

International Conference: Missing Children and Genetic Identity  
25 May 2017; International Day of the Missing Child  
Alexandre Pessoa Vaz Auditorium - Lusófona University  
Lisbon, Portugal

# Missing Children – Missing Opportunities Legal Obstacles in Our DNA

Joseph I. (“Joe”) Rosenbaum, Esq.  
Partner, Rimon, P.C.  
New York, NY



**RIMON LAW**  
LawFirmEvolved.com



UNIVERSIDADE  
**LUSÓFONA**



## Children Are Always Victims

- Kidnapping
- Illegal adoptions
- Ransom schemes
- Cheap labor
- Prostitution and sex trafficking
- Other forms of exploitation

## Biometrics Are Critical

- Identify missing children
- Identify child victims
- Link acts to possible suspects
- Identify and/or eliminate suspects
- Find patterns of criminal activity against children

At almost every level, but most notably at the international level, our current systems, mechanisms and infrastructure are far too insulated, dysfunctional, siloed and uncoordinated to be as effective as they should be and could be, with a lack of common definitions and standards, effective scientific tools and protocols, integrated law enforcement communications and techniques and inconsistent legal and judicial standards – and, of course, scarce international harmonization.



# What Will We Cover



Legal & Ethical Issues . . .



**Collection**



**Storage**



**Access**



**Use**



**Responsibility**

. . . and the

**Challenges**



**&**



**Opportunities**

# Collection

## Involuntary: \*

- Law enforcement
- Victim of a crime
- Criminal proceeding
- Civil legal proceeding
- Post-fact identification investigation

## Voluntary: \*\*

- Medical procedures
- Genetic testing
- Children (consent of parent/legal guardian)

## The Issues

Time sensitivity  
Untrained first responders  
Untrained investigators  
Inadequate equipment  
Improper sampling  
Quality control



Compromised crime scene  
Degraded or insufficient sampling  
Contamination  
Tampering  
Chain of custody  
Data entry  
Software/Programming

\* If testing is being done for a non-medical purpose, can health professionals refuse to take or provide samples?

\*\* Consent is a legally construed term in most jurisdictions. Even if consent is given, it is generally given for a specific purpose.

# Storage

---

Facility/Resources  
Physical samples

Paper  
Digital file (“Fingerprint”)  
Related (Cross-linked) information

## The Issues

Backlog  
Medium  
Format  
Database  
Cloud  
Data integrity  
Contamination



Degradation  
Security  
Duration  
Removal  
Archives  
Interoperability  
Software/Programming

RIMÔN LAW  
LowFirmEvolved.com

# Access

To whom?

For what purpose?

How much?

When?

How?



Under what conditions?

## The Issues

Controls  
Restrictions  
Obligations  
Responsibilities  
Security  
Interoperability

Cross Jurisdictional Inconsistency

- Local
- Regional
- National
- International

RIMÔN LAW

LowFirmEvolved.com

# Use

By whom?

For what purpose?

How much?

When?

## The Issues

Criminal investigation  
Civil and criminal judicial proceedings  
Law enforcement  
Medical examiner/Coroner  
Family members  
Research  
Other?

Genetic surveillance = Is everyone a suspect?

Medical research  
Risk prevention  
Insurance  
Employment  
Academics  
Adoption  
Social work

Human rights  
Civil rights  
Data protection/privacy  
Due process  
Reliability/Integrity  
Abuse of police power  
Evidentiary problems



Did we mention trans-border/cross-border international issues?

RIMÔN LAW  
LowFirmEvolved.com



# Wait a Minute - All These Play a Role?

First Responders  
Crime Scene Investigators  
Victims  
Victim's Families  
Medical Examiners  
Law Enforcement (Multiple)  
Health/Dental Providers  
Coroners  
Forensic Scientists  
Forensic Imaging Specialists

Attorneys  
Judges  
Legislators  
Regulators  
Odontologists  
Radiologists  
Archeologists  
Anthropologists  
Government Policy Makers  
Budget & Grant Officials  
Non-Governmental Organizations  
Software Programmers  
Database Administrators  
National Treaty Negotiators  
Security Professionals  
Expert Witnesses  
Statisticians

Laboratories  
Equipment  
Software  
Communications  
Logistics

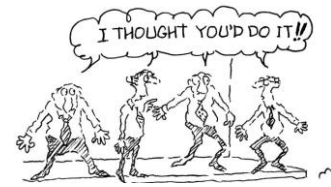


**RIMÔN LAW**  
LowFirmEvolved.com





# Responsibility



There was an *important job* to be done and **Everybody** was sure **Somebody** would do it. **Anybody** could have done it, but **Nobody** actually did it. **Somebody** got angry, because it was **Everybody's** job. **Everybody** thought **Anybody** could do it, but **Nobody** realized **Everybody** would not do it. The result was that **Everybody** blamed **Somebody** when **Nobody** did what **Anybody** could have and should have done.

## The Issues

- How can we ensure a standardized, harmonized, high quality forensic analysis and reporting that can meet legal standards to be consistently and effectively applied under a wide range of circumstances, able to withstand challenges in a variety of legal proceedings?
- By what mechanism and under what authority will all of this be monitored, administered and enforced?
- Who bears responsibility and accountability?
- How do we implement this internationally?



# The Challenges



## Information

Whose/When  
Volume  
Accuracy  
Accessibility  
Protection  
Encryption  
Removal/Destruction

## Law Enforcement

Investigative Tools  
Procedures/Protocols  
Identify Suspects  
Eliminate Suspects  
Chain of Custody  
Testimony  
Abuse

## Technology

Capabilities  
Resources  
Reliability  
Independence  
Cost  
Risk  
Interoperability

## Social Policy

Privacy  
Physical Samples  
Information Sharing  
Additional Use  
Abuse  
Exoneration

## Legal (Judicial)

Evidence ≠ Proof  
Standards of:  

- Admissibility
- Credibility
- Due Process

Statutes of Limitation

## Education

Qualified Professionals  
Training  
Public  
Innovation  
Cost-Benefit

## Governance & Oversight

Information  
Cooperation  
Collaboration  
Enforcement



# The Opportunities



## Information

Whose/When  
Volume  
Accuracy  
Accessibility  
Protection  
Encryption  
Removal/Destruction

## Law Enforcement

Investigative Tools  
Procedures/Protocols  
Identify Suspects  
Eliminate Suspects  
Chain of Custody  
Testimony  
Abuse

## Technology

Capabilities  
Resources  
Reliability  
Independence  
Cost  
Risk  
Interoperability

## Social Policy

Privacy  
Physical Samples  
Information Sharing  
Additional Use  
Abuse  
Exoneration

## Legal (Judicial)

Evidence ≠ Proof  
Standards of:  
• Admissibility  
• Credibility  
• Due Process  
Statutes of Limitation

## Education

Qualified Professionals  
Training  
Public  
Innovation  
Cost-Benefit

## Governance & Oversight

Information  
Cooperation  
Collaboration  
Enforcement



# Obrigado - Thank You

Dia 25 de Maio 2015  
Dia Internacional das Crianças Desaparecidas



**Joseph I. ("Joe") Rosenbaum**

Partner, Rimon, P.C.

[Joseph.Rosenbaum@rimonlaw.com](mailto:Joseph.Rosenbaum@rimonlaw.com)

+1 646.513.3225

Bio: <https://rimonlaw.com/team/joe-rosenbaum>

Blog <http://www.legalbytes.com>

LinkedIn: <http://linkd.in/aC2g4f>

Twitter: <http://twitter.com/JIRLaw>



## ¿Questions?

