



Press Conference on NY DNA Database Expansion – March 12, 2012

Remarks by:

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The Governor argues that law enforcement needs to collect DNA samples from all New Yorkers convicted of even minor crimes. Let's start by being absolutely clear about what he actually means. NY State already collects DNA samples from people convicted of felonies and class A misdemeanors. An "all crimes" database as has been proposed means collecting and processing DNA samples for such petty crimes as loitering, writing a bad check and fortune telling. He argues that including people convicted of such minor crimes, crimes for which DNA evidence isn't even relevant, is vital because the bigger the database the better chance of catching a criminal in the future. The governor and bill supporters expect us apparently to take their word for it because in the weeks and months since the governor's proposal was announced and the Senate bill passed, not a single study, not a single statistical analysis, not a single legislative hearing or other credible evidence has been offered to bolster the claims made by the Governor and his supporters. Rather the same two or three anecdotes are all they claim necessary to justify their plan. 62 district attorneys should know that telling a couple of stories is insufficient proof to make a case. The Governor should be required to make a better case to New Yorkers.

I'm here to tell you that bigger aren't better when it comes to forensic DNA databases. The power of DNA databases is diluted, not strengthened when marginal criminals are added.

Other countries have already gone down this road, we should be learning from their experiences not repeating their mistakes. As the United Kingdom increased its database in similar fashion to the governor's proposal, it found no statistical increase in crimes detected using DNA. Even worse, it found that a quarter of the matches made in the database were to more than one person. Think about that. The United Kingdom has since begun to dial back its DNA collection practices as database errors became compounded and the public soon discovered that neighbors and family members were being permanently added to police databases.

But supporters of the database expansion go further. They say people have nothing to fear from expanding NY's DNA database. Although DNA tests undoubtedly incriminate the correct person in the great majority of cases, the risk of false incrimination is high enough to deserve serious discussion and analysis. Debates we are not having in the state of NY in the rush to enact poorly thought out legislation.

DNA testing is not infallible. The chance for false matches is far higher when authorities search through an ever increasing number of profiles than when they compare a single individual profile to a suspect. And the chances of a coincidental match are far higher than the often misleading statistics offered by proponents. Partial DNA matches and mixing of samples at crime scenes further increase the chances for a false match. And any scientific enterprise that involves so much human decision making- from the taking of samples to the processing of samples to the matching of samples is prone to some error-from contamination, to mislabeling or misinterpretation of results. When the governor and law enforcement tells you that DNA has been crucial to exonerating the innocent they are right and that is a great thing-what they don't tell you is that several of the innocent people that have been exonerated in the US by DNA were originally convicted based on faulty DNA testing in the first place.

Cases of mistaken DNA evidence are piling up across the country. DNA analysts at a number of laboratories have been fired for falsification of test results, including labs operated by private companies, the FBI, and closer to home- the Office of the Chief Medical Examiner in New York City. The consequences are real-Consider the case of Steven Myer, an Ohio man who was indicted for burglary based solely on DNA evidence. He spent seven months in jail before being released after subsequent retesting proved it was not his DNA sample.

DNA databases raise special problems for racial minorities, due in part to racially biased police practices. African-Americans, for example, are far more likely to end up in DNA databases than whites. They make up an estimated 40% of the federal DNA database while only constituting 13% of the population. These individuals are then subject to a higher chance that a false match may implicate them in crimes they did not commit.

Several state legislatures have recently expressed doubts that major expansions of their databases are justified, fearing huge backlogs and paltry crime control benefits.

The issue of cost and backlogs has been dismissed out of hand by proponents of database expansion-they want you to think that a massive expansion of the kind they are contemplating has no costs, that the current system can handle it. Here's what they're not telling you-

In 2011 six counties (Eerie, Suffolk, Westchester, Monroe, Nassau and Onondaga) along with the NY State Police and the Chief Medical Examiner City of NY asked and qualified for federal assistance to deal with their current database backlogs at a total cost of \$18 million dollars. No analysis has been done by proponents to what effect adding a massive amount of new samples will have on the counties and law enforcement entities currently under water and those barely keeping their head above it. Where's the next \$18 million dollars supposed to come from to deal with more backlogs, the NY taxpayer?

And who here is willing to trade added delays in processing violent criminals-murderers and rapists so that someone who went too fast on the NY thruway can be processed and added to the database. The Governor's bill will impede not improve public safety.

We need careful study of the numbers before we rush into any expansion. The Governor says he want this bill to be just about DNA-then let it be about reform so that forensic DNA use in the state of NY actually achieves the gold standard status it purports to have. New York State's current Forensics Commission, once considered state of the art, has long since become ineffective. We need qualified, independent, vigorous and continuous oversight of forensic laboratories and police practices in the state of NY.

The governor's proposal raises too many questions to be rushed through the legislative process. We need better answers before moving forward with any proposal.

Thank you-