

Minutes (Approved)
Scientific Advisory Committee
Subcommittee on Familial Searches
May 8, 2007 at 10:00 a.m.
DFS Central Laboratory, Classroom 1

Subcommittee Members Present:

Dr. Frederick Bieber, Chair
Mr. Dominic Denio
Dr. Arthur Eisenberg
Dr. Dan Krane
Ms. Demris Lee

Staff Members Present:

Ms. Wanda Adkins, Office Manager
Mr. Jeff Ban, Forensic Biology Section Chief
Dr. David Barron, Central Laboratory Director
Ms. Michele Gowdy, Department Counsel
Ms. Meghan Kish, Committee Secretary
Mr. George Li, CODIS Administrator
Mr. Pete Marone, Department Director
Ms. Elise Mirza, Policy Analyst

Call to Order:

Dr. Bieber called the meeting to order at 10:07 a.m.

Adoption of Agenda:

Dr. Bieber asked if there were any additions or corrections to the agenda. There were none, and the agenda was adopted by unanimous vote.

Welcome and Introduction:

Director Marone welcomed everyone present to the Subcommittee Meeting on Familial Searches. He expressed appreciation for the participation of the members, and applauded their commitment to assist the Department in exploring future endeavors in DNA technology. Although he acknowledged that the capability for Familial Searches of the DNA Data Bank were not yet in place, he stated that this meeting was one of the necessary steps in preparing for the time when the technology is in fact available.

Dr. Bieber agreed, noting that similar meetings in other jurisdictions will be taking place over the next few months.

Partial Profile Matching and Family Searching:

To introduce the topic of Familial Searches, Dr. Bieber played the 60 Minutes video “A Not So Perfect Match,” which discusses partial matches within DNA data banks. After the video ended, he asked if anyone wished to discuss it. No one commented.

Virginia Laws and Regulations relating to CODIS:

Ms. Michele Gowdy, Department Counsel, presented the Virginia Statutes currently in place that relate to the DNA Databank, as well as the regulations drafted by the Department to govern the data bank. She began by discussing some milestones in the timeline of the data bank’s existence, and explained that Virginia’s data bank contains between 250,000 and 300,000 samples, from which roughly 4,000 hits have been made.

She briefly summarized key parts of statutes, ranging from §19.2-310.2 through §19.2-310.7, and mentioned that §19.2-270.5 made DNA admissible in court proceedings, asserted that it was both reliable and scientific, and stated that it can prove or disprove identification.

Ms. Gowdy also presented on the draft regulations currently being promulgated by the Department. These regulations, approved by the Board at its February meeting, establish the process for obtaining information from the data bank and the procedures for verification and authorization of persons requesting information from the data bank.

Ms. Gowdy concluded her presentation by detailing House Bill 3034, passed by the General Assembly during their 2007 session. The bill, effective July 1, 2007, contains the “good faith” provision, requires DFS to compare databases with the Department of Corrections, and details that several entities along the way confirm that an offender’s sample is correctly included in the DNA data bank.

She also mentioned that no inquiries have been received from Commonwealth’s Attorneys or law enforcement regarding familial searches, and suggested that perhaps they are not yet aware of them.

Dr. Bieber asked Ms. Gowdy to confirm that no Virginia statutes expressly relate to familial searches. Ms. Gowdy stated that that was correct, that the possibility of familial searches was not on their minds at the time that these statutes were created. Discussion continued on the statutory provisions for partial match searches in Virginia, and expanded to include discussion of nationwide challenges to CODIS.

CODIS Searching Procedures in Virginia:

Dr. Bieber directed everyone’s attention to the CODIS bulletin, which was widely distributed last year. The bulletin, the result of an investigation by the Department of Justice, details an interim plan for the release of information in cases where a moderate stringency search yields a partial match that indicates a potential familial relationship.

The FBI left to each state the discretion on how to handle these partial matches. [or The FBI's Interim Plan gives each state discretion with regards to sharing partial match information.] The floor opened for discussion of NDIS policy.

Dr. Krane indicated that he believed scientists are charged with developing the tools that can be used to perform such searches, but that society must ultimately decide whether or not these tools can be used. He suggested that perhaps the role of the subcommittee was to explore the statistical analyses that could be performed. Dr. Eisenberg disagreed, stating that the statistical tools have been in place for years, but that what these analyses indicate should be the main focus of discussion. Discussion followed.

