

Victoria Police Manual

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DNA profile samples

Context

Obtaining DNA profile samples can assist Victoria Police investigate and solve crimes by:

- confirming or disproving a person's involvement in the commission of an offence
- obtaining impartial scientific evidence for use at court
- adding to relevant intelligence in Victoria Police's possession.

The *Crimes Act 1958* governs the circumstances for collecting and retaining DNA profile samples and these instructions are designed to support members' compliance with legislative requirements.

For policy and instruction on using forensic procedures to obtain forensic material and other DNA evidence, refer to **VPM Forensic procedures**.

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Definitions

DNA person:

- A person who is 18 years of age or above who:
 - is suspected of having committed or attempted to commit an indictable offence, or
 - has been charged with an indictable offence, or
 - has been summonsed to answer to a charge for an indictable offence.
- A child of or above the age of 15 years but under the age of 18 years who:
 - is suspected of having committed or attempted to commit a DNA sample offence, or
 - has been charged with a DNA sample offence, or

- has been summonsed to answer to a charge for a DNA sample offence.

DNA profile sample – a sample taken for the purpose of deriving a DNA profile that is (s.464(2)):

- a mouth scraping
- a blood sample
- a sample of saliva
- a sample of hair, other than pubic hair, including the root if required.

DNA sample offence - any indictable offence specified in Schedule 9 of the *Crimes Act* and applicable only to a child of or above the age of 15 years but under the age of 18 years.

Scope and application

VPM DNA profile samples addresses policy and procedure for obtaining a sample directly from a person to obtain and record their DNA profile.

Where charges for applicable offences have been filed prior to 1 July 2019, DNA samples must be obtained using the forensic procedures provisions of the *Crimes Act*; see **VPM Forensic procedures**.

To be authorised to supervise the taking a mouth scraping in accordance with s.464Z(3A), police officers must complete *DNA – Supervised Mouth Scraping* training. Refer to Instrument of Authorisation FP 1.3.

Policy

- Police may need a DNA profile sample for the purpose of:
 - identifying the suspect involved in criminal activity;
 - evidentiary purposes;
 - elimination purposes; or
 - matching the identity of a suspect with relevant intelligence in Victoria Police's possession.
- A DNA profile sample may be obtained in the following circumstances:
 - during the investigation of an indictable offence (adults) or DNA sample offence (children); or
 - with a senior officer's authority in certain circumstances.
- When conducting investigations of relevant indictable offences, members must consider whether obtaining a DNA profile sample is justified in the circumstances.
- DNA must only be used as evidence where there is additional corroborating evidence, unless exceptional circumstances exist (as stated in **VPMP Briefs of evidence**).

Responsibilities and procedures

1. Obtaining a DNA profile sample from a person in custody

1.1 *Grounds for obtaining a sample from a DNA person*

- During an investigation, a police officer may request a DNA person to give a DNA profile sample only if they are satisfied that the taking of the sample is justified in all the circumstances and the following applies:

Adults (s.464SC(1)):

- suspected on reasonable grounds of having committed the indictable offence;
- has been charged with the indictable offence; or
- has been summonsed to answer to a charge for the indictable offence.

Children (s.464SC(2)):

- believed on reasonable grounds of having committed the DNA sample offence;
- has been charged with the DNA sample offence; or
- has been summonsed to answer to a charge for the DNA sample offence.

A person who meets the above criteria is a “DNA person” for the purpose of the legislation and this policy.

- Taking a DNA profile sample is only considered justified where it is relevant and/or likely to contribute to or assist with the investigation.
- A DNA profile sample may be taken if:
 - the adult gives informed consent or the child and a parent/guardian of the child give informed consent (s.464SE(3)); or
 - a senior police officer gives an authorisation under s.464SE (see section 1.3).

1.2 *Informed consent*

- The investigating member must consider whether obtaining a DNA profile sample is required when entering a suspect into the Attendance module.
- A DNA person (and, if a child, their parent or guardian) must give informed consent before giving a DNA profile sample.
- To obtain informed consent, the police officer requesting a DNA profile sample for an adult must use the DNA Profile Sample Informed Consent Adult [Form F22] or for a child must use the DNA Profile Sample Informed Consent – Child [Form F23] to:
 - inform the person of certain information (as required by s.464SD(2)); and
 - record in writing on Form F22/23 and, if required on DEC recording, that the DNA person (and, if a child, their parent or guardian) consents.
- A sergeant or above must check the Form for compliance to confirm it has been completed correctly and that the police officer is authorised to take the sample having completed the *DNA – Supervised Mouth Scraping Training* (see Instrument of Authorisation FP 1.3). The Form must be checked in all circumstances, whether consent has been given or refused.
- A copy of the Form F22/F23 and, if taken DEC recording, must be provided to the DNA person, or in the case of a child, the parent/guardian.
- Where consent is refused, this must be recorded on the Form F22/F23 and, if taken on the DEC. The informant must then consider whether a senior police officer authorisation is required (see section 1.3).

