



## 2024 Annual Conference

*Niagara Falls, New York*

### **The Convicted Offender DNA Databank The Court's Role in its Success**

**Date: Tuesday, September 24, 2024**

**Instructors:**

**Sarah MacIntosh**

**Hon. Peter D. Barlet**

**MCLE: 1.0 Professional Practice**

This program has been approved for credit in  
New York State for all attorneys  
including those who are Newly Admitted  
(less than 24 months) and administered by  
the Onondaga County Bar Association



## **Agenda**

**Course:** NYS Convicted Offender DNA Databank - The Court's Role in its Success

**Credit/Category:** 1.0 Professional Practice

**2:00 - 2:20 PM** – Introduction to the NYS Convicted Offender DNA Databank

**2:20 - 2:40 PM** – Statistics & Success Stories

**2:40 - 3:00 PM** – The Court's Role in Ensuring Compliance

## **Presenters**

Sarah MacIntosh is a Criminal Justice Program Specialist for the Office of Forensic Services within the NYS Division of Criminal Justice Services. Sarah began her career in public service in 2017 as a Student Intern in the Office of Forensic Services. After completing her MPA degree in 2020, she transitioned to her permanent role as a Criminal Justice Program Specialist, and has dedicated her nearly eight years with the agency to DNA sample verification, DNA hit operations, and statewide DNA compliance standards.

Sarah MacIntosh  
80 S. Swan St  
Albany, NY 12210  
(518) 485-0115  
Sarah.MacIntosh@dcjs.ny.gov

Hon. Peter D. Barlet

The Hon. Peter Barlet is currently serving his tenth term as the Town Justice in the Town of Warwick, Orange County, New York.

He is also the Village Justice in the Village of Florida, and the Associate Justice in both the Village of Warwick and Greenwood Lake.

Judge Barlet is a 1976 graduate of New York Law School and holds an undergraduate degree in Labor Management Relations from Rider University in Lawrenceville, New Jersey.

Judge Barlet was previously a named partner in a law firm specializing in personal injury, and is currently a "Main Street" lawyer handling a broad range of legal issues from simple inquiries to complex trial and appellate matters.

Judge Barlet served as the President of the New York State Magistrate's Association from 2011 to 2012 and sat on the Council of Judicial Associations for five years thereafter. He continues to be active in the New York State Magistrate's Association.





**Division of Criminal  
Justice Services**

# **Office of Forensic Services**

## **NYS Convicted Offender DNA Databank**

**NYS Magistrates Association Conference 2024**

August 30, 2024

# Agenda

- DNA Databank Overview
- Statistics and Success Stories
- Court Responsibility in DNA Collection
- Court Compliance Data
- Summary and Questions



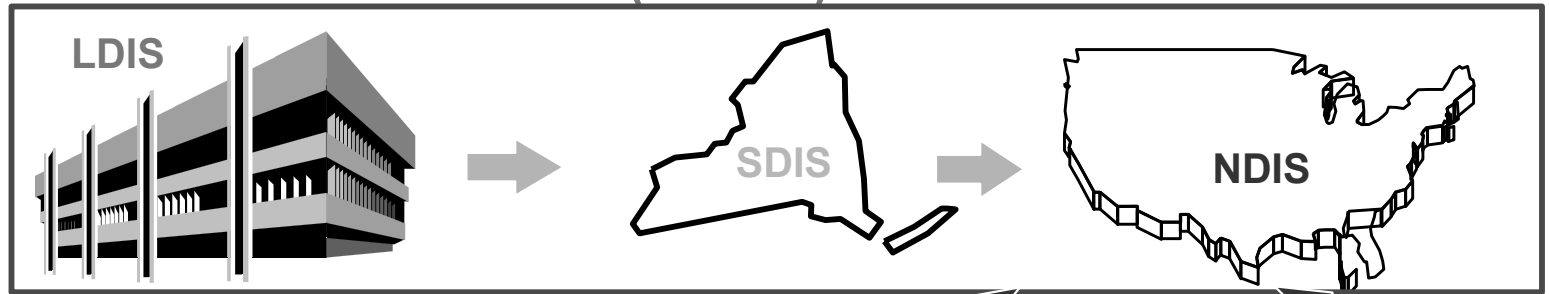
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# Convicted Offender DNA Databank Overview

August 30, 2024

### Forensic Index

1)



Erie, Monroe, Nassau, NYC,  
NYSP, Onondaga, Suffolk,  
Westchester Labs



### Convicted Offender Index

2)



NYSP Forensic Investigation Center

DCJS OFS



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# NYS DNA Databank- Convicted Offender Index

The **New York State DNA Databank** began limited operations in 1996.

Since inception, the law that created the DNA Databank has been amended multiple times to:

- expand the number of crimes requiring collection of a DNA sample (*designated* offenses)
- adopt the Subject Offender Index

## Designated Offender Expansions:

January 1, 1996  
December 1, 1999  
July 6, 2004  
July 23, 2004  
June 23, 2006  
August 1, 2012

## Subject Offender Adoption:

January 3, 2006



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# Designated Offender Category

**§995(7) of the Executive Law requires DNA specimen collection from:**

- Persons convicted of and sentenced for **any felony** defined in any chapter of the laws of the state
- Persons convicted of and sentenced for **any penal law misdemeanor**

Exceptions:

- (a) a person convicted of prostitution under section 230.00 of the penal law, or
- (b) a person whose participation in the offense is determined by a court to have been a result of having been a victim of sex trafficking under section 230.34 of the penal law, sex trafficking of a child under section 230.34-a of the penal law, or trafficking in persons under the trafficking victims protection act

# Subject Offender Category

## 9 NYCRR Part 6192.1 (y)

Contains profiles of subjects whose DNA specimens were collected:

- Pursuant to a plea agreement;
- As a condition for participation in a DOCCS temporary release, CASAT, or shock incarceration program;
- As a condition of release on parole, post-release supervision, presumptive release, or conditional release on a definite or indeterminate sentence; or
- As a condition of probation, interstate, or interim probation supervision.

