
POLICE DNA “SWEEPS” EXTREMELY UNPRODUCTIVE
A National Survey of Police DNA “Sweeps”

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EXECUTIVE SUMMARY

DNA “sweeps” of possible criminal suspects by police are extremely unproductive.

A national survey of all the reported cases of police requesting voluntary DNA samples from potential suspects found that the tests successfully identified an offender in only one of eighteen cases.

A DNA “sweep” is defined as a situation where the police ask individuals to give voluntary DNA samples in an effort to identify the perpetrator of a crime or series of crimes.

Critics of DNA sweeps have charged that they are unconstitutional, violating the Fourth Amendment rights of individuals who are asked to give DNA samples. This study indicates that they are also extremely unproductive in terms of identifying criminal offenders.

In one case, the police tested 2,300 people. In another, they tested 1,200.

In the one case where the offender was identified involved one of the smallest number of people tested –25. That case involved the sexual assault of a nursing home resident. Consequently, the police were able to identify possible suspects on the basis of both their employment and access to the victim.

The study covered only cases where the police requested DNA samples in an effort to identify an offender. It did not cover cases where DNA was used as evidence against a suspect who was already in custody. It also did not cover cases where DNA was used to exonerate a previously convicted person.

It is recommended that law enforcement agencies not conduct DNA sweeps based on general descriptions or profiles of criminal suspects.

It is recommended that the law enforcement profession, in cooperation with community representatives and legal experts, develop model policies on the collection and handling of DNA evidence.

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INTRODUCTION

The use of genetic DNA evidence in the investigation of crimes has had a significant impact on the criminal justice system. Today, all 50 states have some form of mandatory DNA testing for convicted offenders (see www.dnaresource.com). DNA evidence left at the scene of a crime is often used to identify suspects by attempting to match their profile with those already on file in state and national databases. There have been many cases across the country where persons convicted of a crime and sentenced to prison have subsequently been exonerated on the basis of DNA evidence (Scheck, Newfeld and Dwyer, 2000; www.innocenceproject.org).

In response to the potential uses of DNA evidence in the criminal justice system, the National Institute of Justice created the National Commission on the Future of DNA Evidence in 1998 and has published two reports on DNA testing (National Institute of Justice, 2000; Weedn and Hicks, 1998). Also, the National Research Council has published two reports on the subject (Committee on DNA Technology, 1992; Committee on Forensic DNA Evidence, 1996).

When law enforcement investigators have little information to go on in the investigation of violent crimes, they sometimes resort to DNA evidence. When the query of existing databases fails to offer a suspect, law enforcement sometimes employ the use of a DNA “sweep” or “dragnet.” These searches involve the collection and analysis of DNA from individuals who fit a general description or profile of the suspected offender. Controversies have arisen in several communities when those profiles are extremely vague, with the result that hundreds or even thousands of

innocent persons are asked to give DNA samples. There has been virtually no discussion of this aspect of DNA testing and there are presently no model policies to guide law enforcement agencies in requesting voluntary DNA samples from citizens.

Definition

A DNA “sweep” is defined as a situation where the police ask a number of individuals to give voluntary DNA samples in an effort to identify the perpetrator of a crime or series of crimes.

The Omaha Controversy

The issue of DNA sweeps arose in Omaha, Nebraska in June of 2004, when the Omaha Police Department began a DNA dragnet in search of a serial rapist responsible for the sexual assault of four women in the last two years. Information received as part of the investigation has the Omaha Police focused on African-American employees of the Omaha Public Power District (OPPD). That list of possible suspects was reportedly narrowed to a list of about 36 men (Cooper, 2004).

The Purpose of this Study

The Omaha controversy led to this study of similar DNA sweeps in the United

States. The purpose of the study was to determine how often DNA sweeps are used and how successful they are in identifying criminal offenders. The study found that since 1990, there have been eighteen reported sweeps in the United States including the Omaha search (see Table One). There may have been other cases that were not reported in the news media or were not traceable through conventional web search techniques.

This study does not address the legal issues surrounding DNA sweeps. It covers only cases where the police requested DNA samples in an effort to identify an offender. It does not cover cases where DNA was used as evidence against a suspect who was already in custody. It also did not cover cases where DNA was used to exonerate a previously convicted person.

