

SUPREME COURT, SUFFOLK COUNTY

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THE PEOPLE OF THE STATE OF NEW YORK,

ORDER

Case No.73544-2024

HON. RAYMOND A. TIERNEY

District Attorney, Suffolk County

ADA Andrew Lee

Assistant District Attorney

200 Center Drive

Riverhead, NY 11901

-against-

SABATO CAPONI, ESQ.

Attorney for Defendant

80 Orville Drive, Suite 100

Bohemia, NY 11716

REX HEUERMANN

Defendant.

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By notice of motion dated September 3, 2025, the defendant moves for an order precluding the introduction of the nuclear DNA results obtained from Astrea Forensics, which operates in the state of California, on the ground that Astrea Forensics does not hold a New York State Department of Health permit, is expressly prohibited by statute from accepting specimens from New York, and has not been subjected to the required verification of compliance with the minimum accepted and approved standards of this state.

The People oppose the motion by affirmation and memorandum of law dated September 15, 2025.

Defendant submitted a reply affirmation dated September 20, 2025.

The defendant asserts that the DNA evidence obtained from Astrea Forensics, which operates in California, was obtained in violation of the express provisions of the New York State Public Health Law and must be precluded. Defendant argues that Public Health Law § 570 requires all procedures employed by clinical laboratories meet the minimum accepted and approved standards. According to the defendant, in order to obtain the necessary Department of Health permit, a laboratory must submit validation and protocols to the Department of Health for a comprehensive evaluation, undergo an on-site survey, participate in an approved proficiency test program, and comply with the FBI's Quality Assurance standards. Defendant notes that

Public Health Law § 574 provides that:

“[n]o person shall own or operate a clinical laboratory located in or accepting specimens from New York state or own or operate a blood bank which collects, processes, stores and/or distributes, human blood, blood derivatives or blood components, in New York state unless a valid permit has been issued as provided in section five hundred seventy-five of this title.”

Defendant also notes that the failure to comply with Public Health Law § 574 is a criminal offense punishable by imprisonment (*see* Public Health Law § 578). However, defendant states that while Public Health Law § 579 does create certain limited exceptions for the examination of materials derived from the human body for use in criminal identification, or in a criminal proceeding for investigative purposes when such examination is performed by a state or local government, the requirements of the statute still apply to non-governmental entities including out-of-state entities. Defendant further asserts that out-of-state laboratories have the ability and right to apply and receive the required permits so they can comply with the provisions of the statute.

Defendant argues that since Astrea Forensics does not hold a New York State Department of Health permit, it is expressly prohibited by statute from accepting specimens from New York, and has not been subjected to the required verification of compliance with the minimum accepted and approved standards of this state. Therefore, any DNA evidence created by Astrea Forensics which was derived from samples submitted from New York State must be precluded as unreliable and unlawfully procured in violation of the provisions of the Public Health Law.

In opposition, the People assert that moments after this Court denied defendant's motion to suppress the DNA evidence on the ground that the methods used by Astrea Forensics, including whole genome sequencing and IBDGem, its probabilistic genotyping software program, were not generally accepted within the scientific community, defendant moved to suppress this same DNA evidence, albeit on a different ground. The People argue that defendant's motion is untimely and violates CPL 255.20 (2), which requires that all of a defendant's pre-trial motions “shall be included within the same set of motion papers.” In any event, the People argue that New York State Public Health Law is inapplicable to forensic testing as it was enacted to decrease erroneous medical treatment as a result of improper analysis of specimens. Contrary to defendant's contentions, the People argue that the legislative intent and caselaw relevant to the Public Health Law clearly show that a “clinical laboratory” depends on whether the tests it conducts are for the diagnosis, prevention or treatment of disease or the assessment of a medical condition. In addition, the People assert that while the Public Health Law defines a clinical laboratory as one that is used for “identification purposes,” it has been held that “identification” refers only to the identification of a disease or medical condition, not forensic or criminal identification.

The People also maintain that in 1993, Public Health Law § 571 was amended to expand the definition of “clinical laboratories” to include facilities evaluating “genetic” materials “derived from the human body” for “identification purposes.” However, Public Health Law § 579 was also amended that same year and clearly established the statute’s limitations by stating that the statute did not extend to matters of “criminal identification.” Thus, criminal identification is excluded from the regulations within the Public Health Law and, as a result, the People argue that Astrea Forensics is not a clinical laboratory as defined by the Public Health Law. The People further point out that forensic laboratories are governed by the Executive Law, and not the Public Health Law. In addition, the Executive Law only applies to those forensic laboratories within New York State.

