FORENSIC BIOLOGY ADMINISTRATIVE MANUAL

	NYS Law 245 Discovery Request	
Status: Published		Document ID: 66514
DATE EFFECTIVE 02/23/2023	APPROVED BY Deputy Director	PAGE 1 OF 11

NYS Law 245 Discovery Request

1 Guiding Principles and Scope

1.1 Under New York State Criminal Procedure Law 245, which governs statutory discovery operations starting January 1, 2020, the Office of Chief Medical Examiner's Department of Forensic Biology is required to turn over all automatic discovery materials related to a given case within 15 days of indictment of an individual.

1.2 The materials to be automatically turned over to the prosecution include:

- STR Raw data files (.fsa/.hid)

- STRmix run files

- Case specific Non-conformities

- Curriculum Vitae of the interpreting analyst (and testifying analyst as needed)

- Proficiency test summary for the past 10 years for the interpreting analyst (for the testifying analyst as needed)

- Certified Case File (including case report)

1.3 In addition to these materials, the case specific Laboratory Information Management System (LIMS) Audit Trail also falls under New York State Criminal Procedure Law 245. An Audit Trail is a LIMS generated log of entries made against a case file/record covering evidence tracking, evidence examination, sample processing, DNA test results, interpretation, and reporting of said testing. Audit trails are turned over as an HTML file to the prosecution upon written request to the laboratory by the defense.

1.4 The Audit Trail HTML includes:

- Every change/transaction made within the LIMS for a given case

- Information saved in the LIMS background for a given case

- Decipherable and non-decipherable codes

1.5 Rule 26(a)(2) is a Federal Rule that dictates the requirements for disclosing expert witnesses. Under this rule the Department of Forensic Biology must disclose the following information:

- A summary of opinions the witness will express

FORENSIC BIOLOGY ADMINISTRATIVE MANUAL

	NYS Law 245 Discovery Request	
Status: Published		Document ID: 66514
DATE EFFECTIVE 02/23/2023	APPROVED BY Deputy Director	PAGE 2 OF 11

- A list of all cases the witness has testified to in the past 4 years
- A list of all publications authored by the witness in the past 10 years.

2 General Guidelines

2.1 A Discovery Request Form is received by the Forensic Biology Discovery Team from the District Attorney's Offices of the five boroughs of NYC as well as the NYC Special Agencies. These agencies include, but are not limited to, Special Narcotics, the Eastern District of NY, the Southern District of NY and Family Court. Discovery Request Forms are received by the Discovery Team via email to FBiologyDiscovery@ocme.nyc.gov

  2.1.1 Discovery Request Forms must be received as a Word document with all information filled out. The only exceptions are the 'Anticipated Plea Date/Trial Date', 'List All Related Cases', and 'Specific Requests/Comments' fields.

2.2 Discovery Requests Forms from any other agencies should be routed through Forensic Biology's Legal Department at FBIOLegal@ocme.nyc.gov

2.3 A member of the Discovery team will notify the assigned case analyst of the discovery request. The case analyst must compile a copy of the STR raw data (.fsa/.hid) and the STRmix run files into a folder labeled with the Forensic Biology case number for dissemination to the associated District Attorney's Office via SharePoint. Each case must have its own folder and must be compiled within 10 business days of notification.

  2.3.1 To access SharePoint click on the home icon on your internet browser. SharePoint will appear on the top left area of the screen. Once you click on "SharePoint" you will type OCME-DiscoveryLaw in the search engine. (the direct address to the page is https://nyco365.sharepoint.com/sites/OCME-DiscoveryLaw)

    2.3.1.1 On the OCME-DiscoveryLaw site click on documents on the left-hand side of the screen. There are folders for each of the five District Attorney's Offices. Each folder contains sub-folders labeled by year.

    2.3.1.2 Discovery folders compiled by analysts must include the following:

- STR raw data files (.fsa/.hid) associated with the case file including allelic ladders, positive and negative controls, and case specific samples. This includes failed controls as well.

- STRmix run files (the entire folder) for each run that was performed.

    2.3.1.3 Once the folder is completed the files will be sent via SharePoint..

FORENSIC BIOLOGY ADMINISTRATIVE MANUAL

NYS Law 245 Discovery Request		
Status: Published		Document ID: 66514
DATE EFFECTIVE 02/23/2023	APPROVED BY Deputy Director	PAGE 3 OF 11

2.3.1.4 Analysts must notify the discovery team via email that the folder was submitted. Submitter should forward the receipt received by SharePoint via email to the Discovery Team.

