



**FORENSIC DNA
DATABASE EXPANSION**

**GROWING RACIAL INEQUITIES
ERODING CIVIL LIBERTIES
DIMINISHING RETURNS**

www.generations-ahead.org



Forensic DNA databases expansion

Agenda

- Background
- Problems
- Recommendations
- Promising models



Social Justice Concerns

- Reproduces and exacerbates existing inequalities and unfairness in current system
- Disproportionate criminalization and surveillance of communities of color
- Erosion of civil liberties and a presumption of guilt
- Expanding uses and collection are creating unsafe backlogs



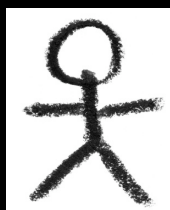
DNA collection and analysis

COLLECTION

Forensic
sample



Offender
sample



ANALYSIS



- Blood, semen, saliva, urine
- Hair, teeth, bone
- Tissue

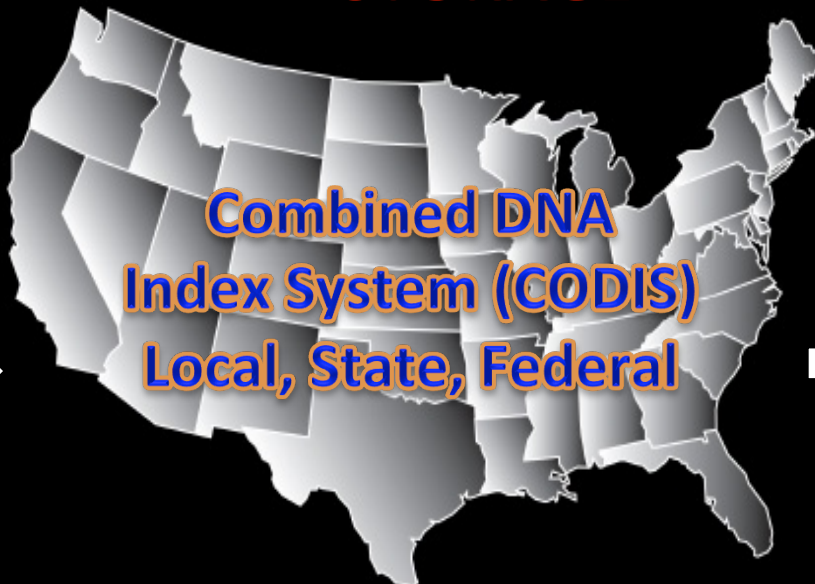
- Isolate sample
- Process DNA
- Interpret results

- Specimen identifier
- Agency locator
- Name of lab tech

DNA storage

STORAGE

Profile



Compare profiles

blood stain	Bob	Sue	John	Lisa
████████	████████	████████	████████	████████
████████	████████	████████	████████	████████
████████	████████	████████	████████	████████
████████	████████	████████	████████	████████
████████	████████	████████	████████	████████
████████	████████	████████	████████	████████
████████	████████	████████	████████	████████
████████	████████	████████	████████	████████
████████	████████	████████	████████	████████

