

CHAPTER 165.

STATE CRIME LABORATORY.

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165.01 State crime laboratory. (1) Unless the context clearly requires otherwise the words used in this chapter shall have the meaning ascribed to them in this subsection as follows:

- (a) "Laboratory" means the state crime laboratory.
- (b) "Board" means the state crime laboratory board.
- (c) "Superintendent" means the superintendent of the state crime laboratory.
- (d) "Employee" means any person in the service of the laboratory other than the superintendent.

(2) There is created a state crime laboratory under the control of the state crime laboratory board, which shall be located in the city of Madison. The personnel of such laboratory shall consist of one superintendent and such employes as are provided for under s. 20.901, and for such purpose the state crime laboratory and such superintendent shall be deemed incorporated into such section.

(3) (a) The purpose of the laboratory is to establish, maintain and operate a state crime laboratory in order to provide technical assistance to local law enforcement officers in the various fields of scientific investigation in the aid of law enforcement. Without limitation because of enumeration the laboratory shall maintain services for the preservation and scientific analysis of evidence material to the investigation and prosecution of crimes in such fields as ballistics, chemistry, handwriting comparison, metallurgy, comparative micrography, lie-detector or deception test operations, finger printing, toxicology and pathology.

(b) The superintendent and employes of the laboratory are not peace officers and shall have no power of arrest or to serve or execute criminal process, nor shall they be appointed as deputy sheriffs nor in any manner clothed with police powers by appointment or election to any office. They shall not undertake investigation of criminal conduct except upon the request of a sheriff, coroner, district attorney, warden or superintendent of any state prison, attorney general or governor. The head of any state department may request investigations but in such cases the services shall be limited to the field of health, welfare and law enforcement responsibility which has by statute been vested in the particular state department.

(c) Upon such request the laboratory shall collaborate fully in the complete investigation of criminal conduct including field investigation at the scene of the crime and for this purpose may equip a mobile unit or units including lie detectors or deception test equipment.

(d) The services of the laboratory available to such officers shall include appearances in court as expert witnesses.

(e) The superintendent in his discretion may decline to provide laboratory service in any case not involving a potential charge of felony.

(f) The services of the laboratory may be provided in civil cases in which the state or any department, bureau, agency or officer of the state is a party in an official capacity, when requested by the attorney-general.

(4) The operation of the laboratory shall conform to the rules and policies established by the board. The board shall consist of 7 members, 5 of whom shall be appointed by the governor with the consent and advice of the senate. Of the appointees by the governor at least a majority shall be actively engaged in law enforcement work. The attorney general or his representative and a staff member of such department of the university as shall be designated annually by the president of the state university shall be ex officio members. Of those members initially appointed 3 shall be appointed for a term of 2 years, and 2 for a term of 4 years. Thereafter the term of office for each appointive member shall be 4 years, and appointees shall hold office until their respective successors shall be appointed and qualify; the term of office for the appointive members shall commence with the second Monday of March of the year of appointment. Ex officio members shall have the same

authority as other members. A member of the board shall be elected chairman for such terms as the board shall fix. The superintendent shall act as secretary of the board and shall keep and preserve its records and minutes and have custody of its property, except that in his absence the board shall elect a secretary pro tem from its own number or otherwise. The board shall hold regular meetings at least 4 times annually. Special meetings may be called at the request of a majority of the board or on the chairman's own initiative on 5 days' notice.

(5) Members of the board shall receive no compensation for their services as such, but shall be reimbursed for their necessary expenses. Every person appointed a member of the board shall, before entering upon the duties of his office, take and subscribe the oath of office prescribed by the constitution and file the same, duly certified by the officer administering it, in the office of the secretary of state.

(6) As soon as possible after the first members of the board shall enter upon the duties of their office, they shall appoint as superintendent of the laboratory, after making proper investigation and ascertainment to their own satisfaction, a person who is acceptable as to physical and mental qualifications, character, reputation, technical training, education and competency to perform efficiently the duties required of such office. The provisions of chapter 16 shall not apply to such superintendent and he may be removed for cause on affirmative vote of two-thirds of the members of the board. The board shall fill any vacancy in such office.

(7) The superintendent shall devote his entire time to his duties, shall be accountable to the board and shall file a bond of \$7,500 conditioned upon the faithful performance of the duties of his office.

(8) The board shall charge the county \$10 per manhour up to 50 manhours per case referred to it by a county for services performed by the laboratory. The charges applicable to cases referred to the laboratory by a county upon its request and when the service is rendered, shall be collected from the county, along with other state taxes and charges, in the next apportionment of state special charges. On October 1 of each year the director of the laboratory shall certify to the department of administration the amounts so determined to be due from each county for services provided by the laboratory in the preceding state fiscal year, and such amounts shall be included in the next following apportionment of state special charges in the manner described by s. 70.60, and when paid into the state treasury shall be credited to s. 20.290 (40). All charges in excess of \$500 on any one case referred to the laboratory by the county shall be paid by the state.

(9) The superintendent shall devise and purchase a seal for the use of the laboratory. A description of the seal, with an impression thereof, shall be filed in the office of the secretary of state.

History: 1961 c. 142.

165.02 Employees; civil service; compensation. (1) The superintendent is authorized to appoint and remove as provided as provided by chapter 16, and to prescribe the duties of employees within the bureau other than scientific personnel.

