

ELIZABETH POLICE DEPARTMENT GENERAL ORDERS



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SUBJECT: ARRESTEE DNA SPECIMENS

EFFECTIVE DATE:

September 29, 2020

ACCREDITATION STANDARDS:

N/A

BY THE ORDER OF:

Chief Giacomo Sacca

BY AUTHORITY OF:

Police Director Earl J. Graves

SUPERSEDES ORDER #:

PURPOSE The purpose of this general order is to establish procedures to collect DNA specimens from arrestees in compliance with N.J.S.A. 53: 1-20.18 et seq.

POLICY It is the policy of the Elizabeth Police Department to adhere to the requirements of N.J.S.A. 53: 1-20.18 et seq. and take DNA samples from those arrestees that meet the criteria established by law.

PROCEDURES

I. GENERAL

- A. Only Elizabeth Police Department personnel, who have received biological sample collection training, are permitted to take or supervise the taking of samples in accordance with this general order. Biological sample collection training shall be completed through the online course offered at NJLearn.com. Cell Block personnel who have completed the proper training course shall be responsible for the collection of CODIS DNA samples when the process is necessary for prisoners under their charge. Properly trained ID Bureau personnel shall be responsible for the collection of DNA samples in situations outside of the cell block area.
- B. No civil liability shall attach to any person authorized to draw blood or collect a biological sample as a result of drawing blood or collecting the sample from any person if the blood was drawn or sample collected according to recognized medical procedures.
- C. No person shall be relieved from liability for negligence in the drawing or collecting of any DNA sample.
- D. Any person who by virtue of employment, or official position, has possession of, or access to, individually identifiable DNA information contained in the State DNA database or databank and who purposely discloses it in any manner to any person or agency not entitled to receive it is guilty of a disorderly person's offense.
- E. All DNA profiles and samples submitted to the NJSP pursuant to N.J.S.A. 53: 1-20.18 et seq., shall be treated as confidential.

II. CRITERIA FOR TAKING DNA SAMPLES

- A. Properly trained Cell Block personnel shall ensure that every person arrested for a crime listed in this subsection provides a DNA sample for purposes of DNA testing prior to the person's release from custody or transfer to another facility.
- B. Every juvenile arrested for an act, which if committed by an adult, would constitute a crime listed in this subsection shall provide a DNA sample for purposes of DNA testing prior to the juvenile's release from custody.
- C. Crimes are:
 - 1. Murder (N.J.S.A. 2C: 11-3);
 - 2. Manslaughter (N.J.S.A. 2C: 11-4);
 - 3. Aggravated assault 2nd Degree (N.J.S.A. 2C: 12-1b);
 - 4. Kidnapping (N.J.S.A. 2C: 13-1);
 - 5. Luring or enticing a child (N.J.S.A. 2C: 13-6);

6. Aggravated sexual assault (N.J.S.A. 2C: 14-2);
 7. Sexual assault (N.J.S.A. 2C: 14-2);
 8. Aggravated criminal sexual contact (N.J.S.A. 2C: 14-3);
 9. Criminal sexual contact (N.J.S.A. 2C: 14-3);
 10. Endangering the welfare of children (all except N.J.S.A. 2C: 24-4a(2), (child abuse and neglect)).
- D. DNA samples shall be collected at the time of conviction for specified disorderly persons offenses. These specified disorderly offenses are:
1. Domestic violence simple assault – purposely/ knowingly cause bodily injury (N.J.S.A. 2C: 12-1a(1));
 2. Domestic violence simple assault – negligently cause bodily injury with deadly weapon (N.J.S.A. 2C: 12-1a(2));
 3. Domestic violence simple assault – threat of serious bodily injury by physical menace (N.J.S.A. 2C: 12-1a(3));
 4. Domestic Violence Assault by Auto – (N.J.S.A. 2C: 1c(1));
 5. Contempt of Court – violate domestic violence restraining order (N.J.S.A. 2C: 29-9B(2));
 6. Wandering/prowling to obtain or sell CDS (N.J.S.A. 2C: 33-2.1b);
 7. Prostitution – engage as patron (N.J.S.A. 2C: 34-1B(1));
 8. Prostitution – offer sex in exchange for economic value (N.J.S.A. 2C: 34-1B(8));
 9. CDS – under the influence without prescription (N.J.S.A. 2C: 35-10b);
 10. Possession of CDS – fails to give CDS to police (N.J.S.A. 2C: 35-10c);
 11. Toxic chemical – inhale to cause intoxication (N.J.S.A. 2C: 35-10.4B(1));
 12. Toxic chemical – possess for the purpose of intoxication (N.J.S.A. 2C: 35-10.4b(2));
 13. Prescription legend drug – distribution 4 or fewer doses (N.J.S.A. 2C: 35-10.5a);
 14. Prescription legend drugs – use without a lawful script (N.J.S.A. 2C: 35-10.5b);
 15. Prescription legend drugs – possession without a script equal or less than 4 doses (N.J.S.A. 2C: 35-10.5e(1));

