



E35 Collecting DNA From Arrestees: An Examination of Policies, Practices, and Implications

Julie Samuels, MPP, Elizabeth H. Davies, BS*, and Dwight B.N. Pope, BA*, Urban Institute, 2100 M St NW, Washington, DC 20037

After attending this presentation, attendees will understand the variations in these laws and how key provisions in laws (e.g., the scope of the qualifying offenses for which samples are collected, the point in a case at which samples are obtained or analyzed, the policy for expunging DNA profile records) have been translated into practice, all of which impact the operations and infrastructures of state crime laboratories and law enforcement agencies. Special attention will be paid to the workload implications of these provisions for state crime laboratories and law enforcement agencies, as well as the impact these provisions have on CODIS.

This presentation will impact the forensic science community by highlighting implementation lessons generated from the experiences of other states and helping states understand the implications of such an expansion on agencies responsible for implementation. Further, the presentation will not only address how such laws impact CODIS, but also how criminal justice stakeholders can begin to measure the effectiveness of collecting DNA at arrest or charging.

As of July 2012, more than half the states and the federal government have enacted laws authorizing DNA collection not only from individuals who are convicted, but also from individuals who are arrested for or charged with certain qualifying offenses. The Urban Institute's Justice Policy Center, with support from the National Institute of Justice has studied the investigative utility of these laws and how they impact the law enforcement agencies and state crime laboratories responsible for their implementation. The study team conducted a thorough review of relevant state laws, interviewed state crime laboratory representatives and various key stakeholders, and collected summary laboratory workload and CODIS data.

While the scope of qualifying offenses varies across states, about half the states collect for all felony offenses. The rest of the states authorize collection from a subset of felony or misdemeanor offenses. The scope of collection not only impacts the volume of samples crime laboratories receive and subsequently analyze (e.g., laboratories, for instance, may need to hire additional personnel), but it also impacts the administrative workload of both law enforcement agencies responsible for collection and laboratories. Further, while laws authorizing the collection of DNA prior to conviction have been referred to as "arrestee" DNA laws, the point at which collection occurs varies widely across states. Most states that have such laws collect DNA as part of the booking procedure. However, others have set additional requirements for collection. In some states collection is not legally authorized until an individual has been formally charged or arraigned, or a judicial determination of probable cause has been issued. Last, the process for initiating the removal – or expungement – of DNA profiles from CODIS upon acquittal or case dismissal varies among states. In general, few laws require the states to automatically carry out an expungement if an individual is eligible, while most laws require that the individual initiate the process.

Because of case attrition from arrest to conviction, the collection of DNA *prior* to conviction typically means that law enforcement is drawing from a larger universe of individuals than if collection only occurred upon conviction. Indeed, based on data collected from states, the total number of samples laboratories have received since implementation typically surpass the volume of samples received annually prior to implementation. However, this growth may be limited in states that bear the burden of expunging profiles. While the number of matches – or hits – between known and forensic profiles have increased over the years as the number of profiles have increased, the attribution of the growth in hits to the laws' expansion is challenging to substantiate.

DNA, CODIS, Arrestee