

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 26:2625 (November 2000), amended LR 37:1516 (May 2011).

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## RULE

### Department of Public Safety and Corrections Office of State Police

#### Breath and Blood Alcohol Analysis Methods and Techniques (LAC 55:I.583)

Under the authority of R.S. 32:663 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Public Safety and Corrections, Public Safety Services has amended §583 under Chapter 5 to add liquid chromatography/mass spectrometry as an approved method for testing blood.

The Rule adds a testing method known as liquid chromatography/mass spectrometry to the methods available to the Louisiana State Police Crime Laboratory, and other permitted labs. Liquid chromatography/mass spectrometry is very similar to gas chromatography/mass spectrometry but it differs in that the sample is carried through the instrument in a liquid phase instead of a gas phase. This results in the sample needing to be prepared differently but the analysis still uses an instrument with mass spectral capabilities.

#### Title 55

#### PUBLIC SAFETY

#### Part I. State Police

#### Chapter 5. Breath and Blood Alcohol Analysis Methods and Techniques

#### Subchapter C. Analysis of Blood and Urine for Controlled Dangerous Substances

#### §583. Analytical Procedures

A. Analytical procedures shall include the use of at least two tests (a screening test and a confirmation test, or two confirmation tests) performed for each analyte present. If a screening test is used, the confirmation tests shall be based on a different physical or chemical principle from that of the screening test and offer a higher degree of specificity. All confirmation tests shall be performed using gas chromatography/mass spectrometry or liquid chromatography/mass spectrometry. Screening tests may include, but not be limited to, colorimetric, enzymatic, or chromatographic analysis. Confirmation of the identity of an analyte in a different specimen from that used for the first test (e.g., blood and urine) is acceptable, as is reconfirmation in a second aliquot of the same specimen.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

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## RULE

### Department of Public Safety and Corrections Office of State Police

#### Collection, Submission, Receipt, Identification, Storage and Disposal of DNA Samples (LAC 55:1.Chapter 27)

Under the authority of R.S. 32:663 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Public Safety and Corrections, Public Safety Services has amended §§2702-2706, 2721-2722, 2724-2726, and 2742 under Chapter 27 to provide for the use of DNA Database Buccal Collection Kits for the collection of DNA from convicted offenders, as well as arrestees. Previously this type of kit was only used for arrestee samples. The Rule would allow for the use of the less expensive DNA Database Buccal Collection Kit for all collections authorized by law.

The text of this Rule can be viewed in its entirety in the Emergency Rule section of this issue of the *Louisiana Register*.

#### Title 55

#### PUBLIC SAFETY

#### Chapter 27. Collection, Submission, Receipt, Identification, Storage and Disposal of DNA Samples

#### Subchapter A. Collection of DNA Samples

#### §2702. Definitions

*AFIS*—the Automated Fingerprint Identification System operated by the Department of Public Safety and Corrections, Public Safety Services.

*CAJUN*—the Corrections and Justice Unified Network operated by the Department of Public Safety and Corrections.

*CODIS* or *Combined DNA Index System*—the Federal Bureau of Investigation's national DNA identification index system which facilitates the storage and exchange of DNA records submitted by state and local criminal justice and law enforcement agencies.

*Crime Laboratory*—Louisiana State Police Crime Laboratory of the Department of Public Safety and Corrections, Public Safety Services.

*Convicted Offender*—a person convicted of a felony sex offense, other specified offense or any other offense for which a DNA sample must be obtained pursuant to R.S. 15:601 et seq.

*Department*—Department of Public Safety and Corrections, Public Safety Services.

*Director*—the Director of the Louisiana State Police Crime Laboratory.

*DNA*—deoxyribonucleic acid.

*DNA Analysis*—DNA typing tests that generate numerical identification information and are obtained from a DNA sample.

*DNA Database*—the DNA identification record system maintained and administered by the director.

*DNA Database Blood Collection Kit*—the kit approved by the department for the collection of DNA blood samples.

*DNA Database Buccal Collection Kit*—the kit approved by the department for the collection of DNA saliva samples.

*DNA Database Information Card (DDIC)*—the information card which provides identifying information of the offender when a non-livescan collection is performed.

