

**WEST VIRGINIA
SECRETARY OF STATE
BETTY IRELAND
ADMINISTRATIVE LAW DIVISION**

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

Form #6

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE**

AGENCY: West Virginia State Police TITLE NUMBER: 81

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 9

TITLE OF RULE BEING AMENDED: West Virginia DNA Databank

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) SB 276

SECTION 64-6-5, PASSED ON March 5, 2007

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE
FOLLOWING DATE: April 1, 2007


Authorized Signature

B4.80



State of West Virginia
OFFICE OF THE SECRETARY
DEPARTMENT OF MILITARY AFFAIRS
AND PUBLIC SAFETY

State Capitol Complex
1900 Kanawha Blvd., E.
Charleston, West Virginia 25305-0120
Telephone: (304) 558-2930
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JOE MANCHIN III
GOVERNOR

JAMES W. SPEARS
CABINET SECRETARY

23 March 2007

The Honorable Betty Ireland
Secretary of State
1900 Kanawha Boulevard, East
Charleston, WV 25305
Attention: Administrative Law

OFFICE OF THE SECRETARY OF STATE

2007 MAR 23 AM 10: 21

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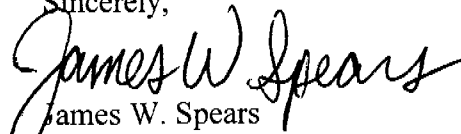
Re: Rule relating to WV DNA Data Bank

Dear Secretary Ireland,

This is to advise you I approve of the filing of the legislative rule concerning the West Virginia DNA Databank to which reference is made in Enrolled Committee Substitute Senate Bill 276; passed by the Legislature during 05 March 2007 and approved by the Governor 19 March 2007.

If there are additional questions, please do not hesitate to contact me.

Sincerely,


James W. Spears
Cabinet Secretary

JWS/cm

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2007 MAR 20 AM 10: 07

**TITLE 81
LEGISLATIVE RULE
WEST VIRGINIA STATE POLICE**

OFFICE WEST VIRGINIA
SECRETARY OF STATE

**SERIES 9
WEST VIRGINIA DNA DATABANK**

§81-9-1. General.

1.1. Scope. -- This legislative rule establishes the methods and standards necessary to establish and administer a DNA database/databank as they relate to the collection of DNA samples, the submission of samples, the analysis of samples, the storage of samples and results, and the exchange and expungement of information concerning DNA specimens collected for DNA analysis.

1.2. Authority. --W. Va. Code §15-2-24, §15-2B-4.

1.3. Filing Date.

1.4. Effective Date.

§81-9-2. Application and Enforcement.

2.1. Application - This legislative rule applies to any person or entity collecting, or causing to be collected, samples of human DNA for the purposes stated in this rule.

2.2. Enforcement - The enforcement of this legislative rule is vested with the Superintendent of the West Virginia State Police.

§81-9-3. Definitions.

As used in this rule, unless used in a context that clearly requires a different meaning, the term:

3.1. Biochemistry Section - means the section of the State Police laboratory that administers the DNA Databank and conducts analysis of biological materials, including blood and saliva, to determine a genetic profile gleaned from DNA.

3.2. DNA - means deoxyribonucleic acid and refers to the basic biological molecule that carries and transmits genetic information.

3.3. DNA sample—human biological material, including, but not limited to, blood and saliva from which DNA can be extracted and analyzed.

3.4. DNA Analysis - means the analysis performed on biological materials, including blood and saliva,

to determine the genetic profile of the individual tested.

3.5. FBI - means the Federal Bureau of Investigation.

3.6. MUFSC - means the DNA testing facility known as Marshall University Forensic Science Center (MUFSC).

3.7. Medical Technician - includes persons trained as medical technicians, emergency medical technicians, persons certified as phlebotomists by the College of American Pathology, or any other qualified phlebotomists.

3.8 Approved individual – a probation officer, law enforcement officer or medical technician trained to collect DNA samples for the DNA Databank program.