METHODOLOGY

The information on DNA sweeps was gathered using traditional internet search engines. Key words used were “DNA dragnet,” “DNA sweeps,” and “DNA swabs.” Subsequent to the internet search, a more comprehensive search of news articles was completed through the use of the Lexis-Nexis database at the University of Nebraska-Omaha library. The web sites www.dnaresource.com and of the Innocence Project (www.innocenceproject.com) which publish DNA-related news were also searched.

FINDINGS

** DNA sweeps produced a suspected offender in only one of the eighteen cases examined (see Table One and the description of cases, below). This suggests that DNA sweeps are extremely unproductive in identifying criminal suspects.

** The one case where a criminal suspect was identified involved one of the fewest number of persons asked to give a DNA sample. This case in Lawrence, Massachusetts, involved the sexual assault of a nursing home resident. Consequently, the police began with a short list of potential suspects based on employment and access to the victim.

** Several of the cases involved an extremely large number of persons asked to give DNA samples. A 1994 case in Miami, Florida, involved samples from 2,300 people. A 2002 case from Baton Rouge, Louisiana, involved 1,200 people. A 1990 case in San Diego involved over 800 people.

** It is not known exactly how many DNA sweeps have actually occurred. Some of the cases listed here were not originally identified through the basic search techniques used but were reported to the authors of this report by knowledgeable individuals. The survey also found references in media accounts to additional cases that could not be independently confirmed.

DISCUSSION

The evidence suggests that DNA sweeps are extremely unproductive as an investigative technique. A suspect was identified through a DNA sweep in only one of the eighteen reported cases. DNA sweeps also generate controversies over racial profiling and possible violations of constitutional law.

Because they are highly unproductive, possibly unconstitutional, and often aggravate racial tensions, *it is recommended that law enforcement agencies not conduct DNA sweeps based on general descriptions or profiles of suspects.*

Because advances in DNA technology are creating new opportunities for identifying criminal suspects and exonerating convicted offenders, *it is recommended that the law enforcement profession, in consultation with community groups and legal experts, develop a model policy and procedures to guide agencies in the collection and use of DNA evidence.*

The National Institute of Justice (1999) published a brochure, What Every Law Enforcement Officer Should Know About DNA Evidence, but it contains no guidance regarding the conduct of DNA sweeps. Similarly, the two reports published by the National Research Council Press do not discuss the potential abuses in DNA sweeps (Committee on DNA Technology, 1992; Committee on Forensic DNA Evidence, 1996).

The 1992 report, DNA Technology in Forensic Science devotes one and a half pages (out of 176) to “Abuse and Misuse of DNA Information” but with no mention of sweeps. In testimony before the National Commission on the Future of DNA Evidence, Barry Steinhardt of the ACLU was perhaps the only person to raise questions about the dangers of DNA sweeps by the police (Steinhardt, 1999).

DNA EVIDENCE: THE PROMISE AND THE PERIL

It is important to understand the role that DNA plays in different stages of the criminal justice system. While DNA evidence has proven to be extremely valuable in some stages of the system, this report indicates that attempts to use it in another stage is highly problematic. There are three basic stages of the criminal justice system where DNA evidence has been used: pre-arrest investigations; post-arrest-investigations; post-conviction investigations. The web site of The Innocence Project (www.innocenceproject.org) has a wealth of information on the use of DNA in exonerating falsely convicted persons.

*** Nothing in this report questions the use of DNA evidence regarding a person already in custody where an attempt is made to link a specific suspect to evidence directly related to the crime in question.*

*** Nothing in this report questions the use of DNA evidence to investigate the*

guilt of innocence of a person already convicted of a crime, where there is DNA evidence directly related to the crime for which he or she was convicted.

This report questions the collection of DNA evidence from individuals based on general descriptions or profiles of suspected offenders. The problem is that the descriptions or profiles used are too vague with the result that the police request DNA samples from many innocent people. The crucial difference is that in the post-arrest and post-conviction situations, DNA evidence is used with regard to a specific individual and there is no “sweep” or “dragnet” that implicates innocent people.

