

HB

49

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FILE

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 49(JUD)
 (H) Publish Date: 3/24/03

Revision Date/Time (Note if correction): _____ Dept. Affected: DPS
 Title Expand DNA database BRU Statewide Support
 Component Criminal Records & ID
 Sponsor Representative Anderson
 Requester _____ Component No. 1190

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*

This bill has no fiscal impact to the Department.

Prepared by: Diane Schenker Phone 907-269-5092
 Division Administrative Services Date/Time 2/11/03 9:50 AM
 Approved by: Commissioner William Tandeske Date 2/11/2003
 Agency Department of Public Safety

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSHB 49(JUD)
 (H) Publish Date: 3/24/03

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
 Title "An Act relating to the DNA identification BRU Criminal Division
registration system: . . ." Component All
 Sponsor Representatives Anderson and Hawker
 Requester House Judiciary Committee Component No. _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type—Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill expands the DNA registry to include samples from all persons who are convicted of a felony or misdemeanor sex offense. It would also include samples of persons 16 years of age or older and adjudicated as a delinquent for an act that would be a felony or misdemeanor sex offense. The bill is retroactive for crimes or delinquent acts committed prior to the effective date of the act, if the person is incarcerated for that conviction or in the custody of DH&SS for that offense on the day the sample is collected.

The Department of Law does not anticipate a fiscal impact from passage of this legislation. Any impact would likely result from increased prosecutions of the crime of refusing to submit to testing, and it is our experience that individuals seldom refuse to submit to DNA testing. We do not expect that broadening the pool of individuals who must submit will increase the incidence of refusal significantly.

Prepared by: Joan M. Kasson Phone (907) 465-5370
 Division: Attorney General's Office Date/Time 2/25/03 1:48 PM
 Approved by: Kathryn Daughetee for Gregg D. Renkes, Attorney General Date 2/25/2003
 Agency: Department of Law

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 3
 Bill Version: CSHB 49(J, D)
 (H) Publish Date: 3/24/03

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title DNA identification registration BRU Legal and Advocacy Services
 Component Public Defender Agency
 Sponsor Reps. Anderson and Hawker
 Requester House Judiciary Component No. 1631

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services	***	***	***	***	***	***
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	***	***	***	***	***	***

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	***	***	***	***	***	***
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	***	***	***	***	***	***

Estimate of any current year (FY2003) cost: ***
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time	***	***	***	***	***	***
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 This bill expands the list of crimes, including some sexual offense misdemeanors and any felony, for which, after conviction or delinquency adjudication, a defendant or minor is required to give a DNA sample. Currently only felony crimes against a person and burglaries are listed.
 The Public Defender Agency operations may be affected by this legislation. It is a class A misdemeanor to refuse to provide a sample on request. The Public Defender Agency is seldom appointed in these types of cases, but this bill expands the circumstance where a sample is required. The Agency currently handles over 3600 adult felonies a year, and an unknown number of misdemeanor sexual offense crimes. With the expansion sought in this bill, the Public Defender Agency may see an increase in appointments to cases charging a person with failure to provide a DNA sample, and an increase in its workload on the underlying case because of the additional penalty of requiring the person to give a DNA sample upon conviction or adjudication. More cases may go to trial as a result of this additional penalty. However, it is not possible to accurately predict the increase in caseload or workload. Therefore, the fiscal impact is indeterminate.

Prepared by: Linda K. Wilson, Deputy Director Phone (907)-334-4416
 Division: Public Defender Agency Date/Time 2/26/03 9:19 AM
 Approved by: Commissioner Mike Miller Date 2/26/2003
 Agency: Department of Administration

Sectional Analysis for CS HB 49(JUD)

Section 1 adopts the following findings:

- DNA is an important tool in criminal investigations;
- expansion of the DNA registration system will greatly assist law enforcement agencies in solving crimes;
- cooperation between state and other criminal justice agencies will help detect repeat offenders and exonerate innocent people;
- the federal government is paying for the costs of the DNA registration system.

Section 2 expands the crime of refusal to submit a DNA sample to persons who refuse a request by an authorized person to provide a DNA sample, and who are required to submit a DNA sample because they must register as a sex offender under AS 12.63.

Section 3 increases the penalty for refusal to submit a DNA sample from a class A misdemeanor (maximum one year incarceration) to a class C felony (maximum five years incarceration).

Section 4 adopts a new crime, Unlawful use of DNA samples, a class C felony. It prohibits a person from misusing both the DNA samples stored in the State Crime Laboratory and the identification data derived from the samples.

Section 5 expands the DNA registration system to include DNA samples from:

- all persons convicted of a crime against a person (AS 11.41);
- all persons convicted of a felony in violation of Title 11, Alaska's criminal code, or a felony in violation of AS 28.35 (DUI and Refusal);
- minors 16 years of age and older who are adjudicated delinquent for acts that would be a crime described above;
- volunteer and anonymous donors;
- persons required to register as sex offenders under AS 12.63;
- crime scene evidence;
- an unidentified person or body part.

Further, it allows tissue samples, in addition to blood and saliva samples, to be collected and analyzed from crime scene evidence and from unidentified persons and body parts.

Section 6 clarifies language addressing the Department of Public Safety's DNA analysis service to law enforcement agencies.

Section 7 adds exoneration of innocent people to the acceptable uses of the DNA registration system.

Section 8 defines "crime against a person."

Section 9 defines "convicted."

Section 10 allows the Department of Public Safety to adopt regulations to help administer the DNA registration system.

Section 11 provides that a person who comes to Alaska from another state under an interstate corrections or probation agreement or compact, and who has been convicted of a crime that is similar to one requiring submission of a DNA sample in Alaska, must submit a DNA sample for inclusion to the system.

Additionally, it clarifies that the Department of Public Safety may not include samples taken from crime victims in the registration system.

Section 12 applies the changes the bill makes in the DNA registration system to persons convicted or adjudicated delinquent for a qualifying offense committed on or after the effective date of the Act, offenses committed before the effective date of the Act if the person is still incarcerated or under supervised parole or probation for the offense, and to all persons required to register as sex offenders.

