

1. Subdivision (a) of Section 6190.1 of 9 NYCRR is amended to read as follows:

(a) When used in this Part:

(1) The term **forensic laboratory** shall have the same meaning as set forth in Executive Law (EL) section 995(1) and shall include a forensic DNA laboratory which shall have the same meaning as set forth in EL section 995(2).

(2) The term **forensic DNA testing** shall have the same meaning as set forth in EL section 995(2).

(3) The term **DNA** means deoxyribonucleic acid.

(4) The term **DNA subcommittee** refers to the subcommittee on forensic DNA laboratories and forensic DNA testing established pursuant to EL section [955] 995-b(13).

(5) The term **commission** refers to the Commission on Forensic Science established pursuant to EL section 995-a.

(6) The term **division** refers to the NYS Division of Criminal Justice Services.

(7) The term **ASCLD/LAB** refers to the American Society of Crime Laboratory Directors/Laboratory Accreditation Board. [Current ASCLD/LAB accreditation guidelines are contained in the 2008 edition of the ASCLD/LAB manual, which may be obtained from the ASCLD/LAB, 139 Technology Drive, Garner, NC 27529.] Current ASCLD/LAB [International] accreditation [guidelines] requirements are contained in the ISO/IEC 17025-2005” General Requirements for the competence and testing of calibration laboratories,” which can be obtained from ISO at [www.iso.org](http://www.iso.org) or from the American National Standards Institute (ANSI) at [www.ansi.org](http://www.ansi.org), and the [2006] 2011 ASCLD/LAB International Supplemental Requirements, which may be obtained from

ASCLD/LAB[, 139 Technology Drive, Garner, NC 27529] at [www.asclld-lab.org](http://www.asclld-lab.org). These [guidelines] requirements may also be viewed at the Division of Criminal Justice Services, [4 Tower Place] 80 South Swan Street, Albany, NY [12203] 12210[, and the Department of State, One Commerce Plaza, 99 Washington Avenue, Albany, NY 12231].

(8) The phrase **Quality Assurance Standards for Forensic DNA Testing Laboratories and Quality Assurance Standards for DNA Databasing Laboratories** refers to standards [recommended by the Federal DNA Advisory Board, and approved by the Director of] issued by the Federal Bureau of Investigation, which took effect [July 1, 2009] September 1, 2011. These standards may be obtained from ASCLD/LAB at [www.asclld-lab.org](http://www.asclld-lab.org) and the Federal Bureau of Investigation [, Laboratory Division, 2501 Investigation Parkway, Quantico, VA 22135] at [www.fbi.gov](http://www.fbi.gov). These standards may also be viewed at the Division of Criminal Justice Services, [4 Tower Place] 80 South Swan Street, Albany, NY [12203] 12210[, and the Department of State, One Commerce Plaza, 99 Washington Avenue, Albany, NY 12231].

(9) The term **laboratory director** refers to the director of the forensic laboratory.

(10) The term **ABFT** refers to the American Board of Forensic Toxicology, Inc. The current ABFT laboratory accreditation program is found in the [2006] 2013 Forensic Toxicology Laboratory Accreditation [Manual] Program Checklist, which may be obtained from ABFT[, 410 North 21st Street, Colorado Springs, CO 80904] at [www.abft.org](http://www.abft.org). This program may also be viewed at the Division of Criminal Justice Services, [4 Tower Place] 80 South Swan Street, Albany, NY [12203] 12210[, and the Department of State, One Commerce Plaza, 99 Washington Avenue, Albany, NY 12231].

(11) The terms **disciplines** [, **sub-disciplines,**] or **categories of testing** refer to the type of forensic examination being conducted by the forensic laboratory.

(12) The term **scope of accreditation** refers to the disciplines [, subdisciplines,] or categories of testing for which the forensic laboratory has been granted accreditation.

Note: ASCLD/LAB offers accreditation in disciplines [, sub-disciplines (ASCLD/LAB - Legacy),] and categories of testing [(ASCLD/LAB - International)] and calibration.

ABFT offers accreditation only in the discipline of forensic toxicology.

(13) The term **mock cases** means simulated cases instead of actual or real cases.

