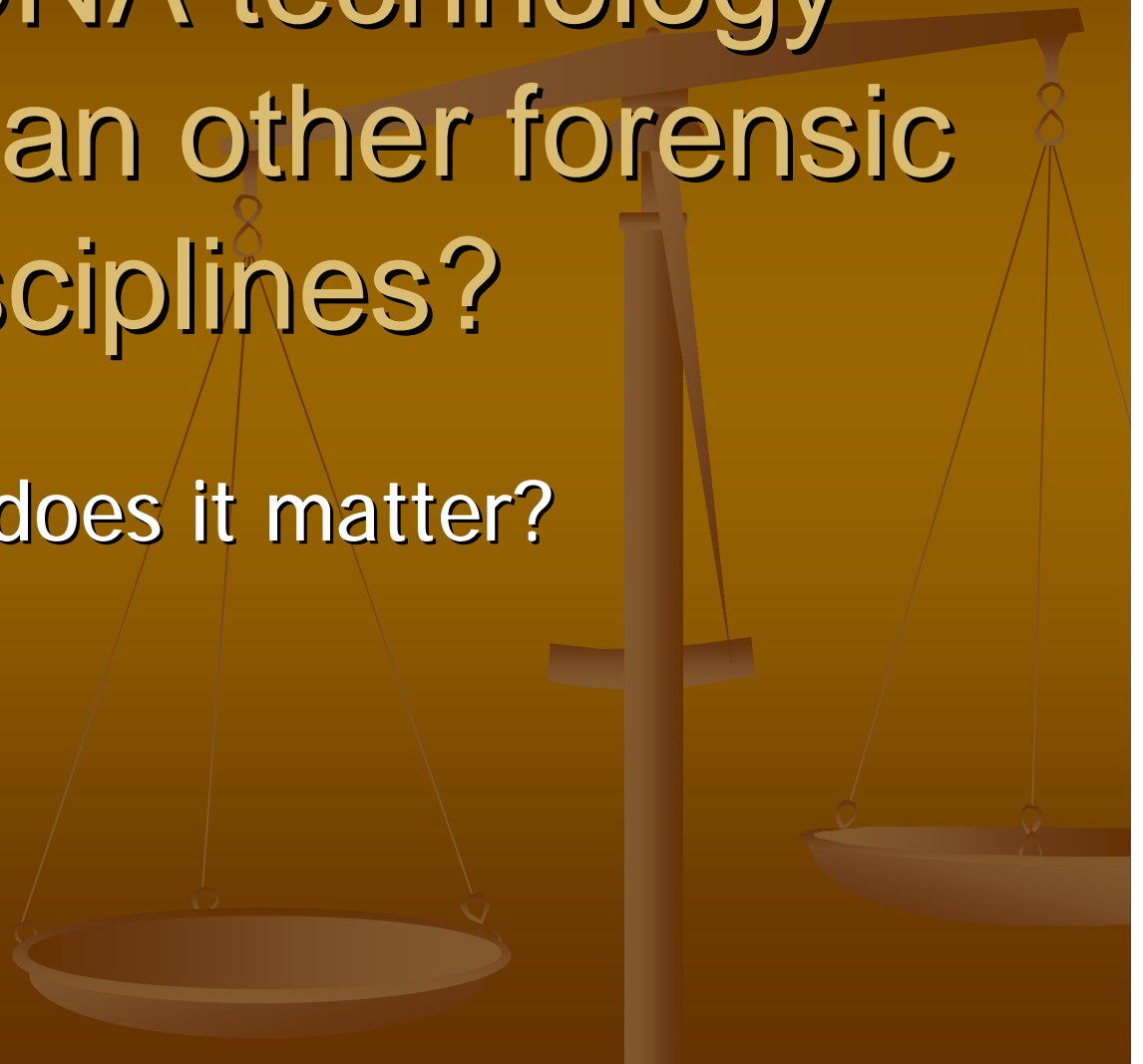


# Policy, Politics and the Phenomenon of Forensic DNA Technology

Chris Asplen  
Former Executive Director  
The National Commission on the Future of DNA  
Evidence  
US Department of Justice

How is DNA technology  
different than other forensic  
disciplines?

Why does it matter?



# How is DNA technology different than other forensic disciplines?

- n The important distinguishing feature of DNA technology is not the scientific rigor with which it was developed
  - n Nor is it the extensive judicial scrutiny to which it was subjected. (*Castro etc*)
- n Nor was it the discriminating / identifying power of the technology
  - n Fingerprint technology had been applying source attribution results for years and DNA did not (still doesn't in most jurisdictions)

Rather, the difference is the nature and extent to which DNA profiles can be developed from numerous and diverse biological samples

# How is DNA technology different than other forensic disciplines?

Rather, the difference with DNA technology is the nature and extent to which DNA profiles can be developed from numerous and diverse biological samples – specifically semen.

