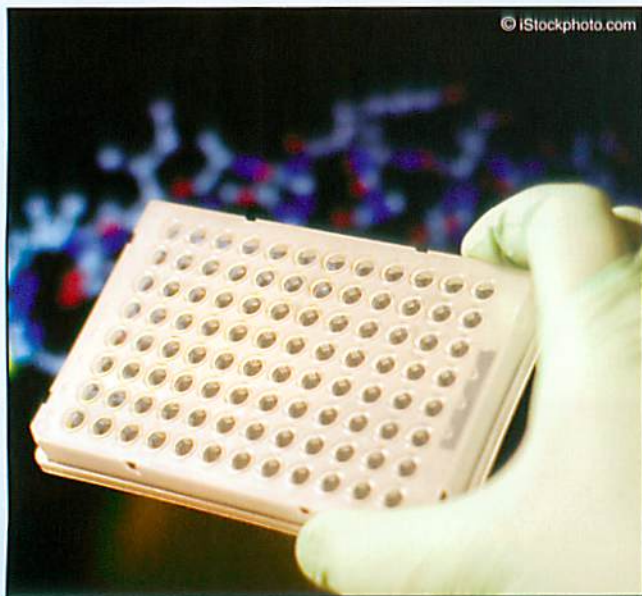


Focus on Forensics

The Effects of DNA Advances on Police Property Rooms

By William P. Kiley, M.S.



Agencies gain valuable investigative leads upon discovering DNA matches.¹ And, for these instances, they rely on the property room to properly store the necessary biological evidence and have it ready for investigators. To this end, the increase in dependence on DNA analysis has impacted evidence and property rooms across the country. In the coming years, federal, state, and local law enforcement agencies will continue to face challenges in the warehousing of evidence.

DNA Matches

Throughout the past decade, departments increasingly have created cold case units that review old, unsolved homicides and sexual assaults to determine if any biological evidence exists that could yield valuable DNA. Usually, investigators begin with a review of the case file to identify evidence collected and stored in the department's property and evidence storage facility.

Subsequently, law enforcement personnel may view the evidence and decide whether to send it to the crime laboratory for DNA analysis and submission to CODIS (Combined DNA Index System) for possible identification of a suspect.² If the process proves successful, it will result in the closure of an unsolved crime. The physical evidence, which may have been in a property facility for years, that leads to this discovery then becomes the crucial component in solving this case.

Space Limitations

Since its inception in 1992, the Innocence Project has focused on the exoneration of wrongly convicted individuals through postconviction DNA analysis.³ As of May 2008, 216 individuals have had their convictions overturned based on DNA evidence.

Similar to unsolved cases, the postconviction appeals and DNA examinations resulted from laboratory analysis of evidence held by a department in its property room. Many law enforcement agencies store evidence from criminal prosecutions only until the time period for appeals has ended and then dispose of it. However, because of the work of the Innocence Project and the growing number of exonerations resulting from DNA proving the conviction of the wrong person, legislators throughout the United States have begun to incorporate or change statutes regarding the period of postconviction retention of evidence in certain categories of crimes (e.g., homicides and sexual assaults). Some states now mandate that law enforcement agencies retain evidence for the entire incarceration period of the convicted person.⁴

These changes also have affected statutes of limitation for prosecution. In many jurisdictions, statutes of limitation for sexual assaults have either been completely eliminated or extended, perhaps, to decades in duration.

As a result of these effects on postconviction appeals and statutes of limitation, property rooms store evidence far longer than ever before. Now,

police chiefs and sheriffs commonly request additional budget to either build or rent space for storage. Also, considering that crime scene investigators bring in increasing quantities of DNA evidence because of advances in crime laboratory capabilities, the present and future demands for space are obvious.

Future Challenges

Chiefs and sheriffs must face not only fiscal and space allocation challenges but the fact that the day-to-day operation of evidence and property storage facilities will become an area of greater scrutiny by defense attorneys. If investigators discover a DNA match pertaining to a cold case based on DNA evidence retrieved from garments, bedding, weapons, or other items stored in a police property room, challenges will arise pertaining to packaging, storage, accountability and security, and access control. Chain-of-custody challenges, claims of cross-contamination, and inquiries as to climate-control conditions during the period of storage of the evidence all will become matters of examination by the defense. Therefore, to help ensure successful prosecutions, law enforcement agencies must review their procedures, provide sufficient funding for adequate storage, ensure proper training for personnel, have necessary oversight and internal controls in place, and conduct regular internal and external audits of the property room.

Proactive Measures

Police executives need to join together regionally and statewide to become proactive regarding legislation and funding for the storage of evidence. Discussion among chiefs, sheriffs, prosecutors, and court clerks can determine future needs concerning the maintenance of the ever-growing amount

of evidence in police property rooms. Dialogue among law enforcement and crime laboratory directors can determine future needs for refrigeration or freezing of biological evidence during storage. State sheriffs' and police chiefs' associations should consider the feasibility of state-run, climate-controlled facilities in different regions that can provide long-term storage of evidence. The proactive input of these groups is essential in gaining funding assistance from state legislators.

Conclusion

The challenges of determining the proper methods, location, and duration of evidence storage will increase with time. Sheriffs and chiefs are only beginning to experience the effects that advances in DNA technology have on the storage of evidence.

In many cases, the identification, arrest, prosecution, and conviction of a suspect and the ability to withstand appeal challenges all may rest upon stored physical evidence. Clearly, law enforcement agencies must address the staffing, training,

and funding issues pertaining to police property rooms. ♦

Endnotes

¹ For additional information, see Jim Markey, "After the Match: Dealing with the New Era of DNA," *FBI Law Enforcement Bulletin*, October 2007, 1-4.

² CODIS is a DNA database that compares forensic samples among cases and between offenders and arrestees. For more information, visit <http://www.fbi.gov/hq/lab/html/codis1.htm>.

³ <http://www.innocenceproject.org>

⁴ For information on Colorado HB 1397, which serves as an example, see <http://www.colorado.gov/cs/Satellite/GovRitter/GOVR/1210756530100>.

Mr. Kiley retired as deputy chief of the Suffolk County, New York, Police Department.

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