
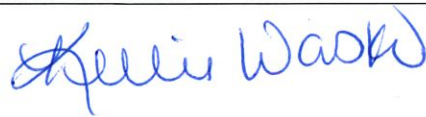


<p style="text-align: center;">SOUTH DAKOTA</p>  <p style="text-align: center;">DEPARTMENT OF CORRECTIONS POLICIES AND PROCEDURES</p>		Policy Number	PAGE NUMBER
		1.3.C.10	1 OF 5
		DISTRIBUTION: Public	
		SUBJECT: Offender DNA Collection	
Related Standards:	None	EFFECTIVE DATE: July 01, 2022	
		SUPERSESION: 07/12/2021	
DESCRIPTION: Rules and Discipline	REVIEW MONTH: June	 KELLIE WASKO SECRETARY OF CORRECTIONS	

I. POLICY

It is the policy of the South Dakota Department of Corrections (DOC) that every offender committed to the custody of the DOC must provide a DNA sample as ordered by DOC staff and required by law, unless it is verified the offender previously provided a sufficient sample and the sample and identifying information is documented in the state's Combined DNA Index System.

II. PURPOSE

The purpose of this policy is to provide guidance to all staff for the collection and documentation of deoxyribonucleic acid (DNA) from offenders in accordance with SDCL Chapter § 23-5A.

III. DEFINITIONS

Adjudicated Delinquent:

Any child ten (10) years of age or older who, regardless of where the violation occurred, is found by a court to have violated any federal, state, or local law or regulation for which there is a penalty of a criminal nature for an adult; except state or municipal hunting, fishing, boating, park, or traffic laws that are classified as misdemeanors, or petty offenses.

DNA Sample:

A biological sample consisting of DNA taken from an offender for submission to the South Dakota State Forensic Laboratory, pursuant to SDCL Chapter § 23-5A, for storage and/or analysis.

Qualifying Offense:

SDCL 23-5A-1(8) Any felony offense under the laws of South Dakota, a crime of violence, as defined in SDCL § 22-1-2, or a violation of chapter 22-22 (sex offense). Includes any offender who is required to register as a sex offender, pursuant to SDCL § 22-24B-1 to 22-24B-14.

IV PROCEDURES

1. Requirements:

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- A. Any adult offender (eighteen (18) years of age or older) sentenced and admitted to a DOC facility, or adjudicated delinquent remanded to the DOC for a qualifying offense, is required to provide a DNA sample at the time of admission, provided he/she has not previously provided sufficient sample and the offender's name and identifying information is not entered into the Combined DNA Index System (CODIS) (See SDCL § 23-5A-4).
1. This requirement includes offenders received or housed in an out-of-state institution, a halfway house or contractual facility, and those offenders under supervised release by the DOC but received or living outside of the state.
 2. Offenders sentenced to capital punishment or life in prison who have committed a qualifying offense are required to provide a DNA sample (See SDCL § 23-5A-8).
 3. The acceptance of an offender from another state through the interstate compact program, other agency reciprocal agreement, or any provision of law convicted or adjudicated of an offense in any jurisdiction which would be considered a qualifying/equivalent offense in South Dakota (See SDCL § 23-5A-7), is conditional upon the offender providing a sufficient DNA sample, in accordance with this policy and state law.
Note: This requirement is mandatory and applies to all offenders confined in a facility or placed on supervision in South Dakota.
 4. Adult offenders serving the incarceration period for receipt of a suspended imposition of sentence (SIS), are subject to providing a DNA sample.
- B. If an offender's DNA sample is determined inadequate for any reason, the offender shall be required to provide an adequate DNA sample for submission to CODIS.
- C. Offenders required to provide a DNA sample must provide a completed fingerprint card to verify identity (See SDCL § 23-5A-10).

2. DNA Collection:

- A. Each adult institution operating an admissions and orientation (A&O) unit will designate at least one staff person responsible to collect DNA samples from new admission offenders who have not previously provided a sufficient DNA sample to CODIS.
- B. Juvenile Corrections agents will ensure all juvenile offenders required to comply with SDCL chapter 23-5A, complete the requirement to provide a sufficient DNA sample during the intake process. Tracking will be through a list generated each month by the Division of Criminal Investigations that identifies juvenile offenders who have not yet complied with the DNA requirements.
- C. The state forensic lab provides the DOC with directions and materials used to collect biological samples, cheek (buccal) swabs from offenders who have committed a qualifying offense.

1. The Collection Card has four panels.
 - a. Side 1 contains documentation instructions.
 - b. Side 2 to be completed with inmate information.
 - c. Side 3 contains collection instructions:
 - 1) Only after filling out all information on both sides of this card should sample collection begin.
 - 2) Remove a Sterile Foam Tipped Applicator from its packaging, taking care not to touch the foam tip.

