


HOWARD COUNTY DEPARTMENT OF CORRECTIONS
POLICY & PROCEDURE

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|  | SUBJECT: | Administration |
| | P & P #: | A-036 |
| | TITLE: | Collection of DNA – Convicted and Sentenced Inmates |
| | EFFECTIVE DATE: | November 23, 2019 |
| | REVIEWED BY: | <i>Elhart G. Flurry</i> Elhart Flurry, Security Chief |
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| | AUTHORITY: | <i>Jack Kavanagh</i> Jack Kavanagh, Director |

POLICY: It is the policy of the Howard County Department of Corrections to comply with Maryland State Law (DNA Database System) which dictates that all inmates convicted of a qualifying crime and sentenced to the Howard County Department of Corrections. Inmates with qualifying offenses sentenced to the Commissioner of Corrections shall have their sample collected while in DOC custody. After collection, the samples are promptly forwarded to the Maryland State DNA Database. All inmates whose convictions require that a DNA sample be taken shall be verbally informed of the law and in writing.

REFERENCES: Criminal Procedures Article Section §6-232, and §801; Public Safety Article §2-501, §2-504, §2-506, §2-511, §2-512, §2-514 and HCDC Policy K-112 Collection of DNA.

DEFINITIONS:

Qualifying Offenses for this policy, include conviction of the following as defined in the Public Safety Article Section §2-501.

PROCEDURES:

I. Inmate Notification of DNA Requirement

- A. In accordance with the DNA law, all individuals convicted and sentenced to HCDC for a qualifying crime, must provide a DNA sample.
- B. The Commitment Officer (CCO) shall inform the inmate verbally of the requirement and shall provide the arrestee with written documentation explaining the law.
- C. The DNA sample shall be taken upon the CCO receiving a sentenced inmate that has a qualifying offense, (Sentencing Guidelines Offense Table Manual is maintained in the Commitment Office) and, is sentenced to the Howard County Detention Center for the qualifying offense.

II. DNA Collection on File with the Maryland State Police (MSP)

If the DNA Live Scan Database System is down a manual check shall be made to see if the offense is DNA qualifying. The current website is: <https://codna.mdsp.org> click on the “Check if Collected” module.

1. If the inmate already has a Convicted Offender sample on-file, they **DO NOT** need to provide a sex offender registry sample.
2. If the inmate already has an Arrestee sample on-file, they still **MUST** provide a sex offender DNA registry sample.

III. Preparation

A. To ensure that the process is controlled and uncontaminated, DNA collection is to be performed by one officer who is trained and certified in DNA collection. Other officers shall be available to observe; however, the collecting officer is singularly responsible for handling the DNA Database Sample Collection kit and the process involved.

B. DNA Database Sample Collection Kit

1. The officer collecting the DNA sample shall obtain a DNA Database Sample Collection Kit.
 - a. The kits shall be maintained in the Commitment office. Each kit is numbered to assist in monitoring inventory.
 - b. The officer shall obtain a kit, the DNA Sample Collection Worksheet is to be completed from the SallyPort Forms Search. If the SallyPort system is in operable the form shall be located in the shared forms folder (HCDC Form A-036a), attached as Appendix 1.
 - c. An inventory log is maintained in the same location in the DNA Collection Binder. The CBO shall record on the inventory, the kit number, arrestee’s name, qualifying charge, status of the collection, and any comments (such as kit damaged, etc.)
 - d. The kit number also shall be recorded on the Worksheet.
2. The officer shall ensure the kit’s tamper resistant seal is intact. If the tamper resistant seal is not intact the kit shall not be used and shall be given to the Administrative Captain and returned to the Maryland State Police Forensics Science Division for destruction. After the kit is opened, the collecting officer shall ensure that the following components are present:
 - a. One FTA Sample Card (*DNA application area is not to be touched with bare hands as it could result in extraneous DNA placed on the card.*)
 - b. One Sterile Foam-Tipped Applicator (Swab);
 - c. One small ultra barrier storage pouch;
 - d. One large ultra barrier storage pouch;
 - e. Two desiccants;
 - f. One ink strip;

- g. One alcohol wipe;
- h. One pair of gloves;
- i. One DNA Database Information Card;
- j. One set of four DNA Database barcode stickers;
- k. One tamper resistant shipping seal sticker; and
- l. One mailing envelope.

If any of the above components are not available in the kit, the kit should not be used; it shall be given to the Administrative Captain for return to the Maryland State Police Forensics Science Division for destruction.

- C. The collecting officer shall confirm the identity of the arrestee, and shall provide the arrestee with their Notification of Rights card enclosed in the DNA Database Sample Collection Kit.
- D. The collecting officer shall complete the DNA Sample Collection Worksheet (HCDC Form A-036a). The original Worksheet shall be filed with the inmate's basefile.
- E. The officer shall obtain the ink strip included in the kit and locate the space provided for fingerprints on the completed DNA Database Information Card. He/she shall then obtain a fingerprint from the index finger of both the left and right hand. If the index finger is not available, an alternate finger shall be used and a record of the alternate finger shall be made. The officer shall ensure the print is made by pressing the finger straight down and not by rolling the finger.
- F. The officer then shall obtain the strip of four DNA Database Number barcode stickers included in the kit, and place one barcode sticker on each of the following:
 1. DNA Database Information Card;
 2. FTA Sample Card;
 3. Small ultra barrier pouch; and
 4. Large storage ultra barrier pouch.
- G. The officer then shall print his/her name on the DNA Database Information Card in the designated area.
- H. **The officer shall put on the new gloves provided in the kit and shall not remove them until the process is completed. (Gloves must be changed between each DNA collection.)**

IV. Collection

Collecting the DNA sample shall be accomplished by a trained officer as indicated in the following steps.

1. The Sterile Foam Tipped Applicator is removed from the protective packaging according to the instructions on the packaging.
2. While holding the plastic handle of the applicator, the officer places the foam tip in the arrestee's mouth and completes the following in order:
 - a. rubs one side of the foam tip on the inside of the cheek for 30 seconds;
 - b. rubs the other side of the foam tip on the other cheek for 30 seconds;
 - c. runs the foam tip along the gum-line and folds of the cheek and under

the tongue soaking up as much saliva as possible; and then

- d. removes the applicator from the arrestee's mouth.
3. The Indicating FTA Sample Card is then removed from its bag exposing the purple sample area. The officer shall then press the flat, circular foam applicator tip within the sample circle area. Without lifting the foam tip from the FTA Sample Card, the tip is squeezed using a side-to-side motion three times to completely saturate the sample area. The applicator is then turned over and the squeezing action is repeated within the same circle. The sample area will turn white indicating the transfer of the sample.
4. The officer shall then place the foam tipped applicator into the large ultra barrier pouch along with one desiccant. The pouch is then sealed and the collecting officer's initials and date are written across the seal.
5. The officer then places the FTA Sample Card into the small ultra barrier pouch along with one desiccant. The pouch is then sealed and the officer's initials and date are written across the seal.
6. The officer shall then place the completed DNA Database Information Card and both sealed ultra barrier pouches into the shipping envelope. The shipping envelope is sealed using the tamper resistant shipping seal sticker provided in the kit. The officer's initials and date are written across the seal. All remaining components shall be discarded and not to be reused.
7. The collecting officer shall mark on the back of the shipping envelope in the printed section provided if the sample is from an Arrestee or Convicted Offender.
8. The sealed shipping envelope shall be secured in the commitment office. The Commitment Officer shall be responsible for ensuring the envelope gets to the Administrative Records Sergeant/Administrative staff for mailing. The Security Chief will devise a log to ensure all collected DNA samples are mailed out within two (2) working days.

V. Refusal to Submit DNA Sample

- A. In the event the convicted inmate refuses to submit a DNA sample, no physical force shall be used.
- B. The Security Chief and Classification Supervisor shall be advised of the non-compliance.
- C. The inmate shall be placed on Administrative Segregation until he/she submits a DNA sample. Classification staff completing the Initial Classification shall review the DNA Sample Collection Worksheet and continue placement on Administrative Segregation. The inmate's Administrative Segregation status shall be reviewed weekly for compliance with DNA collection. Classification staff shall report those inmates held in this status to the Director, Deputy Director or Security Chief.
- D. The inmate shall be reminded of his/her obligation to submit to DNA testing at each Administrative Segregation review, and may be removed from this status upon provision of a DNA sample.

VI. DNA Follow-up Testing While at the Detention Center

- A. Should an individual who refuses to provide a DNA sample at the time of conviction, later decide to submit a DNA sample, while at the Detention Center, the sample shall be collected in accordance with the provisions of Sections II. and III. of this policy.
- B. Classification shall be notified of his/her compliance prompting consideration of reclassification from Administrative Segregation.
- C. The Classification Manager shall identify inmates/detainees convicted of a felony or one of the qualifying crimes defined on page 1 of this policy. Information on DNA may be obtained by accessing the “External” DNA Tracking Program which will determine, if an individual has previously submitted a DNA sample to the State of Maryland.
- D. The Classification Manager shall submit a quarterly report from the DNA Tracking Program (see example in Policy K-112 attached as appendix 2 DNA Eligible for Maryland State Police Tracking Program) to the attention of: (msp.dna@maryland.gov).
- E. To review for current qualifying crimes, check the following websites: (msp.dna@maryland.gov) and (www.dpscs.state.md.us).