2.4 For requests received by the Eastern and Southern Districts of NY, the case analyst must compile a copy of the STR raw data (.fsa/.hid) and the STRmix run files into a folder labeled with the Forensic Biology case number for dissemination via USAFX.

2.4.1 The folder containing the FSA/HID files and STRmix run files will be created and saved in: FBIO Main->Discovery Law folder, in the corresponding year for the case.

2.4.1.1 The case analyst must notify the Discovery Team that the files have been compiled and they will have the AUSA send the case analyst a link for upload.

2.4.1.2 Once the files have been uploaded, the case analyst must email the Discovery Team that the request has been fulfilled.

2.4.2 Some requests may include:

- Summary of testimony – this will be vetted by the OCME Legal Department

- List of testimonies for the past 4 years

2.5 Curriculum Vitae and Proficiency testing results are compiled by a member of the Discovery Team and are submitted to the District Attorney's offices every six months.

2.5.1 All Curriculum Vitae files are digitally saved indefinitely in a pre-determined format in a location accessible to the Discovery Team.

2.5.2 All Proficiency Testing Summary files are digitally saved indefinitely in a pre-determined format in a location accessible to the Discovery Team.

2.5.3 Non-conforming work will either be present in the relevant case record and/or the Non-Conforming Work database.

3 Discovery Law Procedure for Discovery Group:

3.1 Once a discovery request has been received by the department, the following must be verified through the LIMS:

- Case number is correct

- Listed 61 number is correct (does not need leading zeros)

- Case report status reads 'distributed'

- Suspect's/complainant's name is correct

FORENSIC BIOLOGY ADMINISTRATIVE MANUAL

	NYS Law 245 Discovery Request	
Status: Published		Document ID: 66514
DATE EFFECTIVE 02/23/2023	APPROVED BY Deputy Director	PAGE 4 OF 11

3.2 A discovery request will be **REJECTED** under the following circumstances:

- Two or more Forensic Biology case files have been requested on the same form. Each case request needs an individual request form

- It has not been specified on the form if the request is for the evidence or the suspect case file (Ex: 18-04349).

- The Discovery Request Form was sent as a pdf.

- The Discovery Request Form is not completely and correctly filled out – the only exception is the 'date of request', which can be corrected as needed.

- The Discovery Request Form is handwritten.

- The request was made for a negative case file (i.e. no data files).

- Case report status does not say 'distributed' in LIMS and/or testing is in progress.

  o If testing in the case has not been completed, inform the requestor via email to re-submit their request once they have been notified of the case's completion through the report distribution.

- Form is only requesting Curriculum Vitae, Proficiency Testing results, or certification.

- Inform the requestor to contact their DNA coordinator as the Curriculum Vitae and Proficiency testing results are distributed to their DNA Coordinator approximately every six months. Requests solely for case file certification requires a Certification Request Form be submitted to the Forensic Biology Administrative Team at DNAlab@ocme.nyc.gov or DNAcertfilereq@ocme.nyc.gov. Request was previously fulfilled.

3.3 If a rejection email is warranted, send an email to the requestor indicating the issue and requesting a revised Discovery Request Form.

  3.3.1 Once a rejection email is sent, move the rejection email to the Inbox/Discovery Requests/Cancelled/Rejected Discovery folder.

3.4 Discovery Requests that are **APPROVED** are entered in the Discovery Request Database located in the Forensic Biology Data Management System (FBDMS) by a member of the Discovery Team.

3.5 Prior to creating a new entry in the database, search the case number to see if one was already created. If this is an additional discovery request, then a new entry can be made using the same case number.

  3.5.1 The following database fields must be entered appropriately:

FORENSIC BIOLOGY ADMINISTRATIVE MANUAL

NYS Law 245 Discovery Request		
Status: Published		Document ID: 66514
DATE EFFECTIVE 02/23/2023	APPROVED BY Deputy Director	PAGE 5 OF 11

- *FB number:* Input the case number.

- *DAO Requesting:* Use the drop down to select the DAO that submitted the request.

- *Complainant/Suspect Name:* Write if listed.

- *NYPD 61 Number:* Input the 61 number and include leading zeros.

- *ADA Name, phone number, and email:* Input the contact information listed on the request form.

- *Request Date:* Enter the date the request form was received in the inbox.

- *Anticipated Trial date/plea date:* Input if listed.

- *Data needed by:* Input if listed. If not, put 'ASAP'.

- *ERD Request, CV Request, PT Results, Non-conformities, Certification, Additional Work/Results:* Use drop down for each field to select what was requested.

