

Opinion

Should cell phones be banned for drivers?

Technology changes quickly on many levels. Ten years ago, a cellular phone was not a commonly owned device; not everyone was driving while talking on the phone.



Joseph Bernardo

Today, BlackBerry e-mails, smart phone Internet searches, cellular phone calls and text messaging while driving combine to make crashes more likely.

If victims of a collision are lucky enough to escape death, many can expect life-long injuries. The injuries often prevent them from working, and most accident victims will have medical bills and require ongoing care and treatment.

The reality is that it is not safe practice to drive while talking on your phone. The National Highway Traffic Safety Administration (NHTSA) supports this.

The administration's research has shown that driving while using a cellular phone can pose a serious cognitive distraction and degrade driver performance. An NHTSA and Virginia Tech Transportation Institute study shows that nearly 80 percent of crashes and 65 percent of near crashes involved some form of driver inattention within three seconds before the event.

The primary cause of driver inattention is distracting activities, and the most common distraction is a cell phone.

Unless we take responsibility for our safety and well-being (making the decision to not talk on our phones while driving), we are putting our lives and the lives of others at risk on a daily basis.

Some states banned the use of cellular phones while operating a motor vehicle in an effort to decrease the amount of crashes and traffic-related fatalities. California, Connecticut, New Jersey, New York and Washington, the District of Columbia and the Virgin Islands have banned the use of hand-held phones while driving, according to the Governors Highway Safety Association. Florida was not among them.

Do we need a law preventing us from using cellular devices in our

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FAMILY TIES THAT BIND

Some police using controversial 'familial DNA' database searches to ID criminal suspects

By P. Solomon Banda
Associated Press

DENVER — Police in at least two states are increasingly using a DNA crime-solving technique that some legal experts say amounts to guilt by association: If your brother, father, uncle or son has been in trouble with the law and is in a DNA database because of it, you, too, could fall under suspicion.

The technique is known as a "familial DNA" search. And in what is believed to be a precedent-setting case, Denver police used it to help catch the burglar who left a drop of blood on a passenger seat when he broke a car window and stole \$1,400 in change.

A growing number of law enforcement agencies nationwide are considering whether to adopt the technique, which scientists say holds great promise.

"How can we look a rape victim in the face and say, 'We could have prevented your rape if we had looked at this evidence?'" said Fredrick Bieber, a Harvard medical professor who co-wrote a research paper suggesting familial DNA searches could solve up to 40 percent more crimes in which DNA evidence is present.



James Tinajero

The conventional way of using DNA to identify the perpetrator of a crime is to gather blood, semen or other genetic material at the scene and run it through a database of criminals to see if it yields an exact match. But that approach isn't helpful if the perpetrator is not in the database.

That is where a familial DNA search comes in. It entails looking through the database for a near-match — that is, for a close male relative of the perpetrator. Police can then use that information to zero in on whoever committed the crime.

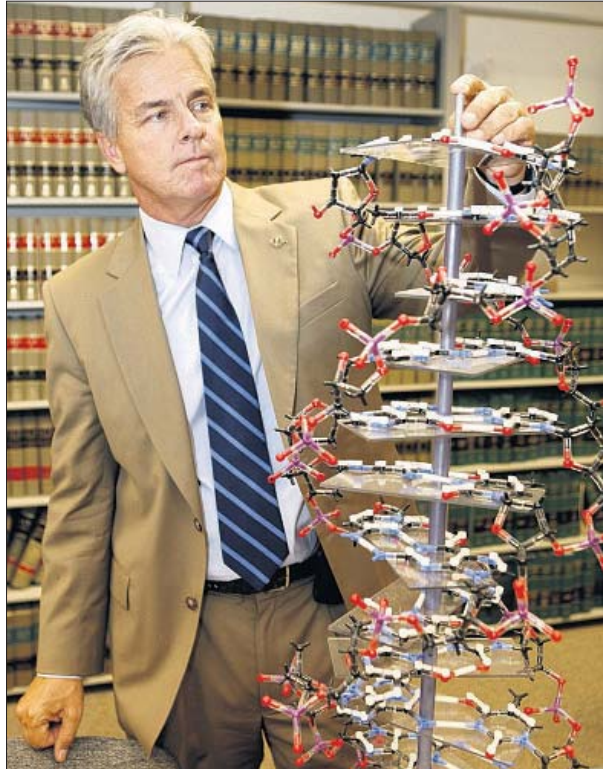
The legality of such searches has not been tested in court, but it may be just a matter of time. Critics complain the technique could subject innocent people to arrest.

