



GENERAL ORDER

MINOCQUA POLICE DEPARTMENT

SUBJECT: DNA COLLECTION AT ARREST

SCOPE: All Sworn Personnel
DISTRIBUTION: General Orders Manual

REFERENCE: 20.455 (2) (Lm), 165.76,
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INDEX AS: Arrest Specimen Collection DNA
Biological Specimen (DNA)
Conviction Specimen Collection of DNA
DNA (Deoxyribonucleic acid)

PURPOSE: The purpose of this General Order is to provide guidance to Minocqua Police Officers for following Wisconsin Statutes as they pertain to obtaining a DNA (Deoxyribonucleic Acid) biological specimen at the time of arrest for specific crimes as described in Wisconsin State Statutes or to facilitate the collection of those biological specimens required for various convictions as required by the Wisconsin State Crime Lab.

The purpose of these statutes is to increase the scope of people who must provide a DNA biological specimen, to provide law enforcement with more flexibility in procuring the specimen, and to minimize the possibility that a person required to produce a specimen fails to do so.

This General Order consists of the following numbered sections:

- I. POLICY
- II. DEFINITIONS
- III. PROCEDURES

I. POLICY

- A. It is the policy of the Minocqua Police Department to follow Wisconsin State Statutes regarding the collection of Deoxyribonucleic acid (DNA) biological specimens for the arrest of persons for specific crimes or those persons who have been convicted of specific crimes and where no specimen was previously obtained.

- B. The Oneida Sheriff's Department Jail generally is tasked with collecting these specimens when booking any person arrested by the Minocqua Police Department for these specific crimes or those persons who have been convicted of specific crimes and where no specimen was previously obtained. However, if the Minocqua Police Department needs to obtain a specimen for any reason, Officers shall follow the procedures in this policy.

II. DEFINITIONS

- A. DNA: Deoxyribonucleic Acid
- B. BIOLOGICAL SPECIMEN KIT: A collection kit specifically provided by the Wisconsin State Crime Lab for collecting any DNA specimens.

III. PROCEDURES

- A. Wisconsin law requires law enforcement agencies to obtain a DNA specimen at arrest from an adult or any juvenile taken into custody for specific violent crimes. Refer to Appendix for the current list of these crimes.
- B. Wisconsin law requires any adult who is convicted of any felony to produce a DNA specimen. Any juvenile, who is convicted of a juvenile offense, if the offense would be a felony if committed by an adult, must also produce a DNA specimen. In addition, certain misdemeanor convictions by an adult or juvenile require submission of a DNA specimen. Refer to Appendix for the current list of these convictions.
- C. Wisconsin law also makes it a crime for any person to intentionally NOT produce a DNA specimen when required (at arrest or post-conviction). This is a separate misdemeanor offense and provides law enforcement with flexibility when dealing with a subject who is refusing to produce a specimen. Refer to Appendix for further information.
- D. Wisconsin law allows law enforcement to use reasonable force to obtain a DNA specimen from a person who is required to produce a DNA specimen and who intentionally refuses to provide the specimen.
- E. Any official who is authorized as described in D. above is immune from civil or criminal liability for collecting a specimen if the collection is in compliance with state statutes and performed in good faith and in a reasonable manner.
- F. Required "Arrest" specimens are to be taken at booking, either at the Department or at the Oneida County Jail. If the specimen is taken at the Department, Officers shall use Wisconsin State Crime Lab kits with the blue barcode and that have an AR-prefix.
- G. Required "Post-Conviction" specimens may be taken at the Department or at the Oneida County Jail if the subject or offender is not going to be charged with a new offense that would require a specimen. If the specimen is taken at the Department, Officers shall use Wisconsin State Crime Lab kits with the white barcode.
- H. If the subject or offender refuses to provide a required specimen and they are uncooperative, they should be taken into custody for refusing to provide the specimen and taken to the Oneida County Jail.
- I. If a subject or offender refuses to provide a specimen, the following procedure will be followed unless the Oneida County Jail performs this procedure.
 - 1. An Officer shall contact the Oneida County District Attorney's Office who may apply for a petition with the Circuit Court for an Order compelling the subject or offender to provide the required biological specimen (DNA).

2. The petition shall establish reasonable cause to believe the subject or offender is required to provide the biological specimen and that the subject or offender's biological specimen is not included in the date bank as required by state statute.
 3. If the Circuit Court determines the petition satisfies the conditions required by statute, the Court shall issue an Order requiring the subject or offender to appear in Court to show cause why they are not required to provide the biological specimen OR prior to the hearing the subject or offender may provide the biological specimen to the Oneida County Sheriff.
 - a) The hearing shall be scheduled for not less than 10 days nor more than 45 days after the Court enters the Order. The Order and the petition and any supporting material shall be served upon the subject or offender in a manner provided for serving a summons.
 - b) At the hearing, the subject or offender has the burden of rebutting the information in the petition and demonstrating why they are not required to submit the biological specimen.
 4. If the Court determines that the subject or offender is required to submit the biological specimen, the Court shall issue an Order to facilitate the collection of the specimen from them, which may authorize arrest, detention of the person, and/or the use of reasonable force to obtain the specimen.
- J. Officers shall use the E-TIME system to check whether a DNA sample is required or not. Upon entering the offender information and potential charges, E-TIME will provide the Officer with the information on whether a specimen is required or not or if the specimen required is for a previous conviction.
- K. Collection of the biological specimens from subjects or offenders taken at the Department shall be taken as directed by the Wisconsin State Crime Lab using the kit provided by them.
1. All biological specimens that have been collected shall be inventoried and placed on property.
 2. Lieutenant shall be responsible for obtaining a copy of the 10-print fingerprint card or live scan copy for each subject or offender. Lieutenant shall then be responsible for submitting the biological specimen, correct colored barcode, 10-print fingerprint card and any other required information to the Wisconsin State Crime Lab by mail in a timely manner.
 3. Lieutenant shall be responsible for tracking all biological specimens obtained by the Department and reporting this information to the Chief of Police for reimbursement from the Wisconsin State Crime Lab at the designated rate per specimen.
 4. The Oneida County Jail shall follow their procedures for the collection of these specimens.
- L. If a subject or offender refuses to provide a specimen as required, the Officer shall arrest the subject or offender for failure to submit a biological specimen under WI State Statute 946.52.
1. If the Officer feels it is unsafe or feels he/she would need to use more than a reasonable amount of force to collect the sample, the officer will transport the subject or offender to the Oneida County Jail.
 2. The Officer will inform the jail staff of the offender's refusal to provide a DNA sample.
- M. The biological specimen kits, either for arrest or conviction, are **NOT** to be used for the collection of evidence. Refer to the most recent version of the Wisconsin State Crime Lab Handbook for information on the collection of biological evidence, the preservation, storage, and submission of those specimens.

David J. Jaeger

David J. Jaeger
Chief of Police

This General Order cancels and supersedes any and all written directives relative to the subject matter contained herein.

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