

State of Vermont Agency of Human Services Department of Corrections	<u>INTERIM MEMO</u> DNA SAMPLE COLLECTION		Page 1 of 2
			Supersedes: Interim Revision Memo: DNA Sample Collection dated 5/30/2013
Local Procedure(s) Required: No Applicability: All staff (including volunteers and contractors) Security Level: "B"- Anyone may have access to this document.			
Approved: <div style="display: flex; justify-content: space-between;"> <div style="text-align: center;"> <u>SIGNED</u> Lisa M. Menard, Commissioner </div> <div style="text-align: center;"> <u>7/15/2016</u> Date Signed </div> <div style="text-align: center;"> <u>7/16/2016</u> Date Effective </div> </div>			

The purpose of this interim memo is to provide guidance to staff on the updated requirements regarding DNA sample collection by the Department of Corrections (DOC). This I.M. should be referenced when applying administrative directive #409.03, *DNA Sample Collection*.

With the passage of [Act 122](#), the Legislature has provided updated instruction on: 1) the definition of a DNA sample; 2) which offenses shall trigger the DOC's responsibility to collect a DNA sample; and 3) persons required to submit a DNA sample.

This Interim Revision Memo shall take effect **immediately**.

1. **DNA SAMPLE** - a forensic unknown tissue sample, or a tissue sample provided by any persons convicted of a designated crime. The DNA sample may be blood or any other tissue type specified by the Department of Public Safety (DPS).

2. **DESIGNATED CRIME** - any of the following offenses:
 - a. A felony;
 - b. 13 V.S.A. § 1042 (domestic assault);
 - c. Any crime for which a person is required to register as a sex offender pursuant to 13 V.S.A. chapter 167, subchapter 3;
 - d. 13 V.S.A. § 1062 (stalking);
 - e. 13 V.S.A. § 1025 (reckless endangerment);
 - f. A violation of an abuse prevention order, as defined in 13 V.S.A. § 1030. This excludes a violation of an abuse prevention order issued pursuant to:
 - i. 15 V.S.A. § 1104 (emergency relief); or
 - ii. 33 V.S.A. § 6936 (emergency relief).

- g. A misdemeanor violation of 13 V.S.A. chapter 28, relating to abuse, neglect, and exploitation of vulnerable adults;
- h. An attempt to commit any offense listed in 20 V.S.A. § 1932; or
- i. Any other offense, if, as part of a plea agreement in an action in which the original charge was a crime listed in 20 V.S.A. § 1932 and probable cause was found by the court, there is a requirement that the defendant submit a DNA sample to the DNA date bank.

Note: This is a change from Appendix 3 to DOC Administrative Directive #409.03, DNA Sample Collection; Appendix 3 is no longer applicable and should be disregarded.

DNA SAMPLE REQUIRED

The following persons shall submit a DNA sample:

1. A person convicted in a court in this state of a designated crime on or after April 29, 1998.
2. A person who was convicted in a court in this State of a designated crime prior to April 29, 1998 and, after such date, is:
 - a. In the custody of the Commissioner of DOC pursuant to 28 V.S.A. § 701;
 - b. On parole for a designated crime;
 - c. Serving a supervised community sentence for a designated crime; or
 - d. On probation for a designated crime.
3. A person required to submit a DNA sample who is serving a sentence in a correctional facility shall have his or her DNA samples collected or taken:
 - a. At the receiving correctional facility;
 - b. At a place and time designated by the Commissioner of DOC; or
 - c. By a court, if the person has not previously submitted a DNA sample.
4. A person serving a sentence for a designated crime not confined to a correctional facility shall have his or her DNA samples collected or taken:
 - a. At a place and time designated by the Commissioner of DOC or the Commissioner of DPS; or
 - b. A court, if the person has not previously submitted a DNA sample in connection with the designated crime for which he or she is serving the sentence.

Note: 20 V.S.A. § 1933 previously required a person for whom the court has determined at arraignment there is probable cause that the person has committed a felony in this state on or after July 1, 2011 to submit for a DNA sample. The requirement that at the time of arraignment the court shall set a date and time for the person to submit to a DNA sample has also been removed.