

San Diego County Sheriff's Department Detention Services Bureau – Manual of Policies and Procedures

DATE:	JUNE 3, 2014
NUMBER:	Q.81
SUBJECT:	INMATES REQUIRING DNA AND PALM PRINT COLLECTION PER 296 PC
RELATED SECTIONS:	1.89 , 1.95

PURPOSE

To establish policies and guidelines for the collection of DNA samples along with palm print impressions from persons convicted of specified offenses pursuant to California Penal Code Section 296.

POLICY

The on-duty watch commander and his/her designee is responsible for coordinating the collection of DNA samples and palm print impressions required for DNA testing, and for mailing or electronically transmitting the samples to the respective State of California offices.

PROCEDURE

I. IDENTIFICATION OF QUALIFYING OFFENDERS

The following inmates will provide a DNA sample and palm print impression.

- A. All inmates arrested on or after November 3, 2004, for a felony 290 PC offense, 187 PC Murder, 192(a) Voluntary Manslaughter charge, or an attempt to commit one of these crimes, are required to provide a DNA sample and palm print impression unless the DNA sample and palm print impressions are already in the possession of the California Department of Justice.
- B. When a Court Order or Minute Order comes to a facility which identifies an inmate as being convicted of a felony or a misdemeanor with a prior felony conviction, the detention processing technician reviewing the court document will enter a “Y” in the DNA required field indicating that the inmate requires DNA collection.
- C. All inmates arrested for ANY felony offense on or after January 1, 2009 (PC 296(a)(2)(C)). This expansion of the arrestee provision is not retroactive to arrests that occurred before January 1, 2009.

II. COLLECTION MANAGEMENT

- A. It is the expectation of the Detention Services Bureau that DNA collections pursuant to felony arrests are obtained during the classification screening process at the three intake facilities (LCDF, SDCJ, VDF). The Jail Population Management Unit (JPMU) and intake detention facility deputies shall make every attempt to complete the DNA collection processes prior to housing the inmates. Housing detention facility deputies (EMDF,

FAC8, GBDF, SBDF) shall continue to monitor the Jail Information Management System (JIMS) DNA Required Report and obtain collections from qualifying inmates assigned to their respective facilities.

- B. JPMU deputies will examine the CII rap sheet on each inmate booked at one of our detention facilities. When a deputy receives information from the California Department of Justice, via a rap sheet, that an inmate has already provided DNA samples and palm print impressions as required, the deputy will enter a "C" in the DNA required field. This will indicate that the inmate has completed submission of a DNA sample.
- C. Each shift, the watch commander or his/her designee will print the DNA Required Report which lists each inmate who has been identified as requiring to submit DNA samples as soon as possible, and specifically before the inmate returns to court for sentencing.

III. PRE-RELEASE PROCEDURE

- A. The detention processing technician assigned to the Pre-Release position will provide the watch commander or his/her designee with the name of any inmate who is scheduled to be released from custody, but must submit a DNA sample prior to being released pursuant to Penal Code Section 296.
- B. The on-duty watch commander or his/her designee will verify via JIMS history or the DNA Required Report on the JIMS web, that the inmate is required to submit to DNA testing but have not submitted samples as required.
- C. If the inmate is to be released from custody and their JIMS history does not indicate they have previously provided the DNA sample, thumb and palm prints pursuant to Penal Code Section 296, the watch commander will arrange for the samples to be taken prior to the inmate's release.
- D. Inmates transferring to a State Prison will have their DNA samples, thumb and palm prints taken prior to transfer.

IV. BUCCAL DNA COLLECTION KIT AND PALM PRINT PROCESSING

- A. Facility medical personnel will not be used to collect the Cal-DNA specimens and samples (prohibited by Title 15).
- B. The deputy will obtain the following information from the inmate's history and will record the information on the DOJ Specimen Information Card:
 - 1. Inmate's last name, first name, middle initial, and race code.
 - 2. Date of Birth, Sex, CII number, social security number.
 - 3. FBI number, qualifying violation (Code only), inmate's CDC, CYA or Agency Case number.