- *Received by:* The initials of Discovery Team member that processed the request.

- *Received Date:* Input the date the Discovery Team member processed the request.

- *Completed by:* Initials of the analyst that distributed the Discovery folder to the DAO.

- *Completed Date:* The date the analyst distributed the Discovery folder, as listed in the confirmation email.

- *Related Cases:* List any cases that may be associated to the requested FB/FBS case file.

- *Specific Requests:* Any additional requests made by DAO.

- *Audit Trail Requested:* Use the drop down to select whether an Audit Trail request was submitted for the case.

3.6 Any Non-Conforming Work Forms related to cases post-2018 should be attached to the LIMS case record. If the Non-Conforming Work Form is not attached to the LIMS case record, or for cases older than 2018, any potential case related non-conforming work can be found by searching the Non-Conforming Work Database.

FORENSIC BIOLOGY ADMINISTRATIVE MANUAL

NYS Law 245 Discovery Request		
Status: Published		Document ID: 66514
DATE EFFECTIVE 02/23/2023	APPROVED BY Deputy Director	PAGE 6 OF 11

3.7 After verification of the information on the Discovery Request Form, the case analyst is emailed to compile the STR raw data and STRmix run files for distribution.

3.8 Once the request has been fulfilled, fill out the "FBIO Use Only" portion of the request form, and save it as a pdf. Then, attach the Discovery Request Form as an attachment in LIMS, selection 'Discovery Request Form'. Additionally, add the pdf to the Discovery Request Database.

3.9 The email containing the original Discovery request is moved from the FBiology Discovery email Inbox and archived in the 'Spreadsheet' folder.

4 Discovery Law Procedure for Case Analysts:

4.1 Compilation of STR raw data and STRmix run files

4.1.1 Once you have been informed of a request from a member of the Discovery Team, add a new folder with the case number to the respective year and agency folders in SharePoint (e.g. FBXX-00001).

4.1.1.1 For request received by the Eastern and Southern Districts of NY, the case folder containing a copy of the STR raw data (.fsa/.hid) and the STRmix run files will be saved in the Discovery Folder in the FBio Main drive.

4.1.2 To create a folder in SharePoint select the button "New" then "Folder".
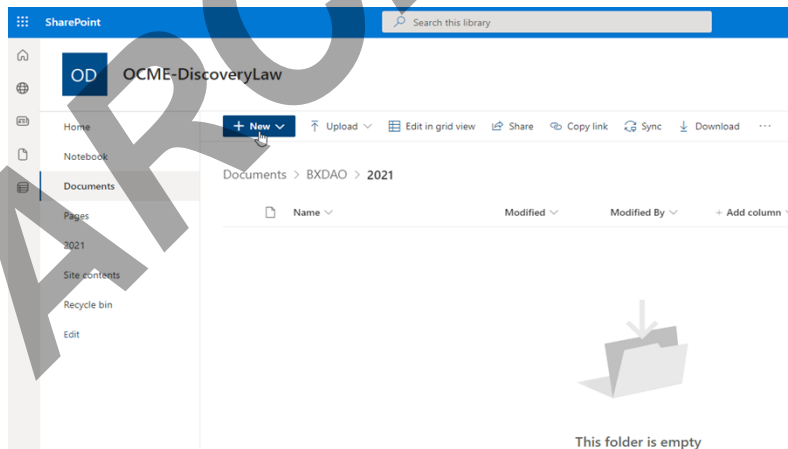
4.2 Each case folder should contain two folders: one labeled FSA (or HID), the other labeled STRmix. Note: the folders containing .fsa/.hid and STRmix files can be dragged into the newly created case file folder.

4.3 The folders within the STR raw data (.fsa/.hid) and STRmix run folders are labeled as stated below and contain the following information:

FORENSIC BIOLOGY ADMINISTRATIVE MANUAL

	NYS Law 245 Discovery Request	
Status: Published		Document ID: 66514
DATE EFFECTIVE 02/23/2023	APPROVED BY Deputy Director	PAGE 7 OF 11

4.3.1   Case number (e.g. FBXX-00001)

- STR Raw Data (.fsa/.hid) Files

    o   STR run 1 folder name (e.g. Athenaxxxxxx 46-48U A)

    o   Allelic ladder used for analysis

    o   Associated Control(s) to the case

    o   Sample(s) tested

- STRmix Run Files

    o   STRmix run 1 folder name (e.g. XX-00001-741-1-1-1-cnsole-PT 2p condPH-2022-01-11-09-40-39)

    o   All files associated with this STRmix run

    o   STRmix run 2 folder name (e.g. XX-00001-883-1-1-1-lrail-PT 1p JRv1U-2022-01-12-09-01-48)

    o   All files associated with this STRmix run

4.4   For some cases, the STR Raw Data and STRmix run files are attached in LIMS. It is the analyst's responsibility to ensure that all the necessary information is collected and included, this includes any information that was not previously attached in LIMS.

