



LODNA National Landscape: A Comprehensive Assessment of Policy and Practice

Joyful Heart Foundation

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Executive Summary

Overview of Project Phase

This report marks the conclusion of Phase 1 of a broader initiative dedicated to addressing the national issue of Lawfully Owed DNA (LODNA). The primary objective of *Goal #1: LODNA National Landscape* is to establish a comprehensive baseline of state laws. By mapping the national landscape, this phase identifies the legal loopholes and policy failures that result in uncollected samples, leaving thousands of legally required DNA profiles missing from the Combined DNA Index System (CODIS).

Project Deliverables and Trajectory

The execution of Goal #1 delivers two key resources:

1. LODNA Legislative Landscape Dataset: A searchable, nationwide dataset tracking core statutory variables across state, federal, and U.S. territorial legislation,¹ including: who must provide DNA; which crimes trigger collection; collection timing; agencies responsible for collection how records are tracked, expunged, and destroyed; missed collection recovery mechanisms; and penalties for qualifying offenders who refuse to comply.
2. The Analytical Report: An accompanying synthesis (this document) outlining the national scope of the problem and documenting initial findings.

Ultimately, this National Landscape establishes the baseline data necessary to select target jurisdictions and field Subject Matter Experts (SMEs) for *Goal #2: Cross-Sector Stakeholder Interviews*.

Top Findings

- 31 states, the Federal government, DC, PR, and USVI collect DNA at both arrest and conviction; 18 states and Guam restrict collection to convicted offenders; and Colorado² statutorily limits felony arrestee DNA collection to adults, while juveniles are addressed through the state's convicted offender/adjudicated youth collection provisions rather than the arrestee collection statute.
- States are codifying innovative policies and mechanisms into law, such as Rapid DNA analysis, license restrictions, and centralized oversight.
- Many states lack explicit specifications regarding collection timing, responsible agencies, tracking requirements, or qualifying secondary populations.

¹ Includes all 50 states, federal law, and five U.S. territories: American Samoa, Guam, Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands.

² Colorado requires DNA collection upon arrest for adults, whereas juvenile collection applies only upon conviction, but the statute implies that the DNA from arrestees would remain post-conviction.

- Written legislation serves as an incomplete reference for field implementation. States without explicit legal mandates may still maintain comprehensive collection practices, while states with robust statutory directives may still experience field-level execution gaps.

Introduction

Lawfully Owed DNA (LODNA) refers to DNA samples statutorily mandated for collection from qualifying offenders that have not yet been obtained. Under standard criminal justice protocols, when an eligible individual is convicted or arrested (depending on state statute), a DNA sample must be collected, processed by a forensic laboratory, entered into the State DNA Index System (SDIS), and ultimately uploaded into the National DNA Index System (NDIS) level of Combined DNA Index System (CODIS). This process is designed to enable law enforcement agencies nationwide to associate DNA profiles developed from crime scene samples to known offenders.

The potential of these DNA databases—the criminal justice system’s most powerful tool for solving sexual and violent crime—is currently compromised by a widespread, systemic failure to collect LODNA. While nationwide efforts to process the backlog of sexual assault kits (SAKs) are successfully yielding crime scene DNA profiles, the success rate of matching these profiles to an offender (the CODIS "hit rate") remains low, hovering at approximately 25%.³ To maximize the public safety benefits of DNA technology, both sides of the database must be complete: the forensic index and the offender index. Without a comprehensively populated offender index, testing backlogged SAKs yields significantly fewer investigative leads than it should.

The public safety impact of closing this gap is known and measurable. Systematically identifying, collecting, and indexing these tens of thousands of uncollected samples will dramatically increase CODIS hit rates, solve cold cases, link serial crimes, prevent future victimization, and provide the evidence necessary to both apprehend active offenders and exonerate the wrongfully convicted.

Initial data confirms the scale of this crisis. In 2020, the United States Department of Justice estimated that there are 40,000 to 50,000 uncollected offender samples per state.⁴ Joyful Heart Foundation (JHF) data confirms more than 154,000 owed DNA samples across just five states alone, while a former law enforcement professional indicated that California may have as many as 2 million owed samples.

This National Landscape Assessment represents the necessary next step to realize the full return on investment already made in processing SAKs. By identifying the root causes of the LODNA crisis, this initiative aims to enhance the effectiveness of the DNA databases.

