

DNA COLLECTION OF CUSTODIAL YOUTH

- AUTHORITY:** Administrative Directive
California Code of Regulations, Title 15, Section 1363
California Penal Code Section 298.1
- RESCINDS:** Procedure Manual Item 3-1-047, dated 06/01/18
- FORMS:** Special Incident Report (F057-7018)
Use of Force Report (F057-10034)
- PURPOSE:** To establish a uniform process for collecting DNA samples from youth in custody where a youth refuses to comply and use of reasonable force may be required. For the purposes of this Procedure the acronym DJCO will apply to DJCOs and Senior JCOs.

I. GENERAL INFORMATION

Section 298.1 of the California Penal Code authorizes law enforcement, custodial or corrections personnel including peace officers to employ reasonable force to collect blood specimens, saliva samples, and 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 oral or written request to comply.

- A. For purposes of this procedure, the “use of reasonable force” shall be defined as the force that an objective, trained and competent correctional employee, faced with similar facts and circumstances, would consider necessary and reasonable to gain compliance with this provisions of 296 PC. Authorized Use of Force options available to deputized department staff are outlined in PMI **3-6-001**.

- B. Prior to contemplating the use of reasonable force to obtain such samples, a **Deputy Juvenile Correctional Officer (DJCO)** shall give the youth the following warning verbally or in writing as deemed reasonable for the situation in the language most often used by the youth:

“Refusal to provide DNA samples and palm prints is a violation of Penal Code Section 298.1(a). Failure to comply will be considered a misdemeanor offense and is punishable by up to one year in custody and a \$500.00 fine.”

- C. **If the use of reasonable force includes a cell extraction, the extraction shall be videotaped. Video shall be directed at the cell extraction event. The videotape shall be retained by the agency for the length of time required by statute.**

II. PROCEDURE

- A. Before proceeding, staff should verify the existence of a valid court order for the submission of a DNA sample from the youth in question.

- B. In cases where a youth continues to refuse to provide a DNA sample after being advised of the legal requirement, guidance from the court via the Court Officer should be sought before proceeding. A youth may have to be sent back to court for a formal admonishment by the judge before proceeding further.
- C. If it appears that use of reasonable force will be required to obtain a DNA sample, staff shall notify a Supervising Juvenile Correctional Officer (SJCO), Duty Officer (DO) or administrator before proceeding. Written consent to proceed shall be obtained from the responding supervisor/administrator. Such consent shall include the fact that the youth was asked to provide a requisite DNA sample and refused.
- D. Prior to the use of reasonable force to obtain a DNA sample, efforts shall be made to seek voluntary compliance from the youth. Those efforts shall be documented in a Special Incident Report (SIR) and include the method used to give the advisement in I.B. above.
- E. Only staff who have received training in DNA collection may collect such samples. Correctional staff shall never attempt a blood draw. Staff shall observe all blood borne pathogen universal precautions as outlined in PMI 1-3-308 before attempting to collect a DNA sample.
- F. If reasonable force is used on a youth to obtain a DNA sample, the Medical Unit shall be notified immediately **for a medical assessment. If reasonable force is used.** The Clinical Evaluation and Guidance Unit (CEGU) shall also be notified, **and the youth will be seen by a clinician if deemed necessary.**
- G. If it becomes necessary to use reasonable force to collect a DNA sample from a youth who refuses to comply and [REDACTED], the event shall be videotaped. **The video footage shall be retained for one (1) year, and then destroyed, unless it is evidence in any claim filed or any pending litigation.**
- H. Within 10 days of the use of reasonable force to obtain a DNA sample, the facility Division Director shall send a written report to the Board of State and Community Corrections, documenting such refusal to voluntarily submit the requisite specimen, sample or impression; the type of force used; the efforts undertaken to obtain voluntary compliance and whether medical attention was needed by the youth or other person as a result of reasonable force being used.
- I. **Sealing of Juvenile Records Pursuant to Welfare and Institutions Code (WIC) 786 Pursuant to PC 299, when a youth's record is ordered sealed and there was DNA collected in regard to the matter that was sealed, it is the responsibility of the youth to petition DOJ to have their DNA sample destroyed and searchable database profile expunged from the data bank program.**

REFERENCES:

Procedures:	1-3-308	Bloodborne Pathogens: Preventative Measures and Exposure Guidelines
	2-3-010	DNA and Live Scan Sample Collection
	3-6-001	Use of Force – Facilities

3-15-001	Special Incident Reports/Routing SIR and DHO Paperwork
3-6-004	Room Extraction and Property Removals
3-10-002	Prevention and Control of Inappropriate Behavior
C-16	Employee Conduct-On Duty
D-2	Use of Physical Restraint/Corporal Punishment
D-4	Handcuffs

Policies:

C. Raahauge

APPROVED BY: