

LAW AND PUBLIC SAFETY

(a)

OFFICE OF THE ATTORNEY GENERAL

DIVISION OF STATE POLICE

DNA Database and Databank Rules

Proposed Readoption with Amendments: N.J.A.C. 13:81

Proposed Repeals: N.J.A.C. 13:81 Appendices A and B

Proposed New Rules: N.J.A.C. 13:81 Appendices A, B, and C

Authorized By: John J. Hoffman, Acting Attorney General of New Jersey, and Colonel Joseph R. Fuentes, Superintendent, Division of State Police.

Authority: N.J.S.A. 53:1-20.17 et seq.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2015-006.

Submit comments by March 6, 2015, to:

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Written comments and any inquiries may also be submitted via facsimile transmission to (609) 292-3014 or via e-mail to CODISUNIT@njdcj.org.

Summary

The Acting Attorney General of New Jersey (Attorney General) and the Superintendent of the Division of State Police (Superintendent) jointly propose to readopt, with amendments, repeals, and new rules, N.J.A.C. 13:81. The Attorney General and Superintendent have determined that the rules, with the proposed amendments, repeals and new rules, continue to be necessary, reasonable, and proper for the purposes for which they were originally promulgated.

These rules are scheduled to expire on December 3, 2014, pursuant to Executive Order No. 66 (1978) and N.J.S.A. 52:14B-5.1. Because this notice of readoption was filed with the Office of Administrative Law on December 3, 2014, the expiration date of the chapter is extended by 180 days to June 1, 2015, pursuant to N.J.S.A. 52:14B-5.1.c(2).

The majority of the amendments proposed to the chapter implement the recent expansion to the DNA Database and Databank Act of 1994 (DNA Act), P.L. 2011, c. 104, enacted on August 18, 2011, and effective on February 1, 2013. New Jersey's DNA Act was expanded to also require deoxyribonucleic acid (DNA) samples from persons arrested for certain violent crimes. The recent expansion to the DNA Act specifically requires adults and juveniles arrested for the following crimes to submit DNA samples for purposes of DNA testing: murder; manslaughter; second degree aggravated assault when the person attempts to cause or causes serious bodily injury to another or causes bodily injury while fleeing or attempting to elude a law enforcement officer; kidnapping; luring or enticing a child; engaging in sexual conduct which would impair or debauch the morals of a child; aggravated sexual assault; sexual assault; aggravated criminal sexual contact; criminal sexual contact; or an attempt to commit any of these crimes.

The recent statutory expansion to the DNA Act also includes an expungement provision that permits an adult or juvenile to make an application to the court to expunge the DNA record in cases where all charges resulting from the arrest that provided the basis for inclusion of the person's DNA record or profile in the State database or the inclusion of the person's DNA sample in the State databank have been dismissed or resolved through an acquittal at trial. In addition, the recent expansion to the DNA Act provides for a new crime, "Refusal to allow blood,

biological sample to be drawn," which is a crime of the fourth degree pursuant to the provisions of N.J.S.A. 2C:29-11.

A technical correction is proposed throughout the rules to replace "CODIS manager" with "CODIS administrator," thereby reflecting the current title for the position. Another technical amendment is proposed throughout to replace "Forensic Science Technology Center" with "Office of Forensic Sciences DNA Laboratory," thereby reflecting the proper name of the laboratory. A final technical amendment is proposed throughout to replace "his or her designee" with "persons authorized by the CODIS administrator" when describing those authorized to perform certain functions of the administrator. Additional amendments are proposed for clarity and grammatical and stylistic improvement.

Subchapter 1, General Provisions, is proposed for readoption.

N.J.A.C. 13:81-1.1, Purpose and scope, is proposed for readoption without amendment.

A proposed amendment to N.J.A.C. 13:81-1.2, Definitions, expands the definition of "CODIS" to include the Arrestee Index, which contains the DNA profiles of persons arrested for certain violent crimes. This index serves in addition to the Convicted Offender Index to be searched against the database of crime scene profiles, called the Forensic Index. The definition of "CODIS" is proposed for further amendment to add that it also contains a Missing Persons Index and an Unidentified Human Remains Index. An amendment is proposed to add a definition for "LDIS," which is the Local DNA Index System. At this time, New Jersey has one such system, maintained by the Union County Prosecutor's Office Forensic Laboratory. An amendment is proposed to the definition of "NDIS" to add that it also contains DNA profiles contributed by Federal laboratories. These profiles are taken from arrestees, convicted offenders, and forensic evidence found at crime scenes. A final amendment proposed is to the definition of "core loci" to remove "13," which limits the specific regions mentioned, in order to allow for the expansion of CODIS core loci, to delete the description of the regions as being where the tetranucleotide repeats, as this is unnecessary, and to correct the acronym for short tandem repeats.

N.J.A.C. 13:81-1.3, Applicability, is proposed for readoption without amendment.

The proposed amendments to N.J.A.C. 13:81-1.4, Offender's obligation to submit DNA samples, subsection (a) incorporate the recent statutory changes to the DNA Act, that require the collection of DNA samples from persons (adults and juveniles) arrested for certain violent crimes. A proposed amendment explaining the obligation of the arrestee to submit a sample before release from custody is added to subsection (b). Another amendment proposed to subsection (b) adds that the release from custody does not relieve an arrestee of the obligation if prior thereto the arrestee did not submit a DNA sample. In addition, an amendment is proposed to subsection (c) to reflect the new crime in Title 2C for refusal to allow a DNA sample to be collected. N.J.S.A. 2C:29-11 provides that it is a fourth degree crime to knowingly refuse to allow a DNA sample to be collected pursuant to the provisions of the DNA Act.

Subchapter 2, Collecting DNA, is proposed for readoption.

The proposed amendments to N.J.A.C. 13:81-2.1, Submission and identification, add a reference to the 2014 revised instructions for collecting a DNA sample and any reference to the previous version of the instructions is proposed for deletion in subsections (a), (d), and (i) and specific reference to the collection kit as a "convicted" offender kit is deleted to incorporate the new arrestee law. An amendment proposed to subsection (c) adds that a new DNA sample status indicator "live scan" is available on the New Jersey State Police Master Name Index, as well as on the Computerized Criminal History (CCH). For example, there are four possible flag values: "Collection Required"; "Collection Not Required"; "Collected"; or "Profile in CODIS." Prior to collecting a sample, the DNA sample status flag should be reviewed to determine if there is a DNA sample already in the database. A further amendment to subsection (c) is proposed that would replace a flag indication of "Y" with "Profile in CODIS." or a sample previously collected "Collected." If the DNA sample status indicates that a sample has been previously taken from the offender, no additional sample shall be taken. A proposed amendment to subsection (d) that references N.J.A.C. 13:81 Appendix B adds a description of the instructions for databank specimen submission to state that it pertains to the previous version of the form with three

