until the 1999 amendment to the DNA database law. Gill was convicted of First Degree Manslaug

Alaska's Crime Fighting Databases A Big Hit

By Chris Beheim and Lesley Hammer

The Department of Public Safety maintains two databases that are powerful weapons in the war on crime; WIN/AAFIS, the Western Identification Network / Alaska Automated Fingerprint Information System and CODIS, the Combined DNA Index System. Unidentified latent fingerprints may be searched in AAFIS and unidentified DNA evidence may be searched in CODIS. Both of these databases have proven to be extremely effective crime fighting tools, as crime lab personnel have utilized them to generate hits on latent prints and DNA that otherwise would remain unidentified. The Scientific Crime Detection Laboratory has made the utilization of these databases a priority.

Latent fingerprints associated with a crime are first compared to suspects and persons for elimination. Remaining unidentified latent prints of sufficient quality are searched in the WIN/AAFIS system. From 1997 to 2001, the crime lab Latent Fingerprint Section averaged 24 AAFIS hits per year. The number of hits generated in 2002 went up 229% to a total of 55. Many of these hits provided investigative information, leading to the resolution of crimes, which would have otherwise remained unsolved. For example, a suspect was recently generated in an unsolved homicide because one of our latent examiners decided to search the print in WIN/AAFIS in addition to comparing it to the suspects provided on the laboratory submittal. The latent print hit on a person that was not listed on the suspect list, providing a new investigative lead in the case. The trend of hits continues into 2003 with 21 hits so far this year. In the month of April alone there have been seven latent print hits; three from drug cases, two from burglary cases, and two associated with homicide cases. Later this year the crime lab will also have the capability to search latent palm impressions with the acquisition of a Palm Print Database System which is now being researched for purchase.

DNA evidence is searched in the CODIS database. CODIS blends forensic science and computer technology into an effective tool for solving a variety of different crimes. Alaska's DNA Identification System currently contains profiles from 3200 convicted offenders along with 300 forensic or crime scene DNA profiles. Over half of the forensic profiles are from "no-suspect" cases. As DNA profiles are entered, they are searched against both the convicted offender index and the forensic index which contain profiles from crime scene evidence. The results produced by CODIS have been spectacular. In the past 16 months, the DNA database has generated 30 hits and aided 38 different investigations, making Alaska's CODIS program one of the most successful in the country on a per capita basis. Fifteen of the hits linked crime scene evidence to a convicted offender, and fifteen of the hits linked two or more cases together, indicating that the same perpetrator was involved. DNA profiles from Alaska are regularly uploaded into the National DNA Index System. NDIS enables federal, state, and local crime labs to exchange and compare DNA profiles electronically, thereby linking crimes to each other and to convicted offenders from other states. The National DNA Index System now contains over 1,200,000 DNA profiles.

Both WIN/AAFIS and CODIS are invaluable resources to crime lab personnel. Evidence that may have remained unidentified a few years ago is now being searched in these systems and leading to

(Alaska's Crime, continued on page 6)

Alaska Crime, continued from page 5

the resolution of many serious crimes. As technology advances and Public Safety personnel become more aware of the operation and potential of these powerful crime-fighting tools, we will see even more crimes solved in the future as direct results of these database searches. If you have any questions, or if you have evidence in no-suspect cases that you would like searched, please contact the Crime Laboratory. For latent print evidence contact **Lesley Hammer** at 269-5760, and for questions regarding CODIS contact **Chris Beheim** at 269-5743. ■

U.S. Department of Justice
Office of Justice Programs
National Institute of Justice

IN SHORT

TOWARD CRIMINAL JUSTICE SOLUTIONS NOV. 04

DNA in "Minor" Crimes Yields Major Benefits in Public Safety

THE ISSUE

Property crime offenders have high recidivism rates, their crime and violence can escalate, and property crime cases often go unsolved.[1] It has been estimated that each burglar in the top 10 percent of burglars commits more than 232 burglaries per year.[2] Several police departments in the United States are finding that they may be able to change these trends. When they analyze DNA from a burglary, they get evidence that often solves several other cases as well. And they are finding that biological evidence collected from property crime scenes can prevent future property crimes and more serious offenses.

The Miami-Dade Police Department (MDPD), Palm Beach County Sheriff's Office, and New York City Police Department (NYPD) are solving high-volume property crimes (like burglary and auto theft) and violent crimes (like sexual assault and murder) using DNA funds they received from the National Institute of Justice (NIJ). They are discovering that analyzing DNA from property crimes can have major public safety benefits.