"It makes absolutely no sense," said Erin Murphy, a law professor at the University of California, Berkeley. "Other than the misfortune of having a relative that has gotten in trouble, there's no distinction in their likelihood of having committed a crime."

California and Colorado are the only states to expressly allow authorities to conduct familial DNA searches of its statewide databases. Maryland has banned the practice.

In Denver, District Attorney Mitch Morrissey pushed for the familial DNA search in the 2008 car break-in.

The blood did not match anyone in the county's DNA database of 1,700 convicted felons. So authorities searched the database for a near-match and came up with the name of a convicted criminal. From there, investigators narrowed their focus to the criminal's brother, Luis Jaimes-Tinajeros.



The office of Denver District Attorney Mitch Morrissey, shown standing next to a model of DNA structure in his office, was able to get a conviction in a case using the DNA of a suspect's brother. Morrissey called it the first crime solved in the United States using "familial DNA," a technique where investigators develop a lead based on a family relationship, rather than linking crime-scene evidence to a person. Britain has used the technique for years, but it has raised privacy concerns here. **Associated Press**

Jaimes-Tinajeros was ultimately arrested and pleaded guilty last September after a second DNA sample — obtained by court order — definitively determined the blood was his.

Jaimes-Tinajeros is believed to be the first person convicted through this kind of database search in the U.S., Morrissey and other legal observers say.

Morrissey contends such searches are legal, and he has become one of the nation's leading proponents of the practice.

"In a serious investigation, wasting time can lead to more crimes being committed," he said.

While Jaimes-Tinajeros declined comment, his

mother objected to the tactic in an interview in October. "They're suspecting him just because his brother committed a crime?" said Teresa Tinajeros. "He pleaded guilty because he's scared."

The technique involves a close examination of the Y chromosome — the male sex chromosome — in both the crime-scene DNA and the database samples. The probability of a genetic link can be established with 90 percent confidence, Morrissey and Bieber said.

Because it relies on the Y chromosome, this technique cannot be used to arrest women. There is no equally reliable way of tracing suspects through the X chromosome, Morrissey said.

Opinion

Year-end estate planning and tax reminders

It is time again to face year-end chores, including gathering income tax information and estate and gift tax plans.

In previous years, a good start would be to first review assets: what is owned, how much is it worth, how is it owned and who gets it when you die? This year, the most important start is to review the actual wording of existing wills and trusts.

The federal estate tax expired at midnight Dec. 31,

but is due to reappear next year with an exemption of \$1 million, not \$3.5 million that has been current.

Most estate planning professionals do not believe that this scenario will remain, but no one can predict what changes, including potential retroactive taxes to be enacted by Congress. The current situation poses intriguing and difficult problems for individuals.

If there is no estate tax, do we still need trusts to avoid or minimize estate taxes? Or will we need them again in 2011? What will happen if a person dies in this year with a trust that leaves the "exempt amount" — which last year was \$3.5 million,

and so far, this year is zero — to his children and the balance to his wife?

Depending upon how the trust is worded, it is possible to interpret it to say that the wife gets everything or nothing. In estate plans where there are distributions to be made on the death of the first spouse to both the children and the surviving spouse, as is often the case in second marriages, these questions are the most troublesome.

Similar problems can arise next year, when, if no changes are made, there will be an exemption of \$1 million. If a formula in a trust describes distributions as being equal to the "exempt amount," then again there

can be questions as to what that amount will be, and to whom it will go.

These questions highlight the fact that a key element in estate tax planning is to determine what amounts and benefits are intended to be transferred to others due to the death of the owner.

To make these determinations, more than wills and trusts need to be considered. Estate taxes are not just based upon real estate and stock accounts. The

federal estate tax return requires information about, and possibly the taxation of, life insurance, retirement and annuity programs, deferred compensation plans with death benefits or death payouts, business buyout plans, joint and survivorship ownership and distributions from some existing trusts that were established by others.

A list should be made of each and every kind of possible benefit that flows

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Alan Novick

NOVICK LAW OFFICE



Attorney, Alan Novick,
Member of the Florida and Massachusetts Bar Associations,
Florida Bar Certified Wills, Trusts and Estate Lawyer.

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