

Section 298.3(a) To ensure expeditious and economical processing of offender specimens and samples for inclusion in the FBI's CODIS System and the State's DNA Database and Data Bank Program, the Department of Justice DNA Laboratory is authorized to contract with other laboratories, whether public or private, including law enforcement laboratories, that have the capability of fully analyzing offender specimens or samples within sixty days of receipt, for the anonymous analysis of specimens and samples for forensic identification testing as provided in this chapter and in accordance with the quality assurance requirement established by CODIS and ASCLD/LAB.

(b) Contingent upon the availability of sufficient funds in the State's DNA Identification Fund established pursuant to Section 76104.6 of Article 2 of Chapter 12 of Title 8 of the Government Code, the Department of Justice DNA Laboratory shall immediately contract with other laboratories, whether public or private, including law enforcement laboratories, for the anonymous analysis of offender reference specimens or samples and any arrestee reference specimens or samples collected pursuant to subdivision (a) of Section 296 for forensic identification testing as provided in subdivision (a) of this section and in accordance with the quality assurance requirements established by CODIS and ASCLD/LAB for any specimens or samples that are not fully analyzed and uploaded into the CODIS database within six (6) months of the receipt of the reference specimens or samples by the Department of Justice DNA Laboratory.

ARTICLE 5: EXPUNGEMENT OF INFORMATION CONFIDENTIALITY OF RETAINED SAMPLES AND INFORMATION

~~Section 299(a) A person whose DNA profile has been included in the data bank pursuant to this chapter shall have his or her information and materials expunged from the data bank when the underlying conviction or disposition serving as the basis for including the DNA profile has been reversed and the case dismissed, the defendant has been found factually innocent of the underlying offense pursuant to Section 851.8, the defendant has been found not guilty, or the defendant has been acquitted of the underlying offense. The court issuing the reversal, dismissal, or acquittal shall order the expungement and shall send a copy of that order to the Department of Justice DNA Laboratory Director. Upon receipt of the court order, the Department of Justice shall expunge all identifiable information in the data bank and any criminal identification records pertaining to the person.~~

(a) A person whose DNA profile has been included in the data bank pursuant to this chapter shall have his or her DNA specimen and sample destroyed and searchable database profile expunged from the data bank program pursuant to the procedures set forth in subdivision (b) if the person has no past or present offense or pending charge which qualifies that person for inclusion within the State's DNA and Forensic Identification Database and Data Bank Program and there otherwise is no legal basis for retaining the specimen or sample or searchable profile.

(b) A person whose DNA profile has been included in a data bank pursuant to this chapter Pursuant to subdivision (a), a person who has no past or present qualifying offense and for whom there otherwise is no legal basis for retaining the specimen or sample or searchable profile, may make a written request to expunge information and materials from the data bank. have his or her specimen and sample destroyed and searchable database profile expunged from the data bank program if:

(1) Following arrest, no accusatory pleading has been filed within the applicable period allowed by law charging the person with a qualifying offense as set forth in subdivision (a) of Section 296 or if the charges which served as the basis for including the DNA profile in the state's DNA Database and Data Bank Identification Program have been dismissed prior to adjudication by a trier of fact;

(2) The underlying conviction or disposition serving as the basis for including the DNA profile has been reversed and the case dismissed;

(3) The person has been found factually innocent of the underlying offense pursuant to Section 851.8 or Welfare and Institutions Code Section 781.5; or

(4) The defendant has been found not guilty or the defendant has been acquitted of the underlying offense.

(c)(1) The person requesting the data bank entry to be expunged must send a copy of his or her request to the trial court of the county where the arrest occurred, or that entered the conviction or rendered disposition in the case, to the DNA Laboratory of the Department of Justice, and to the prosecuting attorney of the county in which he or she was arrested or, convicted or adjudicated, with proof of service on all parties. The court has the discretion to grant or deny the request for expungement. The denial of a request for expungement is a nonappealable order and shall not be reviewed by petition for writ.

