

# FORENSIC BIOLOGY EVIDENCE AND CASE MANAGEMENT MANUAL

<b>Case Acceptance and Evidence Sign-in</b>		
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## Case Acceptance and Evidence Sign-in

### 1 Guiding Principles and Scope

- 1.1 The Department of Forensic Biology receives evidence primarily from New York City law enforcement agencies for DNA testing. On occasion the Department will accept cases from other agencies; however, these agencies must have prior authorization to submit evidence.
- 1.2 Evidence submitted for DNA analysis, regardless from which agency it is submitted, must be vetted by the Evidence Sign-In Team or a supervisor. It is the responsibility of the Evidence Sign-In Team is to monitor the DNA Sign-In email account ([DNASignIn@ocme.nyc.gov](mailto:DNASignIn@ocme.nyc.gov)) throughout the day and update the cases and the communication log as necessary.
- 1.3 The Evidence Sign-In Team also triages any evidence submitted for DNA analysis before it can be accepted for examination and DNA analysis. The two main purposes of triaging are to determine the informative value of the evidence and, once that has been established, to assign the evidence to a Forensic Biology case. The procedures below describe the evidence sign-in process.

### 2 Case and evidence acceptance

- 2.1 Evidence is submitted by the New York City Police Department (NYPD) and the District Attorney's Offices (DAO) and documented on NYPD Property Clerk Invoices ("voucher"). Evidence from other jurisdictions should be submitted with similar documentation.
- 2.2 Evidence is received and accepted by the Office of Chief Medical Examiner (OCME) Evidence Unit (EU). The EU has policies and procedures governing the acceptance of evidence into the OCME.
- 2.3 Evidence submitted for DNA analysis must be in accordance with the case acceptance guidelines of the Department of Forensic Biology. Case acceptance guidelines provide the requirements for submission of evidence for DNA analysis.
- 2.4 The Department of Forensic Biology accepts evidence in relation to:
  - homicides
  - sexual assault and sexual abuse (felony and misdemeanor)
  - robberies
  - felonious assaults
  - criminal paternity
  - missing persons and unidentified human remains
  - property crimes
  - criminal possession of a weapon (guns only)

Controlled versions of Department of Forensic Biology Manuals only exist in the Forensic Biology Qualtrax software. All printed versions are non-controlled copies.

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- arson
- other case types with prior approval

- 2.5 With the exception of sex crimes, misdemeanor cases are not routinely accepted by OCME. Requests for testing of non-sex crimes misdemeanor cases must be made to the Forensic Biology Customer Liaison.
- 2.6 Items related to drug offenses are not routinely accepted by OCME. Requests for testing of such evidence must be made to the Forensic Biology **Customer Liaison**.
- 2.7 Items related to a homicide/suicide are not routinely accepted by OCME. Requests for testing of such items must be made to the Forensic Biology **Customer Liaison**.
- 2.8 The Forensic Biology Department acknowledges that in some circumstances there may be a need to analyze evidence that falls outside the stated guidelines. Special requests for analysis should be made to the Forensic Biology **Customer Liaison**.

## 3 Evidence deferral

- 3.1 At any point of the case acceptance evaluation process, a determination may be made based upon evidence acceptance policies not to test the evidence submitted to the Department of Forensic Biology. The evidence is returned to the Evidence Unit of the Office of Chief Medical Examiner.
- 3.2 Deferral notifications are completed by a member of the Evidence Sign-In team or a Forensic Biology supervisor or manager. Deferral notifications are generated and distributed to the NYPD Liaison Unit and DAO through LIMS.
- 3.3 If additional information is supplied by the NYPD and/or DAO such that deferred evidence meets acceptance policies, the evidence may be resubmitted.

## 4 Case acceptance procedures

### 4.1 Paperwork

- 4.1.1 Evidence submitted by the NYPD and/or the DAO must be accompanied by the following documentation:
- NYPD voucher
  - NYPD "Request for Laboratory Exam"
  - NYPD complaint form "61 form"
- 4.1.2 Each item in the submission must be detailed on the Request for Laboratory Exam and NYPD voucher. It must contain specific identification as to whom or what was swabbed (e.g., DNA swab from the stairwell).

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- 4.1.3 Evidence submitted by other jurisdictions must be accompanied by similar documentation, as well as a contact person to retrieve the evidence when testing is completed.