Table 1 details the process for obtaining a DNA profile sample in these circumstances. A flow chart of the process is also available at **Appendix 1**.

Table 1: Process for obtaining DNA Profile Sample – Informed Consent (see also **Appendix 1**)

Step	Action
1	When entering a person in to the Attendance module, the investigator must consider whether the person is: • a DNA person and obtaining a sample is justified because it is likely to contribute to or assist with the investigation– go to step 2 • not a DNA person – continue processing the person as required.
2	Prior to obtaining the sample, the investigator must: • request informed consent using the DNA Profile Sample Informed Consent – Adult/Child [Form F22/23] (Part A) • record in writing on Form F22/23 (Part A) the person's response and, if the person is a child, their parent/guardian's response. The response may also be recorded on DEC recording.
3	• Informed consent given: Use Form F22/F23 (Part B) to: – advise the person that they may provide a self-administered mouth scraping and record their decision on Part A of the Form and DEC recording if used – provide the Caution using Part B and record their acknowledgement on the Form and Dec recording if used. Go to step 4. • Informed consent refused: – record refusal on Part A and the DEC recording if used. Provide a copy of the Part A (as soon as practicable) and if used a copy of the DEC (within seven days) to the person or their legal practitioner (if known) or, if a child, their parent/guardian. – request a Senior Police Officer's Authorisation (s.464SE) – refer to DNA Profile Sample Senior Police Officer's Authority – Adult/Child [Form F24/F25] and process at section 1.3. A sergeant or above must check the Form for compliance where consent is given or refused and prior to taking of the DNA sample.
4	• Where the person has elected to self-administer a mouth scraping, it must be conducted under the supervision of an authorised police officer* and that police officer must consider it appropriate in the circumstances. • Following the procedure, provide a copy of the Form F22/23 (Part A and B) as soon as practicable and where a DEC recording has been made (within seven days) to the: – adult or their legal practitioner – child or their legal practitioner (if known) or otherwise parent/guardian.
5	The investigator must: • record the details of the sample in PALM • complete the details on the sample kit and submit it along with the Form attached to FSD • retain a copy of the completed Form F22/F23 and DEC recording where applicable, with the Brief Head [Form 208A]/Initial Action Package Checklist [Form 1313].

* A police officer is authorised by completing the *DNA – Supervised Mouth Scraping training*; see Instrument of Authorisation FP 1.3

1.3 Senior police officer authorisation

- Where a DNA person refuses to give informed consent the investigating member may apply for a senior police officer's authorisation to obtain the DNA profile sample. Where the DNA person is a child, both the child and their parent/guardian must refuse to give informed consent for a senior police officer's authorisation to be considered (where this condition cannot be met, a court order must be obtained; see **VPM Forensic procedures**).
 - Table 2 (below) details the process for obtaining a DNA profile sample with a senior police officer's authorisation. A flow chart of the process is also available at **Appendix 2**.
 - The senior police officer must be a senior sergeant or above who is not involved in investigating the offence which has given grounds for the sample to be taken.
 - The senior sergeant or above may authorise the taking of the DNA profile sample if they are satisfied that (s.464SE):
 - the DNA person is:
 - under lawful arrest by warrant, ss.458 or 459 of the *Crimes Act* or any other Act; or
 - subject to a court order under s.464B(5); and
 - the DNA person, and their parent/guardian in the case of a child, has refused to give informed consent to provide a DNA profile sample; and
 - there are reasonable grounds to believe that the DNA person has committed the indictable offence (if an adult) or DNA sample offence (if a child) in respect of which the authorisation is sought; and
 - the taking of the sample without consent is justified in all of the circumstances because it is likely to contribute to or assist with the investigation.
 - A senior sergeant or above cannot authorise the taking of a DNA profile sample where (s.464SD(4)):
 - the DNA person (or their parent/guardian in the case of a child) is incapable of giving informed consent due to mental impairment; or
 - the DNA person is held in prison, police gaol or justice centre, or detained in one of these facilities and then transferred to a mental health facility or institution as defined by s.56AB(1), *Corrections Act 1986*.
- Where an FMO assessment determines that a DNA person is capable of giving informed consent, senior police officer authorisation may be sought.
- An authorisation must not be given where an application for a court order under ss.464T, 464U or 464V, or a senior police officer's authority for the same person on the same grounds has been refused (s.464SE(2)). A later court order or authorisation may be granted on different or further grounds.

Table 2: Process for obtaining DNA Profile Sample – Senior Police Officer Authorisation (see also **Appendix 2**)

Step	Action
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1	Where a DNA person has refused to give informed consent, the investigator must: - confirm the grounds for a senior police officer's authority exist; and - prepare and submit the DNA Profile Sample Senior Police Officer's Authorisation – Adult/Child [Form F24/F25] to a senior sergeant or above who is not involved in the investigation.
2	The senior sergeant or above must: - consider the information provided by the investigator on Form F24/F25 (Part A) and, before making a decision, also: - ensure an authorisation/court order for the same matter on the same grounds has not already been refused; and (in person if practicable, or otherwise by phone) give reasonable opportunity for the DNA person, their parent/guardian or their legal practitioner to explain why the DNA profile should not be taken. - record responses and additional information on Form F24/F25 (Part A) as required.
3	- The senior sergeant or above must record their decision on Form F24/F25 (Part B). - Where the authorisation is: Given - the senior sergeant or above must give, or cause to be given, a copy of Form F24/F25 (Part B) to the DNA person as soon as practicable after it is made or before the sample is taken. Go to step 4. Refused - a police officer must orally inform the DNA person of the refusal as soon as practicable after the decision has been made and provide a copy of Form F24/F25 (Part B) to the DNA person or, if a child, their parent/guardian. Scan and email Form F24/F25 to VPFSC-DNA-SNRAUTHFORMS-MGR. Continue processing the person as required.
4	- Before taking the sample, a police officer must use Form F24/F25 (Part B) to advise the DNA person (orally and in person) that the authorisation has been given and: - the date/time that it was given and the grounds for it being given; and - that reasonable force may be used to obtain the sample. - This must be recorded on DEC.
5	The investigator must determine the method for taking the sample by providing the information on Form F24/F25 (Part C) orally and recording the decision on DEC or in writing. The options are: - a self-administered mouth scraping because the person is willing and it is appropriate in the circumstances – go to step 6A; or - a blood sample because the person refuses to cooperate and self-administer a mouth scraping or it is inappropriate due to exceptional circumstances; go to step 6B.
6A	Obtaining the sample by mouth scraping: - Where the person chooses to self-administer a mouth scraping, it must be conducted under the supervision of an authorised police officer* and they must consider it appropriate in the circumstances. - Immediately before the procedure, give the Caution using Part C.

6B	Obtaining a blood sample: • A blood sample must be taken by a nurse/medical practitioner. Seek advice from a Sergeant or above and the Custodial Health Advice Line (CHAL). • If reasonable force is necessary to assist the nurse/medical practitioner, a Sergeant or above must conduct a risk assessment and be present when the sample is taken. Also refer to use of force requirements at section 3. • If practicable, police officers facilitating the procedure must be: – the same sex as the person giving the sample; and – independent from the investigation. • Immediately before the process, give the Caution using Part C • The process must be DEC recorded (if practicable) or witnessed by an independent medical practitioner/nurse and Part B must be endorsed accordingly.
7	Following either process, the investigator must ensure: • a copy of the DEC recording is provided within seven days, or • Form F24/F25 (Part B and C) is provided as soon as practicable to the: • adult or their legal practitioner • child or their legal practitioner (if known) or otherwise parent/guardian.
8	The investigator must: • record the details of the sample in PALM • complete the details on the sample kit and submit to FSD • scan and email Form F24/F25 to VPFS-DNA-SNRAUTHFORMS-MGR • retain a copy of the DEC recording or completed Form F24/F25 with the Brief Head [Form 208A]/Initial Action Package Checklist [Form 1313].

* A police officer is authorised by completing the *DNA – Supervised Mouth Scraping training*; see Instrument of Authorisation FP 1.3

2. Obtaining a DNA Profile sample in other circumstances

2.1 Additional grounds for senior police officer authorisations – overview

In addition to s.464SE, a DNA profile sample may also be obtained with the authorisation of a senior sergeant or above in the following circumstances:

- to obtain a DNA profile sample from adults found guilty of an indictable/Schedule 8 offence (including conspiracy to commit) or not guilty because of mental impairment (s.464ZFAC) from 1 July 2019; see section 2.2
- to obtain a DNA profile sample from a person who has previously provided a sample (s.464ZFAE); see section 2.3
- to obtain a DNA profile sample from registrable offender under the *Sex Offender Registry Act 2004* (s.464ZFAB); see section 2.4.

Separate to obtaining a DNA profile sample in accordance with the provisions listed above, a senior sergeant or above may also authorise a non-intimate compulsory procedure or physical examination of a non-intimate part of the body to obtain forensic evidence; refer to **VPM Forensic procedures** for instruction on these processes.

