

March 13, 2013

Senator Tick Segerblom - Chair
Senator Ruben J. Kihuen - Vice Chair
Nevada Senate Judiciary Committee
401 S. Carson Street, Room 2121
Carson City, NV 89701-4747

RE: SB 243

Dear Senators,

We are very concerned about SB 243, which would allow for the first time the taking of DNA from anyone arrested but not yet convicted of a crime in Nevada. We stand in strong opposition to such proposed legislation.

The use of DNA profiling in criminal investigations can bring benefits to society by helping to solve crimes and assisting in the enforcement of the rule of law. However, DNA farming and warehousing of the sort contemplated by SB 243 is not a legitimate means of identifying individuals who have been merely arrested but nether tried nor convicted of any crime.

Unlike other established forms of identification such as fingerprints, DNA analysis is a window into an individual's medical history as well as that of his or her entire family. Furthermore it can be used for a wider range of surveillance methods, from familial searches to DNA-based profiling. Considering the immense weight of information that DNA carries, allowing law enforcement to seize an individual's DNA for no other reason than that they are under arrest, is to give law enforcement uncontrolled and unprecedented access to the private lives of the citizens of Nevada.

This is particularly so, because the collection of DNA upon arrest is not for the purposes of identification of an individual. The individual has already been identified at the time DNA is collected. Rather, the taking of DNA upon arrest is to investigate individuals for crimes unrelated to the crime for which they were even arrested. Because only a fraction of those who are arrested are ultimately charged and convicted, however, this practice necessarily will permit the government to collect DNA from and conduct DNA based surveillance on innocent Nevada citizens. Adding innocent individuals to DNA databases will not solve crimes.



BOARD OF DIRECTORS Jeremy Gruber, JD, *President* • Sheldon Krinsky, PhD, *Chair*
• Peter Shorett, *Treasurer* • Evan Balaban, PhD • Paul Billings, MD, PhD
• Sujatha Byravan, PhD • Robert DeSalle, PhD • Robert Green, MD, MPH
• Rayna Rapp, PhD • Patricia Williams, JD

That any bill in Nevada would sanction taking DNA from innocent persons is disturbing, but the practice visits a special and severe harm upon minorities. Members of minority groups are arrested in disproportionate numbers, and a disproportionate percentage of innocent arrestees are therefore likely to be minorities. As a result, many DNA profiles of innocent minorities will be continuously searched as part of law enforcement investigations that could include cold hit searches, familial searches, and DNA-based racial profiling.

Across the country, forensic DNA labs have had problems with cross-contamination of samples, mislabeling, misinterpretation of samples and in some cases outright fraud. The expansion of DNA collection practices has also increased the statistical probability for false matches and error, which can occur by chance or through poor laboratory practice and cause terrible miscarriages of justice. Collecting the DNA from innocent individuals upon arrest will necessarily subject them to these rarely mentioned but very real harms.

Finally, law enforcement agencies in Nevada are already burdened with limited resources and straining under a backlog created by current DNA collection and database practices. Collecting the DNA of a large new class of innocent individuals will only serve to hinder law enforcement's capacity to investigate and prosecute crimes.

We urge you to reconsider SB 243.

Sincerely,



Jeremy Gruber
President
Council for Responsible Genetics



BOARD OF DIRECTORS Jeremy Gruber, JD, *President* • Sheldon Krinsky, PhD, *Chair*
• Peter Shorett, *Treasurer* • Evan Balaban, PhD • Paul Billings, MD, PhD
• Sujatha Byravan, PhD • Robert DeSalle, PhD • Robert Green, MD, MPH
• Rayna Rapp, PhD • Patricia Williams, JD