Section 13 permits the Department of Public Safety to begin adopting regulations immediately; however, the regulations will not take effect before the effective date of the Act.

Section 14 instructs the commissioner of public safety to inform the president of the senate and speaker of the house of representatives if, at any time after the effective date of the Act, the federal government fails to pay the cost of the registration system.

Sections 15 and 16 adopt effective dates.

Alaska State Legislature

House of Representatives



Official Business

State Capitol
Juneau, AK 99801-1182

SPONSOR STATEMENT FOR HB 49 BY: Representative Tom Anderson

TITLE: An Act relating to the DNA identification registration system; and providing for an effective date.

HB 49 will expand the Alaska State Database of DNA samples to include all persons convicted of a crime against a person or any felony under Alaska's criminal code. It would also require the collection of DNA samples from those juveniles adjudicated as a delinquent for these same offenses. Additionally, HB 49 makes provisions for volunteer and anonymous donations. Persons required to register as sex offenders are also required to submit DNA into the database. Further, HB 49 will require all those offenders and minors currently incarcerated or on State supervised parole for felony convictions or certain sexual misdemeanor offenses to provide samples to the Department of Public Safety.

Expanding the state databases to include all convicted offenders would have several benefits:

1. **Solves crimes** – DNA collection from all convicted felons, rather than just sex offenders and perpetrators of serious violent crimes, would result in an increase in the amount of violent crimes solved. Therefore, offenders who are required to submit DNA when convicted of non-violent felonies will be identified as they leave DNA behind at a rape and murder scenes.
2. **Prevents crimes** - Solving a crime -- and solving it quickly -- has a direct effect on preventing additional crimes by the same perpetrator. An offender who is not apprehended in a timely manner remains free to commit more crimes.
3. **Exonerates the innocent** - Increasing the DNA database to those convicted of non-violent offenses would reduce the occurrence of innocent people who are wrongly suspected, arrested and convicted of crimes they did not commit. Two common scenarios exemplify how a larger DNA database protects such innocent people, one where the guilty party is in the database, and secondly, where the innocent party is in the database.
4. **Increases Cost Efficiencies** – According to a study completed by the National Institute of Justice (U.S. Department of Justice) rape is the costliest crime in America with victim costs totaling \$127 billion. The study estimated that when all factors are considered the estimated cost of rape *per victim* is \$87,000. If the average rapist commits eight rapes, but a DNA databank stops the offender half way through his spree, then four rapes are prevented at a savings of \$348,000.

I urge your support for this legislation.
March 29, 2003 – CS HR 49(JUD)

23-LS0132\S

STATE OFFICE
ALASKA PEACE OFFICERS ASSOCIATION

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February 6, 2003

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Representative Tom Anderson
State Capitol
Juneau, AK 99801-1182

Dear Representative Anderson:

On behalf of the Alaska Peace Officers Association (APOA), I would like to thank you for co-introducing House Bill No. 49, an act relating to the DNA identification registration system; and providing for an effective date.

The APOA State Board's Legislative Committee recently reviewed this proposed legislation and decided to unanimously support this bill.

As you are aware the DNA identification registration system has proven itself in the identification of suspects that would have otherwise been undetected. The broadening of the DNA database is not only a positive suspect identification tool for Alaskan law enforcement but also a proven means of helping to solve "cold" cases, where the leads had all but dried up. We believe that this proposed legislation will be of benefit to both the citizens and law enforcement of Alaska.

Please contact the APOA office in Anchorage at 277-0515 if there is anything our organization can do to assist in the passage of this bill.

Sincerely,

Leo J. Brandlen
State President



Alaska Association of Chiefs of Police

February 10, 2003

Honorable Tom Anderson Chair,
House Labor & Commerce Committee
State Capitol Building, Room 432
Juneau, AK 99801-1182

Dear Chairman Anderson:

On behalf of the Alaska Chiefs of Police Association, we encourage you and your colleagues in the State Legislature to support HB 49, expanding the State DNA Database.

We believe that the collection and examination of DNA evidence is the next step in the technological advancement of the art and science of crime investigation. Unfortunately, the potential of DNA identification technology as a crime fighting/solving tool is not being realized due to under funding of forensic laboratories and the limitations on sample collection.

Forensic DNA typing has had a broad, positive impact on the criminal justice system. In recent years, convictions have been obtained that previously would have been impossible. Countless suspects have been eliminated prior to the filing of charges. Old, unsolved criminal cases, as well as new cases, have been solved. Mistaken accused defendants have been freed both before trial and after incarceration. And increasingly, the unidentified remains of crime victims are being identified.

HB 49's expansion of DNA collection to all felons and the specific misdemeanor sex crimes will increase the samples in the statewide database and lead to an increase in the number of unsolved crimes both old and new. HB 49 will additionally help to make police investigation more efficient and more accurate, helping both law enforcement and crime victims.

We encourage both you and your colleagues to support this very important piece of legislation.

Sincerely,

Chief Thomas Clemons
President Alaska Chiefs of Police Association

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Anchorage Daily News

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Local rape rates are increasing

ANCHORAGE: City had 5th highest number of reported sexual assaults in nation.

By Tataboline Brant
Anchorage Daily News

(Published: February 15, 2003)

Anchorage had the fifth highest rate of reported rape among 274 metropolitan areas in the United States, according to 2001 statistics released Friday by city officials.

The numbers are based on the FBI's 2001 Uniform Crime Reports and were condensed into a report by the SAFE City Program, part of the Municipality's Department of Health and Human Services.

Anchorage police presented the statistics, along with some of their own, on Thursday to the Alaska Native Women's Sexual Assault Committee, a volunteer task force that meets monthly. The committee had asked police to make the presentation, said committee member Karen Lee, program director for the Alaska Native Justice Center.

What they heard was alarming, she said: "We were surprised to see such a dramatic increase over the last three years."

According to Anchorage police statistics, the number of reported rapes in Anchorage per 100,000 population has been on the rise in recent years after dropping to 59.5 in 1999. It climbed to 75.2 in 2000 and 81.3 in 2001. That put the city fifth behind Rapid City, S.D.; Bremerton, Wash.; Panama City, Fla.; and Benton Harbor, Mich., according to SAFE City statistics.

