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DNA Sample Collection

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DNA SAMPLE COLLECTION

I. PURPOSE

- A. The purpose of this policy and procedure is to provide a procedure for proper collection and registration of DNA samples with the California Department of Justice. The Sheriff's Office is required by the DNA and Forensic Identification Data Base and Data Bank Act of 1998 and the DNA Fingerprint, Unsolved Crime and Innocence Protection Act to make specific mandated collections.

II. POLICY

- A. It shall be the policy of the Mendocino County Sheriff's Corrections Division to collect buccal swabs and fingerprints from people in-custody that qualify for DNA sample collection. Once DNA samples are obtained, they will be forwarded to the Department of Justice. The exceptions to this policy are those inmates that are sentenced to State Prison.
- B. Buccal swab samples will only be collected by Sheriff's Office personnel trained in DNA collection.
- C. If DOJ requests a withdrawal of blood, the withdrawal must take place in one of the medical rooms and by a trained and certified phlebotomist.

III. PROCEDURE

- A. Verification
 - 1. Prior to collection, you must confirm the person's identity and if they are a qualifying offender.
 - 2. A check of the person's criminal history record(s) for a DNA collection flag must be made. If there are further questions concerning an offender's collection status, contact DOJ's Richmond DNA Laboratory.

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3. The sample collection is a one-time process. A qualifying person must provide a DNA sample and palm print impressions for the California's DNA Data Bank Program only if their sample and print impressions are not already on file with DOJ.
- B. Persons Who Qualify for DNA Sample Collection
1. Those convicted or found not guilty by reason of insanity for any felony offense. (Penal Code 296(a)(1); 296(e).)
 2. Those currently in custody or on probation, parole, or other supervised release after a conviction for any felony or misdemeanor offense, but with a past California or out-of-state qualifying felony conviction. (296.1(a)(2), (3), (4).)
 3. Penal Code 290 sex and/or Penal Code 457.1 arson registrants (even for misdemeanor crimes). (Penal Code 296(a)(3); 299(e), (f).)
 4. People referred to and housed in mental health treatment programs for felony offenses. Including those persons found incompetent to stand trial under Penal Code 1368, those committed to a state hospital upon a finding of not guilty by reason of insanity, and those classified as mentally disordered sex offenders. (Penal Code 296(a)(3), 296(c).)
 5. Out-of-state offenders accepted into California for service of custody, probation, or parole under an interstate compact. (296.1(a)(5).)
 6. Federal prison inmates with prior California or out-of-state qualifying felony conviction. Requires California connection (e.g., the inmate will be released in California) and approval of the FBI Director. (Penal Code 296.1(a)(5).)
 7. Those persons that enter a plea conditioned upon collection of a DNA sample. (Penal Code 296(a)(5).)
 8. All arrested for any felony offense must provide a buccal swab DNA sample, thumb and palm print. (296(a)(2) and 296.1(a))
- C. Timing of Collection and Disposition of Samples - In-custody
1. The collection of DNA samples is part of the booking process. Samples, specimens, and print impressions must be collected prior to release. (295(i)(1)(A); 296(a)(1)(A).)

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2. Samples, specimens, and print impressions are to be promptly sent to the California Department of Justice. Palm prints are sent to the Bureau of Criminal Identification and Information in Sacramento and the buccal collection kit is sent to the DNA Data Bank Program in Richmond.

D. Timing of Collection and Disposition of Samples-Out-of-Custody

1. DNA samples are collected for persons who are out-of-custody at Sheriff's Administration Office, 589-A Low Gap Rd, Ukiah, by the assigned staff assistant.
2. The staff assistant will send a preset appointment schedule to Probation. A representative of the Mendocino County Probation Department will schedule appointments for probationers to submit to the sample process. The transmission of the schedule will be done by e-mail.
3. Samples, specimens, and print impressions are to be promptly sent to the California Department of Justice. Palm print cards are completely separate from the DNA kits. The palm print cards are sent through Live Scan to the Bureau of Criminal Identification and Information, Fingerprint Expedite Unit in Sacramento and the buccal collection kit is sent to the DNA Data Bank Program in Richmond.
4. If a probationer does not appear for the scheduled appointment, the staff assistant will forward a failure to appear form to the probation office.