Index:
Convicted
Offender

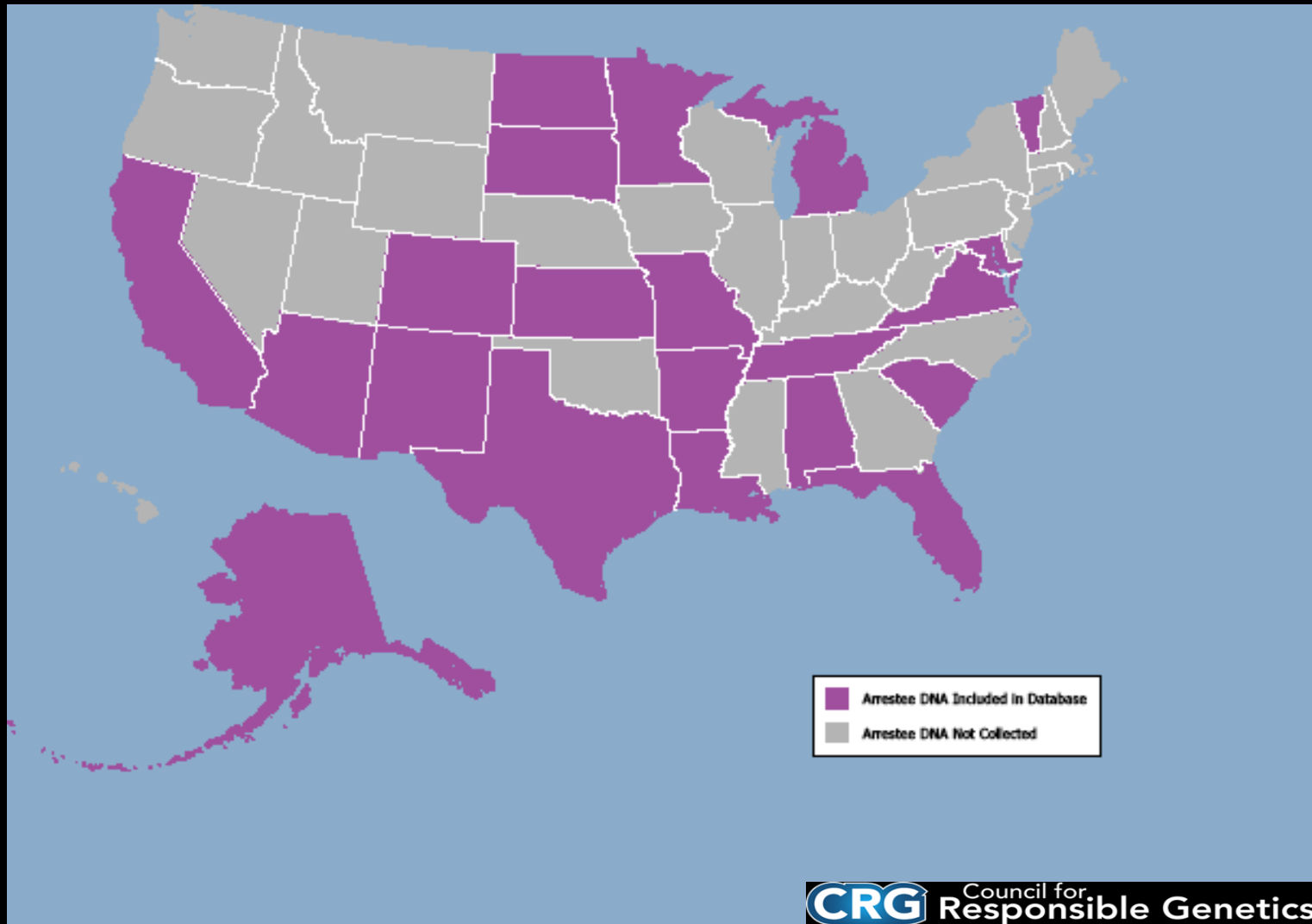
Index:
Arrestee

Index:
Forensic
(Crime Scene)

From the Convicted to the Suspicious

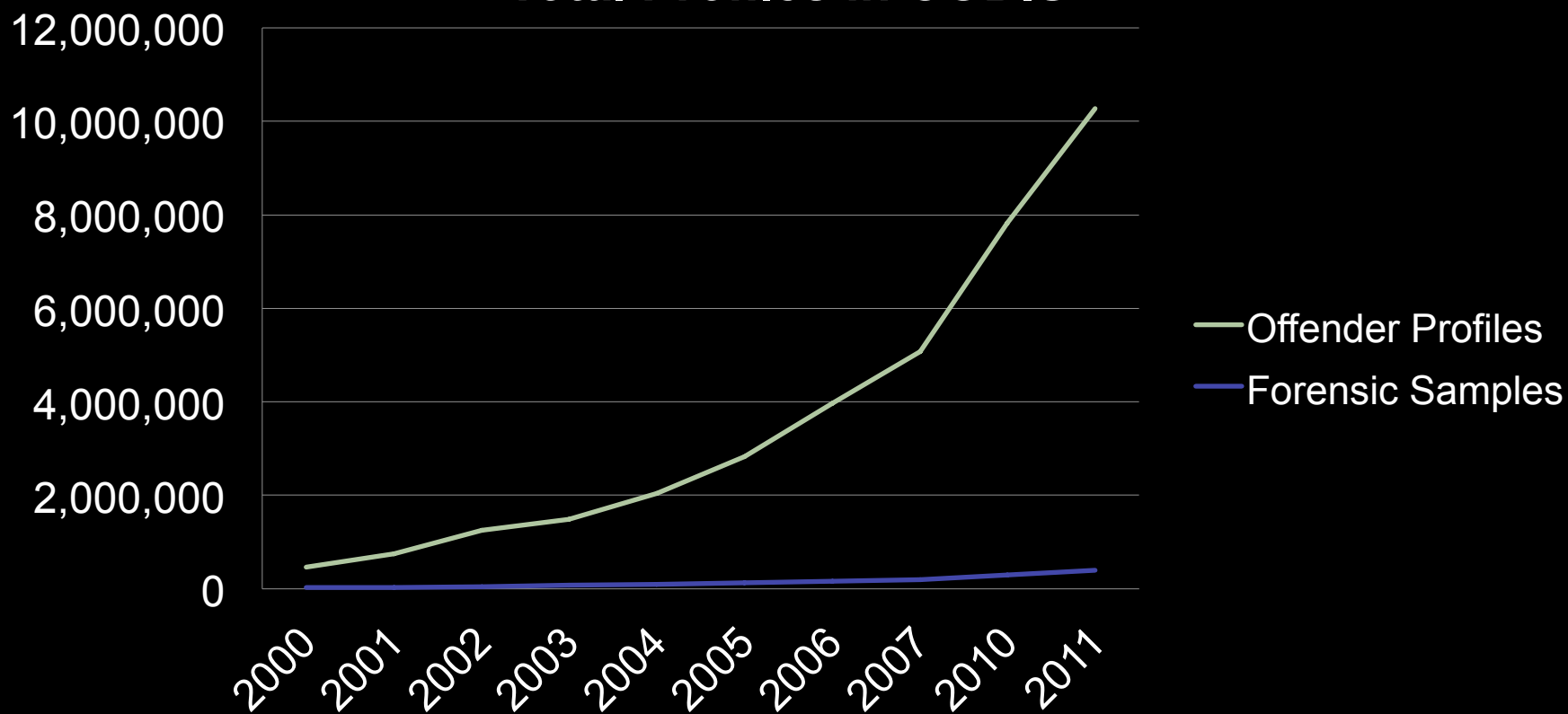
- Convicted of sex offenses or homicide (CA.1989)
- Convicted of violent felonies
- Convicted of any felony (Prop. 69: Nov. 2004)
- Convicted of misdemeanor
- Arrested for sex offenses and homicide
- Arrested for violent felonies
- Arrested for any felony (Prop. 69: Jan. 1, 2009)
- Detained Immigrants (2009)
- Arrested for anything (federal 2009)
- Universal databank?

