

## **DNA REQUIREMENTS**

### Authority/References:

[Wisconsin Act 20 \(2013\)](#)

[Wisconsin Act 214 \(2013\)](#)

Wisconsin Act 53 (2021)

### General Statement:

It is the agent's responsibility to ensure that a DNA sample has been submitted and verified from those clients who are statutorily required to submit a sample. Staff shall work in conjunction with DAI and DJC to ensure that all individuals under DOC authority have had appropriate samples taken prior to moving from one division's authority to another or prior to discharge.

[Wisconsin Act 20 \(2013\)](#) and [Wisconsin Act 214 \(2013\)](#) created the requirement of DNA collection from:

- Adults and juveniles arrested for a violent crime as noted in [SS 165.76](#).
- Adults and juveniles convicted/adjudicated of any felony crime.
- Adults convicted of any misdemeanor crime when the offense occurred on or after April 1, 2015.
- Juveniles adjudicated of certain misdemeanor crimes as noted in [SS 165.76](#).

Wisconsin Act 53 (2021) created the requirement of DNA collection from:

Persons released on parole, extended supervision or placed on probation in another state on or after April 1, 2015, and is or was on supervision in this state under the Interstate Compact.

### Procedure:

There are certain points in time during a client's life cycle that verification of the client's DNA submission status will be checked. The client's DNA requirement is not considered satisfied until the DOJ Computerized Criminal C History (CCH) report states either "Conviction DNA is on File" or "Arrest DNA is on File" and the WICS DNA Collection and Tracking screen has a date in the "DNA Verified Date" field. Agents must continue to follow-up with clients until both of these requirements are met. DNA samples must be taken with a WI DNA Databank kit, and submitted to the DNA Databank with all portions of the kit completed.

Points in time when DNA submission must be verified:

- **Intake:** During intake, agents will request a CCH be obtained through the Wisconsin DOJ Crime Information Bureau (CIB) system, also known as the TIME System. By the end of intake if a DNA sample is required but has not been submitted, the client should be ordered to report to local law enforcement for DNA sample collection. This order should be entered into COMPAS notes stating the date of the referral and which law enforcement agency the client was referred to. If the CCH indicates "Conviction DNA is on File" or "Arrest DNA is on File" and the WICS "DNA Collection and Tracking" screen has a date in the "DNA Verified Date" field, no further DNA action is necessary until 90 days prior to discharge.
- **Every month after end of intake until sample obtained:** For those clients whose DNA status was not considered complete during intake, agents should regularly review the CIB CCH for current DNA status. If the DNA requirement has been fulfilled, a note should be placed in WICS and COMPAS indicating the date that DNA was verified as complete. If the DNA requirement is not complete agents should remind the client of the DNA requirement and develop a plan and timeline to ensure compliance and sample submission. This plan may include, but is not limited to, re-referral to local law enforcement, agent scheduling the follow up appointment, or if approved by regional/assistant regional chief, placing the client in custody and requesting law enforcement collection of the DNA sample. Agents should place appropriate notes in COMPAS regarding the referral.
- **90 days prior to discharge:** For all clients who are approaching discharge, agents must request a CIB CCH to verify that DNA status is "Conviction DNA is on File" or "Arrest DNA is on File." If a DNA sample is not on file, as noted on the CCH, then the client may be placed into custody on a hold and collection of a DNA sample requested through law enforcement.

If the CCH indicates "Arrest Sample is on File", the agent should inform their regional DNA SME to contact the State Crime Lab DNA Databank at [DNADatabank@doj.state.wi.us](mailto:DNADatabank@doj.state.wi.us) and inform them of the client's conviction status and request that the DNA status be updated to "Conviction DNA is on File". The email subject box should state "Change Arrest DNA to Conviction DNA – Client Last Name, First Name,

SID#, Court Case number. No documents need to be attached if this information is included in the email.

Note shall be placed in COMPAS and on the WICS DNA Collection and Tracking screen when the CCH states "Conviction DNA is on File" stating the date the DNA sample was verified and the submission requirements were met.

Outside of these specific points in time if mitigating circumstances exist regarding DNA submission and verification, with regional/assistant regional chief approval, a client may be placed into custody on a hold and DNA sample collection be requested of local law enforcement. Holds for clients placed in custody for purposes of DNA collection are non-reimbursable holds.