*DNA Record*—DNA information that is derived from a DNA sample and DNA analysis and is stored in the state DNA database or in CODIS, including all records pertaining to DNA analysis.

*DNA Sample*—biological evidence of any nature that is utilized to conduct DNA analysis.

*DPSC*—Department of Public Safety and Corrections.

*FBI*—Federal Bureau of Investigation within the United States Department of Justice.

*FTA*—specialized paper that binds DNA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:205 (February 2001), repromulgated LR 27:1701 (October 2001), amended LR 37:1417 (May 2011).

### **§2703. Collection, Submission, and Identification of DNA Samples for Convicted Offenders**

A. All DNA samples obtained for DNA analysis from a convicted offender shall be collected using an approved Louisiana State Police Crime Laboratory DNA database collection kit. Procedures are specific to the type of sample being collected. A different kit is used for blood collection and buccal collection.

1. Each DNA database collection kit shall contain all necessary materials for collection and for proper identification of the offender.

2. Each kit shall be numbered sequentially from one kit to the next so that each number shall serve as a unique identifier. Kit components shall have the same number.

3. All DNA samples shall be collected by individuals trained and approved to serve as collectors by the Louisiana State Police Crime Laboratory.

4. The collector shall complete the DDIC (for non-livescan collections), which contains the identifying information of the collected offender when obtaining a sample. All information shall be provided. Printed name, date and signature of the person collecting the sample is required. A fingerprint is obtained as positive identification of the offender. Samples submitted with incomplete information may require recollection.

5. Finger stick blood samples shall be obtained using recognized and approved medical procedures, and the following guidelines shall be followed.

a. Prior to each individual blood collection procedure, personnel performing the collection shall put on barrier gloves. The FTA blood collection paper contained within the kit shall not be touched unless the individual collecting the offender's blood is wearing barrier gloves.

b. The tip of the offender's finger shall be wiped with an absorbent alcohol pad.

c. The offender's finger shall be pricked using a sterile, fixed depth lancet.

d. The offender's finger shall be positioned over one of the four circles printed on the FTA blood collection paper, allowing two drops of blood to fall onto the FTA paper, within the circle. If the blood is not flowing, the finger may be squeezed and then released to facilitate blood flow adequate to yield two drops of blood in each circle. Repeat to collect sample in all circles.

e. A sterile gauze pad shall be used to wipe off any remaining blood from the offender's finger, and an adhesive bandage shall be affixed to the offender's finger.

f. All medical supplies (lancet, absorbent alcohol pad, gauze pad, barrier gloves) shall be discarded in compliance with standard medical procedures.

g. The FTA blood collection paper shall not be touched, nor shall it be allowed to come in contact with any other FTA blood collection paper during the drying and packaging stages.

h. The FTA blood collection paper shall be placed in the plastic specimen bag, along with the dessicant. The sealed plastic specimen bag shall be stapled to the DDIC, which shall then be placed in the white mailing envelope. The mailing envelope flap shall be sealed and an evidence or security label shall then be placed across the envelope flap. The label shall be dated and initialed.

i. In the event a convicted offender resists the taking of the DNA sample and the collector may use reasonable force in accordance with R.S. 15:601-620, the collector may collect any type of biological sample approved by the Louisiana State Police Crime Laboratory. The following types of biological sample collections are hereby approved for these instances:

- i. blood stain from finger prick on FTA card;
- ii. buccal swab;
- iii. phlebotomy draw.

6. Buccal (saliva) samples shall be obtained using an approved buccal collection kit, in accordance with the guidelines detailed in Subchapter B, §2722.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:206 (February 2001), repromulgated LR 27:1702 (October 2001), amended LR 30:271 (February 2004), LR 37:1418 (May 2011).

### **§2704. Shipping of DNA Samples for Convicted Offenders**

A. DNA samples collected in accordance with these procedures shall be submitted to the crime laboratory in person by approved personnel or via delivery service, such as U.S. mail in accordance with the crime laboratory's policies and procedures. The mailing envelope shall be mailed or delivered to the crime laboratory after collection to the following address.