In conclusion, the People maintain that even if there was a violation of the Public Health Law, this would not justify suppressing the evidence when the violation does not implicate a constitutionally protected right. Here, the DNA evidence was collected properly and in a manner that did not violate the defendant’s constitutional rights, and therefore, there is no legal basis for suppression. Finally, the appropriate arbiter of a violation of the Public Health Law is the Department of Health as stated within the statute.

In an affirmation in reply, defendant argues that his motion to preclude was timely as it was based on evidentiary and foundational issues that must be addressed any time evidence is proffered at trial. During the *Frye* hearing, the issues of proper foundation and the adequacy of lab procedures were not before the court. Defendant further argues that the People’s claim that the New York State Public Health Law does not govern forensic testing is meritless. Defendant states that Public Health Law § 571 was amended in 1993 to include genetic evaluations in the definition of what constitutes a clinical laboratory. Defendant further states that the Executive and Legislative commentaries and caselaw relied upon by the People all pre-dated the amendment of the statute. The defendant maintains that the New York State Department of Health has the authority under the Public Health Law to regulate privately run clinical laboratories. Astrea Forensics is a privately owned and operated clinical laboratory, and is not a part of any local or state government. Furthermore, defendant argues that his motion to preclude is not based on any violation of some constitutionally protected right, but rather on foundational issues and challenges the reliability of the procedures followed to generate the evidence proffered. Thus, the failure of Astrea Forensics to comply with Public Health Law § 571 (1) and Public Health Law § 574 is fatal and the evidence should not be admissible at trial. In addition, the defendant contends that it is the trial court who determines whether or not an adequate foundation has been laid for the admissibility of evidence and not the Department of Health.

Pursuant to Public Health Law § 574, “[n]o person shall own or operate a clinical laboratory . . . accepting specimens from New York state . . . unless a valid permit has been issued as provided in section five hundred seventy-five of this title.”

A clinical laboratory has been defined, in pertinent part, as “a facility for the . . . genetic, or other examination of materials derived from the human body for the purpose of obtaining

information for . . . identification purposes” (Public Health Law § 571).

The stated purpose behind Public Health Law § 570 is to protect residents of New York state from:

“[t]he improper performance of a laboratory procedure [which] may induce an erroneous diagnosis or contribute to the selection of an inappropriate method of treatment, resulting in prolonged or unnecessary hospitalization, injury or even death” (Public Health Law § 570; *see also* Home Off. Reference Lab. v Axelrod, 116 AD2d 858, 860 [3d Dept 1986] [holding that “[t]he statute was enacted to decrease the probability of the prescription of erroneous medical treatment due to improper analysis of specimens (Governor's memorandum, 1964 NY Legis Ann, at 505-506).”]

It has been held that where the “literal meaning of a statute would . . . [be] unreasonable in light of the legislature’s evident statutory purpose . . . then the spirit of the law should prevail over the letter of the law” (Home Off. Reference Lab. v Axelrod, 127 Misc 2d 444, 446 [Sup Ct, Albany Count 1984] [internal citations omitted], *affd* 116 AD2d 858 [3d Dept 1986]).

According to the Legislative Bill Jacket for 1993, the Legislature stated that on July 1, 1994, Public Health Law Title V would be expanded to:

“All clinical laboratories and blood banks performing patient services in New York State, but clarifies these amendments do not authorize the Department of Health (DOH) to regulate activities of the State Police laboratory, research laboratories, or *other laboratories used for criminal investigations* or medical-legal investigations of death” (*see* Senate, Assembly Joint Memorandum, Legislative Bill Jacket, L 1993, ch. 436 [emphasis added]).

In light of the stated purpose behind Public Health Law § 570, *to wit*, to protect New York State residents from improper lab procedures which could lead to erroneous diagnosis or contribute to the selection of an inappropriate method of treatment, as well as the legislature’s clear intent as stated within the Legislative Bill Jacket for 1993, which specifically stated that the Department of Health would not be permitted to regulate “other laboratories used for criminal investigations,” this Court finds that Public Health Law § 574 does not apply to Astrea Forensics as it is clearly a laboratory “used for criminal investigations.” Therefore, it is

ORDERED that the defendant’s motion is denied.

Dated: September 22, 2025


HON. TIMOTHY P. MAZZEI, J.S.C.