

POLICY 4.40 DETERMINING THE NEED FOR DNA OR HIV TESTING

Policy Committee Chair

Lori Kesl
Regional Administrator, Regions 1 & 2
Juvenile Rehabilitation

Approved



Marybeth Queral, Assistant Secretary
Juvenile Rehabilitation
3/3/2017

Authorizing Sources

RCW 9A.44.010
RCW 9A.44.130
RCW 43.43.754
RCW 70.24.017
RCW 70.24.340

Information Contact

Andrea Ruiz
Policy, Planning & Lean Administrator
Juvenile Rehabilitation
J

Effective Date (*Technical Edit 5/20/2021*)
3/15/2017

Sunset Review Date
3/15/2021

I. PURPOSE AND SCOPE

This policy establishes expectations for mandatory DNA analysis and HIV testing for JR youth and young adults (referred to as “youth” throughout the policy)¹ adjudicated of certain offenses in alignment with state law.

All staff, contractors, volunteers, and interns working in or for Juvenile Rehabilitation (JR) are responsible for reviewing and complying with JR policies.

II. POLICY

- 1. JR will collect biological samples for DNA analysis in accordance with state laws on mandatory testing requirements for individuals adjudicated of specific crimes².**
- 2. JR must inform youth in writing during the intake process their specific crime mandates DNA analysis in accordance with state law (see Procedure 4.40.1).²**
 - 2.1. JR youth required by law to provide a DNA sample must be informed using the Notification and Legal Requirements form (DCYF Form 20-236).
 - 2.2. The notification will be documented in the Initial Client Information Report (ICI) in ACT.
- 3. The Superintendent or designee must ensure DNA samples and blood samples for HIV testing purposes are taken only by approved staff³ trained in the collection of biological samples.**

¹ 1/7/2021 Technical Edit: Added “young adults” clarifying the policy also covers JR individuals ages 18

+. ² 3/23/2021 Technical Edit: Removed “and HIV testing” per passage of ESHB 1551 (section 13).

³ 1/7/2021 Technical Edit: Removed “medical” to align with current practice (varies by location).

Policy 4.40, Determining the Need for DNA or HIV Testing 3/15/2017**4. Youth will not be physically forced to give a sample.**

4.1. Youth refusing to comply with collection within 30 days of admission will be sanctioned. An administrative review is required for consequences to be applied. Consequences may include:

4.1.1. A transfer to a maximum security facility or unit,

4.1.2. Adjustment of the release date⁴.

4.2. Administration must be notified of refusals to give a mandatory sample. (see Procedure 4.40.3)

5. Superintendents or designee must ensure collection of the DNA sample or blood sample for HIV testing is documented in ACT. Results of the court-ordered HIV test are placed in the youth's medical file by staff.**6. Release of information will comply with confidentiality requirements in Policy 1.40, *Managing JR Juvenile and Operations Records*.****DNA TESTING****7. Some JR youth may be required by law to have a biological sample taken for the purposes of DNA identification analysis. (Refer to Attached List)****8. Youth required by law to provide a biological sample for DNA testing and analysis must have the sample taken as part of the intake process.**

8.1. DNA testing and analysis must occur within 30 days of admission to JR, or as soon as possible (See Procedure 4.40.2).

8.2. A sample is not required if court, Washington State Patrol or JR records document previous testing and analysis.

8.3. DNA samples must be sent to the Washington State Patrol forensic laboratory services bureau.

9. Each institution will designate staff to review court orders and confirm testing requirements.**10. American Indian or Alaska Native youth committed to JR by a tribal court under the JR/ Tribal Agreement are exempt from the DNA testing requirement.**

10.1. In the event a youth is inadvertently tested, JR must contact the Washington State Patrol to have the sample removed from the statewide database.

HIV TESTING²**11. Each institution will designate staff to review court orders and confirm HIV testing requirements (see Procedure 4.40.3).**

⁴ 5/20/2021 Technical Edit: Replaced "CERD to the maximum" to "release date" per interim directive.

Policy 4.40, **Determining the Need for DNA or HIV Testing 3/15/2017**

III. DEFINITIONS

DNA: Deoxyribonucleic acid. DNA is the main component of chromosomes and carries an individual’s genetic information.

DNA Identification Analysis: The process of identifying an individual’s DNA structure.

Human Immunodeficiency Virus (HIV): All HIV and HIV related viruses which damage the cellular branch of the human immune or neurological systems and leave the infected person immunodeficient or neurologically impaired.

IV. PROCEDURES

PRO 4.40.1 - Informing of DNA Analysis or HIV Testing Requirements

PRO 4.40.3 - Testing for HIV

PRO 4.40.2 - Collecting and Submitting a DNA Sample for Analysis

PRO 4.40.4 - Notifying Administration of Refusal

V. RELATED JR POLICIES

Policy 1.40 - Managing JR Juvenile and Operations Records

Policy 4.30 – Providing Health Care to JR Youth

Policy 1.80 – Notifying the Community of Youth Placement, Transfer or Release

VI. FORMS AND DOCUMENTS

| Document Title | Available In ACT | Link to Paper Form |
|--|---|---------------------------|
| Initial Client Information form |  | |
| JR Notification and Legal Requirements |  | DCYF 20-236 |
| Attachment A: Crimes Requiring Mandatory Testing | | |

