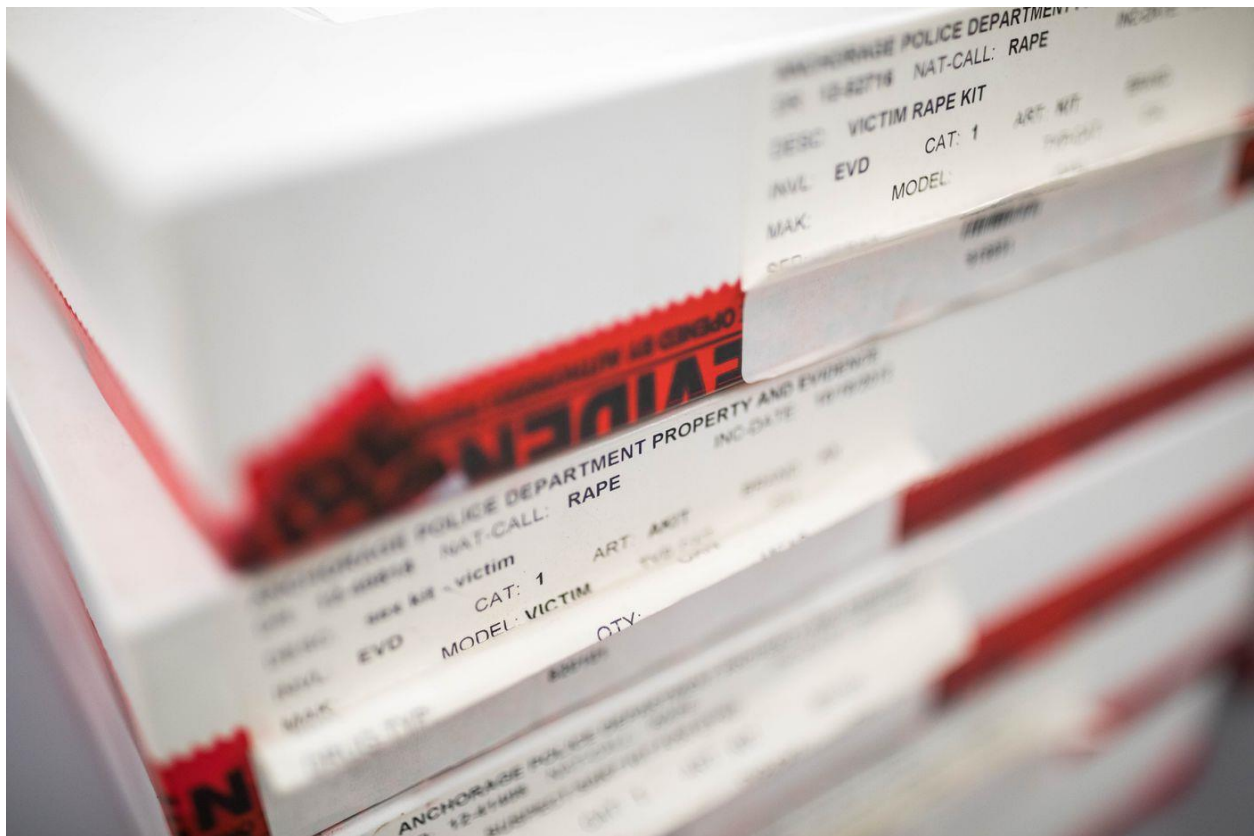


Alaska requires that DNA be collected from people arrested for violent crimes. Many police agencies have ignored that.

By failing to collect those DNA samples, law enforcement has left Alaska's DNA database with crucial gaps, allowing at least one serial rapist to go undetected.

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Rape kits stacked in the Alaska State Crime Lab in 2019. Though Alaska has a backlog of DNA from rape kits like these, law enforcement agencies across the state have failed to collect DNA from people arrested for violent crimes. (Loren Holmes / ADN)

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Second of two parts.

Law enforcement agencies across Alaska are failing to collect DNA from people arrested for violent crimes, violating [a state law](#) passed with [much fanfare](#) in 2007 that was going to put Alaska at the leading edge of solving rape cases.