**Other Opportunities to Verify DNA Submission:**

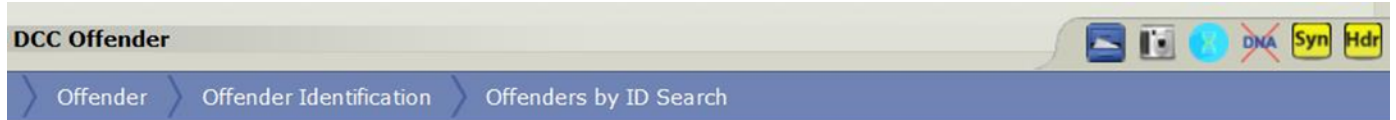
There may be other opportunities during client supervision when DNA requirements should be verified. These opportunities include:

- Prior to release from custody
- Prior to recommending an early discharge
- Prior to renewing a blanket travel permit
- Prior to an intrastate transfer
- At other times deemed appropriate

For those clients who have been ordered to submit a DNA sample and refuse or have intentionally not complied with that order, the client should be placed in custody. If all attempts to collect a sample have failed, the client can be referred to the district attorney to be charged with the misdemeanor offense under Wis. Stat. §946.52, "Failure to submit biological specimen".

**WICS Requirements:**

WICS tracks both a client's obligation to submit a DNA sample and the client's sample submission and verification by using the following buttons/screens:



The DNA obligation button tracks whether or not a client is obligated to submit a DNA sample based on their offense information. If a client is obligated to submit a DNA sample, this blue button will always remain on their Offender screen in WICS. A CIB CCH should be obtained to verify if a DNA specimen is needed if this icon is present.



The DNA collection and tracking button tracks the status of a client’s DNA sample submission. This information is uploaded from DOJ on a daily basis. If a client is obligated to submit a DNA sample and has not yet fulfilled the DNA requirement, this button will appear on the Client screen in WICS. Once a date is filled in the “DNA Verified Date” field indicating that the client’s DNA sample has been accepted and verified by DOJ, this button will no longer appear.

DNA Collection and Tracking Information (1 - 1 of 1)							Prepare To Add
Effective Date	Effective Time	Current Collection Status	Kit #	Collected Date	Sent to DOJ Date	Received by DOJ Date	DNA Verified Date
07/24/2015	11:05 AM	DNA Needed					

Since DCC staff do not collect DNA samples, the kit number and collection dates should not be filled in on the DNA tracking screen. DAI and DJC staff do still collect samples and will fill these dates when appropriate. DCC’s focus is the “DNA Verified Date” field.

DNA FOR DEPORTEES/ICE HOLDS

For all clients, failure to comply with DNA requirements is a violation and should be addressed through an evidence-based response to violation and following Department policies and procedures. Clients who have been deported or are being held by ICE are still required to maintain compliance with DNA requirements, however, there may be circumstances where a client may not have been afforded the opportunity to submit their sample. There may be times when DOC and local law enforcement do not have access to a client who is being held on an ICE detainer and are unable to obtain a DNA sample. If an

agent and local law enforcement are unable to collect a Wisconsin DNA sample kit from a client who is being held on an ICE detainer, that agent should clearly document in COMPAS notes what actions were taken to collect a DNA sample including contacting ICE, working with local jail staff, or any other actions. If no DNA sample can be collected as a result of an ICE detainer, the agent should document this in COMPAS notes and the case should be allowed to discharge after completion of the supervision term. A stop time is not required on deported clients for the purposes of DNA submission if there is documentation that DOC attempted to have a sample collected. For clients being held on an ICE detainer that are available to have a Wisconsin DNA sample collected but refuse to submit a DNA sample, the client is in violation and the agent should take appropriate action.

Interstate Compact Clients:

Clients who are in Wisconsin from another state: If the other state's supervision start date is on or after January 1, 2000 and before April 1, 2015 is comparable to a Wisconsin felony offense, then the client should be ordered to law enforcement for DNA submission and appropriate notation entered into COMPAS regarding the order. For questions relating to comparable committing offenses in Wisconsin, agents should contact their regional DNA SME. Clients who are in Wisconsin from another state are required to provide DNA, regardless of the level of the crime, if the client's supervision start date in the other state was on or after April 1, 2015.