# Qualifying Offenders

- Juvenile Offenders **QUALIFY**  
13-15 years old at the time the crime was committed
- Adolescent Offenders **QUALIFY**  
16-17 years old and charged with felony offenses
- Juvenile Delinquents **DO NOT QUALIFY**  
7-15 years old at the time the crime was committed
- Adjudicated Youthful Offenders **DO NOT QUALIFY**  
16-18 years old at the time the crime was committed



# Statistics & Success Stories



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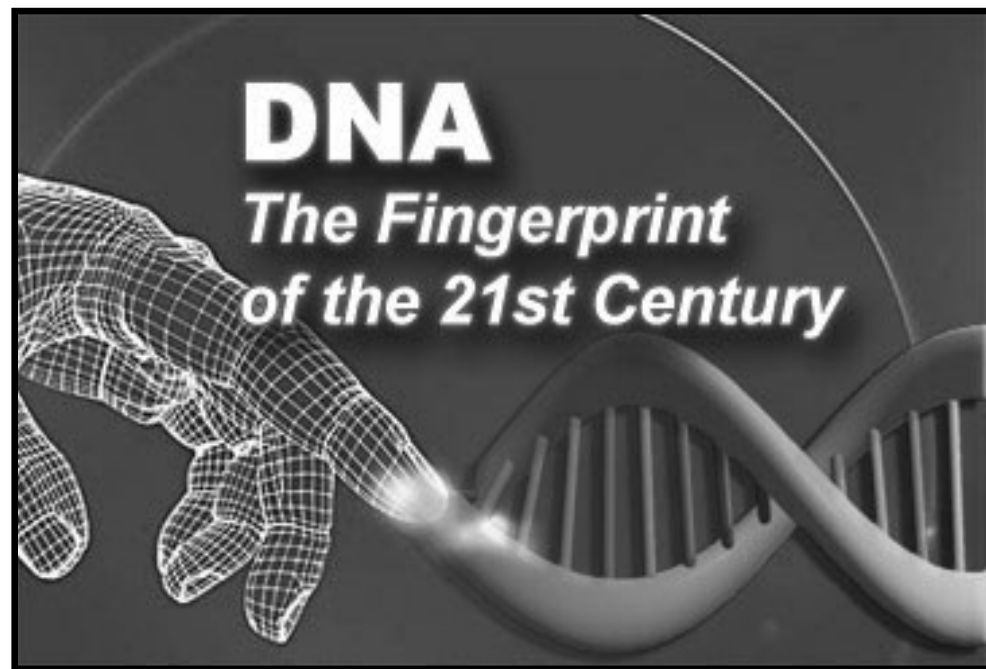
# So, why DNA?

## DNA:

Identification Tool

## DNA Databank:

Investigative  
Support System



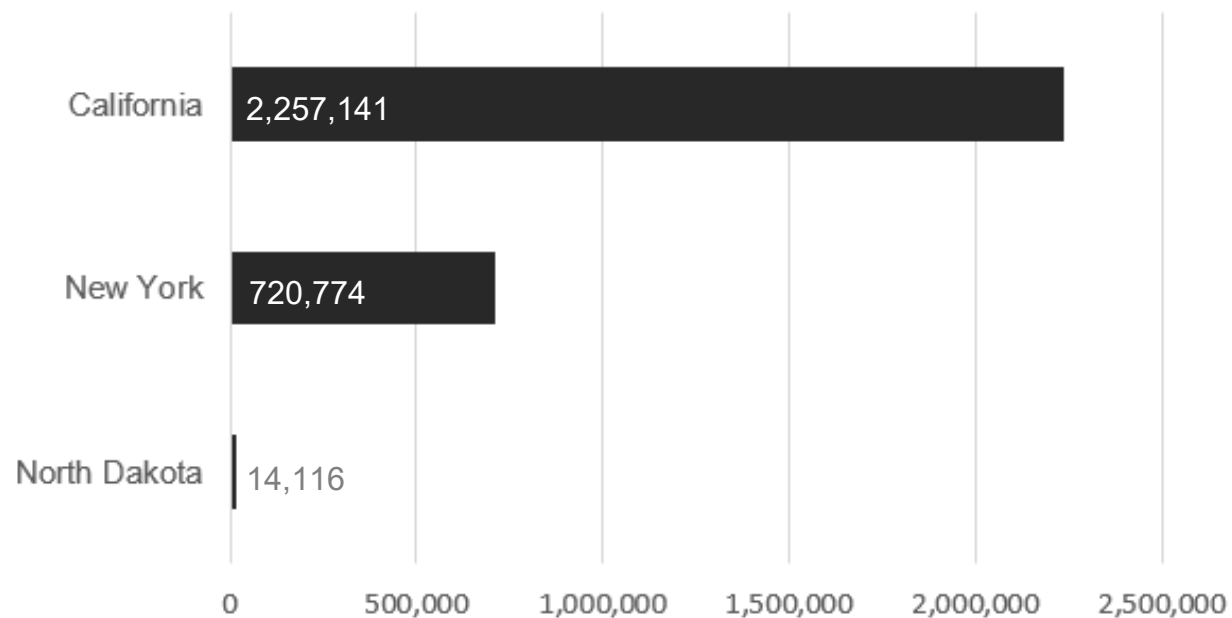
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# NDIS Statistics

