



### **E4 The Scientific and Civil Litigation Approach to a DNA Exoneration: A Cooperative Approach to the Search for the Truth - A Case Study Approach**

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After attending this presentation, attendees will learn the practical advantages of attending forensic DNA workshops at AAFS and implementing that knowledge in post conviction DNA litigation identify the privacy issues arising out of DNA exonerations, and the correlation between DNA exonerations and false confessions and the use of civil remedies for wrongful convictions.

This presentation will impact the forensic community and/or humanity by providing attorneys specializing in wrongful convictions and DNA exonerations should receive training in forensic DNA from the AAFS. That there must be more focus on the science to prove actual innocence and black letter law and less on the court of public opinion in correcting the injustice of wrongful convictions. Attorneys should use DNA exclusions in civil pleadings as newly discovered evidence thereby staying within the four corners of the document to prove actual innocence in setting their clients free.

After attending this presentation, participants will see the practical advantages for attorneys specializing in DNA exonerations to (1) attend AAFS forensic DNA workshops, (2) utilize that knowledge in selecting labs to test degraded evidence, (3) take a team approach with the post conviction attorney, District Attorney, law enforcement and the state crime lab in locating evidence, (4) and identifying the best lab to test highly degraded evidence to prove actual innocence, (5) identify the privacy issues arising out of testing private citizens as suspects and for elimination purposes, and (6) the correlation of DNA exonerations to signed false confessions. Also, the author hopes to address ancillary issues arising out of DNA exoneration.

On July 12, 2004, Lafonso Rollin's was release from prison when two DNA tests excluded him from two separate rapes. The two DNA exclusions supported his allegations of a coerced false confession, and mistaken witness identification which lead to an unreliable photo composite used by police to arrest him. This presentation presents a scientific and civil remedy approach to DNA exonerations for use by post conviction attorneys, district attorneys, and forensic DNA labs. The presenter was the attorney who freed Lafonso Rollins from prison by using a civil petition to vacate a final judgment based on newly discovered evidence. This presentation will be the first time she has publicly discussed the case.

The facts used for the case study come from the police reports, state crime lab forensic reports and trial testimony. Illinois allows an inmate to petition for post conviction DNA testing under various statutory schemes. Upon receipt of the petition, the Illinois Courts will appoint counsel if identify was in issue at trial. In Cook County, the District Attorneys and Public Defenders have received specialized training in forensic DNA by attending AAFS workshops. When dealing with highly degraded evidence, the attorneys are able to utilize their forensic DNA training they have received from AAFS workshops to independently evaluate the reliability of new technologies to prove actual innocence in DNA exonerations. The attorney's forensic DNA knowledge and comprehension opens channels of communication to the state crime lab for their advice of the best mechanisms for the testing of degraded evidence. The crime labs are sometimes able to provide a good source of information on where to find old police reports because of the lab's document retention policies. Once evidence is found and the type of forensic DNA testing is determined, there are still many other unresolved issues the attorneys must address. First, the issues of voluntary DNA testing of civilians must be addressed as to elimination samples. What Bioethics issues are raised by the need for the victim's and possible family members reference samples? What happens to the profiles of civilian non suspects? What of other civilians who are possible suspects? What happens to their profiles if they are excluded? What rights does a defendant have of his reference samples in the databases once his claim of actual innocence is proven to the Court after a DNA exclusion contradicts the sworn testimony of the eyewitnesses and the police detectives? Is this prima facie evidence of a false confession? What are the ancillary legal consequences on the forensic community to these increasing frequent situations? The presentation will present some possible outcomes to these scenarios. Finally, with a DNA exclusion that proves actual innocence, the inmate petition to vacate his judgment of conviction under different legal mechanisms. The author will discuss the pros and cons of using the traditional post conviction or habeas corpus proceeding versus the civil remedy of vacating a final judgment based on newly discovery evidence.

This presentation is of interest to anyone in the forensic science field who is involved in DNA exonerations, false confessions, mistaken identification and unsolved cases.

#### **DNA Exonerations, False Confessions, Legal Issues**