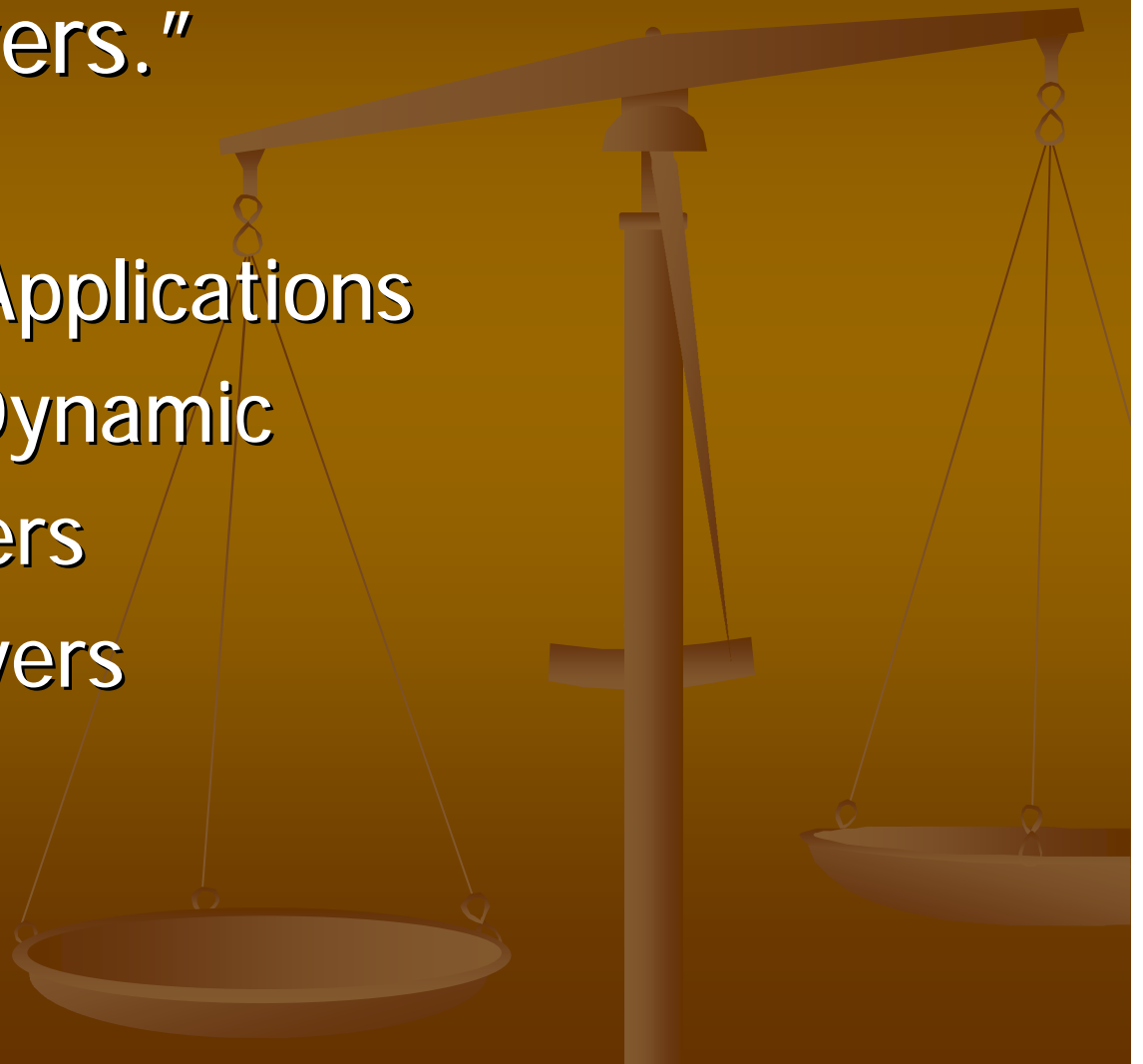
Result =

DNA technology was particularly well suited to solve sexual assault cases

# How Did DNA become the Phenomenon That It Is?

Numerous "Drivers."