*As of February 2024,*

The National DNA Index System (NDIS) contained **17,026,097 offender profiles**

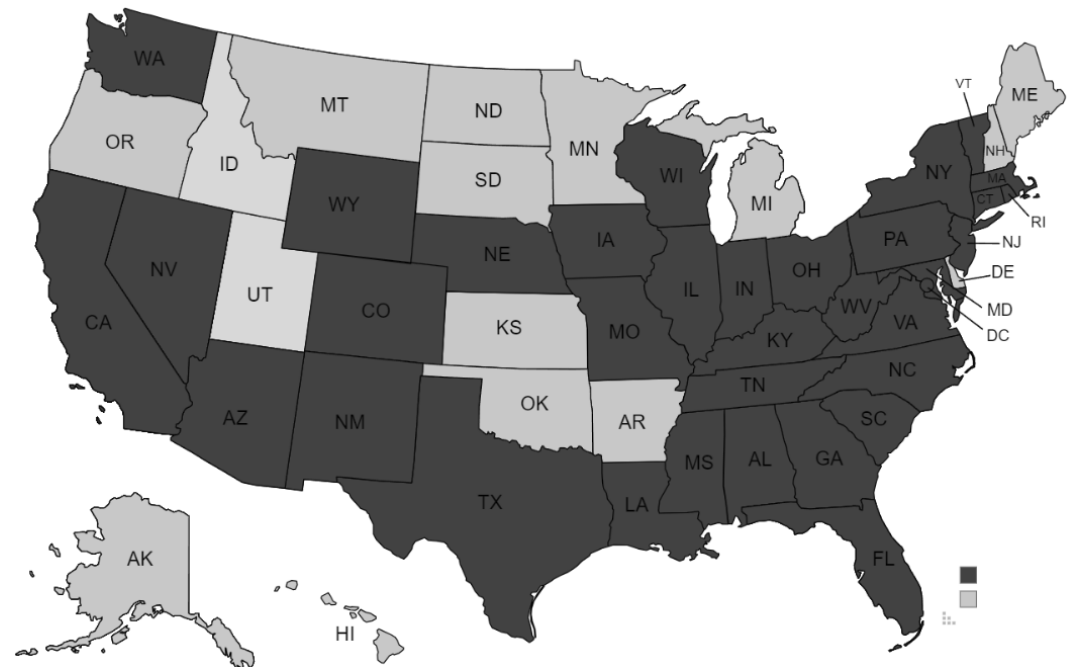


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# NDIS “Hits”

202 NDIS match letters issued to 34 different states + DC in 2023:

- New Jersey: 31
- Connecticut: 23
- Florida: 20
- North Carolina: 19
- California: 16
- Pennsylvania: 15





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# SDIS Statistics

25,664 offender samples processed by OFS in 2023

*As of January 2024:*

- 720,774 Designated Offender Profiles (NDIS-eligible)
- 49,012 Subject Offender Profiles (SDIS-only)



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# SDIS “Hits”

**3,635** SDIS hits processed in 2023:

- NYC – 1,406 (39%)
- NYSP – 1,219 (34%)
- Erie – 369 (10%)
- Monroe – 166 (5%)
- Nassau – 158 (4%)
- Westchester – 122 (3%)
- Onondaga – 112 (3%)
- Suffolk – 83 (2%)



# SDIS “Hits”

**2,586** SDIS match letters issued in 2023:

- Burglary - 784 or **30%**
- Sex Offense - 656 or **25%**
- **128** death investigations; **3** unidentified human remains
- Oldest case - 1975
  - lead to the exoneration of another man
  - one of 25 cases more than 20 years old



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# Francisco Acevedo

- **1989 - 1996**
  - Three women found beaten, raped and strangled
  - DNA evidence recovered from each of the scenes indicated same killer
- **2009** – DNA testing linked Acevedo to the crimes.

Detectives had looked at “way more than 100” potential suspects in the case, but not Acevedo.

***“This guy never, ever, ever was on anybody's radar.”***

*Sgt. Frank LoCascio  
Former Yonkers Detective*



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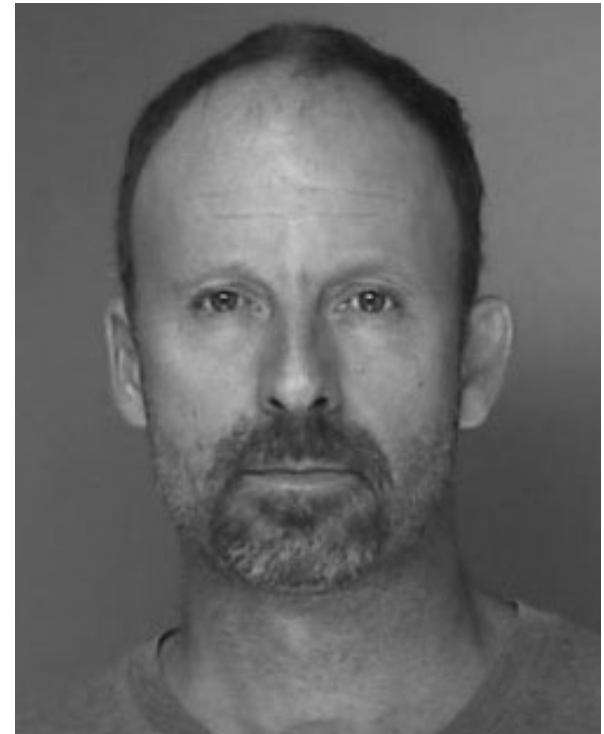
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# John Bittrolff

- **1993 - 1994**
  - Two women found badly beaten and strangled to death
  - DNA evidence recovered from each of the scenes indicated same killer
- **2013** - DNA testing linked Bittrolff to the crimes.

***“It was the miracle of DNA which allowed us to arrest him and then prosecute him.”***

*Thomas Spota  
Former Suffolk County District Attorney*



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# Court Responsibility

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# DNA Collection Responsibility

## **Executive Law §995-c (3)(b):**

- **Court** – time served, conditional discharge, unconditional discharge, fine or any sentence that does not involve formal supervision
- **County Jail** – jail term or split sentence
- **Department of Corrections and Community Supervision** – parole or prison term
- **Probation Department** – probation sentence



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# RAP Sheet Banners

Criminal Repository

PRINT DONE BACK

### Repository Inquiry

---

New York State Division of Criminal Justice Services  
Alfred E. Smith Building, 80 South Swan St.  
Albany, New York 12210. Tel:1-800-262-DCJS  
Michael C.Green, Executive Deputy Commissioner of the NYS Division of Criminal Justice Services

---

Identification Summary Criminal History Job/License Wanted Missing NCIC/III

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● **Attention - Important Information** ★


\* See **Additional Information** at the bottom of this response for more banners pertaining to the criminal history  
**Wanted information included in this record.**  
**Violent Felony offense(s) on file**

