

FAMILIAL DNA TESTING

Familial DNA database searches can form two lines of inquiry: the identity of an individual who could be a sibling of the offender, or the identity of the offender's parent or child.

In other words, take my DNA today and you can run my relatives tomorrow without a warrant, without a finding of probable cause, **EVEN IF NO CHARGES ARE FILED AGAINST ME OR THEY ARE DISMISSED OR I AM ACQUITTED.**

It is the worst kind of genetic surveillance which will result in generations of innocents being haunted and hunted.

FINGERPRINTS V. DNA

I suspect you will hear testimony that DNA collection is the same as fingerprints which are done today routinely.

Nothing could be further from the truth. While both may be used for identification, DNA carries with it the GENETIC MAKE UP of the person from whom it is collected and his or her relatives, thus allowing GENETIC SURVEILLANCE AND IDENTIFICATION by the government without your permission or knowledge.

With all due respect to everyone in this room, allowing such a surveillance technique should frighten us all, regardless of your political position.

SIR ALEC JEFFREYS

Sir Alec Jeffreys is the inventor and father of the use of DNA in criminal cases. A book called *The Blooding* chronicles the first use of DNA to solve a case in England.

I have attached an article from January 14, 2008 where the father of the science has expressed concerns over the very thing that this bill will allow, the retention of innocents' genetic makeup.

Sir Alec said READ HIGHLIGHTED QUOTE

MIRANDA AND THE EXCLUSIONARY RULE

The United States Constitution was written by a group of men who did not trust their government. The Bill of Rights to that constitution was written to protect the INDIVIDUAL from government over reaching.

The Fourth Amendment to the US Constitution prohibits the government from unreasonable and unlawful actions in order to search and seize people, their houses, their papers and their effects.

The Fifth Amendment protects the individual from being forced to confess or give testimony against one's self. You hear the protection every day on cop shows when *Miranda* rights are read.

The EXCLUSIONARY RULE is not in the constitution. It was created by the United States Supreme Court to stop the continual violation of both the 4th and 5th Amendments by law enforcement agencies and the government.

THIS BILL AUTHORIZES ILLEGAL CONDUCT BY THE GOVERNMENT WITHOUT SANCTION.

1. Allows pre-text stops for arrests just to get DNA.
2. Allows the collection and testing of DNA for all, even if NO CHARGES are filed.
3. Puts the burden on the innocent to request the destruction (p4, l.25-27) and there is NO SANCTION if not destroyed. In fact this bill encourages the delaying or non-destruction in order to run the information. (p5, l.27 and p6, l.1-2.
4. This bill invalidates two rules of criminal procedure that require the court to determine if probable cause exists to take a DNA sample. Remember Monday when Sen. Morse described the process in some jurisdictions where police officers take warrants to judges as opposed to district attorneys? Remember DA Don Quick indicating that all warrants must be run by him? This bill allows officers to just arrest folks for any felony, no matter how minor, (HTO) not just a crime of violence which the bill says it will help solve and then take the DNA. WE HAVE CRIM. PRO. RULE 41.1 AND RULE 16 TO PROTECT AGAINST WHAT THIS BILL ALLOWS. Both require an affidavit to be filed with the court requesting the taking of the biological sample and the accused has the right to contest the request. THOSE PROTECTIONS WILL EVAPORATE.

THE TITLE AND LEGISLATIVE DECLARATION

I fail to see how this is the Crime Prevention and EXONERATION OF THE INNOCENT ACT.

In this state, CBI has three DNA labs. Denver has their own DNA lab. Colorado Springs is opening their own soon. There are plans for a sixth DNA lab in the Northeast part of the state. ALL SIX LABS ARE FOR THE EXCLUSIVE USE OF THE PROSECUTION AND LAW ENFORCEMENT. No lab in this state does testing for the defense or the defendant REQUIRING THE PD, ADC AND PRIVATE ATTORNEYS TO GO OUT OF STATE AT A SIGNIFICANT COST.

Additionally, THERE IS NO PROVISION IN THIS BILL THAT ALLOWS THE ACCUSED OR HIS COUNSEL TO REQUEST THE COURT TO ORDER LAW ENFORCEMENT TO RUN AN EXCULPATORY SEARCH OF THE DATABASES.

The legislative declaration suggests that “(c) THE IMPLEMENTATION OF THIS ARTICLE WILL RESULT IN PREVENTING A SIGNIFICANT NUMBER OF VIOLENT CRIMES IN COLORADO AND IN SOLVING A NUMBER OF UNSOLVED CRIMES IN COLORADO”

Based upon what? The burglary grant that Mr. Morrissey received that solved burglary cases? Where is the EVIDENCE BASED RESEARCH supporting that declaration?

If that is true, then let's require as part of this bill annual reports by all law enforcement to see if the civil rights violations are worth the 1.7 million dollar price tag. The reports should include: READ 5