

Biological Samples

335.1 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 collected from those required to register, for example, as sex offenders.

335.2 POLICY

The Louisville Police Department will assist in the expeditious collection of required biological samples from arrestees and offenders in accordance with the laws of this state, when available, and with as little reliance on force as practicable.

335.3 PERSONS SUBJECT TO DNA COLLECTION

The following persons must submit a biological sample (CRS § 16-23-103; CRS § 16-11-102.4):

- a. Every adult arrested for a felony offense, as part of the booking process, or who is charged with a felony by an indictment, information or felony complaint
- b. In all other cases, upon the adult's first appearance in court following the filing of charges, when a court requires the adult to submit a sample to the investigating agency responsible for fingerprinting pursuant to CRS § 16-21-104
- c. Persons who have been convicted and are required to submit a sample under CRS § 16-11-102.4

335.4 PROCEDURE

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

335.4.1 COLLECTION

The following steps should be taken to collect a sample:

- a. Verify that the individual is required to provide a sample pursuant to CRS § 16-23-103 or CRS § 16-11-102.4.
- b. Verify that a biological sample has not been previously collected from the offender by querying the person's criminal history. There is no need to obtain a biological sample if one has been previously obtained.
- c. Use the designated collection kit provided by the Colorado Bureau of Investigation (CBI) to perform the collection and take steps to avoid cross contamination.

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335.5 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. Force will not be used in the collection of samples except as authorized by court order and only with the approval of a supervisor. Methods to consider when seeking voluntary compliance include contacting:

- a. The person's parole or probation officer when applicable.
- b. The prosecuting attorney to seek additional charges against the person for failure to comply or to otherwise bring the refusal before a judge.
- c. The judge at the person's next court appearance.
- d. The person's attorney.
- e. A chaplain.
- f. Another custody facility with additional resources, where an arrestee can be transferred to better facilitate sample collection.
- g. A supervisor who may be able to authorize custodial disciplinary actions to compel compliance, if available.

The supervisor shall review and approve any plan to use force and be present to document the process.

335.5.1 VIDEO RECORDING

A video recording should be made any time force is used to obtain a biological sample. The recording 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 investigation file, if any, or otherwise retained in accordance with the department's records retention schedule.

335.6 LEGAL MANDATES AND RELEVANT LAWS

Colorado law provides for the following:

335.6.1 LITIGATION

The Chief of Police or the authorized designee shall immediately notify the Colorado Attorney General's Office in the event this department is named in a lawsuit involving the DNA database.

335.6.2 FORWARDING BIOLOGICAL SAMPLES

All biological samples and related materials shall be promptly forwarded to CBI using CBI material, labels and instructions for prompt analysis (CRS § 16-23-103(6); CRS § 16-23-104).