(2) Except as provided below, the Department of Justice shall destroy a specimen and sample and expunge the searchable DNA database profile all identifiable information in the data bank and any criminal identification records pertaining to the person who has no present or past qualifying offense of record upon receipt of a court order that verifies the applicant has made the necessary showing at a noticed hearing, and that includes all of the following:

(A) The written request for expungement pursuant to this section.

(B) A certified copy of the court order reversing and dismissing the conviction or case, or a letter from the district attorney certifying that no accusatory pleading has been filed or the charges which served as the basis for collecting a DNA specimen and sample have been dismissed prior to adjudication by a trier of fact, the defendant has been found factually innocent, the defendant has been found not guilty, the defendant has been acquitted of the underlying offense, or the underlying conviction has been reversed and the case dismissed.

(C) Proof of written notice to the prosecuting attorney and the Department of Justice that expungement has been requested.

(D) A court order verifying that no retrial or appeal of the case is pending, that it has been at least 180 days since the defendant or minor has notified the prosecuting attorney and the Department of Justice of the expungement request, and that the court has not received an objection from the Department of Justice or the prosecuting attorney.

(e) (d) Upon order from the court, the Department of Justice shall destroy any specimen or sample collected from the person and any ~~criminal identification records~~ searchable DNA database profile pertaining to the person, unless the department determines that the person is subject to the provisions of this chapter because of a past qualifying offense of record or is or has otherwise become obligated to submit a blood specimen or buccal swab sample as a result of a separate arrest, conviction, juvenile adjudication, or finding of guilty or not guilty by reason of insanity for an offense described in subdivision (a) of Section 296, or as a condition of a plea.

The Department of Justice is not required to destroy ~~an autoradiograph~~ analytical data or other ~~item~~ items obtained from a blood specimen or saliva, or buccal swab sample if evidence relating to another person subject to the provisions of this chapter would thereby be destroyed or otherwise compromised.

Any identification, warrant, probable cause to arrest, or arrest based upon a data bank or database match is not invalidated due to a failure to expunge or a delay in expunging records.

~~(d) The Department of Justice DNA Laboratory shall periodically review its files to determine whether its files contain DNA reference sample profiles from suspects as defined in subdivision (b) of Section 297 who are no longer eligible for inclusion in the data bank. The DNA profiles and samples stored in the suspect data base from a person who is a suspect in a criminal investigation shall be purged within two years of the date of the filing of the information or indictment or when the DNA laboratory receives notice that the suspect was acquitted or the charges against the suspect were dismissed, whichever occurs earlier. The notice shall include a certified copy of the court order dismissing the information or indictment, a certified copy of the defendant's fingerprints and the defendant's CII number.~~

(e) Notwithstanding any other provision of law, the Department of Justice DNA Laboratory is not required to expunge DNA profile or forensic identification information or destroy or return specimens, samples or print impressions taken pursuant to this section if the duty to register under Section 290 or Section 457.1 is terminated.

(f) Notwithstanding any other provision of law, including Section 17, Section 1203.4 and 1203.4a of the Penal Code, a judge is not authorized to relieve a person of the separate administrative duty to provide specimens, samples or print impressions required by this chapter if a person has been found guilty or was adjudicated a ward of the court by a trier of fact of a qualifying offense as defined in subdivision (a) of Section 296, or was found not guilty by reason of insanity or pleads no contest to a qualifying offense as defined in subdivision (a) of Section 296.

ARTICLE 6: LIMITATIONS ON DISCLOSURE

Section 299.5(a) All DNA and forensic identification profiles and other identification information retained by the Department of Justice pursuant to this chapter are exempt from any law requiring disclosure of information to the public and shall be confidential except as otherwise provided in this chapter.

(b) All evidence and forensic samples containing biological material retained by the Department of Justice DNA laboratory or other state law enforcement agency are exempt from