

St. Joseph, Missouri Police Department



DIRECTIVE TYPE: SPECIAL ORDER		INDEX NUMBER: SO0901
SUBJECT: DNA Collection/Expungement Notification		
ISSUE DATE: 08/28/2009	REVISED: 5/15/13, 11/04/16	AMENDS/RESCINDS: N/A
REVISIONS CONTINUED:		DISTRIBUTION: B (Commissioned Personnel)

I. PURPOSE

The Purpose of this policy is to comply with guidelines established in Section 650 RSMo for the collection of DNA samples and DNA expungement notifications associated with defined arrests.

II. POLICY

The arrest of a person who is seventeen years of age or older and who is arrested for burglary in the first degree under section 569.160 RSMo, or burglary in the second degree under section 569.170 RSMo, or a felony offense under chapters 565, 566, 567, 568, or 573 RSMo shall have a scientifically accepted biological sample collected for purposes of DNA profiling analysis upon booking by the arresting officer or designated officer of the arresting agency. This information will also be deposited into the CODIS system.

A. Procedures for DNA collection:

The lawful arrest of a person who is seventeen years of age or older who is arrested for one of the following offenses shall require the collection of a DNA sample:

1. Burglary 1st Degree under 569.160 RSMo; or
2. Burglary 2nd Degree under 569.170 RSMo; or
3. A felony offense under the following chapters:
 - a. 565 RSMo – Offenses against Person
 - b. 566 RSMo – Sexual Offenses
 - c. 567 RSMo – Prostitution
 - d. 568 RSMo – Offenses Against the Family
 - e. 573 RSMo – Pornography and Related Offenses

B. Process to determine if DNA is needed for purposes of 650 RSMo:

1. Fingerprint the subject using Livescan. If DNA collection is mandatory Livescan will alert the user.
2. Run Criminal History or QDNA Query. This report will provide information if DNA is already on file.

3. If the Criminal History and or QDNA report shows there is DNA on file, then a DNA collection is not required.
4. If the Criminal History and/or QDNA report shows there is no DNA on file then collect a sample with the provided kit following the enclosed instructions. (The kits must be stored in a temperature controlled environment and shall not be stored in patrol vehicles.)
5. The kits will NOT be used to collect samples for evidence submission from suspects or suspected samples from crime scenes. Different procedures are utilized for the collection of samples related to criminal investigations.

C. Procedures for Collection:

1. Members of the Detective Division will be responsible for collecting samples on all applicable arrests with the exception of those arrests on existing felony warrants. Arrestees for existing felony warrants will be processed by booking personnel.
2. Instructions included with the collection kit should be closely followed.
3. After the sample is collected and placed onto the designated area of the collection card, the buccal swab should be disposed of in a trash receptacle. Do not mail the swab to the crime lab.
4. Minor errors during the collection process, such as writing the wrong date of birth are correctable by drawing a line through the wrong information and writing the correct information.
5. Cards containing samples mistakenly collected from the wrong person or non-qualifying offense should still be mailed to the crime lab, with the notation included on the collection card describing the circumstances associated with the mistaken collection. Crime lab personnel will not analyze mistakenly collected samples for DNA.
6. According to 650.055 RSMo, any person required to provide a DNA sample pursuant to this section shall provide the sample without the right of refusal. Such force may be used as necessary to the effectual carrying out of the process. As an alternative to using force to obtain a sample from an uncooperative or resisting subject, assistance from judicial authorities may be appropriate. If reasonable efforts to obtain the sample are unsuccessful, the collection card will be completed with all available information and the words "Refused" printed on the front of the card.

D. Procedures for DNA expungement for warrant refusal:

1. Within ninety days of warrant refusal, the arresting agency shall notify the Missouri State Highway Patrol Crime Laboratory, which shall expunge all DNA records taken at the arrest for which the warrant was refused and destroy the DNA sample of the person, unless the Missouri State Highway Patrol determines that the person is otherwise obligated to submit a DNA sample. Expungement for our Department only occurs when detainees are in our custody and the State Prosecutor/State Courts fail to issue a warrant for the felony charges that were submitted resulting in the DNA our agency collected. Once the detainee is formally charged and a warrant issued, expungement is then the responsibility of either the Prosecuting Attorney's Office or the

Buchanan County Courts, depending on circumstances of conviction, dropping of charges or the defendant is found not guilty.

2. Notification to the Highway Patrol shall be conducted by the Detective CSI Supervisor using the Missouri State Highway Patrol DNA Expungement Notification form. An electronic version of this form can be obtained at: www.mshp.dps.missouri.gov/MSHPWeb/Publications/Forms/documents/SHP-420.pdf.

The form can be emailed to the lab directly from this site. The expungement form may also be completed by hand and either forwarded by fax or mail to the lab.

Chris Connally, Chief of Police

Date