### 4.2 Scenario Information

- 4.2.1 A scenario must be provided with the submitted evidence to establish the value of each item as to its likelihood to provide informative results or an investigative lead. Such information is generally found on the complaint form, voucher and/or lab request form.
- 4.2.2 The Evidence Sign-In Team may require additional information prior to accepting items for DNA testing.

### 4.3 Exemplars

- 4.3.1 If victim and/or elimination samples (e.g., owners or regular occupants of a residence or vehicle) are associated with evidence, it is preferable that they be submitted together with the evidence.
- 4.3.2 Victim and/or elimination samples are required for acceptance of clothing evidence from an arrested suspect in a felonious assault case.
- 4.3.3 Exemplars from suspects must be vouchered separately from evidence.

4.3.3.1 Suspect samples will be tested once associated evidence has been received by the Department of Forensic Biology.

4.3.3.2 Suspect samples received prior to received evidence will not be tested and will be held by OCME Evidence Unit for approximately one year. If associated evidence is not received by the Department within approximately one year of receipt of the suspect exemplar, the suspect exemplar will be returned to the Property Clerk and recalled upon receipt of evidence by the Department.

- 4.3.4 Exemplars from victims, witnesses, homeowners, etc. may be vouchered together.

### 4.4 Evidence Recall

- 4.4.1 When recalling evidence that was previously in the possession of the OCME (tested or not), a request should be made to the OCME Evidence Unit (see 4.4.2). They will retrieve the evidence from the NYPD property clerk and transport it back to the OCME for additional testing.
- 4.4.2 If a member of the Forensic Biology needs to recall evidence that was previously delivered to the OCME by the NYPD's Liaison Unit (4.4.1 above), they should send an email to the OCME Evidence Unit user group 'Evidence\_Recall' and to the DNA Sign-In user group 'DNA Sign-In Team'. The email should include the voucher number, EU number, NYPD

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61 and FB number. The email should also include what items need to be tested and the testing schedule or 'Schedule of Analysis' for each of those items.

## 5 Case Prioritization

- 5.1 There are four levels of prioritization a case may be assigned. Cases are triaged by the Evidence Sign-In Team as follows:
- Routine
  - Priority
  - Requested Priority
  - High Priority
- 5.2 **Routine** cases are generally processed on a first come, first serve basis, with the older cases being processed first.
- 5.3 **Priority** status is assigned to stranger homicide and stranger sexual assault cases. Priority cases are processed before routine cases.
- 5.4 **Requested Priority** processing of a case is a mechanism for customers to request that a case will be changed from Routine status and started as soon as possible ahead of routine cases waiting for evidence examination.
- 5.4.1 Requests will be considered after an OCME Priority Submission Form is completed and submitted via email to [DNASignIn@ocme.nyc.gov](mailto:DNASignIn@ocme.nyc.gov) and the Forensic Biology DNA Liaison, who will evaluate the request. Requests are granted at the discretion of the Forensic Biology DNA Liaison, or designated Assistant Director, Deputy Director or Director.
- 5.4.2 Requests must be made by the DNA liaisons of the DAO or the NYPD FID Unit. All relevant fields of the requested priority form must be completed.
- 5.4.3 Reasons for requested priority processing may include level of violence, flight risk of subject, serial nature of a case(s), and speedy trial.
- 5.4.4 An acceptance or rejection email will be sent to the requesting party stating whether the requested priority will be accepted and processed by the Forensic Biology Department. The content of the email sent to the requestor will be saved in the communication log of the case record.
- 5.5 Accepted priority forms will be saved in the FBiology Main/ Sign-In Folder as well as attached to the case file LIMS record. Requested priority status only applies to the specific case assignment. Once the assignment is completed the case status may revert to routine/priority for any additional testing.

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- 5.6 **High Priority** processing of a case is a mechanism for customers to request that a case will be immediately started with the highest level of urgency.
- 5.6.1 Such requests are brought to the attention of the Lab Director of the Department of Forensic Biology for approval. In his absence the Deputy Director of the Department of Forensic Biology has the authority to approve High Priority requests.
- 5.6.2 High Priority requests generally lead to extremely expedited testing and include the use of overtime. High priority status only applies to the specific case assignment. Once the assignment is completed the case status may change back to routine for any additional testing.
- 5.6.3 A High Priority case will be assigned to a reporting analyst. The analyst, supervisor and manager will meet and determine an analysis plan and a timeline of expected completion. As needed, analysts and reviewers will be identified to perform testing and reviewing using overtime. If a CODIS profile is anticipated, coordination will be made with the CODIS group staff to arrange keyboard searches as needed. It is the responsibility of the manager to ensure progress of the case.