South Dakota Forensic Laboratory Offender Buccal Collection Card

Side 1
Instructions
1. Turn this card over to Side 2, and fill out all information including a right thumbprint and signature of the subject in the designated boxes.
2. Turn the card back to Side 1. Remove this flap along the perforated line, making sure the protective tab covering the sample areas remains in place. Fill out all information on the specimen information card. Only after completing the specimen information should sample collection commence.
3. Sample Collection Directions are on the inside of this flap.
Wear protective gloves during the collection of the sample.
DO NOT USE THIS CARD FOR COLLECTION OF SAMPLES FOR CASEWORK

Side 2
South Dakota Forensic Laboratory
Social Security Number _____ Date of Birth _____
SID _____
South Dakota SID Number _____
FBI Number _____
Collected by: _____
Print name: _____
Signature: _____
 African American
 Caucasian
 Hispanic
 Native American
 Other _____
Sex: Male Female
Right Thumb Print _____
Subject's Signature _____
Date _____
Received by: _____
Whalman™
Whalman and FT are trademarks of GE Healthcare materials. Counsel on US Patent 5,650,000. Lot No. FT198211

Whalman™ Lot No. FT198211
S00055431 S00055431
S00055431 S00055431
Collecting Agency and County _____
Date of Collection _____ Agency phone number _____
Last Name _____
First Name _____
Middle Name _____
Officer _____

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- 3) Grasping the plastic handle, place the foam tip in the subject's mouth and vigorously rub the inside surface for one minute. Move the applicator between the gum-line and fold of the cheek and below the tongue soaking up as much saliva as possible.
 - 4) Remove the applicator from the mouth.
 - 5) Carefully lift the protective tab to expose the Pink Collection Paper. Press the flat circular applicator head within one of the circles. Without removing the Applicator from the Pink Collection Paper, roll the handle of the Applicator approximately 180° to the right and hold for a few seconds. Continue pressing until the circle is saturated and the Pink Area within the circle turns white. Discard swab.
 - 6) Repeat steps 2-5 with the second swab on the left cheek and apply to the second circle on the Pink Collection Paper.
 - 7) When the Pink Collection Paper is dry, place the collection card into the self-addressed mailing envelope.
 - 8) Seal the envelope. Return to the South Dakota Forensic Laboratory.
- d. Side 4 to be completed by staff obtaining the sample.
- D. Each adult institution shall have at least one staff member who is trained and responsible for ensuring all offenders scheduled to discharge or release from the custody of the institution have completed the requirement to provide a sufficient DNA sample.
- E. Parole Services and Division of Juvenile Services staff will ensure all offenders discharging/releasing from supervision have previously completed the requirement to provide a sufficient DNA sample to CODIS.
- F. Staff members responsible for collecting DNA samples from offenders will verify the status of an offender's sample with the electronic database maintained by CODIS, which can be found at: <http://www.riss.net>.
1. To sign into the database, a name and password must be entered. Names and passwords are issued by the SD Division of Criminal Investigation (DCI).
 2. If an offender's name/identifying information appears in the database, a DNA sample will not be collected by DOC staff, unless otherwise directed.
 3. If an offender's name/identifying information does not appear in the database, a DNA sample will be collected from the offender.

3. Refusal to Provide a DNA Sample:

- A. Under no circumstance will an offender required to provide a sufficient DNA sample be released from DOC custody or supervision until the offender has provided the required sample to DOC staff (See SDCL § 23-5A-6).
- B. Any offender subject to the requirements of chapter 23-5A, who, after receiving notification of the requirement to provide a DNA sample, knowingly refuses to provide such DNA sample, is guilty of a Class 5 felony (See SDCL § 23-5A-14).
- C. The Attorney General's Office will be notified immediately of any offender who refuses to provide a DNA sample.
- D. If an offender refuses to provide a DNA sample, as required in chapter 23-5A, DOC staff may employ reasonable force to obtain the DNA sample from the offender (See SDCL § 23-5A-13), at the discretion of the Attorney General, Warden, and Director of Prisons determination..

4. Control of DNA Samples:

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- A. DNA samples collected pursuant to this policy will be forwarded to the South Dakota State Forensic Laboratory (CODIS).
1. DOC staff will treat any DNA record or sample collected from an offender as confidential and will not disclose or share identifying information or the sample with any unauthorized person or agency (See SDCL § 23-5A-22).
 2. Any DNA sample submitted to the State Forensic Laboratory pursuant to this policy, is confidential and is not a public record under Chapter 1-27 (See SDCL § 23-5A-23).
 3. Analysis of DNA samples obtained pursuant to this policy is not authorized for identification of any medical or genetic disorder (See SDCL § 23-5A-17).
 4. The DOC will be notified of any offender Hit report involving an offender DNA profile match.

V. RESPONSIBILITY

The Division of Prison Operations is responsible for the annual review and revision as necessary of this policy.

VI. AUTHORITY

- A. Add SDCL §§ 22-1-2, 22-22, 22-24B-1, 22-24B-14, 23-5A, 23-5A-1(8), 23-5A-4, 23-5A-6, 23-5A-7, 23-5A-8, 23-5A-10, 23-5A-13, 23-5A-14, 23-5A-17, 23-5A-22, 23-5A-23.

VII. HISTORY

June 2022
July 2021
July 2020
June 2019
June 2018
June 2017
June 2016
June 2015
June 2014
July 2013

ATTACHMENTS (Published in PolicyTech unless otherwise noted)

1. DOC Policy Implementation / Adjustments

DOC POLICY IMPLEMENTATION/ADJUSTMENTS

DESCRIPTION	TITLE	POLICY #	EFFECTIVE
Rules and Discipline	Offender DNA Collection	1.3.C.10	07/01/22

(FACILITY/WORK UNIT NAME)

WILL ACCEPT AND IMPLEMENT THE PROVISIONS OF THE ABOVE ADMINISTRATIVE REGULATION:

AS WRITTEN

NOT APPLICABLE

WITH THE FOLLOWING PROCEDURES TO ACCOMPLISH THE INTENT OF THE POLICY

(SIGNED) _____ (DATE) _____
Warden / Director