copies and updates the version date. Because there is a supply of the previous form still in circulation, it is necessary to provide separate instructions for completing the two forms. A further proposed amendment to subsection (d) adds a reference to proposed new N.J.A.C. 13:81 Appendix C and states that it pertains to completion of the new one-page submission form that will replace the previous form with three copies. The new form is intended to streamline and expedite the DNA collection process. An amendment proposed in subsection (e) adds that the live scan also can be utilized to verify the identity of the offender. A further amendment to subsection (e) adds an option that if the live scan confirms the SBI number to confirm fingerprints are on record. A further proposed amendment in subsection (e) adds an option, that in the event that no fingerprinting is possible due to the absence of fingers or hands or any other reason, rather than toe prints, a Fingerprint Certification form together with an initialed and dated photograph shall be utilized to verify the identity of the offender. The fingerprint certification form may be obtained from the CODIS Compliance Unit in the Division of Criminal Justice. Another amendment proposed in subsection (g) adds that another "appropriate body part" may be utilized in order to collect a blood sample. This will be done if the finger prick is determined by appropriate medical personnel to be ineffective or insufficient. Also, an amendment is proposed to delete the reference to a blood specimen collection kit and replace it with the "standardized sample collection kit as supplied by the Division of Criminal Justice" that is used for both blood and buccal swab collections and to change "Department of Health and Senior Services" to "Department of Health" pursuant to P.L. 2012, c. 17. An amendment is proposed at subsection (k). The language in the rule is too limiting because the CODIS Compliance Unit (CCU) affects arrangements for sample collection from qualified offenders both in custody and under supervision in different types of facilities so the language has been broadened to add "under supervision" to describe how offenders are held and to include "any type of facility" to describe where the offenders are held. The proposed amendments to N.J.A.C. 13:81-2.2, Handling and security of samples, reflect minor technical changes. Subsection (e) is proposed for amendment to add that the "live scan," as well as the FAST ID system may be utilized to verify the identity of an offender. In subsection (f), the "State Police Biometric Identification Unit" reflects the current title of the unit and replaces the "AFIS." A proposed amendment to subsection (h) in referencing custody deletes "internal chain of," as unnecessary.

Subchapter 3, Testing DNA, is proposed for readoption.

The proposed technical amendments to N.J.A.C. 13:81-3.1, Sample processing and analysis, are intended to update documents incorporated into the rules by reference to the Federal Bureau of Investigation (FBI) national standards to include the current versions, to update website and information on how to obtain such documents, and to update document names as follows: "Quality Assurance Standards for Forensic DNA Testing Laboratories," effective September 1, 2011, and any subsequent amendments thereto, available at <http://www.fbi.gov/about-us/lab/biometric-analysis/codis> and "Quality Assurance Standards for DNA Databasing Laboratories," effective September 1, 2011, and any subsequent amendments thereto, available at <http://www.fbi.gov/about-us/lab/biometric-analysis/codis>.

General, technical amendments are proposed to N.J.A.C. 13:81-3.2, Storage of DNA samples and typing results of DNA samples. A proposed amendment to N.J.A.C. 13:81-3.2(a)2, regarding the filing of the samples in order of barcode number, replaces "buccal" with "biological," as these samples pertain to both blood and buccal samples collected after September 22, 2003. Another amendment proposed adds that DNA databank specimen submission forms may be stored in a secure facility approved by the New Jersey Division of Archives and Records Management (DARM) as an alternative to storage in the CCU.

Subchapter 4, Testing DNA, is proposed for readoption.

General, technical amendments are proposed to N.J.A.C. 13:81-4.1, Upload to SDIS and NDIS. Specifically, an amendment at subsections (a) and (c) is proposed to replace "his or her designee" with "persons authorized by the CODIS administrator" enabling other personnel to perform the functions described therein in order to promote workability and effectiveness.

A proposed amendment to N.J.A.C. 13:81-4.2, Use of and access to DNA databank and database, at paragraph (b)2, regarding fulfilling a database search request, adds "the searched profile meets all Office of Forensic Sciences Quality Assurance criteria, and the request fulfills the criteria established by NDIS for searches of CODIS data" and serves as a quality assurance measure and clarification to correspond to FBI requirements.

Subchapter 5, Quality Assurance, is proposed for readoption.

The proposed technical amendment to N.J.A.C. 13:81-5.1, Quality assurance, at subsections (a) and (e), updates documents incorporated by reference to the FBI national standards by updating document names, including the current version dates, and updating website information on how to obtain such documents, as follows: "Quality Assurance Standards for Forensic DNA Testing Laboratories," effective September 1, 2011, and any subsequent amendments thereto, available at <http://www.fbi.gov/about-us/lab/biometric-analysis/codis> and "Quality Assurance Standards for DNA Databasing Laboratories," effective September 1, 2011, and any subsequent amendments thereto, available at <http://www.fbi.gov/about-us/lab/biometric-analysis/codis>. Proposed amendments to subsections (b) and (c) remove "convicted" from describing qualifying offender samples, and are necessary to incorporate the new arrestee DNA law. Another proposed amendment to subsection (b) adds that the quality system is established by the laboratory and deletes unnecessary language regarding specific quality assurance testing because other quality assurance measures are now utilized instead of random reanalysis.

Subchapter 6, Remedies and Liabilities is proposed for readoption.

The proposed amendments to N.J.A.C. 13:81-6.1, Expungement of DNA profiles and samples, incorporate new paragraph (a)2, to additionally provide for the expungement of DNA information in certain specified circumstances pertaining to arrestee samples. Other proposed amendments in this section incorporate the necessary expungement provisions pertaining to arrestee samples. In paragraph (b)1, the word "adjudication" was added to clarify that DNA profiles, records, and identifiable information with regard to juvenile adjudications may be expunged if statutory qualifications are satisfied. Also, language was added, "with regard to the dismissed or acquitted charges," to incorporate the new arrestee amendments.

A proposed amendment to paragraph (b)3 adds that is unnecessary to dispose of the sample as medical waste and it will be disposed according to laboratory protocol for disposing of blood and/or buccal samples. A final proposed amendment deletes paragraph (b)4 because, according to Federal guidelines, it is unnecessary for the Director of the Office of Forensic Sciences to be notified of any expungement proceeding. N.J.A.C. 13:81-6.2, Prohibition against disclosure, is proposed without amendment.

Chapter 7, Post-Conviction DNA Testing is proposed for readoption.

N.J.A.C. 13:81-7.1, Analysis and storage of DNA profile information obtained in accordance with provisions of P.L. 2001, c. 377 (N.J.S.A. 2A:84A-32a et seq.), is proposed for readoption with a technical amendment at subsection (b) to replace CODIS with NDIS.

The agency proposes to update N.J.A.C. 13:81 Appendix A, Instructions for State of New Jersey DNA Databank Convicted Offender DNA Collection Kit, and Appendix B, Instructions for State of New Jersey DNA Databank Specimen Submission Form. The appendices are proposed for repeal and replacement with new forms, removing unnecessary font and stylistic choices when the forms were first adopted. The substantive changes in the appendices are discussed below as amendments to the existing forms.