The 2002 rate is not yet tabulated, but police told committee members they expect another increase, Lee and others said.

Rape is not a new problem in Alaska. Since 1976, the state has ranked in the top five states in the nation for the highest rate of reported rape per capita, according to SAFE City statistics. For 19 out of the last 26 years -- including 2001 -- Alaska ranked highest in the nation, SAFE's numbers show.

Anchorage Assemblywoman Anna Fairclough, executive director of STAR, Standing Together Against Rape, said she wasn't surprised that the state ranked highest in 2001.

"We've always known at STAR that we have held the No. 1 spot," she said.

What was alarming were the statistics about Anchorage, Fairclough said. When you look at the overall rate for major crimes in the city -- homicide, rape, burglary, aggravated assault, theft, robbery -- Anchorage looks like a pretty safe place to live compared with the rest of the nation. But look at the rape category alone and Anchorage "just screeches to the top," she said.

Fairclough did not know what may have caused the rate of reported rapes in Anchorage to rise in

the last few years: "It would be a guess as to why."

Committee members Lee and Denise Morris, president of the Alaska Native Justice Center, said they too could only speculate on why the numbers have gone up.

The Alaska Native Women's Sexual Assault Committee was formed in 1999, after police released statistics indicating that more than 50 percent of the reported cases of sexual assault occurring in Anchorage had been reported by Alaska Native women, Morris said. Perhaps the committee had something to do with why the rates rose in 2000 and 2001, Lee said. "What happens sometimes when you bring awareness is people feel empowered to report," she said. "But that's only one scenario."

The committee will continue to study the issue and try to come up with solutions, said Morris, the committee chair. The task force already does "meet and greet" campaigns about three times a year, targeting Alaska Native women, Morris said. It hands out literature about how to stay safe.

"I think there's more that could be done," Morris said.

SAFE City wants to do a comprehensive study on sexual assaults in Anchorage, said Rhonda Grove, a statistical analyst with the program.

Funding for the study has not yet been secured, but officials already have plans to develop the methods for the study in the next year, she said.

The study would likely provide demographic information about rape victims and offenders and more details about the actual assaults, among other things, she said, which could be used to fight the problem.

Reporter Tataboline Brant can be reached at tbrant@adn.com and 907-257-4321.

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Frontiersman

If shoes could talk

By Naomi Klouda-Frontiersman

Investigators at crime scenes have long wished shoes could talk. Or T-shirts, a bed, a dog, or a tree.

New technology called STR Typing makes that wish come true to some degree, with resolution in elusive criminal cases more possible than ever before. DNA testing ferrets clues from the smallest T-shirt stain, the slightest hint left on a tree. It can travel back through time and analyze old evidence in new ways.

A program called CODIS links the state crime lab to a national database that looks for matching evidence between unsolved crimes and searches through DNA profiles on convicted offenders. Chris Beheim, acting director of the Alaska Department of Public Safety's crime detection lab, seemed pleased as he explained the extent of what mysteries can now be solved thanks to the technology. Eleven matches in two years have led to new information that moved cold cases forward.

"That's impressive," Beheim said, "considering Alaska's database isn't very old and does not contain that many DNA samples as yet." Alaska has 3,300 listings in its data banks while Virginia's, for example, currently contains 183,000 entries.

One case this spring involved an Anchorage woman abducted and brought to the Valley where she was sexually assaulted. She scratched her attacker, and blood in stains from her clothing was linked to DNA evidence gathered in two previous rape cases. A suspect was then arrested.

In another case, an Alaska woman was raped and murdered in 1995 by a man who fled in a van. It remained unsolved until DNA information in Alaska's database matched with DNA taken from a man convicted of murder in North Carolina. He was serving his sentence in jail and was required to give a DNA sample, which was then entered into the national database. But first police there contacted Alaska authorities to inquire about him because his van bore Alaska license plates.

"These guys travel around, and the database is connecting them from state to state," Beheim said. "Every year, the success rate for solving cases increases incrementally as more data is entered."

The database works on an oft-seen fact of police investigation: Criminals repeat their criminal acts. For instance, evidence left at a crime scene in Alaska matches with a similar act in Oregon because that's where the criminal went next.

Results help victims and families of crime victims find closure. Certain crimes also haunt those in law enforcement long after the case has to be set aside unsolved. Beheim's memory is long from 25 years at the crime lab, and he said he hopes to solve cases that continue to disturb him.

Using this DNA evidence is also cost efficient, saving investigators time by eliminating certain suspects, saving courts time by offering solid proof. And it's a deterrent, Beheim believes, because if convicted felons in crimes against people have to give a DNA sample, they aren't as likely to re-offend.

Under current state laws, those convicted of certain felony crimes must give a DNA sample, usually a mouth swab, which is then entered into the database. Suspects' DNA cannot be legally added to the data base unless legislators change the law, though states like Virginia that enter such data have high success rates for finding matches.

This year, the Alaska Legislature expanded the law to include those convicted of burglary. And rather than focus on entering suspects' information, Beheim would like to see the law extend to all felony crimes, such as drug-related offenses, because, nationally, states that have done so found significant matches in the traditionally "victimless" crimes with offenses that left victims.

It's

elementary

Alaska State Trooper detectives Sgt. Dallas Massie and Leonard Wallner agree the new technology helps. It confirms their findings that criminals don't alter their behavior by much, and that some come to Alaska and repeat a crime done in the Lower 48. "It's another tool we can use, and it can confirm the findings of an investigation," Massie said.

Yet, investigations still require the same mind and foot work of Sherlock Holmes' days. As a team gathers physical evidence that can be forwarded to the lab, the investigators continue to try to answer traditional questions when they work an investigation: Who, what, why, when and how?

"An event occurs and we look at the facts associated with that event. We view those facts, try to evaluate who could have done that and why," Massie said. "You have a starting point -- a body is found in the woods -- and you back-track to find out the victimology, who were his family and friends?"

