

ADMINISTRATIVE ORDER NO.:
99-23

**IN RE: CRIMINAL - REQUIRED DNA TESTING FOR CERTAIN SEXUAL OFFENDERS AND
SEXUAL PREDATORS**

WHEREAS, the Florida Department of Law Enforcement (FDLE) DNA (deoxyribonucleic acid) Database was established by statute in 1989 to compile, classify, match and store an identification system, allowing for a comparison of DNA profiles from unsolved cases in Florida;

WHEREAS, Florida is at the forefront in this new DNA technology use for forensic purposes; in fact, three of the four interstate matches ("hits") have come from Florida;

WHEREAS, the FBI is presently activating a National DNA Index System (NDIS/CODIS), whereby Florida is one of ten pilot states, and most likely will be the first state to transmit its DNA data to the FBI;

WHEREAS, persons sent to a Florida Department of Corrections facility will have their blood specimens collected at such facility and persons serving sentences at a county jail or who are placed on probation will have their blood specimens collected at the county level, which will require inter-agency cooperation between the county correctional facilities, probation and parole offices and the Eighteenth Circuit Court to ensure that collection is accomplished;

WHEREAS, the success and effectiveness of the DNA database is contingent upon compliance with Florida Statute Section 943.325 (governing certain convictions), Section 948.03(5) (governing certain probationers and community controlees) and Section 947.1405 (governing certain inmates under a control release program), which all require blood samples to be obtained and forwarded to the FDLE in certain criminal cases; therefore; in order to maximize its crime-solving potential, it is absolutely imperative that blood samples be collected in all of the criminal cases designated by the legislature;

NOW THEREFORE, by the authority vested in me as Chief Judge and pursuant to the Florida Rules of Judicial Administration, it is

ORDERED:

1. Blood Specimens from Persons Convicted of Certain Sexual Crimes:
That, pursuant to Florida Statute Section 943.325, all persons (adults and juveniles) who are convicted, or have previously been convicted and are still incarcerated in Florida, for any offenses listed in chapter 794, to-wit:
Section 794.011 - Sexual Battery, a felony;
Section 794.023 - Sexual Battery by Multiple Perpetrators, a felony;
Section 794.024 - Unlawful Disclosure of Victim's Identifying Information, a misdemeanor;
Section 794.03 - Unlawful Publication or Broadcast of Information Identifying Sexual Offense Victim, a misdemeanor;

Section 794.027 - Failure to Report Sexual Battery, a misdemeanor;

Section 794.05 - Unlawful Sexual Activity with Certain Minors, a felony, or for any offenses listed in Chapter 800, to-wit:

Section 800.02 - Unnatural and Lascivious Act, a misdemeanor;

Section 800.03 - Exposure of Sexual Organs, a misdemeanor;

Section 800.04 - Lewd, Lascivious, or Indecent Assault or Act Upon or in Presence of Child, a felony;

and who are within the confines of the legal state boundaries, shall be required to submit two (2) specimens of their blood, each specimen being seven (7) cc's in volume, to a Department of Law Enforcement designated testing facility as directed by the department with forty-five (45) days of the sentence with payment made in accordance with Florida Statute Section 943.325(10) (a).

a. That, in accordance with Florida Statute Section 943.325(10) (a), the Eighteenth Circuit Court must also order blood specimens to be drawn from convicted persons listed in paragraph one (1) above who have violated a condition of probation, community control or any other court ordered supervision.

b. That, for purposes of Florida Statute Section 943.325, "conviction" includes a finding of guilty, or entry of a plea of nolo contendere or guilty, regardless of adjudication or, in the case of a juvenile, the finding of delinquency. See Florida Statute Section 943.325(10) (d).

c. That, for purposes of Florida Statute Section 943.325, the appropriate agency responsible to cause the specimens to be timely drawn is the Department of Corrections whenever the convicted person is committed to the legal and physical custody of the department in accordance with Florida Statute Section 943.325(10) (b).

