
DNA Collection Procedures

906.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the collection, packaging, and shipment of Deoxyribonucleic acid (DNA) samples from those individuals required to provide such samples under the DNA Fingerprint, Unsolved Crime and Innocence Protection Act, and the State of California DNA Data Bank Program (Penal Code §295, et seq.).

906.2 PERSONS SUBJECT TO DNA COLLECTION

See the Biological Samples policy for complete information.

906.3 PROCEDURE

Qualified adult arrestees booked at the department's Temporary Holding Facility will submit to DNA collection as part of the booking process immediately following arrest, or as soon as practicable after arrest (Penal Code §296.1(a)(1)(A)).

- (a) Prior to collecting a DNA sample and obtaining palm prints, the arresting officer shall contact dispatch to determine if collection is necessary. Dispatch, at the officer's request, will check the Orange County District Attorney database SciLas to determine if the arrestee has submitted a DNA sample. Verification of DNA samples on file may also be determined by a DNA collection "flag" on the individual's criminal history record or, during regular business hours, by calling the Department of Justice.
- (b) Custody personnel are generally responsible for the DNA collection. If a custody officer is not available, the responsibility for DNA collection is transferred to the arresting/transporting officer. The collection process is outlined below:
 1. Prepare the Department's DNA Collection Report Form. The completed form will remain with the master report in the Records.
 2. Collect the DNA sample following the procedure illustrated on the California DOJ DNA Collection kit. Place the sealed envelope containing the sample into the property locker for processing by the Crime Scene Investigation Unit.
 3. Full palm print impressions shall be obtained on Department of Justice prescribed forms and forwarded to the Crime Scene Investigation Unit for processing (Penal Code §298(b) (4)).

906.4 BUCCAL SWABS

Buccal swab samples (taken from the inside of the mouth) may only be procured by employees who have successfully completed department approved training in the collection of buccal swabs. Only buccal swab collectors authorized by the Department of Justice shall be used (Penal Code §298(a) and (b) (3)). A right thumbprint shall be placed on both sides of the collector card along with other required identifying information. (Note: If an individual violently resists or presents other officer safety issues, employees may omit buccal swab samples upon approval of a supervisor.)

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Collection Kit Inventory: The department maintains a limited supply of DOJ DNA Collection kits. Spare kits are stored in CSI. It is the responsibility of the Crime Scene Investigation Unit to acquire additional kits as needed. Since they are in short supply, field personnel are discouraged from taking these kits for personal storage.

906.5 BLOOD SAMPLES

The withdrawal of blood may only be performed in a medically approved manner by health care providers trained and qualified to draw blood. Blood samples obtained for submission to the Department of Justice DNA lab shall be placed in Department of Justice blood vials (Penal Code §298(a) and (b) (2)). A right thumbprint shall be placed on the sample vial along with other required identifying information.

906.6 REFUSAL TO SUBMIT TO THE DNA SAMPLE COLLECTION PROCESS

In the event an arrestee refuses to submit to the collection process, booking personnel will advise him/her that such a refusal is a misdemeanor (Penal Code §298.1(a)). If the arrestee still refuses to provide a sample, the booking officer shall notify the watch commander or a field supervisor, who will then admonish the arrestee that a refusal shall result in the filing of an additional misdemeanor charge. This admonishment should be audio recorded for prosecution purposes.

If the arrestee still refuses to submit to the sample collection process, no further attempt will be made to collect the sample. Department personnel shall not use force to obtain a DNA sample from any resisting arrestee.

906.7 ORANGE COUNTY JAIL IRC BOOKING PROTOCOL

Arresting officers and custody personnel will need to complete a section on the OCJ Booking Form designated for DNA Collection documentation on all applicable bookings (see below).

- (a) The DNA COLLECTED BY OFFICER box will be checked if DNA was collected and the person completing the collection will enter their name on the line.
- (b) The PREVIOUSLY COLLECTED box will be checked if DNA was not collected because it was previously collected as verified by a SCILAS or DOJ database query.
- (c) The NOT COLLECTED box will be checked if DNA was not collected on an applicable booking where DNA was not previously collected. The officer will be required to enter an explanation on the line below anytime this box is checked on an applicable booking. If the reason for not collecting DNA is that the arrestee refused to provide a sample then the arresting agency will need to add CPC §298.1 (a) – Refusing to Provide Sample or Specimen as an additional booking charge and note the details in the Probable Cause Declaration.

During the booking process at the Orange County Jail Intake and Release Center, the arresting or transporting officers will submit the booking form to the Receiving Guard Station Deputy. The deputy will review the form. The IRC will accept any DNA Collection applicable booking if the arresting officer checks the DNA COLLECTED BY OFFICER or the PREVIOUSLY COLLECTED boxes.

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When the NOT COLLECTED box is checked on an applicable booking the IRC deputy will review the reason for the failure to collect. The IRC policy will be dictated by the reason for failing to collect, which would include, but not be limited to:

- (a) Arrestee is too combative to collect: The Receiving Deputy will delay the booking and notify the Operations Sergeant who will respond and assess the situation. The Operations Sergeant could decide to accept the booking or direct the arresting/transporting officer to collect DNA if the arrestee appears to be cooperative enough. The IRC will have DNA Sample Collection Kits available.
- (b) Arrestee refuses to provide sample and the agency chooses not to forcibly obtain a sample: The Receiving Deputy will ensure that CPC §298.1 (a) – Refusing to Provide Sample or Specimen has been added as an additional booking charge and if so, accept the booking. If the additional charge has not been added and the arresting or transporting officer does not add the charge, the Receiving Deputy will delay the booking and notify the Operations Sergeant who will respond, advise the officer of the policy, and refuse the booking if the charges are not added.
- (c) Any other reason: The Receiving Deputy will delay the booking and notify the Operations Sergeant who will respond and assess the situation. The Operations Sergeant will accept or reject the booking based on the circumstances.

906.8 PROCESSING DNA SAMPLES

The Crime Scene Investigation Unit shall manage the processing of DNA samples and the entry of data into the local database system SciLas. CSI shall ensure that all DNA samples and related materials are promptly mailed to the State DNA Lab as instructed on each collection pouch (Penal Code §298(a) and (b) (1)).

906.9 NOTICE OF REJECTED SAMPLE

In the event the Department of Justice notifies the Department that a DNA sample or print impression is not usable, the individual whose original sample or impression was provided is required to submit to collection of additional samples. The department shall thereafter take all reasonable steps to collect additional samples from any such individual and promptly transmit these to the Department of Justice (Penal Code §296.2(a)).

906.10 FOLLOW-UP NOTICE TO DOJ

Within two years of submitting any DNA specimen, sample or impression to the Department of Justice, this department shall notify DOJ whether the individual remains a suspect in a criminal investigation (Penal Code §297(b)(2)). It shall be the responsibility of the Department of Justice to thereafter purge samples of any individual(s) who are no longer a suspect in any criminal investigation from the DNA database.

906.11 RELATED STATUTES

It is a felony for any qualifying individual to knowingly facilitate the collection of a wrongfully attributed DNA sample or identification information, or to knowingly tamper with any DNA sample

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or collection container with the intent to deceive the government as to his or her identity (Penal Code §298.2). It is unlawful for any person to knowingly misuse or disclose to an unauthorized entity a DNA sample collected or profile obtained for DNA database purposes (Penal Code §299.5(i)(1)(A)).