2. Paragraph (1) of Subdivision (a) of Section 6190.4 of 9 NYCRR is amended to read as follows:

(1) documentation [or] of accreditation by ASCLD/LAB or ABFT, if obtained;

3. Paragraph (4) of Subdivision (b) of Section 6190.6 of 9 NYCRR is amended to read as follows:

(4) Revocation: NYS accreditation is revoked for a minimum specified time after which the laboratory may submit a new application for NYS accreditation. The laboratory shall cease performing casework analysis until [reaccredited] reaccredited.

4. Subdivision (a) of Section 6191.1 of 9 NYCRR is amended to read as follows:

(a) When used in this Part:

(1) The term **designated offender** shall have the same meaning as set forth in section 995(7) of the Executive Law.

(2) The term **State DNA identification index** shall have the same meaning as set forth in section 995(6) of the Executive Law.

(3) The term **department** refers to the NYS Department of [Correctional Services] Corrections and Community Supervision (DOCCS).

(4) The term **OCFS** refers to the NYS Office of Children and Family Services.

[(5) The term **parole** refers to the NYS Division of Parole.]

5. Section 6191.3 of 9 NYCRR is amended to read as follows:

(a) Any designated offender sentenced to the [department] department's custody or supervision shall be notified by the department of his or her obligation to provide a DNA sample to determine identification characteristics specific to such person and for inclusion in the State DNA identification index.

(b) Any designated offender sentenced to a term of probation shall be notified by the local probation department of his or her obligation to provide a DNA sample to determine identification characteristics specific to such person and for inclusion in the State DNA identification index.

(c) Any designated offender sentenced to a definite sentence or confined in a local correctional facility shall be notified by such facility of his or her obligation to provide a DNA sample to determine identification characteristics specific to such person and for inclusion in the State DNA identification index.

(d) Any designated offender committed to the custody of OCFS shall be notified by OCFS of his or her obligation to provide a DNA sample to determine identification characteristics specific to such person and for inclusion in the State DNA identification index.

(e) Upon notification to a parole officer by the department or the Division of Criminal Justice Services, any designated offender who did not provide a DNA sample while in the custody of the department or OCFS and is released or conditionally released to parole supervision or released to post-release supervision shall be notified by parole officer of his or her obligation to provide a DNA sample to determine identification characteristics specific to such person and for inclusion in the State DNA identification index.

(f) Any designated offender who is not subject to incarceration or probation supervision as a result of a conviction for a designated offense, as well as any other designated offender who currently [owns] owes a sample but is not under sentence, may be notified by any court official, police officer, peace officer, or other public servant that he or she is required to provide a DNA sample to determine identification characteristics specific to such person and for inclusion in the State DNA identification index.

(g) The notification to a designated offender provided for in this section that such designated offender is required to provide a DNA sample may be communicated to such designated offender verbally and need not be in writing.

6. Section 6192.1 of 9 NYCRR is repealed and new Section 6192.1 is added to read as follows:

- (a) The term **allele** refers to one of the alternate forms of the DNA at a particular genetic locus.
- (b) The term **CODIS** refers to the Federal Bureau of Investigation's Combined DNA Index System.
- (c) The term **commission** refers to the Commission on Forensic Science established pursuant to Executive Law section 995-a.
- (d) The term **commissioner** refers to the commissioner of the New York State Division of Criminal Justice Services, or his or her designee.
- (e) The phrase **convicted offender DNA profile** refers to a DNA profile generated by analysis of a biological sample collected from a designated offender as defined in Executive Law section 995(7).
- (f) The term **division** refers to the NYS Division of Criminal Justice Services.
- (g) The term **DNA** means deoxyribonucleic acid.
- (h) The phrase **DNA databank** refers to the computerized State DNA Identification Index authorized pursuant to Executive Law section 995-c, and known as the State DNA Index System (SDIS).
- (i) The phrase **DNA profile** refers to a set of DNA identification characteristics which may permit the DNA of one person to be distinguished from that of another person. For STR DNA profiles it refers to the list of alleles carried by a particular individual at a specific set of genetic loci.
- (j) The phrase **DNA profile of a missing person** refers to the results of a forensic analysis of the DNA of a person reported missing or whose whereabouts are unknown.

(k) The term **DNA subcommittee** refers to the subcommittee on forensic DNA laboratories and forensic DNA testing established pursuant to Executive Law section 995-b(13).

(l) The term **FBI** refers to the Federal Bureau of Investigation.

(m) The phrase **forensic DNA laboratory** shall have the same meaning as set forth in Executive Law section 995(2).

(n) The term **forensic DNA testing** shall have the same meaning as set forth in Executive Law section 995(2).