- n Postconviction Applications
- n Accountability Dynamic
- n Legislative Drivers
- n Technology Drivers
- n Media Drivers



# Jurisprudential History

## Admissibility

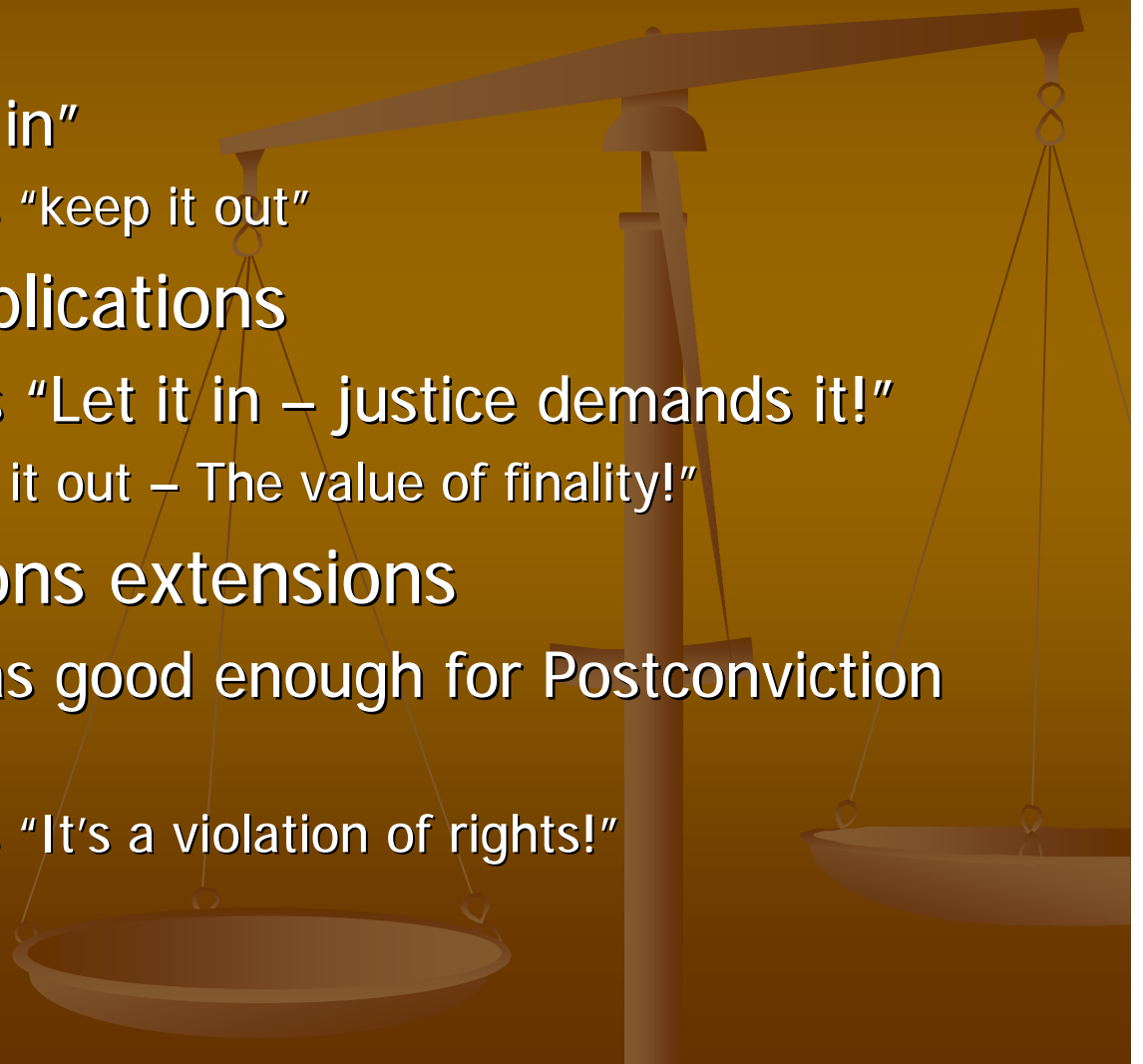
- n Prosecutors “let it in”
  - n Defense Attorneys “keep it out”

## n Postconviction Applications

- n Defense Attorneys “Let it in – justice demands it!”
  - n Prosecutors “keep it out – The value of finality!”

## n Statute of limitations extensions

- n Prosecutors “It was good enough for Postconviction laws!”
  - n Defense Attorneys “It’s a violation of rights!”