2.2 Senior police officer authorisation – post-conviction

- In accordance with s.464ZFAC, a senior sergeant or above may authorise the taking of a DNA profile sample from certain adults, post-conviction, in the following circumstances:
 - a person has been found:
 - guilty of an indictable offence or Schedule 8 offence; or offence of conspiracy/attempting to commit an indictable/Schedule 8 offence; or
 - not guilty of a an indictable/Schedule 8 offence, other than an offence heard and determined summarily, because of a mental impairment under the *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997*;
 - and:
 - it is not more than six months after the final determination of an appeal against the conviction or verdict of not guilty; and
 - the person was not under the age of 18 at the time of the finding of guilt/not guilty; and
 - the person does not have a DNA Profile Record on LEAP.
- Once an authorisation has been issued, a Notice to Attend must be served on the relevant person (other than a person who is detained). The Notice to Attend directs the person to attend a police station specified in the notice within 28 days after service or 28 days after the expiry of relevant appeal periods to take a DNA profile sample (whichever is later).
- A copy of the Notice to Attend may be served on the person by:
 - personal service
 - posting the notice to the person at their last known place of residence/business (include details in the affidavit of service)
 - leaving a copy for the person at their last or most usual place of residence/business with a person who apparently resides/works there and who is not less than 16yrs old.
- Failed service/Non-compliance with notice:
 - Unserved – within 28 days of the notice expiring, a member may apply to a magistrate/registrar to issue a warrant if reasonable attempts have been made to serve the notice and the DNA profile sample has not been taken from the person.
 - Non-compliance with Notice – a member may apply to a magistrate/registrar to issue a warrant if the notice was served on the person and the person has not provided the DNA profile sample.
- Table 3 (below) provides details on the process to obtain DNA profile sample in these circumstances.

Table 3: Process for obtaining DNA profile sample from adult (post-conviction)

Step	Action
1	An informant identifies that the grounds of s.464ZFAC (as listed above) exist and: • completes DNA Profile Sample Senior Police Officer's Authorisation – Post-finding of guilt or finding of not guilty because of mental impairment [Form F26]; and • submits the application to a senior sergeant or above.

2	The senior sergeant or above: - considers the Form F26 - signs the Authorisation page; Form F26 (Part B); and - returns documents to the informant to complete service.
3	The informant: - prepares the Notice to Attend – DNA Profile Sample Post-conviction [Form F27] and attaches copy of signed Form F26 (Part B), and arranges service; and - scans and emails copy of Form F26 to VPFSC-DNA-SNRAUTHFORMS-MGR.
4	The informant must: - serve the Notice to Attend and complete and retain affidavit of service; and - retain original complete Form F26.
5	Where the person attends the police station to provide the sample, refer to the process provided at section 2.5.
6	A warrant may be issued where the notice: - cannot be served and reasonable attempts have been made to action service. The warrant must be applied for within 28 days of the notice expiring; or - has been served and the person has not provided the DNA profile sample in the required timeframe. Apply to court for issue of the warrant using Warrant to Arrest to Obtain Forensic Sample/DNA Profile Sample [Form F15]. The original warrant must be used to execute the arrest. Unexecuted warrants should be forwarded to CDEB for filing and the original must be requested for service at a later time.

2.3 Senior police officer authorisation – DNA profile sample previously provided and DNA profile not extracted

- In accordance with s.464ZFAE, a senior sergeant or above may authorise the taking of a DNA profile sample from a person who has previously provided a sample, but a forensic scientist has not derived a DNA profile. This applies to circumstances where a sample was submitted for analysis in accordance with the following processes:
 - s.464T (a court order - compulsory procedure), s.464U (forensic procedure of a child), s.464V (interim order), s.464ZF (forensic sample offence) or s.464ZFAAA (not guilty because of mental impairment); or
 - s.464SC (DNA person sample), s.464SE (senior police officer authorisation), s.464ZFAB (direction to a registrable offender).
- Once an authorisation has been issued, a Notice to Attend must be served (in person) on the person to direct them to attend a specified police station to provide a DNA profile sample within 28 days after service.
- Table 4 provides details on the process to obtain DNA profile sample in these circumstances.

Table 4: Process for obtaining DNA profile sample from adult/child (sample provided and DNA profile not extracted)

Step	Action
1	FSD notifies the informant that it was not possible to obtain a DNA profile sample from a sample submitted for analysis (see above for applicable provisions).

2	The informant submits DNA Profile Sample Senior Police Officer's Authorisation - Previously Provided [Form F28] for consideration to a senior sergeant or above
3	A senior sergeant or above: - considers the Form F28 and authorises the taking of a DNA profile sample from an adult if it is demonstrated that the grounds are met by signing the Authorisation page of Form F28; and - returns this to the informant to complete service.
4	The informant: - prepares the Notice to Attend – DNA Profile Sample Previously Provided [Form F29] - scans and emails copy of Form F28 to VPFSC-DNA-SNRAUTHFORMS-MGR; and - retain the original Form F28.
5	The informant: - serves the Notice to Attend in person - completes and retain affidavit of service
6	Compliance with the Notice - where the person attends the police station to provide the sample; refer to the process provided at section 2.5. Non-compliance with Notice – a member may apply to a magistrate/registrar to issue a warrant if the notice was served on the person and the person has not provided the DNA profile sample; use Form F15. The original warrant must be used to execute the arrest.