Investigations work backwards through a chronology, and the best way to understand all possible answers is still the old-fashioned way: Discussion. Massie and Wallner talk a lot to each other when they have a complicated case, going on a team concept that one person might notice a detail that another missed. "One person might be good at interviewing, another person might be better at gathering evidence from a crime scene." Wallner said.

The pairing up of investigators remains a strong tradition even in this

technologically-dependent era. Massie and Wallner have a long history together. They first met when Massie wrote Wallner a traffic ticket for speeding 15 years ago. Wallner wasn't a trooper yet, and he ended up beating the ticket at Palmer Court before Magistrate David Zwink. "It was our [Wallner and his wife's] wedding anniversary," Wallner said, by way of explanation.

"I still don't know how you beat that ticket," Massie chided.

Wallner joined the troopers in 1991, then the investigations unit in 1994. Massie became his mentor, he said. "I guess we kind of clicked. He has a lot of knowledge after 22 years on the job."

Other officers, such as Sgt. Dennis Ponder, also were instrumental as Wallner's partners through some of the most serious cases the department handled through the years.

They have no fancy rituals for evaluating crimes. There's no brandy-drinking or cigar chewing as they ponder the clues. It's just an older officer and a younger one often joined with other officers talking through a case.

Intuitive skills play as much a role in the process as any developed skill, the investigators said. They are reluctant to talk about current cases, but can give illustrations from the past. In the 1983 Robert Hansen serial murder case, for instance, certain "facts" didn't make sense. B-Detachment troopers were brought into the case after a woman's body was discovered buried near the Knik River. Massie, as a young trooper, located a spent shell casing not far from the body that eventually matched with Hansen's gun. But, early on, it was difficult to get investigation lined up for an arrest, he said.

"You don't want tunnel vision.. You have to think outside the box," Massie said. In the Hansen case, which eventually linked him to more than 20 murders, most of whom had been strippers or prostitutes, the case was slow going even though the clues were there. A woman running from Hansen after being stripped and handcuffed so he could place her in his airplane was a sure witness, yet her ordeal wasn't initially linked by the Anchorage Police Department to the other missing women.

A trooper fish and wildlife officer, knowing Hansen was a suspect, decided to follow him every time he flew. That was one of the major breaks in the case, Massie said.

"You look into peoples' past, their past behavior. Don't listen to what they say so much as how they say it. Look at what they do," Massie said. "Hansen had been a suspect in an arson case. He stole a chainsaw from Fred Meyer even though he owned a bakery. It didn't make sense that he would steal it. There's a reason why, but it doesn't make sense."

Based on that kind of a reaction to known details, tenacity and the desire to keep investigating a case, resolutions are found. Hansen was convicted of murdering most of the women, and is serving a life sentence at Spring Creek in Seward.

Wasilla Police Chief Don Savage, who has 30 years in law enforcement mostly with the troopers and as former Captain of B Detachment, calls the intuitive side of investigation

an "art" that compliments the science.

Science's new ability to firmly link suspects with crime scenes still depends on the intrinsic efforts of investigators like Massie and Wallner. It's all fine and well for the shoe to now be able to communicate clues; the officer is still the one who visualizes who wore the shoe and what happened to him or her.

Raising

the benchmark

One of the problems with newer, more refined DNA definitions that track suspects within one-in-one quintillionth of a match, may be that a "benchmark" is raised, Savage said. In the past, good police work gathering circumstantial and physical evidence led to solid convictions without the aid of highly developed science.

Current cases often are delayed by "lab issues," which means officers are waiting for the crime lab to confirm or dispute their findings. In most cases, the body of evidence points in a certain direction, yet an arrest is delayed because the new benchmark for proof is raised, Savage said.

After more than a century of sleuth work, fibers, hair and fingerprints still qualify within a body of evidence, he said. Prior to DNA breakthroughs, the fingerprint provided the best clue.

During the 1870s, the British surgeon Dr. Henry Faulds, published an article in "Nature" on one of the first discussions of fingerprints as a means for individual identification. He was credited for taking the first fingerprint from a greasy print left on an alcohol bottle.

A policeman in Argentina in 1891, working on fingerprint classifications developed by Charles Darwin's cousin Sr. Francis Galton, arrested a woman for murdering her two sons after proving she did it based on a bloody fingerprint. Mark Twain in 1883 made a fingerprint proof for a crime in "Life on the Mississippi," and it was rumored that Jack the Ripper investigators collected fingerprints from his casualties.

For the next 100 years, fingerprinting would become the most fool-proof method for matching a criminal to a crime scene. Today, Beheim said it remains a solid tool.

In Alaska, the kind of DNA typing called DQ Alpha led to Polymarker typing before STR typing was brought online in 1999. Advances in DNA technology have revolutionized the art of identifying biological evidence at the scene of a crime. But it wasn't until STR Typing that DNA data bases become possible today.

"DNA isn't the only thing we do," Beheim said. "Shoe prints, fire arms evidence, crime scene reconstruction, and fingerprints are still what solve a lot of cases."

"Technology is fabulous," Savage said. "You can look around the country and see how it has freed innocent people, too. These are wonderful advancements, but it doesn't replace good investigation, it only supplements and adds credibility."

Interviewing skills are probably the most important asset in collecting information, Savage believes. The criminal justice system still relies on what people see and hear. How a good interviewer extracts that information remains the same, he said.

In the 1980s, catching a child sex abuser largely depended on confessions. Even today, there is not likely to be physical evidence to firmly link in such cases, Savage said. And so the art of being an analytical, independent thinker, relating well to people in a successful interview, remain timeless tools. Officers good at interviewing people are generally compassionate, he said.

Staying in

the boundaries.

For the future, law enforcement can continue to look at nationally standardized databases expanded even further. England's goal is to get the entire active criminal population in their database.

Beheim said.

In America, it's probably a reasonable goal to "take one step at a time," Beheim said. "We have privacy concerns. The civil libertarians are afraid the data will be misused. We need to make sure that the DNA

information is only used for law enforcement identifications and impose strict penalties if those are violated."

