



**Testimony of David J. Freed  
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**Before the House Judiciary Committee**

**Regarding Senate Bill 150**

**November 12, 2013**

Good Morning Chairman Marsico, Chairman Caltagirone and members of the House Judiciary Committee. My name is David Freed. I am the District Attorney of Cumberland County and President of the Pennsylvania District Attorneys Association. On behalf of the PDAA, I appreciate the opportunity to speak to you today about Senate Bill 150 and the merits of expanding DNA collection. This issue is one that is vitally important to our Association.

DNA has revolutionized the way we investigate, solve, and prosecute crime. It is a critical tool which allows us to identify dangerous perpetrators and prevent future violent crimes. The United States Department of Justice put it best: "DNA can be used to identify criminals with incredible accuracy when biological evidence exists. By the same token, DNA can be used to clear suspects and exonerate persons mistakenly accused or convicted of crimes. In all, DNA technology is increasingly vital to ensuring accuracy and fairness in the criminal justice system."

The PDAA strongly believes arrestee DNA collection would bring more offenders to justice, give closure to victims and their families, and protect the public by preventing future crimes. For all of those reasons, the PDAA strongly supports Senate Bill 150.

### Background

As you know, DNA is contained in each person's cells; it is specific to each individual and remains constant from birth to death. Often, when a crime is committed, the perpetrator inadvertently leaves behind biological material in the form of hair, semen, blood, saliva or skin cells. Law enforcement can collect that material and a DNA testing sample is extracted and analyzed.

That sample is useful for several purposes. First, it can be uploaded into state and national databases that are included in the FBI's Combined DNA Index System (CODIS). That system can compare the sample against those of known criminals. If there is a match – or CODIS "hit" - law enforcement is notified and begins the process of confirming the match.

Even if CODIS cannot identify the source of the DNA, it is capable of matching DNA profiles gathered from separate criminal investigations. This is important because it allows law enforcement to establish a link between seemingly unrelated criminal investigations. For example, in the case of multiple sexual assaults, CODIS may not be able to detect the source of the DNA, but it may be able to confirm that the same DNA is found at each, indicating that the same perpetrator is responsible for multiple crimes.

Although CODIS has aided the investigation of more than 213,500 cases, DNA is useful in investigations even without the use of the CODIS system. If, for example, a sexual assault victim believes she recognizes her perpetrator, investigators can request a search warrant for a sample of the suspect's DNA. The sample could be taken in seconds, by merely swabbing the inside of the suspect's mouth. The DNA from the suspect can then be compared against the

DNA recovered from the victim's body – and the results will quickly confirm or refute the perpetrator's identity.

### Implications of Expanding the DNA Database

Twenty-eight other states and the federal government already have laws requiring the collection of DNA samples of certain offenders at the time of arrest. The rationale behind these laws is clear: arrestee DNA collection is an incredibly valuable crime *solving* and crime *prevention* tool. It enables law enforcement to solve crimes more quickly and prevent future crimes from happening. After all, most convicted felons have lengthy criminal records. The likelihood of catching these repeat offenders increases dramatically if their DNA profiles are entered into CODIS as quickly and as early in their criminal "careers" as possible.

In many states, these laws were passed as a result of specific cases where serial killers and rapists with prior felony arrests could have been identified and apprehended earlier had arrestee testing been permitted. The bottom line is that by including arrestee profiles in CODIS we will apprehend violent criminals before they can strike again.

Arrestee DNA collection will positively impact public safety on several fronts, including:

- **Catching violent repeat offenders more quickly.** Because violent offenders frequently have a history of felony arrests, DNA testing upon the first arrest would aid law enforcement in solving and preventing future crimes. A study presented to the Illinois state legislature in 2005 detailed a case where an inability to obtain a sexual abuse arrestee's DNA in the early 1990s effectively hamstrung law enforcement while the same individual committed eleven murders and one rape before he was finally apprehended five years later.<sup>1</sup>
- **Preventing future violent crimes.** Many of the subsequent murders in this example from Illinois could have been prevented had law enforcement been able to match the DNA sample from the arrest to that from the initial murder. Moreover, because a small percentage of offenders commit an overwhelming proportion of the crime, the benefits of earlier detection and apprehension are enormous. The Denver District Attorney's Office, in its Study on Preventable Crimes, recently analyzed the histories of just five criminals and determined that over fifty separate violent crimes could have been prevented had DNA been taken at the offenders' first arrests.<sup>2</sup>
- **Conserving resources and saving money.** Protracted investigations of violent crime not only entail sizable personnel and equipment costs, they misdirect vital law enforcement

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<sup>1</sup> Chicago's Study on Preventable Crime, completed by the City of Chicago and presented to the Illinois State Legislature in 2005.

