

POLICY 4.40 (27) DETERMINING THE NEED FOR DNA OR HIV TESTING

Policy Committee Chair

Don Mead, Ed. D.
Superintendent, Echo Glen
Juvenile Justice & Rehabilitation Administration

Approved



John Clayton, Assistant Secretary
Juvenile Justice & Rehabilitation Administration
7/24/2014

Authorizing Sources

**RCW 9A.44.130,
RCW 43.43.754,
RCW 70.24.017,
RCW 70.24.340**

Information Contact

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Effective Date

8/8/2014

Sunset Review Date

8/8/2016

I. PURPOSE AND SCOPE

This policy establishes expectations for mandatory DNA analysis and HIV testing for JR youth convicted of certain offenses in alignment with state law.

All staff, contractors, volunteers, and interns working in the Division of Institution Programs, Division of Community Programs and Parole, and the Division of Operations and Support Services are responsible for reviewing and complying with JR policies.

II. POLICY

- 1. JR will collect biological samples for DNA analysis and HIV testing in accordance with state laws on mandatory testing requirements for individuals convicted of specific crimes.**
- 2. JR must inform youth in writing during the intake process that their specific crime mandates DNA analysis or HIV testing in accordance with state law (see Procedure 4.40.1).**
 - 2.1. JR youth required by law to provide a DNA sample or a blood sample for HIV testing must be informed using the Notification and Legal Requirements form (DSHS 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 that DNA samples and blood samples for HIV testing purposes are taken only by approved medical staff trained in the collection of biological samples.**

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- 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 sanctions to be applied. Sanctions may include:
 - 4.1.1.A transfer to a maximum security facility or unit,
 - 4.1.2.Adjustment of the CERD to the maximum.
 - 4.2. Administration must be notified of the refusal to give a mandatory sample. (see Procedure 4.40.3)
- 5. Superintendents or designee must ensure that collection of the DNA sample or blood sample for HIV testing is documented in ACT. Results of the HIV test are placed in the youth's medical file by medical staff.**
- 6. Release of information will comply with confidentiality requirements in Policy 1.40 (29), *Maintaining Confidentiality when Releasing 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/Alaska Native youth who have been 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 TESTING

- 11. Some JR youth may be required by law to have a blood sample taken to test for the presence of HIV. (Refer to Attached List)**
- 12. Each institution will designate staff to review court orders and confirm testing requirements (see Procedure 4.40.3).**

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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. REFERENCES

Crimes Requiring Mandatory Testing

V. PROCEDURES

PRO 4.40.1 - Informing Youth of DNA Analysis or HIV Testing Requirements

PRO 4.40.3 Testing for HIV

PRO 4.40.2 Collecting and Submitting Youth DNA Sample for Analysis

PRO 4.40.4 Notifying Administration of Refusal

VI. RELATED JR POLICIES

Policy 1.80 (9) – Notifying the Community of Youth Placement, Transfer or Release

Policy 1.40 (29) - Maintaining Confidentiality when Releasing Records

Policy 4.30 (14) – Providing Health Care to Youth

VII. FORMS AND DOCUMENTS

Document Title	Available In ACT	Link to Paper form
Initial Client Intake form		
JR Notification and Legal Requirements		DSHS 20-236

Policy 4.40 (27), **Determining the Need for DNA or HIV Testing**

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.46.100)
 - 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)

Crimes Requiring Mandatory HIV Testing

1. Juveniles convicted of a sex offense (RCW 9A.44)
2. Juveniles convicted of prostitution or related offenses (RCW 9A.88)
3. Juveniles convicted of IV drug use (RCW 69.50)

WASHINGTON STATE JUVENILE JUSTICE & REHABILITATION ADMINISTRATION

Procedure 1 – Policy 4.40 (27) – DETERMINING THE NEED FOR DNA OR HIV TESTING

Informing Youth of DNA Analysis or HIV Testing Requirements

Authorizing Sources	Information Contact
Policy 4.40 (27)	Jennifer Zipoy, Policy & Planning Administrator Juvenile Rehabilitation jrapolicy@dshs.wa.gov , Ph: 360-902-8092
Effective Date 8/8/2014	Sunset Review Date 8/8/2016

<i>Action by:</i>	<i>Action</i>
Designated staff	Reviews court order for DNA or HIV Testing requirement.
ITM Intake Specialist	Notifies youth of DNA or HIV Testing requirement Assists youth in completion of the JR Notification and Legal Requirements form (DSHS 20-236.) Documents notification on the Initial Client Information (ICI) form in in ACT.