The Anchorage Daily News and ProPublica found that across the state, some law enforcement agencies are not aware of the law or are not following it. That lapse means the database is potentially missing thousands of people and may explain why the effort to test a backlog of unexamined rape kits for DNA [has yielded only one new prosecution](#).

[Emails obtained](#) by the Daily News and ProPublica show state officials have been aware of the problem since at least December 2017, when the director of the police regulatory board forwarded a request to all police departments.

“The Department of Public Safety has determined that jail personnel are not consistently collecting DNA samples from offenders arrested for ‘qualifying offenses,’ particularly those arrested in rural areas serviced only by contract or municipal jails,” then-Assistant Attorney General John Novak wrote. (The Alaska Police Standards Council sent the memo on behalf of Novak. Officials overseeing the state crime lab, the Department of Law and then-Department of Public Safety Commissioner Walt Monegan also received the email.)

Years later, supervisors at some police departments said they still were unaware of the requirement.

The problem extends to local police and to state troopers, according to [a progress report](#) published this year by the Department of Public Safety on efforts to clear a backlog of sexual assault evidence kits.

The failure was perhaps most striking in the case of accused serial rapist Alphonso Mosley, whose DNA was not submitted to the state crime lab after a qualifying arrest in 2012. In the years that followed, prosecutors say, Mosley committed three more rapes across the city, impregnating one of his victims. Even when he was arrested a second time for domestic violence in 2015, no DNA was collected, contrary to state law.

Alaska was among the first states in the nation to require all suspects arrested for a violent crime such as robbery, domestic violence or rape, even misdemeanor assault, to be swabbed for DNA. The swabs would be sent to the state crime lab, where the DNA would be extracted and could be matched against evidence from cold cases and kept on file to aid in future cases.

Privacy advocates have long fought such laws, saying they infringe on civil liberties and should not be allowed prior to conviction. Alaska lawmakers were unmoved, comparing the swabs to jailhouse mugshots.

“What we have before us is the 21st century version of fingerprints,” Sen. Con Bunde, R-Anchorage, told his colleagues.

[Part 1: After 3 years and \$1.5 million devoted to testing rape kits, Alaska made one new arrest]

Alaska is now one of [at least 31 states](#) that require DNA samples be collected upon arrest or when criminal charges are filed against a person. Many of those states are now discovering that their laws have been ignored and they're missing DNA evidence, in some cases tens of thousands of samples.

The problem of states passing DNA collection laws that are ignored or partially implemented is being discovered on a national scale and is sometimes known as "owed DNA." It involves people arrested, convicted or sentenced for crimes who now "owe" a DNA sample because authorities neglected to collect or process it.

The reason the owed DNA problem is significant is that it inhibits investigators' ability to solve crimes. In recent years, states, including Alaska, have come under pressure to process backlogs of untested sexual assault exam kits, an effort that is undermined if the DNA databases are incomplete.

Researchers in Ohio were among the first to quantify the problem, [reporting in 2019](#) that about 15,300 DNA samples had been missed in Cuyahoga County. [The Tennessee Bureau of Investigation estimates](#) that there are more than 76,000 missing DNA profiles from felony offenders in that state, based on preliminary research.

The attorney general's office in Washington state [calculates](#) that "tens of thousands" of people legally owe the state DNA samples for entry into the FBI's Combined DNA Index System (CODIS).

Angela Williamson, who oversees the Sexual Assault Kit Initiative for the U.S. Bureau of Justice Assistance, said states with larger populations likely have about 50,000 missing samples each.

It's not clear how to fix the problem nationwide, because it's not clear if the laws in various states allow authorities to seek out people released from custody and obtain DNA samples. In some states, including Alaska, officials have started collecting missed samples from those who are still in jail or prison or who are on probation.

Matching DNA doesn't just solve sexual assault cases; it can also deliver justice in burglary and murder cases, save Alaska money on years-long investigations and even exonerate the wrongly accused, said Rachel Lovell, a research assistant professor at Case Western Reserve University who has co-authored studies on owed DNA in Ohio.