<sup>2</sup> Denver's Study on Preventable Crime, completed by the Denver District Attorney's Office.

resources from other public safety needs. A DNA match does not just confirm one lead; it simultaneously disconfirms many others. Apprehending an offender earlier in the process will not only bring justice to his victims and protect the public, it will allow law enforcement to refocus finite resources to other cases.

- **Reducing wrongful convictions.** A wrongful conviction both punishes an innocent person and allows a guilty one to go free, instilling in the victim and the public a false sense of security. Because perpetrators of murders and sexual assaults have likely committed and been arrested for previous crimes, expanding the DNA pool to include felony arrestees would help exonerate the innocent on the front end and prevent investigators from pursuing false leads.

#### Fiscal Implications of DNA Database Expansion

Not only does arrestee DNA collection make the public safer, it can be implemented at no cost to the Commonwealth. And, in fact, it has the potential to *save* the state millions of dollars.

Last year, Congress passed the Katie Sepich Enhanced DNA Collection Act of 2012. In an effort to expand and encourage arrestee DNA collection, this Act authorizes federal funding to states that pass laws implementing arrestee DNA collection. And it's not just a token amount of funding. Rather, up to 100% of implementation costs in the first year may be fully funded by the federal government.

Not only would this program be budget-neutral from inception, it stands to actually save tax dollars by preventing future crime. A recent study conducted by the University of Virginia is incredibly instructive. It found that offenders who submit DNA samples - especially those under age 25 and those with multiple convictions - continue to commit new offenses, but are apprehended at a greater rate than those not in the database. The study found violent offenders whose DNA is entered in a database are 23.4 percent more likely to be convicted of another crime within three years than their unprofiled counterparts. The study concludes that DNA databases reduce crime rates, especially in categories where forensic evidence is likely to be left at the scene – murder, rape, assault and vehicle theft. And considering the economic savings that come with preventing crime, DNA databases are more cost-effective than most other law enforcement tools.<sup>3</sup>

This principle is also illustrated by a study which examined the fiscal effect of arrestee DNA collection in Indiana. Indiana taxpayers spend an average of over \$2,000 for each reported crime

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<sup>3</sup> See *The Effects of DNA Databases on Crime*, Jennifer L. Doleac, Working Paper from the Frank Batten School of Leadership and Public Policy, University of Virginia. <http://www.batten.virginia.edu/content/2013-001-effects-dna-databases-crime-jennifer-doleac-860>

- from the investigation through prosecution. Because criminals are often repeat offenders, each conviction was estimated to prevent 7 to 8 future crimes. Therefore, each conviction yielded the state a potential fiscal benefit of \$15,000. Implementing arrestee DNA legislation would save over \$60 million per year.<sup>4</sup>

In 2005, the City of Chicago undertook a similar study of the impact of arrestee DNA legislation. It examined the criminal histories of eight violent individuals and found that if arrestee DNA collection was in effect, 60 violent crimes, including 53 murders and rapes, could have been prevented.<sup>5</sup> This study is not an anomaly. It is well-known that 70% of American's crime is committed by only 6% of its criminals.<sup>6</sup> Stopping these criminals earlier not only saves money, but lives.

Implementing arrestee DNA legislation in Pennsylvania would have the same effect. Victims and taxpayers will be spared the cost of crimes that are deterred and prevented. The work of law enforcement will be more efficient and more accurate; by focusing on the right suspect sooner, we will save time and resources that would otherwise be spent investigating other leads and suspects. And the more comprehensive our DNA database, the less likely it will be for wrongful convictions to result.

### Conclusion

The bottom line is that Senate Bill 150 is an example of public policy with makes sense, both fiscally and socially. Not only will it save the taxpayers' money, but will also stop preventable crimes and avoidable tragedies.

Thank you for the opportunity to appear before you today. I am happy to answer any questions you might have.

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<sup>4</sup> Siegel, Jay, and Narveson, Susan, "Why Arrestee DNA Legislation Can Save Indiana Taxpayers Over \$60 Million Per Year," 2009.

<sup>5</sup> Chicago's Study on Preventable Crime, completed by the City of Chicago and presented to the Illinois State Legislature in 2005.

<sup>6</sup> James E. Hooper, "Bright Lines, Dark Deeds: Counting Convictions Under the Armed Career Criminal Act," Michical Law Review., Vol. 89 (1991).