The National Center for Victims of Crime is pleased to provide the slides used in our July 30, 2013 Webinar, “New York State’s DNA Databank: A Powerful Law Enforcement Tool.”

Please be advised that these materials are provided through the generosity of our presenter faculty. All copyright laws apply to the proper use and crediting of these materials.
DNA Stops Crime: The Case for Misdemeanor DNA Collection

Michael C. Green
Executive Deputy Commissioner
New York State Division of Criminal Justice Services
New York State’s DNA Databank

• Began limited operations in 1996, with DNA samples collected from individuals convicted of homicide and certain sex crimes.

• Amended five times to expand the number of crimes that required a DNA sample upon conviction.
Prior to the 2012 Expansion

- DNA samples were taken from individuals convicted of a Penal Law felony or one of 36 Penal Law misdemeanors – only 48 percent of offenders convicted of a Penal Law crime.

- DNA samples were taken from convicted offenders under the Subject Index regulation.
Subject Index Submissions

• Samples are collected:
• Pursuant to a plea agreement;
• As a condition for participation in a state prison temporary release, comprehensive alcohol and substance abuse treatment, or shock incarceration program;
• As a condition of release on parole, post-release supervision, presumptive release, or conditional release on a definite or indeterminate sentence; or
• As a condition of probation or interim probation supervision.
Offenders don’t specialize

- Research shows that offenders who commit serious crimes often also commit minor crimes. For example:
- Petit larceny became an DNA-eligible offense in 2006. Since that time, individuals convicted of that misdemeanor have been linked to 1,078 crimes, including:
  - 457 burglaries
  - 238 sexual assaults
  - 137 robberies
  - 57 homicides
Case Studies
Raymon McGill

- In January 2000, an elderly woman was raped in her home and the perpetrator's DNA was left at the scene.

- Two months later, a woman was raped and murdered in her home and in January 2004, a man was found in his home, beaten and shot to death. DNA at each scene matched the same unknown assailant.

- In March 2005, McGill was convicted of attempted robbery, which required him to provide a DNA sample. That sample linked him to the three unsolved crimes.

- Prior to the attempted robbery, McGill was convicted of two minor crimes: petit larceny in 1999 and misdemeanor drug possession in 2003. Neither required a DNA sample upon conviction.
Raymon McGill

• Had his DNA been collected after the petit larceny conviction, the January 2000 rape could have been quickly solved, and the 2000 and 2004 murders likely would have been prevented.

• The misdemeanor drug possession charge – of which McGill was convicted three months before he killed his second victim in January 2004 – only became DNA eligible with this most recent expansion.

• McGill is serving a prison sentence of 40 years to life.
Francisco Acevedo

- Three women were murdered in Yonkers from 1989 to 1996.

- Evidence was collected at each of the scenes; the three murders were linked. A DNA profile from the crime scenes was entered into the Databank in 2002.

- Seven years later, authorities in Westchester County were notified of a match: Francisco Acevedo was a serial DWI offender who was required to provide a DNA sample as a condition of Parole.

- The sample linked Acevedo to the unsolved murders. In November 2011, a jury deliberated for fewer than five hours before finding him guilty of the three crimes. He is now serving 75 years to life in state prison for the crimes.
Solving Crimes Sooner

• Offenders linked to crimes through the DNA Databank had, on average, committed three offenses for which no DNA sample was required.

• An analysis of DNA Databank hits showed that if all-crimes DNA had been in effect, nearly a quarter of hits to the Databank would have occurred an average of five years earlier, resulting in leads in 47 homicides, 125 sexual assaults and 2,313 other offenses.
Case Studies
Kenneth Washington

- On a day in August 2006, a NYPD officer awoke at 2 a.m. to find an intruder in her bedroom.
- He raped and physically assaulted her, leaving a bloody shirt – and his DNA – at the scene after the brutal attack.
- Kenneth Washington had been convicted of two misdemeanors, including criminal trespass, prior to the rape.
- His DNA was not in the state’s Databank because those misdemeanors were not DNA eligible at the time of his conviction.
Kenneth Washington

• For the next 14 months, the man went on to commit more violent crimes: he sodomized a pregnant woman; ransacked another home, stealing a family’s Christmas presents; and bound and tortured a family during another burglary.

• He was finally linked to those crimes after being required to provide a DNA sample for a low-level assault conviction.

