

After US Supreme Court ruling, police departments expand DNA seizure program

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Local police departments across the United States have for years been amassing a DNA database of arrestees, suspects, persons of interest, witnesses and even victims. These programs will be dramatically expanded in the wake of the US Supreme Court's 5-4 decision in *Maryland v. King*, handed down June 3, which ruled constitutional the widespread police practice of seizing the DNA of non-convicted arrestees.

"King is a green light," New York University law professor Erin Murphy told the *New York Times* in an article published Thursday. "It's a ringing endorsement of DNA testing, and many law enforcement agencies would see this as a drastic opportunity to expand DNA collection."

The *King* ruling effectively endorses the police DNA seizure efforts that have been underway for years. By refusing to overrule a wide array of state standards that are less restrictive than those of Maryland, the court has intentionally left open the door to authoritarian collection methods. And since police are free to conduct their genetic seizure operations with little or no legal restraints, the scale of local DNA seizure efforts remains unknown.

The *New York Times* reported this week that police in New York City, for example, have accumulated the genetic information of 11,000 people. The District Attorney's office in Orange County, California boasted a list of 90,000 DNA profiles, covering nearly 3 percent of the total population.

Twenty-eight states and the federal government allow police to extract a cheek swab from arrestees, but many police departments are using blatantly unconstitutional methods to expand the FBI's Combined DNA Index System (CODIS), which currently includes the genetic records of over 11 million Americans.

Known methods used by the police to collect and

search for DNA include:

- coercing witnesses into providing their genetic information in order to prove their lack of culpability for the crime they witnessed;
- filing felony charges and giving defendants the chance to trade their genetic information for a lower sentence as part of a plea bargain;
- rummaging through an individual's trash or personal belongings to extract DNA samples;
- running "family searches" in instances where DNA found at a crime scene cannot be matched with CODIS by flagging individuals in the database whose DNA is sufficiently closely related to implicate them as possible family members of a suspect.

Though these practices go far beyond the methods set forth in the Maryland statute at issue in *Maryland v. King*, the Supreme Court majority in *King* refused to strike down such ongoing operations carried out at the behest of the FBI.

It was left to Justice Antonin Scalia to point out the ruling's obviously unconstitutional implications:

"Make no mistake about it: As an entirely predictable consequence of today's decision, your DNA can be taken and entered into a national DNA database if you are ever arrested, rightly or wrongly, and for whatever reason."

The ruling in *King* has been celebrated by law enforcement in the week and a half since the decision was handed down. *King* is "simply the law catching up with technology," said Russell Wilson, the head of the Dallas County District Attorney's Conviction Integrity Unit in Texas. In its opinion, the Supreme Court noted the possibility that local police stations could soon begin utilizing their own DNA testing devices in precinct station houses.

President Obama voiced his enthusiasm for the

expansion of the CODIS database in a 2010 appearance on Fox's FBI propaganda series, "America's Most Wanted."

Accumulating a database of millions of Americans' DNA is "the right thing to do," Obama told Host John Walsh. "And then, as you well know, John, this is where the national registry [CODIS] becomes so important... And so, making sure that not only are we getting these DNA tests done state by state , but then nationally, everybody is talking to each other. That's how we make sure that we continue to tighten the grip around folks who have perpetrated these crimes."

The ruling came only days before Edward Snowden made public the Obama administration's vast National Security Agency surveillance program, which is doubtlessly connected to CODIS as part of a wider campaign to spy on the American people.



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