Names are not used in the data profiles, only case numbers. To find a named linked to a DNA entry, one would need to go to the case number. CODIS is a secure system that requires national security clearance, Beheim said, and there are only two computer stations in Alaska, both in the crime lab.

Alaska was 10th in the nation to upload STR profiles into the national data base. We beat out California, New York and Washington in entering the shared pool of information. Recently Washington and Oregon expanded to include all felony conviction cases. Florida has perhaps shown the most success in solving crimes from databanks, Beheim said, while Virginia also has an impressive record of more than doubling its number of matches between evidence and criminals each year.

Virginia has seen 920 "hits" or matches this year so far, Beheim said. Of those, they estimated that 86 percent would have been missed if they had not been able to include those convicted in all felony categories.

"We are doing some serious work here on DNA data," Beheim said. "The next step is to consider adding all felony convictions."

That would be a political decision, Wallner said. "It is an exciting tool. I've developed cases that I thought I had a good idea of who the bad guy was, and when DNA was tested, it exonerated the suspect. It works both ways, and that's the way it should be."



WHY HAVE OFFENDER DNA DATABASES?

Texas Legislature expands use of DNA testing

Cox News Service
June 8, 2001 Friday

Byline: Laylan Copelin
Dateline: AUSTIN, Texas

Christopher Ted Dye raped three Austin women in their homes before the police first arrested him in 1993 for burglarizing a house. Unaware they had apprehended a serial rapist, authorities released the 34-year-old former auto mechanic on bail.

Over the next six months, Dye raped four more women before being arrested a second time for burglarizing an apartment. He served two months in jail. For two more years, as the police searched for the MoPac rapist, nicknamed that because the attacks occurred near the expressway, Dye raped seven more women before finally being caught.

When Austin Police Chief Stan Knee began championing DNA testing at the time of arrest, he had to look no further than Dye, the city's most notorious serial rapist. **"He's the perfect example of how we could have saved 11 (rape) victims."** Testing Dye upon his first burglary arrest could have led to a DNA match from his first three rapes.

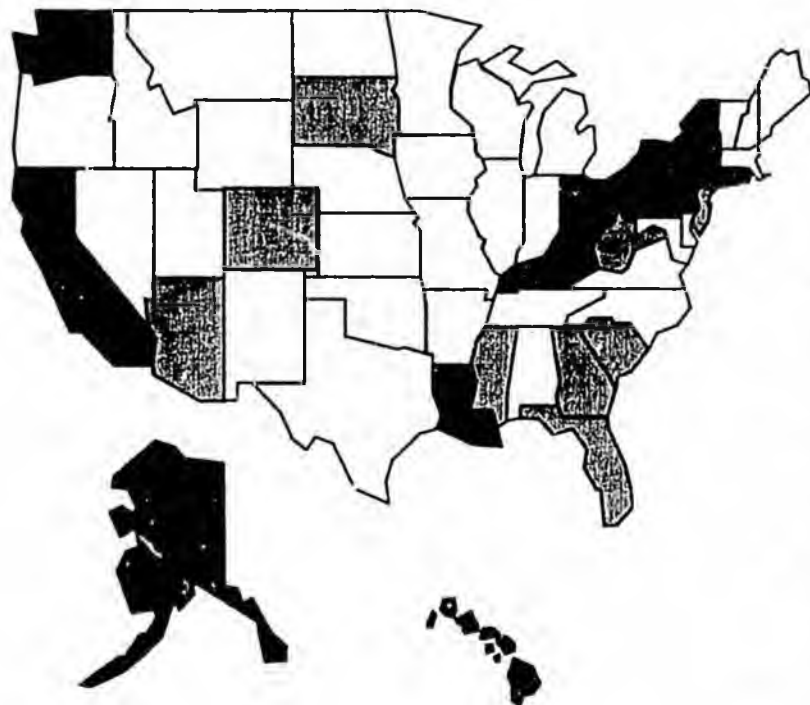


DNA DATABASE EXPANSION (2000)

In 2000, 19 states introduced legislation to expand the offenders from whom DNA samples are required

PASSED (8)

- Arizona -- Most non-drug related felonies
- Colorado -- Most non-drug related felonies
- Florida -- Burglary
- Georgia -- All felony convictions
- New Jersey -- Several violent felonies
- South Carolina -- Most non-drug related felonies
- South Dakota -- Most non-drug related felonies
- West Virginia -- Most non-drug related felonies



DID NOT PASS (11)

- Alaska -- Burglary
- California -- All felony convictions
- Connecticut-- Fingerprintable arrests
- Hawaii -- Most violent crimes
- Kentucky -- Most violent crimes
- Mississippi -- All felony convictions
- New York -- All misdemeanor and felony convictions
- Pennsylvania -- Most violent crimes
- Ohio -- Most non-drug related felonies
- Rhode Island -- Breaking and entering & assault
- Washington -- All felony convictions



2001 Expansion Bills

Alaska	SB 99 - Halford & Murkowski	Burglary	Passed
Arkansas	HB 1376 - Hunt	Burglary	Passed
	HB 1259 - Verkamp	All Felons	Failed
Arizona	SB 1171 - Smith	All Felons	Failed
California	AB 673 - Migden	Burglary, robbery, arson, carjacking	Pending
Colorado	HB 1130 - Grossman	All Felons	Passed
Connecticut	SB 89 - Brien	Violent felonies, burglary	Failed
Delaware	HB 4 - Ewing	All Felons	Pending
Florida	SB 366 - Villalobos & Silver	All Felons	Passed
Hawaii	Multiple bills	All Felons	Failed
Iowa	HF 254 - Baudler	All Felons	Failed
Illinois	HB 452 - Lyons	Stalking, concealment of a homicide	Passed
Indiana	SB 316 - Alexa	Probationers & parolees	Passed
Kansas	SB 263 - Felciano	Burglary, misdemeanor sex offenses	Passed
Kentucky	HB 33 - Younts	All Felons	Failed
Maine	LD 1565 - Carr	Class A,B & C crimes	Passed
Michigan	Multiple bills	All Felons	Passed