# Jurisprudential Future



## Behavioral Genetics

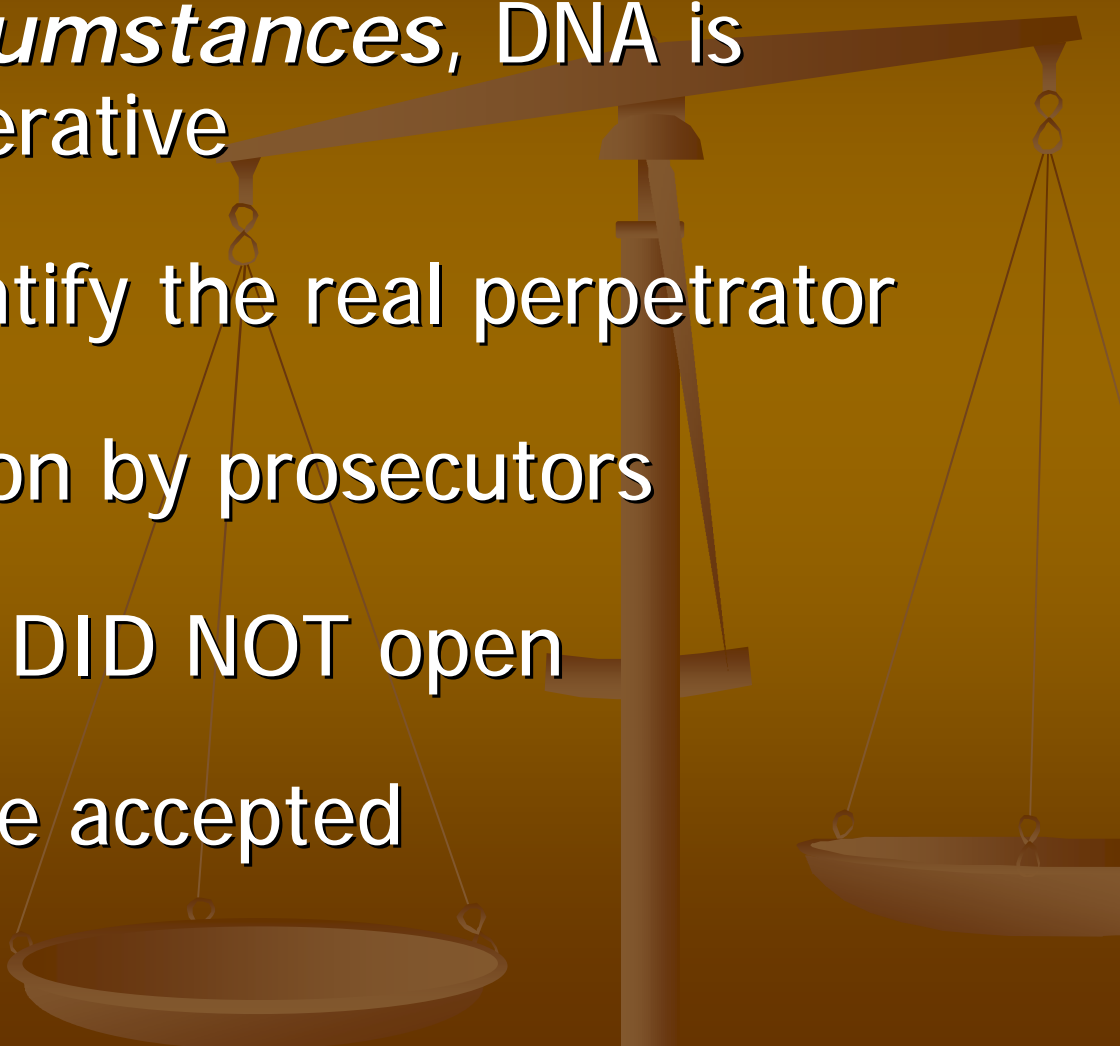
### n Protection of the Public

- n Prosecutors “let it in” to protect the public
  - n Defense Attorneys “keep it out” Constitutional Violations

### n Death Penalty Applications

- n Defense Attorneys “Let it in – justice demands it!”
  - n Prosecutors “keep it out “ Personal responsibility!

# Postconviction Driver

- n In *certain circumstances*, DNA is *uniquely* exonerative
  - n Potential to identify the real perpetrator
  - n Strong Opposition by prosecutors
  - n The flood gates DID NOT open
  - n Prosecutors have accepted
- 