WASHINGTON STATE JUVENILE JUSTICE & REHABILITATION ADMINISTRATION

Procedure 2 – Policy 4.40 (27) – DETERMINING THE NEED FOR DNA OR HIV TESTING

Collecting and Submitting Youth DNA Sample for Analysis

Authorizing Sources	Information Contact
Policy 4.40 (27)	Jennifer Zipoy, Policy & Planning Administrator Juvenile Rehabilitation jrapolicy@dshs.wa.gov , Ph: 360-902-8092
Effective Date 8/8/2014	Sunset Review Date 8/8/2016

<i>Action by:</i>	<i>Action</i>
Designated staff	Review the court order to determine the need for DNA testing.
Residential Counselor	Enter the testing requirement in the testing requirements report in ACT. Refer youth to medical staff for sample collection.
Trained and approved facility medical staff:	Within 30 days of admission to JR, obtain DNA sample. Confirm by using the ACT database, the court order, and the Washington Access to Criminal History (WATCH) website http://watchcj.wsp.wa.gov that a sample has <u>not</u> been obtained. Obtain the DNA Identification Analysis sample using the JR approved method. Mail the DNA sample to the Washington State Patrol Crime Laboratory. Document in ACT and in the Progress Notes that the DNA sample requirement has been completed.
Regional Administrator Superintendent or Designee:	Ensure that the completion date of the DNA sample collection is documented in ACT. Notify the Attorney General's Office at least 30 days prior to a youth's release if a youth refuses to comply with DNA Identification Analysis requirements.

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

WASHINGTON STATE JUVENILE JUSTICE & REHABILITATION ADMINISTRATION

Procedure 3 – Policy 4.40 (27) – DETERMINING THE NEED FOR DNA OR HIV TESTING

Testing for HIV

Authorizing Sources	Information Contact
Policy 4.40 (27)	Jennifer Zipoy, Policy & Planning Administrator Juvenile Rehabilitation jrapolicy@dshs.wa.gov , Ph: 360-902-8092
Effective Date	Sunset Review Date
8/8/2014	8/8/2016

<i>Action by:</i>	<i>Action</i>
Designated staff	Review the court order to determine the need for HIV testing.
Residential Counselor	Enter the testing requirement in the testing requirements report in ACT. Refer youth to medical staff for testing.
Trained and approved facility medical staff	Confirm need for HIV testing by reviewing the testing requirements report in ACT. Obtain the HIV sample specimen using the JR approved method. Mail the HIV sample specimen to the Department of Health's Public Health Lab. Document the test date in ACT. Document the test results in ACT upon return.
Superintendent or designee	Ensure that the completion of HIV testing is documented in ACT.

WASHINGTON STATE JUVENILE JUSTICE & REHABILITATION ADMINISTRATION
Procedure 4 – Policy 4.40 (27) – DETERMINING THE NEED FOR DNA OR
HIV TESTING

Notifying Administration of Refusal to Allow Collection

Authorizing Sources	Information Contact
Policy 4.40 (27)	Jennifer Zipoy, Policy & Planning Administrator Juvenile Rehabilitation <u>jrapolicy@dshs.wa.gov</u> , Ph: 360-902-8092
Effective Date	Sunset Review Date
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Action by:

Action

Trained and approved facility medical staff:

Notify the Medical Director of the refusal.

Notify 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 youth refuses to comply with the DNA Identification Analysis requirements within 30 days of admission.

Notify 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.

Superintendent or designee, in consultation with the Medical Director:

Notify the Attorney General’s Office in writing at least 30 days prior to a youth’s release if a youth refuses to comply with DNA Identification Analysis requirements.

Document the notification in the youth’s medical file.