2.4 Senior police officer authorisation – DNA profile from registrable offender under the Sex Offenders Registration Act 2004

- Registrable offender has the same meaning as in s.3(1), *Sex Offenders Registration Act 2004* (SORA).
- A police officer may, at any time, direct that a DNA profile sample be taken from a registrable offender if, at the time the direction is given, the Chief Commissioner does not have a sample from the person that may be held indefinitely (s.464ZFAB(2)).
- A senior sergeant or above may serve or cause to be served a notice on a registrable offender directing them to attend a police station to have a DNA profile sample to be taken (s.464ZFAB(3)). The Notice to Attend directs the person to attend a police station specified in the notice within 28 days after service.
- The Sex Offender Registry (SOR) is responsible for initiating this process and will provide a copy of the notice to the registered offender's Compliance Manager. The Compliance Manager is responsible for serving the notice and arranging the DNA profile sample collection.
- The sample must be taken using a supervised mouth scraping.
- Compliance Managers are responsible for ensuring forensic samples are held by Victoria Police and recorded for non-destruction.
- Where a forensic sample is not already held, the Compliance Manager must ensure that:
 - the Notice to Registrable Offenders Form is personally served on the registrable offender

- an appointment to take a DNA sample is booked within 28 days of the notice being served
- the Attendance Register is completed under "RSO reporting"
- the offender is cautioned using Caution for Registrable Offender before DNA Profile Sample Form
- the offender's consent is obtained using Consent for a Registrable Offender to give a supervised mouth scraping Form (available on the SOR intranet page)
- the Registrable Offender DNA sample lodgement Form is completed

The above forms are available on the SOR intranet page.

- DNA profile samples collected under the SORA must be conveyed to FSD personally
- In the event of a refusal to provide a DNA profile sample, members should apply for a warrant under s. 464ZFAA(7) once the 28 day period has expired
- In extenuating circumstances, where an RSO is unable to attend within the 28 day period, Compliance Managers may schedule appointments as soon as practicable outside that period.

2.5 *Compliance with a Notice to Attend and obtaining the DNA profile sample*

Where a person complies with the Notice to Attend under s.464ZFAC or s.464ZFAE by attending the specified police station before the nominated date the following applies:

- the person must be entered in the Attendance Module
- informed consent is not required to obtain the DNA profile sample
- the person must still be given the caution; use Notice to Attend DNA Profile Sample – Caution [Form F30]
- in the first instance, the person should be provided the opportunity to provide a self-administered mouth scraping where it is considered appropriate in the circumstances. A blood sample must be obtained in all other circumstances.
- self-administered mouth scraping:
 - the person elects to administer a mouth scraping under supervision of an authorised police member and it is appropriate in the circumstances
 - record the person's decision to elect this approach and provide Caution using Form F30. Provide the person with a completed copy
 - obtain the mouth scraping in accordance with DNA - Supervised Mouth Scraping Training process
 - complete the details on the sample kit and submit to FSD.
- blood sample:
 - where it is not appropriate in the circumstances for the person to self-administer the mouth scraping, a blood sample must be taken
 - seek advice from CHAL and a Sergeant or above
 - arrange for the custodial health nurse to attend to conduct the procedure
 - give the Caution using Form F30 immediately before the procedure
 - if reasonable force is required; refer to requirements at section 3
 - the procedure must be audio-visual recorded (if practicable) or witnessed by an independent medical practitioner/nurse.
- complete the details on the sample kit and submit to FSD.

3. Use of force

Legislation allows a police officer, with such assistance as they consider necessary, to use reasonable force to assist in obtaining a DNA profile sample where:

- a senior police officer authorisation or court order has been issued; and
- it is necessary to assist a medical practitioner/nurse in the taking of a DNA profile sample.

In the first instance, the person must be given opportunity to comply with the order/authorisation by providing a self-administered mouth-scraping, however where the person refuses to do so, the following applies:

- a nurse/medical practitioner must obtain the DNA profile by taking a blood sample
- a sergeant or above must:
 - conduct a risk assessment of the circumstances
 - contact the Custodial Health Advice Line for advice
 - be present when the sample is taken if it is determined that force may be required.
- if practicable, police officers facilitating the sample being taken must:
 - be of the same sex as the person giving the sample; and
 - not be involved in the investigation for which the sample is being collected.
- if the sample is to be taken from a child (15-17years), the sample must be taken in the presence of the child's parent/guardian or, if they cannot be located, an independent person of the same sex (if practicable) of the child (s.464Z(3AAA))
- prior to taking the sample, the person must be given the caution (see applicable procedure details in Table 1, Table 2 or section 2.5)
- the taking of the blood sample must be audio-visual recorded, if practicable, or be witnessed by an independent medical practitioner/nurse. A copy of the recording must be provided within seven days to the person or their legal practitioner or, if a child their parent/guardian if the legal practitioner is unknown
- a Use of Force App report must be completed if force is used.