A proposed amendment to N.J.A.C. 13:81 Appendix A in Step 1 deletes the reference to a ziplock bag because it is unnecessary. A proposed amendment to Step 2 clarifies that it is applicable only when completing the previous submission form with three copies and that it is not applicable to the new one-page submission form. Because there is a supply of the previous form still in circulation, it is necessary to provide separate instructions for completing the two forms. A proposed amendment to Step 3 explains that the barcode should be placed on the designated area of the card to incorporate a recent revision to the Micro Card. Other proposed amendments in Step 9 clarify that the collector shall make the transfer of the swab to the Micro Card in order to ensure a proper and complete transfer and that the collector shall dispose of the

used swab. Another amendment proposed is to delete the note to Step 10 because it is unnecessary to include the swab when sending the collection packet in the unlikely event there is blood on the swab. An amendment is proposed at Step 12 to clarify that the reference to the three copies of the form only pertains to the previous version of the form. Another amendment is proposed to clarify that submissions should be sent to the lab as soon as possible. Finally, an amendment is proposed deleting the last sentence as unnecessary because the biohazard designation on the left hand portion of the envelope is standard on all self-addressed envelopes.

Proposed amendments to N.J.A.C. 13:81 Appendix B clarify that it pertains to the previous version of the form with three (3) copies. As noted above, because there is a supply of the previous form still in circulation, it is necessary to provide separate instructions for completing the two forms.

Proposed new Appendix C provides step-by-step instruction for the completion of the new one-page submission form. This new form is intended to streamline and expedite the collection process.

As a 60-day comment period has been provided on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The rules proposed for readoption with amendments, repeals, and new rules will continue to have a positive social impact by enhancing the ability to solve crimes and thereby enhancing the ability to protect the people of New Jersey. The arrestee DNA database can now be used by law enforcement to aid in solving crimes, both unsolved cold cases and new crimes. Rather than waiting until conviction for that information to be available, the DNA profile will be available following the arrest of the person. The primary advantage to the public is the opportunity for earlier identification of persons who have committed previously unsolved crimes. A DNA databank "hit" may occur between evidence collected at crime scenes and the DNA profiles of persons sampled upon arrest. This swift identification may prevent the release from custody of arrestees who have been linked to unsolved crimes. Additionally, innocent persons may be exonerated when true perpetrators are identified through DNA evidence. The United States Supreme Court recently emphasized that "there can be little reason to question the legitimate interest of the government in knowing for an absolute certainty the identity of the person arrested, in knowing whether he is wanted elsewhere, and in ensuring his identification in the event he flees prosecution." *Maryland v. Alonzo Jay King, Jr.*, 133 S. Ct. 1958, 1977, 186 L. Ed. 2d 1, 37 (2013).

Economic Impact

The rules proposed for readoption with amendments, repeals, and new rules will continue to have a positive economic impact. With the expansion of New Jersey's DNA collection to arrestees for certain violent crimes, the major benefits are that law enforcement can identify criminals sooner and create more efficient investigation practices. It makes law enforcement's investigative capabilities more efficient and effective, thereby saving taxpayers' dollars by reducing investigators' time and reducing cost. Moreover, some crimes may now be solved that might have remained unsolved or would require greater resources in order to solve. DNA databases promote fairness, confidence, and certainty in the administration of the criminal laws. Thus, benefits are likely to arise out of more crimes being solved and more crimes being solved expeditiously and an overall reduction in costs due to more efficient law enforcement is anticipated. Also, persons wrongly accused of committing a crime can be freed sooner.

Federal Standards Statement

The rules proposed for readoption with amendments, repeals, and new rules are consistent with, but do not exceed Federal standards. New Jersey's DNA Database and Databank Rules are consistent with the FBI's requirements for indexing, quality assurance, and proficiency testing for forensic DNA analysis that are set forth in the following documents: "Quality Assurance Standards for Forensic DNA Testing Laboratories," effective September 1, 2011, and any subsequent amendments thereto, available at <http://www.fbi.gov/about-us/lab/biometric-analysis/codis> and "Quality Assurance Standards for DNA Databasing Laboratories," effective September 1, 2011, and any subsequent amendments thereto,

available at <http://www.fbi.gov/about-us/lab/biometric-analysis/codis>. Accordingly, a Federal standards analysis is not required.

Jobs Impact

The rules proposed for readoption with amendments, repeals, and new rules will cause neither the generation nor loss of any jobs.

Agricultural Industry Impact

The rules proposed for readoption with amendments, repeals, and new rules will not have any impact on the agriculture industry in New Jersey.

Regulatory Flexibility Statement

The rules proposed for readoption with amendments, repeals, and new rules do not require a regulatory flexibility analysis. They do not impose reporting, recordkeeping, or other compliance requirements on small businesses as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., because the rules proposed for readoption with amendments, repeals and new rules provide requirements for collecting DNA samples and impose requirements on convicted offenders and arrestees to provide a DNA sample and on governmental agencies that perform collection and analysis of the DNA samples.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments, repeals, and new rules will have no impact on housing affordability or evoke a change in the average costs associated with housing in New Jersey, because the rules pertain to DNA collection, analysis, and storage.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments, repeals, and new rules will not have any impact on smart growth development. The rules proposed for readoption with amendments, repeals, and new rules will not evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan, because the rules pertain to DNA collection, analysis, and storage.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 13:81.

Full text of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 13:81 Appendices A and B.

Full text of the proposed amendments and new rules follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. GENERAL PROVISIONS

13:81-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

... "CODIS" means the FBI's national DNA identification index system that allows storage and exchange of DNA profiles submitted by **Federal**, state, and local forensic DNA laboratories. The term is derived from "Combined DNA Index System." The NDIS, SDIS, and where applicable, the Local DNA Index System (LDIS - for states that have county or municipal labs that feed up to a state CODIS laboratory) together comprise CODIS. CODIS comprises a series of software programs containing a collection of data files that permit comparison of biological evidence recovered at crime scenes to other crime scenes and to DNA profiles of known offenders. The system has [two] **three** main data files, referred to as indices, to accomplish this task. The Forensic Index contains the DNA profiles developed from biological evidence recovered at crime scenes. The Convicted Offender Index consists of DNA profiles developed from known samples taken from qualifying **convicted** offenders. **The Arrestee Index consists of DNA profiles developed from known samples taken from qualifying arrestees.** Each individual state is charged with determining qualifying offenders for CODIS inclusion. The Forensic Index [and] **is searched against** the Convicted Offender Index[, are searched against each other] **and the Arrestee Index**, and investigative leads are generated. The Forensic Index is searched against itself, whereby matches link crime scenes. **The**

Unidentified Human Remains and Missing Persons Indices are searched against the Forensic Index and Offender Index.

