

## **Appendix N: Offender DNA Sample Selection**

The Federal DNA Analysis Backlog Elimination Act of 2000 requires among other things, the collection of DNA samples from persons convicted of certain qualifying District of Columbia offenses who are either in the custody of the Federal Bureau of Prisons or on supervised release, parole or probation and under the supervision of CSOSA. Qualifying District of Columbia offenses relevant to this procedure, are listed on the Agency Intranet Website in CSOSA Policy Statement 4002.

The Federal Bureau of Investigation (FBI) maintains the Combined DNA Index System (CODIS) for DNA samples. The capacity to analyze and create databases from the DNA information contained in saliva, skin tissue, blood, hair and semen samples is perhaps the most significant advance in criminal investigations since the advent of fingerprint identification. Increasingly accepted during the past ten years, DNA technology is now widely used by police, prosecutors, defense counsel and Courts to both inculcate and exonerate individuals accused and convicted of crimes.

Any offender who has been convicted of any offense listed in CSOSA Policy Statement 4002 (qualifying offender) and who is under the supervision of CSOSA will be required to provide a blood sample for inclusion in CODIS. If the qualifying offender has previously submitted to DNA testing and has a valid sample on file in CODIS at the time of that person's release to supervision, CSOSA will not collect an additional sample unless requested by the FBI. The CSO has the duty and responsibility for ensuring that qualifying offenders supervised by CSOSA are advised of the requirements of Federal and District of Columbia law and referred for sampling. The CSO will also ensure that appropriate steps are taken by CSOSA if those offenders do not comply.

### **General Procedures**

#### Qualifying Offenses

Offenses that require DNA collection are specified in accordance with D.C. Code § 22-4151 and are appended to the regulations listed in Appendix B to CSOSA Policy Statement 4002.

#### Time Limits for Collection

All qualifying offenders released to CSOSA supervision after sentencing (probation) or incarceration (parole or supervised release) shall be required to provide a blood sample not later than fifteen (15) business days after notice to do so by his/her CSO, unless CSOSA confirms that the offender already has a valid sample on file in CODIS.

Qualifying offenders currently under CSOSA supervision who do not have a valid blood sample on file in CODIS shall be referred for DNA collection in accordance with the schedule prepared by CSS, based upon the data provided by the CSOSA Office of Information Technology (OIT), with priority given to those offenders with the earliest supervision termination dates.

**The CSO should make every reasonable effort to ensure that all qualifying offenders are sampled before they begin supervision since no efforts may be made to collect samples from qualifying offenders once they are no longer under CSOSA supervision.**

#### DNA Collection Sites and Collection Kits

DNA Collection Sites are locations specified by CSOSA. Any changes or additions to the designation of DNA Collection Sites are to be issued as a Management Instruction by the Associate Director, Community Supervision Services. DNA Sample Collection Contractors (“DNA Contractors”) shall staff all DNA Collection Sites according to a predetermined schedule.

#### Documentation of DNA Collection

Any qualifying offender who requires DNA collection and is released to CSOSA supervision after sentencing (probation) or incarceration (parole and supervised release) will have his/her records flagged at intake in the SMART automated case management database.

For offenders released from the Bureau of Prisons (BOP), Offender Processing Unit (OPU) staff will review the offenders’ releasing documents to determine if the offender was DNA tested and, if yes, whether or not the offender’s DNA testing date has been entered into SMART. If the offender was DNA tested, but the DNA testing date is not in SMART, OPU staff will enter the DNA testing date into the SMART case management database. This action will remove the DNA flag from the offender’s record in SMART. The Agency’s automated case management database shall flag qualifying offenders who require DNA testing. However, the SCSO will review the offender’s record upon initial case assignment to ensure that the offender was DNA tested, if required.

When a blood sample is collected, CSOSA staff shall complete the automated DNA Collection Form. The printing of the completed DNA Collection Form will automatically remove the computer flag and record the date of collection in the SMART database. If at any time it is determined that a flagged offender has not submitted a blood sample in accordance with the DNA Policy Statement, the CSO shall refer the offender for sample collection.

As part of their regularly scheduled audit of case management and close supervision (Critical Success Factor Audits), CSS supervisors shall monitor compliance with this policy and provide specific instructions to the CSO with respect to the referral of offenders for DNA sample collection.

#### CSO Referral Responsibilities

The CSO must complete referrals for DNA collection in accordance with the time limits established in Section IV, B of Policy Statement 4002.

In order to initiate the referral process, the CSO shall make a referral in the SMART database, complete the automated DNA Referral Form and have it signed by the offender. The CSO then shall provide a copy of the DNA Referral Form to the offender and retain the original in the offender supervision file.

The CSO shall explain to the offender the law authorizing DNA collection, as well as the consequences of noncompliance with DNA testing. The CSO will review the DNA collection process with the offender. If the offender has technical questions regarding the process, s/he should be referred to medical staff at the collection site. The CSO signature on the automated DNA Referral Form indicates that the CSO has explained to the offender the law authorizing DNA collection, the consequences for noncompliance and the DNA collection process. The offender signature on the DNA Collection Form will serve to certify that the offender understands the legal requirements, collection process, and consequences for failure to comply.

The CSO shall then direct the offender to report to the appropriate collection site at a specified date and time.

#### DNA Collection Procedures

Prior to collection of the sample, a CSOSA staff person will: (1) verify the offender's identity via official Government issued photo identification or other valid confirmation of identity, (2) sign the collection form and (3) imprint the offender's fingerprints onto the fingerprint card using the left and right index fingers only. CSOSA staff will then print the identifying offender information from the SMART database on the DNA Collection Form.

The DNA Contractor shall then draw a blood sample from the offender. Immediately after a blood sample is collected, the following procedures shall be followed:

- a. The same DNA Contractor that drew the sample shall preserve it in the vacutainer collection tube provided in the collection kit.
- b. The same DNA Contractor that drew the sample shall label and package the sample as prescribed by the FBI, sign the collection form, package the completed form and the sample in the box provided with the kit and mail it to the FBI on the same day that the sample was collected. Until the sample is mailed on that same day, the Contractor shall place it in a locked and secured location to which only authorized employees have access.

The DNA Contractors shall follow applicable CSOSA safety protocols at all times. In the event that a qualifying offender refuses to provide a DNA sample, the DNA Contractor shall document the offender's non-compliance and forward the documentation immediately to the CSO. Upon receipt of the refusal to cooperate notice, the CSO shall follow the noncompliance procedures set forth by CSOSA Policy Statement 2004-02.

Consequences of Offender's Noncompliance

If the offender refuses to comply with this requirement, the offender shall be sanctioned in accordance with the Schedule of Accountability through Graduated Sanctions and re-referred for collection **within five (5) business days**. If the offender remains noncompliant, the case shall be referred for criminal prosecution **within ten (10) business days** as appropriate, and/or the releasing authority shall be notified. Referrals for prosecution shall be submitted to the Office of the General Counsel who will in turn refer the matter to the Transnational/Major Crimes Section of the United States Attorney's Office for the District of Columbia.