



**U.S. Department of Justice**  
Federal Bureau of Prisons

**PROGRAM STATEMENT**

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## **Inmate DNA Sample Collection Procedures**

/s/

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### **1. PURPOSE AND SCOPE**

This Program Statement provides procedures for identifying persons in Bureau of Prisons (Bureau) custody from whom DNA (deoxyribonucleic acid) samples will be collected, as well as the DNA sample collection procedures, as authorized by current statutes and Federal regulations.

DNA analysis provides a powerful tool for human identification. DNA samples collected from individuals or derived from crime scene evidence are analyzed to produce DNA profiles that are entered into the Federal Bureau of Investigation's (FBI) Combined DNA Index System (CODIS). The practical uses of the DNA profiles ("genetic fingerprint") in CODIS are similar to those of actual fingerprints, such as:

- Identifying offenders;
- Excluding innocent persons;
- Solving past and future crimes; and
- Combating recidivism through inclusion in the CODIS.

The Bureau's current authorities to collect DNA samples from persons in Bureau custody are as follows:

- Title 42 U.S.C. § 14135a, Collection and use of DNA identification information from certain Federal offenders;
- Title 42 U.S.C. § 14135b, Collection and use of DNA identification information from certain District of Columbia offenders; and
- Title 28 C.F.R. § 28.12.

Pursuant to these authorities, the Bureau will collect DNA samples from persons in Bureau custody who are:

- Convicted of any federal offense (felony or misdemeanor);
- Convicted of any Uniform Code of Military Justice (military) offense (felony or misdemeanor);
- Convicted of a qualifying D.C. Code offense (as provided on a list);
- Arrested or facing charges (pretrial inmates); and
- Non-United States persons who are detained under the authority of the United States (including the Bureau) (persons who are not United States citizens and who are not lawfully admitted for permanent residence as defined by 8 C.F.R. § 1.1 (b)).

Additionally, this Program Statement provides guidance on responding to requests from state and local law enforcement agencies for DNA samples of persons in Bureau custody.

This Program Statement supersedes all previously issued Bureau guidance on DNA sample collection procedures, and specifically includes the following:

- Collection of DNA via buccal swab has been incorporated into the collection method.
- DNA samples will be collected on qualifying inmates arriving at their designated institutions.
- Collection of DNA from juveniles is now permitted.
- Staff should use reasonable efforts to confirm an inmate’s claim that he/she has previously provided a DNA sample pursuant to the DNA Act.
- Bureau staff should assist state, local, and other agencies in collecting DNA from consenting inmates if certain criteria is met.
- Institution Supplements must be written at each institution to delineate staff responsibilities.

**a. Program Objectives.** The expected results of this Program Statement are:

- Inmates requiring collection of a DNA sample will be correctly identified and a sample taken within established time frames, but no later than prior to final institution release.
- Institution departments will work closely with one another to ensure that the DNA sample collection procedures contained in this directive are strictly followed.
- The Bureau will liaison with other members of the judicial and law enforcement community to ensure full compliance with applicable statute(s).

## 2. BACKGROUND

On December 19, 2000, the DNA Analysis Backlog Elimination Act of 2000 (Pub. L. No. 106-546) was enacted. That law required the Bureau to obtain a DNA sample from each inmate convicted of a qualifying offense. The definition of a qualifying offense was subsequently modified by the USA PATRIOT ACT of 2001 (Pub. L. No. 107-56), the Justice for All Act of 2005 (Pub. L. No. 108-405), section 1004 of the Violence Against Women and Department of Justice Reauthorization Act, also known as The DNA Fingerprint Act of 2005, (Pub. L. No. 109-162) and section 155 of the Adam Walsh Child Protection and Safety Act of 2006 “Walsh Act” (Pub. L. No. 109-248).

