

Biological Samples

336.1 PURPOSE AND SCOPE

This policy provides guidelines for the collection of biological samples from those individuals required to provide samples upon conviction or arrest for certain offenses. This policy does not apply to biological samples collected at a crime scene or taken from a person in conjunction with a criminal investigation. Nor does it apply to biological samples taken from those required to register, for example, sex offenders.

336.2 POLICY

The Santa Ana Police Department will assist in the expeditious collection of required biological samples from offenders in accordance with the state law and with using as little force as necessary.

336.3 PERSONS SUBJECT TO DNA COLLECTION

Persons and/or juveniles who must submit to a biological sample include the following (Penal Code § 296):

- (a) Upon conviction or other adjudication of any felony offense.
- (b) Upon conviction or other adjudication of any offense if the person has a prior felony on record.
- (c) Adults arrested or charged with any felony.

336.4 PROCEDURE

When a person is required to provide a biological sample, a trained employee shall obtain the sample in accordance with this policy.

336.4.1 COLLECTION

The following steps should be taken to collect a sample:

- (a) Verify the individual is required to provide a sample pursuant to Penal Code § 296; Penal Code § 296.1.
- (b) Verify that a biological sample has not been previously collected from the offender by querying SciLas and/or the individual's criminal history record for a DNA collection flag.
- (c) Use a DNA buccal swab collection kit provided by the California DOJ to perform the collection and take steps to avoid cross contamination.

336.5 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. If the person continues to refuse, he / she shall be charged with Penal Code § 296.1 and transferred

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to the custody of the Orange County Jail. The Santa Ana Jail will not use force for DNA collection purposes.

336.6 LEGAL MANDATES AND RELEVANT LAWS

California law provides for the following:

336.6.1 BLOOD SAMPLES

A blood sample should only be obtained when:

- (a) The California DOJ requests a blood sample and the subject consents, or
- (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(a); Penal Code § 298(b)(2)).

336.6.2 LITIGATION

The Chief of Police or authorized designee should notify the California DOJ's DNA Legal Unit in the event this department 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.