

Good morning Chairman Yeager and members of the committee. Thank you for inviting me to present the Central Repository's process for DNA expungement.

My name is Erica Souza and I manage the Central Repository Units within the General Services Division.

The Central Repository's role in the DNA process has been fairly minimal. We have worked closely with the two crime labs within the state to finalize processes where they intermingle with each other. We are currently working on an automated process between the STaCS DNA database and the state's computerized criminal history system.

Because Nevada's criminal history record information is fingerprint based, as required to participate in the FBI's Interstate Identification Index, also known as **II**, it is necessary to fingerprint confirm the arrest fingerprints associated with a DNA submission before we can include the DNA profile indicator on the state rap sheet. To do this with minimal impact to the Central Repository, we implemented the use of a particular field on the livescan fingerprint machines used to transmit the arrest fingerprints at the time a subject is booked. With the use of this field, automated messages are returned back to the booking facilities and the crime labs as designated by the information entered into the fingerprint record at the time of booking. The information returned from the state back to the labs and law enforcement agencies provides data regarding fingerprint confirmation. This process still requires manual work to be performed by the booking facilities and labs by transcribing the associated identification information onto the DNA sample kit.

**Comment [ES1]:** Note to myself: **II** provides a means of conducting national criminal history records searches for criminal justice and other purposes as specified by existing local, state, and/or federal laws. Each criminal history record in **II** is supported by a criminal fingerprint submission.

The automated process is currently being worked on by the Central Repository in cooperation with Steve Gresko, the State CODIS Administrator at the Washoe County Sheriff's Office Forensic Science Division as well as the STaCS DNA database vendor. This process will auto-populate demographic data into STaCS which will eliminate the need for the booking officers to data enter. It will also pass information back to the state criminal history system once a DNA sample has been CODIS confirmed at which time it will populate the DNA profile indicator on to the state rap sheet based upon each qualifying arrest event.

The expungement process that relates to the Central Repository's responsibilities in Senate Bill 243 have not yet been implemented. As previously stated, we are working with Steve Gresko and the STaCS DNA database vendor to finalize the requirements for electronic processing which will include the removal of the DNA indicator on the state criminal history rap sheet.

My staff drafted and finalized the DNA Expungement Request Form that is being provided to all DNA arrestees either at the time of booking or upon release. This form is available in both English and Spanish on our public website, as well as several locations in NV Share, which is a

restricted website hosted by the Nevada Department of Public Safety and made available to law enforcement agencies statewide.

Per NRS 176.09125, a person whose record of criminal history indicates the collection of a biological specimen may make a written request to the Central Repository. Within 6 weeks after receiving the written request, the Central Repository will forward the request and all supporting documentation to the forensic laboratory holding the biological specimen. My staff will ensure that all supporting documentation is present when the request to expunge is received from the subject of the record. This information may include certified copies of court dockets or minutes ordering a dismissal, a certified copy of a court docket or minute indicating the successful completion of a pre-prosecution diversion program, a certified copy of a conditional discharge or acquittal, or a certified copy of an agreement entered into by a prosecuting attorney and the defendant in which the defendant received a charge other than a felony during a plea agreement. In some instances where charges are not filed against a subject, a waiting period of 3 years from the date of arrest is required before the subject of the record can make a request to destroy the biological specimen and remove the DNA profile and DNA record from the state DNA database and CODIS. In this case, a sworn affidavit from the law enforcement agency that collected the DNA is required to show that no felony charges arising from the arrest have been filed.

My staff has also drafted and finalized a response form that will be used to communicate the outcome of the expungement request back to the person making the request. In addition, this form will also give the Central Repository the opportunity to return the request back to the requestor should the required supporting documentation previously explained be missing from the request.

Upon receipt of the expungement request, my staff will ensure that all required supporting documentation is present. This information will be forwarded to the respective lab along with a print out of the state criminal history rap sheet using the Law Enforcement Online website, also known as L-E-O or LEO. This website is hosted by the FBI and is a gateway for providing law enforcement and criminal justice agencies access to beneficial resources in a secured manner and allows for the sharing of confidential information. The supporting documentation that my staff will provide to the forensic labs via LEO will aid them in making their determination of whether or not the subject is eligible to have the DNA profile and DNA record expunged.

If the forensic lab determines that the DNA record should be expunged, they will send an electronic notification from the CODIS database via the STaCS database to the state's criminal history system to remove the DNA indicator from the arrest event. I'd like to make note that this will not remove the arrest event from the state criminal history rap sheet, but only remove the DNA indicator from the state rap sheet.

The forensic labs will then notify the Central Repository via LEO whether or not a request to expunge a DNA record is approved or denied. Based upon that information, my staff will generate the DNA Expungement Response form and mail it to the requestor stating the outcome of their request.

To date, my office has received 2 requests to expunge DNA records. These requests are currently being processed and will be returned back to the requestors as neither of them contain any supporting documentation and are incomplete.

Because the entire expungement process has yet to be tested and used, some processes may need to be modified in the future as the Central Repository and the forensic labs continue to work together for a streamlined workflow.

This concludes my presentation. I'd like to thank you for your time. Are there any questions?