2. Blood Specimens from Certain Probationers and Community Controlees:

Furthermore, that two (2) blood specimens must also be taken pursuant to Florida Statute Section 948.03 from each and every probationer and community controlee whose crime was committed on or after October 1, 1995, and who is placed under supervision for violation of any of the offenses listed in Chapter 794 to-wit:

Section 794.011 - Sexual Battery, a felony;

Section 794.023 - Sexual Battery by Multiple Perpetrators, a felony;

Section 794.024 - Unlawful Disclosure of Victim's Identifying Information, a misdemeanor;

Section 794.03 - Unlawful Publication or Broadcast of Information Identifying Sexual Offense Victim, a misdemeanor;

Section 794.027 - Failure to Report Sexual Battery, a misdemeanor;

Section 794.05 - Unlawful Sexual Activity with Certain Minors, a felony, or for violation of Florida Statutes:

Section 800.04 - Lewd, Lascivious, or Indecent Assault or Act Upon or in Presence of Child, a felony,

Section 827.071 - Sexual Performance by a Child, a felony; or

Section 847.0145 - Selling or Buying of Minors, a felony.

Hence, in accordance with Florida Statute Section 948.03, the Eighteenth Circuit Court must impose the condition of submission to blood specimens for the DNA data bank in addition to all other standard and special conditions lawfully imposed pursuant to Florida Statute Section 948.03(5) in such cases.

- a. That the sentencing court may only impose a condition of supervision allowing a person convicted of Florida Statute Sections 794.011, 800.04, 827.071, or 847.0145 to reside in another state if the order stipulates that it is contingent upon the approval of the received state interstate compact authority. See Florida Statute Section 948.03(6).
- b. That, in accordance with Florida Statute Section 948.01(1), the probationary or community control condition of submission to blood specimens for the DNA data bank shall be imposed by any Eighteenth Circuit Court division having original jurisdiction of criminal actions (except those for an offense punishable by death) on any defendant who has been found guilty by the verdict of a jury or by the court without a jury, or on any defendant who has entered a plea of guilty or a plea of nolo contendere.
- c. That where the convicted person is placed on probation, community control, or any other court ordered supervision or form of supervised release or is committed to the legal and physical custody of a county correctional facility, then the responsibility for causing the specimens to be timely drawn lies with the sheriff or officer in charge of the county correctional facility in accordance with Florida Statute Section 943.325(10) (b).

3. Blood Specimens as Special Condition of Release of Sexual Predators:

That blood specimens are also required to be taken pursuant to Florida Statute Section 947.1405(7)(a)(8) from any inmate convicted of a crime on or after October 1, 1995, or who has been previously convicted of a crime committed on or after October 1, 1995, and who meets the criteria of Florida Statute Section 775.21 (sexual predators) or former Section 775.23(2)(a) or (b) as a special condition of release.

4. Express Provisions in Court Orders Required:

That the Eighteenth Circuit Court shall enter judgments of convictions and orders in all designated cases, expressly and specifically ordering blood specimens to be taken of such persons described in paragraphs one (1) concerning certain convictions, two (2) concerning certain probationers and community controlees, and three (3) regarding certain sexual predators under a control release program, in order to ensure compliance with the law and a worthwhile contribution to the establishment of an effective statewide and nationwide DNA database.

- a. That, in addition, where the judgment sentences the convicted person with time served, the Court shall order the person to submit the blood specimens as a condition of such sentence; that where the judgment places the person on

probation, community control or any other court ordered supervision, the Court must order the person to submit the blood specimens as a condition of the probation; and that, in accordance with Florida Statute Section 943.325(10)(a) (listed here, in paragraph one (1) above) who has violated a condition of probation, community control or any other court ordered supervision.

5. That, in the event a trial judge inadvertently fails to order the blood samples in any of these cases, this Administrative Order supersedes such judgment, order or sentence entered by the trial judge and the responsibility for causing the specimens to be timely drawn and collected in accordance with the Florida Statutes shall remain with the appropriate agencies designated in paragraphs 1(c) and 2(c) above.
6. That this Order shall be in effect immediately and remain in effect until further Order of the Court, and all terms and conditions set forth in this Administrative Order shall apply unless otherwise ordered by the Court.

DONE AND ORDERED, this 8TH day of JULY, 1999.

J. PRESTON SILVERNAIL
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CHIEF JUDGE

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