Louisiana State Police Crime Laboratory  
376 East Airport Drive  
Baton Rouge, LA 70806

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 27:207 (February 2001), repromulgated LR 27:1702 (October 2001), amended LR 37:1418 (May 2011).

**§2705. Record Keeping of DNA Samples for Convicted Offenders**

A. The individual who collects each DNA sample shall provide an accurate, up-to-date list of every DNA sample collected each day of collection. Any failed attempts to collect blood from an offender and the reason for the failure (e.g., refusal of offender to submit, failure to keep scheduled appointment) shall also be indicated. The list will include the following information: the kit number, the offender's name, the name of the person collecting the sample and the submitting agency together with any additional data which the director deems necessary. This information shall be mailed to the CODIS DNA Unit to the following address.

Louisiana State Police Crime Laboratory  
376 East Airport Drive  
Baton Rouge, LA 70806

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:207 (February 2001), repromulgated LR 27:1703 (October 2001), amended LR 30:271 (February 2004), LR 37:1419 (May 2011).

**§2706. Storage of DNA Samples for Convicted Offenders**

A. The sealed kits containing DNA samples shall be stored in a dedicated storage area within the crime laboratory. Access to the sealed kits and to the storage area shall be limited to authorized personnel. Any access to or removal/return of the sealed kit or specimen bags shall be performed in accordance with crime lab policies and procedures. Only authorized personnel shall open a sealed kit or specimen bag.

B. DNA samples on FTA blood collection paper, DNA buccal samples, and DDIC cards shall be stored indefinitely in a secure storage area unless otherwise required in accordance with R.S. 15:614.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:207 (February 2001), repromulgated LR 27:1703 (October 2001), LR 37:1419 (May 2011).

**Subchapter B. Arrestees**

**§2721. Definitions**

*AFIS*—the Automated Fingerprint Identification System operated by the Department of Public Safety and Corrections, Public Safety Services.

*Arrestee*—a person arrested for a felony sex offense, other specified offense or any other offense for which a DNA sample must be obtained pursuant to R.S. 15:601 et seq.

*Biological Sample*—biological evidence of any nature that is utilized to conduct DNA analysis.

*Crime Laboratory*—Louisiana State Police Crime Laboratory of the Department of Public Safety and Corrections, Public Safety Services.

*Department*—Department of Public Safety and Corrections, Public Safety Services.

*Director*—the director of the Louisiana State Police Crime Laboratory.

*DNA*—deoxyribonucleic acid.

*DNA Analysis*—DNA typing tests that generate numerical identification information and are obtained from a DNA sample.

*DNA Arrestee Database Collection Kit or Kit*—the kit provided by the department for the collection of DNA samples.

*DNA Database*—the DNA identification record system maintained and administered by the director.

*DNA Record*—DNA information that is derived from a DNA sample and DNA analysis and is stored in the state DNA database or in CODIS, including all records pertaining to DNA analysis.

*DPSC*—Department of Public Safety and Corrections.

*FBI*—Federal Bureau of Investigation within the United States Department of Justice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 28:2369 (November 2002), amended LR 37:1419 (May 2011).

**§2722. Collection, Submission, and Identification of DNA Samples for Arrestees**

A. All biological samples obtained for DNA analysis from an arrestee shall be collected using an approved Louisiana State Police Crime Laboratory DNA arrestee collection kit.

1. An arrestee collection kit shall contain materials for collection of a biological sample for use in DNA analysis.

2. Each kit shall be numbered sequentially from one kit to the next so that each kit number shall serve as a unique identifier. Kit components shall have the same number.

3. All biological samples shall be collected by individuals trained and approved to serve as collectors by the Louisiana State Police Crime Laboratory.

4. The collector shall utilize an AFIS Printout (livescan generated), which contains the identifying information of the arrestee when obtaining a sample.

a. In the event that a manual collection form is used, all information shall be provided. Printed name, date and signature of the person collecting the sample is required. A fingerprint is obtained as positive identification of the offender. Samples submitted with incomplete information may require recollection.

b. Buccal biological samples shall be obtained according to the instructions contained in the kit.

c. The transport pouch, containing the buccal collection device, and the AFIS printout shall be placed in the mailing envelope provided. The mailing envelope flap shall be sealed.

d. In the event an arrestee resists the taking of the DNA sample, the collector may use reasonable force in accordance with R.S. 15:601-620.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 28:2369 (November 2002), amended LR 37:1419 (May 2011).