• Had his DNA been collected after the criminal trespass conviction, the individual would have been caught after the violent rape in August 2006.

• He is now serving a 90-year prison sentence for his crimes.
Keith Laster

• In 1995 in Monroe County, an unidentified assailant raped three young girls.

• Rape kits were collected from all three rapes and when tested, identical profiles were obtained from each case.

• A year later, Keith Laster was arrested and convicted of 7th-degree criminal possession of a controlled substance, a misdemeanor.

• In 1997, still at large and unidentified, Laster raped his fourth known victim, a 13-year old.
Keith Laster

• Laster was ultimately arrested in Alabama in 2004.

• His DNA was taken, and matched with the four rapes in New York.

• Misdemeanor drug possession only became DNA eligible with the 2012 expansion.

• It is the most common expansion crime for which DNA is now taken upon conviction (29.8 percent of collections).
Statistics/Outcomes
DNA Databank Statistics

• Through June 30, 2013:

  – 476,932 Unique Offender Profiles – 10 percent more than the year prior.

  – 43,942 Forensic Profiles – 10 percent more than the year prior.
Hits Against Databank by Crime Type

• Through June 30, 2013, there have been a total of 12,947 hits – or investigative leads – against the Databank since its creation

• 88.6 percent of those hits linked offenders to four crime types:
  – Burglary (4,492 hits)
  – Sexual Assault (4,058 hits)
  – Robbery (1,508 hits)
  – Homicide (1,038 hits)
DNA Databank Statistics - Expansion

• From Aug. 1, 2012 through June 30, 2013:
  • 17,545 samples added as a result of expansion crimes.
  • 87.4 percent of those samples – 14,412 – were taken as a result of convictions to 10 crimes, including:
    – Misdemeanor drug possession
    – Criminal contempt
    – Driving while intoxicated
    – Criminal mischief
Hits Against Databank by Crime Type

• Since the Aug. 1, 2012 expansion through June 30, 2013, there have been 216 hits resulting from convictions to expansion crimes.

• Those hits linked individuals to:
  – Burglary (90 hits)
  – Sexual Assault (54 hits)
  – Robbery (17 hits)
  – Larceny (15 hits)
  – Homicide and Assault (13 hits to each crime)
Tracking Outcomes

• At this point, it’s too early to tell the outcomes of those cases – as you know, a DNA hit is only a lead, one that needs to be thoroughly investigated as any other.

• We are working with District Attorneys in the state’s 62 counties to better track outcomes.

• But we know that this law will result in fewer men, women and children being victimized, fewer individuals being wrongly accused and those who commit crime being brought to justice sooner.
2012 Databank Expansion

• Exceptions

• Defense Access

• Safeguards
Exceptions

• Expansion was not retroactive and does not apply to:
  
  – Children involved in Family Court matters
  – Youthful offenders
  – First-time offenders convicted of a specific subsection of Penal Law Section 221.10, sub 1 (fifth-degree marijuana possession/public place).
Defense Access to Testing

• The new law significantly expands defendants’ access to DNA testing and comparison both before and after conviction in appropriate circumstances, as well as to discovery after conviction where innocence is claimed.

• Prior to Trial: Allow defendants in certain criminal cases to obtain DNA testing to demonstrate their innocence.

• After Trial: Now defendants will be able to seek discovery of property and other materials to demonstrate “actual innocence” after their conviction. Such discovery will provide the court with the evidence necessary to reach a proper decision on a defendant’s motion for such relief.
Expungement

• The expungement of DNA records is authorized in New York State law.

• Since the inception of the Databank in 1996, there have been 232 expungement requests, with 183 of those records expunged.
Safeguards

• It is a felony, punishable by up to four years in prison, to intentionally disclose a DNA record, tamper with a DNA sample, or use test results other than those authorized by law.

• The process in which DNA profiles are uploaded, tested and matched to convicted offenders ensures that nothing, other than science, affects the outcome of a match.

• DNA profiles are numerical sequences, unique to each offender; genetic material is not stored in the Databank.
Safeguards

• Names, photographs or criminal history records that correspond to DNA profiles are not maintained in the Databank, and DCJS, the agency confirming the identity once a match has been made, does not have access to the DNA profiles maintained in the Databank.

• Once a DNA match has been made, confirmatory testing is done to ensure its accuracy before local labs and law enforcement personnel are notified.
Questions?
Thank you.

Mike.Green@dcjs.ny.gov or 518-457-1260