

# SUBJECT TO DEBATE

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## SAVE THE DATE!

WHAT: PERF's Annual Meeting  
WHERE: Intercontinental Miami Hotel  
WHEN: April 24–26, 2008



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## Police Executives Need to Show Leadership On Evidence Storage and Security Issues

BY BILL KILEY, PRESIDENT OF THE INTERNATIONAL ASSOCIATION FOR PROPERTY AND EVIDENCE, INC.

LAW ENFORCEMENT AGENCIES THROUGHOUT OUR COUNTRY have, for some time, been forced to seek more and more storage space to accommodate the seemingly exponential increase in the amount of evidence that they must store.

At the same time, police departments continually are the subject of news stories when they cannot locate physical evidence that is needed for DNA examination; this has been particularly true in post-conviction cases undertaken by the Innocence Project and/or reviews by prosecutors' offices. Unfortunately, we have seen too many newspaper headlines like "DA: Narcotics Missing from Evidence Room" and "Evidence, Funds Mistakenly Thrown Out in Police Evidence Room Cleanup" and "Impact of Tossed Evidence Widening."

As a result of scientific advances in DNA technology, many state legislatures have extended or eliminated statutes of limitation, because DNA can be extremely powerful evidence even in cold cases that are many years old. And some states have created statutes that now require that post-conviction evidence be held far beyond the legal appeal period, perhaps as long as the convicted person is incarcerated.

*What are the implications of these statutory changes for police departments? Here's the answer in a nutshell: Chiefs and sheriffs will be holding much more evidence for much longer periods of time. But how and where will they store this evidence?*

In July, 2007 the *Denver Post* published a four-part Special Report on police property rooms throughout the United States. The series, along with a set of videos the *Post* produced as companion pieces to the articles, can be found at [www.denverpost.com/evidence](http://www.denverpost.com/evidence). I strongly recommend this series; in fact, I believe it may

well be nominated for a Pulitzer Prize. These four articles address not only the sheer volume of evidence being stored, but also the issues pertaining to the conditions that must be maintained to preserve evidence, and the difficulties in ensuring accountability and the security of evidence storage.

To give you an idea, here are a few excerpts from the *Post* articles:

*Authorities across the country have lost, mishandled or destroyed tens of thousands of DNA samples since genetic fingerprinting revolutionized crime solving 20 years ago.... In a country whose prime-time TV lineup glorifies DNA forensics, many real-life evidence vaults are underfunded and mismanaged, struggling to keep up with technological advances and lagging behind most corner groceries in the way they track valuable crime-scene items. Facing real-world training and space challenges, even the best-intentioned clerks commonly toss DNA samples, especially from old cases, in what one expert calls the "sledge-o-matic approach to clearing out evidence rooms."*

*What is needed, experts say, is a more informed and deliberate system for prioritizing and preserving evidence so that car bumpers from misdemeanors don't crowd out relatively small and infinitely more valuable hairs, skin cells and other DNA specimens from the most violent felonies.... Two decades after genetic fingerprinting first was used in U.S. courtrooms, no national standards regulate the handling of DNA from the outset of major crime investigations in state cases.... "Nobody has stepped up to the plate and said, 'This is the way it has to be,'" said Joe Latta, head of the International Association of Property and Evidence. "When I was at the FBI Academy 20 years ago, I looked in one of the best libraries in the world and there was nothing in there about evidence standards. Now, I look around today and there* >> continued on page 6



**Bill Kiley**

still are almost no standards whatsoever.” In many evidence rooms, car parts, bikes, lawn mowers, computers, backpacks, six-packs, suitcases and even tree limbs from nonviolent cases sit mixed in with delicate biological samples from the most heinous rapes and murders. Piles accumulate in cramped and aging rooms often not built to store evidence.

The *Post* articles noted that more than 70 percent of police departments surveyed by researchers at Washington State University in 2005 reported facing “highly critical” storage problems. In addition to the overcrowding of storage facilities, departments have lost evidence due to floods, leaky roofs, and failures of freezers that stored biological evidence.

But the *Post* reporters did find some bright spots, particularly in Dallas and Charlotte-Mecklenburg, N.C., where police have gotten better organized at preserving evidence that can help convict violent criminals and uncover wrongful convictions.