Clients who committed offense in Wisconsin: For those clients applying for Interstate Compact to move outside of Wisconsin, if the committing offense requires DNA submission, that DNA sample must be submitted and verified with the DOJ prior to the client leaving the state. Exceptions must be approved by the Regional/Assistant Regional Chief. The agent and supervisor should staff the case to develop a plan and timeline with the client for returning to Wisconsin to submit a sample or the agent can work with the SAFE Team to have a sample submitted.

For those clients currently living in another state on Interstate Compact who are required to submit a DNA sample, the agent should coordinate with the client and the SAFE Team for DNA collection and submission. The SAFE Team can reach out to other law enforcement jurisdictions to coordinate DNA sample collection. If an out-of-state law enforcement

agency is unable to accommodate Wisconsin's DNA sample submission requirements, the client may need to return to Wisconsin to provide the sample. That return should be coordinated with the other state's supervising agent to provide travel authorization. Interstate Compact clients who are unwilling to provide a required DNA sample are considered noncompliant and agents should work with the other state on a violation investigation.

**DNA Status References from CCH:**

"NO DNA ON FILE" indicates the crime lab does not have DNA for this individual.

"ARREST DNA IS ON FILE" shows that DNA was collected at the time of arrest for offenses that occurred on or after April 1, 2015. That DNA is not processed until a conviction for misdemeanors or a finding of probable cause in felony cases. It remains in "Arrest DNA" status until conviction. This status or "Arrest DNA is on File" are acceptable statuses in order for a client's DNA obligation to be considered complete. When known, WI DOC will inform WI DOJ when an arrest DNA on file needs to be changed to conviction DNA on file via an email to the WI DOJ DNA Databank.

"DNA COLLECTION NEEDED – SAFE TEAM" indicates that the individual has a qualifying conviction requiring the submission of DNA and that the circumstances requiring submission have been vetted and verified by the SAFE Team.

"DNA COLLECTION NEEDED – CRIME LAB RECOLLECT" denotes that DNA was submitted and that after the initial receipt/acceptance it was learned that the fingerprints were unreadable or did not match the named person, the sample was inadequate, the SID was incorrectly assigned or entered, incomplete paperwork accompanying the sample, etc. DNA kit needs to be retaken.

"CONVICTION DNA IS ON FILE" indicates that DNA has been collected, it has been accepted by the lab, and verified by the lab. This status or "Arrest DNA is on File" are acceptable statuses in order for a client's DNA obligation to be considered complete by DOC.

**DNA Reports:**

A monthly report is run out of Business Objects program for all active clients who have not met the DNA submission requirement. This list is provided by DNA SMEs and must be reviewed by agents and necessary actions taken to have samples submitted for those on the list.

**Discrepancies in DNA submission information:**

Each region has a DNA Subject Matter Expert (SME) and other staff trained on DNA procedures to serve as a resource on DNA issues. The SMEs can assist staff in resolving discrepancies between WICS and the CCH regarding DNA obligation, verification, and status. If a discrepancy is discovered and WICS needs to be updated, staff should consult with the SME or appropriately trained staff prior to making any updates to WICS.

**Responsibilities:**

Regional/Assistant Regional Chief:

- Ensure that DNA reports are being reviewed and appropriate action is taken to clear up discrepancies or incomplete records

Supervisors:

- Ensure agents are referring clients to the appropriate local law enforcement agency following local procedures
- Ensure that DNA verification is occurring at the required points in time

Agent:

- Monitor client DNA submission requirements and take appropriate action referring for a DNA collection as needed
- Place appropriate notes in COMPAS regarding DNA sample collection referrals and confirmations
- Take appropriate action with regard to any contact by the SAFE Team regarding necessary sample recollects

DNA Subject Matter Experts (SMEs) and DNA Trained Staff:

- Review DNA data reports and follow up with appropriate staff to resolve issues

ECRM > DCC Supervision > DNA Requirements

- Resolve discrepancies between WICS and the CCH regarding DNA obligation, verification, and status, including contacting the State Crime Lab.
- Update "DNA Verified Date" field in WICS pending outcome of problem resolution
- Be a resource for staff on DNA issues

SAFE Team (Email: [DOCDLSafeTeam@wisconsin.gov](mailto:DOCDLSafeTeam@wisconsin.gov)):

- Coordinate sample submission with out-of-state jurisdictions
- Follow on information received regarding recollects that are required and coordinate with staff as appropriate