BACKGROUND

Biological evidence *can* be retrieved from property crime scenes. Burglars often cut themselves on broken glass as they enter a property—and blood is an obvious source of DNA evidence. Plus crime labs can get a profile from "invisible" DNA evidence police retrieve from the sweatband inside a cap, from the inside of a mask, on a cigarette butt, in chewing gum, on a drinking glass, or from a half-eaten sandwich. In New York, analysts have had great success processing this "invisible" burglary evidence from the skin cells deposited from perspiration or saliva.

Public Safety Impact

Mark Dale, crime lab director at the NYPD, said that in his experience, when DNA from a no-suspect murder scene is checked against records in the Combined DNA Index System (CODIS)[3], it often matches DNA from a no-suspect burglary. Review of the State's first 1,000 hits showed that the vast majority were linked to crimes like homicide and rape, but of these, 82 percent of the offenders were already in the databank as a result of a prior conviction for a "lesser" crime such as burglary or drugs.[4] According to a Florida State study, 52 percent of database hits against murder and sexual assault cases matched individuals who had prior convictions for burglary.[5]

With NIJ support, the crime labs in Miami-Dade, Palm Beach, and New York City have achieved dramatic results by analyzing biological evidence collected from property crime scenes.

The Numbers. In New York, biological evidence from 201 burglaries yielded 86 CODIS-acceptable DNA profiles. On the basis of these numbers, the lab has thus far been able to identify several "pattern" burglaries. One profile uncovered a five-burglary serial offender. Most of New York's DNA profiles resulted in forensic hits to multiple unsolved cases. Three were linked to more serious, violent crimes such as sexual assault and robbery. In all, 37 burglary profiles have been linked through CODIS to other unsolved cases; 31 of the newly analyzed cases were matched through CODIS to convicted offenders and are now being investigated; arrests are pending.

DNA in blood stains collected at the scenes of four household burglaries in Miami-Dade linked all cases to the same offender, who turned out to be a previously convicted burglar. DNA evidence also linked three different no-suspect vehicle and residential burglaries and identified the perpetrator—he, too, turned out to be a previously convicted burglar.

Overall, in Miami-Dade, 526 no-suspect DNA profiles produced 271 hits; in Palm Beach, 229 profiles produced 91 hits. Of the 362 CODIS hits, 56 percent came from evidence collected at burglary scenes.

The Cost. The cost of DNA testing depends on several factors: the number of samples tested per case, the type of DNA testing needed (nuclear or mitochondrial), and the cost to have police collect biological evidence at property crime scenes and pursue investigative leads generated by CODIS hits.

But the cost of DNA analysis must be weighed against the losses from crime incurred by the public. The Bureau of Justice Statistics estimates the average property loss from burglary is $1,500.[6] Bud Stuver, who heads the DNA testing program at the MDPD, looks at affordability from the broad perspective of the costs to the justice system as a whole. "It is much more expeditious to employ DNA testing than to pay investigators."

The Bottom Line

"We move quickly when profiles are needed for the high-priority crimes of murder and rape," says Cecilia Crouse, who supervises the DNA section of the Palm Beach County Sheriff's Office crime lab. The crime labs in New York City, Miami-Dade, and Palm Beach have shown that DNA can go a long way toward solving property crimes as well as violent crimes. Law enforcement agencies can clear even more cases when they collect biological evidence not just from the scenes of major crimes, but also from high-volume crimes, such as burglary.

Bud Stuver, who has trained many officers in the MDPD to collect DNA at property crimes, shows them "it's worth the time and effort."

Mark Dale, in the NYPD, noted his lab is "now gathering data to investigate the links between recidivism, lesser offenses, and more serious crimes." If forthcoming data can show the links, then it may be possible in some instances to prevent murder by solving burglaries.

For More Information

Visit http://www.dna.gov.

Notes

1. Langan, P.A., and D.J. Levin, *Recidivism of Prisoners Released in 1994,* Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics, 2002 (NCJ 193427): 1, 8; *Crime in the United States 2002:* 221, 223. Burglary had the lowest clearance rate of any Index crime. (Violent crimes are often more rigorously investigated, which explains why their clearance rate is higher than for property crimes.)

2. Chaiken, J.M. and M.R. Chaiken, *Varieties of Criminal Behavior,* Washington, DC: U.S. Department of Justice, National Institute of Justice, 1982 (NCJ 87680): 44.

3. CODIS is an FBI-distributed database that allows Federal, State, and local crime labs to exchange and compare DNA profiles.

4. Source: http://criminaljustice.state.ny.us/forensic/dnabrochure.htm.

5. Source: Florida Department of Law Enforcement State DNA Database Statistics, Tallahassee, Florida.

6. Bureau of Justice Statistics, *Sourcebook of Criminal Justice Statistics, 2000,* Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics, 2001 (NCJ 190251): 304.

