

# NEW YORK STATE: Are Police Building a Massive DNA Database?

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Global Research, March 25, 2012  
[AlterNet](#) 25 March 2012

Region: [USA](#)

Theme: [Biotechnology and GMO](#), [Police State & Civil Rights](#)

On March 19, New York governor Andrew Cuomo signed [into law](#) a bill expanding the ability of the police to collect DNA samples from citizens of the state. The state has been able to collect samples from those convicted of certain violent felonies since 1996. The new law, however, permits the the police to get genetic samples from almost anyone convicted of any crime in New York state. People convicted of possessing low quantities of marijuana for the first time are exempt, but otherwise even those convicted of non-violent misdemeanors are subject to the law. Like a lot of “crime control” legislation, the bill passed without a great deal of opposition in the Assembly. But also like a lot of legislation purporting to combat crime, the benefits of the bill are more dubious than its supporters claim and the civil liberties problems posed by the bill were largely ignored.

The collection of DNA evidence creates potential problems for the privacy and dignity of citizens. The collection of genetic material identifying individuals gives the state important information that undeniably creates the potential for abuse. American history is rife with examples of personal information being collected and stored by the state and used for purposes of harassment and blackmail. The harsher punishments given out to Occupy Wall Street protestors who do not agree to have their irises scanned [by the police](#) reminds us that data collected by the state allegedly to identify criminals can also be used to identify (and harass) “political dissidents.” There is also the possibility that creating a class of “usual suspects” can lead to false prosecutions.

Admittedly, DNA evidence is different, and potentially more compatible with civil liberties, than other kinds of state surveillance, and civil libertarians would be unwise to reflexively reject any creation of DNA databases. First, while DNA evidence [can sometimes](#) lead to false positives (the identification of an innocent person as guilty), it is less likely to do so than other common forms of evidence. Second, DNA evidence can be a powerful tool for exonerating the innocent. DNA evidence has [been crucial](#) to many of the cases in which innocent people have been freed from lengthy prison sentences or death row, and it has also been critical in revealing the flaws in eyewitness [identification](#).

So it’s possible for a state DNA database that takes steps to protect the privacy of individuals, makes potentially exonerating DNA evidence available to people convicted of crimes, and ensures the quality of the testing process to both reduce crime and increase protection of civil liberties. Whether the law signed by Cuomo does this is another matter. The New York bill sweeps too widely, and does not do enough to ensure the integrity of the collection and testing process.

As the New York Civil Liberties Union noted in a [statement](#) following the passage of the new legislation, the bill “does nothing to address the increasingly apparent inadequacies of the state’s regulatory oversight of police crime labs, nor does it establish rigorous statewide standards regarding collection, handling and analysis of DNA evidence to catch or prevent error and ensure the integrity of the databank.”

Even more problematically, the law “does too little to ensure that people accused of crimes have access to DNA evidence to prove their innocence.”

Given that the potential of DNA to exonerate the wrongly convicted too often goes [unrealized](#), the failure to ensure that not only the police but also the convicted have access to the data is a problem.

Collecting DNA data is not, in itself, necessarily problematic, and indeed has the potential to increase convictions of the guilty while exonerating the innocent. But the new New York statute is not the right way to go about it. It sweeps an excessively broad number of people into the database with inadequate justification, and doesn’t do enough to address potential abuses of the system. However laudable its goals, the Empire State can achieve them more effectively and with less potential for the violations of civil liberties than it did with this hastily passed legislation.

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