

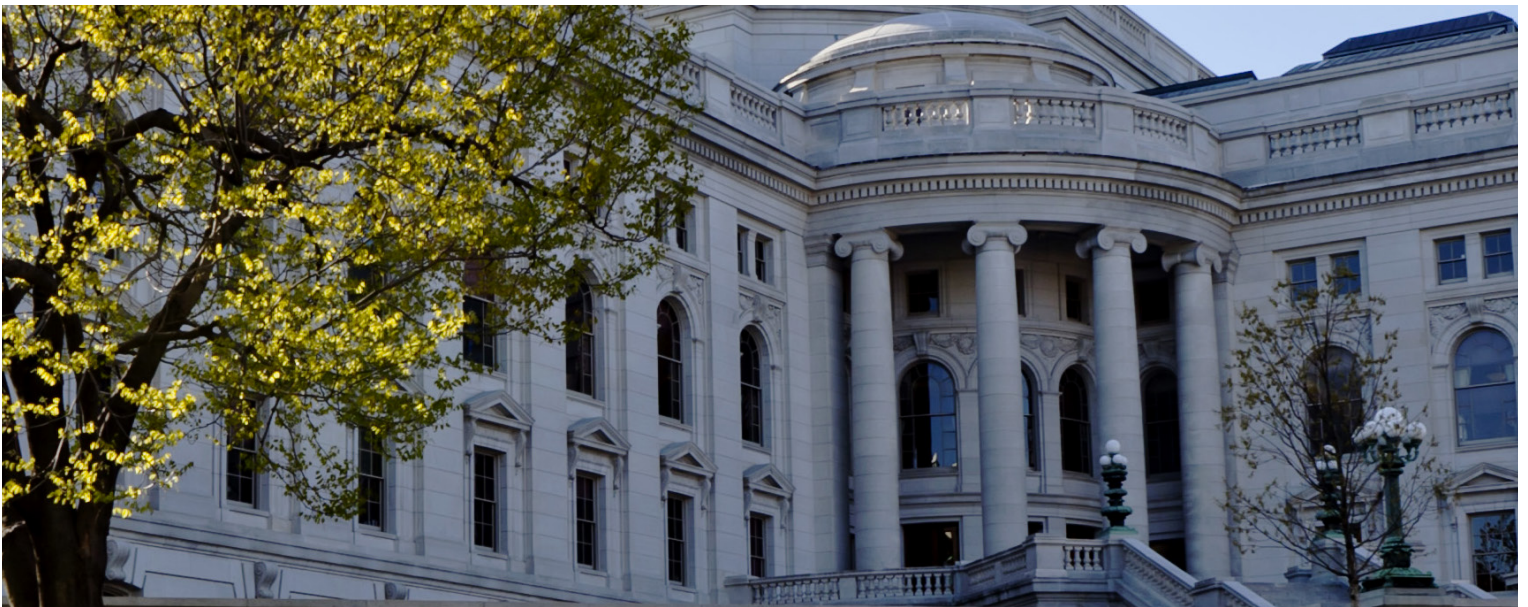


STATE OF WISCONSIN
Legislative Audit Bureau
NONPARTISAN • INDEPENDENT • ACCURATE

Report 24-6
June 2024

Timeliness of State Crime Laboratories in Analyzing Evidence

Department of Justice



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Legislative Audit Bureau

State Auditor
Joe Chrisman

**Deputy State Auditor
for Performance
Evaluation**
Dean Swenson

Team Leader
Nehemiah Chinavare

Evaluators
Emily Dubrovin
Morgan Matthews
Alex Paradowski
Sam Russell
Jonathan Sandoval

**Publications Designer
and Editor**
Susan Skowronski

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STATE OF WISCONSIN

Legislative Audit Bureau

Joe Chrisman
State Auditor

22 East Mifflin Street, Suite 500
Madison, Wisconsin 53703

Main: (608) 266-2818
Hotline: 1-877-FRAUD-17

www.legis.wisconsin.gov/lab
AskLAB@legis.wisconsin.gov

June 28, 2024

Senator Eric Wimberger and
Representative Robert Wittke, Co-chairpersons
Joint Legislative Audit Committee
State Capitol
Madison, Wisconsin 53702

Dear Senator Wimberger and Representative Wittke:

As requested by the Joint Legislative Audit Committee, we have evaluated the timeliness of the Department of Justice's (DOJ's) crime laboratories in analyzing evidence. In fiscal year (FY) 2022-23, DOJ spent \$30.4 million on its three crime laboratories, which are located in Madison, Milwaukee, and Wausau.

In July 2023, DOJ was authorized 177.1 full-time equivalent (FTE) permanent positions for the crime laboratories. This total includes 105.5 FTE positions for analysts, most of whom examine evidence. The vacancy rate of analyst positions increased from 2.6 percent in July 2019 to 9.5 percent in July 2023. We recommend DOJ fill 3.0 FTE positions with forensic toxicologists, as required by the Joint Committee on Finance in its deliberations on 2023 Wisconsin Act 19, the 2023-2025 Biennial Budget Act.

Statutorily authorized individuals, such as sheriffs and police chiefs, submit evidence to the crime laboratories, which create assignments for particular analyses to be completed on the evidence. The median turnaround time for completing analyses increased from 39 days for assignments created in FY 2019-20 to 58 days for assignments created in FY 2022-23 (48.7 percent). In January 2024, we surveyed sheriffs and police chiefs, district attorneys, circuit court judges, public defenders, and medical examiners and coroners. A total of 45.3 percent of survey responses indicated satisfaction with the timeliness of the crime laboratories in analyzing evidence in 2023, and 25.9 percent indicated they were neither satisfied nor dissatisfied.

DOJ should take additional actions to improve the timeliness of its crime laboratories in analyzing evidence. DOJ should improve productivity standards for crime laboratory analysts, improve how its crime laboratories centrally record information, and improve its annual reports on the crime laboratories.

