



COMMONWEALTH of VIRGINIA

DEPARTMENT OF FORENSIC SCIENCE

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POLICY RELATING TO ACCEPTANCE OF CASES FOR PERFORMANCE OF FAMILIAL DNA SEARCHING

Background

The Virginia Department of Forensic Science (“DFS”) has the capability to perform a Familial Search of DNA profiles maintained in the Virginia DNA data bank. The application of familial DNA searching may result in the provision of investigative information to law enforcement officials in unsolved cases in which other investigative leads have been exhausted.

A familial search is a deliberate search of the Virginia DNA data bank for biologically-related relatives (siblings, parents, and children) of a contributor of an evidentiary profile. This search is performed with specialized software designed and validated for such purpose. The information that may develop from a familial search and ultimately be provided to law enforcement will be the name or names of an individual or individuals in Virginia’s DNA data bank who may be related to the person whose DNA was identified on crime scene evidence.

The process associated with familial DNA searching requires special DNA testing and, possibly, a law enforcement investigation of the potential relative. Accordingly, DFS’s policy on case acceptance for this process was developed taking into consideration both privacy concerns and agency resources, recognizing that it may provide information useful for identifying the perpetrator of a violent crime against a person, thus preventing further victimization.

Pursuant to its authority under §§ 9.1-1100 and 9.1-1101 of the *Code of Virginia*, and by request of the Secretary of Public Safety pursuant to § 2.2-200 of the *Code of Virginia*, the Department establishes the Policy that follows as its policy relating to the acceptance of cases appropriate for the performance of familial DNA searching.

Virginia’s DNA data bank, first established in 1989, currently consists of (i) a database of DNA profiles developed from samples provided by persons convicted of certain criminal offenses, (ii) a database of DNA profiles developed from samples provided by persons arrested for the commission or attempted commission of certain violent felonies or other specified crimes, (iii) a database of DNA profiles from deceased victims, (iv), a database of DNA profiles from unidentified human remains, (v) a database of DNA profiles from missing persons, (vi) a database of DNA profiles from individuals who are registered with the Virginia Sex Offender and Crimes Against Minors Registry and (vii) a database of DNA profiles developed from crime scene evidence. The databases together form the Virginia DNA data bank.

A match is determined if a profile in the data bank is essentially the same as the profile identified on crime scene evidence. If the crime scene profile and a profile in the database are not an exact match but bear a strong similarity, it is possible that the source of the crime scene profile and the individual who provided the data bank sample are related. With advances in DNA technology, lineage DNA analyses can now be conducted by DFS to provide additional information as to the likelihood that two individuals may be related.

Policy

A familial search of the convicted offender and arrestee indices of the Virginia DNA data bank, using special search software designed and validated as effective and accurate for this purpose, may be conducted at the direction of the Director of the Virginia Department of Forensic Science in a case in which all of the following criteria are satisfied:

1. the request for the familial DNA search in a particular case is made by the chief law enforcement officer of the investigating law enforcement agency;
2. the case involves an active investigation of an unsolved violent crime against a person;
3. other investigative leads have been exhausted and critical public safety concerns remain;
4. prior analysis of crime scene evidence has yielded a single-source DNA profile(s) or a deduced single source profile from a DNA mixture which when traditionally searched against other data bases at the state or national level has not developed any useful results;
5. the evidence exhibits a full DNA profile (partial DNA typing results will be considered on a case by case basis);
6. the Director of DFS, the DFS Biology Program Manager, the requesting chief law enforcement officer, the Commonwealth's Attorney for the investigating jurisdiction, and any other personnel deemed necessary shall have conferred regarding the request, the case criteria, and the use of any search results; and
7. the chief law enforcement officer of the investigating law enforcement agency and the Commonwealth's Attorney for the investigating jurisdiction shall agree in writing that the aforementioned criteria have been satisfied and commit to further investigation if potentially related individuals are identified.

If all case criteria are satisfied, the Director shall approve the investigating agency's request that a familial search of the Virginia DNA data bank be performed. The search will be conducted in conformance with departmental scientific protocols.