

RICHARD S. HOVEY
Chief of Police

TOWN OF NEW WINDSOR

POLICE DEPARTMENT

555 UNION AVENUE

NEW WINDSOR, NEW YORK 12553

Telephone: (845) 565-7000 • Fax: (845) 563-4694



MuckRock News
DEPT MR 41596
411A Highland Ave.
Somerville, MA 02144-2516
January 4, 2018

To Whom It May Concern:

We are in receipt of you payment of \$2.75 for your request of our operating procedures.

Enclosed are operating procedures that you requested.

Truly yours,

Det. Wicker



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Richard S. Hovey
Chief of Police

GENERAL ORDER

NO: 42.05

Issue Date: June 25, 2008	Effective Date: June 25, 2008
Revises: October 2017	CALEA:
Subject: DNA Collection from Offenders	
Distribution: All Personnel	STATE: 50.9
Reevaluation Date: October 5, 2016	Page: 1 of 3
Issuing Authority: Chief Richard S. Hovey	

PURPOSE:

The purpose of this General Order is to establish the policy of the New Windsor Police Department which is to collect DNA samples from convicted offenders pursuant to New York State Executive Law - Sec 995-c(3).

I. Requirements

Chapter 2 of the laws of 2006 requires that defendants convicted of the misdemeanors set forth below provide buccal swabs of their DNA. (Deoxyribonucleic Acid).

Defendants convicted of any of the following offenses in the local Justice court will provide buccal swabs of their DNA:

NON-SEX OFFENSES

1. Pettit Larceny
2. Assault 3rd degree, Attempted Aggravated Assault of person less than 11.
3. Menacing 2nd and 3rd degree and Attempted Menacing 1st degree.
4. Reckless Endangerment 2nd degree.
5. Stalking 3rd and 4th degree and Attempted Stalking 2nd degree.
6. Unlawful Imprisonment 2nd degree and Attempted Unlawful Imprisonment 1st and 2nd degree.
7. Criminal Trespass 2nd degree.
8. Possession of burglar's tools.
9. Endangering the welfare of a child / endangering the welfare of an incompetent.

SEX OFFENSES

1. Sexual Misconduct / Attempted Sexual Misconduct.
2. Attempted Rape 3rd degree.
3. Attempted Criminal Sex Act 3rd degree.

4. Forcible Touching / Attempted Forcible Touching.
5. Attempted Persistent Sex Abuse.
6. Sexual Abuse 2nd and 3rd degree / Attempted Sexual Abuse 2nd and 3rd degree.
7. Attempted Aggravated Sexual Abuse 4th degree.
8. Patronizing a Prostitute 3rd degree.
9. Attempted Patronizing a Prostitute 2nd and 3rd degree.
10. Attempted Incest.
11. Attempted possession, Obscene / Sexual Performance by a child.

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 marihuana 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.

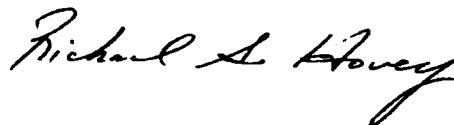
II. PROCEDURE:

1. Defendants sentenced to jail time (Other than “time served”) will provide a DNA sample to the Orange County Sheriff.
2. Defendants sentenced to probation supervision will provide a DNA sample to a probation officer.
3. All other defendants will have their DNA sample taken by a Town of New Windsor court officer or police officer immediately after the imposition of sentence utilizing a New York State DNA databank convicted offender DNA collection kit.
4. Defendants who are arrested and have a Rapsheet with the Banner “DNA OWED” stamped on it are required to submit their DNA due to the failure of it being submitted during a previous conviction. Arresting Officers(s) are responsible for submitting a DNA sample should a defendant have a Rap Sheet requesting a DNA sample.

III. INSTRUCTIONS FOR PROPER COLLECTION:

1. The DNA collection kit which is to be utilized should contain:
 - a. (1) pair of rubber gloves
 - b. (1) set of forms, with (5) barcodes and complete instructions
 - c. (1) sterile foam tipped applicator
 - d. (1) DNA databank microcard with envelope
 - e. (1) disposable inked sheet for fingerprint use
 - f. (1) Postage paid envelope