**DNA PROFILE IS ON FILE IN THE DATABANK**  
If more information is required call DCJS Office of Forensic Services at 1-800-262-3257.

is required call DCJS Office of

---

● **Identification Information**

	<b>Name:</b>	
	SAM SAMPLE	SAM SAMPLE
	JOHNNIE DOE	JOE SCHMO
	TEST Sammy	MICHAEL SAMPLE
	JOHN DOE	DUMMY CLIENT
	Samuel Sample	DMVPOLICY DMVTEST



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# Refusal Policy

- Notify offender of obligation to submit a DNA sample
- Document refusal
- Notify of refusal by phone / e-mail & provide a copy of documentation to:
  - Office of Forensic Services - (518) 457-1901 - [Forensics@DCJS.ny.gov](mailto:Forensics@DCJS.ny.gov)
  - County District Attorney's Office



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# Court Compliance



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# DNA Sample Submission

OFS processed **25,664** sample submissions in 2023

❖ **8,569** (33%) of those were submitted by a court or local LEA.

- **23,916** in 2022
- **20,474** in 2021
- **16,182** in 2020
- **39,870** in 2019
- **44,295** in 2018
- **49,628** in 2017



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# Court Collection Compliance Summary

Statewide compliance was **90%** in 2023

- Up **5%** from **85%** in 2022

**1,410** offenders “missed” in 2023

- *Accounts for 77% of offenders “missed” statewide (1,836 total)*

	Jan 2023	Feb 2023	Mar 2023	Apr 2023	May 2023	Jun 2023	Jul 2023	Aug 2023	Sep 2023	Oct 2023	Nov 2023	Dec 2023	<b>TOTAL</b>
DNA Eligible Sentences During Month	1,143	1,071	1,280	1,102	1,210	1,217	988	1,146	1,165	1,173	1,072	978	<b>13,545</b>
DNA On File as of 8-27-2024	1,028	962	1,153	989	1,095	1,076	883	1,028	1,037	1,041	966	877	<b>12,135</b>
Percent On File	90%	90%	90%	90%	90%	88%	89%	90%	89%	89%	90%	90%	<b>90%</b>
Outstanding Collections	<b>115</b>	<b>109</b>	<b>127</b>	<b>113</b>	<b>115</b>	<b>141</b>	<b>105</b>	<b>118</b>	<b>128</b>	<b>132</b>	<b>106</b>	<b>101</b>	<b>1,410</b>



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# County Collection Compliance Rates

8 Counties had greater than  
95% compliance  
in 2023!!



County	Collections	Compliance
<b>Clinton</b>	<b>184</b>	<b>97%</b>
Nassau	553	96%
Queens	876	96%
Suffolk	725	96%
Kings	608	95%
Niagara	251	95%
Richmond	312	95%
Warren	163	95%



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# County Collection Compliance Rates

## *Honorable Mentions*



18 Counties with 90-94%  
Compliance in 2023!

County	Collections	Compliance
New York	1,064	94%
Montgomery	104	94%
Broome	348	93%
Rensselaer	124	93%
Chautauqua	324	92%
Saratoga	244	92%
Chemung	235	92%
Genesee	111	92%
Fulton	57	92%
Otsego	56	92%
Schenectady	54	92%
Erie	369	91%
St. Lawrence	137	91%
Albany	244	90%
Steuben	216	90%
Cattaraugus	144	90%
Schoharie	47	90%
Cortland	45	90%

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# Uncollected Samples

**69,809** unique offenders on DNA “All Owed” list as of 8/25/24...

**NYC:** 32,154 (46%)

**Non-NYC:** 37,655 (54%)

**Felony:** 29,328 (42%)

**Misdemeanor:** 40,479 (58%)

**Deported:** 8,555 (12%)



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# Owes Report

The screenshot shows the eJusticeNY Integrated Justice Portal interface. The breadcrumb trail is: Resources > Reference Library > DNA Owes List. The main content area is titled 'DNA' and displays a report for 'Albany'. The report includes a table of offenders with the following data:

Offender Name	Sentence Date	NYSID	Court Name	Docket Number
DOE, JOHN	2/06/2015	0000001M	Albany County Court	## ####
DOE, JANE	11/18/2014	0000002J	Berne Town Court	#####
SAMPLE, SAMMY	4/12/2015	0000003Z	Bethlehem Town Court	#####
SAMPLE, SARAH	6/17/2014	0000004K	Cohoes City Court	### ####
ARSON, ALEX	6/04/2015	0000005Y	Colonie Town Court	#####
GANG, GARY	11/13/2014	0000006H	Guilderland Town Court	#####
ESCAPIST, EDDY	3/10/2015	0000007P	Menands Village Court	#####
ABSCONDER, ABBY	6/25/2014	0000008N	Ravena Village Court	#####
CONTEMPT, CODY	5/20/2014	0000009R	Watervliet City Court	#### ####

9 Offenders Owed



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**ONLY YOU**



**CAN PREVENT  
SERIAL KILLERS**

# Questions?

**For more information:**

**[www.criminaljustice.ny.gov](http://www.criminaljustice.ny.gov)**

Law Enforcement >  
Forensic Science/DNA

**eJusticeNY**

Resources > Reference Library > DNA

or

**Contact the Office of Forensic  
Services:**

(518) 457-1901  
[forensics@dcjs.ny.gov](mailto:forensics@dcjs.ny.gov)



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# **Convicted Offender DNA Databank**

