



POLICY & PROCEDURE

PORTAGE POLICE DEPARTMENT

SUBJECT: **DNA COLLECTION AT ARREST**

NUMBER: 6.31

SCOPE: All Sworn Personnel

ISSUED: 04/07/2025

DISTRIBUTION: Policy & Procedure Manual

EFFECTIVE: 04/07/2025

REFERENCE: WI State Statutes: 20.455 (2) (Lm),
165.76, 165.77, 165.78, 165.84, 946.52

RESCINDS

AMENDS

WILEAG 5TH EDITION
STANDARDS: 1.7.4.5

PURPOSE: The purpose of this Policy and Procedure is to provide guidance to Portage 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 Policy & Procedure consists of the following numbered sections:

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

I. POLICY

- A. It is the policy of the Portage 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 Columbia Sheriff's Department Jail generally is tasked with collecting these specimens when booking any person arrested by the Portage 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 Portage 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.
- 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.
- 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.
- 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 at the Columbia County Jail.
- G. Required "Post-Conviction" specimens will be taken at the Columbia County Jail.
- 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 Columbia County Jail.

- I. If a subject or offender refuses to provide a specimen, the following procedure will be followed unless the Columbia County Jail performs this procedure.
 1. An Officer shall contact the Columbia 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 Columbia 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 by employees of the Portage Police Department shall be placed in evidence.
 2. The Captain or designee 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.

3. The Columbia 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 they 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 Columbia 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.

Keith J. Klafke
Chief of Police

This Policy & Procedure cancels and supersedes any and all previous written directives relative to the subject matter contained herein.

Initial 04/07/2025