In its current form, the controlling statute authorizes the Attorney General to collect DNA samples from individuals who are arrested, facing charges, or convicted or from non-United States persons who are detained under the authority of the United States. *See* 42 U.S.C. § 14135a(a)(1)(A). The statute also authorizes the Attorney General to “direct any other agency of the United States that arrests or detains individuals or supervises individuals facing charges to carry out any function and exercise any power of the Attorney General under this section.” *Id.* An implementing rule was published in the Federal Register on December 10, 2008 (Vol. 73, No. 238, pp. 74932-74943). The FBI analyzes DNA samples and maintains the results in the Combined DNA Index System (CODIS).

### 3. COLLECTING DNA SAMPLES

The Warden will appoint an Inmate DNA Collection Coordinator (DNACC), who is a full-time employee and ordinarily serves at a department head level. The DNACC oversees, monitors, and trains staff in the DNA collection process at the institution. A multi-disciplinary team will be established by assigning staff from multiple departments to collect DNA. After the DNACC receives standardized training in the DNA collection process, the DNACC will train local staff in the DNA collection process, to include other requirements necessary to accomplish this process (e.g., fingerprinting, SENTRY instruction for DNA input, etc.).

Bureau staff will collect DNA samples from all Federal code and all military code offenders (sentenced or detained), and from all non-U.S. citizen detainees who have not had a DNA sample collected by another Federal law enforcement agency prior to incarceration. DNA collection also extends to juveniles. DNA samples will also be collected from D.C. Code offenders in Bureau custody as indicated on the list of qualifying offenses for D.C. Code offenders, located on the Sallyport site for the Correctional Programs Division, Correctional Programs Branch, Current Issues Section. The list will be updated periodically to reflect statutory changes.

**a. Initial Designations.** Designation and Sentence Computation Center (DSCC) staff review SENTRY and pertinent documents during initial designation to determine if newly sentenced offenders have previously submitted a DNA sample to the Bureau or an appropriate arresting agency. DSCC staff ensure the appropriate DNA SENTRY status is entered into the SENTRY DNA number field based on a review of the inmate’s pertinent documents as described in Section 4 (“SENTRY Transaction/Assignment of DNA Number”).

When qualifying inmates (initial designation or pretrial) arrive at their Bureau facility (designated or assigned, in the case of pretrial), their DNA sample will normally be collected within 72 hours of their arrival, but no later than 7 days, unless the inmate is not physically in the institution. Any inmate who is immediately releasing from the institution before the 7-day period expires will have a DNA sample collected prior to his/her release. The following steps are performed to collect DNA:

1. Review the incoming movement list to determine which inmates need to submit a DNA sample.
2. Prior to arrival, review the inmate's paperwork or their Inmate Load Data in SENTRY (PP41) to obtain the Social Security number, FBI number, INS number, etc., necessary to complete the FBI's National DNA Database Entry Form FD-936.
3. After the inmates arrive and are keyed into the facility, review all inmates who do not have a SENTRY DNA number and enter a valid DNA status in the SENTRY DNA number (PP79).
4. For inmates with the SENTRY DNA status of "DNA NEED," retrieve a Federal Convicted Offender Program/FBI Buccal Swab Collection Kit. Each DNA kit contains everything needed to obtain DNA samples. At the time of this Program Statement's issuance, each kit contained:
  - 1 request for National DNA Database Entry Form (FD-936).
  - 2 EasiCollect™ buccal collection devices.
  - 2 Collection device envelopes.
  - 1 Buccal collection instructions.
  - 1 sterile gauze pad.
  - 1 pair of nitrile (latex-free) gloves.
  - 1 pre-inked fingerprint pad.
  - 2 clean wipes for ink removal.
  - 1 kit return envelope.
5. Complete the FD-936 form and insert it into each kit. Detailed instructions on how to properly complete the form and process the kit are located on the back of the form. Complete sections 1-3 of the FD-936. This can be done ahead of time; however, the FD-936 stays with the kit it was taken from.
6. Take fingerprints from both the left and right index fingers. Have the inmate ink the index finger (pre-inked finger pads provided) and roll it on the FD-936 in the required spaces. If necessary, there are additional fingerprint sections on the back of the form. The staff member rolling the fingerprint must sign in the appropriate box in the fingerprint collection section.
7. Perform the buccal swab collection and, once dry, place each collection device in a collection device envelope. Complete section 4 of the form with staff name and signature. Place the saliva samples and form in the mailing envelope.
8. Use the Update Inmate Identification Numbers transaction in SENTRY (PP79) to generate a DNA number. On the PP79, key the inmate name and number, enter "DNA" in the ID Type, "NEXT" in the ID Number, and "ADD" in the function. When entered, a DNA number will

