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Contact:

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

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After NYPD Acknowledges Almost 2,000 People Should be Removed From City DNA Index, Legal Aid Calls on City Council to End Genetic Stop-And-Frisk

(NEW YORK, NY) – The Legal Aid Society called on the City Council to abolish genetic stop-and-frisk after the New York City Police Department (NYPD) recently announced that [it would remove](#) some New Yorker’s profiles from its DNA database. In a [memorandum](#) published on its website, the NYPD claimed it has reviewed approximately 4,000 DNA profiles currently in the City databank and determined that nearly half of them (1,845) would be removed because those people had not been convicted of a crime. However, the NYPD insisted that it would keep the remainder of the profiles in the databank, claiming that those people were later convicted of a crime or are currently the subject of an NYPD investigation. Additionally, for a small number of people, the NYPD stated that it was keeping the DNA profiles because it did not believe that the people involved were exonerated for legitimate reasons.

The NYPD claims that it will continue to review additional profiles in the DNA index after the OCME previously identified 20,000 for potential removal. The NYPD did not disclose any names of the people whose DNA was removed or kept, nor did it indicate whether the people whose DNA was reviewed would be notified about the status of their genetic material.

New York State [law](#) bars all DNA [indexing](#) from people who have not been first convicted of a crime. It also [requires](#) that DNA be taken from a person only upon warrant, court order, or valid consent. Notwithstanding these rules, the NYPD has collected DNA through [surreptitious](#) means and by [pressuring](#) people to agree to give DNA samples. Working with the New York City Office of the Chief Medical Examiner (OCME), it has grown a DNA index of almost [34,000](#) people — none of whom were convicted at the time their DNA was taken. At a recent City Council [hearing](#), the NYPD admitted that at least 25% of the people in the City DNA index have never been convicted of a crime and at least 5% of them are children younger than 18.

In a recent [letter](#) to City Council, scientists who work at the OCME complained about the NYPD's heavy involvement in the DNA index. They pointed out that the OCME holds itself out as an independent laboratory, but that its close cooperation with the NYPD undermines that independence. The laboratory staff also questioned whether the collection and indexing of surreptitiously collected DNA was consistent with the values of everyday New Yorkers.

Terri Rosenblatt, Supervising Attorney of the DNA Unit at The Legal Aid Society, said “The NYPD has for years been engaging in genetic stop-and-frisk by gathering DNA from children and people who haven't been convicted of a crime in clear violation of the law. Their half-hearted attempt to remove some of those profiles does not fix this problem, and instead is a cynical ploy to maintain their rogue practices. Even the staff at OCME itself rejects these tactics and we join them in calling on City Council to enact meaningful, permanent regulation to shut down the City's illegal DNA index once and for all.”

Background

This change, which, according to OCME's public website, went into effect in early September, bars the lab from testing DNA taken by the New York City Police Department (NYPD) solely for inclusion in the City's rogue DNA index.

This change, which was purely voluntary on the part of the OCME, and could be reversed at any time, leaves out many of the almost 34,000 people whose DNA is currently warehoused by the City. At a recent City Council hearing, police officials [testified](#) that at least 25% of the people in the City index have never been convicted of a crime. They also [testified](#) that at least 5% of the DNA was taken from juveniles. Previous reports indicated that at least [360 Black men](#) also had their DNA taken and entered into the rogue DNA index as part of a DNA dragnet surrounding the Katrina Vetrano investigation in Howard Beach. The OCME's policy does not provide for any removal of these individuals because it is not retroactive.

The OCME's policy also does not end their overall maintenance of a rogue DNA index comprised of people whose DNA was entered upon arrest in violation of State law. Children whose DNA was taken by police surreptitiously through cigarettes, sodas, or food will still be entered into the rogue index in cases where there is also evidence related to an alleged offense. And this policy would not prevent the police from continuing to conduct wide-ranging dragnets where hundreds of people have their DNA taken, even if they are not otherwise identified as suspects in a crime.

Last summer, reporting in the New York Times revealed that OCME's unregulated DNA database had swelled DNA index to 82,473 samples, almost a 19,000 increase since July of 2017. Of that, 31,400 came from people who were arrested or merely questioned (the remainder of the profiles are mostly from crime scene evidence and missing persons). A year after that reporting, the DNA index grew to more than 87,000, with 33,825 of those samples from individuals who were merely arrested or questioned. According to the NYPD, at least half of those individuals do not know their DNA is in the index because it was taken surreptitiously after being left on water bottles or cigarettes provided during police encounters. This database includes samples provided by the New York City Police Department (NYPD) and extracted from crime scenes and voluntary swabs.

It also 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. State law prohibits DNA indexing of children and people who have not been convicted of a crime. OCME's local DNA index is not

authorized by any laws or regulations. Instead, the City operates it because it claims that the State DNA laws are vague enough to permit it. A bill pending in Albany (S6009/A7878) (Hoylman/Wright) would clarify the law to make clear that local governments cannot run their own shadow DNA indexes that contain innocent people and children.

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