

### **Rule 417. DNA Evidence**

**(a) Statement of Purpose.** This rule is promulgated to produce uniformly sufficient information to allow a proper, well-informed determination of the admissibility of DNA evidence and to insure that such evidence is presented competently and intelligibly. The rule is designed to provide a minimum standard for compliance concerning DNA evidence, and is not intended to limit the production and discovery of material information.

**(b) Obligation to Produce.** In all felony prosecutions, post-trial and post-conviction proceedings, the proponent of the DNA evidence, whether prosecution or defense, shall provide or otherwise make available to the adverse party all relevant materials, including, but not limited to the following:

(i) Copies of the case file including all reports, memoranda, notes, phone logs, contamination records, and data relating to the testing performed in the case.

(ii) Copies of any autoradiographs, lumigraphs, DQ Alpha Polymarker strips, PCR gel photographs and electropherograms, tabular data, electronic files and other data needed for full evaluation of DNA profiles produced and an opportunity to examine the originals, if requested.

(iii) Copies of any records reflecting compliance with quality control guidelines or standards employed during the testing process utilized in the case.

(iv) Copies of DNA laboratory procedure manuals, DNA testing protocols, DNA quality assurance guidelines or standards, and DNA validation studies.

(v) Proficiency testing results, proof of continuing professional education, current curriculum vitae and job description for examiners, or analysts and technicians involved in the testing and analysis of DNA evidence in the case.

(vi) Reports explaining any discrepancies in the testing, observed defects or laboratory errors in the particular case, as well as the reasons for those and the effects thereof.

(vii) Copies of all chain of custody documents for each item of evidence subjected to DNA testing.

(viii) A statement by the testing laboratory setting forth the method used to calculate the statistical probabilities in the case.

(ix) Copies of the allele frequencies or database for each locus examined.

(x) A list of all commercial or in-house software programs used in the DNA testing, including the name of the software program, manufacturer and version used in the case.

(xi) Copies of all DNA laboratory audits relating to the laboratory performing the particular tests.

Adopted March 1, 2001, effective immediately, except when in the opinion of the trial, Appellate, or Supreme Court the application of the new rule in a particular case pending at the time the rule becomes effective would not be feasible or would work an injustice, in which case former procedures would apply.

Committee Comments  
Special Supreme Court Committee on Capital Cases  
March 1, 2001

The standardized disclosures required by Rule 417 are intended to provide the information necessary for a full understanding of DNA test results, and to aid litigants and the courts in determining the admissibility of those results. The rule requires disclosure of information that is, or should be, readily available from any laboratory performing DNA testing. Standardized disclosure requirements should also make responses to disclosure requests less burdensome for laboratory personnel.

In drafting the rule, the committee considered court opinions from several jurisdictions that established guidelines for pretrial disclosures regarding DNA evidence. See, *e.g.*, *People v. Castro*, 144 Misc. 2d 956, 978-9, 545 N.Y.S.2d 985, 999 (1989); *People v. Perry*, 586 So. 2d 242, 255 (Ala. 1991); *Polk v. State*, 612 So. 2d 381, 394 (Miss. 1992). Rule 417 draws from those opinions, but also reflects the committee's examination of current practices in forensic science.

The disclosures required by the rule can be crucial in any trial in which the discovery rules for criminal cases apply, and also in related post-trial and post-conviction proceedings (including a proceeding on a motion for DNA testing not available at the time of trial to establish actual innocence (725 ILCS 5/116-3)). Therefore, the rule requires production of information regarding DNA testing by the proponent of DNA evidence in any felony trial, and in all related post-trial or post-conviction proceedings. While the disclosures required under the rule encompass the technologies presently utilized (restriction fragment length polymorphism, polymerase chain reaction, short tandem repeats, etc.), production is not limited to those techniques. Because the rule provides no limitation upon the specific information or materials to be provided, it is designed to encompass future techniques that may be developed in the testing of DNA evidence.