3.9. Kit - means either the blood kit currently provided by the West Virginia State Police for the purposes of collecting Databank samples or any other collection kit provided by the West Virginia State Police for the purpose of collecting a DNA Databank sample.

3.10. CODIS - Combined DNA Index System

3.11. NDIS – National DNA Index System

3.12. Collection Facility - any facility or agency that is responsible for the collection of a DNA Databank sample from qualifying individuals under their supervision.

3.13 CODIS Administrator – the Biochemistry Section employee designated by the State Police as the person responsible for the administration of the CODIS program in the State.

3.14 Storage device – any storage unit that can provide acceptable storage conditions for biological stains.

§81-9-4. Procedures for the Collection of Samples for DNA Analysis.

The following standards shall be met when collecting samples for the purposes of DNA analysis:

1. Representatives of the West Virginia Division of Corrections and/or Regional Jail Authority, Sheriff's Department or other authorized agency of the criminal justice system, working in conjunction with the West Virginia State Police, shall have a DNA sample collected from:

a. All individuals convicted of any offense specified in West Virginia Code 15-2B-6.

b. Where not otherwise mandated, any person convicted of a felony offense under the provisions of this code, provided that the person is under the supervision of the criminal justice system at the time the request for the sample is made. Supervision includes prison, the regional jail system, parole, probation, home

confinement , community corrections program, and work release.

2. Only a licensed registered professional nurse, doctor of medicine or osteopathy, or a trained medical technician may draw a blood sample. The WVSP Kit shall be used for the withdrawal of blood only for the purpose of DNA Databank analysis.

3. The blood shall be drawn using the sterile, previously unused, needles and storage vessels provided in the Kit. The blood shall be drawn according to accepted medical procedures and according to the universal safety precautions outlined by the National Centers for Disease Control. The provided vessels shall be filled to capacity, if possible, and sealed according to the instructions included in the WVSP Kit.

4. Approved individuals shall collect a buccal (saliva) sample following the guidelines provided in the kit or per communication with the CODIS Administrator or designee.

5. Approved individuals shall collect the DNA sample following the guidelines provided in the kit or per communication with the CODIS Administrator or designee.

6. The CODIS Administrator or his designee may permit the replacement of the blood tube or other collection material by the collection facility with sterile collection material via communication with the State Police.

7. The collection facility shall confirm the identity of the individual whose sample is collected with an identification card bearing a photograph or through another means that would positively identify the DNA donor. Only one donor may be processed at a time to avoid potential mislabeling or misidentification of the samples.

8. The kit will include one information card to be used by the Biochemistry Section. The collection facility shall complete the information card in full at the time of collection according to the instructions included in the kit. The collection facility shall also complete the fingerprint identification block on the information card at the time of sample collection. A right thumb print is the print of choice. If a right thumb print is not possible, then a left thumb print shall be used. If a thumb print is not possible an index finger (right then left) shall be used for identity confirmation. If an index finger print cannot be collected, the middle finger (right then left), or ring finger print (right then left), or little finger print (right then left) shall be used to confirm identity. In the event that no finger print is possible due to the absence of fingers or hands, the fingerprint block shall be left blank. The identity of the digit used to make the fingerprint shall be noted on the information card.

9. A second individual shall verify the data on the information card when possible. The witness shall sign the information card on the appropriate signature line.

10. The collection facility shall ensure that the collected DNA sample and the completed information card are placed in Kit according to the instructions included, sealed, and mailed immediately to:

West Virginia State Police
Biochemistry Section
725 Jefferson Road,
South Charleston, WV, 25309-1698.

11. The collection facility obtaining the DNA sample shall maintain the logbook provided by the State Police containing the following information: the kit number, the name of the donor, the date and time of sample collection, the name of the witness, and the name of the collecting technician. The log shall be completed in full at the time of sample collection.