...
 “CODIS [manager] **administrator**” means the person who works within the CODIS Unit of the New Jersey State Police **Office of Forensic Sciences [Technology Center] DNA Laboratory** and is responsible for the uploading of data from SDIS to NDIS. The CODIS [manager] **administrator** is responsible for supervising the quality of the work entered into the database and for seeing that the laboratory follows all applicable quality assurance procedures.

“Core loci” means the [13] specific regions on the human genome [at which the tetranucleotide repeats], also referred to as [STRS] **STRs** (short tandem repeats), **that** are measured for inclusion in CODIS.

...
 “DNA database” means the repository of DNA profiles collected under New Jersey’s DNA Act. It is administered by the New Jersey State Police **Office of Forensic Sciences DNA Laboratory** and provides DNA profiles to the FBI for storage and maintenance in CODIS.

...
 “Laboratory” means the New Jersey State Police Office of Forensic Sciences DNA Laboratory, which includes the CODIS Unit. The CODIS Unit receives and maintains the DNA samples, analyzes samples in-house, sends samples out for analysis, verifies analyses, and inputs the DNA profiles into the CODIS system. The New Jersey State Police **Office of Forensic Sciences [Technology Center] DNA Laboratory** is the State CODIS Laboratory in New Jersey.

“**LDIS**” means the **Local DNA Index System, which is the level of the CODIS program in which a local DNA laboratory maintains its DNA records for searching and uploading to higher level indices such as SDIS and NDIS.**

“**NDIS**” means the **National DNA Index System, which is the system administered by the FBI that is comprised of DNA identification records contributed by the various participating SDISs and Federal laboratories. NDIS compares DNA profiles associated with a crime scene to DNA profiles collected from known [convicted] offenders, as well as to other crime scene profiles. When the DNA profiles are uploaded to NDIS, they are searched against the other DNA profiles submitted by other participating states.**

13:81-1.4 Offenders’ obligation to submit DNA samples

(a) The obligation to submit a DNA sample shall be imposed upon:

1. (No change.)

2. Every person arrested on or after February 1, 2013, for one of the offenses set forth in (a)1 above;

[2.] **3.** (No change in text.)

4. Every juvenile arrested on or after February 1, 2013, for acts, which if committed by an adult, would constitute one of the offenses set forth in (a)1 above;

[3.] **5.** Every person convicted, adjudicated delinquent, or found not guilty by reason of insanity on or after January 1, 2000, of murder, manslaughter, aggravated assault pursuant to paragraph (1) or (6) of subsection b of N.J.S.A. 2C:12-1, kidnapping, luring or enticing a child, engaging in sexual conduct which would impair or debauch the morals of a child, or an attempt to commit any of these crimes, and those who were convicted and incarcerated as a result of a conviction of these offenses prior to January 1, 2000, if on that date the person was incarcerated or on parole; [and]

6. Every person arrested on or after February 1, 2013, for one of the offenses set forth in (a)5 above;

7. Every juvenile arrested on or after February 1, 2013, for acts, which if committed by an adult, would constitute one of the offenses set forth in (a)5 above; and

[4.] **8.** (No change in text.)

(b) If the offender is sentenced to a term of imprisonment, detention, or confinement, the offender shall have the obligation to submit a DNA sample upon commencement of the period of imprisonment, detention, or confinement. If the offender is not sentenced to a term of imprisonment, detention, or confinement, the offender shall have the obligation to submit a DNA sample as a condition of the sentence or adjudication

imposed. An offender who has been convicted, adjudicated delinquent, or found not guilty by reason of insanity of a crime prior to September 22, 2003, and who, on that date, is serving a sentence or adjudication of imprisonment, probation, parole or other form of supervision as a result of the crime or delinquent conduct or is confined following acquittal by reason of insanity shall have the obligation to provide a DNA sample before termination of imprisonment, probation, parole, supervision or confinement, as the case may be. **An offender who has been arrested for a qualifying offense or a qualifying delinquent act shall have the obligation to provide a DNA sample before release from custody.** The termination of imprisonment, probation, parole, supervision, [or] confinement, **or the release from custody**, as the case may be, shall not relieve an offender of this obligation if prior thereto the offender did not submit a DNA sample or if the DNA sample or identification information is found to be inadequate for DNA analysis or identification.

(c) If an offender refuses to provide a DNA sample, the collector shall immediately contact the CCU. If such offender has been just sentenced, the collector shall immediately transport the offender back to the sentencing judge, if it is reasonably feasible to do so. If it is not feasible to do so, the collector shall refer the matter to the CCU and appropriate action shall be taken to compel the DNA sample from the offender]

(c) If an offender refuses to allow a DNA sample to be collected pursuant to the provisions of the DNA Act, the offender shall be arrested for refusal to allow a blood or biological sample to be drawn, a crime of the fourth degree under N.J.S.A. 2C:29-11.

SUBCHAPTER 2. COLLECTING DNA

13:81-2.1 Submission and identification

(a) All buccal swab DNA samples shall be collected by individuals trained under the protocols established by the Division of Criminal Justice, utilizing the collection protocol prescribed in the “Instructions for State of New Jersey DNA Databank [Convicted] Offender DNA Collection Kit,” version [8/15/07] **11/5/14**, set forth in Chapter Appendix A and incorporated herein by reference. Such samples shall be taken using only the sample collection kit approved and provided by the Division of Criminal Justice.

(b) (No change.)

(c) The offender providing a DNA sample shall be positively identified, using photograph identification or other identification, by the agency responsible for collecting the sample prior to taking the biological specimen from such offender. The collecting agency shall utilize the New Jersey State Police Master Name Index to locate, if necessary, and to verify the offender’s SBI number and also to ascertain the status of the DNA flag. No sample may be taken if the flag indicates [by a “Y”] **“Collected” or “Profile in CODIS” meaning that a sample previously was taken from the offender.** As part of the verification process, the collector shall also use the Fast ID system **or the live scan**, if it is available, which provides almost instantaneous comparison of the offender’s fingerprints with those on record at the New Jersey State Police. If an offender does not have an assigned SBI number at the time of collection or if the collector is unable to locate or verify an SBI number, a criminal inquiry through live scan, if available, shall be conducted. If a live scan is not available or does not within a reasonable time provide an SBI number, then a 10-print criminal arrest fingerprint card shall be completed.

(d) When positive identification of the offender is accomplished, the DNA databank specimen submission form shall be completed, providing the information requested on the form as prescribed in the “Instructions for State of New Jersey DNA Databank Specimen Submission Form[.]” **(pertaining to the previous version of the form with three copies), version [8/15/07] 11/5/14**, set forth in Chapter Appendix B and incorporated herein by reference[.], **or as prescribed in the “Instructions for State of New Jersey DNA Databank Specimen Submission Form” (pertaining to the new one-page version of the form), version 11/5/14, set forth in Chapter Appendix C and incorporated herein by reference.** If an offender refuses to sign the form, the collector shall write “refused” on the signature line.

