

Biological Samples

329.1 PURPOSE AND SCOPE

329.2 DEFINITIONS

Definitions related to this Policy include (CRS § 18-1-1101):

Disposed of - Means evidence is destroyed, thrown away or returned to the owner or his/her designee.

DNA - Means deoxyribonucleic acid.

DNA evidence - Means all evidence collected in a criminal investigation, which evidence may be reasonably believed to contain DNA that is relevant to a disputed issue in the investigation and prosecution of the case.

DNA profile - Means an identifier obtained as a result of a specific DNA analysis.

329.3 POLICY

The Colorado State University Police Department will assist in the expeditious collection of required biological samples from arrestees and offenders in accordance with the laws of this state and with as little reliance on force as practicable.

329.4 PERSONS SUBJECT TO DNA COLLECTION

While the courts may order DNA samples taken in a variety of circumstances, employees are only authorized to obtain DNA samples with appropriate legal authority (e.g. consent, a court order issued pursuant to the Colorado Rules of Criminal Procedure, Rules 16 and 41.1, or a search warrant). Only those qualifying individuals whose DNA information is not currently on file with the state of Colorado Bureau of Investigation may be required to provide samples. Verification of DNA samples on file may be determined by a DNA collection flag on the individual's criminal history record or, during regular business hours, by calling the Colorado Bureau of Investigation. All DNA collection flags should be verified by contacting the Colorado Bureau of Investigation prior to the collection of the sample (CRS § 16-23-103(4)). A second DNA sample may be ordered by the court to be collected from an individual in a criminal investigation if forensic DNA evidence is necessary.

329.5 PROCEDURE

Upon a determination that any individual is qualified and required to provide DNA samples under Colorado law, the designated trained employee or upon booking at the Larimer County Detention Center, a Deputy of the Larimer County Sheriff's Department will obtain or cause to be obtained DNA samples in accordance with the appropriate agency's Policy and proper protocol.

329.5.1 COLLECTION

The following steps should be taken to collect a sample:

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- (a) Verify that the individual is required to provide a sample pursuant to CRS § 16-23-103 or CRS § 16-11-102.4.
- (b) Verify that a biological sample has not been previously collected from the offender by querying the person's criminal history. There is no need to obtain a biological sample if one has been previously obtained.
- (c) Use the designated collection kit provided by the Colorado Bureau of Investigation (CBI) to perform the collection and take steps to avoid cross contamination.

BLOOD SAMPLES

A blood sample shall be drawn in a medically acceptable manner by a licensed professional nurse, a licensed practical nurse, a paramedic, a qualified medical technician, a licensed physician or other person licensed by the state for this purpose.

BUCCAL SWABS

Buccal swab samples (taken from the inside of the mouth) may only be procured by employees who have successfully completed approved training in the collection of buccal swabs and with the use of approved buccal swab collectors. A thumbprint shall be placed on the collector along with other required identifying information, such as the DNA Buccal Swab Database Card.

FULL PALM PRINTS AND PHOTOGRAPHS

If the offender has not been fingerprinted and photographed, full palm print impressions shall be obtained on the prescribed forms and the offender shall be photographed. Both the fingerprints and the photographs shall be forwarded to the Colorado Bureau of Investigation (see generally CRS § 16-21-104).

329.6 USE OF FORCE TO OBTAIN SAMPLES

If a person refuses to cooperate with the sample collection process, officers should attempt to identify the reason for refusal and seek voluntary compliance without resorting to using force. Force will not be used in the collection of samples except as authorized by court order and only with the approval of a supervisor. Methods to consider when seeking voluntary compliance include contacting:

- (a) The person's parole or probation officer when applicable.
- (b) The prosecuting attorney to seek additional charges against the person for failure to comply or to otherwise bring the refusal before a judge.
- (c) The judge at the person's next court appearance.
- (d) The person's attorney.
- (e) A chaplain.
- (f) Another custody facility with additional resources, where an arrestee can be transferred to better facilitate sample collection.

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- (g) A supervisor who may be able to authorize custodial disciplinary actions to compel compliance, if available.

The supervisor shall review and approve any plan to use force and be present to document the process.

329.6.1 VIDEO RECORDING

A video recording should be made any time force is used to obtain a biological sample. The recording should document all staff participating in the process, in addition to the methods and all force used during the collection. The recording should be part of the investigation file, if any, or otherwise retained in accordance with the department's records retention schedule.

329.7 LITIGATION

The Chief of Police or the authorized designee shall immediately notify the Colorado Bureau of Investigation's DNA Legal Unit in the event this Agency is named in a lawsuit involving the DNA Data Bank sample collection, sample use or any aspect of the state's DNA Data Bank Program.