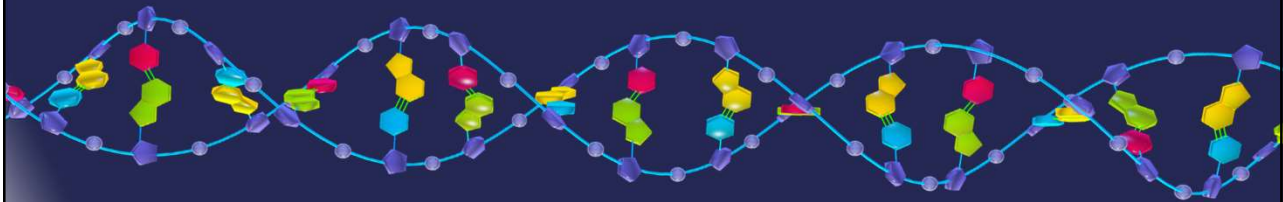


# DNA AT ARREST AND ADJUDICATION



## DNA AT ARREST – WHAT IS IT?

- Requires that law enforcement obtain DNA for each adult or juvenile arrested for a **“violent crime”**
  - Clerks do not need to know violence crimes – flagged in CCAP
  - List of violence crimes in Juvenile DNA at Arrest MPK procedures
- Law effective **April 1, 2015**

(Wis. Stat. 165.84(7)(ah))



## WHAT HAPPENS ONCE DNA IS TAKEN?

- Law enforcement sends DNA to Wisconsin State Crime Lab
- DNA is only tested when certain events happen
- Court must notify crime lab when:
  1. Juvenile was taken into custody under a warrant
  2. Court makes finding of probable cause that juvenile committed offense
  3. Juvenile failed to appear at the initial appearance or preliminary examination (or waived the preliminary examination)
  4. Juvenile failed to appear for a proceeding under Ch. 938 (Wis. Stat. 165.84(7)(am)1m.)
- Court's reporting triggers when DNA gets tested



## HOW DO CLERKS REPORT INFORMATION TO DOJ?



- To satisfy reporting requirements, follow "Juvenile DNA at Arrest Procedures"
  - **Note:** Use procedures for all JV cases, not just violent crimes
  - CCAP identifies what information to send "behind the scenes"
- CourtNet: <http://courtnet.wicourts.gov/policies/modelrecord.htm>

## REPORTING REQUIREMENT 1: WARRANTS



- **Statutory Requirement:**
  - Notify DOJ if a juvenile was taken into custody under a warrant
- **Clerk's Responsibility:**
  - None - Law enforcement will provide information to DOJ

## REPORTING REQUIREMENT 2: PROBABLE CAUSE



- **Statutory Requirement:**
  - Notify DOJ if court has found probable cause that juvenile has committed a violent offense
- **Clerk's Responsibility:**
  - Check "Probable Cause" check box by every charge in the case where PC is found

## REPORTING REQUIREMENT 2: PROBABLE CAUSE (CONT.)

The screenshot shows a software interface with a dropdown menu open over a table. The dropdown menu includes options like 'Copy charge (p)', 'Manage charges (m)', 'Set arrest tracking number (t)', and 'Set probable cause found (b)'. The table below has columns for 'Probable cause' and 'Sent to JOT?'. A red box highlights the 'Set probable cause found (b)' option in the menu and the 'Probable cause' column header in the table.

Count	Description	Severity	Modified severity	Plea	Plea date	Disposition description	Status	Probable cause	Sent to JOT?
1	Run-Involve Great Harm	Felony E		Admission	02-03-2023	Finding Withheld	Closed	Yes	No

## REPORTING REQUIREMENT 3: FAILURE TO APPEAR



- **Statutory Requirement:**
  - Juvenile failed to appear for a delinquency proceeding
- **Clerk's Responsibility:**
  - Use *JNONA (Juvenile nonappearance)* in all JV cases when juvenile fails to appear
  - Notes:
    - *NONA (Non appearance)* was deactivated for JV case type
    - *ONONA (Other nonappearance)* was created for use when someone other than juvenile fails to appear (e.g., parents)

## HOW DO I KNOW IF INFORMATION WAS SENT TO DOJ?

Entry will be added to the DOJ – DNA list box

Data reporting	
<b>Department of Natural Resources</b>	
Time reported	↓ Reason
<b>Department of Justice Firearms Restrictions and Involuntary Commitments</b>	
Date reported	↓ Reason
<b>Department of Justice DNA@Arrest</b>	
Date reported	↓ Reason
03-20-2023	Probable cause found