(o) The phrase **forensic index** refers to the electronic database in CODIS containing DNA profiles generated from crime scene evidence by forensic DNA laboratories.

(p) The phrase **forensic DNA profile** refers to a DNA profile that is derived from biological evidence originating from and associated with the commission of a crime. The phrases casework evidence DNA profile and crime scene DNA profile shall have the same definition.

(q) The phrase **indirect association** refers to the determination during the CODIS candidate match confirmation process that a forensic index DNA profile is similar to a DNA profile in the offender index and a comparison reveals that the offender may be a relative of the source of the forensic index profile.

(r) The term **LDIS** refers to that level of the CODIS program in which a public DNA laboratory maintains its DNA records for searching and uploading to higher level indices such as SDIS and NDIS.

- (s) The term **loci** refers to specific chromosomal locations of genes or other DNA elements such as STRs.
- (t) The term **mitochondrial DNA testing** or **mtDNA testing** refers to analysis of genetic polymorphisms that occur in the DNA of mitochondria.
- (u) The term **NDIS** refers to the National DNA Index System.
- (v) The phrase **NDIS Operating Procedures** refers to the document specifying the requirements for DNA data to be accepted for searching and storage in CODIS. It was issued by the FBI, Laboratory Division, 2501 Investigation Parkway, Quantico, VA 22135. This document may be reviewed at <https://www.fbi.gov>.
- (w) The term **offender index** refers to the electronic database in CODIS containing both convicted offender and subject DNA profiles.
- (x) The term **STR** refers to Short Tandem Repeat. STR analysis is a form of testing which provides DNA profiles for loci which contain simple DNA unit repeats; STR loci on the Y-chromosome are referred to as Y-STRs.
- (y) The phrase **subject DNA profile** refers to a DNA profile generated by analysis of a biological sample collected from a subject convicted of a crime whose specimen was collected: pursuant to a plea agreement; as a condition for participation in a temporary release, Comprehensive Alcohol and Substance Abuse Treatment (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 or interim probation supervision.



(z) The phrase **unidentified human DNA profile** refers to a DNA profile developed from recovered deceased remains or from an individual who cannot or will not identify themselves.

(aa) The phrase **unidentified human (remains) index** refers to the electronic database in CODIS containing DNA profiles developed from recovered deceased remains or from an individual who cannot or will not identify themselves.

7. Section 6192.2 of 9 NYCRR is amended to read as follows:

Executive Law[,] section 995-b(9) states that "After reviewing recommendations from the Division of Criminal Justice Services, the commission, in consultation with the DNA subcommittee, shall promulgate a policy for the establishment and operation of a DNA identification index consistent with the operational requirements and capabilities of the Division of Criminal Justice Services." This policy ensures that procedures related to all legal and programmatic obligations of Executive Law, section 995-b have been set forth in order to properly govern the establishment and operation of the DNA databank. This policy was adopted by the commission based on the recommendations of the division and in consultation with the DNA subcommittee.

8. Section 6192.3 of 9 NYCRR is amended to read as follows:

(a) DNA databank shall be comprised of data generated from DNA testing methods approved in the NDIS [DNA Data Acceptance Standards] Operating Procedures. Loci required for the upload to NDIS of authorized DNA profiles [to the national system] shall

be in accordance with the NDIS [DNA Data Acceptance Standards] Operating Procedures.

(b) [Casework evidence] Forensic DNA profiles to be maintained in the DNA databank shall be comprised of information for at least [six of] the minimum required STR loci or other combinations of loci using alternative technologies approved for use in the NDIS [DNA Data Acceptance Standards] Operating Procedures. This requirement for a minimum number of loci applies only to those [casework evidence] forensic DNA profiles which an authorized laboratory desires to have maintained in the forensic index of the DNA databank.

(c) For purposes of searches of the DNA databank, [a] the minimum [of four] loci required shall be provided by a laboratory requesting a forensic DNA profile search against the DNA databank. Generally, all available loci associated with a forensic DNA profile shall be searched in the DNA databank. Notwithstanding this requirement, the laboratory may, at its discretion, request that a search be performed using fewer loci if there is an investigative need and sufficient scientific reasons which support using fewer than [four] the required loci in a particular case. The scientific reasons shall include, but not be limited to, the apparent presence of mixtures, sample degradation or limited sample availability. The basis of the scientific reason(s) must be summarized [on] in the search request [form] whenever fewer than [four] the required loci are provided with a search request.

