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NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

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MARYLAND *v.* KING

CERTIORARI TO THE COURT OF APPEALS OF MARYLAND

No. 12–207. Argued February 26, 2013—Decided June 3, 2013

After his 2009 arrest on first- and second-degree assault charges, respondent King was processed through a Wicomico County, Maryland, facility, where booking personnel used a cheek swab to take a DNA sample pursuant to the Maryland DNA Collection Act (Act). The swab was matched to an unsolved 2003 rape, and King was charged with that crime. He moved to suppress the DNA match, arguing that the Act violated the Fourth Amendment, but the Circuit Court Judge found the law constitutional. King was convicted of rape. The Maryland Court of Appeals set aside the conviction, finding unconstitutional the portions of the Act authorizing DNA collection from felony arrestees.

Held: When officers make an arrest supported by probable cause to hold for a serious offense and bring the suspect to the station to be detained in custody, taking and analyzing a cheek swab of the arrestee's DNA is, like fingerprinting and photographing, a legitimate police booking procedure that is reasonable under the Fourth Amendment. Pp. 3–28.

(a) DNA testing may "significantly improve both the criminal justice system and police investigative practices," *District Attorney's Office for Third Judicial Dist.* v. *Osborne*, 557 U. S. 52, 55, by making it "possible to determine whether a biological tissue matches a suspect with near certainty," *id.,* at 62. Maryland's Act authorizes law enforcement authorities to collect DNA samples from, as relevant here, persons charged with violent crimes, including first-degree assault. A sample may not be added to a database before an individual is arraigned, and it must be destroyed if, *e.g.,* he is not convicted. Only identity information may be added to the database. Here, the officer collected a DNA sample using the common "buccal swab" procedure, which is quick and painless, requires no "surgical intrusio[n] beneath

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the skin," *Winston* v. *Lee*, 470 U. S. 753, 760, and poses no threat to the arrestee's "health or safety," *id.,* at 763. Respondent's identification as the rapist resulted in part through the operation of the Combined DNA Index System (CODIS), which connects DNA laboratories at the local, state, and national level, and which standardizes the points of comparison, *i.e.,* loci, used in DNA analysis. Pp. 3–7.

(b) The framework for deciding the issue presented is well established. Using a buccal swab inside a person's cheek to obtain a DNA sample is a search under the Fourth Amendment. And the fact that the intrusion is negligible is of central relevance to determining whether the search is reasonable, "the ultimate measure of the constitutionality of a governmental search," *Vernonia School Dist. 47J* v. *Acton*, 515 U. S. 646, 652. Because the need for a warrant is greatly diminished here, where the arrestee was already in valid police custody for a serious offense supported by probable cause, the search is analyzed by reference to "reasonableness, not individualized suspicion," *Samson* v. *California*, 547 U. S. 843, 855, n. 4, and reasonableness is determined by weighing "the promotion of legitimate governmental interests" against "the degree to which [the search] intrudes upon an individual's privacy," *Wyoming* v. *Houghton*, 526 U. S. 295, 300. Pp. 7–10.

(c) In this balance of reasonableness, great weight is given to both the significant government interest at stake in the identification of arrestees and DNA identification's unmatched potential to serve that interest. Pp. 10–23.

(1) The Act serves a well-established, legitimate government interest: the need of law enforcement officers in a safe and accurate way to process and identify persons and possessions taken into custody. "[P]robable cause provides legal justification for arresting a [suspect], and for a brief period of detention to take the administrative steps incident to arrest," *Gerstein* v. *Pugh*, 420 U. S. 103, 113–114; and the "validity of the search of a person incident to a lawful arrest" is settled, *United States* v. *Robinson*, 414 U. S. 218, 224. Individual suspicion is not necessary. The "routine administrative procedure[s] at a police station house incident to booking and jailing the suspect" have different origins and different constitutional justifications than, say, the search of a place not incident to arrest, *Illinois* v. *Lafayette*, 462 U. S. 640, 643, which depends on the "fair probability that contraband or evidence of a crime will be found in a particular place," *Illinois* v. *Gates*, 462 U. S. 213, 238. And when probable cause exists to remove an individual from the normal channels of society and hold him in legal custody, DNA identification plays a critical role in serving those interests. First, the government has an interest in properly identifying "who has been arrested and who is being tried."

