




STATE OF MARYLAND
DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES
DIVISION OF CORRECTION

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|  DIVISION OF CORRECTION DIRECTIVE | PROGRAM: GENERAL ADMINISTRATION | |
| | DCD #: 20-9 | |
| | TITLE: DNA Sampling of Inmates by the Department of Maryland State Police | |
| | ISSUED: September 1, 2007 | |
| | AUTHORITY: |  Paul O'Flaherty ASSISTANT COMMISSIONER |
| | APPROVED: |  J. Michael Stouffer Acting COMMISSIONER |

I. REFERENCES:

- A. Public Safety Article, Title 2, Subtitle 5, ACM
- B. Criminal Law Article, Subtitles 2 – 11, ACM
- C. DCM 100-001
- D. DPSCS Use of Force Manual

II. APPLICABLE TO: All Institutions and Patuxent Institution Annex

III. PURPOSE: To establish policy and procedure for the collection of DNA samples from designated inmates in cooperation with the Department of Maryland State Police (DMSP).

IV. DEFINITION:

Designated Inmate

- A. An inmate who is convicted of a felony or a violation of §6-205 or §6-206 of the Criminal Law Article.
- B. An inmate convicted of a felony or a violation of §§6-205 or 6-206 of the Criminal Law Article on or before October 1, 2003, and who remains confined in a correctional facility on or after October 1, 1999.

V. POLICY:

- A. It is the policy of the Division of Correction to cooperate with the DMSP as required by state law in the collection of DNA samples from designated inmates to be used for the development, maintenance, and operation of a statewide DNA database system and repository.
- B. It is mandatory for designated inmates to provide a DNA sample.

VI. PROCEDURE:

A. Identification of Designated Inmates

1. Commitment office personnel at reception units shall review offenses of all newly committed inmates. If an inmate is serving a Maryland sentence for a qualifying offense in accordance with the Maryland Sentencing Guidelines Offense Table, <http://www.msccsp.org/guidelines/appendixa.html>, designated commitment staff shall enter alert code 07, DNA REQ, on OBSCIS I, Screen 02, Maintain Alerts. If an inmate has had a DNA sample taken at a local jail or detention facility, staff shall enter alert code 64, DNA TESTED.
2. Case management staff shall screen each inmate at the time of his or her security reclassification review to determine if the inmate is serving a Maryland sentence for a qualifying offense in accordance with the Maryland Sentencing Guidelines Offense Table, <http://www.msccsp.org/guidelines/appendixa.html>. If an inmate is not a designated inmate, case management staff shall enter alert codes 29-DNA NOT REQUIRED on OBSCIS I, Screen 02, Maintain Alerts. If the inmate is a designated inmate, case management staff shall verify whether or not alert codes 07-DNA REQ, 64-DNA TESTED, or 65-DNA REFUSED, have been entered on OBSCIS I, Screen 02, Maintain Alerts. If no alert has been entered, the case management specialist shall ensure that an alert is entered and shall make a notation on the Inmate Institutional Progress Sheet.
3. Case management staff shall screen any inmate being considered for any type of parole hearing, parole administrative review, or consideration for a MAP agreement to determine if he/she is a designated inmate and, if necessary, shall add an alert to OBSCIS I, Screen 02, Maintain Alerts. If an inmate is a designated inmate and has not yet been sampled, a member of the case management staff designated by the warden shall contact the DMSP, Forensic Science Division, DNA Database Unit, or institutional staff trained in DNA collection procedures, and request that the inmate be sampled before his/her parole hearing.

B. Information Technology and Communications Division (ITCD) staff shall regularly compile a list of inmates with OBSCIS I, alert code 07, DNA REQ. This list shall be forwarded to the DMSP as specified by DMSP staff. ITCD shall also prepare such reports requested by the Deputy Commissioner to ensure compliance with this program, including but not limited to the following:

1. a general list of inmates who may be required to provide a DNA sample;
2. a definitive list of inmates who have been determined to be designated inmates;

3. a list of inmates scheduled for release;
4. a list of inmates who have submitted DNA samples; and
5. a list of inmates who have refused to submit DNA samples.

