

DNA Collection

960.1 PURPOSE AND SCOPE

The purpose is to establish and implement written policy and procedures for the collection of DNA (blood specimens, saliva samples, and thumb and palm print impressions). This policy applies to all juvenile facility staff.

960.2 AUTHORITY AND REFERENCES

- Board of State and Community Corrections Title 15 § 1363;
- California Penal Code §§ 290, 295, 296, 296.1, 298, 298.1 & 457.1;
- Juvenile Facility Services Policies: Admittance Procedures; Recording Incidents in Juvenile Facilities; & Reporting of Incidents and Other Information;
- Welfare and Institutions Code §§ 209, 210, 654, 654.2, 790 & 885.

960.3 POLICY

Pursuant to California Penal Code (PC) 296, DNA samples shall be collected from qualifying youth as soon as reasonably possible after their adjudication or conviction for a felony offense. DNA collection shall occur prior to the transfer or release from custody of any qualifying youth. Probation staff are authorized to collect only saliva samples, and thumb and palm print impressions. Authorized health care staff from an outside medical facility shall collect the required blood specimens.

960.4 QUALIFICATIONS FOR DNA COLLECTION

Pursuant to 296.1 PC, youth who must submit a DNA sample include, but are not limited to:

- A youth upon conviction or adjudication of any felony or qualifying misdemeanor offense;
- A youth upon conviction or other adjudication of any offense if the youth has a prior felony or qualifying misdemeanor on record. Prior offenses include offenses committed in any state, federal, or military court that, if attempted in this state, would have been punishable as described in 296 (a) PC;
- A youth convicted or otherwise adjudicated of any misdemeanor offense conditioned upon collection of a DNA sample;
- A youth on probation that has a prior felony or qualifying misdemeanor on record. Prior offenses include offenses committed in any state, federal, or military court that, if attempted in this state, would have been punishable as described in 296(a) PC; and
- A youth required to register as a sex or arson offender pursuant to 290 PC or 457.1 PC for the commission of any offense, including misdemeanors.

DNA cannot be collected from youth who are on Deferred Entry of Judgment (DEJ) or informal probation, because the admission of culpability was "provisional" and will be deleted if the DEJ

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conditions are met, i.e., there will be no adjudication of record. Refer to Welfare and Institutions Code (WIC) Sections 654, 654.2 and 790.

960.5 STAFF RESPONSIBILITIES

The supervising probation officer (SPO) in charge of the detention control office/intake shall assign a trained probation corrections officer (PCO) or senior probation corrections officer (SPCO) to the task of collecting DNA samples.

Staff assigned to collect DNA samples shall regularly review all youth in custody to ensure required DNA samples have been collected. Each juvenile facility is responsible for DNA collection of youth under their jurisdiction regardless of housing assignments.

The detention control officer (DCO) shall review the youth's information in Court Imaging and the Juvenile and Adult Management System (JAMS) during the intake process and when transferring youth between facilities to determine if the youth is required to provide a DNA sample.

960.6 DNA COLLECTION PROCESS

The following steps shall be taken to collect saliva samples, and thumb and palm print impressions from youth:

- (a) A trained PCO or SPCO assigned to collect DNA from qualifying youth shall review the youth's minute order in Court Imaging, and legal history in the JAMS to ensure the youth is required to provide DNA samples. Refer to 296.1 PC;
- (b) Verify the identity of the youth;
- (c) Verify that the DNA sample has not been previously taken by reviewing biometrics in the JAMS;
- (d) Use a DNA buccal swab collection kit provided by the California Department of Justice (DOJ) to perform the collection in accordance with the requirements and procedures set forth by the DOJ;
- (e) Take steps to avoid cross-contamination;
- (f) Document the collection of the DNA sample in biometrics in the JAMS; and
- (g) Forward samples to the DOJ as soon as administratively practicable. If the court orders a blood sample, the following steps shall be taken to collect blood specimens from youth:
 - (h) The withdrawal of blood specimens shall be performed in a medically-approved manner in accordance with 298 PC, by health care staff at a local medical facility only. Probation staff are authorized to collect only saliva samples, and thumb and palm print impressions.

960.7 REFUSAL TO SUBMIT DNA

Qualifying youth who refuse to submit a DNA sample after they have received written notice that they are required to provide a DNA sample are guilty of a misdemeanor, pursuant to 298.1 (a)

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PC. Youth who refuse to provide a DNA sample shall instead be referred to the juvenile court for action, and/or District Attorney for prosecution, at the discretion of the facility manager(s).

When a youth refuses to submit to DNA sample collection, staff shall not use force to obtain the DNA sample. The following steps shall be taken, when youth refuse to voluntarily submit to DNA sample collection:

- (a) The duty officer (DO) shall advise the youth of the legal obligation to provide the requisite specimen, sample, or impression and the legal consequences for refusal.
- (b) Efforts to secure voluntary compliance shall be documented on an Admonishment Form (attachment) which includes an advisement of the legal obligation to provide the requisite specimen, sample or impression and the consequences for refusal.
- (c) Youth who refuse to provide the requisite specimen, sample or impression, after receiving written notice, shall be subject to additional charges filed per 298.1 (a) PC, a misdemeanor.
- (d) All staff involved shall complete an incident report in the JAMS in accordance with Juvenile Facility Services Policy; Reporting of Incidents and Other Information.
- (e) The DO or designee shall complete all necessary paperwork to file additional charges for youth who refuse to voluntarily submit to DNA sample collection. Refer to Juvenile Facility Services Policy; Admittance Procedures
 1. The application for juvenile court petition (J132 long); and
 2. The juvenile detention disposition report.
- (f) Staff shall document the refusal in the JAMS.

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03/07/2019

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Attachments:

[1. Admonishment Form](#)

RIVERSIDE COUNTY PROBATION DEPARTMENT

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Admonishment Form

Youth's Name: _____

CID: _____

DATE: _____

By my signature I acknowledge I have been advised any person who refuses to give any or all of the following: blood specimens, saliva samples, or thumb or palm print impressions as required pursuant to Penal Code section 296.1, is guilty of Penal Code section 298.1 (Refusal or failure to give samples), a misdemeanor. Additionally, I have been advised that refusal to provide specimens as directed by the Duty Officer is a violation of my terms and conditions of probation.

Youth's Name (Print): _____

Youth's Signature: _____

Witness: _____