







allele length is 10 repeats























































## Is the suspect in the evidence?

A match between the jeans and Ralph Skundrich is:

2.1 quadrillion times more probable than coincidence

## Is the suspect in the evidence?

A match between the jeans and Ralph Skundrich is:

2.1 quadrillion times more probable than coincidence

A match between the T-shirt and Ralph Skundrich is:

4.04 quadrillion times more probable than coincidence



– Judge David Cashman



# Probability of inclusion (PI)

Calculation at locus D13S317

Simple formula: For all "alleles" over threshold, add up their frequencies, and square the number

 $(.10 + .32 + .31 + .035)^2 = (.765)^2 = .585$ 

Threshold match statistic is 1/PI 1/(.585) = **1.71** 

Computer match statistic is 35















Different interpretation methods				
Method	Victim's genotype	Quantitative data		
Combined PI	Not assumed	Threshold		
Victim known	Assumed	Threshold		
TrueAllele	Assumed	All data		

Г

















## Expert testimony

Dr. Perlin explained to the jury why these apparently different results were expected by DNA science. "The less informative methods ignored some of the data," said Dr. Perlin, "while the TrueAllele computation considered all of the available DNA data."

"A scientist may look at the same slide using the naked eye, a magnifying glass, or a microscope," analogized Dr. Perlin. "A computer that considers all the data is a more powerful DNA microscope."





Peer-review process

10075

urnal editor

Publish paper

Independently

& anonymously

review paper

Do research

Write paper







## TrueAllele validation papers

Perlin MW, Sinelnikov A. An information gap in DNA evidence interpretation. *PLoS ONE* 2009;4(12):e8327.

Ballantyne J, Hanson EK, Perlin MW. DNA mixture genotyping by probabilistic computer interpretation of binomially-sampled laser captured cell populations: Combining quantitative data for greater identification information. *Science & Justice*. 2013;53(2):103-14.

Perlin MW, Hornyak J, Sugimoto G, Miller K. TrueAllele<sup>®</sup> genotype identification on DNA mixtures containing up to five unknown contributors. *Journal of Forensic Sciences*. 2015;on-line.

Greenspoon SA, Schiermeier-Wood L, Jenkins BC. Establishing the limits of TrueAllele® Casework: a validation study. *Journal of Forensic Sciences*. 2015;*in press*.

Perlin MW, Legler MM, Spencer CE, Smith JL, Allan WP, Belrose JL, Duceman BW. Validating TrueAllele® DNA mixture interpretation. *Journal of Forensic Sciences*. 2011;56(6):1430-47.

Perlin MW, Belrose JL, Duceman BW. New York State TrueAllele® Casework validation study. Journal of Forensic Sciences. 2013;58(6):1458-66.

Perlin MW, Dormer K, Hornyak J, Schiermeier-Wood L, Greenspoon S. TrueAllele® Casework on Virginia DNA mixture evidence: computer and manual interpretation in 72 reported criminal cases. *PLOS ONE*, 2014(9):se28337.

## Validation axes

**Sensitivity**. The extent to which interpretation identifies the correct person. Truly include, don't falsely exclude.

**Specificity**. The extent to which interpretation does not misidentify the wrong person. Truly exclude, don't falsely include.

**Reproducibility**. The extent to which interpretation gives the same answer to the same question. Concordant independent computer runs.

## Reliability (PA Rule 702)

### Testimony by Expert Witness

A witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise if:

 (a) the expert's scientific, technical, or other specialized knowledge is beyond that possessed by the average layperson;

(b) the expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue; and
 (c) the expert's methodology is generally accepted in the relevant field.

## Daubert v. Merrell Dow Pharmaceuticals (1993)

*Plaintiff*: Bendectin caused birth defects *Defendant*: no reliable scientific evidence

Judge as gatekeeper

(1) testable and tested
(2) peer review and publication
(3) known error rate
(4) standards and controls
(5) generally accepted in the relevant community

# Frye v. United States (1923)

Defendant: systolic blood pressure deception test Government: not reliable scientific evidence

Just when a scientific principle or discovery crosses the line between the experimental and demonstrable stages is difficult to define. Somewhere in this twilight zone the evidential force of the principle must be recognized, and while courts will go a long way in admitting expert testimony deduced from a well-recognized scientific principle or discovery, the thing from which the deduction is made must be sufficiently established to have gained general acceptance in the particular field in which it belongs.