## 6 Analysis schemes based on case type

**Exceptions can be made to the analysis schemes by the Lab Director or the Deputy Director of the Department of Forensic Biology**

### 6.1 Homicides

- 6.1.1 The first set of analysis is limited to five items. It is preferable that the NYPD Liaison Unit prioritize the items; if not, the prioritization of the items will be decided by the Evidence Sign-In Team of the Department of Forensic Biology. A report will be issued on these five items.
- 6.1.2 If additional items exist, and testing is desired, a request for testing additional items must be made. Such requests will be granted at the discretion of Evidence Sign-In Team of the Department of Forensic Biology or the Supervisor of the original assignment.
- 6.1.3 Testing of items in homicide cases may fall outside of the evidence guidelines discussed below. For example, testing might be approved on such items as magazines, cartridge cases, touched surfaces from common areas, etc., if those are the only items submitted for the homicide.

### 6.2 Sexual Assaults, Attempted Sexual Assaults and Sexual Abuse

- 6.2.1 The first set of analysis is limited to a sexual assault evidence collection kit and/or condom(s), if applicable. A report will be issued on the analysis of the kit and/or condom.

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- 6.2.2 If testing of a sexual assault kit does not yield DNA results suitable for comparison to a suspect, the existence of additional items will be determined by checking in the NYPD DNA Evidence Management Program (DEMP). OCME will request that any additional items be submitted if the case is still active.
- 6.2.3 If testing of a sexual assault kit yielded DNA results suitable for comparison or an association is established with the kit, no additional items will be accepted unless case circumstances (such as multiple perpetrators) dictate the need for additional testing.

### 6.3 Assaults

- 6.3.1 The first set of analysis is limited to three items. It is preferable that the NYPD Liaison Unit prioritize the items; if not, the prioritization of the items will be decided by Evidence Sign-In Team of the Department of Forensic Biology. A report will be issued on these three items.
- 6.3.2 If clothing items are submitted, they are prioritized for testing starting with the items most likely to have biological evidence (e.g., outer clothing prior to inner clothing).
- 6.3.3 Felony assaults with an arrest will not be accepted without a victim elimination sample(s), for evidence where the victim is likely to be present on the item(s).
- 6.3.4 Misdemeanor assault cases are not accepted.

### 6.4 Robbery and Carjacking

- 6.4.1 The first set of analysis is limited to three items. The items should be prioritized for testing by the likelihood of yielding DNA profiles,
- blood, cigarette butts or beverage containers
  - weapons left at the scene by the perpetrator
  - food or clothing items (including gloves) left by the perpetrator
  - item(s) touched by the perpetrator, but owned by the victim
- 6.4.2 An elimination sample from the victim(s) is required if there is an arrest. Testing of touched items (such as car swabs) associated with the owner of the property will be tested at the discretion of Forensic Biology Department and may require an elimination sample from the victim before evidence is scheduled for testing.

### 6.5 Criminal possession of weapon (CPW)

- 6.5.1 The first set of analysis is limited to three swabs from each gun. If samples from multiple guns are submitted, the first set of analysis is limited to a maximum of two guns. A report will be issued on the analysis of those swabs.

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6.5.2 If samples from multiple guns are submitted in a case with multiple suspects, the first set of analysis is limited to two guns per suspect. It is preferable that the assigned ADA prioritize the items. The Evidence Sign-In Team may require this information prior to accepting the samples for DNA testing.

6.5.3 Samples are accepted from guns found at a crime scene or elsewhere, collected pursuant to a search warrant, or collected after arrest (including guns taken directly from a person).

6.5.4 Testing will not be scheduled for swabs taken from magazines, cartridge casings, or unspent rounds. For items found in association with a weapon (e.g., a shirt wrapped around a gun), testing will be considered if other items failed to yield DNA results.

## 6.6 Burglary and Property Crimes

6.6.1 The first set of analysis is limited to three items. The items should be prioritized for testing by likelihood of yielding DNA profiles:

- blood, cigarette butts or beverage containers
- food or clothing items (including gloves) left by the perpetrator
- item(s) touched by perpetrator, but owned by victim

## 6.7 Other case types (arson, hate crimes, cases involving law enforcement personnel)

6.7.1 The first set of analysis is limited to three items.

6.7.2 Testing of touched items associated with the owner of the property will not be tested without an elimination sample from the owner(s) of the property.