E. Buccal Swab Collection Process

1. Remove the Buccal DNA Collector from the pouch and write the subject's name and CII/SID numbers in the space provided. To avoid contamination of the sample gloves must be worn.
2. Move Slider Cover back if necessary to fully expose the Collection Paper.
3. Instruct the subject to hold the collector with their thumb on the area marked "thumb" on the back side of the collector.
4. Ensure that all gum, candy or other food products are removed from their mouth prior to collection. Instruct the subject to open their mouth and place the collection paper side of the collector flat against the inside of their cheek.

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5. Ask the subject to drag it firmly toward lips and out of their mouth. Repeat seven additional times, without rubbing back and forth. Once complete close the Slider Cover towards the tip of the Collector, covering the Collection Paper. Then place the Collector into the transport pouch and seal the envelope. Leave the desiccant packet in the envelope.
6. Attach DNA Laboratory's address label to the storage envelope and fill in return address. Place the specimen identification card and the completed transport pouch into the storage envelope. Then mail to the DNA Data Bank.

F. DNA Collection Log

1. Each collection will be recorded into a computer collection log of all defendants that provide DNA samples. The log will be kept in chronological order and will indicate the subject's name, Master ID#, CII-#, DOB, criminal charges, collection date and jurisdictional agency if appropriate.
2. The Collection Log information will be available to appropriate jurisdictional agencies to avoid duplication of collection.

IV. HANDLING UNUSUAL CIRCUMSTANCES

A. Person Refuses to Comply with Process

1. The person will be verbally advised by the deputy that refusal to comply with the process may result in new misdemeanor charges.
2. The person will be given a refusal admonishment form to sign. The deputy will also sign the form. Their sample collection will be moved to the next Wednesday.
3. If the person still refuses to comply, the order of probation, agency admonishment form and incident report explaining the person's refusal will be returned to the Probation Department.
4. The Probation Department will seek judicial intervention.

B. Continued Refusal

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1. Once judicial intervention is obtained and the person still refuses to give a sample, reasonable force may be used to obtain the sample.
 - a. If reasonable force includes cell extraction, the extraction will be audio and video recorded. The recording will be forwarded to Jail Records and maintained in the inmate's A-file.
 2. The Corrections Lieutenant will be notified prior to any action to force the blood draw of persons. The Corrections Lieutenant will review the situation to ensure that the person has been given every opportunity to comply and will notify the Corrections Division Commander.
 3. The Corrections Division Commander will review the records to ensure protocol was followed. If a forced blood draw is approved, the "DNA Sample Collection Refusal" form must be signed.
 4. The person will be taken to the medical room and placed in a restraint chair. Reasonable force may be use to place the individual into the restraint chair. Once secured in the chair, a certified phlebotomist will draw the minimum amount of blood necessary.
 - a. Jail medical staff will not be utilized to draw the specimen
 5. All personnel involved will write and submit an incident report.
 6. If collection is forced, then the saliva sample will not be required.
 7. The intention of this procedure is to have the inmate willingly comply with the process. The Classification Deputy should explain the process thoroughly to the person because their refusal may be based on a misunderstanding of how or why the DNA is being collected. Forcing the blood draw should be a last resort after all other options have been exhausted.
- C. Phlebotomist is unable to draw blood
1. Attempts will be made on two different days to collect the blood sample. It will be at the discretion of the phlebotomist as to how many "sticks" will be made during each attempt.
 2. If both attempts fail then the Corrections Lieutenant will be contacted and the situation will be evaluated. Possible options include:

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- a. Place the inmate on sick call to have the doctor attempt a neck draw.
 - b. Send the DNA kit without a blood sample. DOJ will still process the saliva sample and palm prints.
- D. Inmate Transferred to Another Facility Before Collection Completed
- 1. If the inmate is transferred to another custodial facility before the DNA collection process occurs, forward the paperwork back to the Probation Department with a memo explaining what happened.

V. RELATED CRIMES

- A. Misdemeanor refusal to provide sample Penal Code 298.1(a).
- B. Felony sample tampering Penal Code 298.2.
- C. Unauthorized use and/or disclosure Penal Code 299.5 (i)(1)(A).

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