



BY FAX  
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October 14, 2015

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Dear District Attorney Moore,

This letter constitutes a request under the Public Records Act of Louisiana, La. Rev. Stat. Ann. § 44:1 et seq., and is submitted on behalf of the Electronic Privacy Information Center ("EPIC") to the East Baton Rouge District Attorney's Office.

EPIC seeks documents concerning the TrueAllele Casework software.

### Background

According to a press report published last week, secret techniques are being used in the criminal justice system to determine guilt or innocence.<sup>1</sup> Proprietary software such as Cybergenetics' TrueAllele technology ("TrueAllele") is being used by law enforcement officials across the nation to automatically analyze and interpret DNA data, and individuals accused of crimes are being denied the ability to ascertain the accuracy of the software's results by examining its source code.

Cybergenetics' website describes TrueAllele as follows:

TrueAllele Casework is a computerized DNA interpretation system that objectively infers genetic profiles from all types of DNA samples. These profiles can then be automatically matched against available references or large databases, producing informative match statistics that are easy to explain and report.

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<sup>1</sup> Rebecca Wexler, *Convicted by Code*, SLATE (Oct. 6, 2015, 12:28 PM), [http://www.slate.com/blogs/future\\_tense/2015/10/06/defendants\\_should\\_be\\_able\\_to\\_inspect\\_software\\_code\\_used\\_in\\_forensics.html](http://www.slate.com/blogs/future_tense/2015/10/06/defendants_should_be_able_to_inspect_software_code_used_in_forensics.html).

TrueAllele Casework is court tested and offers tools for simplified validations and training.<sup>2</sup>

Earlier this year, a similar program used by New Zealand prosecutors was found to have a coding error that provided incorrect likelihood ratio DNA match statistics in approximately 60 cases, including a high profile murder case.<sup>3</sup>

In November 2014, a Louisiana judge admitted as evidence DNA match statistics generated by Cybergenetic's TrueAllele software in a case prosecuted by your Office.<sup>4</sup> Secrecy of the algorithms used to determine guilt or innocence undermines faith in the criminal justice system.

#### Documents Requested:

1. All contracts, proposals, and technical specifications from Cybergenetics regarding the automated DNA-matching program TrueAllele;
2. All audits, assessments, and memoranda regarding the accuracy of TrueAllele; and
3. A copy of the source code and documentation for TrueAllele software used by the East Baton Rouge District Attorney's Office.

#### Duplication Fee Waiver

EPIC requests a waiver of any fees connected with this request. EPIC is an independent non-profit research center in Washington, DC working to protect privacy, freedom of expression, democratic values, and to promote the Public Voice in decisions concerning the future of the Internet. EPIC pursues a wide range of program activities including public education, litigation, and advocacy. EPIC is recognized as a "representative of the news media,"<sup>5</sup> and seeks the records for non-commercial reasons.<sup>6</sup> If our request cannot be sent without cost, then prior to any copying, please notify us with the reasons for the denial and the cost that will be involved.

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<sup>2</sup> Cybergenetics: DNA Casework, <http://www.cybgen.com/systems/casework.shtml> (last visited October 9, 2015).

<sup>3</sup> David Murray, *Queensland authorities confirm 'miscode' affects DNA evidence in criminal cases*, The Courier Mail (March 21, 2015 12:00 AM), <http://www.couriermail.com.au/news/queensland/queensland-authorities-confirm-miscode-affects-dna-evidence-in-criminal-cases/story-fnn8dlfs-1227272252768>.

<sup>4</sup> See Press Release, Cybergenetics, TrueAllele DNA Analysis Prevails in Louisiana Daubert Challenge (Nov. 12, 2014), available at <http://www.cybgen.com/information/press-release/2014/TrueAllele-DNA-Analysis-Prevails-in-Louisiana-Daubert-Challenge/page.shtml>.

<sup>5</sup> *EPIC v. Department of Defense*, 241 F. Supp. 2d 5 (D.D.C. 2003).

<sup>6</sup> *About*, EPIC (2015), <https://epic.org/epic/about.html>.

In Case of Denial

If you deny this request pursuant to La. Rev. Stat. Ann. § 44:34, because the records are not in your custody or control, please answer the following questions in detail:

1. Is there any other public official who has a copy of the requested public record?
2. State the name or names of anyone who has a copy of the requested public record.

Conclusion

Thank you for your consideration of this request. As provided in La. Rev. Stat. Ann. § 44:35(A), I will anticipate your determination on our request within five business days. For questions regarding this request I can be contacted at 617-945-8409 or FOIA@epic.org.

Respectfully Submitted,

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EPIC State Policy Coordinator

John Tran  
EPIC FOIA Counsel  
Coordinator, Open Government Project