

## Department of Justice

## § 28.2

other reasonable and foreseeable consequential damages.

(g) If the Director determines that there has not been a reprisal, the Director shall report this finding in writing to the complainant, the FBI, and the Conducting Office.

[Order No. 2264-99, 64 FR 58786, Nov. 1, 1999, as amended by Order No. 2492-2001, 66 FR 37904, July 20, 2001]

### § 27.5 Review.

The Complainant or the FBI may request, within 30 calendar days of a final determination or corrective action order by the Director, review by the Deputy Attorney General of that determination or order. The Deputy Attorney General shall set aside or modify the Director's actions, findings, or conclusions found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; obtained without procedures required by law, rule, or regulation having been followed; or unsupported by substantial evidence. The Deputy Attorney General has full discretion to review and modify corrective action ordered by the Director, provided, however that if the Deputy Attorney General upholds a finding that there has been a reprisal, then the Deputy Attorney general shall order appropriate corrective action.

### § 27.6 Extensions of time.

The Director may extend, for extenuating circumstances, any of the time limits provided in these regulations relating to proceedings before him and to requests for review by the Deputy Attorney General.

## PART 28—DNA IDENTIFICATION SYSTEM

### Subpart A—Qualifying Federal Offenses for Purposes of DNA Sample Collection

Sec.

28.1 Purpose.

28.2 Determination of offenses.

### Subpart B—DNA Sample Collection, Analysis, and Indexing

28.11 Definitions.

28.12 Collection of DNA samples.

28.13 Analysis and indexing of DNA samples.

### Subpart C—Preservation of Biological Evidence

28.21 Purpose.

28.22 The requirement to preserve biological evidence.

28.23 Evidence subject to the preservation requirement.

28.24 Exceptions based on the results of judicial proceedings.

28.25 Exceptions based on a defendant's conduct.

28.26 Exceptions based on the nature of the evidence.

28.27 Non-preemption of other requirements.

28.28 Sanctions for violations.

AUTHORITY: 28 U.S.C. 509, 510; 42 U.S.C. 14132, 14135a, 14135b; 10 U.S.C. 1565; 18 U.S.C. 3600A; Pub. L. 106-546, 114 Stat. 2726; Pub. L. 107-56, 115 Stat. 272; Pub. L. 108-405, 118 Stat. 2260.

SOURCE: Order No. 2699-2003, 68 FR 74858, Dec. 29, 2003, unless otherwise noted.

### Subpart A—Qualifying Federal Offenses for Purposes of DNA Sample Collection

#### § 28.1 Purpose.

Section 3 of Pub. L. 106-546 directs the collection, analysis, and indexing of a DNA sample from each individual in the custody of the Bureau of Prisons or under the supervision of a probation office who is, or has been, convicted of a qualifying Federal offense. Subsection (d) of that section states that the offenses that shall be treated as qualifying Federal offenses are any felony and certain other types of offenses, as determined by the Attorney General.

[Order No. 2753-2005, 70 FR 4767, Jan. 31, 2005]

#### § 28.2 Determination of offenses.

(a) *Felony* means a Federal offense that would be classified as a felony under 18 U.S.C. 3559(a) or that is specifically classified by a letter grade as a felony.

(b) The following offenses shall be treated for purposes of section 3 of Pub. L. 106-546 as qualifying Federal offenses:

(1) Any felony.

(2) Any offense under chapter 109A of title 18, United States Code, even if not a felony.