# Accountability Dynamic



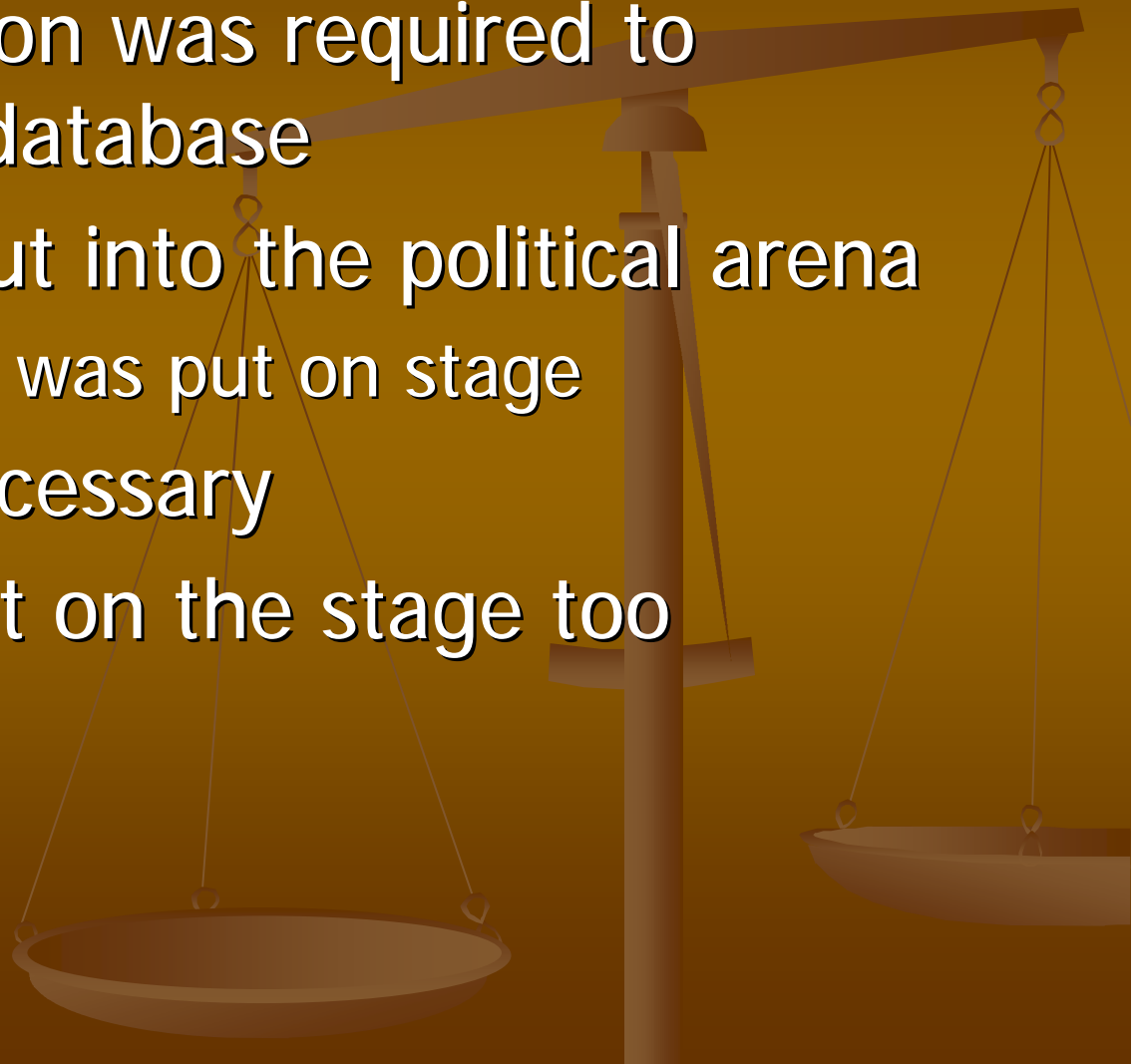
Rape Kits are uniquely “countable”

- n High likelihood that evidence is from the perpetrator.
- n In excess of 400,000 untested rape kits nationwide
- n High accountability for failure
  - n Specific victim identification when failures occur

# Legislative Drivers

Uniquely, legislation was required to implement the database

- n Automatically put into the political arena
  - n The technology was put on stage
- n Probably not necessary
- n Funding was put on the stage too





# Technology Drivers



- n Different applications:
  - n Not just rape cases but also volume crime
  - n 9/11 and victim identification
  
- n Database dynamics
  - n Cold cases became relevant
  - n Postconviction applications
  - n International sharing / terrorism
  - n Familial searching
  - n Arrestee database
  - n *No Country has ever reduced its scope of inclusion – only expanded it*

# Media Drivers

- n Major Cases:
  - n Simpson
  - n Blue Dress
    - n Almost held DNA back
- n TV shows
- n Postconviction
  - n 10,000 rapes solved is one thing – but one wrongly convicted person is a made for TV movie
- n All this happens during the mapping of the Human Genome
- n All this leads to Political attractiveness