(e) The offender’s obligation to provide a sample shall be deemed to include the obligation to provide fingerprints or other identifying

indicators. The imprinting of the offender's right and left index fingers, by means of an inked impression, in the spaces indicated on the DNA databank specimen submission form shall be completed. If a 10-print criminal arrest fingerprint card is being submitted in lieu of an SBI number, or if the collector is using the Fast ID system or live scan, the offender still must be fingerprinted as indicated on the submission form. If the Fast ID indicates "match," or the live scan confirms the SBI number, the first box on the fingerprint verification portion of the form shall be checked, initialed, and dated. In the event that no fingerprinting is possible due to absence of fingers or hands or any other reason, this fact shall be indicated in the space provided for recording the fingerprint and, if possible, toe prints shall be taken or a **Fingerprint Certification shall be completed with a photograph attached that is initialed and dated.**

(f) The primary method of sample collection in New Jersey shall be by buccal swabbing using the standardized sample collection kit as supplied by the Division of Criminal Justice. The DNA sample shall be taken by inserting the applicator between the teeth and cheek of the offender and rubbing the applicator against each cheek, and then placing the swab under the tongue for 10 seconds. The wet swab shall then be pressed and rolled on the sample collection card, which will change color when the sample has been transferred from the swab to the card. The sample collection card, together with a completed submission form containing the biographical data of the offender and plain impression prints of the offender's index fingers shall be sent to the New Jersey State Police **Office of Forensic Sciences DNA Laboratory.**

(g) Blood samples shall be taken only when a DNA sample must be obtained by force, which shall occur only pursuant to court order, or when the Department of Health [and Senior Services], which supervises those found not guilty by reason of insanity, elects to take a blood sample. The offender's finger or other appropriate body part shall be pricked while he or she is restrained, and a blood sample shall be obtained using the [blood specimen] **standardized sample collection kit as supplied by the Division of Criminal Justice.**

(h) (No change.)

(i) The labeling, handling, and transmittal of the biological sample collected shall be as prescribed in the "Instructions for State of New Jersey DNA Databank [Convicted] Offender DNA Collection Kit," version [8/15/07] 11/5/14, set forth in Chapter Appendix A. The mailing envelope shall be mailed or delivered to the Laboratory.

(j) (No change.)

(k) The CCU shall effect arrangements for the collection of samples from qualified offenders when custody or supervision is maintained by private or out-of-State[,] probation, parole, [or] correction facilities, or any other type of facility.

13:81-2.2 Handling and security of samples

(a)-(b) (No change.)

(c) All DNA sample kits must be received in a sealed condition. If the kit is not sealed upon receipt, authorized personnel assigned by the Laboratory shall notify the CODIS [manager] **administrator.**

(d) The decision whether to accept or reject the sample shall be made by the CODIS [manager] **administrator.** The decision shall be documented, and justification for rejection shall also be documented.

(e) The DNA databank specimen form shall be verified in the State Police [Records and] **Biometric Identification Unit.** A qualified fingerprint examiner shall verify the identity of the offender through AFIS. The fingerprint examiner shall document the findings. No verification is required if the offender's fingerprints were verified by the collector using the Fast ID system or live scan. If fingerprints cannot be verified through the normal verification process due to physical limitations on the part of the offender, verification shall be accomplished through other means, such as a photograph identification procedure duly certified by the collector.

(f) If the fingerprints on file do not match the offender or are inadequate for successful identification, appropriate personnel at [AFIS] **the State Police Biometric Identification Unit** shall notify the CCU, which will take appropriate action to secure another DNA sample from the offender, who shall have the obligation to cooperate in submission.

(g) (No change.)

(h) The sample collection card containing the DNA sample shall be placed in an appropriate secured storage area until analysis is performed. The Laboratory shall maintain [an internal chain of] custody [to track] of the sample throughout its [storage and] analysis **and storage.**

(i) (No change.)

SUBCHAPTER 3. TESTING DNA

13:81-3.1 Sample processing and analysis

(a) All DNA samples received by the Laboratory for DNA analysis shall be processed and analyzed in accordance with the FBI's national standards, which are set forth in the following documents: "Quality Assurance Standards for [Convicted Offender] **Forensic DNA [Databasing] Testing Laboratories,**" effective [April 1, 1999, and any subsequent amendments thereto, available at <http://www.fbi.gov/hq/lab/codis/offender.htm>] **September 1, 2011, available at <http://www.fbi.gov/about-us/lab/biometric-analysis/codis>** and "Quality Assurance [Audit For Forensic DNA And Convicted Offender] **Standards for DNA Databasing Laboratories,**" [July 2004, revision 6, and any subsequent amendments thereto, available at <http://www.fbi.gov/hq/lab/fsc/backissu/july2004/pdfs/seubert.pdf>.] **effective September 1, 2011, available at <http://www.fbi.gov/about-us/lab/biometric-analysis/codis>, both of which are incorporated herein by reference, as amended and supplemented.**

(b) The DNA profile shall be the result of testing of the nuclear DNA contained in the sample. The test performed shall measure the tetranucleotide repeats, also referred to as short tandem repeats at each of the core loci, and may also measure other portions of the genome that are tested by commercially-available kits approved by the FBI pursuant to the "Quality Assurance Standards for [Convicted Offender] **Forensic DNA [Databasing] Testing Laboratories,**" effective [April 1, 1999, and any subsequent amendments thereto, available at <http://www.fbi.gov/hq/lab/codis/offender.htm>] **September 1, 2011, available at <http://www.fbi.gov/about-us/lab/biometric-analysis/codis>** and "Quality Assurance [Audit For Forensic DNA And Convicted Offender] **Standards for DNA Databasing Laboratories,**" [July 2004, revision 6, and any subsequent amendments thereto, available at www.fbi.gov/hq/lab/fsc/backissu/july2004/pdfs/seubert.pdf.] **effective September 1, 2011, available at <http://www.fbi.gov/about-us/lab/biometric-analysis/codis>, both of which are incorporated herein by reference, as amended and supplemented.**

(c) (No change.)

13:81-3.2 Storage of DNA samples and typing results of DNA samples

(a) All DNA profiles and all DNA samples shall be securely stored in the State DNA database and the State DNA databank respectively, in the following manner:

1. (No change.)

2. All DNA samples shall remain stored at room temperature in an appropriate storage repository. This storage repository shall be maintained within a secure storage area. Only the CODIS [manager] **administrator** and persons authorized by the CODIS [manager] **administrator** shall have access to these DNA samples. They shall be filed in order of the SBI number or barcode number. For [buccal] **biological** samples collected after September 23, 2003, the DNA samples shall be filed in order of barcode number upon sample analysis; and

3. All DNA databank specimen submission forms shall be securely stored in the CCU within the Division of Criminal Justice or in a **secure facility approved by the New Jersey Division of Archives and Record Management (NJDRAM).**

SUBCHAPTER 4. DNA ACCESS

13:81-4.1 Upload to SDIS and NDIS

(a) DNA profiles shall be uploaded to SDIS and/or NDIS by the CODIS [manager] **administrator** or [his or her designee] **persons authorized by the CODIS administrator.**

(b) (No change.)