be automatically generated by SENTRY. This DNA number is the next sequential number associated with the keying facility (e.g., SDC00124), and the keying facility must have custody of the inmate at the time the number is generated. This function must not be performed prior to collection as it signifies the specimen has been collected. The PP79 transaction should be done immediately after the sample is collected to ensure the corresponding DNA number is accurate. Write the number on the top of form FD-936.

9. Seal the form and saliva specimens in the mailing envelope provided in the test kit. Mail via U.S. Mail, no later than during the next business day after collection.
10. If an inmate refuses testing, refer to Section 5 of this Program Statement.

**b. Inmates Currently in Their Designated Facilities.** Unit staff review the DNA status of inmates in custody at their Initial Classification, the inmate's next Program Review, or immediately if the inmate's release is imminent (see next paragraph). When staff determine an inmate must provide a DNA sample, the appropriate code is entered into SENTRY.

To ensure no inmate is released without a DNA assignment, unit staff review and update SENTRY data as described in Section 4 ("SENTRY Transaction/Assignment of DNA Number") at least 60 calendar days prior to the inmate's projected release date or Residential Reentry Center (RRC) transfer date. Ordinarily, DNA samples for inmates housed at an RRC are collected by the supervising agency once the inmate is released to supervision.

Any new information received after the initial review regarding an inmate with a DNA status of N/A (Not Applicable), N/A JFA (Not Applicable – Justice for All Act), N/A DC (Not Applicable – District of Columbia) or N/A OTHER (Not Applicable – Other) should be reviewed again in conjunction with the inmate's regular Program Review, or immediately if the inmate's release is imminent.

**c. Staff Responsibilities.** Staff run a weekly SENTRY roster to determine which inmates require DNA sample collection. Inmates with imminent projected release or RRC placement dates should be expedited for sampling. Ordinarily, a sample on an inmate with an imminent release date should be obtained no later than 7 calendar days before his/her release. Staff also execute the "Update Inmate Identification Number" transaction (PP79) immediately after a sample is taken and ensure that the transaction successfully generates a number for that inmate. The number is written on the form that accompanies the DNA sample after it has been generated by SENTRY. **Note:** Staff should not try to predict the next number that will be generated and perform the SENTRY transaction at a later time.

Once the sample is collected, staff complete the SENTRY transaction, outlined in Section 4, prepare the FBI forms, package the specimen and form(s) in the envelope provided by the FBI, and mail the envelope per local procedures, ordinarily within 24 hours of collection.

Staff (or qualified contract staff), as outlined in the Institution Supplement, perform DNA

sample collections using collection kits provided by the FBI. Orders for kits can be placed with the Federal Convicted Offender Program. DNA samples collected by the Bureau are furnished to the FBI, or to other agencies or entities authorized by the Attorney General, for analysis and entry into the Combined DNA Index System (CODIS).

#### **4. SENTRY TRANSACTION/ASSIGNMENT OF DNA NUMBER**

An inmate's DNA status is reflected in the Inmate DNA Number History transaction in SENTRY (PP85). An inmate's DNA status is updated, and DNA numbers are generated, using the Update Inmate Identification Numbers (PP79) transaction in SENTRY.

