

# DOM12 – Procedures for Evidence Testing and/or Viewing by Non-DFS Personnel

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## 1. Background

- 1.1. The Department of Forensic Sciences (DFS) performs analysis on items of evidence that are commonly used in criminal cases. It is the policy of the DFS to leave at least fifty percent of the evidence/sample for additional testing whenever possible.
  - 1.1.1. In cases where all of a specific item/sample would need to be consumed, the DFS will obtain permission to consume such evidence. This permission may be provided by the prosecuting attorney in consultation with the defense attorney involved in the case; the prosecuting attorney when the case is still in the investigative phase and no charges have yet been filed; or the submitting detective when no such attorney has been assigned.
  - 1.1.2. In instances where there is an objection to the consumption of the samples, upon request, the DFS will allow a defense expert to view the evidence and/or observe the testing of the entire sample at the DFS.
  - 1.1.3. Given the nature of forensic evidence and the sensitivity of certain testing procedures, the DFS will strive to accommodate requests, and will abide by a court order, to obtain a sample(s) for additional testing by non-DFS personnel when the evidence is still in the custody of the DFS.

## 2. Definitions

- 2.1. For the purposes of this document, the following terms shall have the designated meanings:

**CODIS:** Combined DNA Index System

**CSS:** Crime Scene Sciences

**DFS:** Department of Forensic Sciences

**DNA:** Deoxyribonucleic acid

**DOM:** Departmental Operations Manual

**FBU:** Forensic Biology Unit

**OGC:** DFS Office of the General Counsel

**PHL:** Public Health Laboratory

**PPE:** Personal Protective Equipment

**PSD:** Protective Services Division

### **3. Scope**

- 3.1. These procedures apply to DFS personnel in regards to external individuals viewing evidence or testing of evidence by DFS personnel when requested by prosecution or defense counsel and/or directed by the courts. The DFS does not accept such requests in connection with civil litigations.
- 3.2. Rules, policies, and procedures for investigative personnel attending a vehicle process in the DFS Vehicle Processing Garage will be specifically addressed in *CSSS24 – Procedures for Vehicle Examination* for the Crime Scene Sciences Division.

### **4. Responsibilities**

- 4.1. Prior to visiting the lab, arrangements must be made with the appropriate Division Director and OGC.

### **5. Safety Precautions**

- 5.1. All visitors to the DFS must adhere to the safety policies and procedures in place. Visitors will don appropriate PPE while in laboratory spaces.

Note: Deliberate failure of any visitor to adhere to the DFS safety procedures will result in removal of the visitor from the building and ban of the individual(s) from any future visits to the DFS.

- 5.1.1. The Deputy Director and/or the Division Director will be notified of any situation that leads to the dismissal of a visitor. Documentation of the event will be maintained by the Deputy Director and the OGC. The DFS Health and Safety Coordinator will be notified of the safety violation(s).
- 5.2. Materials Required
  - 5.2.1. Refer to PPE specifications for each Unit.

- 5.2.2. Swabs for buccal sample collection when entering DFS laboratory sections containing unpackaged evidence with the potential for future biological / human DNA testing.

## 6. Limitations

- 6.1. Due to the limited space available in some areas of the building, the DFS does not accommodate evidence viewing on site, unless authorized by the Division Director. Coordination with the Metropolitan Police Department Evidence Control Branch will need to be established for all other type viewing requests. If a viewing visit is approved, personnel not involved in the viewing shall conduct work in areas where the visitor is not present.
- 6.2. No testing of evidence will be conducted by the visitor of the laboratory as per the *DC Code 5-1501.09* as follows:
  - 6.2.1. 5-1501.09. Reexamination by independent expert:
    - 6.2.1.1. The facilities, equipment, or supplies of the Department shall not be used by an independent expert employed by the accused or his or her attorney for any reexamination of materials previously examined by the Department.
- 6.3. No photographs will be taken of the evidence during the viewing by the visitor unless coordinated with the Division designee or otherwise directed by Court Order. As appropriate, all cell phones, electronic digital/tape recorders, tablet computers, laptops, etc. will be secured in the Division Director's or designee's office for the duration of the visit to the DFS.