(c) The CODIS [manager] **administrator** or [his or her designee] **persons authorized by the CODIS administrator** may expunge or

remove a DNA profile that New Jersey has entered into SDIS or uploaded into NDIS for good cause or in obedience to a court order.

13:81-4.2 Use of and access to DNA databank and database

(a) (No change.)

(b) Access shall[,] be afforded to the DNA database and databank only in the following circumstances:

1. For purposes delineated in (a) above, the CODIS [manager] **administrator** and personnel authorized by the CODIS [manager] **administrator** shall have access to the DNA database and databank;

2. When a law enforcement agency requests a search of the DNA database, a request form shall be completed and be accompanied by a brief correspondence describing the request. This correspondence shall be completed on the agency's letterhead and addressed to the CODIS [manager] **administrator** of the Laboratory. The CODIS [manager] **administrator** or [his or her designees] **persons authorized by the CODIS administrator** shall approve the request only if satisfied from the correspondence or further inquiry that the identity and authority of the requesting agency is verified, **the searched profile meets all Office of Forensic Sciences Quality Assurance criteria, and the request fulfills the criteria established by NDIS for searches of CODIS data;**

3.-4. (No change.)

(c) (No change.)

(d) The CODIS [manager] **administrator** and [his or her authorized personnel] **persons authorized by the CODIS administrator** may inform appropriate law enforcement agencies that there is a profile match between or among DNA samples, other profiles, and/or biological evidence.

SUBCHAPTER 5. QUALITY ASSURANCE

13:81-5.1 Quality assurance

(a) Analysis techniques and operations utilized by the Laboratory shall comply with quality assurance guidelines to ensure that DNA identification records meet audit standards for laboratories that submit DNA profiles for inclusion in CODIS. Quality assurance shall be accomplished through compliance with FBI laboratory accreditation standards, which are set forth in the following documents: "Quality Assurance Standards for [Convicted Offender] **Forensic DNA [Databasing] Testing Laboratories,**" effective [April 1, 1999, and any subsequent amendments thereto, available at <http://www.fbi.gov/hq/lab/codis/offender.htm>] **September 1, 2011, available at <http://www.fbi.gov/about-us/lab/biometric-analysis/codis> and "Quality Assurance [Audit For Forensic DNA And Convicted Offender] Standards for DNA Databasing Laboratories," [July 2004, revision 6, and any subsequent amendments thereto, available at www.fbi.gov/hq/lab/fsc/backissu/july2004/pdfs/seubert.pdf], effective September 1, 2011, available at <http://www.fbi.gov/about-us/lab/biometric-analysis/codis>, both of which are incorporated herein by reference, as amended and supplemented.**

(b) Whether [convicted] offender samples are analyzed in-house or by a contract laboratory, in either case, the integrity of the sample analysis shall be checked through a quality-assurance quality-control program. This program shall include random reanalysis of samples, visual inspection and evaluation of results/data, and inclusion of quality control samples.] **established at the laboratory.**

(c) A portion of the [convicted] offender samples that have been previously analyzed [shall be] **are** reanalyzed for quality assurance purposes. The data for these samples shall be reviewed by authorized laboratory personnel [and uploaded to SDIS]. Matches shall [be noted as] **signify** successful completion of the quality control process.

(d) Any discrepancies in these quality control samples shall be noted. The CODIS [manager] **administrator** shall investigate the possible source of the discrepancy and determine what further action is needed. This action may include deleting the [convicted] offender sample from the CODIS database, informing the contract laboratory of a discrepancy, and/or requesting the submission of another sample from the [convicted] offender, who shall cooperate in the sample submission.

(e) At least once per year, the Laboratory shall conduct an audit in accordance with the FBI "Quality Assurance [Audit For Forensic DNA And Convicted Offender] **Standards for Forensic DNA [Databasing]**

Testing Laboratories," [July 2004, revision 6, and any subsequent amendments thereto, available at www.fbi.gov/hq/lab/fsc/backissu/july2004/pdfs/seubert.pdf], effective September 1, 2011, available at <http://www.fbi.gov/about-us/lab/biometric-analysis/codis/> and "Quality Assurance Standards for DNA Databasing Laboratories," effective September 1, 2011, available at <http://www.fbi.gov/about-us/lab/biometric-analysis/codis>, both of which are incorporated herein by reference, as amended and supplemented.

SUBCHAPTER 6. REMEDIES AND LIABILITIES

13:81-6.1 Expungement of DNA profiles and samples

(a) A person whose DNA profile has been included in the DNA database and whose DNA sample is stored in the DNA databank may apply to the Superior Court of New Jersey, Law Division for expungement of the DNA profile and the DNA sample on the grounds that [the]:

1. **The conviction, adjudication, or finding of not guilty by reason of insanity that resulted in the inclusion of the person's DNA profile in the database or the inclusion of the person's DNA sample in the databank has been reversed and the case dismissed. A certified copy of the order shall be attached to the application. A copy of the application for expungement shall be served on the prosecutor for the county in which the adjudication or conviction was entered and on the CCU in the Division of Criminal Justice not less than 20 days prior to the date of the hearing on the application[.]; or**

2. **All charges from the arrest that resulted in the inclusion of the person's DNA profile in the database or in the inclusion of the person's DNA sample in the databank have been dismissed or have been resolved through an acquittal at trial. A certified copy of the order of dismissal shall be attached to the application. A copy of the application for expungement shall be served on the prosecutor for the county in which the charge or charges were brought and on the CCU in the Division of Criminal Justice, not less than 20 days prior to the date of the hearing on the application.**

(b) Upon receipt, review, and verification by the CCU of a certified court order directing expungement and unless otherwise provided, the CODIS [manager] **administrator** shall:

1. Delete all DNA profiles, records, and identifiable information in the CODIS Database computer pertaining to the person with regard to the reversed and dismissed conviction **or adjudication, or with regard to the dismissed or acquitted charges;**

2. Notify and direct any contract laboratory used to delete any record associated with the SBI number and e-mail a confirmatory notice to the CODIS [manager] **administrator;**

3. Destroy all samples obtained from the individual that pertained to the reversed and dismissed charge **or dismissed charges;** remove any identifier from the sample; and cut the sample and the identifier into pieces and dispose of it [as medical waste] **pursuant to laboratory policy for biological samples;**

[4. Send a letter to the Director of the Office of Forensic Sciences or his or her designee who shall forward it to the NDIS Custodian thus notifying NDIS of the expungement.]

Recodify existing 5.-6. as **4.-5.** (No change in text.)

(c) (No change.)