We appreciate the courtesy and cooperation extended to us by DOJ. A response from the Attorney General follows the appendices.

Respectfully submitted,

Joe Chrisman
State Auditor

JC/DS/ss

Introduction

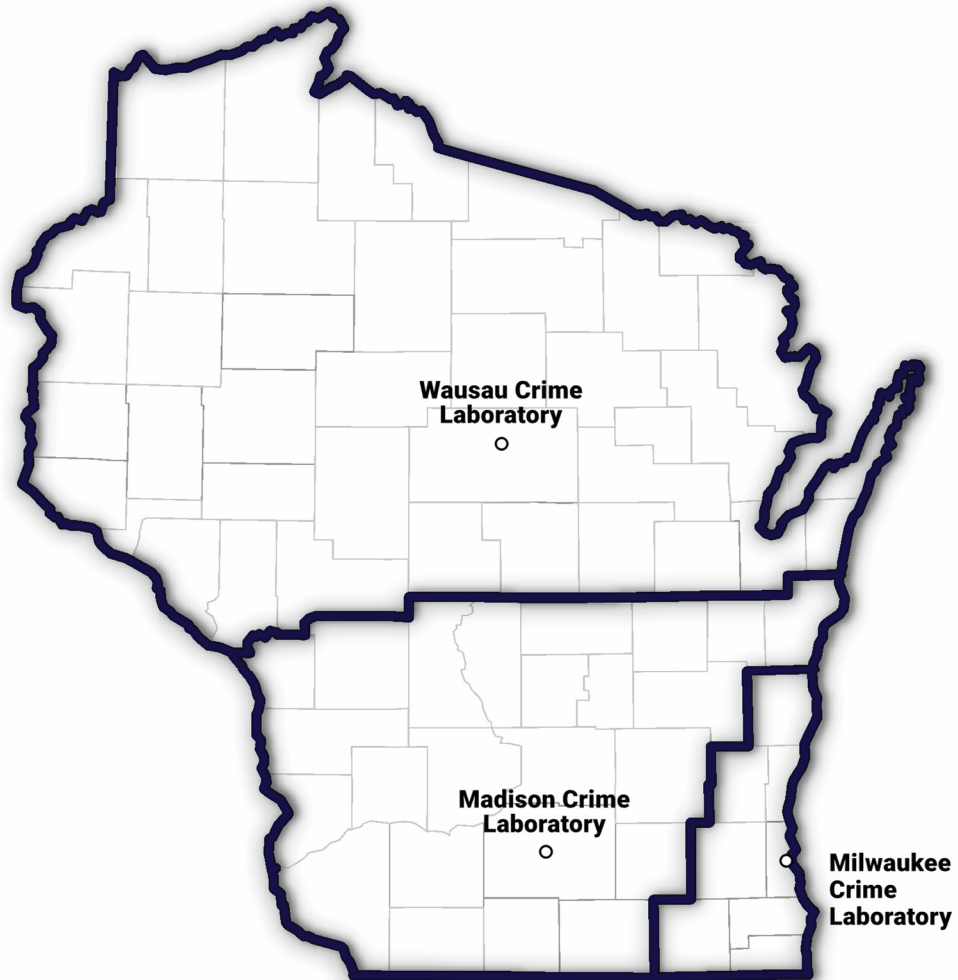
DOJ operates three crime laboratories, which are located in Madison, Milwaukee, and Wausau.

The Department of Justice (DOJ) operates three crime laboratories, which are located in Madison, Milwaukee, and Wausau. Statutes require the crime laboratories to analyze evidence involved with investigating and prosecuting crimes if they are requested to do so by statutorily authorized individuals such as the Attorney General, district attorneys, sheriffs and police chiefs, and medical examiners and coroners. Statutes require the crime laboratories to comply with policies established by the Attorney General. In fiscal year (FY) 2022-23, DOJ spent \$30.4 million on the crime laboratories and was authorized 177.1 full-time equivalent (FTE) permanent positions for them.

Statutorily authorized individuals typically submit evidence to the specific crime laboratory that serves the county where they work. As shown in Figure 1, the Madison crime laboratory accepts evidence from such individuals in 24 counties in southern Wisconsin, the Milwaukee crime laboratory does so in 8 counties in southeast Wisconsin, and the Wausau crime laboratory does so in 40 counties in northern Wisconsin.

Figure 1

Counties Served by DOJ's State Crime Laboratories
November 2023



The crime laboratories have seven types of units, including:

- controlled substances, which analyzes evidence for the presence of drugs and other substances;
- DNA analysis, which analyzes biological evidence and compares it to genetic information;
- toxicology, which analyzes biological evidence for the presence of drugs, toxins, and alcohol;

- latent prints and footwear, which analyzes fingerprints, palm prints, and footwear impressions;
- forensic imaging, which analyzes image and video evidence;
- firearms and toolmarks, which analyzes items such as knives, guns, and ammunition; and
- trace evidence, which analyzes physical evidence such as paint, glass, and fibers.

Table 1 shows the types of units in each crime laboratory. If a specific crime laboratory does not have a particular unit, a different laboratory with that type of unit will analyze the evidence. Statutes allow DOJ to decline to analyze evidence for cases that do not involve potential felony charges. DOJ does not charge statutorily authorized individuals for the costs of analyzing evidence.

Table 1

Types of Units in Each of DOJ’s State Crime Laboratories
November 2023

Type of Unit	Madison	Milwaukee	Wausau
Controlled Substances	✓	✓	✓
DNA Analysis	✓	✓	
Toxicology	✓	✓	✓ ¹
Latent Prints and Footwear	✓	✓	✓
Forensic Imaging	✓	✓	✓
Firearms and Toolmarks		✓	
Trace Evidence		✓	

¹ This unit performs only blood alcohol content analyses.

In FY 2022-23, DOJ’s expenditures for its crime laboratories totaled \$30.4 million.

As shown in Table 2, DOJ’s expenditures for its crime laboratories totaled \$30.4 million in FY 2022-23, including \$17.2 million for salaries and fringe benefits. American Rescue Plan Act (ARPA) funds supported \$3.0 million in FY 2022-23 expenditures.

Table 2

DOJ's Expenditures for Its State Crime Laboratories in FY 2022-23
(in millions)

Type	Amount
Salaries and Fringe Benefits	\$17.2
Administration ¹	8.9
Equipment	2.4
Other ²	1.9
Total	\$30.4

¹ Includes utilities, maintenance, insurance, printing and postage, rent, travel, and training.

² Includes data processing and other costs.

From January 2022 through August 2023, the Department of Administration (DOA) allocated \$10.8 million in ARPA funds to DOJ for the crime laboratories. These funds supported costs such as overtime pay, hiring additional staff, contracts for outsourcing certain tests, new equipment, and a new laboratory information management system. Through June 2023, DOJ had spent \$4.3 million of these funds and may continue to spend them through December 2024 under the terms of its agreement with DOA.

Questions have been raised about the timeliness of the work performed by the crime laboratories in recent years. These questions include how quickly DOJ analyzed evidence and the reasons why certain evidence took longer to analyze.

To complete this evaluation, we:

- interviewed 10 organizations, listed in Appendix 1, that are involved with or interested in issues pertaining to the crime laboratories;
- interviewed DOJ and reviewed its policies for the crime laboratories;
- visited the Madison crime laboratory;
- analyzed DOJ's data on the amount of time it took to analyze evidence from FY 2019-20 through FY 2022-23;

- analyzed information in the State’s accounting and payroll systems about DOJ’s expenditures for the crime laboratories, crime laboratory staffing levels, and crime laboratory staff timesheets from FY 2019-20 through FY 2022-23;
- examined changes to the amounts appropriated and the number of positions authorized to DOJ for the crime laboratories from the 2019-2021 biennium through the 2023-2025 biennium;
- obtained information about crime laboratories in other midwestern states; and
- assessed ways DOJ could improve its administration of the crime laboratories.

In January 2024, we surveyed six groups of individuals affected by how timely DOJ analyzes evidence, including:

- 72 sheriffs, 50 of whom (69.4 percent) responded;
- 420 police chiefs, 251 of whom (59.8 percent) responded;
- 71 district attorneys, 33 of whom (46.5 percent) responded;
- 259 circuit court judges, 107 of whom (41.3 percent) responded;
- 63 medical examiners and coroners, 25 of whom (39.7 percent) responded; and
- 358 public defenders, 61 of whom (17.0 percent) responded.

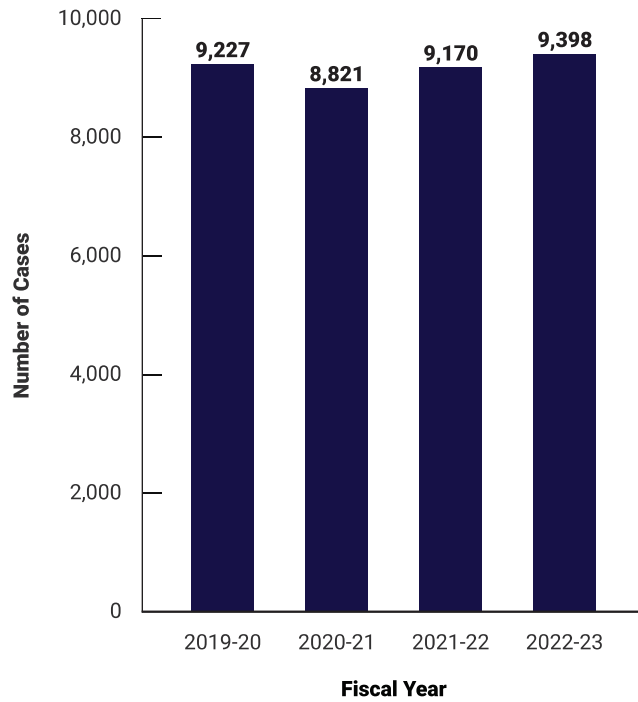
Number of Cases

From FY 2019-20 through FY 2022-23, the number of cases involving evidence submitted to DOJ increased by 1.9 percent.

As shown in Figure 2, the number of cases involving evidence submitted to DOJ increased from 9,227 in FY 2019-20 to 9,398 in FY 2022-23 (1.9 percent).

Figure 2

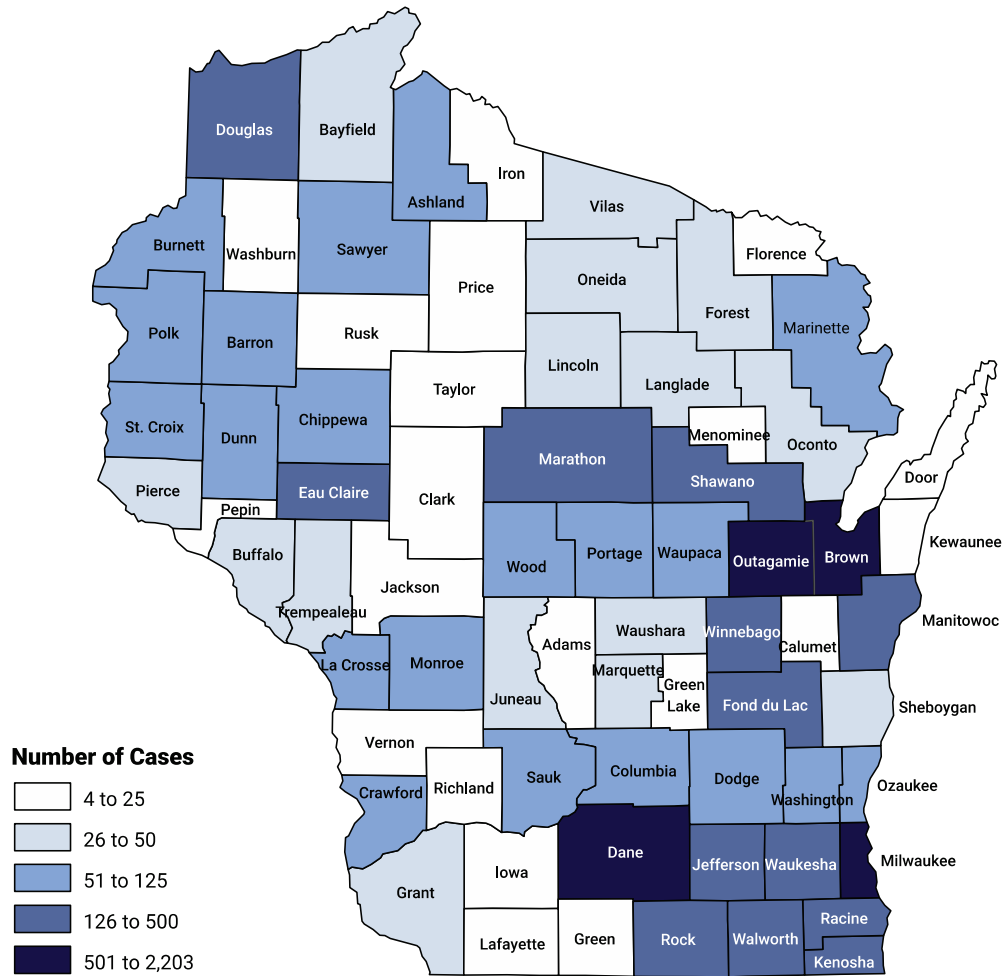
Number of Cases Involving Evidence Submitted to DOJ



As shown in Figure 3, statutorily authorized individuals in Milwaukee County (2,203 cases), Dane County (669 cases), Outagamie County (538 cases), and Brown County (527 cases) submitted evidence involving the most cases in FY 2022-23.

Figure 3

Number of Cases Involving Evidence Submitted by Statutorily Authorized Individuals in FY 2022-23, by County



Funding and Staffing Issues

We examined funding and staffing issues pertaining to the crime laboratories.

We examined funding and staffing issues pertaining to the crime laboratories. The overall amount appropriated to DOJ for the crime laboratories increased from the 2019-2021 biennium through the 2023-2025 biennium. DOJ was authorized an additional 10.4 FTE permanent positions for the crime laboratories from the 2019-2021 biennium through the 2023-2025 biennium. In July 2023, DOJ was authorized 177.1 FTE permanent positions for the crime laboratories. This total includes 105.5 FTE positions for analysts, most of whom analyze evidence. The vacancy rate of analyst positions increased from 2.6 percent in July 2019 to 9.5 percent in July 2023. We recommend DOJ fill 3.0 FTE positions with forensic toxicologists, as required by the Joint Committee on Finance in its deliberations on 2023 Wisconsin Act 19, the 2023-2025 Biennial Budget Act.

Funding and Staffing Trends

We determined changes to the funding appropriated and staffing allocated to DOJ for the crime laboratories from the 2019-2021 biennium through the 2023-2025 biennium. To do so, we considered DOJ's and the Governor's biennial budget requests, the budget bills the Legislature sent to the Governor, and the biennial budget acts. We also determined whether the Joint Committee on Finance had taken relevant action through its statutorily prescribed review processes. DOJ did not request the Committee to consider any emergency funding or staffing requests during the three biennia we examined.

The overall amount appropriated to DOJ for its crime laboratories increased from the 2019-2021 biennium through the 2023-2025 biennium.

As shown in Table 3, the overall amount appropriated to DOJ for its crime laboratories increased from the 2019-2021 biennium through the 2023-2025 biennium. The crime laboratories are funded by general purpose revenue (GPR) and program revenue, including from the DNA surcharge, the crime laboratory and drug law enforcement surcharge, criminal history search fees, and penalty surcharge revenue.

Table 3

Changes to the Amounts Appropriated to DOJ for Its State Crime Laboratories, by Biennium¹
(in millions)

Biennium	Biennial Budget Request		Budget Bill ²	Biennial Budget Act	Overall ³
	DOJ	Governor			
2019-2021	\$1.1	\$1.4	\$0.7	\$0.7	\$0.7
2021-2023	0.9	0.9	0.5	0.5	0.5
2023-2025	2.3	0.8	0.1	0.1	0.1 ⁴

¹ Amounts reflect changes to the prior biennium.

² Indicates the amount in the budget bills the Legislature sent to the Governor.

³ Includes additional amounts, if any, approved by the Joint Committee on Finance.

⁴ Through February 2024.

The 2019-2021 Biennial Budget Act authorized an additional 7.4 FTE positions for the crime laboratories.

In the 2019-2021 biennium, DOJ’s biennial budget request proposed to increase funding by \$1.1 million and provide an additional 10.0 FTE positions for the crime laboratories. The Governor’s biennial budget request proposed to increase funding by \$1.4 million and provide an additional 14.0 FTE positions for evidence intake, toxicology, firearms and toolmarks, DNA analysis, and crime scene response. 2019 Wisconsin Act 9, the 2019-2021 Biennial Budget Act, increased funding by \$0.7 million and authorized an additional 7.4 FTE positions.

In the 2021-2023 biennium, DOJ’s and the Governor’s biennial budget requests proposed to increase funding by \$0.9 million to purchase toxicology equipment and provide an additional 4.0 FTE positions to respond to increased demand for toxicology testing. 2021 Wisconsin Act 58, the 2021-2023 Biennial Budget Act, increased funding by \$0.5 million to purchase toxicology equipment.

In the 2023-2025 biennium, DOJ’s biennial budget request proposed to increase funding by \$2.3 million and provide an additional 16.0 FTE positions for the crime laboratories, and the Governor’s biennial budget request proposed to increase funding by \$0.8 million and provide an additional 9.0 FTE positions in FY 2024-25. The Governor’s request included additional DNA analyst positions for the entire biennium and funds to support toxicology and crime scene response staff positions after December 2024, when the ARPA funds that were

provided by DOJ’s agreement with DOA can no longer be used to support these positions. 2023 Wisconsin Act 19, the 2023-2025 Biennial Budget Act, increased funding by \$0.1 million and authorized an additional 3.0 FTE positions for toxicologists in FY 2024-25.

DOJ was authorized an additional 10.4 FTE permanent positions for its crime laboratories from the 2019-2021 biennium through the 2023-2025 biennium.

As shown in Table 4, DOJ was authorized an additional 10.4 FTE permanent positions for its crime laboratories from the 2019-2021 biennium through the 2023-2025 biennium. This total included 7.4 FTE positions in the 2019-2021 biennium and 3.0 FTE positions in the 2023-2025 biennium.

Table 4

Changes to FTE Permanent Positions Authorized to DOJ for Its State Crime Laboratories¹

Biennium	Biennial Budget Requests		Budget Bill ²	Biennial Budget Act	Overall ³
	DOJ	Governor			
2019-2021	10.0	14.0	7.4	7.4	7.4
2021-2023	4.0	4.0	0.0	0.0	0.0
2023-2025	16.0	9.0	3.0	3.0	3.0 ⁴

¹ Amounts shown reflect changes to the prior biennium.

² Indicates the amount in the budget bills the Legislature sent to the Governor.

³ Includes positions, if any, approved by the Joint Committee on Finance.

⁴ Through February 2024.

2023 Wisconsin Act 19 authorized 3.0 FTE positions to DOJ for its crime laboratories. The Joint Committee on Finance’s June 8, 2023 budget motion states that these GPR-funded positions are to “provide forensic toxicologists for the state crime laboratories.” In January 2024, DOJ indicated to us in writing that it believed it could meet the Committee’s intent either by filling these positions with toxicologists, or it “could assign the three new full-time positions based on appropriation, thus allowing the positions to be in any non-DNA forensic discipline.” DOJ further indicated that if it is required to hire three forensic toxicologists, it could do so and reassign existing toxicology positions “to best address the highest priorities in the laboratories.” DOJ subsequently indicated it planned to fill the positions with forensic toxicologists.

DOJ should fill the 3.0 FTE positions authorized by 2023 Wisconsin Act 19 with forensic toxicologists, as required by the Joint Committee on Finance motion. In addition, DOJ should retain all existing toxicology positions after it fills the 3.0 FTE positions with forensic toxicologists.

☑ Recommendation

We recommend the Department of Justice:

- *fill the 3.0 full-time equivalent positions authorized by 2023 Wisconsin Act 19, the 2023-2025 Biennial Budget Act, with forensic toxicologists, as required by the Joint Committee on Finance motion;*
- *retain all existing forensic toxicology positions after it fills the 3.0 full-time equivalent positions with forensic toxicologists; and*
- *report to the Joint Legislative Audit Committee by September 30, 2024, on the status of its efforts to implement these recommendations.*

A total of 43 respondents to our January 2024 survey indicated the crime laboratories need additional staff or resources. For example:

- One sheriff wrote, “We would like to reiterate the importance of funding the [crime laboratories] and expanding their DNA division. Part of the reason such a vast majority of property crimes go unsolved, even the felonious ones, is that the Crime Lab does not have the resources to take on work for them.”
- One district attorney wrote, “They need more employees so they can work on the bench and be available to testify.”
- One circuit court judge wrote, “A greater investment in testing resources is necessary in order to allow the court system to function most efficiently and defendants can get their day in court more timely.”

Staffing Issues

In July 2023, DOJ was authorized 177.1 FTE permanent positions for its crime laboratories.

As shown in Table 5, DOJ was authorized 177.1 FTE permanent positions for its crime laboratories in July 2023, including 105.5 FTE positions for analysts. The authorized analyst positions included:

- 15.0 FTE positions for entry analysts, who spend less time analyzing evidence than more-experienced analysts because they are in training;
- 67.5 FTE positions for senior analysts, who typically spend most of their time analyzing evidence; and

- 23.0 FTE positions for advanced analysts, who oversee units and typically spend less time analyzing evidence than senior analysts.

Table 5

Authorized FTE Permanent Positions for DOJ’s State Crime Laboratories, by Type¹
 July 1, 2023

Type	Total
Analysts	105.5
Technicians	32.3
Support Staff ²	25.0
Quality Assurance Staff	7.3
Crime Scene Response Specialists	4.0
Information Technology Staff	3.0
Total	177.1

¹ According to the State’s payroll system. Excludes 12.0 FTE project positions and 1 limited-term employee (LTE).

² Includes managers, supervisors, and other staff.

DOJ’s information indicated entry analysts must complete extensive training that typically lasts:

- 1.0 year in controlled substances units;
- 1.0 year in toxicology units;
- 1.6 years in latent prints and footwear units;
- 1.8 years in the firearms and toolmarks unit;
- 2.3 years in DNA analysis units;
- 2.6 years in forensic imaging units; and
- 3.8 years in the trace evidence unit.

Training for entry analysts varies among the unit types. For example, training for entry analysts in the controlled substances units included 25 modules covering topics such as general laboratory procedures, methods for conducting various tests, and methods for testing for specific controlled substances. Modules require entry analysts to study textbooks and laboratory procedures, learn state and federal laws and

regulations, observe lectures, complete written examinations, observe more-experienced analysts conducting analyses, and demonstrate competency using laboratory equipment. After entry analysts complete all modules, they are authorized to complete assignments independently.

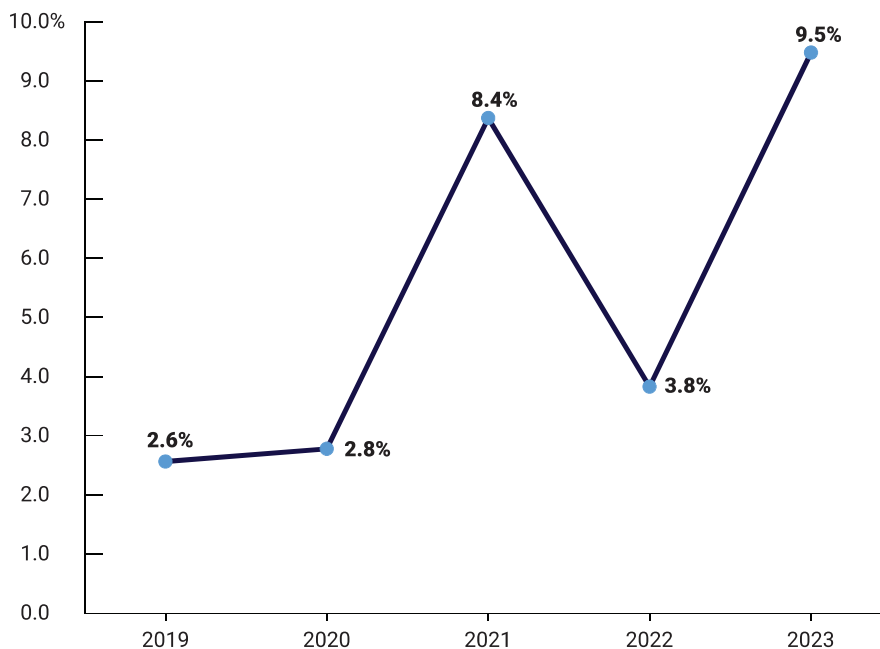
The vacancy rate of authorized permanent analyst positions at DOJ’s crime laboratories increased from 2.6 percent in July 2019 to 9.5 percent in July 2023.

As shown in Figure 4, the vacancy rate of authorized permanent analyst positions at DOJ’s crime laboratories increased from 2.6 percent in July 2019 to 9.5 percent in July 2023. DOJ indicated staff resignations after the public health emergency began in March 2020, a hiring freeze ordered by the Governor in March 2020, and failed recruitment efforts affected the number of filled positions. The 10.0 FTE analyst positions that were vacant in July 2023 included 2.0 FTE entry analyst positions, 6.0 FTE senior analyst positions, and 2.0 FTE advanced analyst positions.

Figure 4

Vacancy Rates of Authorized FTE Permanent Analyst Positions at DOJ’s State Crime Laboratories¹

As of July 1



¹ According to the State’s payroll system.

Table 6 shows the number of filled FTE permanent analyst positions in each type of unit in DOJ’s crime laboratories from July 2019 through July 2023. The DNA analysis units contained more than one-half of all analysts.

Table 6

Number of Filled FTE Permanent Analyst Positions at DOJ’s State Crime Laboratories, by Type of Unit¹
As of July 1

Type of Unit	2020	2021	2022	2023
Controlled Substances	14.0	12.0	12.0	13.0
DNA Analysis ²	60.0	56.5	56.5	53.5
Toxicology	8.0	8.0	8.0	7.0
Latent Prints and Footwear	13.0	12.0	13.0	12.0
Forensic Imaging	5.0	5.0	5.0	5.0
Firearms and Toolmarks	4.0	4.0	4.0	3.0
Trace Evidence	1.0	1.0	2.0	2.0
Total	105.0	98.5	100.5	95.5

¹ According to the State’s payroll system.

² Includes analysts who do not analyze evidence but instead help to maintain a DNA databank that is a repository of DNA samples that federal and state laboratories can reference when analyzing evidence.

From FY 2019-20 through FY 2022-23, DOJ hired 25 analysts, including 21 entry analysts and 4 senior analysts. We identified analysts who were employed at the crime laboratories at any point in time from FY 2019-20 through FY 2022-23 and determined the extent to which they had been promoted from December 2015, which was the earliest date for which this information was available in the State’s payroll system, through June 2023. We found that:

- 44 entry analysts were promoted to senior analysts after an average of 3.0 years; and
- 41 senior analysts were promoted to advanced analysts after an average of 11.3 years.

On June 30, 2023, analysts in the crime laboratories had an average tenure of 12.5 years.

On June 30, 2023, the 101 analysts in the 95.5 FTE permanent analyst positions in the crime laboratories had an average tenure of 12.5 years, including:

- 20 analysts who had less than 5 years of tenure;
- 28 analysts who had from 5 years to 10 years of tenure;
- 35 analysts who had from 10 years to 20 years of tenure; and
- 18 analysts who had more than 20 years of tenure.

Compensation

DOJ indicated it is challenging to retain senior analysts because they are paid less than their counterparts at crime laboratories in other states and in Wisconsin’s biotechnology industry. As shown in Table 7, senior and advanced analysts in Wisconsin typically were paid less, on average, than their counterparts in four other midwestern states. Entry analysts in Wisconsin were paid more, on average, than their counterparts in at least two of the four other midwestern states.

Table 7

**Average Annual Amounts Paid to Analysts in DOJ’s State Crime Laboratories, by State¹
2022²**

State	Entry Analyst	Senior Analyst	Advanced Analyst
Illinois	\$60,000	\$70,400	\$109,700
Michigan	49,700	59,800	85,500
Minnesota	46,200	72,200	101,000
Ohio ³		93,700	118,400
Wisconsin	58,200	69,100	75,500

¹ According to the State’s payroll system and publicly available information for other states.

² Illinois amounts are from 2023, and Minnesota amounts are from FY 2021-22.

³ Ohio had two analyst levels.



Timeliness in Analyzing Evidence

We assessed the timeliness of DOJ's crime laboratories in analyzing evidence.

We assessed the timeliness of DOJ's crime laboratories in analyzing evidence. A crime laboratory creates one or more assignments for each item of evidence submitted to it. From FY 2019-20 through FY 2022-23, the number of assignments decreased 13.2 percent. DOJ defines turnaround time as the number of calendar days from creation of an assignment to completion of an administrative review. The median turnaround time increased from 39 days for assignments created in FY 2019-20 to 58 days for assignments created in FY 2022-23 (48.7 percent). In January 2024, we surveyed sheriffs and police chiefs, district attorneys, circuit court judges, public defenders, and medical examiners and coroners. A total of 45.3 percent of survey responses indicated satisfaction with the timeliness of crime laboratory units in analyzing evidence in 2023, and 25.9 percent indicated they were neither satisfied nor dissatisfied. We recommend DOJ ensure sexual assault kits are processed within the deadlines required by 2023 Wisconsin Act 58.

Process

Figure 5 shows key steps in the process for DOJ's crime laboratories to analyze evidence. DOJ may verbally convey the results of analyses to the individual who submitted the evidence, such as if the analyses did not yield definitive results, and that individual may submit additional evidence that goes through intake and may result in additional assignments. Crime laboratory staff may subsequently provide expert witness testimony in court in response to subpoenas.

Figure 5

Key Steps in the Process for DOJ's State Crime Laboratories to Analyze Evidence



The timeliness of analysis is affected by the quality and quantity of submitted evidence.

The timeliness of analysis is affected by the quality and quantity of submitted evidence. Quality may be affected by factors such as the type of crime, environmental circumstances, and the passage of time. A crime scene may contain a considerable amount of evidence from which law enforcement agencies must identify the particular items most likely to help solve a crime.

DOJ provides statutorily authorized individuals with guidelines for submitting evidence in a manner most likely to yield useful analytical results. We surveyed sheriffs and police chiefs, district attorneys, medical examiners and coroners, and public defenders about the 2023 guidelines. In total:

- 247 of 364 respondents (67.9 percent) indicated they were satisfied with the usefulness of DOJ's guidelines; and
- 250 of 365 respondents (68.5 percent) indicated they were satisfied with communications from DOJ about periodic changes to the guidelines.

DOJ trains law enforcement agencies on detecting, collecting, and preparing evidence for submission. From FY 2019-20 through FY 2022-23, DOJ provided eight training sessions in Eau Claire, Green Bay, Middleton, Milwaukee, Pewaukee, and other locations. Each session was attended by 18 to 26 individuals. We surveyed sheriffs and police chiefs about the 2023 training. In total:

- 28 of 281 (10.0 percent) respondents indicated their agencies had attended the training, including 26 respondents who were satisfied with the usefulness of the training; and
- 75 of 299 (25.1 percent) respondents indicated they were satisfied with the availability of the training, while most respondents were neither satisfied nor dissatisfied.

In recent years, statutes did not change the scope of analyses that the crime laboratories are required to provide. The crime laboratories complete almost all analyses themselves. However, DOJ contracts with a private laboratory to help it to test evidence in sexual assault kits.

Number of Assignments

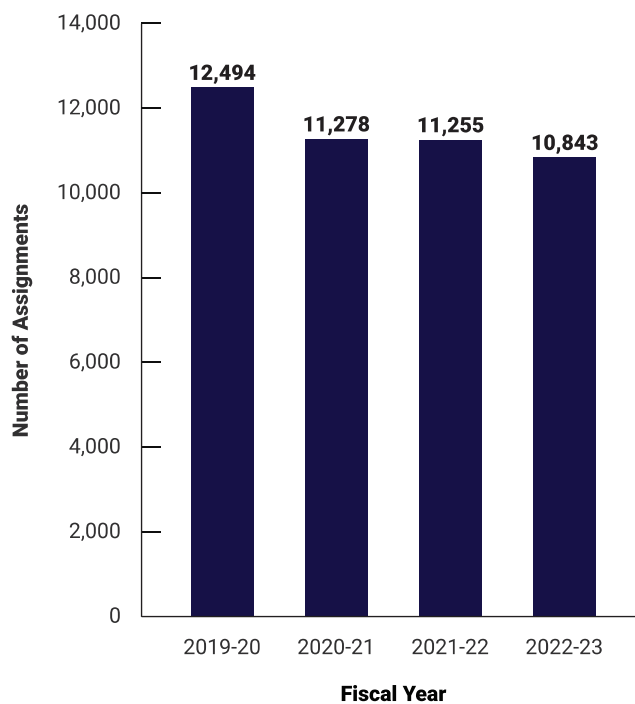
A crime laboratory creates one or more assignments for each item of evidence submitted to it. For example, a firearm submitted as evidence may result in two assignments if assigned for analysis by both a DNA analysis unit and a firearms and toolmarks unit.

From FY 2019-20 to FY 2022-23, the number of assignments decreased by 13.2 percent.

As shown in Figure 6, the number of assignments decreased from 12,494 in FY 2019-20 to 10,843 in FY 2022-23 (13.2 percent). DOJ indicated it reduced the number of assignments, in part, through its evidence submission guidelines that encourage statutorily authorized individuals to submit fewer items and items that are most likely to help solve crimes.

Figure 6

Number of Assignments Created by DOJ’s State Crime Laboratories
Based on Submitted Evidence



From FY 2019-20 through FY 2022-23, the number of assignments decreased for six of the seven types of crime laboratory units.