4.4.1   To obtain files attached in LIMS:

4.4.2   In the LIMS Cases tab for the specified case number, press the "Export FSA/HID/STRmix" button located next to the return button.

4.4.3   LIMS will compile the files and automatically add it to the LIMS file share folder on the FBiology Main drive. The files can be retrieved here: \\csc.nycnet\ocme\LIMS_SHARE\LIMS_DATA_PRD\LIMS_FBIO\FSA_STRmix .

4.5   All testimonies should be saved in LIMS. To compile your list of testimonies for the last 4 years:

- click on the Court Attendance tram stop under Training & User Activities

- Select the By Analyst Testimonies by date range drop down in the query box at the top of the page and then select your name and enter the dates for the past four years

- Select All Testimonies and click the View As Excel button on the top of the page

- Paste the data into the Data tab in the **COURT ATTENDANCE FORM**. Click on the Court Attendance Report tab.

FORENSIC BIOLOGY ADMINISTRATIVE MANUAL

| NYS Law 245 Discovery Request		
Status: Published		Document ID: 66514
DATE EFFECTIVE 02/23/2023	APPROVED BY Deputy Director	PAGE 8 OF 11

- Make sure the form is complete, i.e. enter name on the top line, fill in missing FB numbers and/or drop downs
- Print to PDF.

5 Distribution

5.1 A completed Discovery Folder for a given case should have STR Raw Data and STRmix Run files.

5.1.1 Once the folder is reviewed, release the case folder to the District Attorney's office via SharePoint. See Appendix for emails.

5.1.2 To send the folder select the share button to the right of the case folder and add the applicable email address. In the message section include the associated 61 number for the case.
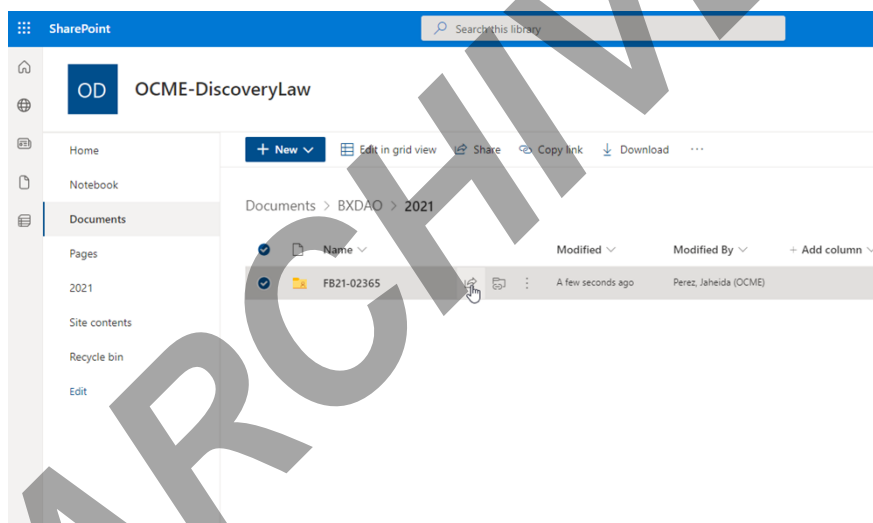
5.1.3 Notify the Discovery Team via email once the request has been fulfilled. The confirmation email from SharePoint should be forwarded to the Discovery Team as well. This email will automatically populate in your Sent folder in Outlook when you send the folder in SharePoint.

6 Audit Trail Procedure

6.1 Emails for Audit Trail requests from a Defense Attorney will be received in the Discovery email FBiologyDiscovery@ocme.nyc.gov

6.2 Audit Trail Request Forms must be received as a PDF document with all information filled out. The only exception is the 'Comments/Additional Information' section.

6.2.1 Use LIMS to check the following:

FORENSIC BIOLOGY ADMINISTRATIVE MANUAL

NYS Law 245 Discovery Request		
Status: Published		Document ID: 66514
DATE EFFECTIVE 02/23/2023	APPROVED BY Deputy Director	PAGE 9 OF 11

- Case number is correct.

- Listed 61 number is correct (does not need leading zeros).