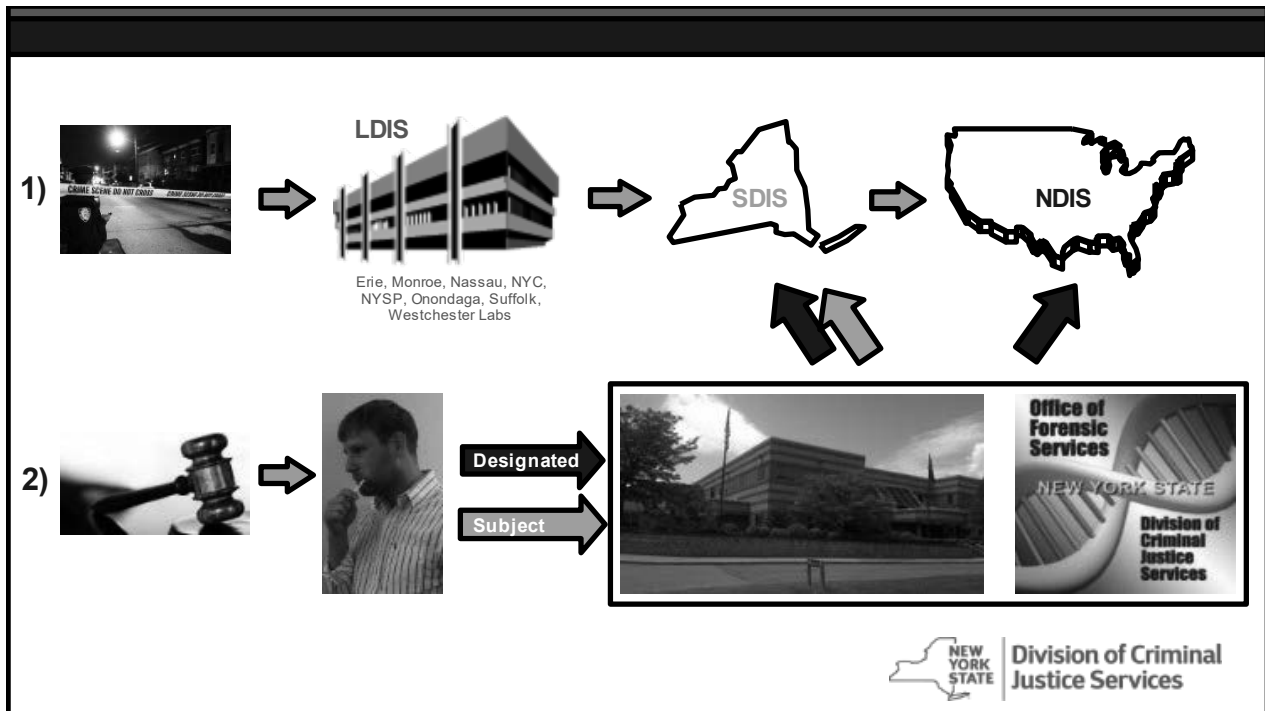
**Office of Forensic Services**

**Division of Criminal Justice Services**

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## The DNA Databank Process



The NYS DNA Databank consists of various indexes, each containing distinct DNA profiles. We will focus on two of those.....

- 1) First is the **Forensic Index** - DNA that is collected from a crime scene is analyzed by one of the 8 local labs in NYS. The DNA profile is a numerical representation of specific points on a person's DNA. This is uploaded to the SDIS Forensic Index (NYS level of CODIS) and then to NDIS (National level of CODIS).
- 2) Second is the **Convicted Offender Index** - *This process begins with the court system. Upon conviction and sentencing for a qualifying offense, the judge must order the offender to report for DNA collection.* The offender reports to a predetermined site where DNA is collected and mailed to the NYSP in Albany. The DNA sample is retained by the NYSP Forensic Investigation Center, and the submission form is forwarded to the Office of Forensic Services (OFS). OFS verifies that all information submitted is accurate and confirms the offender qualifies for DNA collection. Upon OFS approval, the FIC analyzes the DNA sample and uploads it to CODIS.
  - The Convicted Offender Index consists of two sub-categories... Subject Offender samples are uploaded to the state level (SDIS); Designated Offender samples are uploaded to both state (SDIS) and national (NDIS) levels.
  - The DNA profiles contained in the Forensic Index (1<sup>st</sup> line) are compared daily against the DNA profiles contained in the Convicted Offender Index (2<sup>nd</sup> line) to identify links between offenders and crimes; the links are provided to law enforcement to assist with their investigations.

## Designated Offender Category

**§995(7) of the Executive Law requires DNA specimen collection from:**

- Persons convicted of and sentenced for **any felony** defined in any chapter of the laws of the state
- Persons convicted of and sentenced for **any penal law misdemeanor**

Exception:

- (a) a person convicted of prostitution under section 230.00 of the penal law, or
- (b) a person whose participation in the offense is determined by a court to have been a result of having been a victim of sex trafficking under section 230.34 of the penal law, sex trafficking of a child under section 230.34a of the penal law, or trafficking in persons under the trafficking victims protection act

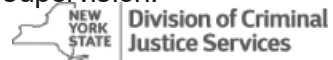


## Subject Offender Category

**9 NYCRR Part 6192.1 (y)**

Contains profiles of subjects whose DNA specimens were collected:

- Pursuant to a plea agreement;
- As a condition for participation in a DOCCS temporary release, CASAT, or shock incarceration program;
- As a condition of release on parole, post -release supervision, presumptive release, or conditional release on a definite or indeterminate sentence; or
- As a condition of probation, interstate, or interim probation supervision.



# Waiver and Consent Form for DNA Sample in Connection with Plea Agreement

STATE OF NEW YORK

\_\_\_\_\_ COURT: \_\_\_\_\_ OF \_\_\_\_\_

-----  
THE PEOPLE OF THE STATE OF NEW YORK WAIVER AND CONSENT FOR  
DNA SAMPLE IN CONNECTION

v. WITH PLEA AGREEMENT

Defendant. Indictment #

Index # ----- Docket #

CJTN #

Dr. #

I, \_\_\_\_\_, DOB // , NYSID # \_\_\_\_\_ residing at

\_\_\_\_\_, after having read this document and discussed it with my attorney, hereby consent to providing an oral swab for DNA testing as part of the negotiated disposition for Viol. Sec.

\_\_\_\_\_. I agree that my DNA sample may be submitted for a forensic DNA profile analysis, and I consent to its use for law enforcement purposes.

I further consent to the resulting DNA profile being entered into, and stored in, the State and national DNA Databanks for comparison with other DNA profiles obtained in connection with criminal investigations.

