



## Familial Search Process Overview

### ***Introduction***

Effective October 18, 2017, a familial search request can be made for forensic profiles from unsolved serious offenses that have not been previously associated with a convicted offender through searches of the New York State DNA Databank. Familial searching is a process which evaluates whether any offenders in the State Databank could be related to the individual that contributed DNA to the forensic profile. A familial search may be performed when there is not an association (“match”) or an indirect association (“partial match”) to known profiles in the Databank. To utilize familial DNA searching, certain case and sample requirements must be met to satisfy the NYS approved policy. In addition, the software used by the New York State Police Forensic Investigation Center (FIC) to perform the testing must be validated and approved by the New York State DNA Subcommittee and Commission on Forensic Science (CFS).

### ***Who can submit an application?***

A request for a familial search must be made jointly by the chief executives of the investigating law enforcement agency (LEA) and the District Attorney (DA) with jurisdiction, collectively known as “the requestors.” Once the initial application is made, designees of those persons may represent the respective agencies. Nothing precludes the LEA and DA from requesting a familial search on behalf of the defense.

### ***What cases are eligible?***

The DNA profile must be associated with a:

- 1) Penal Law article 125 felony offense, other than those defined in Penal Law sections 125.40 or 125.45; or
- 2) Penal Law article 130 offense that is defined as a violent felony offense pursuant to Penal Law section 70.02; or
- 3) Class A felony offense defined in article 130, 135, 150 or 490 or the Penal Law; or
- 4) Crime presenting a significant public safety threat; and

The requestors must also demonstrate that either:

- 1) Reasonable investigative efforts have been taken in the case; or
- 2) Exigent circumstances exist warranting a familial search.



### ***What are the sample requirements?***

The requestors should discuss potential submissions for familial searching with the laboratory that generated the forensic DNA profile prior to submitting an application. The sample must:

- 1) Be single source, or a fully deduced profile originating from a mixture;
- 2) Appear to have a direct connection with the putative perpetrator of the crime;
- 3) Reside in the State Databank; and
- 4) Have been searched against DNA profiles in the State DNA Databank's offender index.

The laboratory that generated the DNA profile should provide the requestors with the CODIS specimen ID for the application. If the case sample shares a profile with several other cases, please work with the laboratory to select the best sample/case to use for your application, as only one can be used on the application.

### ***How do you submit an application?***

Applications can be found at <http://www.criminaljustice.ny.gov/forensic/forms/familial-search-application.pdf> and should be submitted electronically. If you have questions regarding the submission form, require clarification, or are unable to submit electronically, please call (518) 457-1901.

### ***What information is needed to submit an application?***

- 1) The contact information for the Chief Executives for the requestors and their designee(s).
- 2) The name of the DNA laboratory that performed the testing on the forensic sample and the sample's CODIS specimen ID.
- 3) The offense/crime type associated with the forensic specimen or, if there is an assertion that there is a significant public safety threat, a description of what that threat is.
- 4) A brief narrative of the case including the relevance of this sample (e.g. how does the sample appear to have a direct connection with the putative perpetrator of the crime, are there multiple cases with the same profile, etc.)
- 5) A brief narrative establishing what reasonable investigative efforts have been taken to date; or, if there is an allegation that exigent circumstances exist, a description of those circumstances. This should detail investigative procedures that have been tried and proven inadequate, or have been considered but rejected, and why. General declarations using boilerplate language about the investigative efforts will not suffice. The description must be supported with facts unique to the specific investigation.
- 6) Any documents that would support the descriptive information can be outlined and summarized on the application, and attached to the submission e-mail.



***What happens after an application has been submitted?***

The Office of Forensic Services (OFS) at DCJS will review the application and confirm that the requestors have provided all required information. The application will then be submitted to the New York State CODIS Administrator who will verify that the sample requirements have been met. The application will be forwarded to the Commissioner of DCJS for review. If the application is complete and the case and sample requirements are met, the DCJS Commissioner may approve the application. If either the case or sample requirements are not met, the requestors will be notified that the application was not approved and the reasons therefor.

***What happens after an application is approved?***

A Memorandum of Understanding (MOU) will be executed between the requestors, the Director of the New York State Police Crime Laboratory, and the DCJS Commissioner.

The FIC will utilize validated and approved software to perform a familial search and generate a candidate list for any offender samples that exceed the validated threshold.

OFS will evaluate any resulting candidate list to ensure that all candidate samples continue to be legally eligible for inclusion in the State Databank.

***How do results get released?***

Prior to release of search results, the requestors must complete mandatory, in-person training. Upon satisfactory completion of that training, the search results will be released. Requestors whose search results produce no resulting candidates will receive instructions on how to renew a request.

The requestors whose search results produce a candidate(s) are required to provide status updates on their investigation to OFS at six month intervals from the date that the search results were released.