(d) DNA profiles that may be added to the DNA [database] databank by forensic DNA laboratories include [casework evidence,] forensic DNA profiles, convicted offender

DNA profiles, subject DNA profiles, DNA profiles of missing persons, relatives of individuals reported missing, unidentified humans or human remains.

(e) In the event of a potential indirect association, laboratories should use Y-STR and/or mtDNA testing to help determine if the indirect association should be pursued further.

(f) [Upon notification by the] Pursuant to NDIS [Custodian that all applicable NDIS requirements have been satisfied], the division may release the [name] identity of an offender whose DNA profile has been indirectly associated through a national CODIS search with a DNA profile in another state's forensic index. The State CODIS laboratory will review requests from NDIS participating laboratories and notify the division regarding the partial match request. The State CODIS laboratory will notify the NDIS participating laboratory and NDIS Custodian if a name is released. Testing of additional loci of the offender sample may be required and may include Y-STR and/or mtDNA analysis.

(g) The division may release the name of an offender whose DNA profile has been indirectly associated through a State CODIS search with a forensic DNA profile when it has been determined that the information may lead to the identification of an individual related to the offender. For associations obtained from a State CODIS search, the following conditions must be met:

(1) The laboratory submitting the [crime scene] forensic DNA profile to the CODIS program shall complete an application to the division requesting the name of the offender and, as part of the application, confirm that:

(i) an LDIS search has been performed using the profile in the Forensic Index;

(ii) the forensic DNA profile derives from a single source and contains at least 10 of the CODIS core loci;

[(iii) the submitting agency and the appropriate prosecutor have committed to pursue further investigation of the case if the name is released. Such entities also agree to provide follow-up information to the division regarding the outcome of the case, which the division will provide to the DNA Subcommittee at six month intervals; and

(iv) the submitting laboratory has confirmed that release of the name will be followed by a report to the investigating agency.]

(iii) the Expected Match Ratio (EMR) and/or the Expected Kinship Ratio (EKR) for the four major ethnic groups in the FBI allele frequency databases (or equivalent likelihood ratio approved by the State DNA Subcommittee) was calculated by it and at least one of the four database values for EMR or EKR is greater than or equal to 1.0 and all the others are greater than or equal to 0.1 (or an equivalent pre-determined statistical measure approved by the DNA Subcommittee). If available and appropriate, additional DNA analysis (e.g., Y-STR, mitochondrial) should be performed;

(iv) the submitting agency and the appropriate prosecutor have committed to pursue further investigation of the case if the name is released. Such entities also agree to provide follow-up information to the division regarding the outcome of the case, which the division will provide to the DNA Subcommittee at six month intervals; and

(v) the submitting laboratory has confirmed that release of the name will be followed by a notification to the investigating agency.

(2) The [report] notification from the submitting laboratory to the investigating agency shall indicate that:

- (i) the [match] association is indirect;
- (ii) the information provided is an investigative lead;
- (iii) the available data suggests that the source of the [evidentiary] forensic DNA [pattern] profile is potentially a relative of the convicted offender but is not conclusive evidence of the same.

(3) [The division will provide the match information to the State DNA databank which, in turn, will calculate and report whether the appropriate statistical threshold approved by the DNA Subcommittee has been met] A partial match request from a local CODIS laboratory that satisfies all criteria described above will be submitted to the State CODIS laboratory for verification. Upon receipt of such verification, the division will release the name of the offender to the local CODIS laboratory. If the criteria are not satisfied, the State CODIS laboratory will notify the division and the convicted offender's name will not be released.

[(4) Upon receiving a completed application from the local participating CODIS laboratory and confirmation from the databank that the appropriate statistical threshold has been met, the division will release the name of the offender and supporting statistical data to the submitting laboratory. If the appropriate statistical threshold value is not supported by the available data, then additional testing may be required. If the subsequent testing does not meet the appropriate threshold, the databank will notify the division and the offender's name will not be released.]

9. Section 6192.4 of 9 NYCRR is amended to read as follows:

The accuracy and completeness of all DNA records maintained as part of the DNA databank will be assured through compliance with laboratory accreditation standards as promulgated by the commission in Part 6190 of this Title. In addition, accuracy and completeness of all DNA records maintained as part of the DNA databank will be assured through compliance by all forensic DNA laboratories with the requirements of the NDIS [DNA Data Acceptance Standards] Operating Procedures. Each DNA profile [(for either convicted offender or forensic samples)] submitted must be certified by the submitting laboratory as being associated with the appropriate controls and blanks. Copies of all official correspondence between the DNA databank and participating laboratories will be maintained in the appropriate division file.

