



DNA IDENTIFICATION INDEX LAW

✓ new: rescinds: amends:		cross-reference: NYS Executive Law 995
		accreditation standards: NYSLEAP Standard(s): 50.9
effective date: July, 2020	amend date:	

I. PURPOSE

The purpose of this Order is provide guidance relevant to the collection of DNA samples from individuals who have been convicted and sentenced on certain designated offenses and are required to provide a DNA sample for inclusion in the State DNA Databank, pursuant to NY State Executive Law 995.

II. POLICY

It is the policy of the Tompkins County Sheriff's Office to ensure that DNA samples are collected from all "designated offenders" (as described in section III.A of this policy) who are incarcerated in the Tompkins County Correctional Facility, or defendants who have been ordered by a court to present themselves at the Sheriff's Office to have their DNA collected as required by Law.

III. DNA IDENTIFICATION INDEX LAW

- A. Executive Law section 995-c (3) requires individuals who have been convicted and sentenced of certain designated offenses to provide a DNA sample for inclusion in the State DNA Databank.
- B. Executive Law 995 (7) provides that a designated offense includes:
 - 1. Any felony;
 - 2. Any Penal Law misdemeanor except PL 221.10, criminal possession of marihuana in the fifth degree – this crime is only a designated offense if:
 - a. The conviction is for subdivision two, or;
 - b. The conviction is for subdivision one and the defendant has a previous criminal conviction.
- C. Upon sentencing for a designated non-jail/non-probation case, the court shall direct that the defendant report to the Sheriff's Office on a designated collection day by completing the

DNA Collection Order. The court retains one copy of the Order, one is delivered to the Sheriff's Office, and one is handed to the defendant at sentencing.

- D. The Sheriff's Office will track and notify the court on a regular basis of non-compliant defendants.

IV. **PROCEDURE**

- A. The DNA data bank collection kits provided by the New York State Division of Criminal Justice Services will be utilized in the collection of the swab samples. The return address and pre-paid postage are affixed to the front of the kit.
- B. When an individual appears at the Sheriff's Office to provide a court ordered DNA sample, the member procuring such sample shall complete the appropriate section of the court order, prepare a photocopy and return the original order to the defendant so they may return it to the court as proof that they submitted a DNA sample in satisfaction of the conditional discharge.
- C. Members securing a court ordered DNA sample will complete a Spillman incident entry.
- D. When obtaining a court ordered DNA sample members will follow the instructions contained within the collection kit exactly as prescribed.
- E. Once the DNA sample has been obtained, the member securing the DNA sample will mail the collection kit by placing it in the outgoing mail bin in the Civil Division. The member will make a copy of the DNA Databank Specimen Submission Form and will scan the copy and attach it to the Spillman incident.
- F. Should a member, upon submitting a criminal history inquiry, receive a reply indicating the individual is required to provide a DNA sample, that member shall follow the procedures outlined above.
- G. It is the responsibility of officials of the Tompkins County Correctional Facility to collect buccal swab samples from all inmates convicted of any crime designated as a felony as defined in the NYS Penal Law or any NYS Penal Law misdemeanor except for the misdemeanor stated in section III B.2 above.
 - 1. Procedures defined in Corrections Division Policy No. *8-04-01 Mandated DNA Identification Testing* shall be followed for the collection of buccal swab samples.

Attachments:

- A. Corrections Division Policy No. *8-04-01 Mandated DNA Identification Testing*

By Order Of



Derek Osborne
Sheriff