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The State

Massive Backlog Plagues DNA Lab

A lack of funds for the state's voter-approved database leaves crimes unsolved, some say.

September 14, 2006 | Henry Weinstein | Times Staff Writer

Two years after California set out to create a vast DNA database to help unravel thousands of unsolved crimes, the program is being severely hampered by a lack of resources, officials across the state say.

The state crime lab has a backlog of more than a quarter-million DNA samples it is unable to process because of a funding shortfall and a lack of manpower, directors acknowledge. At its current rate, the lab would need 2 1/2 years to clear the backlog -- if it received no more samples. But that is unlikely because it is taking in about 20,000 samples a month, officials said.

State officials, Los Angeles police officers and the director of a rape treatment center in Santa Monica say the backlog means that crimes are going unsolved and that criminals who could be arrested may still be walking the streets.

"There will come a time when we will be sitting on a case where we have the offender profile and we are waiting for a match in [the database] who is among the 300,000 unprocessed samples and this offender will strike again," said Tim Marcia, a veteran detective in the LAPD's cold-case unit who has used DNA to solve rapes and murders.

The problems stem from overly optimistic funding projections when California voters in November 2004 resoundingly passed Proposition 69, designed to make the state the nation's leader in the use of DNA technology as a crime-solving tool.

Proposition 69 requires all convicted felons, certain misdemeanor offenders and those arrested for rape or murder to give up DNA samples. Prison officials swab offenders' mouths with an object called a buccal which looks like a tongue depressor. The samples are subjected to genetic testing, and the results are uploaded into the FBI laboratory's Combined DNA Index System, known as CODIS. DNA evidence from crime scenes can be run against the database for matches that will help identify suspects.

More than 285,000 DNA samples have been added to the database, and the program has yielded 2,670 "hits" in some long-languishing cases. But despite those successes, the funding problems have resulted in a backlog of more than 287,000 unprocessed DNA samples.

"Proposition 69 is the gold standard model for the world, but full and robust implementation is currently hamstrung," said Bruce Harrington, the Newport Beach home developer who financed the ballot measure in 2004 and continues to "hope that DNA will help solve the 1980 murder of my brother Keith and his wife, Patty."

Harrington said the primary reason for the backlog is that the state crime lab in Richmond, under its union contracts, pays dramatically lower salaries than local crime labs, making it difficult to hire young scientists and hang onto more experienced ones.

Lance Gima, director of forensic services for the state attorney general, said the starting salary at the Richmond lab is \$3,100, compared with \$4,600 a month at the Los Angeles Police Department laboratory and \$4,200 a month at the Los Angeles County Sheriff's Department. Labs in large Northern California cities also pay more than the state, Gima said.

Although the program was supposed to pay for itself, it has not been fully funded. Under the law, the counties were to turn over \$1 of every \$10 in misdemeanor fines to a "penalty pot," amassing an estimated \$25 million a year for the project. Instead, for reasons that are unclear, not all the counties are contributing, and the penalty pot stands at only \$7.5 million.

A new state law allocates another \$1 for each additional \$10 in fines. Harrington and Gima called that a positive step but said it will not ensure that the fines are collected and the money sent to the state.

The problem will probably get worse in 2009, when officials, as part of Proposition 69, will start taking samples from all persons arrested on any felony, not just those convicted of felonies. In 2004, the latest year for which figures were available, there were 522,781 felony arrests in California.

For Gail Abarbanel, director of the Rape Treatment Center at Santa Monica-UCLA Medical Center, the program has been a source of both exhilaration -- some rape cases have been solved rapidly -- and enormous frustration.

"We have the law, the technology and the voice of the public behind Prop. 69, but we also have a lot of valuable DNA evidence waiting to be processed," Abarbanel said. Consequently, she said, the program has not come close to fulfilling its potential to "put California in the forefront of utilizing the science of DNA to enhance public safety."

Abarbanel said she leaves her office many nights with "a feeling of dread" that a rapist whose unprocessed DNA sample is sitting on a warehouse shelf in Richmond will strike again.

Prominent criminal defense lawyers also are alarmed by the program's failings.

"It is a loss for prosecutors who want to expeditiously solve crimes before the perpetrators can commit more acts of violence and a loss for innocent suspects who do not want to be wrongly arrested and prosecuted," said Peter Neufeld, co-founder of the Innocence Project at Benjamin Cardozo Law School in New York, which has used DNA evidence to exonerate more than 180 wrongly convicted people over the last 15 years.

Currently, the state lab, in a modest office park, has 34 unfilled jobs. At the same time, it faces an onslaught of new work. Before the passage of Proposition 69, Gima said, the lab processed about 40,000 samples a year from serious and violent felons. Then the deluge began.

"We expected 117,000 samples in the first year," Gima said. But 150,000 samples came in. "We expected 237,000 samples in the second year. We received 284,000 samples."

Gima complimented state corrections officials for efficiently collecting samples. But the Richmond lab simply has been unable to keep up -- even with many staffers working overtime and weekends.

"We are very proud of what we have accomplished but we are not happy with that backlog," Gima said.

The new law provides that if the state lab is unable to process a sample within six months, it should be sent to a private lab.

So far, the state has sent 166,000 samples to three private labs. However, the state lab has to verify every DNA profile the private lab processes, adding to its workload. Earlier this year, the state had to stop sending out samples because it couldn't pay the private labs, Gima said.

"DNA testing has really outstanding potential in terms of not only helping the police to investigate crimes and also exonerate people who are innocent. But there are a lot of gaps to get DNA where it needs to go," said Barry Fisher, longtime director of the Los Angeles County sheriff's crime laboratory.

Fisher said it was shocking that the program has not been adequately funded, given its potential to solve cases and to prevent crimes by identifying perpetrators before they strike again. "Why don't we give the people the tools to get the job done?"

Greg Thompson, director of the San Diego County sheriff's crime lab, said some people in law enforcement are aware of the problem but few have spoken out about it. He said it was regrettable "that there was not some mandate" that local officials collect the fines and pass part of them on to the state. "I have been telling people, 'You have to understand this is not a self-executing law.'"

Still, he emphasized that despite the problems, "we are getting substantially more hits than we did before."

Before the passage of Proposition 69, Thompson said, his department was getting about two hits -- DNA matches to crime scenes, including burglaries, rapes and murders -- a year from the database. "Now we get two a week," Thompson said.

Veteran Los Angeles Police Det. Veda Young, who used the database to find a suspect in a Southeast Los Angeles rape in mid-July, also applauded the program. The suspect, who was in the database because of a drug conviction, was arrested and has been ordered to stand trial, she said.

"The fact that it happened as soon as it did was just wonderful," said Young, who emphasized that speed is particularly important in rape cases. When rape investigations drag out, "you tend to lose victims in the process."

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DNA backlog

As of Aug. 31, California had not processed about a third of the DNA samples taken from felons for a national database.

818,232: Total samples collected

530,938: Samples processed

287,294: Backlog

14,165: Crime scene DNA samples checked against database

2,670: Matches (18.8% success rate)

Source: Bureau of Forensic Services of the California Department of Justice

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