4. Managing samples

4.1 Initial collection

The investigator is responsible for:

- establishing the identity of the person providing a DNA profile sample on each occasion a sample is obtained
- recording details in PaLM of any DNA profile sample taken (including specifying how the sample was obtained and all relevant LEAP incident numbers) and ensuring the details required on the outside of the sample kit are completed
- ensuring that authorised and refused Senior Police Officer Authorisation forms are scanned and emailed to VPFSC-DNA-SNRAUTHFORMS-MGR
- submitting the sample kit and forms to FSD as soon as possible
- ensuring the sample is stored in a dry area and not refrigerated.

4.2 *Destruction of samples*

- FSD undertakes the destruction of DNA profile samples held at the VPFSC based on the conditions for destruction listed below and advice received from the investigator responsible for the sample.
- DNA profile samples must be destroyed if the person:
 - has not been charged with a relevant offence 12 months after the DNA profile sample was taken, or
 - has been charged but the charge was not proceeded with, or
 - was found not guilty.
- The investigator is responsible for notifying FSD and updating PaLM with the status of the matter at court and any court outcomes, particularly where the conditions for destruction are met.
- The sample and all other information must be destroyed unless the investigator applies to the court for an order to extend the destruction period (s. 464ZG).
- The court may extend the destruction period if the person has not been charged within 12 months of obtaining the sample. The investigator must make the application to the court before the expiry of the 12 month period using the Application for Court for Extension of Destruction Period [Form F12]. Application for a further 12 months is recommended.

4.3 *Retention of DNA profiles*

In accordance with s.464ZFB, to ensure samples obtained under ss.464SC or 464SE are retained indefinitely, the following action is required:

Subject	Retention criteria	Process
Adult samples	The court finds the person guilty* or not guilty by reason of mental impairment of: • the indictable offence in respect of which the DNA profile sample was taken; or • any other indictable offence arising out of the same circumstances; or • any other indictable offence in respect of which evidence obtained as a result of the DNA profile sample had probative value.	Informant must notify FSD of court outcome by updating the PaLM record
Child samples	Application for a court order must be made any time after a finding of guilty* or not guilty by reason of mental impairment (but not later than six months after the final determination of an appeal or expiry of appeal period) of: • the offence in respect of which the DNA profile sample was taken; or • any other offence arising out of the same circumstances; or • any other offence in respect of which evidence obtained as a result of the DNA profile sample had probative value.	Informant to: • complete Application for Court Order to retain a Forensic Sample / DNA Profile Sample - Child [Form F17] • forward Form F17 and court order to FSD.

*This includes where the person was found guilty but no conviction was recorded

5. DNA matching

5.1 *Legislation*

- Section 464ZGI allows for the matching of samples against profiles stored on the DNA database. This includes the National Criminal Investigation DNA Database (NCIDD).
- FSD manages Victoria's contributions to the DNA database and notifies members of matches as required.

5.2 *Match of a person sample to a crime scene sample*

- Should a DNA profile sample from a person match an unidentified sample from a crime scene, FSD will:
 - investigate the details of the match, and create a Forensic Identification Report (FRN) within the LEAP Forensic Module
 - notify the investigator and Work Unit Manager of the relevant CIU/SOCIT, as determined by LEAP, of the creation of the FRN in LEAP via email
 - activate the investigation on LEAP, as required.
- The Work Unit Manager is responsible for ensuring FRNs are allocated to an investigator within seven days.
- If an investigator is notified that a DNA profile sample matches an unidentified crime scene sample, and the investigator did not obtain the DNA profile sample as part of that investigation, the investigator must:
 - determine whether another DNA profile sample is required for use as DNA evidence; and
 - arrange for another DNA profile sample to be taken if the grounds of s.464SC exist.

5.3 *Match of crime scene samples*

- Should a DNA profile from one crime, match a DNA profile from another crime, the DNA Management Unit (DNAMU) will investigate the details of the DNA match, and create a DNA Match Report.
- The DNA Match Report will be forwarded to the relevant DIU for intelligence purposes via email.
- Should the FSD be able to nominate a suspect for the offence, the match report will also be forwarded to the relevant CIU/SOCIT, as determined by LEAP.

6. Reporting requirements

- The Chief Commissioner must provide regular written reports to the Attorney General and IBAC in relation to DNA profile samples, including the destruction of any DNA profile samples and granted/refused senior police officer authorisations. FSD compiles information for these reports based on DNA profile samples received and notifications submitted by members (s.464ZN).
- After notifying the Chief Commissioner, IBAC may also enter police premises to inspect records relating to DNA profile samples (s.464ZO). Employees must give IBAC authorised officers any assistance that they reasonably require to enable the authorised officer to perform function under s.464ZO.