(2) The board shall determine, within the limitations of the appropriation, the number of expert scientific employees to be employed within the laboratory and within each field in which the laboratory can feasibly render service to law enforcement agencies, such as ballistics and handwriting experts, chemists, toxicologists, pathologists, lie-detector operators, identification experts, fingerprint experts, and within such other fields as the board may from time to time determine to be necessary. The appointment of such employees shall be made by the superintendent and in the discretion of the board may be without regard to the provisions of chapter 16.

(a) The board may establish salary ranges for the superintendent and scientific employees of the laboratory and may by contract arrange on a fee basis for services of experts in fields where part-time services are more economical or more readily available geographically for prompt services.

(3) The superintendent may make temporary appointments of expert scientific employees subject to approval of the board. The board may remove any expert scientific employe with or without the recommendation of the superintendent. The superintendent may, subject to board approval, suspend any expert employe.

165.03 Intelligence center; training activities. (1) The laboratory shall act as an intelligence center for the clearance of information between law enforcement officers. In furtherance of this purpose it shall issue bulletins weekly or more often if occasion may require by mail, wire or radio, including information on property stolen and property recovered in communities of the state and in addition, shall operate a current modus operandi file on criminals operating in the state and such interstate criminals as will be

likely to operate in the state or seek refuge in the state. The laboratory shall at all times collaborate and co-operate fully with the federal bureau of investigation in its clearance of intelligence matters between law enforcement officers in the state and to that end shall at all times keep the federal bureau of investigation fully informed of intelligence matters cleared through the laboratory.

(2) The laboratory shall co-operate and exchange information and intelligence with other similar organizations in other states.

(3) The laboratory is authorized to prepare and conduct informational and training activities for the benefit of law enforcement officers and professional law-medical groups. This may include the preparation and distribution of printed or graphic training aids. The laboratory may charge a reasonable fee for such materials and shall make such charge if the production cost of such materials exceeds \$1 per copy.

History: 1961 c. 272.

165.04 Evidence privileged. (1) Evidence, information, and analyses of evidence obtained from law enforcement officers by the superintendent or employes of the laboratory shall be privileged and not available to persons other than law enforcement officers nor shall the defendant be entitled to an inspection of information and evidence submitted to the laboratory by the state or of the laboratory's findings thereon, or to examine laboratory personnel as witnesses concerning the same, prior to trial, except to the extent that the same is used by the state at a preliminary hearing. Upon request of a defendant in a felony action, approved by the presiding judge, the laboratory shall conduct analyses of evidence upon behalf of such defendant; in such event no prosecuting officer shall be entitled to an inspection of information and evidence submitted to the laboratory by the defendant, or of the laboratory's findings thereon, or to examine laboratory personnel as witnesses concerning the same, prior to trial, except to the extent that the same is used by the accused at a preliminary hearing. Employes of the laboratory who made examinations or analyses of evidence shall attend the criminal trial as witnesses, without subpoena, upon reasonable written notice from either party requesting such attendance.

(2) Upon the termination or cessation of the criminal proceedings, the privilege of the testimony obtained by the laboratory may be waived by the superintendent. Thereafter the superintendent and employes of the laboratory may be subpoenaed in civil actions in regard to any information and analysis of evidence previously obtained in such criminal investigation, but the laboratory shall not be engaged in any investigation requested solely for the preparation for trial of a civil matter. Upon appearance as a witness or receipt of a subpoena or notice to prepare for trial in a civil action, or appearance either with or without subpoena, the experts shall be compensated by the party at whose request the appearance or preparation was made in a reasonable amount to be determined by the trial judge, which fee shall be paid into the state treasury. In fixing such compensation the court may give consideration to the time spent in obtaining and analyzing the evidence for the purposes of criminal proceedings.

(3) At any preliminary examination a report of the laboratory's findings with reference to all or any part of the evidence submitted to it, certified as correct by the superintendent, shall, when offered by the state or the accused, be received as evidence of the facts and findings therein stated, if relevant and otherwise admissible in evidence. The expert who made the findings need not be called as a witness unless his appearance is demanded by the opposing party, in which case the magistrate shall so order and adjourn the hearing to a time when the expert is available to testify.

History: 1961 c. 298.

165.05 Co-operation with other state departments. For the purpose of co-ordinating the work of the laboratory with the research departments located in the state university, the board and the university may agree for the use of laboratories and physical facilities in the university and the exchange and utilization of personnel between the laboratory and the university. A committee shall be appointed by the president of the university consisting of staff members of such university departments as the president may determine are engaged in fields interrelated with the work of the laboratory, which committee shall act in an advisory capacity to the board.

165.06 Disposal of evidence. Whenever the superintendent is informed by the submitting officer or agency that physical evidence in the possession of the laboratory is no longer needed the superintendent may, unless otherwise provided by law, either destroy the same, retain it in the laboratory or turn it over to the university of Wisconsin upon the request of the head of any department thereof. Whenever the superintendent receives information from which it appears probable that such evidence is no longer needed, he may

give written notice to the submitting agency and the appropriate district attorney, by registered mail, of his intention to dispose of the evidence and if no objection is received within 20 days after such notice was mailed he may dispose of such evidence as herein provided.