Aggravating the problems related to DNA sweeps is that the success of DNA evidence in post-arrest or post-conviction situations has led some people to believe that it can be equally successful in all stages of the criminal justice system. This report clearly indicates to the contrary that pre-arrest DNA sweeps are highly unproductive. In his testimony before the National Commission on the Future of DNA Evidence in 1999, Barry Steinhardt of the ACLU characterized the process of extending a policy or procedure from one purpose (where it is presumptively valid) to another (where it may not be) as “function creep” (Steinhardt, 1999).

Further aggravating the problem is that all of the cases reported so far involve murder and/or rape. Three involved multiple murders and nine involved more than one rape (usually described as “serial rape”). These particularly vicious crimes generate fear among citizens and put pressure on the police to identify and arrest the perpetrator. The result has been the use of a technique that is both highly unproductive and which violates individual constitutional rights.

THE FIFTEEN CASES

Types of Crimes

All of the eighteen reported cases involved murder and/or rape. Five involved murder only; eight involved rape only; and five involved both murder and rape.

Outcomes

Only one of the eighteen cases was solved as a result of a DNA sweep. Ten were solved by other means. Four cases remain unsolved at this time.

Race and Ethnicity

DNA sweeps have been particularly controversial with regard to possible racial or ethnic bias. The race or ethnicity of the suspects was identified in seven of the eighteen reported cases. Four involved African Americans, two involved whites and one involved Hispanics. In the other cases the race or ethnicity of the suspect was not identified. In one case (Baton Rouge, LA), the initial description of the race of the suspect proved to be wrong. About 1,200 whites were asked for DNA samples, but the perpetrator, identified through other means, turned out to be an African American.

THE CASES

Wichita, KS

In 1987, police in Wichita, KS, “secretly” tested more than 200 men who were on a police suspect list. The case remains unsolved (Laviana, 2004).

Los Angeles

In 1999 the Los Angeles police initiated a DNA sweep in an effort to identify the suspect in a 1986 murder. The LAPD sought DNA samples from 186 individuals. The case remains unsolved. (Leonard, 2001).

Costa Mesa, CA

The Costa Mesa, California, police obtained DNA samples from 113 individuals in an effort to identify the suspect in a 1988 murder. The case remains unsolved. (Leonard, 2001).

San Diego, CA

In 1990, the San Diego, CA Police Department tested 800 African-American males in an attempt to identify the person who stabbed six people to death in their homes. The killer had refused to give a sample but was later identified after he was arrested for an unrelated crime (Hansen, 2004).

Ann Arbor, MI

In 1994, Michigan State Police in Ann Arbor, MI gathered blood samples from 160 African-American men in an attempt to identify a serial rapist. The dragnet failed to identify a suspect. Earvin Mitchell was later arrested for the rape after he attacked

another woman. A class action suit was filed to return or destroy the DNA from those that were gathered. Michigan State Police destroyed or returned the DNA in 1997 as well as paying monetary damages (Hansen, 2004; Robinson, 1997; Sasser-Peterson, 2000; ACLU raises, 2003).

Miami, FL

Over 2,300 men gave DNA in search of a serial rapist/murderer in Miami, FL in 1994. Six prostitutes had been murdered and had their bodies dumped in residential areas. Rory Enrique Conde was caught after a potential victim freed herself enough to pound on walls until the police were called (Hansen, 2004; Police say, 1995).

Oklahoma City, OK

In December of 1996, a 21 year old University of Oklahoma ballet student was abducted, bound, raped and subsequently shot. In 2001 samples were taken from over 200 men by Oklahoma City Police officers. Samples were taken of men who resembled the sketch of the suspect or had worked or went to school with the victim. A suspect was identified in 2003 after his DNA was found to be a match. The suspects DNA was taken as part of a burglary conviction and not because of the DNA dragnet (Bisbee and Murphy, 2004).

Costa Mesa, CA

Costa Mesa, California, police took DNA samples from 188 people over a four year period in an effort to find the person who raped and strangled Sunny Sudweeks in her bedroom (Leonard, 2001).

Prince George's County, Md.

In 1998, the police in Prince George's County, Md., sought DNA samples from 400 male workers at a county hospital where an administrator had been raped and strangled. Union members complained that the police were bullying employees into agreeing and were singling out maintenance workers. No match was made, and the killing remains unsolved (Blackwell, 2004).

