Pennsylvania State Police Testimony
House Judiciary Committee
November 12, 2013

Presented by:
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Good morning Chairman Marsico, Chairman Caltagirone and members of the House Judiciary Committee. I am Lt. Colonel Scott Snyder, Deputy Commissioner of Staff for the Pennsylvania State Police. I have with me today Major Mark Schau, Director of the Bureau of Forensic Sciences and Ms. Beth Ann Marne, Director, Forensic DNA Division. Thank you for the opportunity to appear before you today to discuss Senate Bill (SB) 150 and DNA.

The Pennsylvania State Police Bureau of Forensic Services is an American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB) International accredited laboratory system, consisting of six regional forensic laboratories and one DNA laboratory. The primary mission of the Bureau is to serve the criminal justice community and the citizens of the Commonwealth of Pennsylvania by providing the highest quality scientific, technical, and investigative support to law enforcement agencies for the processing of crime-related evidence.

The Forensic DNA Division performs both casework DNA, which are DNA samples that have been submitted by law enforcement in an active criminal investigation, and convicted offender DNA testing of individuals convicted of a felony or specific misdemeanor offense. The Division also has responsibility for administering the State DNA Database and providing DNA records to the FBI for storage and maintenance by Combined DNA Index System (CODIS).

DNA is an increasingly vital component to solving crime. Over the years, there have been great strides in DNA technology that have brought thousands of criminals to justice and exonerated many mistakenly accused or convicted of crimes. Critical to the operation of the DNA laboratory is the efficiency in which DNA samples can be collected, analyzed, and reported.

A number of states have sought to increase the collection requirements from offenders to include only those arrested for certain crimes. Senate Bill 150 seeks to require the collection of samples from those arrested for all felony offenses. On its face, this expansion would seem to lead to an increase in the ability of law enforcement to identify criminals involved in serious crimes, and over time, lead to less of a burden on traditional law enforcement services. However, there are broader questions of whether this process is worthwhile or cost-effective, as this broad approach may not be the best from an efficiency standpoint.

The most significant concern of SB 150 is the lack of a direct funding source for this vast expansion of laboratory services, which will inevitably result in a perpetual funding struggle.

In 2012, the laboratory completed approximately 46,000 total cases. The Forensic DNA Division alone analyzed 20,238 convicted offender samples and 2,472 forensic cases. Senate Bill 150 is estimated to add some 60,000 arrest samples necessitating the hiring of approximately 30 additional personnel and the building or leasing of a new laboratory facility. The reimbursement rate for analyzing forensic

evidence is notoriously low. The PSP estimates only 10% of lab fees are recovered for general casework and only 40% for DNA collection fees from convicted felons. Regardless, collection from those simply arrested for felony charges and not convicted will result in no revenue. Expansion of DNA collection without dedicated funding has in the past, and will inevitably in the future, result in increased backlogs of casework potentially jeopardizing public safety.

While the value of collecting DNA from felony arrestees can certainly be helpful to law enforcement, its value can be overstated. If an arrestee sample is analyzed in a timely fashion and it hits on a past crime, it may help solve that crime, may cause incarceration, and thus prevent a future crime. However, since expungements significantly influence the number of profiles that are retained in the database, the value is realized *only* if a match exists, and *only* if it occurred in the interval between arrest and conviction. In fact, as many as 75% of DNA profiles could be expunged during plea agreements.

The advantage to having the DNA for this short period of time has to be weighed against the significant costs of collection, processing, and potential destruction through expungement - a process that is tedious, time consuming, and costly. Most importantly, destruction of arrestee samples through expungement could hinder investigations by preventing the identification or exoneration of individuals involved in future crimes.

It is logical that *any* expansion of DNA databases may trigger an associated increase in crimes being solved. You undoubtedly have heard of anecdotal cases describing situations in which felonies would have been solved if the police had a suspect's DNA at the time of arrest. However, what is often not mentioned is that the suspect actually committed a number of felonies before being caught and arrested for one. Furthermore, many felons have criminal careers long before committing more egregious crimes like rape, robbery, or murder. Had the police obtained the suspects' DNA earlier for their lower grade of crimes, many of their felony crimes may have been prevented.

The Maryland Governor's Office of Crime Control and Prevention (GOCCP) conducted a study to determine if there are any misdemeanor crimes that are precursors to offenders committing more serious violent crimes in the future. Using the DNA hit database, the criminal histories of all offenders who were convicted as a result of a convicted offender DNA hit were examined for any trends or common convictions of minor misdemeanor crimes amongst the violent offenders early in their criminal careers. A criminal history match was identified on 203 offenders. It is hard to gauge exactly which misdemeanor crimes are precursors to more violent offenses, but theft was the most common conviction (39.5%) among the group.

The Pennsylvania State Police, Bureau of Forensic Services conducted a review to examine the prior criminal history of certain convicted felons whose DNA hit in 2012. In sexual assault cases, in which a hit came from an individual with a prior offense, 64% of those offender's records involved a previous misdemeanor. Approximately half of

those were related to a drug offense and 15% involved a theft-related offense. In robbery or attempted robbery cases in which a hit came from an individual with a prior offense, 84% involved a prior misdemeanor. Of those misdemeanor offenses, drug offenses accounted for 36% and 31% involved theft.

New York State recently amended its statutes to include samples taken from all convicted offenders; it does not collect pre-conviction arrestee samples. Most interesting was the expansion to include those convicted of Petit Larceny. Between 2006 and 2012, this collection effort resulted in 1078 hits, including 57 in homicide cases, 137 in robbery cases, and 238 in sexual assault cases.

The direction of public policy for Pennsylvania as it relates to collection of DNA from offenders is at a crossroads. While initial legal concerns surrounding collection of DNA at time of arrest appear to have been settled on the national level, questions remain about its effectiveness, particularly in light of the administrative costs and burdens associated with pre-conviction collection.

Our laboratories are committed to ensuring a timely analysis and response to criminal casework we receive from the 1,200 police departments we serve, and promptly entering convicted offender DNA samples into the state and national databases. Over the last few years, we have realized backlog reductions by streamlining internal processes. But, most significantly, they were realized by the hiring of additional scientists and significant use of overtime.

If, however, there is desire to expand DNA collection, we recommend a measured approach at this time. Legislation must take into account the funding, personnel, equipment, facilities and implementation time necessary to make the new provisions a reality. Failure to properly plan and fund any new legislation would potentially cripple the existing DNA laboratory system, creating larger backlogs than we experience today and adversely affecting our ability to adequately serve the criminal justice community and the citizens of the Commonwealth.

While the PSP supports the concept of increasing the DNA offender database, we feel there are sufficient reasons to pause and more carefully consider expanding convicted offender laws to misdemeanants. The concept of collection at conviction from individuals earlier in their criminal career for selected crimes such as theft or other "gateway" crimes makes sense to us. It is not only less expensive and more efficient, but more importantly, is consistent with the past expansion of the statute and represents a proactive approach to reducing career criminality.

Thank you for your attention, I will be happy to answer any questions you may have.