



U.S. Representative • 9<sup>TH</sup> CD, New York • Brooklyn-Queens

# ANTHONY D. WEINER

Report

## **DNA JUSTICE: Cases Solved - At Last**

---

**Presented by  
Congressman Anthony D. Weiner**

During the 1990s there was a sea change in the way that we solve crimes in the United States, a change that could be summed up in three letters: DNA. Recognized as the most significant new identification tool since the fingerprint, DNA has enabled investigators to take something as simple as a cigarette butt at a crime scene and solve a case that would have previously gone unsolved.

Unfortunately, the potential impact of DNA remains largely underutilized, because we simply have not made the necessary investments to ensure that all DNA evidence is being analyzed. According to a survey by the Bureau of Justice Statistics, in 2001, 81% of DNA crime laboratories reported DNA analyses backlogs. And perhaps even more distressing, a 1998 survey estimated the number of unanalyzed rape kits nationwide at 180,000.

Nobody knows the impact of our failure to analyze DNA evidence better than New York City. In 1999, it was reported that 16,000 rape kits were sitting unanalyzed in a warehouse in Queens waiting for analysis. That's 16,000 New York women who went to the emergency room and went through a medical exam, assuming that biological evidence collected would be examined and used to arrest and prosecute the perpetrator. But for years, that evidence was never analyzed, and subsequently, these women never received justice or closure.

Fortunately, New York City stepped up to the plate to address the problem like no city had ever done, committing \$12 million in local funds to analyze the rape kits. The results have been remarkable.

- 12,000 rape kits analyzed.
- 154 cold cases solved.
- 202 rape cases linked to other crimes.

This is a remarkable story, but the fact remains that there's more work to be done.

Other cities and states have not come forth with the same resources to analyze their backlogged evidence and as a result tens of thousands of crime victims are still waiting for justice. Hopefully, other jurisdictions will look at New York's example and make a similar dedication to analyzing their evidence. But more important, the federal government must commit to providing all of the necessary funding to ensure that we finally fulfill the potential of DNA evidence and deliver justice to those victims who have already waited far too long.

### **History of New York City's Rape Kit Backlog**

As of January 1999, New York City reported a backlog of 16,000 unanalyzed rape kits, which were being stored in a series of walk-in freezers in a warehouse in Queens. Rape kits are parcels of biological evidence which are collected from a rape victim to obtain genetic material of the suspected perpetrator. Some of the evidence in these freezers was from sexual assaults dating back to 1988.

In September of 2000, Mayor Giuliani announced that the City was allocating \$12 million to pay three private laboratories to analyze the evidence. Since the testing began, the City has been analyzing an estimated 625 rape kits a month. Approximately 3,850 kits remain within the Department to be sent for analysis.

Since January 1999, all sexual assault evidence kits have been delivered directly to the New York City Office of the Chief Medical Examiner (OCME) to be analyzed. The OCME is responsible for the complete analysis and uploading of DNA into the national Combined DNA Index System (CODIS). The OCME reports there is no backlog on these kits at the present time.

### **Results from the City's Backlog Elimination Efforts**

As of October 2002, the City had sent out about 12,000 backlogged rape kits to private labs for analysis. As of October 2002, it is estimated that the remaining backlog is 3,850 kits.

At their current rate, it is estimated that all 16,000 of the backlogged evidence kits will have been analyzed by April 2003.

Once these kits are analyzed, the DNA evidence is checked against the 97,000 convicted offender samples in New York State's Database and the 1.1 million offender profiles in the National DNA Index System, which is maintained by the FBI and contains samples from across the country, to try to identify the perpetrator. The DNA evidence from the rape kits is also checked against other crime scene evidence in the New York and national databases to see if the rape is linked to any other crimes.

The resulting hits are as follows:

154 offender matches - These are cases that are matched against individuals who have been convicted of other designated crimes and uploaded into either the New York or national offender database. In plainer terms, these 154 offender matches represent 154 cold rape cases, where the perpetrator was identified by the DNA evidence contained in the rape kit.

206 case-to-case matches -- These are cases where authorities were unable to match the

DNA contained in the rape kit to any profiles in the New York and national offender data banks. However, after checking against the databases of crime scene evidence there is a match -- linking the crimes. Once the crimes are linked, the evidence of the cases may be combined, raising the possibility of crime solving leads.

149 conviction matches - These are cases where a rape kit was tested after prosecutors obtained guilty verdicts at trial, and the DNA contained in the rape kit matched the DNA of the convicted offender. These matches serve as confirmation that prosecutors convicted the right man.

