

A question of dna testing

[Science](#), [Genetics](#)



Before the late 1800's, DNA was never used in court cases. We did not have the equipment readily available. Then, in the late 1800's and early 1900's, DNA testing started to become very popular. This is when cases started getting overturned from wrongful court convictions. Which meant that the criminal that had actually committed the crime was on the loose in the community still able to do harm. In today's generation, we still have many wrongful court convictions. Either due to their being little to no DNA evidence in the beginning of their case or the DNA evidence was tested incorrectly or possibly tampered with and that is what lead to the conviction of the wrong person. With the high level of technology we have today and the highly skilled experts in the labs we shouldn't have any wrongful convictions. While we don't have as many wrongful convictions as we did in the late 1800's to early 1900's there are still too many for the technology that we have today.

How did DNA testing first originate? DNA testing started in 1985 when they started to do DNA testing of biological material. This means that they can now test blood, Hair, skin, and any other bodily fluids. DNA evidence is physical evidence and it is the most reliable type of evidence in a case. Why is DNA evidence so reliable though? DNA is like a blueprint that the "deoxyribonucleic acid" contains of a person. Each individual has their own "blueprint" so when tested you can compare the sample you have from the evidence to the suspects DNA to see if there is a positive match. " Forensic testing can determine if distinctive patterns in the genetic material found at the crime scene matches the DNA in a potential perpetrator with better than 99% accuracy." (James)

In 1987 the first person in the United States was convicted on DNA evidence. This happened in Florida to a rapist named Tommie Lee Andrews. He was sentenced to twenty two years in prisons. A year later in Virginia a rapist and killer was sentenced to life when they matched his DNA to multiple rapes and murders. Also during the 1980's and 1990's the famous " Green River Killer" was caught from his DNA and sentenced to forty eight life sentences. This is when DNA testing had started to take off, and Convicting criminals and the wrongful court convictions started. DNA testing is now becoming easy to use for other reasons like paternity tests that are sold in drug stores.

The Frye method is a way of using DNA evidence in court. Frye started in the Court of Appeals in the District of Colombia. It is the " mystic infallibility" to the scientific testimony. The courts at that point in time, said to not rely on just scientific evidence but everything that was being presented in court, including all the testimonies, evidence and everything the defense and prosecution was saying. In 1993, the Supreme Court decided to abandon the Frye method and adopted the Daubert v Merrell Dow Pharmaceuticals, Inc., on the grounds of statutory but not constitutional. Then in 1995, twenty two states still decided to continue using the Frye method instead of Daubert v. Merrell Dow Pharmaceuticals, Inc. The Frye method is still being used in at least half the states today.

In the late 1960's they were only able to test the genetic markers to analyze for blood. However, that wasn't very reliable with the deterioration of the blood stains. Testing back in the late 1960's was so much more difficult to preserve and be able to test the blood stains. Today we use DNA technology

because it gives us a high degree of confidence when convicting rapists and murders in court cases. “ DNA Profiling is more likely to exonerate a wrongly accused suspect. Second, the DNA molecule is more stable than polymorphic proteins. Third microbial degradation does not lead to erroneous typing results.” (Google Books)

Fred Zain was indicted for perjury after the Glen Woodull case, where the Supreme Court ruled that a hundred and thirty cases that Mr. Zain testified in weren't creditable. In this instance Fred Zain could have sent many innocent people to prison for crimes they did not commit. This is just one example of how wrongful convictions can and do happen. Mr. Zain convicted many innocent people from his expert testimony which was making false accusations.

The majority of DNA profiling are in cases of sexual assault and rape. The DNA is usually small amounts of DNA evidence like, hair follicles, blood, saliva, but mostly semen all from the assaulter. There is not always physical evidence from sexual assault or rape. If the victim does not report the crime right away or they shower before they report can examine the victim the evidence on the victim is most likely to be destroyed.

Some of the statistics I found that show that wrongly convicted civilians have a chance of being freed due to the new technology of DNA evidence.

“ Some two hundred forty convictions have been overturned in thirty-three states and the District of Columbia according to the Innocent project, a nonprofit group that works to free the wrongly convicted.”

Since 1989, 333 people in 37 states have been exonerated. Out of those 333, 177 were helped by the Innocent project organization.

“ Seventeen people have been released from death row after DNA testing evidence had cleared them”

The very first DNA exoneration happened in 1989 and since then there have been 263 exonerations.

“ Scott Fappiano, who spent more than 20 years in prison for the 1983 rape of a New York City woman, walked free in 2006 after being tested.”

His DNA showed that he couldn't have been the attacker. When set free and asked what he thought all those years in prison, he said “ I just kept waiting and I am happy it's over”

I believe convicted criminals are not afforded easy DNA access to DNA evidence. The reason for my opinion is that the evidence is closed to the labs and court. Also, the evidence could be tampered with as has happened in some cases. Plus, the labs have cases in priority and don't have the time or resources to test every “ wrongfully” convicted person in the court system.

Some barriers of gaining access to DNA evidence is that it is a secure facility for official personnel that can see and examine the evidence so there is a less chance of it being tampered with. The evidence stays in the labs and the evidence will stay preserved in a safe and protected storage room, unless being presented in court. Criminals don't have access to it and they have to

go through a process to possibly get it retested or in some cases tested for the first time.

Some recommendations to give to the courts to provide access to DNA evidence would be to allow the criminals to have their cases evidence retested or tested if they a reasonable reason that they could have been wrongfully convicted of their crime. Also having more experts who can help the wrongfully convicted in the case that the criminal was being truthful and had been wrongfully convicted. Have select personnel set aside to test the evidence from past cases that didn't have the DNA evidence technology to make sure the criminal doing the time is the one who actually committed the crime they are doing the time for. The next piece of advice I would give the courts would be to have all experts testimony's be checked and made sure they are not committing perjury and that the statements they are giving are credible.

The advice I would give to the convicted criminals to gain access to post conviction DNA testing would be to see if any evidence was not tested when their trial took place. The next advice I would give would be to check back in with the evidence labs to make sure that new evidence hadn't been recovered or forgotten so if a DNA test can be run, they can take the steps needed to make that happen. Also, I would have them check back with the evidence personnel to make sure none of their evidence had been tampered with and to go back and make sure the expert's testimony matches his or her lab reports.

The Justice for All Act of 2004 was created to protect all of the crime victims' rights, to eliminate the backlog of DNA samples that had been collected from the crime scenes and the convicted offenders, and to help improve and expand the DNA testing capacity of the federal, state, and local crime laboratories across the nation. The Justice for all Act requires all prosecutors to let victims know that they can seek advice from an attorney about their rights established by the Act. The Justice for all Act allows the victims to file motions to reopen a plea or sentence under certain circumstances and mandates that the victims have the right to be reasonably heard at any public proceeding involving the release, the plea, or the sentencing. The Justice for all Act does not create a separate cause for action that allows the victims to bring a suit against the Federal Government, and it is intended to stop prosecutorial discretion in the cases. The Justice for all Act creates the no attorney-client relationship between the victim and their representative from the Department of Justice. (Justice for all)

In conclusion, wrongfully convicted people are able to receive compensation in certain states that allow money to be given for every day or year you were in prison for being wrongfully convicted. I believe that DNA evidence should be strictly tested and the expert's testimony should be fully checked out to make sure the expert isn't making any false accusations. There are still too many people who are being wrongfully convicted to this day.