2001 Expansion Bills

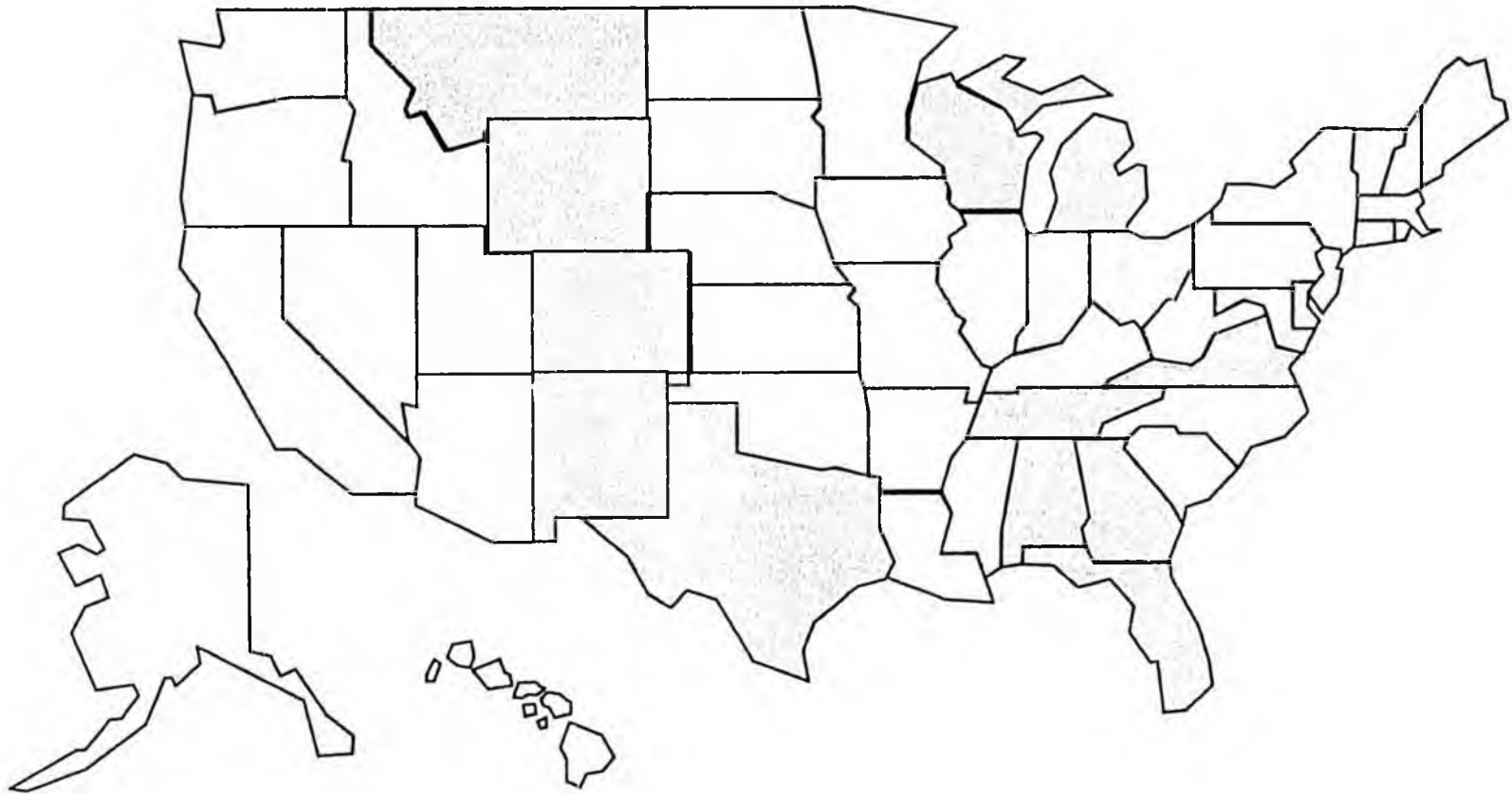


Minnesota	Multiple bills	All Felons	Failed
Mississippi	Multiple bills	All Felons	Failed
Missouri	HB 835 - Boucher	All Felons	Failed
Montana	HB 359 - Clark	All Felons	Passed
North Carolina	HB 1127 - Blust	All Felons	Pending
North Dakota	HB 1208 - Klemin	Violent felons, burglary	Passed
New Hampshire	SB 30 - Hollingworth	Murder, assault, arson, rob.	Pending
New Jersey	SB 2236 - Bucco	Robbery, carjacking, criminal restraint	Pending
Nevada	AB 489 - Gustavson	A, B & C felonies	Pending
New York	Multiple bills	All Arrestees	Pending
Oklahoma	SB 753 - Wilkerson	Robbery, burglary, kidnap, maiming	Passed
Oregon	SB 920 - Minnis	All Felons	Pending
Pennsylvania	SB 259 - Dent	Burglary	Pending
Rhode Island	SB 92 - Brien	Crimes of violence	Passed
South Carolina	SB 492 - McConnell	2nd degree burglary	Passed
Texas	HB 588 - Garcia	All Felons	Passed
	SB 638 - Barrientos	Indictments for certain crimes	Passed
Washington	HB 1335 - Miloscia	All Felons	Failed
West Virginia	HB 2456 - Pino	Arson, burglary, forgery	Failed

STATE DNA DATABASE STATUTES

All Felonies Requirements (June 2001)

12 States require DNA samples for all felonies





WHY THE CHANGE?

/// Citizen Demand / Public Safety

- ▶ Consider the following US Department of Justice statistics:
 - The average rapist commits 8-12 sexual assaults.
 - Of 108,580 persons released from prisons in 11 States in 1983, an estimated 62.5% were rearrested for a felony or serious misdemeanor within 3 years, 46.8% were reconvicted, and 41.4% returned to prison or jail.





BUT HOW DO WE PAY FOR IT?

FEDERAL SOURCES

- **DNA Backlog Elimination Act (HR 4640)**
 - ▶ \$170 Million authorized over 4 years, \$65 Million for 2002
 - ▶ Partially funded President's proposed budget, fully funded in "Sense of Senate" budget language.