LODNA Legislative Landscape Dataset

To identify and evaluate how states approach the collection, processing, and enforcement of LODNA, we compiled a comprehensive LODNA Legislative Landscape Dataset. While the master dataset contains detailed entries for each state—including legal codes and the actual statutory language—a streamlined version was developed to highlight the key takeaways.

³ <https://www.sakitta.org/webinars/docs/ViCAP-A-Powerful-Tool-to-Track-and-Analyze-Crimes-of-Serial-Sex-Offenders.pdf>

⁴ <https://www.nbcnews.com/news/us-news/national-disgrace-holes-dna-databases-leave-crimes-unsolved-decades-n1236748>

The link below connects to the LODNA Legislative Landscape Snapshot, which provides an accessible, high-level overview of these state statutes.

[LODNA Legislative Landscape Snapshot](#)

For a breakdown of the categorization criteria used to code each state's laws, please refer to the LODNA Legislative Landscape Snapshot Coding Guide located in Appendix A.

Discussion

An examination of the legal landscape illustrates significant variation in collection mandates, administrative procedures, and enforcement mechanisms. The following section synthesizes key findings from the LODNA Legislative Landscape Dataset.

DNA Collection by Population Type

States were evaluated according to the population legally required to submit a DNA sample. The table below summarizes this national distribution based on whether state statutes limit collection exclusively to convicted offenders or expand authority to collect samples upon arrest.

Population Type	States and Territories	# of States
Convicted Offenders Only (DNA collected only after a formal conviction for qualifying offenses)	DE, GA, HI, ID, IA, KY, ME, MA, MN, MT, NE, NH, NY, OR, PA, VT, WA, WV, WY, Guam	19
Arrestees Only (DNA collected upon arrest for qualifying offenses)	CO ⁵	1
Both Arrest and Conviction (DNA collected upon arrest for qualifying offenses, as well as upon conviction) ⁶	AL, AK, AZ, AR, CA, CT, FL, IL, IN, KS, LA, MD, MI, MS, MO, NV, NJ, NM, NC, ND, OH, OK, RI, SC, SD, TN, TX, UT, VA, WI, Federal, DC, PR, U.S. Virgin Islands	30

Policy Innovations & Emerging State Models

A particularly notable statutory innovation is the use of Rapid DNA analysis codified into state law in Arkansas, Louisiana, Oklahoma, Texas, Utah, and DC. Traditionally, DNA collection and testing require sending samples to forensic laboratories for conventional Short Tandem Repeat (STR) analysis, a process

⁵ Colorado requires DNA collection upon arrest for adults, whereas juvenile collection applies only upon conviction, but the statute implies that the DNA from arrestees would remain post-conviction.

⁶ In many states, collection at conviction is not required if a qualifying sample was previously obtained at arrest.

that can be impeded by laboratory backlogs, lengthy turnaround times, and administrative delays. This technology bypasses those hurdles, allowing law enforcement to generate a DNA profile in approximately 90 minutes at the booking station and, depending on the Rapid DNA Program architecture, upload the DNA profile into the DNA Index of Special Concern (DISC), SDIS, or NDIS to search against forensic crime scene profiles from unsolved crimes. Law enforcement can then generate investigative leads and link suspects to prior offenses while the arrestee is physically still in custody. Ultimately, Rapid DNA technology can accelerate the identification of individuals connected to unsolved crimes, enhancing public safety while helping ensure that LODNA samples are collected before an individual is released from custody.

Several states also stand out for having established robust statutes that can mitigate operational confusion and prevent missed collections:

- Nevada: Outlines clear procedures for destroying biological samples and purging DNA profiles from SDIS and NDIS.
- North Carolina: Delineates thorough documentation requirements at the time of arrestee collection.
- Ohio: Offers highly detailed legislation governing collection timing, including mechanisms for recovering lawfully owed DNA samples that were missed at the time of initial eligibility.
- Utah: Provides clear guidance on specific entities and personnel responsible for collection and proper collection methods.

Another novel mechanism to ensure compliance with DNA collection mandates is Louisiana's [Senate Bill 151](#) (effective August 1, 2026). Under this new law, if an individual required to submit a DNA sample fails to do so, the Office of Motor Vehicles will place a flag on their driving record. This flag prohibits the state from issuing, renewing, or reinstating the noncompliant individual's driver's license until proof of DNA submission is provided.

