

Biological Samples

332.1 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.

332.2 POLICY

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

332.3 PERSONS SUBJECT TO DNA COLLECTION

Those who must submit a biological sample are persons who have been (ORC § 2901.07):

- (a) Arrested for or convicted of a felony offense.
- (b) Convicted of a misdemeanor violation, an attempt to commit a misdemeanor violation or complicity in committing a misdemeanor violation arising out of the following:
 1. Aggravated murder
 2. Murder
 3. Kidnapping
 4. Rape
 5. Sexual battery
 6. Unlawful sexual conduct with minor
 7. Gross sexual imposition
 8. Aggravated burglary
 9. Felonious sexual penetration
 10. Interference with custody
- (c) Convicted of a sexually oriented offense or a child victim-oriented offense that is a misdemeanor if the offender is a Tier III sex offender/child-victim offender, as defined in ORC § 2950.01.

332.4 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.

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332.4.1 COLLECTION

The following steps should be taken to collect a sample:

- (a) Verify that the individual is required to provide a sample pursuant to ORC § 2901.07 and that his/her identity has been verified as required under OAC § 109:5-5-02.
- (b) Use the designated collection kit approved by the Ohio Bureau of Criminal Investigation (BCI) to perform the collection and take steps to avoid cross contamination.

332.5 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 any are available.

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

332.5.1 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.

332.6 LEGAL MANDATES AND RELEVANT LAWS

332.6.1 PERSONS AUTHORIZED TO OBTAIN A SAMPLE

If the biological sample is collected by withdrawing blood or another similarly invasive procedure, a physician, registered nurse, licensed practical nurse, duly licensed clinical laboratory technician or other qualified medical practitioner shall collect the sample in a medically approved manner. This requirement does not apply to a sample that is collected by a buccal swab or similarly non-invasive procedure (ORC § 2901.07(C)).

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332.6.2 AUTHORITY TO OBTAIN SECONDARY SAMPLE

If a query of OHLEG indicates that a sample has been previously collected but is no longer denoted on the individual's criminal history record, another sample shall be obtained from the individual and forwarded to BCI (OAC § 109:5-5-02).

In addition, if BCI notifies the Lorain Police Department of receipt of an unusable sample, a secondary sample shall be obtained and forwarded to BCI for analysis (OAC § 109:5-5-02).

332.6.3 SUBMISSION OF SAMPLE

The Evidence Room Custodian shall ensure that the biological sample is forwarded to the BCI no later than 15 days after the date of the collection (ORC § 2901.07(C)).

332.6.4 CONFIDENTIALITY OF RECORDS

Members of the Lorain Police Department shall not knowingly disclose a biological sample, record or other information contained in the DNA database to an unauthorized entity (ORC § 109.573; ORC § 109.99).