

## Biological Samples

### 1500.1 COLLECTION OF DNA DATABANK SAMPLES (CPC 296)

Inmates lawfully approved for release from the Sheriff's custody will be processed accurately and promptly. Property and money secured in the receiving process will be returned to the inmate.

- (a) All inmates that meet any of the following criteria shall submit a biological sample:
  - 1. All inmates including juveniles, convicted of, pleading guilty to, or no contest to any felony offense.
  - 2. All inmates, including juveniles, who are required to register under Section 290 (sex offense) or 457.1 (arson offense) because of the commission of, or the attempt to commit a felony or misdemeanor.
  - 3. Adults arrested for or charged with felony sex offenses, murder or voluntary manslaughter (or the attempt to commit such offenses).
  - 4. Any inmate found not guilty by reason of insanity of any felony offense.
  - 5. Any juvenile inmate who is adjudicated under Section 602 of the Welfare and Institutions Code for committing any felony offense.
  - 6. Beginning on January 1, 2009, adults arrested for or charged with any felony offense.
- (b) The Records Supervisor will submit a group of inmate names to Classification Deputies advising of inmates falling under the registration and sample requirement. The form will contain the inmate's JMS information regarding charges, CII number, date of birth, SSN, place of birth and housing location. The FBI and CII numbers may or may not be present, if this is the case, the Deputy will log on to JMS to retrieve them. If the numbers are not available on JMS, the numbers will need to be obtained from classification.
- (c) Once the Classification Deputy is given the [REDACTED] there are qualifying charges listed, the Classification Deputy will note that a biological sample must be taken prior to the inmate's release.
- (d) The list of inmates requiring a biological sample will then be returned to the Records Supervisor who will generate DNA Request Forms for each inmate's file.
- (e) The DNA Request Forms will then be forwarded to the appropriate location within each facility.
  - 1. Central Men's Jail - Sent over to Second Guard, sent to housing location
  - 2. Central Women's Jail - Sent over to Housing Guard Station, sent to housing location.
  - 3. Intake/Release Center - Given to the Medical Observation Deputy for inmates located on the First Floor. Sent to Housing Guard and sent to housing location.

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4. Theo Lacy Facility - Distributed to the housing location
  5. James A. Musick Facility – Distributed to the housing location.
- (f) Once the DNA Request Forms are distributed, Deputies will retrieve a DNA packet that includes:
1. Buccal DNA Collection Kit Instruction Sheet
  2. Two disposable gloves
  3. Two disposable ink strips
  4. An Alcohol Prep Pad
  5. Buccal DNA Collector and Transport Pouch
  6. California Department of Justice Specimen Information Card
- (g) The Deputy will complete the Specimen Information Card using the DNA Request Form, print the inmate's name, have the inmate sign and take two right thumb prints.
- (h) The Buccal DNA Collector must be filled in completely including the inmate's first name, last name and SID number.
- (i) Once the sample has been collected, the Deputy will replace the lid and place the Buccal DNA Collector into the Transport Pouch and seal it. The Transport Pouch and the Specimen Information Card will be placed into the DNA packet (7.5 x 10.5 white envelope) and then sealed as well.
- (j) The DNA Request Forms will be returned to:
1. Central Men's Jail - Sent back to Records at IRC
  2. Central Women's Jail - Sent back to Records at IRC
  3. Intake/Release Center - Returned to Records Supervisor within IRC
  4. Theo Lacy Facility - Returned to Records within Theo Lacy Facility
  5. James A. Musick Facility - Sent back to Records at IRC
- (k) The completed DNA packet will be taken to:
1. Central Men's Jail – DNA Lock Box (located on IRC Booking Loop).
  2. Central Women's Jail - DNA Lock Box (located on IRC Booking Loop).
  3. Intake/Release Center - DNA Lock Box (located on IRC Booking Loop).
  4. Theo Lacy Facility-DNA Basket located in Records
  5. James A. Musick Facility - DNA Lock Box (located in Records area)
- (l) Each facility is responsible for transporting DNA packets to the Intake/Release Center.

