

Five teenage boys were sitting in a parked car in Melbourne, Florida, when a curious Officer Justin Valutsky pulled up behind them. Valutsky asked what they were doing there, and the boys explained they were on their way to a friend's sleepover. And then Valutsky made an unexpected demand: he asked which boy was going to give him a DNA sample. After a long pause, fifteen year old Adam nervously volunteered. Valutsky first swabbed his mouth, and *then* gave him a consent form. But telling his story to **ProPublica on September 12th, 2016**, Adam says he thought he didn't have a choice. This new popular practice in policing, is known as "stop and spit". DNA sampling through the FBI have been essential in cracking countless cases, but this isn't the FBI. It's local police departments. The FBI has strict regulations on DNA they can collect, while local police only require an informed consent form. A **November 18th, 2016 VICE report** reveals nearly 100 local police departments across the country use this unregulated DNA sampling. But why should we really care? After all, we readily give up our fingerprint, even to our phones. **The European Society of Human Genetics** answers we should still have agency over who gets our DNA, but we are stripped of that right when our DNA is taken without warrant. Not to mention, potential data breaches. Imagine an Equifax-level breach of your genetic blueprint. The mystery and coercion surrounding DNA sampling by local police is an injustice that perpetuates profiling. So today, we must examine the problems, causes, and solutions to what the Michigan Journal of Race and Law calls a dangerous twist on its old cousin "stop and frisk".

In 2013, the Supreme Court ruled local police departments could expand DNA sampling from only convicted criminals to anyone suspected of or involved in criminal activity. Including victims. In turn, paper-thin regulations have set the stage for two problems: uninformed consent, and legal discrimination.

First, informed consent is anything but informed. While the person giving their DNA sample does have to sign a consent form, "consent" is used lightly. **The aforementioned VICE report** explains when collecting a DNA sample, police will hand you a long legal document, mumble through an explanation, then tell you to sign at the bottom. They don't ask you to sign the consent form, they *tell* you to. Kind of not the definition of consent.

Second, armed with a blatant lack of regulations, DNA sampling opens the door for legal discrimination. **The San Diego Tribune on February 20th, 2017** tells the story of a young, black teenager named P.D. P.D. had just finished a basketball game with his friends when a police officer stopped him and asked for a DNA sample. Because he was black. That's not speculation, the officer admitted to that and faced no repercussions. Now we've seen what happens even when young black men cooperate with police, and P.D. recalled the officers made it clear he was free to go once he provided a "consensual" DNA sample. While he was handcuffed, sitting in the back of his police car. P.D. was a victim of what **BBC on August 7th, 2017** calls a new form of genetic discrimination. Black and Latino Americans comprise 25% of the US population, but represent over 80% of the DNA database population. That is not a coincidence. That's discrimination, and it's perfectly legal.

Police continue to ask for DNA samples from minors and minorities because they are in the worst position to say no. What kid would say no to a request from a police officer? This highlights two causes: lack of regulations, and a presumption of guilt.

Initially, a lack of standardized regulations means police have easy access to our most personal genetic blueprint. **The Boston Globe on March 4th, 2017** explains the use of local databases is a loophole to the DNA Identification Act of 1994, which only allowed DNA collection from convicted criminals, and any collateral DNA from victims or bystanders would be disposed of. Enter: the loophole, because the scope of that act ends at the local level, meaning police to set their own standards. While a lack of regulation impacts all of us, its effect on minors is especially problematic. **BBC on August 7th, 2017** cites minors are heavily protected on a state and federal level, as they should be, but the local level leaves them in the dust. If minors need parents to sign off on a field trip to the zoo, they need permission to give police their DNA indefinitely.

Furthermore, stop-and-spit is sanctioning profiling by operating under a presumption of guilt. **The ACLU reports on September 20th, 2016** stop and spit is just another excuse for increased police confrontations, especially in over-policed communities. Frederick Harran, Director of Public Safety in Bensalem Pennsylvania is confused why anyone would object to providing their DNA. He tells **Business Insider on September 12th, 2016** if we have nothing to fear, we have nothing to hide. He goes on to argue everyone will get their day in court and “prove their innocence”. But this perpetuates the narrative of guilty until proven innocent, the same mentality against boys who pulled skittles out of their pocket or held their hands up saying “don’t shoot”. And they never got a day in court.

Setting aside invasion of privacy, stop and spit is dangerous for the same reason stop and frisk is. It unfairly targets underprivileged groups in underserved communities. Sure, discrimination exists on many institutional levels. And this is one of them, so let’s do our part and look to solutions on both an institutional and personal level.

First, let’s take a trip through history. In the case of *Miranda v. Arizona*, it was ruled that the person in question must, prior to interrogation, be explicitly informed of their right to remain silent. **The Verge on February 15th, 2017** argues this same logic must be applied to DNA sampling. Asking someone to sign a long legal document with small text is not the same as telling them they don’t have to. I’ve written out rights to be read by police to anyone being asked for a DNA sample. Use the QR code on this handout to simply enter your name and hometown. I’ll use that to reach out to your local police department and ask for them to implement the reading of those rights. Now if they don’t use localized DNA sampling, great. But if they do, it is imperative these rights are clearly understood by anyone being asked for a DNA sample.

Second, there’s plenty we can do on a personal level to combat stop and spit. If you are ever asked for a DNA sample and didn’t commit a felony, know that you are not required to do so. On the back of this handout is quick list of your rights. It’s the size of a credit card, so it fits

perfectly in your wallet. Keep it there so you always have easy access to it. But knowing your rights can only take you so far, so if you don't feel safe telling a police officer no, give the sample, then call the number on this card to contact the ACLU. In the wake of officer Valutzky all but forcing a DNA sample from Adam, this is the number his family called to get that sample removed. And it worked. If faced with the same situation, we all can, and must do the same.

Today, after exploring the problems, causes, and solutions to unwarranted stop and spit sampling, it's apparent "informed consent" has become synonymous with "coerced". Let me be clear: *regulated* DNA sampling has been instrumental in not only helping catch guilty criminals, but freeing wrongly convicted ones. But take away those regulations and we are just giving police another avenue for discrimination and prejudice. It's time we close that avenue, because while discrimination comes in many different forms, it should never be normalized.