Related documents

- Instrument of Delegation FP 1
- VPM Forensic procedures

Further advice and information

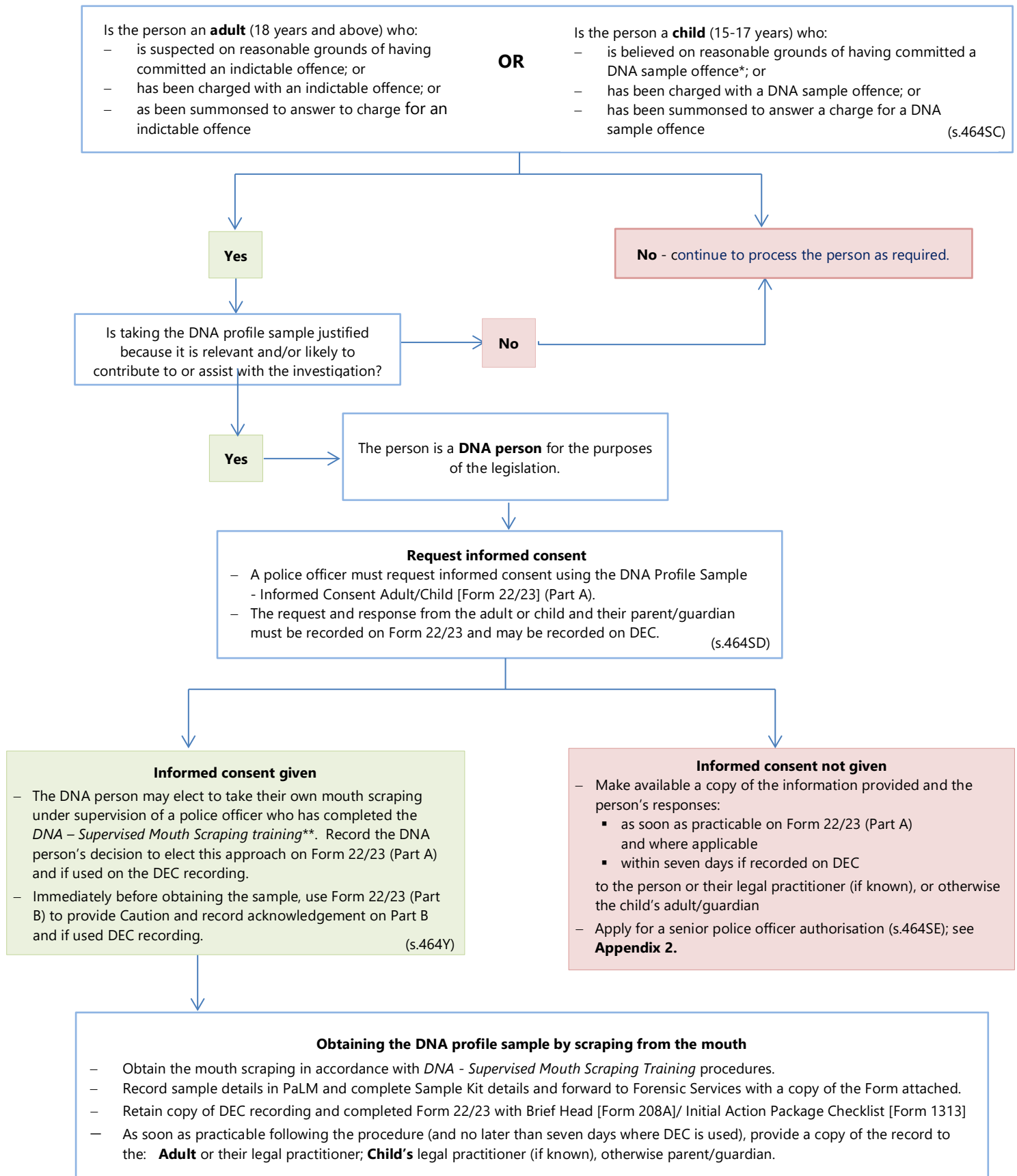
For further advice and assistance regarding this policy, contact the DNA Management Unit, Forensic Services Department.

Update history

DATE UPDATED	SUMMARY OF CHANGE	FORCE FILE NUMBER
01/07/19	New instruction to support introduction of DNA sample processes included in the <i>Crimes Act 1958</i> by the <i>Justice Legislation Amendment (Police and Other Matters) Act 2019</i> .	FF-140782
28/10/19	Amendment to informed consent process requiring that Form F22/23 must be completed in all circumstances, checked by a sergeant or above and a copy provided to FSD with the sample kit.	FF-
08/04/20	Policy updated to clarify the processes for justifying the taking of a DNA sample and what to do if a person is incapable of giving informed consent.	FF-158930
05/12/2024	Minor administrative amendment to correct reference to name of form VP26.	N/A
29/05/2025	Consequential amendment to replace reference to Use of Force Form 237, 237A-D with Use of Force App for 20/05/25 Use of Force App rollout	FF-266536
30/09/2025	Amendment to Appendix 1 to reflect the change of the minimum age of criminal responsibility from 10 to 12 years of age.	N/A

