

CHAPTER 81

DNA DATABASE AND DATABANK RULES

Authority

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

Source and Effective Date

R.2007 d.336, effective December 3, 2007.
See: 39 N.J.R. 606(a), 39 N.J.R. 5091(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 81, DNA Database and Databank Rules, expires on December 3, 2014. See: 43 N.J.R. 1203(a).

Chapter Historical Note

Chapter 81, 9-1-1 Emergency Telephone System, was adopted as R.1990 d.392, effective August 6, 1990. See: 22 N.J.R. 1234(a), 22 N.J.R. 2332(a).

Pursuant to Executive Order No. 66(1978), Chapter 81, 9-1-1 Emergency Telephone System, was readopted as R.1995 d.478, effective August 3, 1995. See: 27 N.J.R. 2539(a), 27 N.J.R. 3376(a).

Pursuant to Executive Order No. 66(1978), Chapter 81, 9-1-1 Emergency Telephone System, was readopted as R.2000 d.350, effective July 31, 2000, and was recodified to N.J.A.C. 17:24 by R.2000 d.350, effective August 21, 2000. See: 32 N.J.R. 1912(a), 32 N.J.R. 3174(b).

Chapter 81, DNA Database and Databank Rules, was adopted as new rules by R.2007 d.336, effective December 3, 2007. See: Source and Effective Date.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL PROVISIONS

- 13:81-1.1 Purpose and scope
- 13:81-1.2 Definitions
- 13:81-1.3 Applicability
- 13:81-1.4 Offenders' obligation to submit DNA samples

SUBCHAPTER 2. COLLECTING DNA

- 13:81-2.1 Submission and identification
- 13:81-2.2 Handling and security of samples

SUBCHAPTER 3. TESTING DNA

- 13:81-3.1 Sample processing and analysis
- 13:81-3.2 Storage of DNA samples and typing results of DNA samples

SUBCHAPTER 4. DNA ACCESS

- 13:81-4.1 Upload to SDIS and NDIS
- 13:81-4.2 Use of and access to DNA databank and database

SUBCHAPTER 5. QUALITY ASSURANCE

- 13:81-5.1 Quality assurance

SUBCHAPTER 6. REMEDIES AND LIABILITIES

- 13:81-6.1 Expungement of DNA profiles and samples
- 13:81-6.2 Prohibition against disclosure

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.)

APPENDIX A

APPENDIX B

SUBCHAPTER 1. GENERAL PROVISIONS

13:81-1.1 Purpose and scope

(a) This chapter establishes procedures to be used in the submission, identification, analysis and storage of DNA samples and typing results of DNA samples submitted under the "DNA Database and Databank Act of 1994," N.J.S.A. 53:1-20.17 et seq. (hereinafter, "the DNA Act"). This chapter also establishes rules governing the methods of obtaining DNA Act information from the State database and CODIS and procedures for verification of the identity and authority of the requester. These rules shall be read and interpreted consistent with the provisions of the DNA Act. If a topic is not addressed in these rules, reference shall be made to the DNA Act.

(b) It is the goal of the DNA Act to assist Federal, State and local criminal justice and law enforcement agencies in the identification, detection or exclusion of individuals who are the subjects of criminal investigations or prosecution. Identification, detection and exclusion may be facilitated by the DNA analysis of biological evidence left by the perpetrator of a crime and recovered from the crime scene.

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:

"AFIS" means the Automated Fingerprint Identification System, which is a computerized database allowing for the search, retrieval and comparison of fingerprints on record at the New Jersey State Police with those fingerprints obtained from other sources.

"Buccal swab" means a cotton swab or a specialized applicator with a sponge or foam tip, which is rubbed on the inside of the cheek to collect epithelial cells. This procedure is non-invasive and pain free.

"CODIS" means the FBI's national DNA identification index system that allows storage and exchange of DNA profiles submitted by 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 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 offenders. Each individual state is charged with determining qualifying offenders for CODIS inclusion. The Forensic Index and the Convicted Offender Index are searched against each other, and investigative leads are generated. The Forensic Index is searched against itself, whereby matches link crime scenes.

“CODIS Compliance Unit” (CCU) means the unit within the Law Enforcement Services Bureau of the Division of Criminal Justice that oversees and tracks DNA sample collection, enters information from the DNA databank specimen submission forms into the CCU database, and represents the State of New Jersey in litigation involving the DNA Act. The CCU is responsible for training DNA collectors throughout the State in the buccal cell collection technique.

“CODIS manager” means the person who works within the CODIS Unit of the New Jersey State Police Forensic Science Technology Center and is responsible for the uploading of data from SDIS to NDIS. The CODIS manager 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 (short tandem repeats), are measured for inclusion in CODIS.

“Division of Criminal Justice” means the New Jersey Division of Criminal Justice established by N.J.S.A. 52:17B-99.

“DNA databank specimen submission form” serves as the chain of custody form and informational sheet for the DNA sample collection. This card is completed when the DNA sample is collected.

“DNA” means deoxyribonucleic acid. DNA is a chemical substance contained in cells, and provides a unique forensic identification of an individual (except in the case of identical twins).

“DNA Act” means New Jersey’s DNA Database and Databank Act of 1994, N.J.S.A. 53:1-20.17 et seq., and any subsequent amendments to the Act.

“DNA analysis” means the process of testing performed on a DNA sample to determine the DNA profile of the individual.

“DNA databank” means the repository of DNA samples collected and maintained under New Jersey’s DNA Act.

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

“DNA profile” means the set of DNA identification characteristics, that is, the particular chemical form at the various core loci, which permit the DNA of one person to be distinguished from that of another person.

“DNA sample” means a blood or other biological sample provided by any person with respect to offenses covered by the DNA Act.

“FBI” means the Federal Bureau of Investigation.

“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 Forensic Science Technology Center is the State CODIS Laboratory in New Jersey.

“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. 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.

“Offender” means persons, including juveniles, who meet the criteria in N.J.S.A. 53:1-20.20 and subsequent amendments thereto as enumerated in N.J.A.C. 13:81-1.4(a).

“Sample collection kit” means the kit containing instructions and sample collection card provided by the Division of Criminal Justice for the collection of DNA samples.

“SBI number” means the State Bureau of Identification number assigned to each individual whose fingerprints are placed into AFIS. The SBI number is used to track individuals for crimes that they commit, no matter how many subsequent fingerprint cards are submitted.

“SDIS” means the State DNA Index System, which is an individual state DNA profile system comprised of the DNA profiles of the qualifying offenders of that state and DNA profiles from crime scenes. The SDIS Laboratory serves as the central point of contact for access to NDIS.

“Upload” means the digital transfer of DNA profile data between systems at different levels (for example, LDIS to SDIS or SDIS to NDIS). The transfer is from a lower level (LDIS, SDIS) to a higher level (SDIS, NDIS).