**§2724. Shipping of DNA Samples for Arrestees**

A. DNA samples collected in accordance with these procedures shall be submitted to the crime laboratory in person by approved personnel or via delivery service, such as U.S. Mail in accordance with the Crime Laboratory's policies and procedures. The mailing envelope shall be mailed or delivered to the crime laboratory after collection to the following address.

Louisiana State Police Crime Laboratory  
376 East Airport Drive  
Baton Rouge, LA 70806

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 28:2370 (November 2002), amended LR 37:1419 (May 2011).

#### **§2725. Record Keeping of DNA Samples for Arrestees**

A. The individual who collects each DNA sample shall provide an accurate, up-to-date list of every DNA sample collected each day of collection. Any failed attempts to collect a sample from an arrestee and the reason for the failure (e.g., refusal of arrestee to submit) shall also be indicated. The list will include the following information: the kit number, the arrestee's name, the name of the person collecting the sample and the submitting agency together with any additional data which the director deems necessary. This information shall be mailed to the CODIS DNA Unit to the following address.

Louisiana State Police Crime Laboratory  
376 East Airport Drive  
Baton Rouge, LA 70806

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 28:2370 (November 2002), amended LR 30:271 (February 2004), LR 37:1420 (May 2011).

#### **§2726. Storage of DNA Samples for Arrestees**

A. The sealed kits containing DNA samples shall be stored in a dedicated storage area designated by the crime laboratory. Access to the sealed kits and to the storage area shall be limited to authorized personnel. Any access to or removal/return of the sealed kit shall be performed in accordance with crime lab policies and procedures. Only authorized personnel shall open a sealed specimen envelope, and if applicable shall initial and date the broken seal and shall reseal the specimen envelope in accordance with standard operating procedures.

B. DNA samples from arrestees and AFIS printouts shall be stored for the time period as prescribed by Louisiana law in a secure storage area unless otherwise required in accordance with R.S. 15:614.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 28:2370 (November 2002), amended LR 37:1420 (May 2011).

### **Subchapter C. Peace Officers**

#### **§2742. Collection of DNA Samples for Peace Officers**

A. All biological samples obtained for DNA Analysis from a peace officer shall be buccal swabs and shall be collected using sterile cotton tip swabs as provided by the agency employing the peace officer who is required to have his biological sample collected pursuant to R.S. 40:2405.4.

1. The agency employing the peace officer shall provide all materials necessary to collect a biological sample from any peace officer required to provide a sample pursuant to R.S. 40:2405.4.

2. The supplies necessary to collect a buccal swab shall include the following:

- a. one pack of two sterile cotton tip swabs;
- b. one pair of gloves;

c. one paper type envelope to store the samples once collected;

d. evidence tape for sealing the paper envelope.

3. In order to collect the biological sample, the collector shall adhere to the following procedures.

a. The collector shall print the name of the peace officer, the date of collection and the name of the collector on the paper type envelope used to store the samples prior to collection of the specimen.

b. Have the subject open his or her mouth. If there is foreign matter in the mouth, such as tobacco or gum, have the subject rinse his or her mouth out with water.

c. Remove one sterile cotton swab and collect the specimen by rubbing the swab vigorously on the inside surfaces of the cheeks and gums thoroughly. While slowly turning the swab (so that all sides of the swab are in contact with the side of the cheek) rub the swab up and down and back and forth in the mouth about 10 times.

d. Place the buccal swab in the paper type envelope. Do not place the swab back into the original sterile swab packaging.

e. Repeat Subparagraph c of this Paragraph with the remaining swab.

f. Place the second cotton tip swab immediately inside the paper type envelope with the first swab.

g. Seal the paper type envelope. Write the date and collector's initials partially on the paper type envelope and partially on the envelope flap.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2405.4.

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