6.7.3 If a profile is developed, additional items will not be examined unless case circumstances (such as multiple perpetrators) dictate the need for additional analysis.

## 6.8 Narcotic overdoses

6.8.1 Special requests for the testing of drug evidence from suspected overdose incidents both fatal and non-fatal will be evaluated by the Department of Forensic Biology. The only items that will be accepted and considered for testing will be swab taken of the interior surfaces of “unopened” narcotic containers to determine the person responsible for packaging and/or selling the narcotics. All requests for testing these items should be made to the Lab Director of the Department of Forensic Biology.

## 6.9 Touch evidence

6.9.1 Touch evidence is defined as evidence which has no visible staining and may contain DNA that only results from touching an item with the skin. Touch evidence does not include cigarette butts, or samples from cans, bottles, straws, or other items in which the substance being tested is most likely saliva. Touch evidence does not include items submitted for

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identifying the wearer such as shirt, shoes, hats, etc. where there is a probability of prolonged contact.

6.9.2 Touch evidence will be accepted for possible DNA analysis when there is a high likelihood that the evidence submitted will provide informative results or investigative leads. A high degree of likelihood is established by means of witness corroboration, visual monitoring systems, or sound deductive reasoning.

6.9.3 Items submitted for touch evidence processing will comply with existing policy relating to the number of items of evidence that may be submitted based on case type. For example, a homicide case could have a total of five items tested in the first set of analyses: two clothing items for body fluid examination and three for touch DNA analysis.

## 6.10 Touch evidence – non-clothing

6.10.1 Swabbings from public common areas will not be accepted (public telephones, elevators, business doors, pens on a counter, etc.). Swabbings of items such as the exterior of cars, dwellings, businesses, etc. will not be accepted. Drawer pulls collected for property crimes case will not be tested unless there is a suspect.

6.10.2 For touch items collected from a vehicle, testing will be limited to samples from the steering wheel and gear shift.

## 6.11 Touch evidence – clothing

6.11.1 Touched clothing evidence are items of evidence that should only submitted as a last resort because it is rare to obtain foreign DNA from items that are already pre-soiled with the DNA of the wearer.

6.11.2 Touched clothing items that are accepted for testing is generally limited to the outer clothing of the victim that has been grabbed by the perpetrator, e.g., shirts, jackets, and pants.

6.11.3 The evidence will not be accepted without meeting the following requirements:

- An elimination sample from the victim
- Information that the assailant physically grabbed or held the clothing with an open, ungloved hand for more than a fleeting period
- A clothing diagram showing precisely where the assailant touched the clothing

## 6.12 Criminal Paternity

6.12.1 Mother or alleged mother, father or alleged father, and living child should be submitted together for the evidence to be accepted for testing into the Department of Forensic Biology.

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- 6.12.2 Fetus/Product of Conception (POC) samples will be accepted for testing when submitted with an exemplar from the mother. In rare circumstances a fetus/POC may be tested without any comparison exemplars.

### 6.13 Missing persons and identity cases

- 6.13.1 Exemplars known to have come from the missing person or unidentified individual, such as a medical specimen (e.g. a biopsy) are preferred.
- 6.13.2 If pseudo-exemplars known to have been used by the missing person, such as a toothbrush, are submitted, at least two samples from family members should also be submitted to confirm that the item was indeed used by the missing person.
- 6.13.3 Kinship analysis is more informative if reference samples from multiple family members are submitted as exemplars for the purposes of identification. The submission of references from at least two family members is preferable in the following order:
- Known identical twin
  - Both biological parents
  - One biological parent and one biological child
  - One biological child and spouse/partner (the other biological parent of child)
  - One biological parent and full sibling
  - Two full siblings
- 6.13.4 Submissions other than those shown in the list above will be evaluated on a case to case basis by the Evidence Sign-in Team and a supervisor.