UNITED STATES DISTRICT COURT

DISTRICT OF ALASKA

JOHN DOE, individually and on behalf of a certified class,	)	
Plaintiff,	)	A03-231 CV (JWS)
vs.	)	ORDER FROM CHAMBERS
BILL TANDESKE, *et al.*,	)	[Motions at dockets 38 and 40]
Defendants.	)	

I. MOTIONS PRESENTED

At docket 38, defendants Bill Tandeske, *et. al.* ("Tandeske") move for summary judgment and for an order dissolving the preliminary injunction barring the State of Alaska from collecting DNA samples pursuant to AS 44.41.035. The motion was opposed at docket 40 by plaintiff who represents himself and a class of similarly situated persons.[1] Although not properly designated as a cross-motion, the papers at docket 40 request summary judgment in favor of plaintiff. Oral argument was heard on January 7, 2005.

II. BACKGROUND

This order adopts and incorporates by reference the background facts and statement of jurisdiction presented in the order at docket 24.

[1]See Order at doc. 19.

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III. STANDARD OF REVIEW

Rule 56 of the Federal Rules of Civil Procedure provides that summary judgment should be granted if there is no genuine dispute as to material facts and if the moving party is entitled to judgment as a matter of law. The moving party has the burden of showing that there is no genuine dispute as to material fact.[2] The moving party need not present evidence; it need only point out the lack of any genuine dispute as to material fact.[3] Once the moving party has met this burden, the nonmoving party must set forth evidence of specific facts showing the existence of a genuine issue for trial.[4] All evidence presented by the non-movant must be believed for purposes of summary judgment, and all justifiable inferences must be drawn in favor of the non-movant.[5] However, the nonmoving party may not rest upon mere allegations or denials, but must show that there is sufficient evidence supporting the claimed factual dispute to require a fact-finder to resolve the parties' differing versions of the truth at trial.[6]

IV. DISCUSSION

A. Totality of Circumstances

In support of the motion at docket 38, Tandeske contends that because the Ninth Circuit vacated the Ninth Circuit panel's decision in *United States v. Kincade*,[7] "there is no longer a sufficient legal basis for continuing the injunction."[8] The court disagrees. Applying a totality of circumstances analysis, the Ninth Circuit, sitting *en banc*, held that persons on conditional release from prison may lawfully be required to provide a DNA sample for inclusion in a national database, even in the absence of

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[2]*Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986).

[3]*Id.* at 323-25.

[4]*Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248-49 (1986).

[5]*Id.* at 255.

[6]*Id.* at 248-49.

[7]345 F.3d 1095 (9th Cir. 2003).

[8]Doc. 38 at 3.

individualized suspicion that they had committed additional crimes. The Ninth Circuit reasoned that:

> In light of conditional releasees' *substantially* diminished expectations of privacy, the minimal intrusion occasioned by blood sampling, and the overwhelming societal interests so clearly furthered by the collection of DNA information from convicted offenders, we must conclude that compulsory DNA profiling of qualified federal offenders is reasonable under the totality of circumstances.[9]

The narrow issue decided by the *en banc* court in *Kincade* was whether a person subject to conditional release may be compelled to provide a DNA sample in the absence of individualized suspicion of criminal activity. The Ninth Circuit did not address whether a person previously subject to conditional release, who has successfully completed the terms of his incarceration and conditional release, may be compelled to provide a DNA sample absent individualized suspicion of wrongdoing. As Tandeske notes, the present case "involves the application of Alaska's DNA collection statute to persons who are neither incarcerated nor on probation or parole."[10] The narrow holding in *Kincade* offers no direct support for Tandeske's contention that the State may, without individualized suspicion of wrongdoing, compel the taking of a DNA sample from a person whose period of conditional release has expired. Perhaps cognizant of this shortcoming, Tandeske asserts that persons who have been unconditionally discharged from their convictions, but who are nevertheless required to register as sex offenders, "are sufficiently similar to the conditional releasees in *Kincade* that *Kincade* conclusively resolves the claim of the class."[11]

In support of his position, Tandeske points out that the convicted sex offenders who make up the class in this case are required, despite their unconditional discharge, to register with the state and periodically verify and update their registration information.

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[9]*United States v. Kincade*, 379 F.3d 813 (9th Cir. 2004) (emphasis added).

[10]Doc. 38 at 7.

[11]Doc. 38 at 7.