C. Sampling Procedures:

1. When an inmate has been determined to be a designated inmate, institutional staff shall provide a copy of the Notification for DNA Sample (DC Form 20-9aR, Appendix 1) to the inmate. Staff shall review the form with the inmate, obtain the inmate's signature, and sign as a witness. If an inmate refused to sign the form, staff shall note this on the line for the inmate's signature. Staff shall also advise the inmate that if he/she refuses to be sampled:
 - a. the Maryland Parole Commission shall be notified of the refusal;
 - b. the inmate will not be considered for security reduction below medium security until such time as a sample is given;
 - c. if the inmate is classified to minimum or pre-release security, he/she shall be reclassified to medium security; and
 - d. the inmate shall receive a notice of inmate rule violation of Category II rule 205, which could result in the loss of visits indefinitely, the revocation of all applicable diminution credits, and a period of disciplinary segregation.

The original form shall be placed in the inmate's base file. An entry shall be made on the Inmate Institutional Progress Sheet indicating that the form has been reviewed with the inmate.
2. When possible, an individual who is designated by the director of the Maryland State Police Crime Laboratory Division and trained in the collection procedures that the crime laboratory uses, shall collect a DNA sample from an identified inmate at a reception unit. If a sample is not collected while the inmate is at a reception unit, it shall be collected after the inmate has been transferred to a maintaining facility.
3. The warden shall ensure that institutional staff immediately updates OBSCIS upon receipt of the results. The 07 alert code shall be deleted and enter an alert code 64, DNA TESTED, for all inmates who gave DNA samples, alert code 65, DNA REFUSED, for all inmates who refused to give DNA samples, and alert code 29, DNA NOT RE, for all inmates who were determined as not required to provide a sample.

4. When an inmate refuses to provide a DNA sample as required by law, the following actions shall be taken:
 - a. The staff person ordering the inmate to provide the sample shall write a notice of inmate rule violation.
 - b. A hearing officer will conduct a disciplinary hearing in accordance with established procedures. If there is a guilty finding, the hearing officer shall order the inmate's visits suspended indefinitely, the revocation of all applicable diminution credits, and placement on disciplinary segregation in accordance with the disciplinary sentencing matrix.
 - c. The inmate shall be rescheduled to give a DNA sample no sooner than 60 days from the date of refusal. If the inmate again refuses, staff shall use restraints and the minimum amount of necessary force, in accordance with DPSCS Use of Force Manual, to ensure that a DNA sample can be taken.
 - d. The warden may elect to place an inmate on administrative segregation until a DNA sample is obtained.
- D. An inmate who has been placed on disciplinary segregation for refusing to be sampled and who has lost diminution credits and visits may have them restored once a sample has been taken. The inmate shall follow the procedures outlined in the case management directives.
- E. When an inmate is released prior to entry of alert code 64, DNA TESTED on OBSCIS I, Screen 02, Maintain Alerts, staff shall notify the DMSP by using the Notification of Released Inmate Requiring DNA Sampling (DC Form 20-9bR, Appendix 2).
 1. If the inmate has been court-released, commitment staff shall notify the DMSP by using the Notification of Released Inmate Requiring DNA Sampling (DC Form 20-9bR, Appendix 2).
 2. For all other types of releases, case management staff shall notify the DMSP by using the Notification of Released Inmate Requiring DNA Sampling (DPSCS/DC Form 20-9bR, Appendix 2).
- F. Each warden shall report any problems or questions regarding compliance with this DCD or the management of the program, as well as other requests for DNA samples to the Deputy Commissioner.

- G. Each warden shall develop an institutional directive to implement the provisions of this DCD.

VII. ATTACHMENTS:

- A. Appendix 1 – Notification for DNA Sample, DC Form 20-9aR
- B. Appendix 2 – Notification of Released Inmate Requiring DNA Sampling, DPSCS/DC Form 20-9bR

VIII. RESCISSION: DCD 20-9, dated December 16, 2002

Distribution: A
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S – Department of Maryland State Police
– Information Technology and Communications Division