(d) If the entry in the database reflects more than one **charge,** conviction, adjudication, or finding of not guilty by reason of insanity, that entry shall not be expunged unless and until the person has obtained an order of expungement for each **charge,** conviction, adjudication of guilt, or finding of not guilty by reason of insanity on the grounds contained in (a)1 **or 2** above. If any one of the bases for inclusion in the database was other than adjudication of guilt or not guilty by reason of insanity, that entry shall not be subject to expungement.

SUBCHAPTER 7. POST-CONVICTION DNA TESTING

13:81-7.1 Analysis and storage of DNA profile information obtained in accordance with provisions of P.L. 2001, c. 377 (N.J.S.A. 2A:84A-32a et seq.)

(a) (No change.)

(b) The DNA profile information obtained in accordance with provisions of P.L. 2001, c. 377 (N.J.S.A. 2A:84A-32a et seq.) shall be stored in the State DNA database and forwarded to the FBI for inclusion in [CODIS] **NDIS**.

(Agency Note: The text of proposed new N.J.A.C. 13:81 Appendices A, B, and C follow without boldface symbolizing proposed new text; those portions of the appendices appearing in boldface are proposed to be so permanently.)

APPENDIX A

Version: 11/05/2014

New Jersey State Police
New Jersey Division of Criminal JusticeINSTRUCTIONS FOR STATE OF NEW JERSEY DNA DATABANK
CONVICTED OFFENDER DNA COLLECTION KIT

If you have any questions concerning the use of this kit, please call the New Jersey Division of Criminal Justice, CODIS Compliance Unit at (609) 292-1439.

NOTE: *Before you begin, make sure that you have obtained and verified the offender's SBI number and checked the status of the DNA flag on the New Jersey State Police Master Name Index to confirm that he or she has not previously provided a sample. If it is available, use Fast ID as part of the verification. If the offender does not have an assigned SBI number or if you cannot locate or verify an SBI number, use live scan, if available. If live scan is not available or does not within a reasonable time provide an SBI number, then complete a 10-print criminal arrest fingerprint card so that an SBI number can later be created for the offender.*

- Step 1** You will need the following items before you begin the collection process:
- Two instruction sheets (this one and the instructions for the Specimen Submission Form)
 - One Specimen Submission Form
 - One Micro Card ("FTA™ card")
 - One sterile packet containing a foam tip applicator
 - One 2x4 envelope
 - One pair of latex gloves
 - Fingerprint ink pad
- Step 2** Complete the Specimen Submission Form (Refer to the DNA Databank Specimen Submission Form instructions). If using the previous version of the submission form that has 3 copies, place a barcode on each of the three copies of the form in the designated spaces. (If using prepared labels containing the offender's information: a) Place one label over the yellow space below "offender name" and b) Place a barcode on each of the three copies of the form in the designated spaces.) If using the new one-page submission form, omit this step.
- Step 3** Place a barcode on the Micro Card horizontally in the space designated.
- Step 4** PRINT the offender's SBI number on the 2x4 envelope in the designated space. (If using labels place the label with the offender's SBI number only on the front of the envelope, being careful not to obstruct the space for the barcode.) Place the last barcode on the designated space on the 2x4 envelope.

NOTE: If the barcode is missing from the 2x4 envelope, the sample will not be accepted into the DNA Databank and a new collection sample will be requested. Any illegible information may also create the need for new sample collection.

- Step 5** Put on the latex gloves.
- Step 6** Examine the sterile swab packet to ensure that it has not been prematurely opened. If there is any evidence that the packet has been opened, discard and open a new kit.
- Step 7** Carefully peel open the sterile packet, remove the foam tip applicator, and hand it to the offender.
- Step 8** Instruct the offender to place the sponge portion of the foam tip applicator in his/her mouth between the cheek & gum and swab each side vigorously 15-20 times per side. After swabbing

both cheeks, instruct the offender to place the sponge portion of the foam tip applicator underneath the tongue for approximately 10 seconds. (When the offender is swabbing his/her cheeks, the collector should see the offender's cheek protruding.)

- Step 9** Take the swab from the offender and rock the foam tip applicator back and forth onto the center of the circle of the Micro Card. The foam tip applicator should be pressed and turned several times to assure transfer of the specimen to the Micro Card. To confirm transfer of the specimen to the Micro Card, the specimen collector should examine the card and note that a color change has occurred.
- Step 10** Dispose of the used foam tip applicator in a general waste container.
- Step 11** The specimen collector should place the Micro Card with the offender's specimen into the 2x4 envelope, verify that the barcode is on the Micro Card, and the 2x4 envelope, and seal the envelope. The specimen collector should date and initial diagonally across the flap of the envelope. **DO NOT LICK THE ENVELOPE.**

Note: If the specimen collector fails to date and initial the 2x4 envelope, the specimen may be rejected by the State Police DNA Laboratory, and another specimen will need to be collected.

- Step 12** Before placing the submission form and the 2x4 envelope containing the Micro Card into the self-addressed stamped envelope, verify the following:
- The sealed (initialed & dated) 2x4 envelope containing the Micro Card. (Verify that the barcode and offender's SBI number are on the 2x4 envelope).
 - The Specimen Submission Form. (Verify that a barcode has been placed on all three copies of the form, if using the previous version of the form with three copies; that all the offender's data has been properly recorded; and that the fingerprints are legible).
- Step 13** Place the 2x4 envelope containing the Micro Card and the submission form into the self-addressed envelope.
- Step 14** Dispose of gloves. You are now ready for the next offender.

IMPORTANT

If the specimen collector fails to PROPERLY label, initial and package the items described in the preceding instructions, the specimen may be rejected by the Office of Forensic Sciences DNA Laboratory and another specimen will need to be collected.

Sealing the self-addressed stamped envelope

The self-addressed stamped envelopes may hold up to ten submission forms and ten 2x4 envelopes containing samples each. Seal the self-addressed stamped envelope by removing the protective strip from the self adhesive flap and then press the envelope closed. Do not wait for multiple submissions to be collected. Submissions should be sent in as soon as possible.

The specimen collector should date and sign the sealed self-addressed envelope.

APPENDIX B

Version: 11/05/2014

INSTRUCTIONS FOR STATE OF NEW JERSEY DNA DATABANK

SPECIMEN SUBMISSION FORM
(for Previous Version of Form with 3 Copies)

If you have any questions concerning the completion of this form, please call the New Jersey Division of Criminal Justice, CODIS Compliance Unit at (609) 292-1439.

The Specimen Submission Form consists of three copies (1 short white, 1 short green and 1 long white) and a strip of 5 barcode labels. **Do not use the form if any of these items are missing.** Contact the New Jersey Division of Criminal Justice, CODIS Compliance Unit.

Step 1 Place barcode on the space indicated on each of the three sheets of the Specimen Submission Form.

Step 2 Complete ALL YELLOW areas of the form. (*Specific instructions for each area of the form are set forth below*).