## 7. Procedures

- 7.1. Due to the sensitivity of the forensic testing performed at the DFS, when unpackaged evidence being viewed involves or may involve biological / human DNA testing, and such viewing cannot be done through a window separating the lab space from the lab hallway, visitors will be required to complete a *DFS DNA Sample Consent Form* and submit a DNA sample (buccal swab) to the DFS for use as an exclusionary sample in case any contamination may have occurred during the visit.
  - 7.1.1. The signed consent form, along with the sealed and appropriately labeled buccal sample envelope, will be turned over to the custody of the FBU (who will document its storage location).
  - 7.1.2. At no time will this sample or any other sample obtained from the visitor be subjected to genetic testing that will lead to the identification of genetic diseases, etc. or entered into the State and/or National Levels of CODIS.

*Note: Failure to provide a DNA sample by the visitor will prevent any access to the laboratory. Visitors may, however, view evidence through one of the many windows from the lab side hallway into the lab space.*

- 7.2. With the exception noted in Section 7.7.1. below, upon notification or request for the viewing of evidence / testing by a visitor to an employee of the DFS, the employee will inform their Unit Manager who will work with the Division Director / serve as the Division Director's designee to coordinate the visit. All communications regarding the coordination of the visit with the individual requesting to view evidence / testing will be maintained in the corresponding case file(s).

*Note: If the request is mandated by Court Order, notify management immediately.*

- 7.3. With the exception noted in Section 7.7.1. below, the assigned employee will contact the requestor to set up a date of viewing that is mutually agreeable to the DFS and visitor. A copy of the *Informed Consent and Agreement to Abide by Laboratory Policy* form will be forwarded to the visitor. The visitor must complete and return this form prior to visiting the laboratory or on the day of the visit. The assigned employee will inform the personnel in their unit of the visitor's date of viewing.
- 7.4. With the exception noted in Section 7.7.1. below, on the date of the visit, the assigned employee assumes responsibility for the visitor and collects the completed *Informed Consent and Agreement to Abide by Laboratory Policy* form and a copy of the Court Order, if applicable, for inclusion in the case file.
- 7.5. All security and safety procedures will be followed and enforced in all areas of the building. It is ideal to have the viewing occur through the hallway windows as much as possible / when appropriate for the type of evidence and/or testing being viewed.
- 7.5.1. If entry into the examination / garage space is necessary, the examination and work will be done by the DFS employee in a closed-off screening or other designed area of the facility.
- 7.5.2. If the visitor is to observe testing in an area other than the hallway, then the appropriate areas of the laboratory will be used after a DNA sample has been collected for exclusion purposes.
- 7.5.3. If the visitor is to observe non-biological evidence in an administrative area of the facility, a DNA sample does not need to be collected.
- 7.6. Visitors to the DFS will be escorted by a DFS employee at all times.

7.7. Upon entry into the DFS, visitors will register with the PSD officers in the lobby, and when entering the DFS laboratory space, again sign into the *DFS Laboratory Visitor's Log* with their name, agency/company, contact person in the DFS, and time of entry.

7.7.1. Visitors, considered to be investigative personnel requesting active participation in the collection of evidence during vehicle examinations in the confines of the CSS garage, will be asked to provide a buccal sample for use as an exclusionary sample, along with a signed *DFS DNA Sample Consent Form*. If a visitor to the DFS CSS garage refuses to provide a buccal sample they will only be allowed to observe the evidence collection and vehicle examination from the designated area in lieu of active participation.

## 8. Documentation

8.1. The following documentation shall be managed when generated:

8.1.1. Communication / Activity Log.

8.1.2. DFS Laboratory Visitor's Log.

8.1.3. Informed Consent and Agreement to Abide by Laboratory Policy Form.

8.1.4. DFS DNA Sample Consent Form.

8.1.5. Court Order.

## 9. References

9.1. Department of Forensic Sciences Establishment Act of 2011. DC Code 5-1501.09.

9.2. Quality Assurance Standards for Forensic DNA Testing Laboratories, Federal Bureau of Investigation, (current revision).

9.3. Division Quality Assurance Manuals, (current revisions).

9.4. Unit-specific Quality Assurance Manuals, (current revisions).

9.5. Division-specific Standard Operating Procedures, (current revisions).