



# ORANGE COUNTY SHERIFF'S OFFICE GENERAL ORDER COLLECTION OF DNA



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**ISSUING AUTHORITY – SHERIFF CARL E. DuBOIS  
DISTRIBUTION – ALL DEPUTY SHERIFFS  
& OFFICE PERSONNEL**

**I. PURPOSE.**

The purpose of this General Order is to establish procedures for the Collection of DNA samples from defendants who are under lawful arrest or who have been ordered by a court to submit a DNA sample.

**II. POLICY.**

It shall be the policy of this Office to obtain DNA samples from all arrestees/defendants who have been ordered by a court to submit DNA or those persons who have not submitted a sample in the past and who are required to do so. Under New York State law, any person convicted and sentenced for any felony under any state law or Penal Law misdemeanor is required to provide a DNA sample for inclusion in the DNA Data bank. Any offender convicted in a New York State court who is required to register as a sex offender must provide a DNA sample for inclusion in the Databank. Adjudicated Youthful Offenders are not required to submit a DNA sample.

**III. DNA COLLECTION PLAN.**

The County has identified a plan to collect the DNA sample at the first opportunity.

- A. In cases where the sentence is probation, the Probation Department will collect the DNA sample.
- B. In cases where the sentence is a jail term, the Correctional Facility staff will collect the DNA sample.
- C. In cases where the sentence is a split sentence of jail and probation, the Correctional Facility staff shall collect the DNA sample.
- D. In cases where the sentence is time served, conditional discharge, unconditional discharge, a fine or any sentence that does not involve a sentence of supervision, a local court officer, a

local police officer or Deputy may collect the DNA sample.

- E. Inmates from the Correctional Facility that go to court and receive a sentence of time served will be directed by the court to report to Orange County Probation or the Orange County Sheriff's Office to submit a sample. If the Court directs the inmate to the Sheriff's Office, it will be the responsibility of the Deputy who receives such sentenced inmate to retrieve and submit the DNA sample. A DNA sample may also be collected at the actual time of sentencing and release.

#### IV. SHERIFF'S OFFICE RESPONSIBILITIES:

##### A. Deputy's Responsibilities:

1. Deputies shall carefully review each arrestee's rap sheet in order to determine if any such person owes a DNA sample from a prior conviction. If an arrestee's rap sheet shows that the defendant OWES DNA , such Deputy shall collect a DNA sample immediately as part of the booking process.
2. Deputies shall collect DNA samples pursuant to a Judge's Order.
3. Deputies may be assigned by a Sergeant or person of competent authority to collect a DNA sample.
4. This Office will be responsible for sending the samples to the NYS DNA Databank

##### B. Sampling:

1. The DNA Databank Specimen Collection Kit shall be used to take the sample. These kits shall be kept in the Identification Division, the Squad Room. The Identification Division Sergeant shall be responsible for maintaining an adequate supply of kits.
2. The Deputy taking the sample will fill out the required paperwork provided in the sample kit. (Refer to DNA Collection Checklist)
3. The Deputy will have the arrestee place a print of each index finger in the appropriate spaces and will place the barcodes in the appropriate spaces at the time that the sample is taken.
4. The Deputy will instruct the arrestee as to how the swab is to be manipulated in their mouth.
5. The Deputy will place the swab firmly onto the DNA card. The Deputy must turn the swab once to ensure that an adequate sample is obtained.
6. The Deputy will update the incident/arrest report to reflect that the sample was drawn and the date the sample was submitted.

##### C. Court Ordered DNA Submission - Report/Filing.

1. A DNA submission file shall be completed when a Court ordered DNA sample is taken. Each file shall contain the following:
  - a. A copy of the incident report,
  - b. A copy of the eJustice rap sheet,
  - c. A copy of the court order,
  - d. The green copy of the DNA submission form.

D. Refusals: In the event that an arrestee refuses to submit a sample, the following steps shall be taken:

1. A Sergeant or Senior Deputy will discuss the issues surrounding the refusal and attempt to convince the arrestee to comply. The Sergeant or Senior Deputy will explain the procedure for refusal.
2. The arrestee will be given a direct order to submit a sample by the Sergeant or Senior Deputy.
3. If the arrestee refuses s/he will be charged with Obstructing Government Administration and be taken for arraignment.

E. Audit/Validation of owed DNA samples.

1. The Identification Sergeant or DNA Reconciliation Officer may conduct an Audit and Validation of owed DNA. This audit and validation should be conducted on a frequent basis. The information for such audit and validation is on the eJustice web page.
  - a. Audit/Validation. Process defined.

The audit and validation will be a review and comparison of owed DNA as listed on the eJustice web site compared to our records.
  - b. The Audit and Validation will apply to the Corrections Division. Appropriate Corrections personnel will be notified if reconciliation is need of Owed DNA in the Corrections Division.
2. A communiqué (verbal or written) may be issued directing a person who owes DNA to complete such required submission.
3. Offenders whose names are listed on the eJustice web site and who have been determined to owe a DNA sample as a result of an order from the court may also be charged with Contempt of Court (Sec. 215.50 NYSPL).
4. If necessary, Deputies should use the Contempt of Court Information (Form TCF-40) in order to obtain a warrant for the offender's arrest and collect the required specimen.