



STATE OF WISCONSIN
DEPARTMENT OF JUSTICE

BRAD D. SCHIMEL
ATTORNEY GENERAL

Paul W. Connell
Deputy Attorney General

Delanie M. Breuer
Chief of Staff

17 W. Main Street
P.O. Box 7857
Madison, WI 53707-7857
www.doj.state.wi.us

Paul M. Ferguson
Assistant Attorney General
fergusonpm@doj.state.wi.us
608/266-1221
TTY 1-800-947-3529
FAX 608/267-2779

August 31, 2017

Mr. Keegan Kyle
Gannett Wisconsin Media
kkyle@gannett.com

Dear Mr. Kyle:

This is in response to your correspondence, received on July 27, 2017, in which you requested the following records from January 1, 2015 to the present:

- Any reports showing the amount of evidence received and the amount of evidence tested by the State Crime Lab per month and/or per quarter and/or per year
- Any reports showing the amount of time that lapsed from the date evidence is received and the date evidence is tested by the State Crime Lab (such as an average or median numbers of days)
- Any reports produced weekly, monthly, quarterly or annually by the Department that contain information about the performance of the State Crime Lab

The Department of Justice (DOJ) construes your correspondence as a public records request pursuant to the Wisconsin Public Records Law, Wis. Stat. §§ 19.31 to 19.39.

We reviewed our files and identified records responsive to the first and third bullet points in your request. Please note, the Crime Laboratory does not track the "amount of evidence" it receives. It tracks "exams" and "exhibits." A single item submitted for testing may contain multiple "exams" and/or "exhibits" depending on the portion or portions of the item being tested or the test or tests conducted. As noted in the enclosed annual reports, the Crime Lab uses the term "case" to refer to an assignment created to perform the laboratory work. A case may result in multiple assignments created if work is conducted in multiple units, by multiple analysts, or if additional evidence is submitted. In other words, the statistics for the number of cases do not directly correlate with the number of pieces of evidence the Crime Lab receives. We identified the enclosed reports as best encompassing the requested information.

Regarding the second bullet point, we have no records responsive to this portion of your request. The public records law "does not require an authority to provide requested information if no record exists, or to simply answer questions about a topic of interest to the requester." *Journal Times v. City of Racine Board of Police and Fire Commissioners*,

2015 WI 56, ¶ 55, 362 Wis. 2d 577, 866 N.W.2d 563; *see also State ex rel. Zinngrabe v. Sch. Dist. of Sevastopol*, 146 Wis. 2d 629, 431 N.W.2d 734 (Ct. App. 1988).

The law permits DOJ to impose fees for certain "actual, necessary and direct" costs associated with responding to public records requests. Wis. Stat. § 19.35(3). Pursuant to Wis. Stat. § 19.35(3)(f), DOJ may require prepayment for the costs of locating (if applicable), copying, and mailing the requested records if the total amount exceeds \$5.00. Pursuant to Wis. Stat. § 19.35(3)(e), in this instance, DOJ is waiving its fees associated with responding to your request. Enclosed, please find a disc that contains the records responsive to your request.

Pursuant to Wis. Stat. § 19.35(4)(b), if a determination denies a request, in whole or in part, it is subject to review by mandamus under Wis. Stat. § 19.37(1) or upon application to a district attorney or the Attorney General.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul M. Ferguson", is written over a horizontal line.

Paul M. Ferguson
Assistant Attorney General
Office of Open Government

PMF:cks

Enclosures