**Policy 4.40 – Determining the Need for DNA or HIV Testing
Attachment A**

Crimes Requiring Mandatory DNA Testing

1. Juveniles convicted as an adult of a felony
2. Juveniles required to register as a sex offender under RCW 9A.44.130
3. Juveniles convicted of the following crimes or equivalent juvenile offenses:
 - a. Assault in the fourth degree with sexual motivation (RCW 9A.36.041, 9.94A.835)
 - b. Communication with a minor for immoral purposes (RCW 9.68A.090)
 - c. Failure to register (RCW 9A.44.130)
 - d. Harassment (RCW 9A.46.020)
 - e. Stalking (RCW 9A.46.110)
 - f. Violation of a sexual assault protection order granted under RCW 7.90
 - g. Custodial sexual misconduct in the second degree (RCW 9A.44.170)
 - h. Sexual misconduct with a minor in the second degree (RCW 9A.44.096)
 - i. Patronizing a prostitute (RCW 9A.88.110)
 - j. Indecent exposure (RCW 9A.88.010)¹

Crimes Requiring Mandatory HIV Testing

There are no longer specific crimes requiring mandatory HIV testing.²

¹ 10/1/19 Technical Edit: Added per legislative passage of House Bill 1326 (effective 7/28/2019).

² 3/23/2021 Technical Edit: Removed references to previous requirements listed in RCW 9A.44, 9A.88, and 69.50 per passage of ESHB1551 (section 13).

JUVENILE REHABILITATION – DIVISION POLICY

Policy 4.40 – Procedure 1

Informing of DNA Analysis or HIV Testing Requirements

| Authorizing Sources | Information Contact |
|---|---|
| Policy 4.40 | Andrea Ruiz Policy, Planning & Lean Administrator Juvenile Rehabilitation |
| Effective Date 3/15/2017 | Sunset Review Date 3/15/2021 |

Action by:

Action

Designated staff

Reviews court order for DNA analysis or HIV testing requirement.

ITM Intake Specialist

Notifies youth or young adult of DNA analysis or HIV testing requirement.

Assists individual in completion of the JR Notification and Legal Requirements form (DCYF 20-236).

Documents notification on the Initial Client Information (ICI) form in ACT.

JUVENILE REHABILITATION – DIVISION POLICY

Policy 4.40 – Procedure 2

Collecting and Submitting a DNA Sample for Analysis

| Authorizing Sources | Information Contact |
|---|---|
| Policy 4.40 | Andrea Ruiz Policy, Planning & Lean Administrator Juvenile Rehabilitation |
| Effective Date 3/15/2017 | Sunset Review Date 3/15/2021 |

| <i>Action by:</i> | <i>Action</i> |
|--|---|
| Designated staff | Reviews the court order to determine the need for DNA testing. |
| Residential Counselor | Enters the testing requirement in the testing requirements report in ACT. Refers individual to medical staff for sample collection. |
| Trained and approved facility medical staff: | Within 30 days of admission to JR, obtains DNA sample. Confirms a sample has not been obtained by looking in: <ul style="list-style-type: none">• ACT database• the court order• Washington Access to Criminal History (WATCH) website http://watchcj.wsp.wa.gov Obtains the DNA Identification Analysis sample using the JR approved method. Mails the DNA sample to the Washington State Patrol Crime Laboratory. Documents the DNA sample requirement has been completed in ACT and in the Progress Notes. |
| Regional Administrator Superintendent or Designee: | Verifies the completion date of the DNA sample collection is documented in ACT. Notifies the Attorney General’s Office at least 30 days prior to release if a person refuses to comply with DNA Identification Analysis requirements. |

If a person refuses to comply with the testing requirement, refer to Procedure 4.40.3.

JUVENILE REHABILITATION – DIVISION POLICY

Policy 4.40 – Procedure 3

Testing for HIV

| Authorizing Sources | Information Contact |
|----------------------------|---|
| Policy 4.40 | Andrea Ruiz Policy, Planning & Lean Administrator Juvenile Rehabilitation |
| Effective Date | Sunset Review Date |
| 3/15/2017 | 3/15/2021 |

| <i>Action by:</i> | <i>Action</i> |
|---|--|
| Designated staff | Reviews the court order to determine the need for HIV testing. |
| Residential Counselor | Enters the testing requirement in the testing requirements report in ACT. Refers individual to medical staff for testing. |
| Trained and approved facility medical staff | Confirms the need for HIV testing by reviewing the testing requirements report in ACT. Obtains the HIV sample specimen using the JR approved method. Mails the HIV sample specimen to the Department of Health's Public Health Lab. Documents the test date in ACT. Documents the test results in ACT upon return of test results. |
| Superintendent or designee | Verifies the completion of HIV testing is documented in ACT. |

JUVENILE REHABILITATION – DIVISION POLICY

Policy 4.40 – Procedure 4

Notifying Administration of Refusal to Allow Collection

| Authorizing Sources | Information Contact |
|--|---|
| Policy 4.40 | Andrea Ruiz Policy, Planning & Lean Administrator Juvenile Rehabilitation |
| Effective Date | Sunset Review Date |
| 3/15/2017 | 3/15/2021 |
| <i>Action by:</i> | <i>Action</i> |
| Trained and approved facility medical staff: | Notifies the Medical Director of the refusal. Notifies the Regional Administrator, Superintendent, or designee of the need for an administrative review to consider transfer to a maximum security facility or living unit if a person refuses to comply with the DNA Identification Analysis requirements within 30 days of admission. Notifies the Regional Administrator, Superintendent, or designee if a youth does not comply with the DNA Identification Analysis at least 45 days prior to release or transfer. |
| In consultation with the Medical Director, the Superintendent or designee: | Notifies the Attorney General’s Office in writing at least 30 days prior to a person’s release if they refuse to comply with DNA Identification Analysis requirements. Documents the notification in the medical file. |