
Biological Samples

317.1 PURPOSE AND SCOPE

This policy provides guidelines for the collection of biological samples from those individuals required by California law to provide a biological sample to the Humboldt County Probation Department (HCPD) as a result of a qualifying conviction or adjudication.

This policy does not apply to biological samples in conjunction with a criminal investigation, nor does it apply to biological samples collected from those required to register, for example, as sex offenders or arson offenders. Biological samples collected for purposes of drug and/or alcohol testing (e.g., urine, blood) are addressed in the Drug and Alcohol Testing Policy.

317.2 POLICY

The HCPD will assist in the collection of required biological samples from probationers and individuals subject to post-release community supervision or mandatory supervision in accordance with the laws of this state, including out-of-state transfer cases.

317.3 INDIVIDUALS SUBJECT TO BIOLOGICAL SAMPLE COLLECTION

The following individuals who are on probation or under supervision for any felony or misdemeanor offense are required by California law to submit a biological sample to a probation officer of the HCPD if the individual has a prior felony conviction or adjudication, including a conviction or adjudication for an equivalent out-of-state offense (Penal Code § 296.1):

- (a) Probationers
- (b) Individuals subject to post-release supervision
- (c) Individuals subject to mandatory supervision pursuant to Penal Code § 1170(h)(5)

In addition, individuals who are accepted for supervision by this department from another jurisdiction and who are not confined are required to submit a biological sample if the individual has a prior felony conviction or adjudication, including a conviction or adjudication for an equivalent out-of-state offense (Penal Code § 296.1(a)(5)).

317.4 PROCEDURE

When an individual is required to provide a biological sample to a probation officer, subsequent to conviction, a probation officer of the HCPD should:

- (a) Verify the individual is required to provide a sample pursuant to California law.
 - 1. Verification includes querying the individual's criminal history record for a DNA collection flag or, during regular business hours, contacting the California Department of Justice (DOJ) designated laboratory to determine whether a biological sample has previously been collected from the individual. There is no need to obtain a sample if one has been previously obtained.
- (b) Notify the individual of the time and location to appear to submit a sample.

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1. The date to appear shall be, when practicable, within five days of notification to the individual of the requirement to submit a sample (Penal Code § 296.1).
 2. Collections from an individual accepted for supervision from another jurisdiction shall occur at a county jail facility located in the county where the person resides (Penal Code § 296.1).
 3. All other collections may occur at a county jail facility or at any other city, state, local, or private facility designated by the California DOJ for the collection of a sample (Penal Code § 296.1).
- (c) Provide or use the collection kit designated by the California DOJ for the collection of the sample.
 - (d) Provide for a witness to be present at the collection of the sample.
 - (e) Document in the individual's file that the sample was taken.
 - (f) Forward the sample to the California DOJ as soon as practicable.

317.5 USE OF FORCE TO OBTAIN SAMPLES

If a probationer refuses to cooperate with the sample collection process, members should attempt to identify the reason for refusal and seek voluntary compliance without resorting to the use of force. Force will not be used in the collection of samples except as authorized by court order.

Methods to consider when seeking voluntary compliance include:

- (a) Communicating the possible consequences of a refusal.
- (b) Contacting the District Attorney to seek additional charges against the individual for failure to comply pursuant to Penal Code § 298.1 or bring the refusal before the appropriate court.
- (c) Notifying the court at the probationer's next court appearance, if any.
- (d) Contacting the probationer's attorney, if known.
- (e) Filing a violation report pursuant to the Violations Policy.

A supervisor shall review and approve any plan to use additional actions to compel a sample. Both the supervising officer and the supervisor should document the probationer's refusal to submit a sample and the steps taken in any attempt to obtain voluntary compliance.

317.5.1 USE OF FORCE DOCUMENTATION

A supervisor shall prepare prior written authorization for the use of any force (Penal Code § 298.1). The written authorization shall include information that the individual was asked to provide the requisite specimen, sample, or impression and refused, as well as the related court order authorizing the force.

317.5.2 VIDEO RECORDING

A video recording should be made any time force is used to obtain a biological sample. The recording should document all persons participating in the process, in addition to the methods

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and all force used during the collection. The recording should be part of the probationer's file or otherwise retained in accordance with the established records retention schedule.

317.6 BLOOD SAMPLES

A blood sample should only be obtained under this policy when (Penal Code § 295; Penal Code § 298):

- (a) The California DOJ requests a blood sample and the subject consents.
- (b) A court orders a blood sample following a refusal.

The withdrawal of blood may only be performed in a medically approved manner by health care providers trained and qualified to draw blood. A California DOJ collection kit shall be used for this purpose (Penal Code § 298).