2. The first thing to do is to fill out all of the paperwork and place the barcode labels and NYSID numbers in the proper areas. (on the submission form, white, yellow, and green copies as well as the micro card and micro card envelope.)
3. Once the paperwork is completed, retain the green copy for Department records.
4. Put on the rubber gloves
5. Peel open the foam tipped applicator (swab) at the handle and have the defendant take it out of the wrapper.
6. Have the offender put the swab in his/her mouth and rub vigorously inside both cheeks and then have the swab placed under the tongue for approximately 10 seconds.
7. Take the swab from the offender and open the micro card (gloves on) and place the foam part of the swab against the circle inside the microcard. Roll the swab inside the circle to squeeze moisture onto the card.
8. When the card is wet enough, the swab may be discarded.
9. Close the card and put it in the small sample envelope which was filled out and has a barcode in the proper place. Seal the self sealing envelope and initial and date it. NOTE! Ensure that the barcode and the NYSID numbers are in the proper place.
10. Have the offender ink both index fingers and place the fingers in the appropriate place to obtain a clear print. If the fingerprint is smudged, take another one using the back of the form if necessary. If an index finger is missing, use a different finger and indicate which finger was used next to the print.
11. Place the sealed specimen envelope along with the white and yellow copies of the submission form inside the large postage paid envelope to be mailed.
12. Place the sealed specimen envelope and the green form in an evidence locker to be processed by the ID division



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Chief of Police

GENERAL ORDER

NO: 25.06

Issue Date: April 21, 2006	Effective Date: February 26, 2002
Revises: July 2018	CALEA:
Subject: Sexual Offense Investigations	
Distribution: All Personnel	STATE: 29.5, 40.2
Reevaluation Date: July 5, 2017	Page: 1 of 2
Issuing Authority: Chief Richard S. Hovey	

PURPOSE:

The purpose of this General Order is to ensure that every reported incident of a sexual offense of any nature is thoroughly investigated and that each and every available resource for both law enforcement and the victim are utilized in all aspects of the investigation.

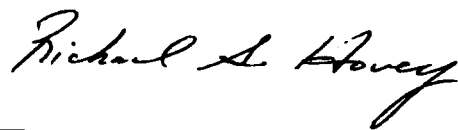
I. PROCEDURE:

- A. Upon being dispatched to the scene of a sexual offense, the first responding officer shall:
1. Determine the nature of the sexual offense.
 2. Determine the victim's state.
 3. Provide compassion and support.
 4. Provide basic first aid if needed, and if necessary request an ambulance.
 5. Advise the Shift Supervisor of the nature of the crime.
 6. Determine and secure the crime scene.
 7. Broadcast suspect information.
 8. If necessary advise the victim about the availability of a rape crisis counselor and make contact with the Rape Crisis Hotline at 1-800-832-1200 at the victim's request.
 9. Complete the initial report.

NOTE:

Often victims of sexual offenses respond directly to a hospital or to a police station to report the incident. As a first responding officer in either of these cases, determine the nature of the sexual offense from the victim at headquarters or from hospital personnel and begin with number 5 above and proceed from there.

- B. The Shift Supervisor will then make notification to the Detective Supervisor.
- C. The Detective Supervisor shall:
 - 1. Determine if a Detective will respond.
 - 2. Determine if the Identification Detective will respond.
 - 3. Coordinate the hospital exam location, if necessary.
 - a. In all sex offense cases whereby a hospital exam is necessary and/or helpful in providing evidence in prosecution matters this police agency will, whenever possible, utilize the Horton Hospital Sexual Assault Nurse Examiner (S.A.N.E.) Service, 60 Prospect Ave., Middletown N.Y.
 - 4. Coordinate the crime scene, if necessary.
 - 5. Coordinate the investigation as per Incident Case Management System General Order #46.01, V.C.1-8.
- D. The Investigating Detective shall:
 - 1. Ensure the victim receives necessary medical attention.
 - 2. Provide the victim with the name, address and telephone number of the Orange County Rape Crisis Center.
 - 3. Ensure or conduct the victim's transport to Horton Hospital for a S.A.N.E. examination.
 - a. If a victim is already at a local hospital receiving treatment, the investigating Detective will make every effort to have the victim receive the S.A.N.E. exam at Horton Hospital if the victim's physical well-being will not be jeopardized in transporting her/him.
 - 4. Conduct the victim interview.
 - 5. Conduct the investigation as per Incident Case Management System General Order #46.01, V.D.1-2.
- E. The Identification Detective will be responsible for:
 - 1. Conducting the crime scene investigation as noted in G.O. #47.01, II.B.1-7.
 - 2. Coordinating the gathering and transporting of any evidence obtained at the examining hospital.




Richard S. Hovey
Chief of Police



**Division of Criminal
Justice Services**

MEMORANDUM

TO: New York State Law Enforcement Agencies and District Attorneys

FROM: Michael C. Green 
Executive Deputy Commissioner

DATE: January 17, 2017

SUBJECT: Sexual Offense Evidence Kits

Last month you were notified of recently signed legislation pertaining to the maintenance and testing of sexual offense evidence kits (memo enclosed). As referenced in that memo, we are now providing specific instructions, including due dates, regarding the first step in this reporting process (see II.B of that memo).