12. The collection facility shall provide the Biochemistry Section with a copy of the log book containing entries from the previous three months on a quarterly basis each calendar year. The copy of the log book shall be sent to:

West Virginia State Police,
Biochemistry Section,
725 Jefferson Road,
South Charleston, WV, 25309-1698.

The collecting facility shall send the log sheets even if no log entries occurred in the three months prior to the mailing dates.

§81-9-5. Receipt of Blood Samples at State Police Headquarters.

The CODIS Administrator or his designee is responsible for receipt of samples collected under this rule, and shall meet the following standards:

1. The CODIS Administrator shall, record the following on the kit information card: the date of reception, the individual receiving the kit and the submitting facility if needed..

2. The CODIS Administrator or his designee shall enter information from the Kit's information card into the appropriate computer file. The card shall be labeled with a unique identifier and shall be filed in a secure, fireproof location. Upon confirmation that a sample is a duplicate of a sample currently in the Databank the duplicate may be destroyed or entered in to the Databank as a quality control sample.

3. Each DNA sample received shall be processed according to the existing Biochemistry Section safety and quality assurance guidelines. A minimum of two stain cards shall be prepared from the sample contained in the Kit. Each prepared stain card shall be labeled with unique identifiers. Samples shall be prepared for long term storage based on the sample medium. All prepared stains shall be stored, upon drying, in sequential order in a long-term storage device. A stain and/or liquid sample shall be forwarded to MUFSC. In the case of DNA samples other than blood, up to one half of the total sample shall be forwarded to MUFSC.

§81-9-6. Transport and Receipt of DNA samples to MUFSC for DNA Analysis.

The CODIS Administrator or his designee shall be responsible for transportation to and receipt from MUFSC of DNA samples and shall meet the following standards:

1. DNA samples prepared for transport shall only be labeled with the assigned unique identifier. .
2. The CODIS Administrator shall be responsible for transporting the DNA samples to MUFSC. . A sample transport and receipt form shall be completed and signed by the transporting and receiving individuals. A copy of the transport and receipt form will be maintained in the records of both agencies.
3. MUFSC, upon receipt of the DNA samples shall log the date of receipt for each sample into the appropriate file in the West Virginia DNA Databank software. MUFSC will only have access to the race, gender, unique identifier and transfer dates of each file.
4. Upon receipt, DNA samples shall be stored in a secure, medium appropriate storage device. A refrigerated storage device shall be connected to an auxiliary power source in the event of power failures.
5. MUFSC shall document all transactions involving the DNA samples including internal transfers, transfers of DNA samples to the Biochemistry Section or destruction of DNA samples under the authority of the CODIS Administrator or his designee. Any liquid samples will be destroyed upon confirmation, in writing, of a successful upload of the DNA profile to the national database (NDIS) by the CODIS Administrator.

§81-9-7. Handling, Processing and Analyzing Blood Samples at MUFSC.

MUFSC shall perform the handling, processing and analysis of DNA samples according to the nationally accepted guidelines for DNA analysis promulgated by the FBI Director, the guidelines promulgated by the American Society of Crime Laboratory Directors Laboratory Accreditation Board, and the National DNA Index System (CODIS) Standards for the Acceptance of DNA Data. In addition to the preceding requirements the handling, processing, and analysis of samples shall meet the following standards:

1. Only personnel who have successfully completed the required proficiency test(s) approved by the State Police shall conduct DNA analysis on the DNA samples submitted by the State Police..
2. Only MUFSC personnel who have their personal DNA profiles on file with the State Police shall conduct DNA analysis on DNA samples submitted by the State Police.
3. The State Police shall conduct periodic quality control inspections and/or audit reviews of MUFSC. MUFSC shall conduct DNA analysis according to a State Police approved quality assurance program.
4. All DNA analysis data shall be forwarded to the Biochemistry Section for inspection and approval.
5. All DNA data generated by MUFSC shall be stored in a format compatible with the Combined DNA Index (CODIS) employed by the State Police and the FBI. Data generated at Marshall shall be stored

in a location and in a way that is secure from alteration and destruction. All samples and data shall be returned upon the request of the West Virginia State Police.