I waive any right that I may have to expunction of my DNA profile from the DNA Databank as part of any negotiated disposition of the charges pending against me. I understand, however, that I may apply to the Division of Criminal Justice Services for expunction of my forensic DNA profile from the DNA Databank if all judgments of conviction based on guilty pleas entered as part of this negotiated disposition are reversed on appeal or included in a Governor's Pardon, or such guilty pleas are otherwise vacated.

Dated this \_\_\_ day of \_\_\_\_\_ 201\_\_

\_\_\_\_\_  
Defendant

Witnessed this \_\_\_ day of \_\_\_\_\_ 201\_\_

\_\_\_\_\_  
Counsel for Defendant

**\*The difference between a plea agreement and any other type of consent, is that DNA samples submitted based on a plea agreement cannot be expunged. A copy of the Waiver and Consent must be provided with the DNA submission in order for the sample to be approved.**

## Qualifying Offenders

- Juvenile Offenders **QUALIFY**
- Adolescent Offenders **QUALIFY**
- Juvenile Delinquents **DO NOT QUALIFY**
- Youthful Offenders **DO NOT QUALIFY**



## DNA Profile on File in the Databank

“DCJS has construed the statute as requiring only a single DNA sample to be obtained from each eligible offender, no matter how many additional eligible offenses the offender commits. ‘It is well settled that the construction given statutes and regulations by the agency responsible for their administration, if not irrational or unreasonable, should be upheld.’ As the agency responsible for administration of the DNA databank, DCJS’s interpretation of the statute is entitled to deference.” [People v. Husband, 954 N.Y.S.2d 856, (N.Y. Cnty. 2012); internal citations omitted]

**OCA acknowledges DCJS’s position but states: “Counsel’s Office has taken the position that, until an appellate court determines otherwise or the legislature amends the statute, the court should order the collection of a new sample upon every new conviction and sentencing**





## Who Collects the DNA Sample?

### Executive Law §995-c (3)(b):

- **Court** – time served, conditional discharge, unconditional discharge, fine or any sentence that does not involve formal supervision
- **Department of Corrections and Community Supervision** – prison term
- **County Jail** – jail term or split sentence
- **Probation Department** – probation sentence

If a person is arrested and their rapsheet indicates DNA is owed, the arresting law enforcement agency should collect a DNA sample.



## DNA Databank Fee

- The DNA Databank fee is (\$50.00) fifty dollars ( PL §60.35(1)(a)(v)).  
The courts may issue a summons, at the time the fee is imposed, directing that a person required to pay the mandatory DNA Databank fee, appear before the court regarding the payment of this fee, if after sixty days from the date it was imposed, it remains unpaid.  
(CPL §130.10(1), PL §60.35(8)).
- The DNA Databank fee cannot be waived (CPL §420.35 (2)).
- If a defendant is convicted of more than one offense ***arising out of the same criminal transaction***, the court is only required to order the defendant to provide one DNA sample and impose one DNA Databank fee.



## Administrative Rules– CDR

### 22 NYCRR Part 115.4 – Criminal case dispositions

In addition to the requirements of section 115.2 each court having jurisdiction over the processing or disposition of criminal actions shall report case activity and disposition information with respect to each criminal action, on a form prescribed pursuant to section 115.1 or by electronic media in a manner prescribed by the Chief Administrator. ***All such information shall be reported within 24 hours following the occurrence of the event if reported by electronic media, or within 48 hours if reported by form.***



## Administrative Rules– CDR

- The CDR must be submitted even if the offender has not yet paid his/her fees.
  - CRP users leave the “case close” field blank when submitting. This leaves the case open for court tracking purposes but the CDR is transmitted to OCA for spreadsheet updates
  
- Don't forget to check your error reports weekly. If a CDR was not transmitted to OCA, you must correct it and resubmit .
  - If a disposition is on your error report it will not be posted to the spreadsheet until it is corrected



**CourtRoom Program (CRP) users can download this form by contacting the helpdesk. This form auto-populates the required information.**



\_\_\_\_\_ COURT  
 Court Address: \_\_\_\_\_  
 Phone: ( ) \_\_\_\_\_ Fax: ( ) \_\_\_\_\_  
 e-mail: \_\_\_\_\_

Present: Hon. \_\_\_\_\_  
 The People of the State of New York  
 vs.  
 AKA(s): \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Phone: \_\_\_\_\_  
 Sex: \_\_\_\_\_ DOB: \_\_\_\_/\_\_\_\_/\_\_\_\_

**Order to Report for DNA Collection**  U  
 Case Number: \_\_\_\_\_  
 CJTN: \_\_\_\_\_  
 NYSID: \_\_\_\_\_  
 Complaint Number: \_\_\_\_\_  
 Arrest Number: \_\_\_\_\_  
 Youthful Offender:  YES  NO

Pursuant to Executive Law § 995-c(3), the above-named defendant, a designated offender under Executive Law § 995(7) having been convicted and sentenced for the following designated crime(s):

*NOTE: Pursuant to Executive Law § 995 and Penal Law § 60.35 (10), the collection of a DNA sample and the imposition of a DNA databank fee shall not apply to a conviction substituted by a youthful offender adjudication. For cases conditionally sealed pursuant to Penal Law § 160.58, notice of sealing must also be sent to the DNA collection agency.*

Conviction Charge	Charge Weight	Conviction Type	Conviction Date	Sentence Imposed	Sentence Date
		<input type="checkbox"/> Pled Guilty <input type="checkbox"/> Tried Found Guilty			
		<input type="checkbox"/> Pled Guilty <input type="checkbox"/> Tried Found Guilty			
		<input type="checkbox"/> Pled Guilty <input type="checkbox"/> Tried Found Guilty			

It is hereby ORDERED that the above-named defendant report for the purpose of providing a DNA sample to:

Agency Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Phone: ( ) \_\_\_\_\_  
 No later than: \_\_\_\_/\_\_\_\_/\_\_\_\_

**NOTE:** When reporting, the offender must present valid photo identification and must not have any foreign matter such as food, drink or chewing products (i.e., gum, candy or smokeless tobacco) in his or her mouth.