In the near future we anticipate that the chapter amendment to Executive Law §838-a will be adopted, requiring your agency to inventory all untested sexual offense evidence kits and submit the results to the Division of Criminal Justice Services. To comply with the statute, DCJS has created a simple online reporting mechanism that can be accessed by entering the following address in your web browser: <http://www.surveygizmo.com/s3/3225911/Untested-Sexual-Assault-Kits>. Please complete all portions of the form and click on the submit button to transmit the information to DCJS as required by law. Your response by February 17, 2017 would be greatly appreciated so we can compile this information and transmit it to the legislature, as also required by law. Please be advised that your obligation to report to "the appropriate forensic laboratory" will not be fulfilled by reporting to DCJS and should be handled separately.


Thank you very much for your anticipated cooperation and please contact Michael-Sean Spence at 518-457-7625 or by emailing michael-sean.spence@dcjs.ny.gov if you have any questions or concerns.



**Division of Criminal
Justice Services**

MEMORANDUM

TO: New York State Law Enforcement Agencies, Prosecuting Agencies and Forensic Laboratories

FROM: Michael C. Green 
Executive Deputy Commissioner

DATE: December 5, 2016

SUBJECT: Chapter 500 of the Laws of 2016 – Sexual Offense Evidence Kits

On November 28, 2016, Governor Cuomo signed into law a new section 838-a to the Executive Law pertaining to the maintenance and testing of sexual offense evidence kits. This new law becomes effective on February 26, 2017. However, upon signing the bill, the Governor indicated in his approval memorandum that he had secured an agreement (chapter amendment) with the Legislature to pass legislation in the upcoming session to correct certain drafting errors and to ensure the proper and immediate auditing of all existing evidence kits. Pursuant to Executive Law §838-a(3), the Division of Criminal Justice Services (DCJS) is obligated to ensure that law enforcement agencies and forensic laboratories are educated on the impact of the new law. This memorandum will explain your obligations for: (i) newly received kits; (ii) kits currently in custody; and (iii) reporting obligations under both the existing law and the law as it would exist should a chapter amendment pass.

Please be aware that this memorandum is not legal advice. Rather it is intended to educate law enforcement, district attorney offices, and laboratories about this legislation. Should you have specific questions regarding the law, you should consult your county attorney or legal counsel. While DCJS can provide general information about the obligations of the bill to law enforcement agencies, district attorney offices, and laboratories, DCJS cannot provide specific legal advice.

I. Newly Received Sexual Offense Evidence Kits

A. Existing Law:

Beginning February 26, 2017, a law enforcement agency must submit any sexual offense evidence kit that it receives or collects to an appropriate forensic laboratory within ten days of receipt.

Forensic laboratories that receive a kit from a law enforcement agency are required, within ninety days of receipt, to: (i) develop a Combined DNA Index System (CODIS) eligible profile

from the kit tested; and (ii) report the results to the submitting law enforcement agency and the appropriate prosecuting agency.

B. Chapter Amendment:

The chapter amendment would require a prosecutorial agency and a law enforcement agency in possession or control of any sexual offense evidence kits to, within ten days of receipt, submit such kits to an appropriate forensic laboratory.

Further, recognizing that it is not always possible to develop a CODIS eligible profile from every kit, forensic laboratories would be directed to assess each kit and analyze and develop a CODIS eligible profile from those kits where possible. The results would be required to be reported to the submitting law enforcement agency and the appropriate prosecuting agency within ninety days of the receipt of a kit.

II. Sexual Offense Evidence Kits Currently in the Custody of an Agency

A. Existing Law:

All untested sexual offense evidence kits in the possession or control of a law enforcement agency on or before November 28, 2016 must be submitted to an appropriate forensic laboratory by May 27, 2017.

These untested kits must be tested by the laboratory to develop a CODIS eligible profile within one hundred twenty days of receipt. Once a CODIS eligible profile is developed, the laboratory is required, within ninety days of developing the profiles, to notify both the submitting law enforcement agency and the prosecuting agency with jurisdiction of the results of the profile.

B. Chapter Amendment:

The chapter amendment would require law enforcement and prosecutorial agencies to inventory sexual offense evidence kits within their custody and control and report the total number of such kits to DCJS and the appropriate forensic laboratory by February 26, 2017.

Further, the chapter amendment would require that untested sexual offense evidence kits in the possession or control of a law enforcement agency or prosecutorial agency on or before February 26, 2017 must be submitted to the appropriate forensic laboratory by December 28, 2017.

