

**FAIRFAX COUNTY SHERIFF'S OFFICE
STANDARD OPERATING PROCEDURE**

**SOP NUMBER: 707
SUBJECT: COLLECTION OF POST-
CONVICTION DNA SAMPLES**

I. PURPOSE

To establish policy for the collection of post-conviction DNA samples by Court Security Division personnel in accordance with Code of Virginia § 19.2-310.2 and § 16.1-299.1.

II. POLICY

It is the policy of the Fairfax County Sheriff's Office that post-conviction DNA buccal swab samples will be collected by a properly trained court security deputy, in a pre-designated and private room, prior to the defendant leaving the courthouse.

III. PROCEDURE

A. Obtaining DNA Samples

1. A DNA sample shall be collected from all adults convicted of a felony offense or any of the following specified misdemeanors, in accordance with Code of Virginia § [19.2-310.2](#).
 - a. Assault and battery (§ [18.2-57](#))
 - b. Sexual battery (§ [18.2-67.4](#))
 - c. Sexual abuse of a child under 15 years of age (§ [18.2-67.4:2](#))
 - d. Attempt to commit sexual battery (§ [18.2-67.5](#))
 - e. Trespassing (§ [18.2-119](#))
 - f. Peeping or spying into dwelling or enclosure (§ [18.2-130](#))
 - g. Penetration of the mouth of a child with lascivious intent (§ [18.2-370.6](#))
 - h. Resisting arrest (§ Subsection E of [18.2-460](#))
 - i. Stalking (§ [18.2-60.3](#))
 - j. Violation of protective order; penalty (§ [18.2-60.4](#))
 - k. Infected sexual battery (§ [18.2-67.4:1](#))
 - l. Unauthorized use (§ [18.2-102](#))
 - m. Unlawful entry (§ [18.2-121](#))
 - n. Indecent exposure (§ [18.2-387](#))
 - o. Obscene sexual display (§ [18.2-387.1](#))
 - p. Violation of provisions of protective orders; penalty (§ [16.1-253.2](#))
2. A DNA sample shall be collected per [Virginia Code 16.1-299.1](#). Virginia Code § 16.1-299.1 includes **juveniles** convicted of a felony or adjudicated delinquent on the basis of an act which would be a felony if committed by an adult, provided the juvenile was 14 years of age or older at the time of the commission of the offense. The provisions of (§ 19.2-310.2 et seq.) of Chapter 18 of Title 19.2 shall apply to all persons and all DNA samples taken as required by Virginia Code section § 16.1-299.1.
3. Prior to collecting a DNA sample, a court security deputy will escort the defendant to the designated DNA collection room and search the [Virginia State Compensation Board's Website](#) to determine if a previous DNA sample has been obtained. If a previous DNA sample has been obtained, no further sample will need to be collected. The court security deputy will place a check mark in the appropriate box on the court order that a DNA sample already exists and will then sign the court order. The court security deputy will have the defendant sign acknowledging that he/she has received a copy of the court order.

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4. If no previous DNA sample exists, the court security deputy shall: **Obtain a new unopened buccal swab and open it in front of the defendant.**
 - a. Complete the written portion of the buccal swab envelope.
 - b. Collect a saliva sample from the inside of the defendant's mouth.
 - c. Obtain thumb prints from both the right and left thumbs of the defendant. The thumb prints will be placed on the outside of the buccal swab envelope.
 - d. After collecting the DNA sample, the court security deputy must check the appropriate box on the court order indicating that a sample has been obtained and sign that he/she took the DNA sample.
 - e. The defendant must sign the court order acknowledging their DNA was taken and that he/she was provided a copy of the court order. Once signed, the defendant shall be given the appropriate copy of the order.
 - f. Place a copy of the post-conviction court card in the buccal sample envelope.
 - g. Seal the buccal swab envelope in front of the defendant.
 5. If the DNA sample requires a blood draw, immediately notify the ADC Medical Section at (703) 246-4459.
 6. If a defendant is committed to the Adult Detention Center, the DNA sample will be collected by either the Medical Section or a Booking Deputy prior to release or transfer to another facility.
- B. Maintain the chain of custody as follows: the court security deputy shall immediately fill out columns the first four columns on ([SOP 707 ATT. 1 - DNA Log, Storage Report, and Receipt](#)), then place the Buccal DNA Collector Storage Envelope in the designated lock box, located in the Court Security Ready Room.
1. The Transportation Supervisor or designee shall collect the DNA kit(s) from the designated lock box(s) each Wednesday.
 2. The Transportation Supervisor or designee shall verify kit(s) with the DNA Log, Storage Report, and Receipt:
 - a. Enter the date that the DNA samples are being verified/delivered in the fifth "Date Delivered to State Lab" column.
 - b. The delivering deputy shall legibly write his/her name and EIN in the space provided, and deliver the DNA sample to the state lab. The deputy shall also have a state lab technician write their name and title in the space provided, accompanied by the date and time.
 - c. The completed DNA Log, Storage Report, and Receipt shall be filed and retained by the Transportation Supervisor.
- C. Refusal to submit to a buccal DNA sample:
1. If a defendant refuses to submit to a DNA buccal sample, the court security deputy shall:
 - a. Escort the defendant back to the sentencing judge's courtroom for disposition.
 - b. In the event the defendant leaves the courthouse without providing a

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DNA sample, the sentencing judge will be immediately notified for further disposition of the case.

D. Maintenance of Video Recordings

1. Video recordings of the DNA collection, occurring in the designated room, will be kept by Court Security staff for a period of **thirty (30) days**.

4/11/17
DATE APPROVED
02/01/19
EFFECTIVE DATE



**STACEY A. KINCAID
SHERIFF**

Revised: January 2019