Dated: \_\_\_\_/\_\_\_\_/\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_  
 Judge Name

**Offender Acknowledgement**

I have read and/or have had read to me the above order. I understand that, as a result of my conviction and as a condition of my sentence, I am required to provide a DNA sample for inclusion in the New York State DNA Databank pursuant to New York State Executive Law § 995(c). I understand that, if I fail to comply, I may be charged with the crime of **Criminal Contempt in the Second Degree**, a Class A Misdemeanor, in violation of Section 215.50 of the New York State Penal Law.

Dated: \_\_\_\_/\_\_\_\_/\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_  
 Defendant Name

**Section II: to be completed by official charged with collecting DNA**

Confirmation that defendant complied with Order to Report for DNA Collection [Executive Law § 995-c]:

Dated: \_\_\_\_/\_\_\_\_/\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_  
 Official Name

Please fax your confirmation to this court at the above fax number.

STATE OF NEW YORK  
COUNTY OF XXXXXXXX

Sample 1 DNA Cou  
CITY/TOWN/VILLAGE JUST  
CITY/TOWN/VILLA

THE PEOPLE OF THE STATE OF NEW YORK

-against-

PROVIDE DNA SAMPLE  
Exec Law § 995

This sample provides the information necessary for a DNA Order. Non- CRP users may use this template to formulate their own DNA order.

Defendant D.O.B.

PURSUANT to Exec Law § 995-c(3), the above named defendant, a designated offender under Exec Law § 995(7) having been convicted of the crime of in violation of Section of the Penal Law of the State of New York on (sentence date) in the Court it is hereby:

ORDERED that the above named defendant proceed to the arresting agency of located at to provide a buccal swab or other appropriate DNA sample required to be included in the state of New York DNA identification index by (date). It is further:

ORDERED that pursuant to Section 60.35, Subsection 1(a)(v) of the New York State Penal Law, the above named defendant pay to the Court a DNA databank fee of fifty dollars (\$50.00) by (date).

Dated this day of , 200  
Hon.  
City/Town/Village of Court

As a result of your conviction, and as a condition of your sentence, you are required, pursuant to New York State Executive Law § 995(c), to provide a DNA sample for inclusion in the New York State DNA Databank. Your failure to comply with this order may lead to you being charged with Criminal Contempt in the Second Degree, a Class A Misdemeanor, in violation of Section 215.50 of the New York State Penal Law.

I have read and/or have had read to me the above order and information, and fully understand that I must provide a DNA sample and pay the DNA databank fee as required by law.

Defendant Date Defense Counsel (if applicable) Date

SECTION II TO BE COMPLETED UPON TAKING OF DNA SPECIMAN

The above named Defendant DID DID NOT provide the required DNA specimen.

Date Signature of Officer Taking Specimen  
Print Name

## **Steps to be taken to ensure compliance with Executive Law §995**

**Step 1:** The court clerk should place a copy of the DNA order and the DNA collection location chart in each file.

**Step 2:** The court clerk should direct the defendant's counsel to review the terms and conditions of the DNA order with the defendant. If the defendant is pro se, the court should review the terms and conditions of the order with the defendant.

**Step 3:** The defendant should be directed to read the acknowledgement on the DNA order, including the fact that failure to comply with a lawful order could result in new charges being filed against the defendant, and to execute the acknowledgment.

**Step 4:** If not collected by a court officer, notify the defendant of the time and place to report for DNA sample submission. Provide the defendant with the collection agency address and a copy of the DNA order (which should state conviction & sentence dates and conviction charge). Forward a copy of DNA order to collecting agency to ensure compliance and for collecting agency to include with DNA submission.

**Step 5:** Regularly communicate with DNA collecting agency to confirm defendant was compliant.

**Step 6:** File CDR within 24-48 hours of sentencing. Do not delay due to non-payment of fee.

**Step 7:** Check Error Report weekly to confirm that all CDR's were transmitted to OCA. If they were not, correct errors and resubmit. If you require assistance with CDR submission, email [CDR@nycourts.gov](mailto:CDR@nycourts.gov).

# UNCOLLECTED DNA FOR ELIGIBLE OFFENDERS

Resources > Reference Library > DNA Outstanding Collections

**DNA**

**Albany**

**Other Sentence**

Offender Name	Sentence Date	NYSID	Court Name	Docket Number
DOE, JOHN	2/6/2015	0000001M	Albany County Court	###-###
DOE, JANE	11/18/2014	0000002J	Berne Tow n Court	#####
SAMPLE,SAMMY	4/12/2015	0000003Z	Berne Tow n Court	#####
SAMPLE,SARAH	6/17/2014	0000004K	Bethlehem Tow n Court	##-####
THIEF,THADEUS	4/17/2014	0000005Y	Coeymans Tow n Court	####
KILLER, CANDY	3/13/2014	0000006H	Cohoes City Court	C##-###
STALKER, STACEY	4/24/2014	0000007P	Cohoes City Court	C##-###
ARSON, ALEX	6/4/2015	0000008J	Colonie Tow n Court	#####
CONTRABAND, CARRIE	9/18/2014	0000009R	Guiderland Tow n Court	#####
GANG, GARY	11/13/2014	0000010H	Guiderland Tow n Court	#####
ESCAPIST, EDDY	3/10/2015	0000011H	Menands Village Court	####
RIOT, RANDY	3/24/2015	0000012Y	Menands Village Court	####
ABSCONDER, ABBY	6/25/2014	0000013N	Ravena Village Court	#####
CONTEMPT, CODY	5/20/2014	0000014N	Watervliet City Court	#####-##

## STEPS TO REMEDY YOUR DNA OWES LIST

- 1) Find your outstanding owes list by going to:  
 eJusticeNY Integral Justice Portal > Resources > Reference Library > Offender Detail for Uncollected DNA Samples... scroll to your county. (All courts should have access to eJustice NY).
- 2) It is important to remember that this list only contains those defendants who have been sentenced in the 15 months and those whose dispositions have been properly submitted to OCA. If you would like a comprehensive list of non-compliant defendants for your court/county contact [Forensics@dcjs.ny.gov](mailto:Forensics@dcjs.ny.gov).
- 3) Coordinate with local police department and/or Sheriff to establish a plan to obtain the outstanding DNA collections.
- 4) Utilize the attached sample DNA Owes Letter to formulate your own letter for notifying a DNA owing defendant of their legal obligation.
- 5) In the event an defendant refuses please refer to refusal policy or contact your District Attorney and the Office of Forensic Services at (518) 457-1901.