16. Possession of certain prescription drugs (N.J.S.A. 2C: 35-24);
 17. Sales restrictions for ephedrine products (N.J.S.A. 2C: 35-25a);
 18. Use or possession with intent to use drug paraphernalia (N.J.S.A. 2C: 36-2);
 19. Possession or sell hypodermic syringe for use with CDS (N.J.S.A. 2C: 36-6a);
 20. Sale of hypodermic syringe after lawfully purchasing (N.J.S.A. 2C: 36-6.2c).
- E. Prior to taking a DNA sample from a person convicted in municipal court of any of the above offenses, officers must determine if there is a DNA sample on file for that offender. If so, a second sample is **NOT** required.
1. If a sample is not on file, the offender's identity must be electronically verified utilizing LiveScan using the '*Criminal Inquiry*' option.
 2. For simple assault convictions, DNA collection is only required when committed as an act of domestic violence.
- F. Any person who refuses to or prevents by any means the of providing samples of DNA for testing in compliance with this general order should be charged with *Refusal to allow blood, biological sample to be drawn*, N.J.S.A. 2C: 29-11. ID Bureau personnel will also complete a *DNA Refusal Form*, which is attached. A copy of the completed form will be faxed to the CODIS Unit at either of the fax numbers provided at the bottom of the *DNA Refusal Form* and the original will become part of the case file.

III. DNA COLLECTION AND PROCESSING

- A. Unless already collected, DNA samples must be taken from arrestees for any qualifying crime listed in subsection II.C of this general order prior to being transferred to the Union County Jail.
- B. No sample shall be drawn or collected if the NJSP has previously received a blood or biological sample from a convicted person or the juvenile adjudicated delinquent, which was adequate for successful analysis and identification.
1. Check the *DNA Flag Status* in the NJSP Master Name Index (click on the *MNI Detail Box* on the right side of the screen) or the arrest notification Teletype. The DNA Flag Status will be checked for EVERY arrest regardless of the reason for the arrest, inclusive of all arrests made solely for active warrants. There are 4 possible values for the DNA Flag:
 - a. Collection Required (collect immediately);
 - b. Collection Not Required (do not collect);
 - c. Collected (do not collect);

d. Profile in CODIS (do not collect).

- C. Use a *DNA Databank Specimen Submission Form*.
1. It is important to distinguish whether the sample is from:
 - a. An arrestee;
 - b. A convicted offender; or
 - c. Both convicted and arrestee.
 2. Check the appropriate boxes on the submission form.
 3. Include the arrested person's SBI Number. The SBI Number and fingerprints provide identifying indicators to verify that the sample belongs to the arrestee.
 - a. The sample cannot be processed without an SBI Number.
 - b. Exception: Juveniles under 14 arrested for a qualifying offense listed in Section III cannot be fingerprinted until adjudicated delinquent (N.J.S.A. 2A: 4A-61). Leave the SBI Number blank unless the juvenile's SBI Number is already on file.
 - c. Obtain and verify the SBI Number. Use Live Scan if there is no assigned SBI Number or if the SBI Number cannot be located or verified.
 - d. If Live Scan is not available or cannot provide an SBI Number, complete a 10-print criminal arrest fingerprint card so an SBI Number can be later created.
 - e. Attach the 10-print card to the *Specimen Submission Form*.
 4. Sample one arrestee at a time!
 - a. Wear prophylactic gloves;
 - b. Avoid having multiple arrestees nearby;
 - c. Open only one kit at a time;
 - d. When collecting more than one sample, change gloves between each sample
 5. Collection kit should include the following:
 - a. One *Specimen Submission Form*;
 - b. One micro card (FTA card);
 - c. One sterile packet containing a foam tip applicator (buccal swab);
 - d. One 2" x 4" envelope;