When the DNA is finally collected, she said, "there are crimes waiting to be solved."

An accused serial rapist roamed free

In 2019, Anchorage police announced the arrest of a man prosecutors called the "definition of a serious serial rapist," precisely the kind of offender the DNA collection laws were meant to capture.

Alphonso Mosley, 35, is awaiting trial for three alleged sexual assaults committed between 2012 and 2019. (Mosley has pleaded not guilty to the charges. His DNA also linked him to an earlier attack in 2009, but that victim had since died.)

One of Mosley's victims was developmentally disabled, the charges say. One became pregnant with his child. One moved away from Anchorage, prosecutors wrote, "out of fear and shame."

"The victims are already terrified of the defendant because he has freely roamed the streets for years," Assistant District Attorney Betsy Bull wrote in a bail memo describing why Mosley posed a risk to the public. She told the judge Mosley looked for women who had been drinking, offered them alcohol, then pinned them down and assaulted them in the woodsy Town Square Park of downtown Anchorage, in the back of a van and even outside the city jail. (The judge denied the defense's request to reduce his bail.)

[When announcing the indictment](#), the state Department of Law said Mosley's DNA was collected under Alaska's DNA identification law following his arrest in a 2018 case unrelated to the sexual assaults.

But what police and prosecutors didn't say is that Mosley's DNA had also been collected by the state Department of Corrections in 2012 after he assaulted a girlfriend. For reasons that remain unclear, the sample was never received by the state's crime lab, according to the Department of Public Safety. As a result, Mosley's DNA profile was not entered into the FBI's CODIS database.

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The Anchorage Police Department and jailers had another chance to obtain Mosley's DNA and add it to the database in 2015, when he was arrested for punching his girlfriend in the face and pleaded guilty to [domestic violence assault](#). According to the Department of Public Safety, his DNA was not collected after that arrest, which would have been contrary to state law.

If the Alaska system for gathering and processing DNA from arrestees worked as intended, Mosley might have been identified years earlier and before at least two of the sexual assaults. That's because authorities collected the DNA of an unknown man from the victim of the 2009 rape and entered it into CODIS in March 2010. Had Alaska law enforcement officials followed the law and put Mosley's DNA into the system after either the 2012 or 2015 arrests, he would have been immediately flagged as a suspect in the earlier rape.

After police identified Mosley as a suspect in a 2017 rape during their investigation, his DNA was [finally collected and entered into the database](#) in 2018, according to the Department of Public Safety, leading to "hits" on DNA taken from rape victims in 2009 and 2012. The woman in the earliest case had died, but police recommended Mosley be charged with rape for the 2012 and 2017 assaults.

It took the district attorney's office eight months to file the felony charges in court. During that time, he committed another outdoor assault, according to the criminal complaint. A Department of Law spokeswoman said the department cannot comment on specifics of a pending case.

In August 2019, the same month Mosley was charged with the three sexual assaults, the Anchorage Police Department for the first time began training officers to collect DNA upon arrest, 12 years after the Legislature passed the law requiring it to do so.

“We received clarification and guidance last year from the Department of Law with the Municipality of Anchorage and the State of Alaska because the 2007 legislation as written wasn't clear about which agencies, outside of the (state) Department of Public Safety, are authorized to collect DNA samples,” said Anchorage police spokesman MJ Thim. “Today, our officers can and do, if warranted, collect DNA samples at the time of an arrest.”

“It's all news to me”

When Alaska became one of the first seven states to enact a law requiring police to obtain DNA samples upon arrest, Karen Foster provided much of the lobbying muscle.

Foster's daughter, a freckled, baby-faced 18-year-old named Bonnie Craig, had been abducted and raped in Anchorage in 1994, her body found face down in a creek. One of the most high-profile murder cases in Alaska history, in part due to Foster's relentless efforts to keep the investigation in the public eye, the killing went unsolved until a DNA hit 12 years later.