Thus, "the rights of class members are restricted," because they lack the "full panoply of rights and protections possessed by the general public."[12] Furthermore, Tandeske contends that "[l]ike the conditional releasees in *Kincade*, the class members, by virtue of their sex offense convictions, permanently lose their right of privacy in their identity."[13]

Tandeske's arguments are based on accurate facts, but the conclusion he draws from those facts is not correct. To begin with, the holding in *Kincade* makes clear that loss of the right to privacy is not the loss of all constitutional protections:

> Let us be clear: Our holding in no way intimates that conditional releasees' diminished expectations of privacy serve to extinguish their ability to invoke the protections of the Fourth Amendment's guarantee against unreasonable searches and seizures. Where a given search or class of searches cannot satisfy the traditional totality of the circumstances test, a conditional releasee may lay claim to constitutional relief - just like any other citizen.[14]

Moreover, defendants' contention that conditional release is analogous to Alaska's sex offender registry was rejected by the United States Supreme Court in *Smith v. Doe*:[15]

> This argument [that Alaska's sex offender registration system is parallel to probation or supervised release] has some force, but, after due consideration, we reject it. Probation and supervised release entail a series of mandatory conditions and allow the supervising officer to seek the revocation of probation or release in case of infraction. By contrast, offenders subject to the Alaska statute are free to move where they wish and to live and work as other citizens, with no supervision . . . A sex offender who fails to comply with the reporting requirement may be subjected to a criminal prosecution for that failure, but any prosecution is a proceeding separate from the individual's original offense.[16]

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[12] *Id.*

[13] *Id.* at 8.

[14] *Kincade*, 379 F.3d at 835.

[15] 538 U.S. 84 (2003).

[16] *Smith v. Doe*, 538 U.S. 84, 101-2 (2003).

The distinction between conditional release and mandatory sex offender registration is well illustrated by *Kincade's* description of conditional release as something which "dramatically alter[s] the relationship between the releasee and the government."[17] Conditional releasees have "severely constricted expectations of privacy relative to the general citizenry."[18] The same simply cannot be said of the class members. They are members of th general citizenry, subject to a particular registration requirement, but not subject to the invasive interests of a government which is engaged in supervising their return to society after finishing a term of imprisonment. They have passed beyond that stage and back into society.

Tandeske also argues that the class members have a sharply reduced expectation of privacy because as sex offenders they must "periodically verify their registration information" and "provide a photograph and full set of fingerprints."[19] The court notes that similar indignities are routinely imposed upon citizens wishing to receive a driver's licence from the Alaska Department of Motor Vehicles, and upon attorneys wishing to join the Alaska Bar Association.

The Fourth Amendment to the United States Constitution provides, in pertinent part, that "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated." "A search or seizure is ordinarily unreasonable in the absence of individualized suspicion of wrongdoing."[20] As the Ninth Circuit has said:

> The gathering of fingerprint evidence from "free persons" constitutes a sufficiently significant interference with individual expectations of privacy that law enforcement officials are required to demonstrate that they have probable cause, or at least an articulable suspicion, to believe that the person committed a

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[17] *Kincade*, 379 F.3d at 834.

[18] *Id.*

[19] Doc. 38 at 8-9.

[20] *Chandler v. Miller*, 520 U.S. 305, 308 (1997).

> criminal offense and that the fingerprinting will establish or negate the person's connection to the offense."[21]

Class members like Doe who have completed their terms of incarceration and conditional release, and who have paid their debt to society are properly considered "free persons." The fact that such persons must register as sex offenders and periodically update that registration does not so diminish the expectation of privacy that they are "sufficiently similar" to the conditional releasees in *Kincade* to be treated the same way. Rather, the class members are free persons, members of the general citizenry, whose interests are protected by the Fourth Amendment. Absent individualized suspicion, their homes and bodies are not subject to invasion by the state.

B. Special Needs Doctrine

Alternatively, Tandeske argues that the compelled extraction of DNA from persons who have completed their terms of incarceration and conditional release is constitutionally permissible under the Supreme Court's "special-needs" doctrine. Although the Fourth Amendment generally requires individualized suspicion of wrongdoing for a search or seizure to be reasonable, a search unsupported by probable cause may be constitutional "when special needs, *beyond the normal need for law enforcement*, make the warrant and probable-cause requirement impracticable."[22] In *City of Indianapolis v. Edmond*, the Supreme Court rejected the application of the special-needs doctrine to vehicular check-points whose primary purpose was related to law enforcement,[23] noting that it was "particularly reluctant to recognize exceptions to the general rule of individualized suspicion where governmental authorities primarily pursue their general crime control ends."[24] The dissent in *Kincade* notes that "[n]ever

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[21] *Kincade*, 379 F.3d at 836, fn 31.