Expansion: Arrestees



CODIS is Growing Fast

Total Profiles in CODIS



	2000	2007	2010	Oct 2011
Offender Profiles	460,365	5,070,473	7,833,009	10,269,778
Forensic Profiles	22,484	194,785	302,002	399,071

What's the problem?

**DNA databases are:
unfair, fallible, violating civil liberties, backlogged**

COLLECTION

- Racial profiling
- Detainees
- Arrestees
- DNA dragnets
- Abandoned DNA

ANALYSIS

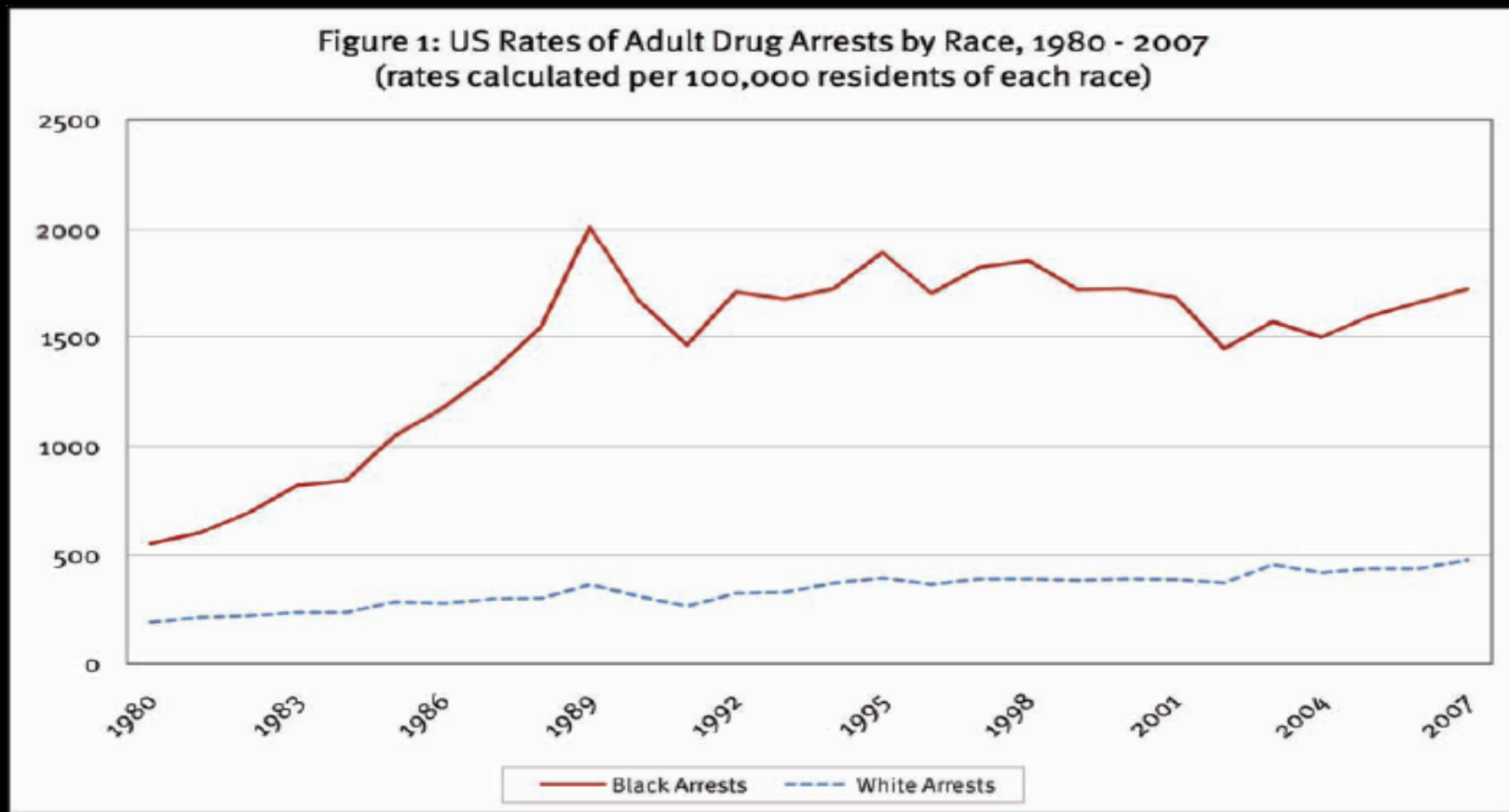
- Contamination
- False matches
- Coincidental matches
- Familial searches
- Fraud