Effective management of LODNA samples requires coordination across numerous entities from initial collection through testing, database entry, expungement, and destruction. Because responsibilities are often distributed among law enforcement agencies, correctional institutions, detention facilities, forensic laboratories, prosecutors, courts, and more, breakdowns in communication or accountability can increase the risk of missed collections, duplicate collections, or delayed expungement or destruction. To centralize and streamline these processes, New Mexico statutorily established a dedicated Administrative Center tasked with overseeing all LODNA policies and procedures. This center serves as the central hub for providing training, storing biological samples and DNA records, conducting DNA testing, and facilitating inter-agency communication among relevant entities—including local, state, and federal law enforcement agencies, the corrections department, and local jails and detention facilities.

Limitations

A primary challenge in conducting a comprehensive legislative analysis is that many state laws contain significant gaps, ambiguity, or internal contradictions. Statutes often omit explicit definitions regarding

qualifying secondary populations (e.g., probationers, parolees, juveniles), collection timelines, agencies responsible for collection, acceptable sample types, tracking mechanisms, expungement procedures, or enforcement measures for noncompliance. Furthermore, legislative language can be internally inconsistent. For example, one provision may restrict collection to a buccal swab, while another references a "biological sample," defined to include blood, buccal swabs, or other body fluids.

Due to these ambiguities, the LODNA Legislative Landscape Dataset cannot always be neatly reduced to numerical tallies (e.g., the number of states that require tracking). For instance:

- States such as Alaska, Arkansas, Nevada, and Washington do not statutorily specify the timing of DNA collection or vary based on population type. Other states, such as Delaware, establish court-directed timing for individuals not in custody, but omit statutory timelines for individuals in custody.
- A significant number of states lack statutory protocols for tracking samples, as well as clear guidelines for expungement and destruction. Among states that do mandate tracking, procedures vary regarding which state of the process is monitored, ranging from initial collection alone to the entire process from collection to testing.

However, the absence of explicit statutory language does not necessarily imply an absence of operational practices and policies. In Washington, for example, while legal mandates regarding arrestee collection are absent, documentation issued by the state crime laboratory indicates that arrestee samples are collected in practice. Furthermore, several state statutes included language directing primarily state forensic laboratories to develop administrative regulations to fill statutory gaps. We were able to locate supporting materials such as agency regulations and laboratory submission forms in select jurisdictions.

More broadly, what is written in law does not always reflect the operational reality on the ground. We cannot be entirely sure how these laws are actually implemented and enforced. A state may possess robust statutory language—such as Nevada’s comprehensive expungement and purging process—yet still face implementation gaps due to the complex coordination required among multiple inter-agency participants.

While our dataset captures what the law dictates, the next phase of our project (*Goal #2: Cross-Sector Stakeholder Interviews*) will be essential for bridging the gap between what is written in the law—or lack thereof—and actual field implementation.

Conclusion: Bridging Policy and Practice

While analyzing the legal landscape provides a necessary baseline for understanding national LODNA approaches, statutory language alone reveals only what state legislatures intended—not how law enforcement agencies, forensic laboratories, detention facilities, and court systems execute those mandates on the ground.

To move from problem identification to an actionable policy framework, our research will look beyond written codes to evaluate the experiences of critical personnel involved in LODNA. Bridging the gap between policy and practice requires investigating key questions that laws leave unanswered:

- What aspects of LODNA collection are working well in your community?
- What are barriers hindering LODNA collection in your community?
- Does the actual practice in your community reflect what is written in the law?

Next Phase: Cross-Sector Stakeholder Interviews (Goal #2)

The next phase of this project will pivot from legal analysis to empirical field research, focusing on direct engagement with field Subject Matter Experts (SMEs)—including law enforcement personnel, corrections staff, court staff, and victim advocates.

Using the Legislative Landscape Dataset to strategically guide our sample selection, we plan to over-sample jurisdictions with a proven track record of successful LODNA policy implementation. This approach will allow us to identify field-tested best practices while capturing firsthand insights into both the facilitators of successful implementation and the ongoing barriers to LODNA collection.