4. The collecting agency's name, date sample is collected, the printed name and signature of the person verifying that the inmate qualifies for collection of samples, pursuant to Penal Code section 296.
 5. Check the box of the qualifying offense (Felony, Misdemeanor, Sex Registration Other (Arrestee)), and the box signifying whether the inmate was an Adult or Juvenile.
 6. The reverse side of the DOJ Specimen Card requires the inmate's printed name and signature, collector's signature, collection location, and CII number. There is also a box asking how the inmate was identified; select the appropriate answer.
 7. The inmate's right thumb print is required on both sides of the specimen card.
- C. The deputy will notify the inmate that pursuant to Penal Code Section 296, he or she must submit to DNA testing. The deputy will advise the inmate if they refuse to submit to testing, they will be arrested and charged with Penal Code Section 298.1 (a misdemeanor).
 - D. The deputy will obtain a Buccal swab sample from the inmate. After obtaining the sample, the deputy will finish processing and packaging the Buccal DNA Collection Kit.
 - E. Once the security seal has been placed on the kit, it is ready for mailing and is considered "sealed" until the Cal-DNA lab opens it. The sealed Buccal DNA Collection Kit will be placed in a locked cabinet and removed by designated personnel at each facility.
 - F. The deputy will obtain the palm print and thumb print impressions from the inmate. The palm print impressions should be sent via Live-Scan whenever possible.
 - G. The deputy will notify JPMU that the samples have been collected and a JPMU deputy or designee will change the "Y" to a "C" indicating the samples have been collected.
 - H. The deputy will make a log entry in the inmate's history under event type "DNA." This will reflect DNA completed.

V. REFUSAL TO SUBMIT DNA SAMPLE

- A. If an inmate refuses to submit a DNA sample, the deputy will fill out Form J-75, '*Penal Code Section 298.1 Admonishment*' and have a supervisor sign the form.
- B. The deputy will serve a copy of the form to the inmate again seeking voluntary compliance. The deputy will read the Admonishment section to the inmate, obtain the inmate's signature that they are refusing to provide a DNA sample, sign the form, and obtain the supervisor's signature. If the inmate refuses to sign the form, two deputies may sign the form as witnesses to the inmate's refusal.
- C. The deputy will then immediately notify the watch commander of the inmate's continued refusal and have the watch commander sign the bottom of the form authorizing the use of force to obtain the DNA sample.

- D. Contact a contracted phlebotomist to come to the facility to collect the required DNA blood sample using an approved CAL-DNA Blood Collection Kit provided by the DNA Laboratory.
- E. Collect the sample using the reasonable force if necessary. Court orders are not necessary to perform the collection. Collection by force if necessary is authorized by statute.

Use of Reasonable Force

1. Reasonable force shall not be used without the prior written authorization of the watch commander. The authorization shall include information that reflects the fact that the offender was asked to provide the requisite specimen, sample, or impression and refused.
 2. The use of reasonable force shall be preceded by efforts to secure voluntary compliance with section 298.1 of the Penal Code.
 3. All DNA collections involving a cell extraction or use of force shall be videotaped.
 4. The watch commander or his/her designee will ensure the deputy writing the crime/arrest report places the DNA collection specimen in the approved DNA Blood Collection Kit for shipping. The deputy packaging the DNA sample will ensure to follow instructions provided in the kit and mail out via regular US Postal Service as soon as possible. If unable to send the kit immediately due to a long holiday weekend, the sealed kit should be kept in a specified specimen refrigerator and the designated administrative deputy will be notified to mail the completed kit as soon as possible.
- F. The deputy will prepare a crime/arrest report in Net/RMS (Records Management System) documenting the inmate's refusal to submit DNA and detailing any force used. The deputy will complete the report using the charge 298.1 P.C. Deputies shall also prepare the Use of Force Supplemental Report Form (SO-120). The watch commander will direct the deputy to rebook the inmate or submit the case to the District Attorney's Office. All reports will be completed by the end of the shift.
 - G. The deputy will notify JPMU that the samples have been collected and a JPMU deputy will change the "Y" to a "C" indicating the samples have been collected.

VI. LOGGING AND MAILING OF BUCCAL DNA AND PRINT IMPRESSIONS

The watch commander or his/her designee will ensure the Buccal DNA Collection Kit is properly packaged, labeled, and mailed. (The Buccal DNA Collection Kits do not need to be refrigerated.)

The Buccal DNA Collection Kit will be mailed to:
State of California
Department of Justice
DNA Data Bank Program
1001 W. Cutting Blvd. Suite 110
Richmond, CA 94804-2028

The DOJ PALM PRINT CARDS will be mailed to:
Department of Justice
Automated Latent Print Program
P.O. Box 168007
Sacramento, CA 95816-8007

VII. SUPPLIES

The Buccal and DNA Blood Collection Kits can be ordered by contacting DOJ by telephone at (510) 620-3300; or fax to (510) 231-8744; or via e-mail to PC296.PC296@doj.ca.gov.