



**COLORADO  
DEPARTMENT  
OF PUBLIC SAFETY**

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January 12, 2010

To Members of the Colorado General Assembly

Re: Colorado Department of Public Safety report on behalf of the DNA Working Group

Dear Senators and Representatives:

Pursuant to Section 24-33.5-104.5, CRS, the Department of Public Safety has convened a Working Group to study and make recommendations relative to issues of DNA evidence retention, storage, and DNA identification collection. Senate Bill 09-241 requires a report to include the working group's discussion and recommendations regarding the appropriateness and implementation of SB 09-241.

The most recent Working Group meeting was held on October 6, 2009. The following are topics that were discussed. We offer these for your consideration.

1. Collection of fees began 7/1/09; DNA samples will begin being taken from arrestees on 9/30/10
2. CBI is examining proposed solutions to anticipated problems
  - a. Duplicate DNA samples (arresting agency [ie police department] and booking agency [sheriff's department])
  - b. Establishing a notification system so that when the DA files charges, CBI will know that the DNA sample is to be processed
3. Logistically, CBI will hold all arrestee DNA samples in the Grand Junction CBI Office (sufficient space and personnel)
4. CBI will provide the arrestee DNA collection kits to the law enforcement agencies (it is expected that the kits will cost between \$5 and \$6 each)
5. CBI is working on establishing procedures relative to these DNA samples, to include the storage, communication regarding filing of charges, and testing of samples. Preliminary procedural items have been discussed:
  - a. CBI's website will include an "Arrestee Submission Form", which will be completed by the arresting agency. A barcode will be generated and will be included on the paper copy printed by the arresting agency. All of the information will be downloaded into CBI's yet-to-be developed Arrestee Prelog database.
  - b. The samples will be held in the Grand Junction Office until further notification
  - c. Once CBI is notified that the felony charges have been filed, the actual collection kit will be transported to the CBI Denver Office for testing.
  - d. The collection kit taken from a felony arrestee will be held in the Grand Junction Office for one year. After that year, the sample will be destroyed.
  - e. The DNA sample will need to be matched with other identifying information relative to the offender (fingerprint, SID number, PCN number, arrest number, docket number, etc.)

**Bill Ritter, Jr.**  
GOVERNOR

**Peter A. Weir**  
EXECUTIVE DIRECTOR

Colorado State  
Patrol

Colorado Bureau  
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Division of  
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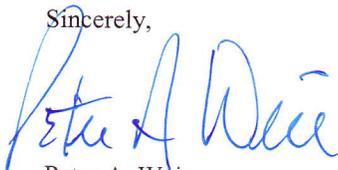
Office of Preparedness,  
Security, and Fire Safety



- f. The Colorado Crime Information System (CCIS) will need to include a field to track the entry of the offender's DNA into the CODIS (combined DNA information system).
6. CBI will also develop procedures to address samples that are unable to be tested and to deal with multiple samples based upon multiple arrests and charges (within the same or different courts)
7. CBI already maintains the database for DNA from convicted offenders. The current legislation does not provide a mechanism to change a DNA sample from "arrestee" to "convicted offender". This will result in duplications within databases. Also, if SB09-241 were to be repealed, it may be necessary to keep separate "arrested" and "convicted" databases. This is an issue that should receive further discussion.
8. CBI suggests amending the language in C.R.S. Section 18-1-412. Currently, this language allows a defendant or his/her attorney to seek a motion from the court to have the DNA database (convicted offenders) searched for possible exculpatory evidence that was not originally tested. An amendment to include a defendant's request should be made to allow database searches that would include both the offender DNA and arrestee DNA information. The DNA Working Group concurred with this recommendation.
9. C.R.S. Section 16-11-102.4(5) states that CBI should furnish DNA testing results to any law enforcement agency upon request. However, there is a conflict between this broad permission and the language of the Federal DNA Identification Act. The federal law applies to the CODIS database, and would limit CBI's ability to release CODIS information. CBI has suggested legislative changes that would more closely align Colorado law with restrictions within the federal system. The DNA Working Group had no objection to moving these suggestions forward, and Maureen Cain, a member of the Working Group, took on this assignment.
10. Additional issues to be discussed by the working group
  - a. The Working Group will reconvene in June or July, 2010, to discuss IT issues relative to the arrestee DNA provisions. The implementation of the upgraded "message switch" (CCIC – CCIS) is scheduled for spring, 2010, and connections will be made to this improved system.
  - b. CBI will need to develop expungement and disposal policies for DNA samples that are not added to the database or for which felony convictions do not result
  - c. Prior to September 30, 2010, the working group will meet to review any potential concerns before DNA begins to be taken from felony arrestees.
  - d. In November, 2010, an additional meeting will take place to review the process that has been put into place.

The Department of Public Safety will continue to convene the Working Group, and will report additional progress and suggestions, along with issues required by statute. Thank you for this opportunity to provide our input.

Sincerely,



Peter A. Weir  
Executive Director  
Colorado Department of Public Safety