Also, rather than requiring the development of a CODIS eligible profile by a forensic laboratory, the chapter amendment would direct the forensic laboratory to assess each kit and analyze and develop a CODIS eligible profile from those kits where it is possible. This must be done within one hundred twenty days of receiving such kits. Results would be required to be reported to the submitting law enforcement agency and the appropriate prosecuting agency within ninety days of such assessment.

III. Reporting¹

A. Existing Law:

¹ DCJS will provide specific instructions and forms, including due dates, for submission.

Forensic laboratories and law enforcement agencies are also required to report certain information to DCJS quarterly, starting on February 26, 2017. A forensic laboratory must report:

- the number of sexual offense evidence kits received;
- the number of kits processed; and
- the number of kits not tested.

A law enforcement agency must report:

- the number of sexual offense evidence kits received;
- the number of kits submitted to a forensic laboratory;
- the number of kits in its custody that have not been processed for testing; and
- the length of time between the receipt of a kit and the submission to a forensic laboratory.

B. Chapter Amendment:

In addition to the reporting obligations of a forensic laboratory contained in the existing law, the chapter amendment would require the laboratory to report the reason why a sexual offense evidence kit was ineligible for testing. The chapter amendment also extended the reporting obligations of law enforcement agencies contained in the existing law to prosecutorial agencies. This obligation to report would begin November 28, 2017.

I hope that this information is of assistance to you. The Division will develop the appropriate forms and method of reporting and will notify of the manner of reporting before the requirement becomes effective. If you require additional information please contact the Division's Office of Legal Services at (518) 457-8413.

Sexual Assault Evidence Collection Kits: Testing Resources

Interagency Collaboration

Interagency collaboration through multidisciplinary working groups has been found to be an essential component of effective responses in addressing the issue of untested sexual assault evidence collection kits (i.e., “sexual offense evidence collection kits”).

The following links detail interagency collaborations:

- [National Institute of Justice \(NIJ\), Creating a Plan to Test a Large Number of Sexual Assault Kits](#)
- [NIJ, Down the Road: Testing Evidence in Sexual Assaults](#)
- [DNA Resource Center of the National Center for Victims of Crime, Untested Sexual Assault Kits](#)

Federal Support for Sexual Assault Kit Testing

- [National Sexual Assault Kit Initiative FY 2017 Competitive Grant](#)

The Bureau of Justice Assistance recently released a grant opportunity for jurisdictions to address issues related to sexual assault kits that were never submitted for testing. Applicants must propose implementing a comprehensive sexual assault response program that includes all three elements of the Bureau of Justice Assistance model. This model includes inventory, creating a multidisciplinary working group, and designating a site coordinator. **Applications are due Thursday, March 2.**

- [The NIJ-FBI Sexual Assault Kit Partnership — A Research Initiative for Unsubmitted Sexual Assault Kits](#)

Victim Notification Information

Jurisdictions in other states pursuing sexual assault kit testing initiatives have identified victim notification procedures and protocols as an issue that should be addressed during the initial planning phase of any initiative. The following resources may assist stakeholder agencies as they make decisions regarding victim notification. A link to a directory of rape crisis services by county in New York State is also included to facilitate local partnerships between advocates and criminal justice agencies:

- [Notifying Sexual Assault Victims After Testing Evidence – January 2016](#)

The U.S. Department of Justice’s Office for Victims of Crime partnered with the National Institute of Justice to inform practitioners about lessons learned in sexual assault kit research projects. Multidisciplinary teams in Detroit and Houston have developed protocols for notifying victims in cases where the sexual assault kit had not previously been—but is now being—tested for DNA evidence. These teams worked to minimize re-traumatization through a victim-centered, trauma-informed approach.

- [National Center for Victims of Crime – Sexual Assault Kit Testing: What Victims Need to Know](#)
- [New York State Office of Victim Services – Resources and Service Providers for Crime Victims](#)
- [Cold Case Victim Notification – Model Policy](#)
- [Making Victims Part of the Solution](#)
- [Rape Crisis Programs by County](#)

Law Enforcement

The New York State Municipal Police Training Council's Sexual Assault Evidence Collection Kit Testing Model Policy, which was distributed to law enforcement agencies in January 2016, is being reviewed for potential amendments that will align with this new legislation.

Other Resources

- [NIJ Detroit Sexual Assault Kit Action Research Project, Final Report – February 2015](#)
- [Sexual Assault Kit Backlog Study](#)
- [The Manhattan District Attorney's Office](#)

In 2016, the office awarded about \$38 million in grants to help jurisdictions across the country address untested rape kits.