

NOTICE OF GUIDANCE DOCUMENT

Pursuant to Wis. Stat. § 227.112, the Wisconsin Department of Justice is hereby seeking comment on the following proposed guidance documents:

DOJ WSCLB WEBPAGE: Evidence Submission Information

DOJ WSCLB WEBPAGE: FAQs

PUBLIC COMMENT AND DEADLINE FOR SUBMISSION

Comments may be submitted to the Wisconsin Department of Justice until February 24, 2020, by emailing the agency contact person listed below.

AGENCY CONTACT PERSON

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Evidence Submission Information

The Wisconsin State Crime Laboratory Bureau (WSCLB) is part of the Division of Law Enforcement Services within the Wisconsin Department of Justice. To support the state, there are three separate service areas: Madison, Milwaukee, and Wausau. Both the Milwaukee and Madison laboratories are full service laboratories providing DNA Analysis while the Wausau laboratory offers limited services at this time. In total, there are ten disciplines practiced at varying levels throughout the state. The service of questioned documents and handwriting analysis as well as tire track impression are no longer provided by the WSCLB.

Services at the WSCLB are available without charge to all authorized submitters. By extension, this includes a member of an authorized agency acting within the scope of their employment. If you are uncertain if you are an authorized submitter please contact the WSCLB.

The WSCLB reserves the right to and may decline any matter that does not involve a felony charge. Whether or not it ultimately accepts a case, the WSCLB is available for consultation. If in doubt, criminal justice providers are urged to contact the WSCLB for advice. The WSCLB is open Monday through Friday, 7:45 am to 4:30 pm, except federal holidays. After-hour services are available via crime scene response teams dispatched from the Madison, Milwaukee, and Wausau Crime Laboratories.

Evidence Submission Information for Criminal Defense

Upon court order, the services of the WSCLB are available at no cost to a defendant in a felony action. Results are confidential to the defense. Often, the items to be examined are in the custody of a police agency. While the agency may be directed to act as courier to deliver and retrieve items after analysis, results will not be discussed with them.

The WSCLB does not provide services for civil cases.

Physical Evidence Handbook and Guidelines

The WSCLB has published the 8th Edition of the [Physical Evidence Handbook](#) on the public side of WILEnet.

Additionally, the WSCLB has put together more condensed references for [Evidence Do's and Dont's](#), [DNA Analysis](#), [Latent Print](#) and [Controlled Substance](#).

As of February 15, 2019 the WSCLB has implemented updated Controlled Substance Evidence Submission Guidelines. For more information please see [this announcement](#).

As of September 15, 2018 the WSCLB has implemented updated DNA Evidence Submission Guidelines. For the most recent information please see [this announcement](#).

As of August 01, 2018 the WSCLB has implemented updated Latent Print Evidence Submission Guidelines. For the most recent information please see [this announcement](#).

As of May 01, 2019 the WSCLB has issued a guidance letter that is specific to Toxicology Evidence Submissions. For more information please see [this announcement](#).

As of January 2018 the WSCLB will now accept requests for Familial DNA Searching. For more information please see [this announcement](#).

As of July 17, 2017 the WSCLB will permit law enforcement officers to perform their own field tests at the WSCLB. For more information please see [this announcement](#).

As of January 1, 2016 the WSCLB will no longer provide the service of tire track impression. For more information please see [this announcement](#).

As of September 1, 2013 the WSCLB will no longer provide the service of questioned documents and handwriting analysis. For more information see [this announcement](#).

Transmittals

To submit evidence to the WSCLB complete the [transmittal form](#). To request video processing by the imaging unit please fill out this additional [form](#). When requesting DNA analysis please complete this additional [Questionnaire](#) and include with the submission of evidence.

Evidence Caseload and Case Type

In total, over 13,000 cases submitted to the WSCLB in 2016. The case intake was split relatively even across the three Bureau locations with the two full service laboratories having slightly more submissions. The data in the graph below is based upon the offense code assigned to each case in the Laboratory Information Management System (BEAST). The types of cases submitted to each laboratory vary; for instance Controlled Substance cases account for over 70% of the cases received at the Wausau Laboratory. Case types included in the Other category include Weapon Seizures, DWI, Other Assaults, and Miscellaneous.

	2014	2015	2016
Madison	3532	4297	4124
Milwaukee	4228	4589	5143
Wausau	3542	3678	3762
Total	11302	12564	13029

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Resources

- [Criminal Justice Coordinating Council](#)
- [File Consumer Complaint](#)
- [Wisconsin Amber Alert](#)
- [Missing and Exploited Children and Adults](#)
- [Wisconsin Alliance for Drug Endangered Children](#)
- [Wisconsin Crime Alert Network](#)
- [Wisconsin Department of Corrections](#)
- [Wisconsin Board of Commissioners of Public Lands](#)
- [Wisconsin Department of Transportation](#)
- [DOJ Media Archive](#)
- [Grants](#)

Contact the AG
 Attorney General
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 Madison, WI 53707-7857

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Can syringes, drug paraphernalia, and residue items be submitted to the Controlled Substances Unit (CSU) for analysis?