STORAGE

- No independent review
- Personal information
- Genetic surveillance
- Future arrests
- Growing backlog

DNA databases are unfair

Reflect racial disparities in criminal justice system



Human Rights Watch, "Decades of Disparity, Drug Arrests and Race in the United States", March 2009

DNA databases are fallible

Mistakes happen



Lazaro Soto Lusson faced life in jail and was incarcerated for over a year before it was discovered that the Las Vegas police crime lab had switched his DNA sample with that of his cellmate.

Josiah Sutton spent nearly five years in jail for a rape he did not commit. His conviction rested almost entirely on a DNA test performed and erroneously interpreted and reported by a Houston Crime Lab analyst.



DNA databases violate civil liberties

Presumption of innocence → presumption of future guilt

Lifetime of Genetic Surveillance

- Hard to remove, even if innocent
- Higher likelihood of being arrested in the future
- Every Monday profiles are compared against new crimes

DNA contains personal information

- Ancestry
- Predisposition to disease
- Predisposition to mental illness, addiction, criminality?
- Predictor behavior??

DNA databases violate civil liberties

**Being in the U.S. unlawfully
Is a civil offense, not a crime**

Most undocumented
immigrants are not criminals

U.S. citizens routinely caught in
immigration raids.



Backlog

Increasing categories = increasing backlog

Severity of the Problem

Nationally, 350,000 samples from murder and rape cases remain untested.

Backlog due to new laws requiring DNA collection from people convicted of or arrested for nonviolent crimes

Impact

Kelly Greene's rapist had committed an earlier rape but his DNA processing was backlogged for 2 years, leaving him free to rape her

Disturbing Trends

Utilization of DNA databases is growing

Familial Searching

Expands database search to include family members

Leads to investigation and potential harassment of previously convicted people no longer committing crimes and their families

Spit and Acquit

In Orange County defendants charged with low-level offenses released if they provide DNA sample -- possession of heroin, cocaine, petty theft and driving with a suspended license

Promising Models

California

Stringent rules for using familial searching – major violent crime, ongoing threat to public safety, exhausted all other leads

A committee evaluates the request

But, not codified into law

Virginia & Texas

Created independent commissions to oversee forensic laboratories

New York

Created an independent oversight board to regulate forensic laboratories, set standards for accreditation and investigate cases of neglect or misconduct

Recommendations

- Destroy all DNA samples after DNA profile is created
- Automatically expunge samples and profiles of innocent people
- Limit and prioritize the use of databases to only violent crime cases
- Independent and transparent oversight of all DNA labs
- Limit familial searching to major violent crimes that threaten public safety, and only when other leads are exhausted

Conclusion

- DNA forensics and databases are important tools for public safety, but...
- Must be actively vigilant against the presumption of guilt and wide-spread surveillance and criminalization
- We must ensure fairness, efficiency and safety, for everyone
- Not just about technology, but about fairness and justice

Thank You!