

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 **3-6-006**, dated **08/18/23**
- FORMS:** Special Incident Report **Automated ICMS**
Use of Force Report **Automated ICMS**
- 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 DPCO will apply to DPCOs and Senior **DPCOs**.

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 **the** 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, **efforts must be made to secure voluntary compliance, these efforts must be documented. If a youth refuses to voluntarily comply**, a Deputy Probation Correctional Officer (DPCO) shall give the youth the following **advisement** 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/**thumb** 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 **video recorded**. Video shall be directed at the cell extraction event. The **video recording** shall be retained by the agency for the length of time required by statute and **placed in the shared video file folder**.

II. PROCEDURE

- A. Before proceeding, staff should verify the existence of a valid court order for the submission of a DNA sample/**impressions** 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. **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 in the Integrated Case Management System (ICMS) and include the method used to give the advisement in section I.B. above.**
- D. If it appears that use of reasonable force will be required to obtain a DNA sample, staff shall notify a Supervising **Probation** Correctional Officer (SPCO), Duty Officer (DO) or administrator before proceeding. Written **authorization** to proceed shall be obtained from the responding supervisor/administrator. **The written authorization shall include information that includes the youth was asked to provide the sample and/or palm/thumb print and that the youth refused.**
- 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/**impression**, the Medical Unit shall be notified immediately for a medical assessment. 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 a room extraction is required, the event shall be **video recorded**. 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 **and** 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
3-6-004	Room Extraction, Use of Protective Shield, and Property Removals
3-10-003	Deterrence of Unacceptable Behavior
3-15-001	Special Incident Reports/Routing SIR and DHO Paperwork

Policies:

C-16	Employee Conduct-On Duty
D-2	Use of Physical Restraint/Corporal Punishment
D-4	Handcuffs

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APPROVED BY: