

THE HITCHHIKERS GUIDE TO WISCONSIN ACT 20: UNANTICIPATED EFFECTS AND CONSEQUENCES OF MISDEMEANOR AND ARREST SAMPLE COLLECTIONS

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In April 2015 Wisconsin implemented a new law that significantly impacted the collection of reference DNA samples. In addition to all felony convictions (adults and juveniles), Wisconsin Act 20 expanded DNA collection laws to include a subset of violent felonious acts at arrest (adults and juveniles) as well as all misdemeanor convictions from adults and a subset from juveniles. This law included several limiting factors that impacted the Wisconsin DNA Databank. First, it was deemed that the legislative intent was to limit misdemeanor conviction collections to individuals for whom the date of the offense occurred on or after April 1, 2015. Second, Wisconsin Act 20 prevents the laboratory from processing an arrest DNA sample until probable cause is established and requires destruction of an arrest DNA sample at one year if it is not established. Ultimately, these legislative modifications significantly transformed the workload and workflow, requiring additional staff, facilities, and software to meet the expanded requirements.

In 2015, the Wisconsin DNA Databank received over 24,000 reference DNA samples, roughly a twofold increase from 2014. Approximately 50% were felony samples, 25% were misdemeanor samples, and 25% were arrest samples. In the first quarter of 2016, the Wisconsin DNA Databank received almost 10,000 reference DNA samples, of which 50% are misdemeanor samples. Of note, approximately 5% of the samples received were returned to law enforcement agencies because the collection was not statutorily eligible. In addition, approximately 30% of samples contained an error requiring resolution prior to processing. Further, due to the probable cause requirement only a small subset of the arrest samples received in 2015 could be processed. Further, more than 10% of the arrest samples received are destroyed after one year because probable cause is never established.

In addition to increased sample intake, the Wisconsin DNA Databank reported a total of 684 hits in 2015, a 1.2 fold increase from 2014. Only ten of these hits were associated with an arrest sample, and of those, only four provided investigative leads. Surprisingly, a significant number of investigative leads were linked to misdemeanor samples. This presentation will expand upon this trend and possible explanations for the relative success of misdemeanor conviction samples as opposed to violent felony arrest samples as well as the impact the new legislature has had on the workflow and workload of the Wisconsin DNA Databank.