## IS THERE A WAY TO KNOW IF SOMETHING WAS MISSED?



- **Yes** – clerks can run CCAP DNA at Arrest report to determine if something is missed
  - Found in Reports application
- See pg. 2 of Juvenile DNA at Arrest MRPs for more information

## CORRECTING A MISTAKE

- Contact the crime lab directly
  - Ph: (608) 266-2031
  - Email: [DNADatabank@doj.state.wi.us](mailto:DNADatabank@doj.state.wi.us)
- Provide the following information:
  - Juvenile's name, DOB, case number, and SID (if known)

Contact information  
provided in Juvenile  
DNA at Arrest  
*Procedures*

## EXPUNGEMENT OF DNA

- **DNA in data bank can be expunged if:**
  - All charges have been dismissed; or
  - Court found defendant not guilty; or
  - At least one year has passed since collection and person has not been charged; or
  - Any conviction has been reversed, set aside, or vacated




(Wis. Stat. 165.77(4)(am))

## HOW IS DNA EXPUNGED?

- Expungement of DNA is a **DOJ process**, not a court one
  - File DOJ form DJ-LE-177
- DOJ form available at <https://www.doj.state.wi.us/dfs/dna/dna-databank>

DJ-LE-177, Rev 04/13



**Wisconsin DNA Databank Record Expungement Request**

Records may be removed from the Wisconsin DNA Databank if they were submitted as the result of a conviction or adjudication which has since been reversed, set aside or vacated, or for which the governor has granted a pardon. They may also be removed if the DNA sample was collected in error. Any request for such a removal must be made using this form and must be accompanied by a certified copy of the court order reversing, setting aside or vacating the conviction or adjudication, or a certified copy of the governor's grant of pardon. (as applicable) *Jus 5.06(2), Wis Admin Code*

Print or Type all Identifying Information					
Name - Last		First		Middle Initial	
Street Address			Apartment Number		
City				State	Zip Code
Sex	Birth Date (Month/Day/Year)	Race			
<input type="checkbox"/> Male		<input type="checkbox"/> African American	<input type="checkbox"/> Caucasian	<input type="checkbox"/> Asian	
<input type="checkbox"/> Female		<input type="checkbox"/> Native American	<input type="checkbox"/> Hispanic/Latino	<input type="checkbox"/> Other	
Wisconsin State ID Number		Dept. Of Corrections ID Number			
<p>I hereby request that the Wisconsin DNA Databank remove all data, records, and identifiable information pertaining to my DNA sample previously submitted for inclusion in the Convicted Offender Index. Additionally, I am requesting that all remaining sample be destroyed. The sample for which an expungement is being requested was collected as the result of a conviction or adjudication which occurred on the date below.</p>					
Date (Month/Day/Year)		In the County of		In the State of	
<p>This request is being made because: (Check One)</p> <p><input type="checkbox"/> The above conviction has been reversed, set aside or vacated.</p> <p><input type="checkbox"/> The above conviction has been pardoned by the governor.</p> <p><input type="checkbox"/> DNA collection for the above conviction was performed in error.</p>					
<p><small>I attest that all the information provided is accurate and true to the best of my knowledge. If the requester is the person who provided the Databank Sample, I further attest that I have not been convicted or adjudicated delinquent for any other offense, separate from the one described above, which would have obligated me to provide a DNA sample to the Wisconsin DNA Databank. I attest that no court has ordered me, separate from the occasion above, to provide a DNA sample to the Wisconsin DNA Databank.</small></p>					

## REQUIREMENTS FOR DNA COLLECTION AT ADJUDICATION

- Court shall require juvenile to provide a DNA sample if adjudicated delinquent on the basis of the following violations:
  - All felonies
  - 940.225(3m), 941.20(1), 944.20, 944.30(1m), 944.31, 944.33, 946.52, 948.10(1)(b)

(Wis. Stat. 938.34(15))

## DNA REQUESTS FROM DOJ

- DOJ checks to ensure DNA is being properly tested
- Unlike with adult cases, they can't use WCCA (public CCAP), so they ask the clerks
- Clerks can confirm probable cause, failure to appear, or a conviction, but you can't send dispositional report without a court order (Wis. Stat. 938.396(2g)(n))