VII. Supplies

- A. DNA Database Collection Kits are provided by the Maryland State Police (MSP).
- B. The OIC of CBF and the Administrative Captain are responsible for ensuring that an ample supply of kits **are available in the Commitment Office** and at the Central Booking Facility. To order a supply of DNA kits, contact the Main Number at (410) 379-9070. The kits will then need to be picked up at:

Maryland State Police Quartermaster Division
7777 Washington Blvd.
Jessup, Maryland 20794
Fax Number (410) 799-5289

- C. For information or questions pertaining to DNA Collection, contact the Security Chief or MSP-QMD at Main Number at (410) 379-9070.

VIII. Directors Prerogative

The Director has the authority to revise/change a policy or post order as needed to meet the operational demands of the Department. As the changes are initiated, they may be communicated by an email, memoranda or in rare circumstances verbal due to unforeseen situations.

ATTACHMENTS: Appendix 1, DNA Sample Collection Worksheet HCDC Form A-036a.
Appendix 2, DNA Eligible List for Maryland State Police (Sample Sheet).

RESCISSIONS: HCDC Policy A-036 Collection of DNA – Sentenced to HCDC effective **November 24, 2018**, November 17, 2017, November 23, 2016.

Howard County Department of Corrections - CBF DNA Sample Collection Worksheet

DNA Kit#: _____

Detainee/Inmate Name: _____ Date: _____

Booking/ID Number: _____ SID#: _____

Part I. Qualifying Crimes (including attempts) requiring a DNA Sample to be collected include the following as defined in the Public Safety Article Section §2-501, §6-202-§6-204: **(Check Those That Apply)**

- abduction;
- arson in the first degree;
- kidnapping, attempted kidnapping, attempted abduction;
- manslaughter, except involuntary manslaughter;
- mayhem;
- maiming, as previously proscribed under former Article 27, §§ 385 and 386 of the Code;
- murder; attempted 1st, 2nd degree murder;
- rape; attempted 1st, 2nd degree rape;
- robbery under § 3-402 or § 3-403 of this article;
- carjacking;
- armed carjacking;
- sexual offense in the first degree;
- sexual offense in the second degree;
- use of a handgun in the commission of a felony or other crime of violence;
- child abuse in the first degree under § 3-601 of this article;
- sexual abuse of a minor under § 3-602 of this article if:
 - (i) the victim is under the age of 13 years and the offender is an adult at the time of the offense; and
 - (ii) the offense involved:
 1. vaginal intercourse, as defined in § 3-301 of this article;
 2. a sexual act, as defined in § 3-301 of this article;
 3. an act in which a part of the offender's body penetrates, however slightly, into the victim's genital opening or anus; or
 4. the intentional touching, not through the clothing, of the victim's or the offender's genital, anal, or other intimate area for sexual arousal, gratification, or abuse;
- an attempt to commit any of the crimes described in items (1) through (16) of this subsection;
- continuing course of conduct with a child under § 3-315 of this article;
- assault in the first degree;
- assault with intent to murder;
- assault with intent to rape;
- assault with intent to rob;
- assault with intent to commit a sexual offense in the first degree; and
- assault with intent to commit a sexual offense in the second degree.
- Burglary as enumerated in the Criminal Law Article Section §6-202, §6-203, §6-204, including the following; and
 - 1st, 2nd, 3rd degree burglary; and
 - Attempted 1st, 2nd, 3rd degree burglary
- Convicted of a felony

Part II. DNA Sample Collection is required by law. To comply with Public Safety Article Section §2-501, the following steps shall be documented by the collecting officer: **(Enter Initials Below)**.

_____ Notification of Rights card provided to the detainee/inmate.

_____ The undersigned detainee/inmate provided a DNA Sample consistent with the law.

_____ The undersigned detainee/inmate **refused** to provide a DNA Sample consistent with the law.

A detainee who refuses to provide a DNA Sample under this law is subject to further prosecution under the law.

Detainee/Inmate (Print)

Detainee/Inmate (Signature)

Date

HCDC Staff (Print)

HCDC Staff (Signature)

Date