- e. One pair of latex gloves.
 - 1) Officers with a latex allergy should use latex-free sterile gloves (if available) or should let another officer take the sample.
 - 2) Use latex-free sterile gloves for arrestees with a latex allergy.
6. Have a fingerprint inkpad ready.
7. Fill out the form neatly. If you make a mistake on the *Specimen Submission Form*:
 - a. Strike it out with a single line;
 - b. Correct it;
 - c. Initial it;
 - d. **DO NOT USE WHITE OUT!**
8. Ask the arrestee to verify his/her information and sign the *Specimen Submission Form* where indicated. If the arrestee refuses to sign the form, indicate '*refused to sign*' and initial this line.
9. Live Scan the arrestee. If a match, check the fingerprint verification box, initial and date. Leave the fingerprint verification box blank if Live Scan is not available.
10. Obtain legible fingerprints of the arrestee's right and left index fingers. The DNA sample cannot be accepted without these fingerprints. Fingerprints must be rolled.
11. Place the barcode on the micro card horizontally over the three lines below the circle. Do not seal the card shut with the barcode.
12. Legibly print the SBI Number on the 2" x 4" envelope in the designated space. Place barcode on the area provided. Do not obstruct the barcode.
13. Put on the gloves (do not put on the gloves prior to this step to avoid contact with the barcode adhesive).
14. Examine the DNA collection kit to ensure that the packet has not been prematurely opened. Discard any packet that appears to have been opened. Using any opened swabs may compromise the collection process. Do not transfer DNA by:
 - a. Sneezing;
 - b. Coughing;
 - c. Not wearing gloves;

- d. Touching the swab;
 - e. Allowing the swab to contact other surfaces.
15. Carefully peel-open the sterile packet and offer the applicator to the arrestee. Instruct the arrestee to take the swab and:
- a. Place the sponge portion of the foam tip applicator in his/her mouth between the cheek and gum;
 - b. Swab each side of the inner cheek vigorously 15-20 times
 - c. Then place the sponge portion under the tongue for 10 seconds.

Note: the swabbing process should cause the arrestee's cheek to protrude outward. Cheek cells and not saliva are being collected.

Watch carefully to ensure proper technique.

16. Prepare the micro card
- a. Place on a clean surface
 - b. Lift the paper cover
 - c. Expose the pink sample area
 - d. Immediately transfer the swab to the micro card after removal from the arrestee's mouth
 - e. Do not delay this process. Drying before transfer will render the sample invalid.
17. Press and turn the swab a minimum of four times on the micro card. Turn the swab over and repeat. Do not scrub the FTA micro card as it may cause tears in the paper.
18. Check the micro card. Verify with a change in color. Ensure that a large portion of the circle has turned from pink to white.
19. Tent the FTA micro card. Let dry before placing it in the 2" x 4" envelope. ***DO NOT BLOW ON THE SAMPLE!***
20. Insert the FTA micro card into the 2" x 4" envelope.
21. Be sure that the barcode is on the 2" x 4" envelope.
22. Seal the envelope (self adhesive). ***DO NOT LICK THE ENVELOPE!***
23. Date and initial the envelope. Paper clip (DO NOT STAPLE) the sealed envelope to the *Specimen Submission Form*.

24. Check and verify that the SBI Number and barcode are correct. Place sample and the *Specimen Submission Form* into the self-addressed envelope. Check the envelope seal.
- D. ID Bureau personnel are responsible for mailing the provided 'Biohazard' envelope, using regular US Mail to:

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