§81-9-8. The Monitoring, Inspection, and Prohibition on the Exchange of Information.

In order to safeguard the donor's personal privacy, the following standards shall apply to the gathering and exchange of information:

1. Only the information required to generate investigative leads shall be entered into the CODIS. Names, addresses, criminal histories or other personally identifiable information shall not be included.

2. The Biochemistry Section shall restrict access to DNA analysis records to criminal justice DNA laboratories participating in NDIS. The Biochemistry Section shall release a DNA record to other laboratories only when a potential DNA match is discovered. The Biochemistry Section may release identifying information only upon the verified request of an investigating law enforcement agency.

3. The West Virginia DNA Databank computer software shall employ user authentication and access control. The software shall uniquely identify each user and all activity by a user shall be monitored. Transaction activities shall be monitored by the computer system to record when and by whom a deletion is made, who adds a file or who edited a file last. User authority shall be segregated to limit the activities that one user may perform as opposed to other users.

4. The computer housing the CODIS software shall employ user authentication and access control. The software shall uniquely identify each user. The CODIS Administrator or his designee shall be responsible limiting the activities one user may perform as opposed to other users.

5. Confirmation of in-state searches of CODIS shall be limited to open criminal cases or cases that are being actively investigated by a law enforcement agency. If a potential DNA match is identified, authorized Biochemistry Section personnel shall generate a match report. The match report may be used to establish probable cause by the investigating agency to obtain a court order for the collection of a fresh reference sample.

6. The CODIS Administrator or his designee shall ensure that all data entered into the Databank shall comply with the approved quality assurance guidelines of the State Police Crime Laboratory. Data from all points of entry, collection, storage, and testing shall be routinely monitored to insure its integrity.

§81-9-9. The Expungement of Information.

Authorized personnel assigned to the Biochemistry Section shall supervise the expungement of DNA analysis records based on the following standards:

1. The Biochemistry Section shall expunge records upon receipt of both a court order and pursuant to a written request. The Biochemistry Section shall contact the ordering court and have the order verified before expungement.

2. The Biochemistry Section shall maintain a file of all expungement orders received and processed.

3. The Biochemistry Section, upon confirmation of the court order, shall erase from the main file and all backup files of the DNA Databank computer all information and records relating to the donor and conviction named in the order. All of the computer files of the donor shall be deleted from the state (CODIS) and national (NDIS) databases and the Biochemistry Section shall destroy the corresponding information card, and any copies that may exist on file. The Biochemistry Section shall destroy all corresponding DNA samples collected for the purpose of DNA analysis and in the possession of or under the jurisdiction of the Biochemistry Section unless the donor wishes to take possession of the DNA sample. The Biochemistry Section shall destroy DNA samples according to accepted safety guidelines for biohazard materials.

4. The Biochemistry Section shall send a letter of expungement to the court of record upon compliance with the court order.

**TITLE 81
LEGISLATIVE RULE
WEST VIRGINIA STATE POLICE**

**SERIES 9
WEST VIRGINIA DNA DATABANK**

§81-9-1. General.

1.1. Scope. -- This legislative rule establishes the methods and standards necessary to establish and administer a DNA database/databank as they relate to the collection of DNA samples, the submission of samples, the analysis of samples, the storage of samples and results, and the exchange and expungement of information concerning DNA specimens collected for DNA analysis.

1.2. Authority. --W. Va. Code §15-2-24, §15-2B-4.

1.3. Filing Date.

1.4. Effective Date.

§81-9-2. Application and Enforcement.

2.1. Application - This legislative rule applies to any person or entity collecting, or causing to be collected, samples of human DNA for the purposes stated in this rule.

2.2. Enforcement - The enforcement of this legislative rule is vested with the Superintendent of the West Virginia State Police.