**SAMPLE**  
LETTER TO ELIGIBLE  
OFFENDER WHO OWES DNA

Date:

Offender Name

Address

City

Conviction Charge: \_\_\_\_\_

Conviction & Sentence Dates: \_\_\_\_\_

The New York State Division of Criminal Justice Services (DCJS) has determined that you have been convicted of a DNA designated offense. New York State Executive Law §995-c requires persons convicted of DNA designated offenses to provide a DNA sample for inclusion in the New York State DNA Databank. A review of criminal history records contained at DCJS indicate that you have not yet provided a DNA sample as required by law. You are hereby notified of your obligation to comply with Article 49-B. Failure to provide your DNA sample as required will result in future legal action.

To avoid the necessity of law enforcement visiting your residence or place of business to collect the DNA sample, you are scheduled to appear at the \_\_\_\_\_ Police Department Headquarters, located at \_\_\_\_\_, on **month/day/year** between the hours of \_\_\_\_\_ a.m. and \_\_\_\_\_ p.m. with photo identification. **You must contact the \_\_\_\_\_ Police Department, at [Phone Number] to confirm your appointment.** Please note that the sample will be collected through the use of an oral swab.

Thank you in advance for your cooperation.

# Refusal Policy

## 9 NYCRR §6191.3 Notification procedures

- Notify offender of obligation to submit a DNA sample.
- Document refusal using the following form.
- Notify of refusal by phone/e-mail and fax a copy to:
  - County District Attorney's office
  - Office of Forensic Services-  
[Forensics@dcjs.ny.gov](mailto:Forensics@dcjs.ny.gov)



**NOTICE OF OBLIGATION TO PROVIDE A DNA SAMPLE**

Re: People vs.

Date: \_\_\_\_\_ Case # \_\_\_\_\_

The records of the New York State Division of Criminal Justice Services indicate that on \_\_\_\_\_ you were convicted of \_\_\_\_\_ in the \_\_\_\_\_ degree in violation of Penal Law §\_\_\_\_\_.\_\_\_\_( ) and sentenced to \_\_\_\_\_. Pursuant to New York State Executive Law §995-c (3), you are required to provide a DNA sample for inclusion in the New York State DNA Databank as a result of this conviction and sentence.

You are hereby notified that **you must provide** a DNA sample for inclusion in the New York State DNA Databank. As an authorized court official, police officer, probation officer, parole officer or other public servant authorized to collect DNA samples, I notify you that you are required to immediately provide a DNA sample. Your failure to comply with this request may constitute Obstructing Governmental Administration and, as such, may subject you to prosecution for Penal Law §195.05, a class A misdemeanor, in the second degree.

Your signature below indicates that you have read and/or have had read to you the above notice.

\_\_\_\_\_  
Defendant Date

\_\_\_\_\_  
Defense Counsel/Witness (if applicable) Date


REFUSED TO SIGN to acknowledge notice of requirement to provide a DNA sample.  
 DID provide the required DNA sample.  
 DID NOT provide the required DNA sample.

Notification was made: \_\_\_ in person; \_\_\_ by telephone at # (\_\_\_) \_\_\_ - \_\_\_; \_\_\_ by letter dated (\_\_\_\_); \_\_\_ other (explain) \_\_\_\_\_.

\_\_\_\_\_  
Signature of Public Servant Print Name Date

**\*\*\*Document Offender Statement regarding his/her Refusal to Provide a DNA Sample on Back of Form\*\*\***

If you would like to order DNA Specimen Submission Kits for your agency, please utilize this form and email it to [Kits@dcjs.ny.gov](mailto:Kits@dcjs.ny.gov) OR go to eJusticeNY Integrated Justice Portal > Resources > Reference Library > DNA Kit Order Form (pdf) to submit order.



**Division of Criminal  
Justice Services**

**Order Form -  
New York State Convicted Offender  
DNA Databank Specimen Collection Kits**

**Agency and Contact Information**

Agency Name:	ORI:	
Shipping Address: <span style="float: right; font-size: small;"><i>Please double check shipping address. Errors can delay or prevent delivery. Kits cannot be sent to P.O. Boxes.</i></span>		
City:	State:	Zip:
Contact Person Name:		
Phone Number:	Email Address:	

**DNA Kit Order Information**

	Cases Requested	Kits Per Case	Total Number of Kits in Order
Small Case (12 kits per case)	<input style="width: 80px; height: 20px;" type="text"/>	<input style="width: 40px; text-align: center; value: 12;" type="text"/>	<input style="width: 80px; text-align: center; value: 0;" type="text"/>
Large Case (100 kits per case)	<input style="width: 80px; height: 20px;" type="text"/>	<input style="width: 40px; text-align: center; value: 100;" type="text"/>	<input style="width: 80px; text-align: center; value: 0;" type="text"/>

(Note: Large Cases are for higher volume collecting agencies. They do not contain rubber gloves or fingerprint ink sheets and have 25 return envelopes per case.)

**Submit Form**

- If "Submit Form" button does not work, save completed form to your computer and send to the email address below.
- DCJS may be able provide reusable fingerprint ink pads to agencies encountering difficulties with fingerprint ink sheets. Please contact the email address below.

Office of Forensic Services

[kits@dcjs.ny.gov](mailto:kits@dcjs.ny.gov)

(518) 457-1901  
Version 22.1

**For more information:**

**[www.criminaljustice.ny.gov](http://www.criminaljustice.ny.gov)**

(Click on Law Enforcement > Forensic Science / DNA)

**eJusticeNY**

For access to DNA Owe Report, DNA Collection Training & DNA Kit Order  
(Click on “Resources > Reference Library”)

**Office of Forensic Services  
(518) 457-1901**

**or**

**[Forensics@dcjs.ny.gov](mailto:Forensics@dcjs.ny.gov)**

