

DNA - An Introduction

AN INTRODUCTION:

Forensic DNA testing - technology trumps due process

The decade and a half following the introduction of forensic DNA profiling has seen revolutionary changes in the way crime is investigated and tried in industrialised countries. It has also seen unprecedented erosion of privacy and civil rights with police able to order a wide range of citizens to submit to the collection, testing and databasing of their DNA.

DNA technology has great potential to assist in the investigation of a wide range of offences, identifying the guilty, exonerating the innocent and solving what would once have been insoluble cases. However it is still just a technology and subject to all of the limitations in the skill and integrity of those who use it.

The Australian criminal justice system has a poor history of evaluating scientific evidence.

Lindy Chamberlain, Frederick McDermott, Edward Splatt, Emily Perry, Raymond Carol, Alexander McLeod-Lindsay, Fritz van Beelan and Graham Potter are just a few of the Australians who have been wrongfully imprisoned following the incompetent or dishonest evidence of forensic scientists. In 1922 Melbourne publican Colin Campbell Ross was sent to the gallows, thanks to the bogus hair matching evidence of forensic scientist Charles Price.

The introduction of forensic DNA testing in Australia has been accompanied by unrealistic claims of infallibility and the results which might be gained from its use. In every Australian jurisdiction legislation has been hurriedly introduced in order to build up huge DNA databases as soon as possible, with barely a thought given to standards, protocols, privacy or civil rights.

From the outset Justice Action has promoted informed public discussion of DNA technology and careful consideration of how it is to be introduced. Instead we have been offered Wee Waa style PR exercises and claims that '80% of outstanding cases will be solved'.

DNA Testing documents

All the documents (in .PDF) associated with the campaign

Forensic DNA:

Statement of Principles

1) No one, whether convicted or otherwise, should be forced to give a medical sample of any kind unless it has been determined in open court that their right to bodily integrity and genetic privacy is exceeded by overwhelming issues of public interest in the evidence likely to be produced.

2) Police and prison officers should play no part in gaining consent for voluntary forensic procedures nor collecting forensic evidence.

3) Forensic samples and the profiles they produce should remain the 'property' of the person who sourced them whenever that is known, no matter how they were obtained. When they are no longer required as evidence control of them should revert to that person. It is totally unacceptable for government to hang onto samples and profiles indefinitely or pass them on as they see fit.

4) The mass databasing and crossmatching of DNA profiles in an attempt to gain 'cold hits' which might provide evidence in 'suspectless' crimes exceeds the theoretical and practical limitations of forensic DNA testing, and will result in wrongful convictions if permitted. It is totally unacceptable and discriminatory that prisoners should overwhelmingly be the ones subjected to this risk, especially as they are likely to be in a worse position than most when it comes to defending themselves.

5) That the massive government funding of police, forensic labs and computer systems in the absence of Legal Aid funding which will enable the impoverished to access the sort of technical expertise required to defend against DNA evidence will further tilt the criminal justice system in favour of the prosecution and the wealthy.

6) Australian forensic scientists have an extremely poor record in presenting forensic evidence in court and have been responsible for a disproportionate number of wrongful convictions. They are way overdue for proper independent monitoring and oversight. This need has become urgent as forensic evidence plays a part in an ever increasing number of criminal cases.

Recommendations to NSW Legislative Council Inquiry

into the Crimes (Forensic Procedures) Act 2000

Justice Action hopes that the committee will recommend:

- the immediate repeal of the Crimes (Forensic Procedures) Act
- an immediate halt to the forensic testing of prisoners and true destruction of data and samples taken so far
- an immediate halt to the databasing of profiles and passing on of data to other jurisdictions (eg CrimTrac)
- the formation of a consultative committee with representation from key stakeholders (including non-govt) and academics in relevant fields. Its task would be to facilitate the development of a Best Practice Model of forensic DNA laws (and perhaps genetic privacy in general) and make appropriate recommendations regarding oversight bodies, lab & database resourcing etc by consulting with reps of wider stakeholders and the community in general

- that an oversight and monitoring body be formed to audit, evaluate and accredit those likely to be recognised as forensic expert witnesses in NSW courts. It should be able to make non-binding recommendations with regard to what areas of expertise should be legally recognised in certain individuals, standards for presenting & admitting forensic evidence and counselling or retraining for forensic experts who give confusing or misleading evidence.