



Model Jail Policy



Subject

Collection and Submission of Deoxyribonucleic Acid (DNA):
Sheriff's Office Jail Staff

Effective Date

March 2010

References

Wisconsin State Statute – 165.76 and 165.765(1)

National Commission on Correctional Health Care (NCCHC) Standard J-I-03

Wisconsin Department of Justice - Administrative Code Jus 9

Wisconsin State Crime Laboratory guidelines

Special Instructions

Distribution

Reevaluation Date/s

No. Pages

4

I. PURPOSE

To ensure the proper collection and submission of biological specimens from specified convicted offenders for DNA analysis within statutory requirements and/or court order, using procedures that protect system integrity.

II. POLICY

The Sheriff's Office will collect and submit biological specimens from specified convicted offenders for DNA analysis. Wis. Stat. 165.76, Wisconsin Department of Justice - Administrative Code Jus 9 and Wisconsin State Crime Laboratory guidelines state the Sheriff's Office will collect biological specimens for DNA analysis from offenders who are:

- 1) Sentenced to the county jail for a felony conviction.
- 2) Sentenced to the county jail as a condition of probation for a felony conviction.
- 3) Sentenced to the county jail for certain misdemeanors as enumerated in s. 973.047.
- 4) Ordered by the court to provide a biological specimen for DNA analysis.
- 5) Referred to the Sheriff's Office by the Wisconsin Department of Corrections (WisDOC) staff for collection of a biological specimen and fingerprints.
- 6) Special Circumstances: If an offender or arrestee is being booked into the jail and a review of that person's Computerized Criminal History (CCH) record reflects "DNA Sample Needed," refer to section D of this policy.

III. DEFINITIONS

A. *DNA*: Human DNA (deoxyribonucleic acid) is a complex chemical structure that is present in every cell of the body. The DNA structure or profile of each individual person is unique and can be used for matching biological evidence to a specific person.

IV. PROCEDURES

A. General

1. Before any biological specimen is collected, the identity of the offender must be verified, and a CCH report must be completed. From this report, the following information will be collected:
 - a. The State Identification (SID) Number: "WI-_____"
 - b. The Department of Corrections Client Number, if available.
 - c. If the report reflects, "DNA Sample on File," a specimen does not need to be collected. In this case, no further action is required.
2. If a specimen needs to be collected, jail staff or staff designated by the Sheriff will collect the specimen. Latex or similar single use gloves will be used during the collection of any biological specimen.
3. The "Wisconsin DNA Databank Buccal Swab Collection Kit" will be used for all biological specimens collected for DNA analysis. (Note: If the kit's seal is broken or has been tampered with, discard and use a new kit.) Follow the collection kit's instructions for collection of a biological specimen.

4. If a convicted offender is not incarcerated and, arrangements have been made with an outside agency to have the Sheriff's Office collect the offender's biological specimen for DNA analysis, the completed "Wisconsin DNA Databank Submission Form" (or the Sheriff's Office designated form) will be copied with one copy for the Sheriff's Office records and one copy sent to the appropriate requesting agency.
5. Any convicted offender that refuses or fails to provide the biological specimen as ordered will be referred to the district attorney for charges in accordance with s. 165.765(1).

B. Jail and Huber

1. The appropriate jail staff will be notified of any inmate/s that need to provide a biological specimen for DNA analysis via a Judgment of Conviction or Records personnel.
2. Jail staff will maintain a list of incarcerated and/or pre-booked inmates, obligated to provide a biological specimen.
3. All biological specimens will be collected as soon as possible, or in a timely manner, so that an inmate will not be released prior to a specimen being collected.
4. Biological specimens will be collected in a designated area as directed by the Jail Administration. Safety and security of the facility will have priority when determining the location of the collection.

C. Not in Custody and Not Under Supervision

1. If an offender is required to submit a biological specimen for DNA analysis, but is not sentenced to a jail or prison term, and is not placed on supervision, the court shall order the offender to report to the Sheriff's Office to provide the specimen.
2. If any offender fails to appear as ordered, the Sheriff's Office will notify the court for further action.

D. CCH Reflects DNA Sample Needed

1. Inform the subject that criminal history records state an obligation based on a prior conviction, to provide a biological specimen for DNA analysis.
2. Ask the subject if he/she will provide a biological specimen at this time.
3. If the subject agrees to provide a biological specimen, collect the specimen as outlined previously in this policy.
4. If the subject willfully refuses to provide a biological specimen, inform the subject that he/she is in violation of s. 165.765(1). Contact designated sheriff's office staff and request that a case be forwarded to the district attorney for consideration of criminal charges. The subject can not be kept in custody solely for refusing to provide a specimen unless a warrant or court order has been issued.

E. Agency Contact Designee

1. [Position Title] will serve as the Sheriff's designated point-of contact for all communications to and from other agencies regarding DNA collection. The Sheriff's Office will share contact information with the Wisconsin State Crime Laboratory, WisDOC, the Circuit Court, and other law enforcement agencies within the county.
2. The Sheriff's designee will work with local agencies to develop cooperative agreements to ensure DNA is collected from individuals legally obligated to submit biological specimens to the Wisconsin State Crime Laboratory.
3. The Sheriff's designee will communicate procedures developed under D.2., above, to all staff within the ... [Jail and/or the Office of Sheriff].

Note: Every effort has been made by the Wisconsin Department of Justice Staff and the Wisconsin DNA Task Force to ensure that this model policy incorporates the most current technical information and contemporary professional judgment. However, criminal justice administrators must be cautioned that no "model" policy can meet all the needs of any given agency. Each agency operates in a unique environment of federal court rulings, state laws, local ordinances, regulations, judicial and administrative decisions, prosecutor guidelines, and collective bargaining agreements that must be considered. In addition, the formulation of specific agency policies must take into account local political and community perspectives and customs, prerogatives and demands; often divergent criminal justice strategies and philosophies; and the impact of varied agency resource capabilities, among many other factors.