

50.9 DNA Databank

OPERATIONS

STANDARD 50.9 **The agency has a written directive that ensures the proper and lawful collection of DNA samples from subjects required to provide them.**

Commentary: Executive Law section 995-c (3) requires individuals who have been convicted and sentenced of certain designated offenses to provide a DNA sample for inclusion in the State DNA Databank.

Executive Law §995 (7) was amended in 2012 (effective for convictions on or after 8/1/2012) to provide that a designated offense includes:

- *Any felony;*
- *Any Penal Law Misdemeanor **except** PL §221.10, criminal possession of marijuana in the fifth degree – this crime is only a designated offense if:*
 - *The conviction is for subdivision two, or;*
 - *The conviction is for subdivision one and the defendant has a previous criminal conviction.*

Compliance Verification Strategies

Assessors may seek to verify agency compliance with this standard by using one or more of the strategies listed below. There may be other strategies identified by the agency which could also be acceptable.

1. A copy of the written directive is available for review.
2. Interview(s) with agency personnel to verify their knowledge and understanding of the requirements of this legislation.
3. Examples of “Rap sheets” annotated with the “**DNA Owed**” banner available for review.
4. Copies of completed DNA DATABANK SPECIMEN SUBMISSION FORMS available for review.
5. Demonstration by agency personnel in the proper use of the collection kits.