DNA evidence from Craig's body matched the profile of Kenneth Dion, a former Alaskan who was serving time out of state for armed robbery. He'd been in and out of jail over the years since the killing but had never before been a suspect in Craig's death. His DNA was uploaded into the FBI database while he was serving time in New Hampshire. It's unclear why his profile was not uploaded earlier.

Dion had pleaded no contest to violent crimes such as robbery and assault in Alaska in the early 1990s, before the state enacted any DNA collection laws.

“I found out that if they had collected DNA on arrest, they would have known probably within a week, or at least a month, who the killer was,” Foster said in a recent phone interview.

[*\[Read more in the Lawless series\]*](#)

News that a DNA match had solved the Craig case came around the same time the Alaska Legislature was considering an omnibus bill that included the sample-upon-arrest proposal. The state Senate voted unanimously for the bill despite protests from the American Civil Liberties Union and privacy advocates who worried about the government collecting genetic material from people who had not yet been convicted of a crime. (The law calls for DNA samples to be removed in the event the arrestee is found not guilty or the charges are dismissed; the state says it does not know how many DNA profiles have been expunged.)

“Let’s take their DNA when arrested and let’s match them up,” Sen. Bill Wielechowski, D-Anchorage, said at the time. “There are a small percentage of people committing crimes in our communities.”

The state crime lab expected the new law to increase DNA samples by 70% and called for about \$400,000 a year in additional funding to handle the extra work.



The Alaska State Crime Lab. (Loren Holmes / ADN)

Foster, who has since moved out of the state, said she looked into the matter a few years after the law passed and was surprised to see it seemed as if little had changed. She’d been assured by the state that the system was working and the question of owed DNA never came up, she said.

“So it’s all news to me,” Foster said. Perhaps looking at the number of arrests in Alaska, compared with the number of DNA samples collected, she said, might reveal the scope of the problem.

But Department of Public Safety records for the number of DNA samples collected from arrestees each year is incomplete. The available information shows a high of 6,082 samples collected from arrestees in 2009. That number fell by half to 2,830 samples in 2017.

The number of people arrested for crimes against a person each year in Alaska is not readily available, said Barbara Dunham, project attorney for the Alaska Criminal Justice Commission.

But the justice commission does track the number of criminal cases filed each year that involve one or more assault charges, one of the most common types of crimes that would require collection of a DNA sample upon arrest. In some years, including 2017 and 2015, the number of assault cases filed in state court alone exceeds the total number of arrestee samples submitted to the crime lab. (Dunham noted that some offenders are arrested more than once and might already have their DNA on file at the time of their arrest.)

In fact, as the number of reported violent crimes [rose in Alaska](#) between 2013 and 2017, the number of DNA samples sent to the lab fell. It is unclear why.

Meantime, a [2016 audit](#) of the state crime lab found that it had not expanded its services or increased the speed of evidence processing despite its move into a new \$90 million building in 2012.

The Department of Public Safety would not make the state crime lab's sexual assault and CODIS program supervisor, Michelle Collins, available for an interview. The department also denied requests for an interview with Randi Breager, a special assistant to the public safety commissioner who prepared the report that said troopers and police in Alaska are rarely swabbing for arrests.

For now, the overall number of missing DNA samples in Alaska, each representing an opportunity to solve past or future criminal cases, remains unknown.

"We do not have that estimate," Department of Public Safety spokeswoman Megan Peters wrote in an email. The department recently created a working group to address the missing DNA problem, among others, she said.

The group "will be working with multiple departments to collate data to help identify the scope and magnitude of the gaps in collection," she said.

Number of missing samples remains unknown

In Ohio's Cuyahoga County, Lovell's team had no idea how many missing samples they might discover when they began looking at arrests and convictions from 2008 to 2016. A 2016 federal Sexual Assault Kit Initiative [grant](#) funded the research, with [findings published](#) in 2019. By the time the research was complete, they [discovered](#) that more than 15,300 people had been missed or owed DNA.

That's for just two law enforcement agencies, the Cleveland Police Department and county sheriffs, in one county with a population of about 1.24 million. (Alaska's statewide population is 732,000.)