These items may be submitted if they are the only item in the case and/or if their analysis is imperative to the case investigation. The CSU will work one item per substance type. If other weighable amounts of controlled substances are present in the case, please **do not** submit these items.

How should liquid evidence be packaged?

Use a container appropriate for liquids. If the original container is sufficient to contain the liquid and prevent any leakage, it may be utilized with additional secondary packaging such as a plastic bag or metal can. Never put liquids directly into a metal can.

Should pharmaceutical tablets/products be submitted for analysis?

Controlled pharmaceuticals under Wisconsin Statute 961 can be submitted for analysis. Prescription pharmaceuticals that will be charged under Wisconsin Statute 450 should not be submitted for analysis.

What if DNA or latent print examination is also needed on the packaging containing the controlled substance items?

The original packaging should be separated and individually packaged prior to submission to the crime laboratory unless it is unreasonable to do so. For efficient and timely analysis, it is important to place these items in separate containers for submission to each unit.

What should be submitted in a case involving numerous items, large plant grows, etc.?

Please discuss the case with the prosecuting attorney prior to submission and determine which items are necessary for analysis. Only submit these items. Consideration should be given to statutory weight limits/plant counts and sampling methods that will lead to a successful prosecution and limit the analytical time required. With respect to marijuana grows where plants are of sufficient size, it is recommended to sample 1-2 grams of dried plant material from each plant and package separately for submission. Contact your area CSU with any questions regarding submission of these items.

Are juveniles and those individuals found not guilty by reason of mental defect allowed to be entered in CODIS?

Yes.

Does a ten print card need to be mailed in with every Buccal Swab Collection kit?

Yes, a ten print card must be collected and/or printed and enclosed within the submission envelope with the form. The ten print cards can either be printed from Live Scan or manually collected. One ten-print card will be sent (electronically or mail) to the Crime Information Bureau, as is current practice to establish the arrest record, and the second ten-print card will be mailed with the Submission Form to the Wisconsin State Crime Laboratory. For arrest events, please ensure the ten-print card taken at arrest is sent to the Crime Information Bureau.

How is a WI SID (State Identification Number) acquired for a subject that has no hands?

1. Submit a standard ten-print card with all available descriptor and charge information, note "Amp" in all finger boxes including plain impression boxes.
2. Obtain a copy of the subject's driver's license or another form of photo ID.
3. Mail card and a copy of the photo ID to the Crime Information Bureau. They will create a record and a WI SID will be assigned.

If a person's Criminal History Record indicates that Arrest DNA is on File do I need to collect another sample?

Yes. You will need to continue collecting a complete Buccal Swab Collection Kit until the Criminal History Record indicates that Conviction DNA is on File. Alternatively, if you are collecting for a qualifying conviction event, you may contact the DNA Databank Unit via email at DNADatabank@doj.state.wi.us with the conviction event information. If the conviction event is verified, it may not be necessary to collect an additional sample.

If a subject will not supply their name at the time of arrest, should the ten-print card be submitted as a John/Jane Doe?

No, first scan and email a copy of the fingerprint card to the AFIS Unit at the Madison Crime Laboratory. The fingerprints will be scanned in and searched in AFIS. If a match is found, the subject's name and WI SID (State Identification Number) will be provided to you. If no match is found, the arrest will then be submitted as a John/Jane Doe.




Is there a way for an agency to submit an electronic fingerprint card to CIB for a person that is consensually providing a DNA sample outside of any other arrest / custody event as the result of a prior obligating offense?

The agency can submit what is referred to as a DNA registration submission using the submission type code of "DS". A standard arrest would be a submission type code of "AR". There is also a submission code for a probation / parole registration of "PB".

What NCIC Code should I use for DNA statute 946.52 (Failure to submit biological specimen, class A misdemeanor)?

Upon review of the statutes and NCIC Codes it has been determined that the best fitting NCIC Code for 946.52 is 5099 (Obstruction).

Who can request expungement of a sample?

Only the individual who was collected may request expungement of their own sample. They must fill out an official expungement form and if related to a conviction, the form must be accompanied with a certified copy of the court order reversing, setting aside, or vacating the conviction or adjudication. The document can be found on WILENET  or the  WSCL forms section .

If the person has a record, do I still need to submit fingerprint/palm prints standards?

Whenever possible, it is best to submit standard fingerprints and palm prints for any suspects, victims, or other individuals who may have been in contact with the item. Even though a person may have an arrest record in the State of Wisconsin, this does not always mean that they have the necessary standards on file for comparison with any unknown prints. Often times, fingerprint cards are missing some areas of friction ridge detail, such as the tips and sides of the fingers, and palm print standards are often not taken.