### **Explicative Case Details**

Frank Baylor INDICTED for Rapes, Sodomy, Sexual Abuse - In December of 1991, a 16 year old girl was sodomized on her way to choir practice, in Queens. In October 1992, a 17 year old girl was raped walking home from work, in Queens. In both cases, the victim was dragged to an isolated location and raped at gunpoint. Frank Baylor, who's criminal record spans 3 decades and includes prior rapes, was indicted for both incidents in February after his DNA was found to match that contained in the victim's backlogged rape kits. Investigators believe Baylor may be responsible for approximately 3 dozen rapes in Queens and Nassau counties. He is currently being prosecuted by the Queens District Attorney's Office.

Moussa Balde INDICTED for Rapes, Sodomy - On January 9, 2000, a 22 year old college student was dragged down a driveway and raped while walking home from the subway, in Queens. A 29 year old dance student was raped and sodomized in similar fashion in July of 2001, also in Queens. Moussa Balde was subsequently arrested for a series of burglaries, and his DNA was found to match DNA contained in the rape victims rape kits. He was indicted in January, and is being prosecuted by the Queens District Attorney's Office.

Cesar Bones INDICTED for Rape, Sexual Abuse, Assault - On February 25, 1996, the victim was walking in Queens and listening to her walkman when a man approached her from behind, placed a gun to her head, and dragged her to an alley where she was raped. Cesar Bones was subsequently arrested for an unconnected offense, a DNA sample was submitted to the New York State data bank and found to match that from the February 1996 rape. He is being prosecuted by the Queens District Attorney's Office.

Roland Johnson INDICTED for Rape - During the early morning hours of August 29, 1997, an NYU grad student was attacked from behind while entering her apartment in the village. Her assailant threw her to the floor, raped her, threatened to kill her, and fled. In 2001, Roland Johnson was arrested for grand larceny, a blood sample was taken, uploaded into CODIS, and found to match DNA taken from the August 1997 rape kit. He was indicted in March. His case is being prosecuted by the Manhattan District Attorney's Office.

David Jenkins INDICTED for Rape - On October 2, 1997, a man followed the victim, an au pair living in upper Manhattan, into her building as she returned from grocery shopping, forced his way into her apartment, robbed her, raped her at knife point, threatened to kill her, and fled. David Jenkins was arrested for an unconnected assault in 1998, after which his DNA was found to match that contained in the October 1997 rape kit. He was indicted in February of 2002 for rape in the first degree. His case is being prosecuted by the Manhattan District Attorney's Office.

## **History of Federal Support for Rape Kit Analysis**

In light of the reports of New York City's rape kit backlog, Representative Anthony Weiner introduced the DNA Backlog Elimination Act in October of 1999. This was the first piece of legislation to provide federal funding to help states analyze evidence from backlogged rape kits and crime scene evidence.

The DNA Backlog Elimination Act was later revised and merged with legislation to provide funding to analyze the backlog of convicted offender samples, and was enacted into law as the DNA Analysis Backlog Elimination Act of 2000. This landmark law provided \$125 million over four years for the analysis of rape kits and other crime scene evidence.

The first series of crime scene evidence grants from the 2000 law have just been released, and New York State was awarded a grant for \$4.9 million in September of 2002. This grant will fund evidence testing from more than 3,000 cold cases from across the state. As part of New York State's application, the New York City Police Department and the City's Office of the Chief Medical Examiner will each receive \$471,000.

While New York City has done an outstanding job of addressing its backlog, the fact remains that thousands of unanalyzed rape kits continue to sit on shelves across the country, and additional federal measures are needed. In an effort to build on the 2000 DNA law, a series of bills have been introduced in the 107th Congress, and just as New York City has done more than any other city to address this backlog, New York City's Congressional delegation has led the charge in Washington to tackle this problem.

Representative Weiner has introduced the DNA Sexual Assault Justice Act, which was introduced by Senator Joseph Biden (D-DE) in the Senate, which unanimously approved this bill in September. Rep. Jerrold Nadler has introduced the Rape Kit DNA Analysis Backlog Elimination Act, whose Senate sponsor is Sen. Hillary Clinton (D-NY). And Rep. Carolyn Maloney has introduced the Debbie Smith Act, which has more than 140 cosponsors in the House and is sponsored by Maria Cantwell (D-WA) on the Senate side. These bills would all increase funding for rape kit testing, and some include additional measures such as funding for Sexual Assault Nurse Examiners (SANEs), funding for convicted offender sample analysis, changes in federal law to allow cities to apply directly for casework analysis funding, and federal guidelines for John Doe indictments.

In addition to these proposals, the Department of Justice Authorization bill, which was recently approved by Congress, included an amendment offered by Rep. Weiner to require a Justice Department study of the current rape kit backlog. Estimates of the backlog range from 150,000 to 500,000, and it is believed that once this study is completed and we have an accurate count, it will prompt a swift government response.

Congressman Anthony D. Weiner