



**SAN MATEO COUNTY
PROBATION DEPARTMENT
INSTITUTIONS SERVICES MANUAL**

**ARTICLE 5
Classification and Separation
§1363**

**Procedure
Biological Samples**

PROCEDURE

When a youth is required to provide a biological sample, a trained staff member shall attempt to obtain the sample in accordance with this policy.

COLLECTION

The following steps should be taken to collect a sample:

1. Verify that the youth is required to provide a sample pursuant to Penal Code § 296.1.
2. Verification includes querying the youth'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 been previously collected from the youth. There is no need to obtain a biological sample if one has been previously obtained.
 - a. Arrange for a witness to be present during the collection of the sample.
 - b. Use the collection kit designated by the California DOJ to perform the collection and take steps to avoid cross-contamination.
 - c. Collection should occur at intake, during the reception process, or as soon as administratively practicable (Penal Code § 296.1).
 - d. Collection should occur away from other youth present.
 - e. Document in the youth's file that the sample was taken.
 - f. Forward the sample to the California DOJ as soon as practicable.

PERSONS SUBJECT TO BIOLOGICAL SAMPLE COLLECTION

Youth who are in the custody of the San Mateo County Probation Department - Juvenile Facilities and who have a previous adjudication for a felony offense, including an adjudication for an equivalent out of state offense, must submit a biological sample (Penal Code 296.1).

PROCEDURE

When a youth is required to provide a biological sample, a trained staff member shall attempt to

obtain the sample in accordance with this policy.

COLLECTION

The following steps should be taken to collect a sample:

1. Verify that the youth is required to provide a sample pursuant to Penal Code § 296.1.
2. Verification includes querying the youth'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 been previously collected from the youth. There is no need to obtain a biological sample if one has been previously obtained.
 - a. Arrange for a witness to be present during the collection of the sample.
 - b. Use the collection kit designated by the California DOJ to perform the collection and take steps to avoid cross-contamination.
 - c. Collection should occur at intake, during the reception process, or as soon as administratively practicable (Penal Code § 296.1).
 - d. Collection should occur away from other youth present.
 - e. Document in the youth's file that the sample was taken.
 - f. Forward the sample to the California DOJ as soon as practicable.

USE OF FORCE TO OBTAIN SAMPLES

If a youth refuses to cooperate with the sample collection process, Group supervisors 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.

Methods to consider when seeking voluntary compliance include contacting (15 CCR 1363):

- a. The youth's parole or probation officer when applicable.
- b. The prosecuting attorney to seek additional charges against the youth for failure to comply or to otherwise bring the refusal before a judge (Penal Code § 298.1).
- c. The judge at the youth's next court appearance.
- d. The youth's attorney, parent/guardian, or custodian.
- e. A chaplain.
- f. A supervisor who may be able to authorize disciplinary actions to compel compliance, if any such actions are available.

The On-Duty Officer of the Day shall review and approve any use of force. The supervisor shall be present to supervise and document the use of force. Any refusal to submit a sample and the steps taken in an attempt to obtain voluntary compliance should be documented in the youth's file. Probation staff shall use reasonable force to obtain compliance with laws regarding the collection of DNA specimens, samples, and impressions.

BIOLOGICAL SAMPLES PROCEDURES

Admissions staff shall collect or cause to be collected by Health Department staff all DNA specimens, samples, and impressions, including blood specimens, buccal swab samples, and

thumb and palm print impressions in accordance with Penal Code Section 298 and/or as directed by the Court.

In the event that the youth refuses to submit to collection of specimens, samples, or impressions, Admissions staff shall notify the On-Duty Officer of the Day (OD). Staff shall undertake all measures to cause the youth to voluntarily comply with the collection, including written notification of the legal requirements and the consequences for not complying. If the youth continues to refuse, the OD shall notify the youth's Probation Officer and the facility Superintendent. The Probation Officer shall prepare written documentation pursuant to Penal Code Section 298.1 of the youth's failure to comply with the collection and of the efforts made to achieve voluntary compliance. The Probation Officer shall prepare any appropriate documentation to the Court and to the District Attorney if the youth is to be charged under Penal Code Section 298.1. Admissions staff and the OD shall document the incident in an Incident Report.

Once necessary documentation has been prepared, and should the use of force be indicated, staff shall employ the use of reasonable force to obtain compliance. This use of force shall be witnessed by an Institutions Services Manager (ISM). All staff involved shall document the incident in an Incident Report.

In the event that a room removal is indicated in order to obtain compliance with Penal Code Section 298, staff shall remove the youth according to the Youth Room Removal Plan. The ISM will videotape the room removal with a Department-issued cell phone and send the video to the facility Superintendent.

The facility Superintendent shall prepare a report to the Board of State and Community Corrections in the event of any use of force necessary to obtain compliance with Penal Code Section 298. The report shall include: the type of force used, the efforts to obtain voluntary compliance, and whether medical attention was needed by the youth or other persons as a result of the reasonable use of force.

VIDEO RECORDING

A video recording shall be made any time force is used to obtain a biological sample (15 CCR 1363). Utilizing the On-Duty Officer of the Day department issued work cell. The recording shall be directed at the cell extraction event and 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 youth's file, if any, and shall be retained by the Department for the length of time required by statute. Notwithstanding the use of the video as evidence in a court proceeding, the recording shall be retained administratively in accordance with the Department's established records retention schedule.

DOCUMENTATION RELATED TO FORCE

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

Efforts to secure voluntary compliance shall be documented and shall include an advisement of the legal obligation to provide the biological sample, and the consequences of refusal (15 CCR 1363).

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).