- a. If the inmate has been reviewed previously and has had a DNA sample collected at a Bureau institution, a DNA number will be associated with the inmate; e.g., LVN00001. Another DNA sample is not required.
- b. If there is documentation that an inmate had a DNA sample collected upon arrest, staff initiate an "Update Inmate Identification Numbers" (PP79) transaction (ADD function), and enter "DNA" in the ID Type field and "PREBOP TST" in the ID Number field. Another DNA sample is not required. Note: When adding a DNA status, any previously existing status in the inmate's DNA ID Number field must first be deleted using PP79's DEL function.
- c. If there is no information on the Inmate DNA History screen or if the inmate has been reviewed previously and was given a DNA status of "N/A" or "N/A JFA," staff review the inmate's documents to determine if he/she is a Federal or military inmate. If so, staff initiate an "Update Inmate Identification Numbers" transaction and enter "DNA" in the ID Type field and "NEED" in the ID Number field using the ADD function. Note: When adding a DNA status, any previously existing status in the inmate's DNA ID Number field must first be deleted using PP79's DEL function.
- d. If the inmate has a current or past conviction for a qualifying D.C. Code offense, staff initiate an "Update Inmate Identification Numbers" transaction and enter "DNA" in the ID Type field and "NEED" in the ID Number field using the ADD function. Note: When adding a DNA status, any previously existing status in the inmate's DNA ID Number field must first be deleted using PP79's DEL function.
- e. If an inmate was sentenced by the D.C. Superior Court and he/she does not have a current or past conviction for a qualifying D.C. Code offense, staff initiate an "Update Inmate Identification Numbers" transaction and enter "DNA" in the ID Type field and "N/A DC" in the ID Number field using the ADD function. Note: When adding a DNA status, any previously existing status in the inmate's DNA ID Number field must first be deleted using PP79's DEL function.

- f. If an inmate is solely serving a state sentence or is not required by Federal law to provide a DNA sample, staff initiate an "Update Inmate Identification Numbers" transaction and enter "DNA" in the ID Type field and "N/A OTHER" in the ID Number field using the ADD function. Note: When adding a DNA status, any previously existing status in the inmate's DNA ID Number field must first be deleted using PP79's DEL function.
- g. If an inmate states he/she has previously submitted a DNA sample, staff initiate an "Update Inmate Identification Numbers" transaction and enter "DNA" in the ID Type field and "PREBOP PND" in the ID Number field and ADD in the function. See Section 7 of this Program Statement. If staff are able to verify that a DNA sample has been taken, staff initiate an "Update Inmate Identification Numbers" transaction and enter "DNA" in the ID Type field and "PREBOP TST" in the ID Number field and ADD in the function. If staff are unable to verify that a DNA sample has been taken, staff initiate an "Update Inmate Identification Numbers" transaction and enter "DNA" in the ID Type field and "NEED" in the ID Number field and ADD in the function. See Section 7 for further instruction. Note: When adding a DNA status, any previously existing status in the inmate's DNA ID Number field must first be deleted using PP79's DEL function.
- h. Any new information received after the initial review of an inmate resulting in a DNA status of N/A or N/A OTHER should be reviewed again in conjunction with the inmate's regular Program Review, or immediately if the inmate's release is imminent.
- i. Upon completion of the DNA sample collection, staff update the inmate's DNA status in SENTRY, via the "Update Inmate Identification Numbers" transaction. Using the "ADD" function, enter "DNA" in the ID Type field and "NEXT" in the ID Number field. SENTRY then replaces the inmate's DNA status (shown as NEED) with a system-generated number specific to each institution (e.g., LVN00001). This number serves as the inmate's DNA number throughout his/her incarceration. The DNA number is also recorded by staff in the Laboratory Accession Log, along with the inmate's name, register number, and date the sample was collected.

## **5. INMATES WHO REFUSE DNA SAMPLE COLLECTION**

Inmates who refuse to provide a DNA sample must first be counseled by appropriate staff (Psychology Services, unit staff, etc.) regarding their obligation to provide a sample and the possible consequences of non-compliance. Counseling must be provided in a format appropriate in content and vocabulary to the inmate's education level, literacy, and language. Documentation of these efforts is kept in the Inmate Central File. Consequences for refusing to provide a DNA sample include an incident report(s), progressive administrative sanctions, and possible criminal prosecution. *See* 42 U.S.C. § 14135a(a)(5).