Appendix 1: Obtaining a DNA profile sample – Informed consent

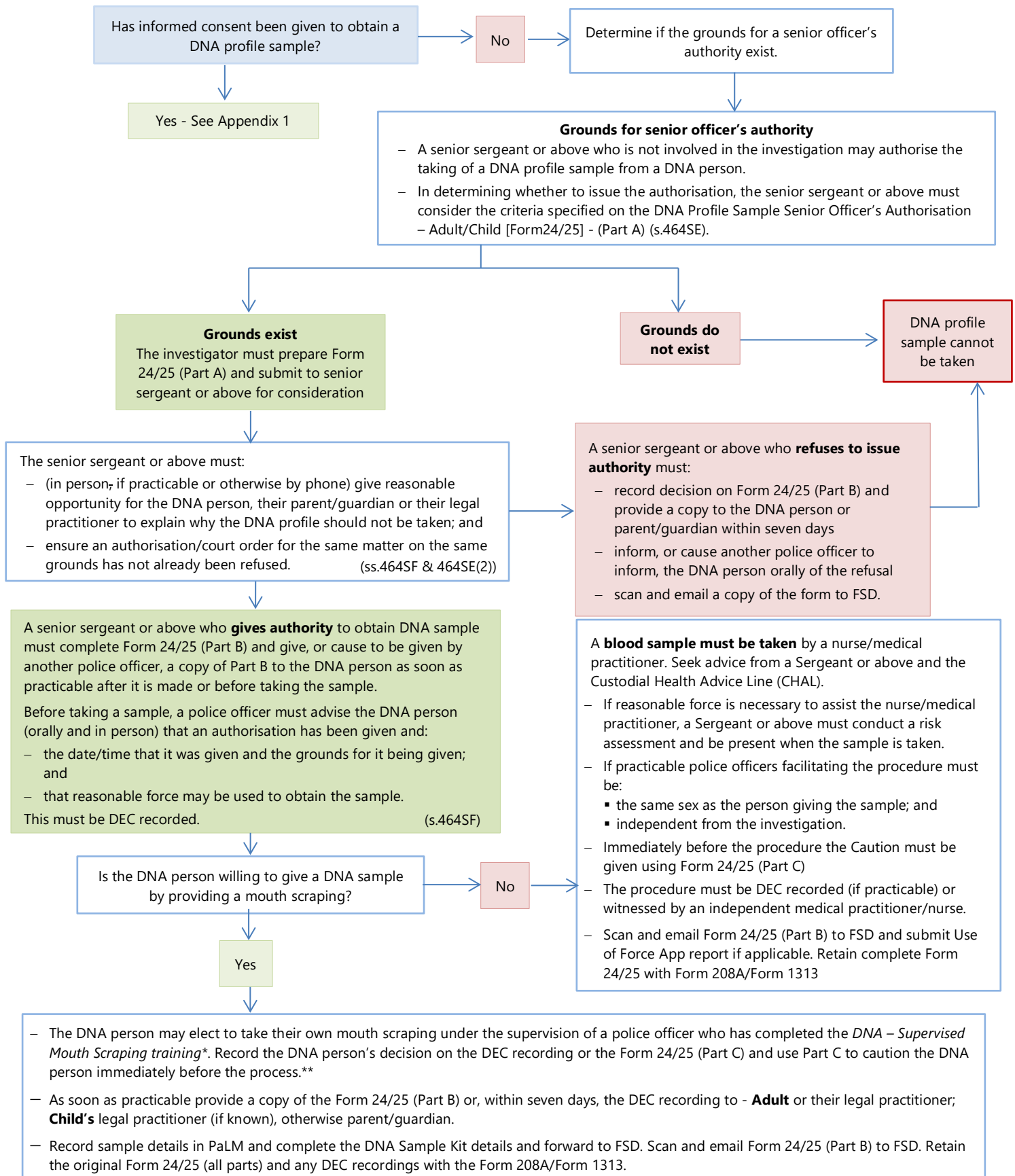
Note: If the person is a child aged 12-14 years and DNA evidence is required a court order to conduct a forensic procedure is required; refer to **VPM Forensic Procedures**.



* DNA sample offence means any indictable offence specified in Schedule 9, Crimes Act.

** See Instrument of Authorisation FP 1.3. Note: only a police officer may be authorised to supervise the mouth scraping.

Appendix 2: Senior Police Officer Authority to obtain a DNA profile sample – person in custody



* See Instrument of Authorisation FP 1.3. Note: only a police officer may be authorised to supervise the mouth scraping.

** Where it is not appropriate for the DNA person to administer the mouth scraping, contact the CHAL to determine if a blood sample is appropriate. If a blood sample will be taken, use Form 24/25 (Part C) to caution the DNA person immediately before the process. The process must be DEC recorded (if practicable) or witnessed by an independent medical practitioner/nurse.