10. Section 6192.5 of 9 NYCRR is amended to read as follows:

The server on which the DNA databank resides shall be located in a secure area to prevent unauthorized physical access in accordance with [CODIS] NDIS requirements. All forensic DNA laboratories which use or contribute data to the DNA databank shall choose CODIS compatible software and hardware designs which prevent unauthorized access to DNA records. Each participating laboratory must have a written information systems plan which specifies the architecture of the laboratory's computer hardware and the structure of security comprising the access control component of the computer software employed. The information systems plan must demonstrate that an electronic audit trail is maintained for activities related to the entering or editing of DNA records. In addition, the information systems plan shall conform with all applicable information security rules, regulations, and policies. The division, in consultation with forensic DNA laboratory directors, shall develop model documents to assist forensic DNA laboratories

in complying with the requirements of this Part. A final information systems plan shall be submitted by the laboratory for review and approval by the division prior to the laboratory gaining access as a participant in the DNA databank. The division shall determine the acceptability of each laboratory information systems plan. The NYS standards must be designed and applied in such a way as to allow compliant participating forensic DNA laboratories to participate in the [Federal] FBI's CODIS program.

11. Section 6192.6 of 9 NYCRR is amended to read as follows:

At least once per year, audits will be conducted by the division of all forensic DNA laboratories to assure that no illegal disclosures of DNA records have taken place. This audit will verify that all necessary documents required for accessing and controlling DNA records and their associated information have been appropriately completed, and compliance with the laboratory's approved information systems plan. These documents include, but are not limited to, the use and dissemination agreements between the laboratory and user agencies or the division; search request forms and search result forms; and case disposition query forms. In addition, the audit will review the participant laboratory's standard operating procedure (SOP) related to these procedures to [insure] ensure that the SOP is complete and up-to-date. The division may develop a standardized audit checklist to assist in completion of the required audits. The division may provide the audit report to the laboratory for remediation of any findings, if necessary. Within 90 days of the completion of the audit, the division shall submit a summary audit report to the chair of the DNA subcommittee, reporting the findings of the audit as well as any response from the laboratory and/or recommendations for changes. The DNA subcommittee shall review the audit report, and forward binding recommendations to the

commission for action. Once DNA subcommittee and commission action on the audits are completed, the audit report shall be maintained by the division for three years from the date of the commission's final action related to the audit report, after which the audit report may be disposed. A record of disposition shall be maintained in the permanent files of the division for each forensic DNA laboratory.

12. Section 6192.9 of 9 NYCRR is amended to read as follows:

Section 6192.9. Unauthorized attempts to penetrate the DNA databank

13. Section 6193.2 of 9 NYCRR is amended to read as follows:

Access to the DNA databank shall be granted to an agency authorized by article 49-B of the Executive Law, to have such access, pursuant only to a written use and dissemination agreement. A copy of each current use and dissemination agreement shall be filed with the commission and maintained in a division file for each participant laboratory at all times. The [form] format of the agreements shall be determined by the division. The use and dissemination agreement shall specify:

14. Section 6193.3 of 9 NYCRR is amended to read as follows:

All requests for access to and review of records relating to a subject of the DNA databank, by such subject, will be reviewed on a case-by-case basis by the division. In reviewing and responding to the request, the following steps shall be followed:

(a) The subject must:



(1) provide in writing his/her name; any aliases used; date of birth; NYSID (if known); sex; race; date of sentence for the index offense (if known); the jurisdiction of the court which sentenced the subject (if known); imprints of the right and left fingerprints having sufficient clarity to allow for [SAFIS] automated processing; current address; and current phone number (if available). This information must be submitted under the subject's signature and seal of a registered notary with the following authentication statement:

"False statements made herein are punishable as a class A misdemeanor pursuant to section 210.45 of the New York State Penal Law;" or

(2) provide another alternative method of identification deemed satisfactory by the commissioner.

(b) The division will verify whether a DNA sample was ever collected from an individual corresponding to such information provided in subdivision (a) of this section. If needed, the division shall use other computerized databases within the authority of the division to assist in fulfilling the subject's request.