Lawrence, MA

In 1998, a 24 year old comatose patient in a Lawrence, MA nursing home, gave birth to a premature baby. Investigators took DNA from over 25 men who had access to the patient. The DNA dragnet revealed a nurse's assistant had impregnated the patient (Authorities to, 1998; Fitzgerald, 1999).

Philadelphia, PA

In 1999 Philadelphia police rounded up people who fit the description of a serial rapist and murderer and asked them for DNA samples (Rapist Lookalikes, 1999).

Simi Valley, CA

In 2001 Simi Valley, CA police we searching for a serial rapist. Approximately 500 men were approached, questioned and requested to submit a DNA sample. The suspect in the serial rapes was later arrested based on his housemates reporting to police the possession of homemade pornographic material and women's underwear and jewelry (Sullivan, 2001, August 1; Sullivan, 2001, August12).

Baton Rouge, LA

The Baton Rouge, LA police used a DNA dragnet in an attempt to identify a

serial murderer in 2002. Based on a forensic profile, over 1200 white men were sample based on the profile and information that the perpetrator drove a white pick-up truck. Derrick Todd Lee, an African American, was arrested on an unrelated case and later linked to the murders. One former suspect, Shannon Kohler, has sued to force LA officials to destroy or return his DNA (Willing, 2003; Deslatte, 2003; Sasser-Peterson, 2000).

Kearney, NE

In 2002, police and sheriff's investigator in Kearney, NE collected DNA samples from 75 white men that fit a broad description. A suspect was later arrested based on other information and investigative work (Cooper, 2004).

Miami, FL

In 2003, Miami, FL police tested 120 Hispanic males in search of a serial rapist. The rapist was arrested and identified through a separate incident.

Muncie, IN

Police tested 23 men who lived in the neighborhood where two girls had been raped. None was guilty of the crime. The actual offender was arrested on unrelated charges and only later connected to the rapes through a DNA test.

Charlottesville, VA

Since 1997, there have been six attacks linked to a serial rapist in Charlottesville, VA. 197 African-American men have been asked to submit DNA samples. Of those that have been questioned, 187 have complied. In response to community objection and pressure from University of Virginia officials, the criteria used for selecting suspects

for testing has been significantly narrowed. Once an individual has been excluded, their DNA is either returned or destroyed (Blackwell, 2004; ACLU raises, 2003; Glod, 2004).

Omaha, NE

In searching for a serial rapist responsible for the assault of 4 women in Omaha, NE, Omaha police have been granted a warrant to conduct a DNA sweep on at least 36 African-American utility workers from the Omaha Public Power District (Cooper, 2004).

TABLE ONE

Municipality	Year	Type of Crime	# of Samples	Race/Ethnicity	Outcome
Los Angeles, CA	1986/1999	murder	186	undefined	unsolved
Wichita, KS	1987	serial murderer	200	undefined	unsolved
Costa Mesa, CA	1988	murder	113	undefined	unsolved
San Diego, CA	1990	murder of 6	800+	African-American	identified by other means
Ann Arbor, MI	1994	serial rapist	160	African-American	identified by other means
Miami, FL	1994	murder of 6 prostitutes	2,300	undefined	identified by other means
Oklahoma City, OK	1996/2001	single incident of abduction, rape, murder	200	undefined	DNA by other means
Costa Mesa, CA	1997/2001	rape, murder	188	undefined	unsolved
Prince George's County, MD	1998	single incident rape and murder	400	sample based on employment at hospital	unsolved

Lawrence, MA	1998	sexual assault of nursing home resident	25	based on employment	solve through the DNA sweep
Philadelphia	1999	serial rapist/murderer	not reported	undefined	unsolved
Simi Valley, CA	2001	serial rapist	500	undefined	solved through other means
Kearney, NE	2002	serial rapist	75	white males	solved through other means
Baton Rouge, LA	2002	serial murderer/rapist	1,200	white men based on forensic profile and type of auto ownership	identified through other means
Muncie, IN	2003	two rapes	23	undefined	identified by other means
Miami, FL	2003	serial rapist	120	Hispanic	identified by other means
Charlottesville, VA	2004	serial rapist	197	African- American	unsolved
Omaha, NE	2004	serial rapist	36?	African-American	unsolved

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