



Written by [Joe Wolverton, II, J.D.](#) on January 27, 2019

## DHS-Funded Tech Used by Local Police to Collect DNA of “Suspicious” People

Technology developed by the federal Department of Homeland Security (DHS) will soon be deployed at police stations across the country, enabling local law enforcement to identify and track people “deemed suspicious” and to permanently store their DNA in databases of potential criminals.



Here’s a bit of background on the disconcerting development as reported by the *New York Times*. I’m including the lengthy quote from the article so that the shocking scope of the situation can be appreciated:

They call it the “magic box.” Its trick is speedy, nearly automated processing of DNA.

“It’s groundbreaking to have it in the police department,” said Detective Glenn Vandegrift of the Bensalem Police Department. “If we can do it, any department in the country can do it.”

Bensalem, a suburb in Bucks County, near Philadelphia, is on the leading edge of a revolution in how crimes are solved. For years, when police wanted to learn whether a suspect’s DNA matched previously collected crime-scene DNA, they sent a sample to an outside lab, then waited a month or more for results.

But in early 2017, the police booking station in Bensalem became the first in the country to install a Rapid DNA machine, which provides results in 90 minutes, and which police can operate themselves. Since then, a growing number of law enforcement agencies across the country — in Houston, Utah, Delaware — have begun operating similar machines and analyzing DNA on their own.

The science-fiction future, in which police can swiftly identify robbers and murderers from discarded soda cans and cigarette butts, has arrived. In 2017, President Trump signed into law the Rapid DNA Act, which, starting this year, will enable approved police booking stations in several states to connect their Rapid DNA machines to Codis, the national DNA database. Genetic fingerprinting is set to become as routine as the old-fashioned kind.

But already many legal experts and scientists are troubled by the way the technology is being used. As police agencies build out their local DNA databases, they are collecting DNA not only from people who have been charged with major crimes but also, increasingly, from people who are merely deemed suspicious, permanently linking their genetic identities to criminal databases.

That’s the disturbing use being made of DNA by police using technology whose creation was funded by money taken from Americans whose DNA may now be unconstitutionally collected and stored in databases, ready for recall if any one of them is ever “deemed suspicious.”



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It's not like we weren't warned.

In October 20, 2015, the DHS released the following information in a "Fact Sheet:"

Rapid DNA, a newly commercialized technology developed by the Department of Homeland Security (DHS) Science and Technology Directorate (S&T), addresses these challenges by greatly expediting the testing of deoxyribonucleic acid (DNA) that is the only biometric that can accurately verify family relationships. This technology can be used on the scene of mass fatality events, in refugee camps around the world, or at immigration offices.

"Responders have often used DNA to make familial connections, but the process typically takes multiple days to process in a forensics laboratory and can take up to a few months to get the results," explained S&T Capability Development Support Group (CDS) Office of Standards (STN) Standards Integration and Application Deputy Director, Chris Miles. "The Rapid DNA technology can be used in the field to confirm kinship between a parent and a child with 99.5 percent likelihood of relationship in 90 minutes."

Because of the accuracy that DNA provides, many entities across the homeland security enterprise have expressed the need for this type of technology.

Just who will be trusted with this RapidDNA technology? Well-trained specialists? Scientists with years of experience analyzing genetic data?

Nope. According to guidelines issued to police and other state and local law-enforcement officers, the status required for RapidDNA certification is called "minimally trained." Here's information on the lack of understanding allowed for officers handling DNA collected without a warrant: "The Department of Homeland Security (DHS) Science and Technology Directorate's (S&T) Resilient Systems Division is funding a Rapid DNA program ... field operable by minimally trained users."

How many people will resist the reliance on "minimally trained" police to properly collect, handle, store, and protect the DNA of people they and they alone deem "suspicious?"

Consider this terrifying tidbit culled from the *New York Times* story:

"There really are no actual rules written anywhere," Detective Vandegrift said. He has been working to devise some, by consulting with a lab. After donning a pair of latex gloves, he opened an envelope, removed a cotton swab bearing cheek cells from the Bensalem driver, and placed it in a cartridge the size of a smartphone.

When the man was pulled over, the police found an outstanding warrant for retail theft. He was arrested and asked if he would consent to provide a DNA sample.

To collect DNA, police in Pennsylvania must obtain consent from people under arrest. Ninety percent of those asked say yes, said Fred Harran, director of public safety for the Bensalem police; it was Mr. Harran who encouraged the department to take the lead in DNA policing.

Asked why so many people would consent to give DNA, he said: "I have no idea. But criminals do stupid things."

There are multiple constitutional violations in that story, but I'd suggest you focus on the reason for which the motorist was stopped by the police, the percent of people whose DNA is collected by the police, and — and this is the part most obnoxious to liberty and the constitutional protections of it — the fact that the police called people whose genetic material was collected "criminals!"



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Beyond the *Minority Report* angle to this story, there are the possible violations on the prohibition of the enactment of *ex post facto* law. Article I Section 9 is the source of this constitutional restriction on congressional power. The Constitution mandates that no “*ex post facto* Law shall be passed.”

Turned on its head, the government now insists that that section does not mean that if monitored behavior is legal when the record of it is made, then the person committing the act may not thereafter be subject to prosecution if the act is subsequently outlawed.

Alexander Hamilton warned against this type of mercurial legislating: “The creation of crimes after the commission of the fact, or, in other words, the subjecting of men to punishment for things which, when they were done, were breaches of no law, and the practice of arbitrary imprisonments, have been, in all ages, the favorite and most formidable instruments of tyranny.”

Finally, consider Ron Paul’s description of the DNA-collecting despotism and its threat to constitutionally protected liberty:

What “collecting it all” does mean is that our every electronic human interaction is stored indefinitely by the federal government for possible future use against us should we ever fall out of government favor by, for example, joining a pro-peace organization, joining a pro-gun organization, posting statements critical of government spying on our Facebook pages or elsewhere. This massive database will be used — and perhaps has already been used — to keep us in line.

If the DNA of people merely “deemed suspicious” is seized and stored by law enforcement — federal, state, and local — is anyone truly innocent until proven guilty, or are we simply on perpetual parole?



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