The *Post* reporters also tell many stories of persons who most probably committed crimes but have not been prosecuted due to missing evidence, along with stories of convicted persons whose appeals have been thwarted by the loss of evidence that might have exonerated them. Crime victims also tell their stories in the articles.

The *Post* articles included comments from Colorado legislators as well as Congressional representatives, who have called for committee hearings into the storage of evidence by law enforcement. Colorado Gov. Bill Ritter appointed a commission to investigate this issue and the feasibility of creating evidence standards for law enforcement in his state. In December 2007 that commission made its recommendations to the Governor; included is the recommendation that evidence used to convict an individual should be stored as long as the person is incarcerated.


The State of North Carolina also has taken a lead on this issue, creating an “Actual Innocence Commission,” chaired by the Chief Justice of the State, whose members are the leading stakeholders of the state’s criminal justice system. In April 2006 I.A.P.E. executive director Joseph T. Latta and I were invited to meet with the commission to discuss issues related to evidence storage. Clearly, the members of this body realize the implications of evidence storage on

local police and sheriffs’ departments. North Carolina is considering, among other options, the feasibility of regional climate-controlled evidence storage facilities run by the state. The issues being examined in North Carolina are the same issues facing states, counties, and cities across the United States.

Based upon the existing trends of increasing quantities of evidence, the changes in state statutes related to the duration of evidence storage, and the publication of news media coverage such as the above noted *Denver Post* series, I and my colleagues in I.A.P.E. are concerned that there may well be a tsunami-like wave of evidence that is about to hit our state and local law enforcement agencies.

I.A.P.E. will encourage discussion among the members of PERF and other policing organizations that have an interest and professional investment in the area of evidence intake, storage and disposition. We submit that there is a need for our profession to begin to examine the issues related to the packaging, storage criteria, accountability, space requirements, security and disposition of evidence. Collectively we need to address the current and future requirements that impact upon law enforcement CEOs’ budgets, facilities and staffing.

After 30 years in the police profession and having held a wide variety of assignments, I am aware that police property rooms are usually not a budget priority. However, police executives may not be aware of the clear evidence storage trends from California to New York—trends that will place more unfunded mandates upon our police. The time for collaboration and for proactive leadership on these issues is upon us.

A great deal of additional information is available on our website, [www.iape.org](http://www.iape.org). 

Bill Kiley is a retired Deputy Chief with the Suffolk County, New York Police Department, who currently serves as President of the Board of Directors of the International Association for Property and Evidence, Inc. I.A.P.E. is a nonprofit association whose mission is the training and education of law enforcement personnel who are responsible for the warehousing, accountability, security, and disposition of evidence in police agencies. Mr. Kiley, who holds graduate degrees in both Criminal Justice and Educational Technology, is a 1989 graduate of PERF’s Senior Management Institute for Police, as well as the 146th Session of the FBI National Academy. A graduate of the U.S. Army Command and General Staff College, Bill Kiley retired as a Colonel after a 28-year career in the U.S. Army Reserve.

*Act of 2007* (H.R. 3992) not only reauthorizes \$75 million for each fiscal year 2008 through 2013 for existing treatment programs, but also authorizes an additional \$35 million annually for four new grant programs. One section of the bill would fund specialized and comprehensive training programs to help police and campus security personnel identify and respond to individuals with mental illnesses. Funding also would be provided to the Bureau of Justice Assistance (BJA) to develop training models for law enforcement agencies.

#### **METHAMPHETAMINE**

President Bush signed the *Methamphetamine Remediation Research Act of 2007* (H.R. 365, Public Law 110-143) on December 21. The law assists state and local governments in the environmentally sound cleanup of illegal methamphetamine “labs” shut down by

law enforcement. The law calls for the establishment of voluntary guidelines for the remediation of former methamphetamine laboratories; establishes a research program for the development of new meth detection technologies, with an emphasis on field test kits and site detection; and mandates a research study on the residual effects that exposure to meth labs has on first responders.

#### **PRISONER REENTRY AND RECIDIVISM**

Efforts to enact legislation designed to help felons transition back into society once again came up short in the Senate. Approved by the House of Representatives on November 13 by a 347–62 vote, the *Community Safety Through Recidivism Prevention or Second Chance Act of 2007* (H.R. 1593/S.1060) authorizes a grant program for state and local governments to develop substance-abuse and mental health treatment, career training, literacy and education programs, housing assistance, and other reentry programs. Proponents of this legislation have vowed to take up the measure again in 2008. 