



October 21, 2019

Contact:

Redmond Haskins
The Legal Aid Society
rhaskins@legal-aid.org
(929) 441-2384

*****FOR IMMEDIATE RELEASE*****

***AFTER OCME DNA CONTAMINATION EVENT LEADS TO
WRONGFUL ARREST OF NEW YORKER, LEGAL AID CALLS
FOR END TO OCME DNA INDEX***

(NEW YORK, NY) – The Legal Aid Society called for an end to the City’s unauthorized and unregulated local DNA databank after obtaining a Freedom of Information Law disclosure which revealed that the New York City Office of the Chief Medical Examiner (OCME) contaminated a DNA sample that led to a wrongful arrest and prosecution. Per law, OCME must disclose and report these erroneous hits to the New York City Council, and to the New York State Commission on Forensic Science.

“This wrongful arrest happened because OCME keeps an unregulated DNA index, plain and simple,” said **Terri Rosenblatt, Supervising Attorney with the DNA Unit at The Legal Aid Society**. “Given the NYPD’s rampant DNA collection of countless New Yorkers, this person could have been nearly anyone – including a child as young as 12. Lawmakers have an obligation to end this completely unauthorized practice before another New Yorker is wrongfully arrested and prosecuted.”

This summer, [reporting](#) in the *New York Times* revealed that OCME’s unregulated DNA database had swelled to its DNA database to 82,473 samples, almost a 19,000 increase since [July of 2017](#). This database includes samples provided by the New York City Police Department (NYPD) and extracted from crime scenes and voluntary swabs. It also, however, includes samples from people who have not been charged with or convicted of crimes. Many of these samples were [surreptitiously obtained in precinct interrogation rooms](#) from cells left on a water bottles or cigarettes, and DNA samples obtained during the [2015 Howard Beach DNA dragnet](#).

Timeline from OCME Root Cause Analysis Report Dated September 10, 2019 and OCME Testimony At August 8, 2019, DNA Subcommittee Meeting

On July 6, 2018, a Forensic Biology criminalist prepared samples for DNA testing. The criminalist first prepared a sample from a suspect in an alleged sexual assault before his lunch break. Then, after his lunch break, he prepared evidence from a totally unrelated burglary. The burglary case did not have a listed suspect and the sexual assault case was an alleged acquaintance sexual assault case with a named suspect.

On July 30, 2018, the DNA profile obtained from the burglary case was entered into the OCME local DNA identification index. There, it was compared to suspect's DNA sample. This comparison was in OCME's local DNA index only. The suspect DNA sample was loaded into the OCME DNA index, where it "matched" the otherwise unrelated burglary evidence.

On December 7, 2018, OCME officials gave the match to the police, and the suspect was arrested on December 19, 2018. The arrest was made solely based on the DNA results even though no other aspects of the crime linked the suspect to the incident. The suspect posted bail and was released the next day.

Six months later, on June 17, 2019, while preparing for grand jury testimony, a different OCME staffer discovered that the same criminalist had processed the suspect exemplar for the sexual assault case and the evidentiary sample for the burglary case on the same day, two hours apart, but with no other cases processed in between. The lab recognized this was a breach of protocol. It "recalled" the DNA match. It also issued reports stating that both the burglary evidence and the sexual assault evidence were compromised and cannot be used.

On June 18, 2019, OCME staff alerted the Queens District Attorney's Office to the issue. On June 28, 2019, staff confirmed that the Queens District Attorney's Office had found that the defendant had a good alibi and dismissed the burglary case. At later hearings in front of the DNA Subcommittee and NYS Commission on Forensic Science, an OCME official stated that she had no information that the suspect was prosecuted for the sexual assault either.

Reasons for the Error Listed in the Root Cause Analysis

As part of the Root Cause Analysis, OCME is required by law to investigate and explain how the error occurred. The OCME did not contact the analyst who prepared the samples, or his supervisor, because both had left the laboratory by the time the error was discovered. The OCME, without talking to these staffers, listed three different reasons for the error: (1) the OCME local DNA index infrequently produces cold hits; (2) the analyst did not use quality control measures when using the local DNA index; and (3) the analyst's reviewer did not take necessary steps to verify the local DNA index hit.

New York State, unlike New York City, has an authorized DNA identification index, with strict quality control and reporting rules. This database only contains adults convicted of crimes.

###

The Legal Aid Society exists for one simple yet powerful reason: to ensure that New Yorkers are not denied their right to equal justice because of poverty. For over 140 years, we have protected, defended, and advocated for those who have struggled in silence for far too long. Every day, in every borough, The Legal Aid Society changes the lives of our clients and helps improve our communities. <https://www.legalaidnyc.org>