Forensic DNA databases expansion

Agenda

• Background
• Problems
• Recommendations
• Promising models
Social Justice Concerns

- Reproduces and exacerbates existing inequalities and unfairness in current system
- Disproportionate criminalization and surveillance of communities of color
- Erosion of civil liberties and a presumption of guilt
- Expanding uses and collection are creating unsafe backlogs
DNA collection and analysis

COLLECTION

- Forensic sample
- Offender sample
- Blood, semen, saliva, urine
- Hair, teeth, bone
- Tissue

ANALYSIS

- Isolate sample
- Process DNA
- Interpret results
- Specimen identifier
- Agency locator
- Name of lab tech
DNA storage

Profile

STORAGE

Combined DNA Index System (CODIS)
Local, State, Federal

Index: Convicted Offender
Index: Arrestee
Index: Forensic (Crime Scene)

Compare profiles

blood stain

Bob
Sue
John
Lisa

Profile

STORAGE

Combined DNA Index System (CODIS)
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Compare profiles

blood stain

Bob
Sue
John
Lisa
From the Convicted to the Suspicious

• Convicted of sex offenses or homicide (CA.1989)
• Convicted of violent felonies
• Convicted of any felony (Prop. 69: Nov. 2004)
• Convicted of misdemeanor
• Arrested for sex offenses and homicide
• Arrested for violent felonies
• Arrested for any felony (Prop. 69: Jan. 1, 2009)
• Detained Immigrants (2009)
• Arrested for anything (federal 2009)
• Universal databank?
Expansion: Arrestees
CODIS is Growing Fast

Total Profiles in CODIS

- Offender Profiles:
  - 2000: 460,365
  - 2007: 5,070,473
  - 2010: 7,833,009
  - Oct 2011: 10,269,778

- Forensic Profiles:
  - 2000: 22,484
  - 2007: 194,785
  - 2010: 302,002
  - Oct 2011: 399,071

http://www.fbi.gov/hq/lab/codis/clickmap.htm
What’s the problem?

DNA databases are: unfair, fallible, violating civil liberties, backlogged

**COLLECTION**
- Racial profiling
- Detainees
- Arre stees
- DNA dragnets
- Abandoned DNA

**ANALYSIS**
- Contamination
- False matches
- Coincidental matches
- Familial searches
- Fraud

**STORAGE**
- No independent review
- Personal information
- Genetic surveillance
- Future arrests
- Growing backlog
DNA databases are unfair

Reflect racial disparities in criminal justice system

Figure 1: US Rates of Adult Drug Arrests by Race, 1980 - 2007
(rates calculated per 100,000 residents of each race)

DNA databases are fallible

Mistakes happen

Lazaro Soto Lusson faced life in jail and was incarcerated for over a year before it was discovered that the Las Vegas police crime lab had switched his DNA sample with that of his cellmate.

Josiah Sutton spent nearly five years in jail for a rape he did not commit. His conviction rested almost entirely on a DNA test performed and erroneously interpreted and reported by a Houston Crime Lab analyst.
DNA databases violate civil liberties

**Presumption of innocence → presumption of future guilt**

**Lifetime of Genetic Surveillance**
- Hard to remove, even if innocent
- Higher likelihood of being arrested in the future
- Every Monday profiles are compared against new crimes

**DNA contains personal information**
- Ancestry
- Predisposition to disease
- Predisposition to mental illness, addiction, criminality?
- Predictor behavior??

**Presumption of innocence → presumption of future guilt**
DNA databases violate civil liberties

**Being in the U.S. unlawfully**

Is a civil offense, not a crime

Most undocumented immigrants are not criminals

U.S. citizens routinely caught in immigration raids.
# Backlog

## Increasing categories = increasing backlog

### Severity of the Problem

Nationally, 350,000 samples from murder and rape cases remain untested.

Backlog due to new laws requiring DNA collection from people convicted of or arrested for nonviolent crimes

### Impact

Kelly Greene’s rapist had committed an earlier rape but his DNA processing was backlogged for 2 years, leaving him free to rape her

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Disturbing Trends

Utilization of DNA databases is growing

Familial Searching

Expands database search to include family members

Leads to investigation and potential harassment of previously convicted people no longer committing crimes and their families

Spit and Acquit

In Orange County defendants charged with low-level offenses released if they provide DNA sample -- possession of heroin, cocaine, petty theft and driving with a suspended license
## Promising Models

<table>
<thead>
<tr>
<th>State</th>
<th>Model Description</th>
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<tbody>
<tr>
<td><strong>California</strong></td>
<td>Stringent rules for using familial searching – major violent crime, ongoing threat to public safety, exhausted all other leads. A committee evaluates the request. But, not codified into law.</td>
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<tr>
<td><strong>Virginia &amp; Texas</strong></td>
<td>Created independent commissions to oversee forensic laboratories.</td>
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<tr>
<td><strong>New York</strong></td>
<td>Created an independent oversight board to regulate forensic laboratories, set standards for accreditation and investigate cases of neglect or misconduct.</td>
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Recommendations

- Destroy all DNA samples after DNA profile is created
- Automatically expunge samples and profiles of innocent people
- Limit and prioritize the use of databases to only violent crime cases
- Independent and transparent oversight of all DNA labs
- Limit familial searching to major violent crimes that threaten public safety, and only when other leads are exhausted
Conclusion

- DNA forensics and databases are important tools for public safety, but...
- Must be actively vigilant against the presumption of guilt and wide-spread surveillance and criminalization
- We must ensure fairness, efficiency and safety, for everyone
- Not just about technology, but about fairness and justice
Thank You!