

DNA Samples

604.1 PURPOSE AND SCOPE

This policy provides guidelines for the collection of DNA samples from those inmates required to provide samples upon conviction and/or arrest for certain offenses. This policy does not apply to DNA samples collected at a crime scene or taken from a person in conjunction with a criminal investigation.

604.2 POLICY

The Shasta County Sheriff's Office will assist in the expeditious collection of required DNA samples from arrestees and offenders in accordance with the laws of this state and with as little reliance on force as practicable.

604.3 DNA

Beginning on January 1, 2009, all adults arrested for any felony offense must provide a buccal swab (inner cheek scraping) DNA sample, and thumb and palm print impressions for the State of California's DNA (CAL-DNA) Data Bank Program {Penal Code section 296(a)(2)(C)}. This expands 2008 CALDNA Data Bank law provisions governing collection of DNA samples from arrestees. The 2008 law requires adults arrested for a felony Penal Code section 290 register able sex offense, murder, or voluntary manslaughter (including attempts of these crimes) to provide samples for the CAL-DNA Data Bank {Penal Code section 296(a)(2)(A) and (B)}.

The January 1, 2009, provisions governing DNA sample collection from adults arrested for any felony offense are not retroactive and so do not permit collection for arrests that took place prior to 2009. DNA sample collection from any qualifying adult felony arrestee (whether 2008 or 2009) must be based solely upon the offense that precipitated the arrest, and not upon the arrested individual's other criminal history (including prior felony convictions or adjudications).

604.4 TIMING OF COLLECTION & DISPOSITION OF SAMPLES

A. Samples, specimens, and print impressions must be collected reasonably and

promptly after arrest (i.e., during booking), conviction, or adjudication, and in any event prior to release from custody on bail or otherwise {§§295(i)(1)(A); 296.1(a)(1)(A)}.

B. Samples, specimens, and print impressions must be collected "as soon as

administratively possible" after a qualifying person reports to the facility to provide them {§ 295(i)(1)(B)}.

C. Samples, specimens, and print impressions must be forwarded

Immediately and promptly to the Department of Justice {§ 295(i)(1)(C); 298(a)}.

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(a) Note that palm print impressions are sent directly to DOJ's Bureau of Criminal Identification & Information in Sacramento, while the buccal collection kit is sent to the DNA Data Bank Program in Richmond. The preferred, but not required, method of palm print submissions is electronic transmission via a live scan device.

604.4.1 CONFIRMATION OF SUBJECT IDENTITY & QUALIFYING STATUS

A. The person administering the collection shall confirm the subject's identity prior to DNA collection.

B. The Classification Officer shall confirm that the person is a qualifying offender before collecting samples, specimens, or print impressions {§ 298(b)(5)}.

C. Always review the inmate's state and county custody documentation and criminal history to insure that DNA samples and print impressions are not already in DOJ's possession. DOJ may be contacted if questions arise

concerning collection status (See DOJ Proposition 69 Information Bulletin.).

604.4.2 COLLECTION MECHANICS

A. Samples, specimens, and print impressions must be collected using DOJ-approved collection kits, and in accordance with DOJ's instructions. {§ 295(i)(2); §298(b)(4)}.

B. The preferred, but not required, method of palm print submissions is electronic transmission via a live scan device.

C. The withdrawal of blood, when requested by DOJ, must be done in a medically approved manner by trained and certified health care providers.

{§ 298(b)(2)}.

D. Buccal swab samples may be collected by law enforcement or correctional staff or others properly trained to do so. {§ 298(b)(3)}.

E. The DOJ DNA Laboratory may request collection of blood specimen(s) where buccal swab is insufficient {§ 295(e)}.

F. California law continues to authorize a collecting agency to use reasonable force to collect DNA samples and specimens from a qualifying offender who refuses to cooperate {PC 298.1(b) and (c)}. There is no need for a

court order.

604.4.3 COMMUNICATION OF FACT OF COLLECTION

A. In order to avoid redundant DNA collection from the same subject, it is important to communicate the fact of collection to DOJ by promptly submitting the collection kit. Other law

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enforcement and/or correctional agencies that may assume jurisdiction over the subject should be notified as well.

1. E.g., those felons who will be transported to state prison.

Collection of in-custody DNA samples will be initiated by the classification officer as a part of the initial housing process. This will be accomplished by entry of information into the DNA data base by the classification officer.

Once it has been determined that a subject is required to provide a DNA sample, an information sheet will be generated from the computer database by classification. This will serve as the "Notice to Provide Specimen's" form referenced in the proceeding paragraphs. The procedure for collection will follow that of out-of-custody subject as outlined above.

Once the collection has been completed, the printout will be handed back to classification with the officer's ID# and date the collection was performed noted on the form. This information will be entered into the DNA database and the form placed into the subjects booking folder.

604.5 REFUSAL TO COMPLY WITH DNA COLLECTION

Correctional Officer/Deputies should attempt to obtain samples and impressions through voluntary compliance. If a subject refuses to provide a voluntary sample and impression, the officer should do the following:

- (a) Notify the Watch Commander or OIC.
- (b) The shift supervisor shall notify the person both verbally, and in writing, that they have a legal obligation to provide the sample and refusal may result in criminal prosecution pursuant to Penal Code 298.1.
- (c) The assigned officer shall complete a jail incident report which includes the effort made to secure voluntary compliance. Forward the report to the jail lieutenant.
- (d) The lieutenant shall review the circumstances and the attempts made to seek voluntary compliance. He/she shall take any other measures deemed necessary to seek voluntary compliance.
- (e) The Lieutenant may order the use of reasonable force to secure the DNA sample and thumb impressions. That order shall be issued in writing and shall reflect that the offender was asked to provide the specimen, sample, or impression and refused.
- (f) It is generally suggested to draw blood in lieu of buccal collection when obtaining an involuntary sample. Jail medical staff shall not be used in the collection of an involuntary blood sample.

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- (g) For the purpose of this section, the term “use of reasonable force” shall be defined as the force that an objective, trained and competent correctional employee, faced with similar facts and circumstances, would consider necessary and reasonable to obtain compliance.
- (h) The use of reasonable force shall be video taped and the video shall be forwarded to the jail lieutenant who shall retain it administratively.
- (i) The jail lieutenant is responsible to cause the completion of the Corrections Standards Authority (formerly Board of Corrections) PC 298.1 Data Collection Form and to forward the form to the Corrections Standards Authority within 10 days.

DNA collection kits are ordered from the Department of Justice. As it becomes necessary to reorder additional kits, the watch commander will telephone the Department of Justice at (510)540-2434, to place the order. It is recommended at least two cases be ordered at a time, as each case only contains twenty-five (25) collection kits.

604.6 LITIGATION

The Sheriff or the authorized designee should notify the California DOJ's DNA Legal Unit in the event this office is named in a lawsuit involving the DNA Data Bank.