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#### **1500.2 SERVICE OF "INMATE NOTICE OF PENAL CODE SECTION 296" AND ANY REFUSAL TO PROVIDE SAMPLE**

- (a) The Deputy will complete and serve the inmate with the "Inmate Notice of Penal Code Section 296" form which advises the inmate of their legal obligation to provide the required specimen. If the inmate does not speak the language with which the advisement is printed or the inmate is unable to read and understand the form, then the form will be verbally explained to the inmate in the language used by the inmate. If the inmate has a visual or hearing impairment, then the notice of the law's requirements will be provided in a manner understood by the inmate. The inmate will mark whether they consent or not and will sign the form. If the inmate consents, the sample will be obtained, and the form will be sent to Inmate Records for inclusion in the inmate's file.
- (b) If the inmate refuses to consent, the following procedures shall then be followed:
  - 1. Deputy Responsibilities:
    - i. When an inmate refuses to provide a sample, the Deputy will make every effort to resolve the situation verbally.
      - A. The inmate should be notified that the refusal is a violation of the law (CPC 298.1 – Refusal to Provide Specimens).
      - B. The inmate should be advised that they are being directed to provide the specimen, and any refusal will be addressed as a criminal violation of the law.
    - ii. If the refusal continues, the Deputy will notify the Sergeant assigned to the inmate's housing location of the refusal.
    - iii. The Deputy will write an Initial Crime Report. The charge will be listed as CPC 298.1 – Refusal to Provide Specimens. The report will document the refusal to provide a sample, any reason given by the inmate for the refusal, the efforts by staff, including the Sergeant, to obtain voluntary compliance, the inmate's apparent mental and physical state and, if approved by the Watch Commander, the reasonable force used to obtain the sample. The completed "Inmate Notice of Penal Code Section 296" will be uploaded and attached to the Initial Crime Report in FBR.
    - iv. Follow the instructions listed on the form.
  - 2. Sergeant Responsibilities:
    - i. A Sergeant will respond and speak directly with the inmate to verify the inmate is refusing to provide a sample.
      - A. A handheld video camera should be used to document the incident as well as the physical and mental state of the inmate.
    - ii. The Sergeant should attempt to convince the inmate to voluntarily provide the sample.
    - iii. If the inmate continues to refuse, the Sergeant will notify the Watch Commander.

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- iv. The Sergeant shall follow the instructions listed on the Inmate Notice of Penal Code Section 296 Form.
- 3. Watch Commander Responsibilities:
  - i. The Watch Commander shall follow the instructions listed on the Inmate Notice of Penal Code Section 296 form.
- (c) Any inmate required to provide a sample pursuant to Penal Code 296, and a sample collection has not been recorded with the Department of Justice, shall provide a sample prior to release on bail or pending trial, or any physical release/transfer out of the Sheriff's Department custody.
- (d) When all attempts to obtain voluntary compliance have failed and the inmate continues to refuse to provide a sample, reasonable force may be used under the following conditions as per CPC 298.1 - Collection and Forwarding of Samples, BSCC Title 15 Section 1059- DNA Collection, Use of Force and OCSD Policy Manual (Lexipol) - 374.3.4- Use of Force to Obtain Samples:
  - 1. Staff may employ reasonable force to collect blood specimens, saliva samples, or thumb or palm print impressions from individuals who are required to provide such samples, specimens or impressions pursuant to Penal Code Section 296 and who refuse following written or oral request.
  - 2. The use of reasonable force shall be preceded by efforts to secure voluntary compliance. Efforts to secure voluntary compliance shall be documented in the Initial Crime Report/Use of Force Report.
  - 3. The force shall not be used without the prior written authorization of the facility Watch Commander or designee on duty. The authorization shall include information that reflects the fact that the offender was asked to provide the requisite specimen, sample, or impression and refused.
  - 4. If the use of reasonable force includes a cell extraction, the extraction shall be videotaped, and comply with OCSD Policy Manual (Lexipol) Section 300 – Use of Force and CCOM Section 1804 - Emergency Response Team.
- (e) Court Order:
  - 1. If a judge submits an order of the court directed to the inmate and the inmate refuses the order, staff will notify a supervisor and video record the refusal. A Deputy will document the refusal to comply with the court order on an Initial Crime Report and include the Department/Division the Deputy is assisting.
  - 2. The Deputy will submit the video recording of the refusal to comply with the court order into evidence under the corresponding DR Number.
  - 3. If a judge submits an order of the court authorizing the Sheriff's Department to use force to obtain the sample, the Watch Commander will notify County Counsel immediately. If it is determined reasonable force may be used, all procedures and documentation listed under CCOM Section 1500.2 - Refusal to Provide a Sample shall be followed.

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4. If the court ordered sample is a blood specimen, the withdrawal of blood shall be performed in a medically approved manner by health care providers trained and certified to draw blood, as per Penal Code 298 (b)(2) and procedures will be followed in accordance with CCOM Section 1502 – Blood Extractions.