As of January 2019, efforts to swab just 10% of the previously missed samples led Ohio authorities to open dozens of new criminal investigations including into sexual assaults, burglaries and homicides.

“Several rapists have been convicted as a direct result” of tracking down the owed DNA, Lovell said.

Williamson, who heads the Sexual Assault Kit Initiative program, said the Bureau of Justice Assistance considers owed DNA to be phase two of the agency’s efforts to clear rape kit backlogs nationwide.

It’s fantastic that states and cities across the country are testing sexual assault kit evidence for the first time, she said. “But if you know the offenders who are responsible are not in CODIS, you are not going to get justice for the victims.”

As of December, law enforcement agencies and local governments in a dozen states have received \$10.6 million Sexual Assault Kit Initiative grants for tracking down owed DNA. Alaska isn’t one of them.

The state has not applied for one of the grants, the Department of Public Safety said.

Slipping through the cracks

The remoteness and isolation of Alaska makes this a place of escape. Not always in a good way. Some criminals see Alaska as the end of the road, a place to distance themselves from trouble with the law in other states.

Enforcing the DNA collection laws here, and entering those samples in the federal database, could solve crimes elsewhere, Lovell said.

“For Alaska, or any rural jurisdiction, the mobility of many of the individuals, I think, is what’s particularly scary,” she said. “Many people who live in Alaska are not actually from Alaska.”

The state faces law enforcement challenges unlike anywhere else in the United States. As of 2019, about 1 in 3 communities had [no local law enforcement](#) of any kind. State troopers must fly to make arrests in villages across the state that sometimes lack a public safety building or even running water.

Despite the breadth of Alaska’s law on owed DNA, there’s confusion within police departments about who is responsible for collecting it. Some police departments interpreted the law to mean the responsibility to collect DNA upon arrest falls to the state Department of Public Safety, not individual departments. Other smaller departments assumed the Department of Corrections would collect the sample.

People arrested for a qualifying offense also might not be booked into jail and instead appear at an arraignment without submitting a sample.

The Daily News and ProPublica asked police departments across Alaska if their officers obtain DNA swabs upon arrest. Of the 17 that responded, six said they did not.

“I believe that all the DNA collection is done at the correctional center. We only collect when we have a search warrant,” said Soldotna Police Chief Peter Mlynarik. Police in Wrangell and Palmer also said they do not collect DNA at the time of arrest.

In Juneau, Lt. Scott Erickson said that police do not collect DNA at the time of arrest and that he was unaware of the 2007 law.

Asked how the state first discovered the failure to swab some arrestees and inmates, Department of Public Safety spokeswoman Peters said in an email, “This issue has come up a number of times since the statute came into effect through examples and interagency conversations about protocol and policy.”

The one conviction that resulted from Alaska’s three-year, \$1.5 million effort to test 568 rape kits collected by state troopers showed the potential of shelved DNA evidence when combined with samples obtained from suspects by police in the field.

[In that case](#), a Kenai jury found onetime Iditarod musher Carmen Perzechino guilty of raping and kidnapping a woman in his van in 2001. Perzechino’s DNA was in the database because he voluntarily gave a sample to Anchorage police in 2012, when he was arrested for attempting to solicit a prostitute. When the Department of Public Safety recently tested the rape kit from an unsolved 2001 attack, it matched his profile.

Retired state trooper Mike Burkmire investigated the crime, phoning Perzechino last year to confront him about the rape for the first time.

Despite his 25 years in Alaska law enforcement, Burkmire said he had never heard about a state law mandating DNA collection at the time of arrest until he began working as a cold case investigator in 2018.

At a national Sexual Assault Kit Initiative conference in Washington, D.C., Burkmire attended a presentation on owed DNA and saw Alaska listed among the states that collect samples when someone is first taken into custody.

While flying across the state to train police departments on DNA collection over the past two years, Burkmire found that most Alaska cops he spoke to didn’t know about the mandate either.

“I have met two police officers that actually knew the law existed,” Burkmire said, “but none that have ever actually collected a sample upon arrest.”

About this author

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