- A. If submitting from a State of New Jersey Correctional Institution (NJDOC) reception center, circle the appropriate abbreviation that corresponds to your facility. If your facility is not a correctional institution, indicate the full name of your facility under "Other Facility."
- B. SUBMITTING AGENCY FULL NAME (Other than a state prison)
PRINT or TYPE the FULL name of the agency submitting the specimen.
- C. CONTACT PERSON and TELEPHONE NUMBER
Contact Person: PRINT or TYPE the name of the person who can be contacted for confirmation/clarification of the information on the form.
- D. DNA Sample: Check Off "Buccal"
- E. OFFENDER'S LAST NAME
PRINT Clearly or TYPE the offender's last name. (If using labels, affix the labels containing offender information over the third yellow box, which starts with "offender name." Then go directly to "N".
- F. OFFENDER'S FIRST NAME
PRINT Clearly or TYPE the offender's first name.
- G. OFFENDER'S MIDDLE INITIAL
PRINT Clearly or TYPE
- H. OFFENDER CASE/ID NUMBER (Optional Field)
Print the offender's identification number assigned by your department, if applicable.
- I. SEX
Circle one: M (Male) or F (Female)
- J. RACE
Be careful to **CIRCLE ONLY ONE:**
B = Black (African American)
NA = Native American (American Indian)
C = Caucasian (White)
A = Asian

H = Hispanic
U = Unknown Race

- K. D.O.B.
Provide the offender's date of birth.
- L. SBI NUMBER
Provide the offender's SBI Number. If you do not have an SBI #, submit the 10-print criminal arrest fingerprint card.
- M. If offender was ADJUDICATED rather than CONVICTED, mark yes. Otherwise mark no.
- N. OFFENDER'S SIGNATURE
The offender must provide his/her signature and the date. If the offender will not sign the form, the Specimen Collector must indicate "refused to sign" and must initial this line.
- O. OFFENDER STATUS
Check all that apply.
- P. Specimen Collector
The Specimen Collector must PRINT or TYPE a full name, and provide the full signature and date in the designated spaces on the form.

Step 3 Obtain fingerprints of the offender's right and left index fingers (even if you are already submitting these fingerprints on the 10-print criminal arrest fingerprint card in lieu of an SBI number or even if you are using the Fast ID system or live scan):

Note: The DNA specimen will NOT be accepted without these fingerprints. You must use the Fast ID system if it is available, as part of the verification process, but you must also take the two required fingerprints to complete the DNA Specimen Submission Form. Both index fingers must be rolled on the form.

1. Plain impression prints are not sufficient. Rolled prints ARE necessary.
2. Have the offender wipe his/her hands on a paper or cloth towel to ensure that the hands are clean of excessive perspiration or foreign matter.
3. Instruct the offender to press and roll the left index finger with uniform pressure on the inked fingerprint pad.
4. The collector shall utilize proper methods in obtaining rolled fingerprint submissions. Use the designated box on the long white copy of the submission form. Prints must be clear and distinctive.
5. Repeat the same process for the right index finger.
6. If a poor quality print has been obtained for either finger, an additional print must be entered in the designated area for reprints. Indicate below the print which finger was reprinted.
7. If the left and/or right index finger cannot be printed, other digits may be printed, but the finger which was printed must be indicated below the print.

Step 4 Remove the green copy of the form and keep it for your records. Make sure it has a barcode label before you file it.

Step 5 Follow the DNA Convicted Offender Collection Kit instructions for obtaining the DNA specimen and for sealing and shipping the kit for testing.

APPENDIX C

Version: 11/05/2014

**INSTRUCTIONS FOR STATE OF NEW JERSEY DNA DATABANK
SPECIMEN SUBMISSION FORM for New One-Page Version of the Form**

If you have any questions concerning the completion of this form, please call the New Jersey Division of Criminal Justice, CODIS Compliance Unit at (609) 292-1439.

The Specimen Submission Form is one page with 3 barcodes - one is printed on the form and two can be peeled off. Do not use the form if any of these items are missing. Contact the New Jersey Division of Criminal Justice, CODIS Compliance Unit.

Step 1 Complete ALL areas of the form. (*Specific instructions for each area of the form are set forth below*).

- A. Originating Agency Identification (ORI) Number
- B. SUBMITTING AGENCY FULL NAME
PRINT or TYPE the FULL name of the agency submitting the specimen.
- C. CONTACT PERSON and TELEPHONE NUMBER
Contact Person: PRINT or TYPE the name of the person who can be contacted for confirmation/clarification of the information on the form.
- D. OFFENDER'S LAST NAME
PRINT Clearly or TYPE the offender's last name.
- E. OFFENDER'S FIRST NAME
PRINT Clearly or TYPE the offender's first name.
- F. OFFENDER'S MIDDLE INITIAL
PRINT Clearly or TYPE
- G. D.O.B.
Provide the offender's date of birth.
- H. SBI NUMBER
Provide the offender's SBI Number. If you do not have an SBI #, submit the 10-print criminal arrest fingerprint card.
- I. SEX
Check one: M (Male) or F (Female)
- J. Check Arrestee or Convicted Offender - if both, check both boxes
Provide a Complaint number or CDR number, if arrestee

Provide an Indictment Number, Accusation Number, or FJ Number, if Convicted Offender, Adjudicated Delinquent, or Found Not Guilty by Reason of Insanity (NGRI)
- K. Check Adult or Juvenile
- L. OFFENDER'S SIGNATURE
The offender must provide his/her signature and the date. If the offender refuses to sign the form, the Specimen Collector shall indicate "refused to sign" and shall initial this line.

M. Specimen Collector

The Specimen Collector must PRINT or TYPE a full name, and provide the full signature and date in the designated spaces on the form.

Step 2 Obtain fingerprints of the offender's right and left index fingers (even if you are already submitting these fingerprints on the 10-print criminal arrest fingerprint card in lieu of an SBI number or even if you are using the Fast ID system or live scan):

Note: The DNA specimen will NOT be accepted without these fingerprints. You must use the Fast ID system if it is available, as part of the verification process, but you must also take the two required fingerprints to complete the DNA Specimen Submission Form. Both index fingers must be rolled on the form.

1. Plain impression prints are not sufficient. Rolled prints ARE necessary.
2. Have the offender wipe his/her hands on a paper or cloth towel to ensure that the hands are clean of excessive perspiration or foreign matter.
3. Instruct the offender to press and roll the left index finger with uniform pressure on the inked fingerprint pad.
4. The collector shall utilize proper methods in obtaining rolled fingerprint submissions. Use the designated box on the long white copy of the submission form. Prints must be clear and distinctive.
5. Repeat the same process for the right index finger.
6. If a poor quality print has been obtained for either finger, an additional print must be entered in the designated area for reprints. Indicate below the print which finger was reprinted.
7. If the left and/or right index finger cannot be printed, other digits may be printed, but the finger which was printed must be indicated below the print.

Step 3 Follow the DNA Offender Collection Kit instructions for obtaining the DNA specimen and for sealing and shipping the kit for testing