

Abstract

This poster discusses a landscape study and root cause analysis that is currently being conducted by the National Institute of Justice's Forensic Technology Center of Excellence (FTCoE) on lawfully owed DNA. The goals of this effort are to:

- identify factors that may result in potential barriers related to the collection, testing, and uploading of arrestee and convicted offender samples.
- identify successful polices and highlight recommendations and suggested best practices related to the collection, testing, and uploading of these samples.

The National Institute of Justice's Forensic DNA Laboratory Efficiency Improvement and Capacity Enhancement Program and the Bureau of Justice Assistance's Sexual Assault Kit Initiative have provided funding opportunities for the collection, submission, and data management of lawfully owed DNA samples to expand the number of samples in CODIS.

Background

The Combined DNA Index System (CODIS) is a powerful tool which supports the criminal justice system through the generation of investigative leads, identification of perpetrators, and linking of multiple cases together thereby identifying serial criminal activity. Although the uploading of DNA profiles from forensic evidentiary samples has always been emphasized and clearly supported, recent research, legislative activities, practitioner discussion, and media reports have identified that the CODIS database is not as consistently populated with the DNA profiles obtained from samples from arrestees and convicted offenders, often termed "lawfully owed DNA" samples, as was commonly assumed. This potentially leads to a limited use of the CODIS system, which may delay the identification of investigative leads, and may cause the failure to link serial offenders and cases together. This may, in turn, negatively impacts the safety of our communities. Although many jurisdictions have policies and standard operating procedures (SOPs) for the collection, testing, and upload of lawfully owed DNA samples in response to legislation, it is possible that gaps in design and overall disconnects in communication and data work flow, may result in the inability to effectively uphold the requests of the legislation.

Objectives

In response to these discoveries, the FTCoE developed a plan of action to conduct a root cause analysis of this issue and assess current practices and policies. The FTCoE aims to identify complicating factors, bring awareness to this issue; recognize promising and effective practices and policies, and ultimately provide recommendations which can be implemented by jurisdictions thereby creating a supportive platform for effective policy and practice.



Study Plan



Phase I

- Review state-specific legislative mandates on the collection and testing of lawfully owed DNA samples
- Group states into similar categories



Phase II

- Review policies and SOPs of state agencies on the collection, testing and data management of samples
- Conduct phone interviews with key stakeholders



Phase III

- Conduct in-person interviews to obtain more information on potential problematic factors and successful agency-specific practices



Phase IV

- Compile and develop recommendations and suggested best practices for similar jurisdictions to implement
- Execute dissemination strategy

Phase I: Overview

Using a comprehensive database on lawfully owed DNA legislation [1], produced by the Rape, Abuse, and Incest National Network (RAINN), the project team assembled relative legislative information of every state in the United States. The states were then grouped by similarity of the following categories:

Type Of Mandated Collection

- Convicted Offender
- Convicted Offender and Arrestee

When Sample Is Collected

- At Booking
- At Arraignment
- Prior to Release
- After Issue of Warrant
- After Preliminary or Grand Jury Hearing

Agency Responsible For Collection

- Dept. of Forensic Sciences/Public Safety
- Arresting Law Enforcement Agency
- Corrections
- State Law Enforcement Agency
- Non-specified Criminal Justice Agency

Agency Responsible For Data Management

- Dept. of Forensic Sciences/Public Safety
- State Crime Laboratories
- State Law Enforcement Agency

Phase II: Approach

State and local agencies from 10 states were contacted to recruit interviewees from state crime laboratories, state law enforcement, and other criminal justice agencies. Of the agencies able to participate, the project team requested current policies and/or SOPs related to lawfully owed DNA to review prior to phone interviews. The team also shared the interview questions with the agencies to better inform and ensure the appropriate representatives were able to participate. Interview questions were developed to specifically explore roles and responsibilities in the collection, testing, and data management of the samples.

Information Requested:

- Level of involvement in the creation of legislation.
- Tracking, communication, and prioritization processes
- Training
- Policies/practices that may need improvement
- Policies/practices that are highly successful

Phase II: Preliminary Findings

Interviews were conducted with representatives from several state district attorney's offices and state crime laboratories. Although, several problematic factors were identified in current policies related to ensuring an accurate sample collection, it is important to note that the interviewees were aware of these factors and provided recommendations that were either in place or being developed to remedy these conditions.

Problematic Factors:

- Manifests do not accompany samples, resulting in no process to ensure that all samples collected are submitted and received.
- Limited inter-agency database communication causes issues with duplicate samples and need for manual notifications of problematic samples.
- DNA collection forms are not properly submitted.

Recommendations:

- Assign interagency liaisons to work with submitting agencies on problematic samples.
- Run routine Negative DNA Reports and check with responsible submitting agencies to ensure all applicable samples have been collected.
- Develop a cloud-based submission database accessible by submitting agencies and crime laboratory.
- Develop training for submitting agency on standardized collection kits and the legal qualifications for collection.
- A legislative modification to clearly allow for the collection of DNA after a "Failure to Collect" event.

Next Steps

Phone interviews with submitting agencies will be conducted to get a comprehensive view of policies related to sample collection. These agencies will include state and local law enforcement agencies and corrections agencies. Additionally, on-site visits will be conducted to further explore issues and solutions with DNA sample collection, submission, tracking, and expungement.

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References: [1] <https://www.rainn.org/public-policy-action>

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