Mr. George Li, CODIS Administrator for DFS, presented on current CODIS capabilities, and how CODIS is currently being used by the Department to perform searches. He explained the difference between high, moderate, and low stringency searches, and responded to inquiries from subcommittee members. He reported that the Department currently performs high and moderate stringency searches, never low. Discussion continued regarding the benefits of the different levels of searching, and possible methods for revising the searches to improve results with regards to familial matches. After Mr. Li provided examples of comparisons and searches, the subcommittee discussed the relevance of kinship statistics and sibling indices, and the possibility of running Y-STR analyses to narrow results.

Break:

Dr. Bieber announced that the subcommittee would take a 10 minute break to get lunch.

Partial Profile Matching in Casework:

The Subcommittee meeting reconvened at 12:30 pm, with a presentation by Mr. Jeff Ban, the Department's DNA Section Chief. Mr. Ban gave examples of two situations in the past ten years in which familial relationships have played key roles in the forensic analysis. He explained that these cases are few and far between. Despite the policy in place that allows the Department to communicate to the investigator when a possible family relation may be involved with regards to a direct comparison case, no situations like this have arisen.

Dr. Eisenberg inquired as to the possible usefulness of Y-STRs in the few cases that do come up. Discussion continued from there, including summaries of other states' current policies for partial profile information sharing, as well as DFS' time investment in hit disposition.

A Practical Approach to Familial Searches:

Dr. Krane presented on statistical analyses of pairs (related and unrelated) in individuals, using results from experiments with simulated scenarios. He asserted that two questions needed to be asked in order to analyze data for relationships: (1) what is the size of the

alternative suspect pool? and (2) what is an acceptable rate of false positives? There was lengthy discussion on who can answer those questions, and whether or not a general approach can even be taken or if a case-by-case approach is necessary.

Dr. Eisenberg presented on the current status of familial searches within the U.S. today. He explained that studies are underway with CODIS, as well as private sector programs. He asserted that these studies are still in their beginning stages, and suggested that more will be known six months from now, when many of these studies are further underway. Dr. Eisenberg and Ms. Lee explained that their laboratories are involved in these pilot studies which are primarily for identification of missing persons.

In response to discussion, Mr. Denio asked that Dr. Tom Callahan, the CODIS Program Manager at the FBI, address the committee on the current status, the issues facing, and the future state of CODIS at a future meeting, so that they may make an informed decision regarding what direction the Department should take. Dr. Bieber agreed.

Discussion followed on some topics previously addressed, and further possibilities of statistical analysis were taken into account.

Dr. Eisenberg made a motion to ask the Department to do a preliminary impact study to look at the cost/personnel/time involved in producing a Y-STR profile for male offender samples going into the Virginia Database from a given point forward. The motion was seconded by Mr. Denio. All were in favor and the motion passed.

Mr. Denio made several suggestions, including that Virginia follow the lead of California and Texas in considering the private sector in the case that CODIS not allow for familial searches. He also asserted that any changes suggested by the Committee or Board must be able to withstand legislation. The subcommittee agreed that there must be a legal basis to all actions taken.

Ethics and Policy Issues:

Dr. Bieber asked the subcommittee to briefly consider the ethical aspect of familial searches. He explained that one of the biggest concerns, as voiced on the 60 Minutes report, although convicted felons lose rights when convicted and thus have to submit a sample for the data bank, innocent family members come under “genetic surveillance.” Whether the invasion of privacy is an acceptable cost for the ability to solve more crimes was discussed.

Dr. Bieber also inquired about the Report’s other main concern, the question of placing certain racial groups under higher surveillance. He asked that the subcommittee consider these concern along with the other issues facing familial searches.

Dr. Bieber concluded the discussions by asking if there were any further subcommittee recommendations to be made. There were none.

Selection of Future Meeting Dates:

There was discussion of when the Subcommittee would meet again. It was ultimately the consensus that the Chairman of the Scientific Advisory Committee be consulted prior to scheduling any further meetings.

Public Comment:

There were none.

Adjourn:

The meeting adjourned at 2:58 p.m.