



Facts About DNA

Statistical Information on the New York State DNA Identification Index (as of May 9, 2006):

- There have been 2,448 DNA matches between criminal offenses and designated offenders, and 7 DNA matches between criminal offenses and offenders who gave DNA under the governor's executive order.
- The State DNA lab has collected 164,974 designated offender samples for analysis and has analyzed 157,266 samples.
- The State DNA Lab has collected 7,759 "subject" samples from parolees, probationers, and persons on temporary release and has analyzed 2,296 samples.
- The backlog of 7,708 designated offender samples and 5,463 subject samples is largely the result of taking samples from all current parolees.
- Approximately 18,000 samples per year are added to the databank, or about 1,500 per month.
- When the cost of chemicals used to process a DNA sample is combined with average cost of personnel and equipment, the overall average cost per sample is approximately \$30.
- If the convicted offender databank were expanded to include all felonies, an additional 12,000 samples would be added to the databank each year, for a total of 30,000 samples per year.
- If the convicted offender databank were expanded to include all crimes, an additional 80,000 samples would be added to the databank each year, for a total of 98,000 samples per year.
- If the databank were expanded to include all crimes, and if the legislation were retroactive to include all those currently under sentence, that would create a backlog of 200,000 samples.
- Significant federal money is now available to pay for the reduction of DNA backlogs. If the convicted offender databank is not expanded soon, New York may lose its opportunity to take advantage of this federal subsidy, as these funds may not be available in the future.

Reasons Not to Destroy Original Convicted Offender DNA Samples:

- When a DNA "hit" is made in which a convicted offender is linked to new crime scene evidence, the first step is to re-test the DNA evidence. The forensic lab retrieves the original convicted offender sample to ensure the identification is correct prior to announcing the hit and making an arrest.
- In a DNA-related case, both the forensic evidence and the convicted offender sample are the underlying evidence. It would be irresponsible, and against the interest of justice, to destroy this evidence.
- Defense counsel may need the evidence for re-testing.
- DNA technology is changing constantly. New technology that further improves the accuracy of DNA identification could require re-examination of existing samples.
- Federal standards require the retention of biological evidence.

- Executive Law § 995-b(3)(c) requires forensic laboratory accreditation to include “quality control and quality assurance protocols,” which could involve random re-testing of DNA samples to ensure the accuracy of generated profiles.

Information on the New York City Medical Examiner’s DNA Laboratory

- Unlike the cost of analyzing a sample from a known individual, it costs approximately \$100 per sample to analyze DNA collected from a rape kit or crime scene. This higher cost is due to the complexities of examining a forensic sample, in which DNA may be combined with other substances and DNA from more than one individual may be present.
- There is no backlog of crime scene samples at the New York City Medical Examiner’s Office.
- When a suspect sample is provided to the Medical Examiner, it is retained until the donor obtains a court order for its expunction under Executive Law § 995-c(9)(b).
- The New York City Medical Examiner has made approximately 75 suspect “hits” on cases other than the ones for which the suspect’s DNA was submitted.
- The New York City Medical Examiner’s DNA laboratory has made matched forensic samples to each other in over 1,000 cases, giving police important clues about perpetrators of multiple crimes, and some of which link suspect samples to forensic samples, definitively identifying perpetrators.
- DNA is being used to solve crimes like burglaries, assaults and robberies in the BioTracks program. So far, 122 non-sexual assault cases have been solved.

Application of Executive Law § 995 to Local Databanks

Executive Law § 995 regulates the use of convicted offender samples, although certain provisions regarding accreditation, expunction of samples, and criminal penalties for unlawful disclosure are applicable to the forensic laboratories. The application of the entirety of § 995 to forensic laboratories could render those databanks inoperable and prevent forensic labs and prosecutors from using DNA at all as an investigative tool.