(c) If no record is found using this information, or if there is any discrepancy discovered in the information submitted by the subject in the request, no information related to the DNA databank will be provided to the subject. The subject will be notified of this decision by the Director of the Office of Forensic Services or designee in writing within 30 days, by certified or registered mail, return receipt requested.

(d) If a record is found for the identified subject in the DNA databank and no discrepancies are identified in the submitted information, a photocopy of the DNA databank submission form and the results of the DNA analysis for the subject will be made in a [form] format prescribed by the division. The Director of the Office of

Forensic Services or designee will forward these copies with a written letter of authentication within 30 days, by certified or registered mail, return receipt requested.

(e) If, due to discrepancies in the information submitted by the subject in the request, DNA records and related information are not provided to the subject by the Director of the Office of Forensic Services or designee, the subject is allowed to appeal the decision. In order to appeal the director's decision, the subject must provide, in writing and under signature and the seal of a registered notary, the nature of the subject's disagreement with the director's decision. This appeal document shall be submitted to the commissioner within 30 days of the date of the determination by the Director of the Office of Forensic Services or designee.

(f) Upon receipt of the appeal, the Director of the Office of Forensic Services or designee shall promptly transmit to the commissioner copies of all records concerning the individual along with all papers and documents filed by the individual in support of the appeal. The appeal shall be determined upon the records, papers and documents submitted, except that the commissioner may request the Director of the Office of Forensic Services or designee, or the individual, to furnish such further data as he or she deems necessary for the determination of the appeal. A written notice of appeal to the commissioner shall be acted upon within a reasonable time after receipt of the written notice of appeal. The commissioner shall notify both the individual and the Director of the Office of Forensic Services or designee of his or her decision in writing and in the event such decision reverses or modifies that of the Director of the Office of Forensic Services or designee, shall require that appropriate action be taken with respect to the individual's record.

15. Subdivision (a) of Section 6193.4 of 9 NYCRR is amended to read as follows:

(a) [An individual whose DNA record has been included in the convicted offender index of the DNA databank or an individual whose DNA record has been included in the subject index of the DNA databank] An individual with a convicted offender DNA profile that has been included in the offender index of the DNA databank or an individual with a subject DNA profile that has been included in the offender index of the DNA databank pursuant to a plea agreement may request expungement on the grounds that the conviction which formed the basis for such inclusion in the DNA databank was reversed or vacated or a pardon was granted. An individual shall provide the request in writing to the division along with a certified copy of the final court order reversing or vacating the conviction or a certified copy of the pardon. Upon receipt of such request for expungement:

16. Paragraph (4) of Subdivision (a) of Section 6193.4 of 9 NYCRR is amended to read as follows:

(4) the division shall thereafter obtain all documents related to the subject's DNA databank record. After insuring that all documents, and all copies thereof, have been obtained, these records shall be catalogued and any DNA sample(s) obtained in connection with the subject conviction shall be destroyed. These documents [, including a certification of destruction of the subject's DNA sample], if applicable, shall be forwarded to the subject of the expungement using return receipt requested mail;

17. Subdivision (b) of Section 6193.4 of 9 NYCRR is amended to read as follows:

(b) [An individual whose DNA record has been included in the subject index of the DNA databank] An individual with a subject DNA profile that has been included in the offender index of the DNA databank as a condition for participation in a temporary release, CASAT, or shock incarceration program; or 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 or interim probation supervision may request expungement on the grounds that he or she no longer participates in a temporary release, CASAT, or shock incarceration program; or is no longer under the jurisdiction of the Division of Parole; or under probation supervision. An individual shall provide the request in writing to the division along with documentation sufficient to substantiate the request for expungement. Upon receipt of such request for expungement:

(1) the division shall verify that the subject is no longer participating in a temporary release program, CASAT, or shock incarceration program; is no longer under the jurisdiction of the Division of Parole; or no longer under probation supervision, as applicable. If needed, the division shall use computerized databases within the authority of the division to assist in fulfilling the subject's request. If the division verifies that the subject is no longer participating in a temporary release, CASAT, or shock incarceration program; under the jurisdiction of the Division of Parole; or under probation supervision, it shall obtain all documents related to the subject's DNA databank record. After insuring that all documents, and all copies thereof, have been obtained, these records shall be catalogued and any DNA sample obtained in connection with the subject conviction shall be destroyed. These documents [, including a certification of destruction of the subject's

DNA sample] shall be forwarded to the subject of the expungement using return receipt requested mail; and