- **National Forensic Science Improvement Act (S. 3045)**
 - ▶ aka, NFSIA or "Paul Coverdell" Act
 - ▶ Over \$450 Million over 6 years, \$85 Million for 2002.
 - ▶ Not funded in President's proposed budget, fully funded in "Sense of Senate" budget language.





BUT HOW DO WE PAY FOR IT?

STATE SOURCES

- Offender-pays requirements
- Funds earmarked for DNA analysis
 - ▶ *New York Governor Pataki commits \$11.8 million (backlog and new legislation).*
 - ▶ *California Governor Gray Davis commits \$5.5 million (backlog).*
 - ▶ *Florida Governor Bush commits \$2.1 million (burglaries).*

OTHER CONSIDERATIONS

- Use of private labs for analysis --
“outsourcing”

WHY SHOULD LEGISLATORS EXPAND OFFENDER DNA DATABASES?

- **Catch Criminals** – Collecting DNA from all convicted felons, rather than only sex offenders and serious violent felons, would result in a staggering amount of additional crimes being solved. Statistics show that as many as half of all violent criminals have non-violent criminal prior convictions. *If a state takes DNA from violent offenders only, the likelihood of solving a particular rape or murder are reduced by 85%.*
- **Exonerate the Innocent** - Increasing the DNA database to include non-violent offenders will reduce the occurrence of innocent people who are wrongly suspected, arrested and convicted of crimes they did not commit. With strong DNA laws, law enforcement can use the DNA database to eliminate potential suspects before their lives are forever altered.
- **Protect Public Safety** - Solving a crime – and solving it quickly – has a direct effect on preventing additional crimes by the same perpetrator. An offender who is not apprehended in a timely manner remains free to commit more crimes. When considering that as *many as half* of all violent criminals have prior convictions for non-violent crimes, it becomes evident that expanding DNA databases to include all convicted felons would significantly decrease the number and frequency of rapes and other violent crimes.

The proven worth of DNA databases:

- ✓ In England, where DNA is collected from all felons and misdemeanants, the DNA database is used to solve over 700 crimes per week.
- ✓ Virginia's DNA database, the most mature all felons system in the country, averaged at least one "cold hit" per day in 2002. In one month of 2002, the Virginia database made 68 "cold hits."
"Cold Hit" - when DNA from a crime scene is matched on the DNA database to a convicted offender's profile.
- ✓ "Approximately 85% of hits would have been missed if the databank were limited to only violent offenders."
Paul Ferrara, Director, Virginia Division of Forensic Science.
- ✓ 52% of Florida offenders linked to sexual assaults and homicides by DNA matches have had prior burglary convictions (non violent offense).

Congress begins to respond:

- ✓ The federal DNA Backlog Elimination Act authorizes \$170 million in federal funding for state DNA programs. Congress is now considering increasing this amount to over \$300 million.

State Legislatures begin to respond:

- ✓ In 2002, 27 states introduced over 80 bills to expand the state offender DNA database to include more felons.
- ✓ Of these states, 20 introduced bills to expand the DNA database to include all convicted felons.

**FOR MORE INFORMATION, OR ASSISTANCE IN
DRAFTING DNA DATABASE EXPANSION
LEGISLATION FOR YOUR STATE, CONTACT:**

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lhurst@smithallinglane.com

OR VISIT:

<http://DNAresource.com>

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Posted October 15, 2002



Criminal Justice Program

NCSL LegisBrief

Briefing Papers On the Important Issues of the Day

Fighting Crime with DNA

By Kelly Fox and Donna Lyons

October 2002

Volume 10, Number 42

DNA technology has become one of the most critical tools in solving crimes. And its application in criminal justice is advancing far more rapidly than any other forensic science.

State Action

States are expanding their policies to use stored DNA samples to identify and eliminate suspects. Every state has enacted legislation to establish DNA databases and require collection of samples from sex offenders and other violent criminals. Twenty-two states have expanded that requirement to include collection from all convicted felons; seven did so this year. Thirty states currently require collection of a biological sample from certain juvenile offenders and some include people found not guilty by reason of mental illness or insanity.

"Hits" on Unsolved Crimes. State DNA databases, along with the National DNA Index System maintained by the FBI, are all part of a coordinated system of local, state and national databases known as the Combined DNA Index System. Originated as an FBI pilot project in 1990, it consists of a "forensic" index, containing DNA profiles from crime scene evidence. It also has an "offender" index, with DNA profiles of convicted offenders. By electronically comparing DNA profiles from those indexes, analysts often are able to obtain "hits" (or matches) between DNA found at crime scenes and DNA profiles of convicted offenders. Analysts also can link multiple, unsolved crimes to a single perpetrator by comparing profiles in the forensic database. More than 1,110 forensic "hits" and more than 2,350 offender "hits" had been reported to the FBI as of March 2002, demonstrating the power of DNA as a crime-fighting tool.

Three states have enacted laws to extend DNA sampling to specific arrestees. Louisiana passed the first such law in 1997, authorizing DNA testing of those arrested for sex offenses and other violent crimes. The state is still working to coordinate state and federal funding to increase the capacity and capability of its crime laboratory. A Texas law passed in 2001 allows collection of post-indictment DNA samples from those charged with certain sexual assaults and kidnapping. This past session, Virginia lawmakers approved a measure requiring a DNA sample from every person arrested for a violent felony. These laws also contain provisions for the destruction and removal of an offender's DNA profile from the database in the event of an acquittal or dismissal of charges. Although courts have upheld taking and storing genetic samples from convicted offenders, such policies applied to arrestees raise yet unanswered legal questions.

The capability of crime laboratories to analyze DNA often has lagged behind expansion of policies to collect samples. As a result, many states have significant backlogs. Crime labs also contain unanalyzed forensic evidence from unsolved crimes, which, if appropriately reviewed and analyzed, might now be solved through DNA databases.