## 7 Evidence Sign-In process

- 7.1 During the evaluation process, the communication log and case notations are created, and additional documents may be considered (e-mailed pdf forms from DAOs, NYPD, etc.). Review the case details to determine if enough information is available to accept the evidence for testing at the Department of Forensic Biology.
- 7.1.1 Forensic Biology case databases (FBDMS and LIMS) are searched to determine if the evidence is from a new incident or is additional evidence for an existing Forensic Biology case.
- 7.1.2 If the evidence is from an existing case, the original case number is retained.
- 7.1.3 Cases with multiple victims, e.g., homicide/suicide, double homicide, assaults/sexual assaults with more than one victim, are counted as one incident, and therefore would be assigned a single case number.

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- 7.1.4 *Serial or pattern crimes* (more than one homicide, sexual assault, or assault but over a period of time) have separate case numbers for each victim.

## 8 Case evaluation and schedule of analysis

### 8.1 General process

- 8.1.1 The schedule of analysis (SOA) gives guidance to the examining analyst on what examinations and tests are to be performed. An SOA is assigned to each item submitted and documented in LIMS.

### 8.2 Vouchered evidence

- 8.2.1 The decision of what analyses are to be performed is made by a member of the Evidence Sign-In Team after evaluation of the evidence through review of the NYPD paperwork (vouchers, requests for laboratory examinations, and NYPD reports), discussions with the NYPD, and/or discussions with assistant district attorneys. The SOA can change if new information is obtained, or in light of testing results.
- 8.2.2 Depending on the evidence, it may be necessary for other types of examinations to be done by the NYPD laboratory before or after the Department of Forensic Biology examines an item. Fingerprint processing, gunshot residue, hair and fiber examinations, etc., may be equally or more important than the presence of biological substances. In this situation the evidence would be deferred.

### 8.3 Post-mortem items

- 8.3.1 The decision of what analyses are to be performed is generally made by a member of the Evidence Sign-In Team after evaluation of the items through review of the OCME paperwork and/or discussions with the medical examiner. The SOA can change if new information is obtained, or in light of testing results.
- 8.3.2 For post-mortem sexual assault kits collected in a homicide case, the evidence is scheduled for testing. If the cases are a homicide/suicide, the evidence is not scheduled for testing.
- 8.3.3 For post-mortem sexual assault kits collected in other case types, DNA testing is not scheduled. Instead, the medical examiner responsible for the autopsy is notified by a supervisor in the team responsible for postmortem accessioning informing the medical examiner that testing of the sexual assault kit will not be done unless specifically requested by them. Body cavity swabs submitted separately follow the same guidelines as above. DNA testing is not done automatically (except for homicide cases).
- 8.3.4 For other postmortem items, the Department of Forensic Biology will assign a case number and store the items without scheduling them for analysis.

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8.3.5 The SOA can change if the medical examiner, NYPD and/or assistant district attorneys request analysis at a later time.

### 8.4 Creation of case assignment

8.4.1 Once the schedule of analysis is completed, an assignment for each anticipated report with the assignment start date and target date is created. The actual reporting analyst (RA) for the assignment will be selected later.

8.4.2 Once the sign-in process has been completed, the Evidence Sign-In Criminalist IV will review the schedule of analysis and approve when building a daily batch for the evidence exam rotation.

8.4.3 The OCME Evidence Unit will be notified that the evidence is ready for examination and that they should have the evidence ready for pickup by the criminalists on the evidence exam rotation.

## 9 Additional evidence for previously submitted cases

9.1 For pre-LIMS cases, request the case file from Records. For post-LIMS cases all case information can be accessed from the LIMS.

9.2 Check the case contacts or communication log for information; it is possible that the additional evidence has been vetted ahead of time. It may be necessary to contact the reporting analyst, a supervisor, or a manager to discuss. It may be necessary to contact the NYPD and/or the assigned ADA.

9.3 Evaluate the newly submitted additional evidence in light of previous testing results. If an informative DNA profile was previously developed, or an association between a suspect and the evidence was previously made, an additional case assignment may not be needed and the evidence can be deferred.

9.4 If testing of the newly submitted evidence is needed, a new SOA and case assignment is created.

## 10 Requests for testing of a decedent for comparison to another case

10.1 On occasion, Forensic Biology is asked to test a decedent as a suspect in another case. Prior to any testing, consult with the legal department prior to proceeding with this process.

10.2 If approved by the legal department, a portion of the post-mortem bloodstain from the deceased suspect may be transferred into an S-file (analogous to suspect sexual assault kit buccal specimens) for typing, comparison and entry into LDIS as per normal procedures for suspects.