At facilities where Health Services responsibilities have been contracted to private providers, the person(s) responsible for contract oversight are also responsible for writing incident reports for inmates who refuse sampling. At institutions where only DNA testing has been contracted out,

the staff member counseling the inmate is responsible for writing incident reports for inmates who refuse sampling. In all other cases, the staff member collecting the DNA sample is responsible for writing incident reports for inmates who refuse sampling after initial counseling.

If an inmate continues to refuse to submit to DNA sampling, progressive sanctions should continue. If these efforts fail, or the inmate is approaching his/her release date, standard "use of force" protocols (including standard confrontation avoidance procedures) must be invoked, using only the amount of force necessary to obtain a DNA sample. In instances where calculated use of force is necessary, it is recommended that a blood sample be obtained. In any instance where use of force is necessary, Bureau staff collect the DNA sample (not contractors) .

## **6. INMATES IN CONTRACT FACILITIES**

Community Corrections staff liaison with state and local officials to coordinate the collection and submission of DNA samples in conjunction with existing requirements of the contract or agreement. If state or local officials are unable or unwilling to collect the DNA sample, staff should contact the Community Corrections and Detention Services Branch, Correctional Programs Division, Washington, D.C., for assistance. The Privatization Management Branch will communicate the collection procedures in this Program Statement to all private facilities that confine inmates for the Bureau and make any necessary changes to the contracts with those facilities.

## **7. VERIFICATION OF PREVIOUS DNA COLLECTION**

If an inmate states he/she has previously had a DNA sample collected pursuant to the DNA Act, staff use reasonable efforts to contact the appropriate agency and confirm the claim. Staff document the results of this inquiry on the Inmate Activity Record (BP-A0381) in Section 2 of the inmate's Central File. Once the information is received, it is filed in Section 5 of the inmate's Central File. If it cannot be determined with certainty that an inmate has previously submitted a DNA sample, staff collect another DNA sample. *See* 42 U.S.C. § 14135a(a)(3).

Unusual circumstances or difficulties in obtaining verification of pre-commitment DNA sampling are reported to the Correctional Programs Branch Administrator, Correctional Programs Division, Central Office, Washington D.C.

## **8. CONTACT WITH U.S. PROBATION OR COURT SERVICES AND OFFENDER SUPERVISION AGENCY**

For inmates who have provided DNA samples while in Bureau custody who are releasing to the supervision of U.S. Probation or Court Services and Offender Supervision Agency, unit staff convey their DNA status via the Notice of Release and Arrival (BP-A0714).

## **9. OTHER REQUESTS TO COLLECT DNA SAMPLES**

Institutions should agree to obtain an inmate's DNA sample on behalf of a state or local law enforcement agency, a state criminal court, a family court, or other appropriate requestor(s), if the entity provides the collection supplies, a written request, and the inmate consents to providing the sample. Staff should not forcibly attempt to obtain DNA samples under these circumstances if an inmate refuses to consent.

## **10. INSTITUTION SUPPLEMENT**

Each institution will develop local procedures and guidelines required to administer this program statement in an Institution Supplement which is negotiable at the local level, in accordance with the Master Agreement. The institution supplement will include, at a minimum, the following considerations:

- Multi-disciplinary teams.
- Training of staff on DNA collection process.
- Notification to inmates, written in English and Spanish.

The Institution Supplement will be available in English and Spanish.

## **11. INFORMATION AND ASSISTANCE**

Staff in the Correctional Programs Branch are available to answer questions and provide assistance regarding DNA collection procedures. Contact information will be published on the Bureau's Sallyport website.

## **REFERENCES**

### *Federal Statutes*

- Title 42 U.S.C. § 14135a
- Title 42 U.S.C. § 14135b

### *Federal Regulations*

- Title 28 C.F.R. 28.12

### *Records Retention Requirements*

Requirements and retention guidance for records and information applicable to this program are available in the Records and Information Disposition Schedule (RIDS) on Sallyport.