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Hiibel v. *Sixth Judicial Dist. Court of Nev., Humboldt Cty.*, 542 U. S. 177, 191. Criminal history is critical to officers who are processing a suspect for detention. They already seek identity information through routine and accepted means: comparing booking photographs to sketch artists' depictions, showing mugshots to potential witnesses, and comparing fingerprints against electronic databases of known criminals and unsolved crimes. The only difference between DNA analysis and fingerprint databases is the unparalleled accuracy DNA provides. DNA is another metric of identification used to connect the arrestee with his or her public persona, as reflected in records of his or her actions that are available to the police. Second, officers must ensure that the custody of an arrestee does not create inordinate "risks for facility staff, for the existing detainee population, and for a new detainee." *Florence* v. *Board of Chosen Freeholders of County of Burlington*, 566 U. S. ___, ___. DNA allows officers to know the type of person being detained. Third, "the Government has a substantial interest in ensuring that persons accused of crimes are available for trials." *Bell* v. *Wolfish*, 441 U. S. 520, 534. An arrestee may be more inclined to flee if he thinks that continued contact with the criminal justice system may expose another serious offense. Fourth, an arrestee's past conduct is essential to assessing the danger he poses to the public, which will inform a court's bail determination. Knowing that the defendant is wanted for a previous violent crime based on DNA identification may be especially probative in this regard. Finally, in the interests of justice, identifying an arrestee as the perpetrator of some heinous crime may have the salutary effect of freeing a person wrongfully imprisoned. Pp. 10–18.

(2) DNA identification is an important advance in the techniques long used by law enforcement to serve legitimate police concerns. Police routinely have used scientific advancements as standard procedures for identifying arrestees. Fingerprinting, perhaps the most direct historical analogue to DNA technology, has, from its advent, been viewed as a natural part of "the administrative steps incident to arrest." *County of Riverside* v. *McLaughlin*, 500 U. S. 44, 58. However, DNA identification is far superior. The additional intrusion upon the arrestee's privacy beyond that associated with fingerprinting is not significant, and DNA identification is markedly more accurate. It may not be as fast as fingerprinting, but rapid fingerprint analysis is itself of recent vintage, and the question of how long it takes to process identifying information goes to the efficacy of the search for its purpose of prompt identification, not the constitutionality of the search. Rapid technical advances are also reducing DNA processing times. Pp. 18–23.

(d) The government interest is not outweighed by respondent's pri-

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vacy interests. Pp. 23–28.

(1) By comparison to the substantial government interest and the unique effectiveness of DNA identification, the intrusion of a cheek swab to obtain a DNA sample is minimal. Reasonableness must be considered in the context of an individual's legitimate privacy expectations, which necessarily diminish when he is taken into police custody. *Bell, supra,* at 557. Such searches thus differ from the so-called special needs searches of, *e.g.,* otherwise law-abiding motorists at checkpoints. See *Indianapolis* v. *Edmond*, 531 U. S. 32. The reasonableness inquiry considers two other circumstances in which particularized suspicion is not categorically required: "diminished expectations of privacy [and a] minimal intrusion." *Illinois* v. *McArthur*, 531 U. S. 326, 330. An invasive surgery may raise privacy concerns weighty enough for the search to require a warrant, notwithstanding the arrestee's diminished privacy expectations, but a buccal swab, which involves a brief and minimal intrusion with "virtually no risk, trauma, or pain," *Schmerber* v. *California*, 384 U. S. 757, 771, does not increase the indignity already attendant to normal incidents of arrest. Pp. 23–26.

(2) The processing of respondent's DNA sample's CODIS loci also did not intrude on his privacy in a way that would make his DNA identification unconstitutional. Those loci came from noncoding DNA parts that do not reveal an arrestee's genetic traits and are unlikely to reveal any private medical information. Even if they could provide such information, they are not in fact tested for that end. Finally, the Act provides statutory protections to guard against such invasions of privacy. Pp. 26–28.

425 Md. 550, 42 A. 3d 549, reversed.

KENNEDY, J., delivered the opinion of the Court, in which ROBERTS, C. J., and THOMAS, BREYER, and ALITO, JJ., joined. SCALIA, J., filed a dissenting opinion, in which GINSBURG, SOTOMAYOR, and KAGAN, JJ., joined.

SUPREME COURT OF THE UNITED STATES

No. 12–207

MARYLAND, PETITIONER *v.* ALONZO JAY KING, JR.

ON WRIT OF CERTIORARI TO THE COURT OF APPEALS OF MARYLAND

[June 3, 2013]

JUSTICE KENNEDY delivered the opinion of the Court.

In 2003 a man concealing his face and armed with a gun broke into a woman's home in Salisbury, Maryland. He raped her. The police were unable to identify or apprehend the assailant based on any detailed description or other evidence they then had, but they did obtain from the victim a sample of the perpetrator's DNA.

In 2009 Alonzo King was arrested in Wicomico County, Maryland, and charged with first- and second-degree assault for menacing a group of people with a shotgun. As part of a routine booking procedure for serious offenses, his DNA sample was taken by applying a cotton swab or filter paper—known as a buccal swab—to the inside of his cheeks. The DNA was found to match the DNA taken from the Salisbury rape victim. King was tried and convicted for the rape. Additional DNA samples were taken from him and used in the rape trial, but there seems to be no doubt that it was the DNA from the cheek sample taken at the time he was booked in 2009 that led to his first having been linked to the rape and charged with its commission.

The Court of Appeals of Maryland, on review of King's

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