- Case report status reads 'distributed'.

- Name of case (suspect's name) is correct.

- Testifying analyst's (RA) name is correct.

6.2.2 **REJECT** the request under the following circumstances:

- More than one Forensic Biology case file has been requested on the form. Each case needs an individual request form.

- Request form is handwritten.

- Form was sent as a Word document or OneDrive link.

- Request was submitted by ADA or someone on behalf of the ADA.

- Request form is not completely or correctly filled out.

  6.2.2.1 If a rejection email is warranted, send an email to the requestor stating what the issue was and for them to send a revised form.

6.2.3 Once a rejection email is sent, move the rejected email to the Inbox/Audit Trail Requests/Cancelled/Rejected Audit Trail folder.

6.3 Audit Trail Requests that are **APPROVED** are entered in the Discovery Request Database by a member of the Discovery Team.

6.4 Prior to creating a new entry in the database, search the case number to see if one was already created. If this is an additional discovery request, then a new entry can be made using the same case number.

6.4.1 The following database fields must be entered appropriately:

- *Case Number for Audit Trail:* Use the drop down to select if the case number was listed on the request form.

- *FB Number:* Input the case number.

- *Indictment Number:* Input the number listed on the form.

- *NYPD 61 Number:* Input the 61 number and include leading zeros.

FORENSIC BIOLOGY ADMINISTRATIVE MANUAL

	NYS Law 245 Discovery Request	
Status: Published		Document ID: 66514
DATE EFFECTIVE 02/23/2023	APPROVED BY Deputy Director	PAGE 10 OF 11

- *Testifying Analyst:* Use the drop down to select the reporting analyst's name for the requested case.

- *ADA Name, phone number, and email:* Input the contact information listed on the request form.

- *Defense Attorney Name, Organization Firm, phone number, and email:* Input the contact information listed on the request form.

- *Received by:* The initials of Discovery Team member that processed the request.

- *Received Date:* Input the date the Discovery Team member processed the request.

- *Completed by:* Initials of the Discovery Team member that distributed the Audit Trail files to the DAO.

- *Completed Date:* The date the Discovery Team member distributed the Audit Trail files, as listed in the confirmation email.

6.5   Generation of Audit Trail

6.5.1   Once the information on the Audit Trail Request Form has been transcribed into the database, with the exception of the 'Notes' section, create the Audit Trail for the requested case in LIMS from the case tram stop.

6.5.2   In LIMS select the case number, navigate to 'Other Tasks', then select 'Print Audit HTML'.

6.5.3   At this point, a blank screen will pop up, informing LIMS to generate the Audit Trail for the specified case. Once the notification has gone through, the screen will read 'done'. Then, hit 'close'.

6.5.4   The newly generated Audit Trail HTML will be found in: FBIOLOGY_MAIN ➔ Discovery Law ➔ Audit Trail Files.

6.6   Distribution

6.6.1   Once the Audit Trail HTML has been made available in FBIOLOGY_MAIN ➔ Discovery Law ➔ Audit Trail Files, it is ready for distribution to the District Attorney's Office via SharePoint.

6.6.2   Add a new folder with the case number to the respective year and agency folders in SharePoint (e.g., FBXX-00001). See 4.1.2 on how to create a folder.

6.6.3   Drag the Audit trail HTML into the created case folder in SharePoint.

FORENSIC BIOLOGY ADMINISTRATIVE MANUAL

	NYS Law 245 Discovery Request	
Status: Published		Document ID: 66514
DATE EFFECTIVE 02/23/2023	APPROVED BY Deputy Director	PAGE 11 OF 11

6.6.4   Release the case folder to the associated District Attorney's office email address, according to the borough.

6.7   Attach the Audit Trail Request form as an attachment in the case file in LIMS, selection 'Audit Trail Request Form'. Additionally, add the pdf to the Discovery Request Database.

6.8   Send an email to the reporting analyst and the technical reviewer, notifying them that an Audit Trail request was received for their case. Additionally, to the Discovery Inbox at FBiologyDiscovery@ocme.nyc.gov.

6.9   Once distribution has been completed, move the original email from the Defense Counsel folder to the Inbox/Audit Trail Requests folder.

7   Requests for Analyst Specific Non-Conformities

7.1   Requests for non-conforming work specific to an analyst (whether an analyst associated to the specific case or the testifying analyst) are routed through Forensic Biology's Legal Department at FBIOLegal@ocme.nyc.gov.

7.2   All analyst specific non-conforming work is supplied to the requestor by the Forensic Biology Legal Department.