Federal Action

Congress enacted the DNA Analysis Backlog Elimination Act in 2001, which authorized the appropriation of \$170 million to crime laboratories for contracts with the private sector or in-house DNA analysis. By the end of this year, more than \$80 million will have been distributed to state crime laboratories through programs at the National Institute of Justice. Congress is currently considering new legislation to expand funding to states for DNA backlog reduction, as well as other legislation that would provide funds to help police departments analyze unprocessed evidence collected in rape and other cases with no suspects. These efforts, together with those at state and local levels, seek to eliminate backlogs, and maximize the potential of DNA as the criminal justice system's premier investigatory tool of the 21st century.

States that require all felons to submit DNA sample for convicted offender databases (as of July 1, 2002)

Alabama
Arizona
Colorado
Florida
Georgia
Iowa
Illinois
Kansas
Maine
Maryland
Michigan
Montana
New Mexico

Oklahoma 1
Oregon
Tennessee
Texas 2
Virginia
Utah
Washington
Wisconsin
Wyoming

1 Law requires plan adding qualifying felonies incrementally with all felony offenses included by 2006.

2 Contingent upon federal funding.

Source: NCSL, 2002.

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National Commission on the Future of DNA Evidence. What Every Law Enforcement Officer Should Know About DNA Evidence. BC 000614. Washington, D.C., 1999.

Steadman, Greg W. Survey of DNA Crime Laboratories, 2001. Washington, D.C.: Bureau of Justice Statistics, January 2002.

Contacts for More Information

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The National Institute of Justice
Investigative and Forensic Sciences Division
www.ojp.usdoj.gov/nij/scienctech/invest.htm

National Commission on the Future of DNA Evidence
www.ojp.usdoj.gov/nij/dna/welcome



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STATE DNA DATABASE LAWS
QUALIFYING OFFENSES
(As of October 2002)

STATE	Sex Crimes	Murder	All Violent Crimes	Burglary	Drug Crimes	All Felons	Juveniles	Some Misdemeanors	Arrestees/Suspects	Jailed Offenders	Community Corrections	Retroactive Jail & Prison	Retroactive Probation & Parole
ALABAMA	✓	✓	✓	✓	✓	✓		✓		✓	✓	✓	
ALASKA	✓	✓	✓	✓			✓						
ARIZONA	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	
ARKANSAS	✓	✓	✓	✓			✓	✓		✓	✓	✓	
CALIFORNIA	✓	✓	✓	✓			✓		✓	✓	✓	✓	✓
COLORADO	✓	✓	✓	✓	✓	✓	✓						
CONNECTICUT	✓									✓	✓		
DELAWARE	✓	✓	✓	✓	✓	✓				✓	✓		
FLORIDA	✓	✓	✓	✓	✓	✓	✓			✓	✓	✓	✓
GEORGIA	✓	✓	✓	✓	✓	✓	✓				✓		
HAWAII	✓	✓								✓	✓	✓	✓
IDAHO	✓	✓	✓				✓			✓	✓	✓	✓
ILLINOIS	✓	✓	✓	✓	✓	✓	✓			✓	✓	✓	
INDIANA	✓	✓	✓	✓						✓	✓	✓	
IOWA	✓	✓	✓	✓	✓	✓		✓		✓	✓		
KANSAS	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓
KENTUCKY	✓	✓		✓			✓			✓	✓		
LOUISIANA	✓	✓					✓		✓	✓	✓	✓	
MAINE	✓	✓	✓	✓	✓	✓		✓		✓		✓	
MARYLAND	✓	✓	✓	✓	✓	✓		✓		✓	✓	✓	
MASSACHUSETTS	✓	✓	✓	✓			✓			✓	✓		

STATE	Sex Crimes	Murder	All Violent Crimes	Burglary	Drug Crimes	All Felons	Juveniles	Some Misdemeanors	Arrestees / Suspects	Jailed Offenders	Community Corrections	Retroactive Jail & Prison	Retroactive Probation & Parole
MICHIGAN	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	
MINNESOTA	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓		
MISSISSIPPI	✓									✓	✓	✓	
MISSOURI	✓	✓								✓	✓	✓	✓
MONTANA	✓	✓	✓	✓	✓	✓	✓			✓	✓		
NEBRASKA	✓	✓	✓							✓	✓		
NEVADA	✓	✓	✓	✓	✓			✓		✓	✓		
NEW HAMPSHIRE	✓	✓	✓	✓			✓			✓	✓	✓	✓
NEW JERSEY	✓	✓	✓				✓			✓	✓	✓	
NEW MEXICO	✓	✓	✓	✓	✓	✓	✓			✓	✓	✓	✓
NEW YORK	✓	✓	✓	✓	✓					✓	✓		
NORTH CAROLINA	✓	✓	✓							✓	✓	✓	
NORTH DAKOTA	✓	✓	✓							✓	✓	✓	
OHIO	✓	✓	✓	✓			✓	✓		✓	✓	✓	✓
OKLAHOMA	✓	✓	✓	✓						✓	✓	✓	
OREGON	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓
PENNSYLVANIA	✓	✓	✓	✓			✓	✓		✓	✓	✓	
RHODE ISLAND	✓	✓	✓	✓	✓					✓	✓		
SOUTH CAROLINA	✓	✓	✓	✓	✓		✓			✓	✓	✓	✓
SOUTH DAKOTA	✓	✓	✓	✓						✓	✓	✓	✓
TENNESSEE	✓	✓	✓	✓	✓	✓	✓			✓	✓		
TEXAS	✓	✓	✓	✓	✓	✓	✓		✓				
UTAH	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓

STATE	Sex Crimes	Murder	All Violent Crimes	Burglary	Drug Crimes	All Felons	Juveniles	Some Misdemeanors	Arrestees / Suspects	Jailed Offenders	Community Corrections	Retroactive Jail & Prison	Retroactive Probation & Parole
VERMONT	✓	✓	✓	✓				✓		✓	✓	✓	✓
VIRGINIA	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓
WASHINGTON	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	
WEST VIRGINIA	✓	✓	✓	✓	✓			✓		✓	✓		
WISCONSIN	✓	✓	✓	✓	✓	✓	✓			✓	✓		
WYOMING	✓	✓	✓	✓	✓	✓	✓			✓	✓	✓	✓
TOTALS	50	48	44	41	28	23	30	22	4	46	46	31	17