# Widespread acceptance

Admitted after Frye or Daubert challenge in: California, Louisiana, New York, Ohio, Pennsylvania, South Carolina, Virginia, Australia & United Kingdom

Crime labs use TrueAllele® system in California, Maryland, South Carolina & Virginia

Used in five hundred criminal cases in most of the United States, for both prosecution and defense

Seventy criminal cases in Pennsylvania Adams, Allegheny, Beaver, Berks, Butler, Cambria, Columbia, Delaware, Indiana, Luzerne, Lycoming, Mercer, Mifflin, Pike, Washington, Westmoreland, York





## **Discovery request**

### Rule of Criminal Procedure 573. Pretrial Discovery and Inspection

(B) Disclosure by the Commonwealth.

### (1) Mandatory.

(e) any results ... of scientific tests, expert opinions ... that are within the possession or control of the attorney for the Commonwealth;

### (2) Discretionary With the Court.

- (a) if the defendant files a motion for pretrial discovery, the court may order ... upon a showing that they are **material** to the preparation of the defense, and that the request is **reasonable**:
- (iv) any other evidence specifically identified by the defendant, provided the defendant can additionally establish that its disclosure would be in the interests of justice.

## Source code as trade secret

"A **trade secret** may consist of any formula, pattern, device or compilation of information which is used in one's business, and which gives him an opportunity to obtain an advantage over competitors who do not know or use it." *Crum* v. *Bridgestone/Firestone N. Am. Tire* (2006)

TrueAllele source code is a trade secret

"... scientists can validate the reliability of a computerized process even if the "source code" underlying that process is not available to the public. TrueAllele is proprietary software; it would not be possible to market TrueAllele if there available for free. ... TrueAllele has been tested and validated in peer-reviewed studies." Pennsylvania v Foley

Courts deny this discovery request – California, Maryland, New York, Ohio, Pennsylvania, Virginia

## Relevance (PA Rule 403)

Excluding relevant evidence for prejudice, confusion, waste of time, or other reasons

The court may exclude relevant evidence if its probative value is outweighed by a danger of one or more of the following: • unfair prejudice, • confusing the issues, • misleading the jury,

undue delay.

wasting time, or

needlessly presenting cumulative evidence.



















## Inconclusive mixture

Crime laboratory DNA report Crime lab user fee: \$5,000

Conclusions:

### Item 1 - Swab of textured areas from a handgun

The data indicates that DNA from four (4) or more contributors was obtained from the swab of the handgun. Due to the complexity of the data, no conclusions can be made regarding persons A and B as possible contributors to this mixture.



40 cases, 8 trials, 3 DNA exonerations				
TrueAllele in Allegheny County				
• Crime	Evidence	Defendant	Outcome	Sentence
rape	clothing	Ralph Skundrich	quilty	75 years
murder	gun, hat	Leland Davis	quilty	23 years
rape	clothing	Akaninvene Akan	quilty	32 years
murder	shotaun shells	James Yeckel, Jr.	quilty plea	25 years
murder	fingernail	Anthony Morgan	guilty	life
weapons	gun	Thomas Doswell	guilty plea	1 year
bank robbery	clothing	Jesse Lumberger	guilty	10 years
drugs	gun	Derek McKissick	guilty plea	2 1/2 years
drugs	gun	Steve Morgan	guilty plea	2 1/2 years
murder	door, clothing	Calvin Kane	guilty plea	20 years
murder	gun	Jaykwaan Pinckney	guilty plea	10 years
child rape	clothing	Dhaque Jones	guilty plea	6 years
shooting	gun	Anthony Jefferson	guilty plea	4 years
weapons	gun	Delmingo Williams	guilty plea	3 years
incest rape	clothing	Terry L.	guilty	40 years
bank robbery	hat	Robert Schatzman	guilty	pending
weapons	gun	Rashawn Walker	guilty	1.5 years
robbery	hat	Lauren Peak	guilty plea	1 year
murder	gun	Chaz White	guilty plea	4 years



### Post-conviction relief Title 42, Chapter 95, Subchapter B

§ 9543(a)(2). Eligibility for PCR

(ii) Ineffective assistance of counsel (vi) The unavailability ... of exculpatory evidence that has subsequently become available and would have changed the outcome ...

> § 9543.1. Post-conviction DNA testing TrueAllele reanalysis of "inconclusive" DNA or inaccurate DNA match statistics

Han Tak Lee v. Monroe County (PA Innocence) US Court of Appeals for the Third Circuit (2012) "fire expert testimony at trial fundamentally unreliable, so entitled to federal habeas relief on due process claim"