What are the requirements for submitting digital images of fingerprint or footwear impressions?

The Wisconsin Crime Laboratory Bureau does not accept evidence images submitted via e-mail. The Laboratory will only accept electronic evidence images if they are submitted on an acceptable data-storage medium such as a CD-R or DVD-R. Images should be scaled, with the scale on the same plane as the impression, the impression should fill the frame, and a tripod should always be used. Impressions used for comparative analysis should be captured in the highest resolution lossless format available (i.e. RAW or TIF) and the impression should be in focus. All digital images of impressions should be submitted for examination even if the physical evidence is submitted as well.

How can I ensure that my samples are analyzed in the shortest amount of time possible?

The main things you can do to ensure a shorter turnaround time are to (1) provide all of the necessary information (including correct dates, spelling of names, etc.); (2) communicate with the Toxicology Unit when anything changes or when new information becomes available; and (3) submit your samples to the proper laboratory for your service area. Specifically, if alcohol analysis will be sufficient as long as the ethanol concentration is greater than 0.08 g/100 mL (or 0.02 g/100 mL or any other concentration), please include that on the evidence transmittal or the paperwork included in the blood kit. Please ensure that any handwriting on your paperwork is legible and that the requests for analysis are clear. Occasionally, the Toxicology Unit receives paperwork with ambiguous instructions. This delays the dissemination of the laboratory report while clarification is sought. Also, if specific drugs are suspected, please indicate this on the evidence transmittal or on the paperwork in the blood kit. This information will help the analysts ensure that the type of analysis needed is performed on the sample. Additionally, if only a small amount of sample is available, having this information will help the analysts direct the analysis in the most informative direction. Finally, please be aware that the Wisconsin State Crime Laboratory in Wausau now performs blood alcohol analysis. Therefore, if you are within the Wausau service area, please be sure to submit your samples in need of alcohol analysis directly to the Wausau Lab. Submitting those samples to the Madison Lab instead will delay the turnaround time, as the samples will then need to be routed to the Wausau Lab.

How do I know whether I should send a sample to the Wisconsin State Crime Laboratory or to the Wisconsin State Laboratory of Hygiene?

The following chart should help clarify this. Please contact your local Toxicology Unit if you have further questions.

Submissions: Hygiene Lab vs. Crime Lab

Offense	Hygiene Lab	Crime Lab
Driving under the influence (DUI) Type Impaired by alcohol and/or other drugs. Includes motor vehicle deaths, snowmobiles, motorboats, and ATV's.	ALL OFFENSES Including great bodily harm, vehicular homicide.	ONLY FELONIES ACCEPTED
Death Investigations	Suicides & routine death investigations. Submission is <i>not</i> limited to coroner or medical examiner; WSLH will receive samples in any death investigation.	Death is suspicious and possible felony CHARGES pending.
Probation and Parole Violations	Initial charge must be a MISDEMEANOR. <i>FEE is required.</i>	ACCEPTED
Crimes of Violence Domestic Abuse, Drug Facilitated Sexual Assaults, Weapons Charges	NOT ACCEPTED	ACCEPTED
Controlled Substance Cases	NOT ACCEPTED	MUST BE A FELONY Biological samples alone are not sufficient for possession charges.

I am a Drug Recognition Expert (DRE), and I sometimes perform evaluations for agencies other than my own. How do I go about obtaining a copy of the Confidential Report of Laboratory Findings?

The policy of the Crime Laboratory is to only release information to the submitting agency. Therefore, the case agent must contact the Crime Laboratory and authorize you to receive a copy of the report. Please have the case agent contact your local Crime Laboratory for details.

What kinds of blood tubes do you need for alcohol and drug analysis?

For alcohol analysis, the preferred blood tube is one that has a grey stopper or cap. These tubes contain sodium fluoride, a preservative and potassium oxalate, an anticoagulant. The blood kits issued by the Wisconsin State Laboratory of Hygiene contain this kind of blood tube. Another kind of blood tube that is acceptable for alcohol analysis is one that has a purple stopper or cap. It contains EDTA, which acts as an anticoagulant. For drug analysis, tubes with stoppers or caps of other colors are acceptable, as long as the blood has not formed a large clot in the tube. Some tubes, such as those with red stoppers or caps, are designed to make the blood clot. These tubes are generally not useful for drug analysis because the blood is no longer in liquid form.

CERTIFICATION OF PROPOSED GUIDANCE DOCUMENT

I have reviewed this guidance document or proposed guidance document and I certify that it complies with sections 227.10 and 227.11 of the Wisconsin Statutes. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is not explicitly permitted by a statute or a rule that has been lawfully promulgated. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is more restrictive than a standard, requirement, or threshold contained in the Wisconsin Statutes.

On behalf of the Attorney General

A handwritten signature in blue ink, appearing to read 'Charlotte Gibson', written over a horizontal line.

CHARLOTTE GIBSON

Division of Legal Services Administrator