§81-9-3. Definitions.

As used in this rule, unless used in a context that clearly requires a different meaning, the term:

3.1. Biochemistry Section - means the section of the State Police laboratory that administers the DNA Databank and conducts analysis of biological materials, including blood and saliva, to determine a genetic profile gleaned from DNA.

3.2. DNA - means deoxyribonucleic acid and refers to the basic biological molecule that carries and transmits genetic information.

3.3. DNA sample – human biological material, including, but not limited to, blood and saliva from which DNA can be extracted and analyzed.

3.4. DNA Analysis - means the analysis performed on biological materials, including blood and saliva, to determine the genetic profile of the individual tested.

3.5. FBI - means the Federal Bureau of Investigation.

3.6. MUFSC - means the DNA testing facility known as Marshall University Forensic Science Center (MUFSC).

3.7. Medical Technician - includes persons trained as medical technicians, emergency medical technicians, persons certified as phlebotomists by the College of American Pathology, or any other qualified phlebotomists.

3.8. Approved individual – a probation officer, law enforcement officer or medical technician trained to collect DNA samples for the DNA Databank program.

3.9. Kit - means either the blood kit currently provided by the West Virginia State Police for the purposes of collecting Databank samples or any other collection kit provided by the West Virginia State Police for the purpose of collecting a DNA Databank sample.

3.10. CODIS - Combined DNA Index System

3.11. NDIS – National DNA Index System

3.12. Collection Facility - any facility or agency that is responsible for the collection of a DNA Databank sample from qualifying individuals under their supervision.

3.13 CODIS Administrator – the Biochemistry Section employee designated by the State Police as the person responsible for the administration of the CODIS program in the State.

3.14 Storage device – any storage unit that can provide acceptable storage conditions for biological stains.

§81-9-4. Procedures for the Collection of Samples for DNA Analysis.

The following standards shall be met when collecting samples for the purposes of DNA analysis:

1. Representatives of the West Virginia Division of Corrections and/or Regional Jail Authority, Sheriff's Department or other authorized agency of the criminal justice system, working in conjunction with the West Virginia State Police, shall have a DNA sample collected from:

a. All individuals convicted of any offense specified in West Virginia Code 15-2B-6.

b. Where not otherwise mandated, any person convicted of a felony offense under the provisions of this code, provided that the person is under the supervision of the criminal justice system at the time the request for the sample is made. Supervision includes prison, the regional jail system, parole, probation, home confinement, community corrections program, and work release.

2. Only a licensed registered professional nurse, doctor of medicine or osteopathy, or a trained medical technician may draw a blood sample. The WVSP Kit shall be used for the withdrawal of blood only for the purpose of DNA Databank analysis.

3. The blood shall be drawn using the sterile, previously unused, needles and storage vessels provided in the Kit. The blood shall be drawn according to accepted medical procedures and according to the universal safety precautions outlined by the National Centers for Disease Control. The provided vessels shall be filled to capacity, if possible, and sealed according to the instructions included in the WVSP Kit.

4. Approved individuals shall collect a buccal (saliva) sample following the guidelines provided in the kit or per communication with the CODIS Administrator or designee.

5. Approved individuals shall collect the DNA sample following the guidelines provided in the kit or per communication with the CODIS Administrator or designee.

6. The CODIS Administrator or his designee may permit the replacement of the blood tube or other collection material by the collection facility with sterile collection material via communication with the State Police.

7. The collection facility shall confirm the identity of the individual whose sample is collected with an identification card bearing a photograph or through another means that would positively identify the DNA donor. Only one donor may be processed at a time to avoid potential mislabeling or misidentification of the samples.

