



**STATE OF WISCONSIN
DEPARTMENT OF JUSTICE**

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Dear Sheriff or Jail Administrator:

I write regarding Wisconsin's DNA Databank. The collection of DNA solves more crimes as the convicted offender Databank grows. The Databank goes back to 1994 under the "old" sex offender law. The first "hit" occurred in 1997 and for the next four years of the Databank's existence, there were only 28 "hits." In 2010, with more than 140,000 DNA profiles in the Databank, we experienced 692 hits. DNA has become a valuable tool in law enforcement's effort to fight crime in every county in Wisconsin.

Two recent cases, one large and one small, illustrate the value of DNA and the convicted offender Databank. On September 3, 2009, Thomas Niesen was convicted of 1st degree murder for the 1976 murder of Kathleen Leichtman in Fond du Lac. Niesen was not a suspect in the case and had avoided detection for more than 30 years. But, on April 21, 2008 he was convicted of felony child abuse. Upon his conviction, he was ordered to provide a biological specimen for DNA analysis. The specimen was collected. The laboratory developed his DNA profile and entered it into CODIS, the Combined DNA Index System. It was searched against DNA profiles entered from unsolved cases. Niesen's profile matched the one developed from evidence collected at the scene of the Leichtman homicide. That "hit" was provided to the Fond du Lac Police and led to the arrest and conviction of Niesen for the 1976 murder of Miss Leichtman.

In a less sensational case, officers from Ladysmith Police were investigating the burglary of a local feed mill. An alert officer noticed what appeared to be the tip of a latex glove, something not commonly used in the feed mill. He collected it and submitted it to the Crime Laboratory for DNA analysis. A profile was developed and compared against the convicted offender Databank. The profile "hit" against one of a convicted burglar from the Ladysmith area, who was then arrested and charged with the burglary of the feed mill.

The one thing that both of these cases have in common is that a biological specimen for DNA analysis was collected from a convicted offender and entered into the DNA Databank. Without that convicted offender profile, neither the homicide nor the burglary would have been solved.

For a variety of reasons, the collection of biological specimens from convicted offenders for DNA analysis has not always worked well. Early on, some sheriffs viewed the DNA specimen collection as an unfunded mandate with no direct benefit. Some did not perform any collection until some compensation, currently \$20 per unduplicated sample, is provided. The Department of

Corrections experienced some difficulty collecting DNA specimens from everyone in custody or under their control at the time the law was enacted. There has also been confusion regarding who was responsible for collecting a specimen, when it was to be collected, and from whom. The extent of the problem first became known in October, 2009 when it was determined that well over 12,000 convicted offenders did not have DNA profiles in the Databank because they had failed to provide a biological specimen for DNA analysis. Following that determination, the Wisconsin DNA Task Force was formed consisting of representatives from the Department of Corrections (WisDOC), the Department of Justice (WisDOJ), and the Badger State Sheriffs' Association. The task force examined the problem and proposed recommendations for improving the system of collecting biological specimens from convicted offenders for DNA analysis.

One of the outcomes of that task force is the enclosed "model policy" entitled "Collections of Deoxyribonucleic Acid (DNA)." We urge you to review this policy and encourage you to consider adapting it to your agency or adopting it in its entirety. We believe it clarifies responsibilities and establishes guidelines which, together with policies and procedures being implemented in WisDOC and WisDOJ's DNA Databank, will greatly enhance its effectiveness. We also ask that you provide the Databank staff at the Crime Laboratory in Madison with the name and phone number of a point of contact within your agency who can be contacted on all matters relating to DNA collection.

In March of 2011, the Wisconsin Department of Corrections will implement revised policies for the collection of DNA specimens from offenders under their custody or supervision. The Division of Community Corrections (Probation & Parole) will collect DNA specimens from offenders convicted in Wisconsin who meet all of the following criteria:

- 1) Are required by state statute or court order to submit a DNA specimen to the Wisconsin State Crime Laboratory;
- 2) Have been placed on probation as adults;
- 3) Have not been sentenced to a county jail or House of Correction, nor confined as a condition of probation, at the time of sentencing.

The Division of Community Corrections will refer offenders who are required to submit DNA specimens but have not been assigned WI SID numbers to the local Sheriff's Office for fingerprinting and assignment of WI SID numbers thru CIB.

Thank you for your cooperation. If you have any questions about the collection of DNA or the DNA Databank, please contact Dan Haase at the Wisconsin State Crime Laboratory-Madison at telephone 608-266-2031 or email at haasedj@doj.state.wi.us .

Sincerely,

Steven P. Means
Acting Administrator
Division of Law Enforcement Services

Enclosure