[22] *Vernonia School Dist. 47J v. Acton*, 115 S.Ct. 2386, 2391 (1995) (*citing Griffin v. Wisconsin*, 483 U.S. 868, 873 (1987) (emphasis added).

[23] 531 U.S. 32, 44 (2000).

[24] *Id.* at 43.

once in over two hundred years of history has the Supreme Court approved of a suspicionless search designed to produce ordinary evidence of criminal wrongdoing for use by the police."[25]

As noted by Tandeske, "[t]he explicit purpose of AS 44.41.035 is to provide a system that will assist in solving crimes, detecting repeat offenders, exonerating innocent persons, locating missing persons, and identifying unknown human remains."[26] The primary purposes of AS 44.41.035 are largely indistinguishable from the government's general interests in crime control. It follows that the special needs doctrine cannot support the relief Tandeske seeks.

C. Plaintiff's Cross-Motion at Docket 40

Plaintiff's response at docket 40 includes a request that "summary judgment should be entered in favor of the class."[27] While the failure to formally designate the papers at docket 40 as a response and cross-motion did deprive plaintiff of a chance to file a reply memo, Tandeske had an opportunity to and did fully respond to the arguments in the papers at docket 40 both in writing and at oral argument. Furthermore, the very reasons which the court has found to require that it deny the relief Tandeke seeks also adequately support entry of judgment as a matter of law in favor of plaintiff. Accordingly, the court elects to treat docket 40 as both a response and a cross-motion. For the reasons given in the preceding sections, it is a violation of the Constitution to extract a DNA sample from any member of the certified class without individualized suspicion. It follows that plaintiff is entitled to summary judgment.

V. CONCLUSION AND ORDER FOR LODGING ADDITIONAL DOCUMENTS

For the reasons stated above, defendants' motion to dissolve the preliminary injunction and for summary judgment at docket 38 is **DENIED**, and plaintiff's (deemed) cross-motion for summary judgment at docket 40 is **GRANTED**.

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[25]*Kincade*, 379 F.3d at 854 (Reinhardt, J., dissenting).

[26]Doc. 33 at 20.

[27]Doc. 40 at 4.

Based on this order, plaintiff shall prepare and submit a judgment and permanent injunction for the court's consideration. The proposed judgment and permanent injunction should be served and lodged within 30 days from the date of this order. Tandeske shall have 20 days from the service of such proposal to serve and file a response directed at the form (but not at plaintiff's right to the issuance) of the judgment and permanent injunction. Plaintiff shall have 10 days from the service of Tandeske's response to file a reply.

DATED at Anchorage, Alaska, this 3rd day of February 2005.

JOHN W. SEDWICK
UNITED STATES DISTRICT JUDGE

A03-0231--CV (JWS) 2-7-05

R. ROSENSTEIN (AG-STE-308)
D. THOMPSON

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: SB 95
() Publish Date:

Revision Date/Time (Note if correction):
Dept. Affected: Corrections
Title "An act relating to the collection of, and the use of reasonable force to collect, a deoxyribonucleic acid sample"
RDU Institutional Facilities
Component Institution Director's Office
Sponsor Senator Bunde
Requester State Affairs, Judiciary
Component No. 524

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**
CAPITAL EXPENDITURES	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**
CHANGE IN REVENUES ( )	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type--Do not abbreviate)	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

Estimate of any current year (FY2005) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: *(Attach a separate page if necessary)*

Passage of this legislation will not have a measurable fiscal impact on the Department of Corrections.

Prepared by: Sharleen Griffin, Acting Director
Phone 465-4641
Division: Administrative Services
Date/Time 2/18/05 9:48 AM
Approved by: Portia Parker, Deputy Commissioner
Date 2/18/2005
Agency: Department of Corrections

(Revised 9/23/2004 OMB)

Alaska State Legislature

Senator Con Bunde
District P

Vice Chair: Senate Finance Committee
Chair: Senate Labor & Commerce Committee

During Session:
State Capitol
Juneau, AK 99801-1182
(907) 465-4843

During Interim:
716 W. Fourth Avenue
Anchorage, AK 99501-2133
(907) 269-0181

MEMORANDUM

DATE: February 21, 2005

TO: Senator Therriault

FROM: Senator Con Bunde

RE: Senate Bill 95 Hearing Request

Senator Therriault:

Attached please find the bill packet for SB 95. I respectfully request a hearing in the Senate State Affairs Committee as soon as possible.

Thank you for your consideration. If you have any questions or would like more information, please call my office at x 4843.

Sincerely,
Senator Con Bunde