

DATE:	FEBRUARY 16, 2022
NUMBER:	Q.81
SUBJECT:	INCARCERATED PERSONS REQUIRING DNA AND PALM PRINT COLLECTION PER 296 PC
RELATED SECTIONS:	1.95

PURPOSE

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

POLICY

The on-duty watch commander or their 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 incarcerated persons will provide a DNA sample and palm print impression.

1. All incarcerated persons 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.
2. When a Court Order or Minute Order comes to a facility which identifies an incarcerated person as being convicted of a felony or a misdemeanor with a prior felony conviction, the detention processing technician (DPT) reviewing the court document will enter a “Y” in the DNA required field indicating that the incarcerated person requires DNA collection.
3. All incarcerated persons 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. DNA collections pursuant to felony arrests shall be obtained during the classification screening process at the three intake facilities (Las Colinas Detention and Reentry Facility, San Diego Central Jail, Vista Detention Facility). The Jail Population Management Unit (JPMU) and intake detention facility deputies shall make every attempt to complete the DNA collection processes prior to housing. Housing detention facility deputies (East Mesa Detention Facility, Facility 8, George Bailey Detention

Facility, South Bay Detention Facility) shall continue to monitor the "DNA Required" report in the Jail Information Management System (JIMS) and obtain collections from qualifying incarcerated persons assigned to their respective facilities.

- B. JPMU deputies will examine the Criminal Investigation and Identification number (CII) rap sheet on each incarcerated person booked at one of our detention facilities. When a deputy receives information from the California Department of Justice, via a rap sheet, that an incarcerated person 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 incarcerated person has completed submission of a DNA sample.
- C. Each shift, the watch commander or their designee will print the "DNA Required" report which lists each incarcerated person who has been identified as requiring to submit DNA samples as soon as possible, and specifically before the incarcerated person returns to court for sentencing.

III. PRE-RELEASE PROCEDURE

- A. The DPT assigned to the Pre-Release position will provide the watch commander or their designee with the name of any incarcerated person scheduled to be released from custody who must submit a DNA sample prior to being released pursuant to Penal Code Section 296.
- B. The on-duty watch commander or their designee will verify via JIMS history or the "DNA Required" report that the incarcerated person is required to submit to DNA testing but have not submitted samples as required.
- C. If the incarcerated person 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 incarcerated person's release.
- D. Incarcerated persons 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 health staff 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 incarcerated person's history and will record the information on the "DOJ Specimen Information Card":
 - 1. Their last name, first name, middle initial, and race code.
 - 2. Date of Birth, Sex, CII number, social security number.

3. Federal Bureau of Investigation (FBI) number, qualifying violation (code only), their California Department of Corrections (CDC), California Division of Juvenile Justice (formerly the California Youth Authority) 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 incarcerated person 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 they are an adult or juvenile.
 6. The reverse side of the "DOJ Specimen Card" requires the incarcerated person's printed name and signature, collector's signature, collection location, and CII number. There is also a box asking how the incarcerated person was identified; select the appropriate answer.
 7. The incarcerated person's right thumb print is required on both sides of the specimen card.
- C. The deputy will notify the incarcerated person that pursuant to Penal Code section 296, they must submit to DNA testing. The deputy will advise them 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 incarcerated person. 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 incarcerated person. 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 incarcerated person's history under event type "DNA." This will reflect DNA completed.

V. REFUSAL TO SUBMIT DNA SAMPLE

- A. If an incarcerated person refuses to submit a DNA sample, the deputy will fill out a Penal Code Section 298.1 Admonishment (J-75) form and have a supervisor sign the form.
- B. The deputy will serve a copy of the form to the incarcerated person again seeking voluntary compliance. The deputy will read the Admonishment section to them, obtain their signature documenting that they are refusing to provide a DNA sample, sign the

- form, and obtain the supervisor's signature. If the incarcerated person refuses to sign the form, two deputies may sign the form as witnesses to the incarcerated person's refusal.
- C. The deputy will then immediately notify the watch commander of the incarcerated person'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.
 - F. 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 incarcerated person 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 their 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 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.
 - G. The deputy will prepare a crime/arrest report in NetRMS documenting the incarcerated person'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 incarcerated person or submit the case to the District Attorney's Office. All reports will be completed by the end of the shift.
 - H. 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 their designee will ensure the Buccal DNA Collection Kit is properly packaged, labeled, and mailed. (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

Safety/Security Interests - 7922.000

The DOJ PALM PRINT CARDS will be mailed to:
Department of Justice

Safety/Security Interests - 7922.000

VII. SUPPLIES

The Buccal and DNA Blood Collection Kits can be ordered by contacting DOJ by telephone at **Phone number - 7922.000**; or fax to **Phone number - 7922.000**; or via e-mail to **Email Address - 7922.000**