8. The kit will include one information card to be used by the Biochemistry Section. The collection facility shall complete the information card in full at the time of collection according to the instructions included in the kit. The collection facility shall also complete the fingerprint identification block on the information card at the time of sample collection. A right thumb print is the print of choice. If a right thumb print is not possible, then a left thumb print shall be used. If a thumb print is not possible an index finger (right then left) shall be used for identity confirmation. If an index finger print cannot be collected, the middle finger (right then left), or ring finger print (right then left), or little finger print (right then left) shall be used to confirm identity. In the event that no finger print is possible due to the absence of fingers or hands, the fingerprint block shall be left blank. The identity of the digit used to make the fingerprint shall be noted on the information card.

9. A second individual shall verify the data on the information card when possible. The witness shall sign the information card on the appropriate signature line.

10. The collection facility shall ensure that the collected DNA sample and the completed information card are placed in the kit according to the instructions included, sealed, and mailed immediately to:

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11. The collection facility obtaining the DNA sample shall maintain the logbook provided by the State Police containing the following information: the kit number, the name of the donor, the date and time of sample collection, the name of the witness, and the name of the collecting technician. The log shall be completed in full at the time of sample collection.

12. The collection facility shall provide the Biochemistry Section with a copy of the log book containing entries from the previous three months on a quarterly basis each calendar year. The copy of the log book shall be sent to:

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The collecting facility shall send the log sheets even if no log entries occurred in the three months prior to the mailing dates.

§81-9-5. Receipt of Blood Samples at State Police Headquarters.

The CODIS Administrator or his designee is responsible for receipt of samples collected under this rule, and shall meet the following standards:

1. The CODIS Administrator shall record the following on the kit information card: the date of reception, the individual receiving the kit and the submitting facility if needed.

2. The CODIS Administrator or his designee shall enter information from the Kit's information card into the appropriate computer file. The card shall be labeled with a unique identifier and shall be filed in a secure, fireproof location. Upon confirmation that a sample is a duplicate of a sample currently in the Databank the duplicate may be destroyed or entered in to the Databank as a quality control sample.

3. Each DNA sample received shall be processed according to the existing Biochemistry Section safety and quality assurance guidelines. A minimum of two stain cards shall be prepared from the sample contained in the Kit. Each prepared stain card shall be labeled with unique identifiers. Samples shall be prepared for long term storage based on the sample medium. All prepared stains shall be stored, upon drying, in sequential order in a long-term storage device. A stain and/or liquid sample shall be forwarded to MUFSC. In the case of DNA samples other than blood, up to one half of the total sample shall be forwarded to MUFSC.

§81-9-6. Transport and Receipt of DNA samples to MUFSC for DNA Analysis.

The CODIS Administrator or his designee shall be responsible for transportation to and receipt from MUFSC of DNA samples and shall meet the following standards:

1. DNA samples prepared for transport shall only be labeled with the assigned unique identifier.

2. The CODIS Administrator shall be responsible for transporting the DNA samples to MUFSC. A sample transport and receipt form shall be completed and signed by the transporting and receiving individuals. A copy of the transport and receipt form will be maintained in the records of both agencies.

3. MUFSC, upon receipt of the DNA samples shall log the date of receipt for each sample into the appropriate file in the West Virginia DNA Databank software. MUFSC will only have access to the race, gender, unique identifier and transfer dates of each file.

4. Upon receipt, DNA samples shall be stored in a secure, medium appropriate storage device. A refrigerated storage device shall be connected to an auxiliary power source in the event of power failures.

5. MUFSC shall document all transactions involving the DNA samples including internal transfers, transfers of DNA samples to the Biochemistry Section or destruction of DNA samples under the authority of the CODIS Administrator or his designee. Any liquid samples will be destroyed upon confirmation, in writing, of a successful upload of the DNA profile to the national database (NDIS) by the CODIS Administrator.

§81-9-7. Handling, Processing and Analyzing Blood Samples at MUFSC.

MUFSC shall perform the handling, processing and analysis of DNA samples according to the nationally accepted guidelines for DNA analysis promulgated by the FBI Director, the guidelines promulgated by the American Society of Crime Laboratory Directors Laboratory Accreditation Board, and the National DNA Index System (CODIS) Standards for the Acceptance of DNA Data. In addition to the preceding requirements the handling, processing, and analysis of samples shall meet the following standards:

1. Only personnel who have successfully completed the required proficiency test(s) approved by the State Police shall conduct DNA analysis on the DNA samples submitted by the State Police..

2. Only MUFSC personnel who have their personal DNA profiles on file with the State Police shall conduct DNA analysis on DNA samples submitted by the State Police.

3. The State Police shall conduct periodic quality control inspections and/or audit reviews of MUFSC. MUFSC shall conduct DNA analysis according to a State Police approved quality assurance program. 4. All DNA analysis data shall be forwarded to the Biochemistry Section for inspection and approval.

5. All DNA data generated by MUFSC shall be stored in a format compatible with the Combined DNA Index (CODIS) employed by the State Police and the FBI. Data generated at Marshall shall be stored in a location and in a way that is secure from alteration and destruction. All samples and data shall be returned upon the request of the West Virginia State Police.

§81-9-8. The Monitoring, Inspection, and Prohibition on the Exchange of Information.

In order to safeguard the donor's personal privacy, the following standards shall apply to the gathering and exchange of information:

1. Only the information required to generate investigative leads shall be entered into the CODIS. Names, addresses, criminal histories or other personally identifiable information shall not be included.

2. The Biochemistry Section shall restrict access to DNA analysis records to criminal justice DNA laboratories participating in NDIS. The Biochemistry Section shall release a DNA record to other laboratories only when a potential DNA match is discovered. The Biochemistry Section may release identifying information only upon the verified request of an investigating law enforcement agency.

3. The West Virginia DNA Databank computer software shall employ user authentication and access control. The software shall uniquely identify each user and all activity by a user shall be monitored. Transaction activities shall be monitored by the computer system to record when and by whom a deletion is made, who adds a file or who edited a file last. User authority shall be segregated to limit the activities that one user may perform as opposed to other users.

4. The computer housing the CODIS software shall employ user authentication and access control. The software shall uniquely identify each user. The CODIS Administrator or his designee shall be responsible limiting the activities one user may perform as opposed to other users.

5. Confirmation of in-state searches of CODIS shall be limited to open criminal cases or cases that are being actively investigated by a law enforcement agency. If a potential DNA match is identified, authorized Biochemistry Section personnel shall generate a match report. The match report maybe used to establish probable cause by the investigating agency to obtain a court order for the collection of a fresh reference sample.

6. The CODIS Administrator or his designee shall ensure that all data entered into the Databank shall comply with the approved quality assurance guidelines of the State Police Crime Laboratory. Data from all points of entry, collection, storage, and testing shall be routinely monitored to insure its integrity.

§81-9-9. The Expungement of Information.

Authorized personnel assigned to the Biochemistry Section shall supervise the expungement of DNA analysis records based on the following standards:

1. The Biochemistry Section shall expunge records upon receipt of both a court order and pursuant to a written request. The Biochemistry Section shall contact the ordering court and have the order verified before expungement.

2. The Biochemistry Section shall maintain a file of all expungement orders received and processed.

3. The Biochemistry Section, upon confirmation of the court order, shall erase from the main file and all backup files of the DNA Databank computer all information and records relating to the donor and conviction named in the order. All of the computer files of the donor shall be deleted from the state (CODIS) and national (NDIS) databases and the Biochemistry Section shall destroy the corresponding information card, and any copies that may exist on file. The Biochemistry Section shall destroy all corresponding DNA samples collected for the purpose of DNA analysis and in the possession of or under the jurisdiction of the Biochemistry Section unless the donor wishes to take possession of the DNA sample. The Biochemistry Section shall destroy DNA samples according to accepted safety guidelines for biohazard materials.

4. The Biochemistry Section shall send a letter of expungement to the court of record upon compliance with the court order.