From FY 2019-20 through FY 2022-23, the number of assignments decreased for six of the seven types of units, as shown in Table 8. The controlled substances, DNA analysis, and toxicology units accounted for 83.1 percent of the 45,870 assignments over this four-year period.

Table 8

Number of Assignments Created by DOJ's State Crime Laboratories, by Type of Unit
Based on Submitted Evidence

Type of Unit	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	Four-Year Percentage Change
Controlled Substances	4,163	3,657	3,888	3,229	(22.4)%
DNA Analysis	3,789	3,285	3,329	3,958	4.5
Toxicology	2,456	2,258	2,081	2,047	(16.7)
Latent Prints and Footwear	901	1,004	965	814	(9.7)
Forensic Imaging	605	558	526	412	(31.9)
Firearms and Toolmarks	448	421	370	306	(31.7)
Trace Evidence	132	95	96	77	(41.7)
Total	12,494	11,278	11,255	10,843	(13.2)

Median Turnaround Time

DOJ indicated it strives to complete assignments in as timely a manner as possible, but it must analyze evidence accurately. Statutes do not require DOJ to complete assignments within a specified period of time. Forensic science professionals typically use “turnaround time” to measure the length of time to analyze an item of evidence. However, individual laboratories define turnaround time differently.

DOJ defines turnaround time as the number of calendar days from creation of an assignment to completion of an administrative review.

DOJ defines turnaround time as the number of calendar days from creation of an assignment to completion of an administrative review. If an assignment is not created on the day evidence is submitted, the turnaround time does not reflect the full length of time statutorily authorized individuals waited to receive a laboratory report. We found that from FY 2019-20 through FY 2022-23, DOJ created:

- 31,620 assignments (71.5 percent) on the days evidence was submitted;
- 5,422 assignments (12.3 percent) 1 day to 6 days after evidence was submitted; and
- 7,212 assignments (16.3 percent) 7 days or more after evidence was submitted, including 3,799 assignments (8.6 percent) created 30 days or more after evidence was submitted.

DOJ indicated an assignment may not be created on the day evidence is submitted for multiple reasons. For example, DOJ may communicate with the statutorily authorized individual who submitted the evidence to determine the appropriate types of analyses to conduct. DOJ may complete certain analyses soon after evidence is submitted and subsequently determine, in consultation with the individual who submitted the evidence, that additional analyses should be completed. In addition, DOJ indicated authorized individuals may submit evidence but request that it not be analyzed immediately.

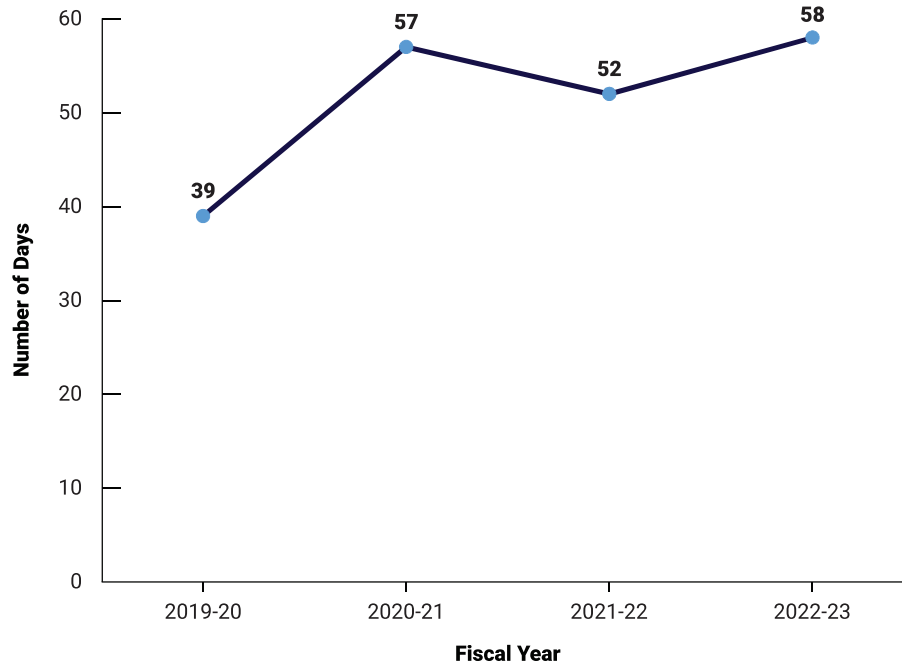
We analyzed DOJ's data to determine the turnaround times for assignments created from FY 2019-20 through FY 2022-23 and completed as of November 2023. We calculated an overall median turnaround time for all units, in part, because DOJ indicated its goal is to have an overall median turnaround time of 60 days.

The turnaround times ranged from 1 day to 1,447 days, or approximately four years. DOJ indicated analyzing evidence that has degraded over time or that has degraded because of exposure may require significantly more time than analyzing well-preserved evidence from a recent crime scene. Some assignments are associated with unsolved crimes committed years ago and, as a result, do not need to be completed quickly in order for the results to be used in court.

The median turnaround time increased from 39 days for assignments created in FY 2019-20 to 58 days for assignments created in FY 2022-23 (48.7 percent).

As shown in Figure 7, the median turnaround time increased from 39 days for assignments created in FY 2019-20 to 58 days for assignments created in FY 2022-23 (48.7 percent). The median turnaround time increased considerably in FY 2020-21, after the public health emergency began. Appendix 2 includes additional information about turnaround times for each type of unit.

Figure 7

Median Turnaround Time for DOJ's State Crime Laboratories to Analyze Evidence, by Fiscal Year That Assignments Were Created¹

¹ Includes assignments completed as of November 2023.

DOJ indicated the increased turnaround times in recent years occurred for a number of reasons, including as a result of new technologies that produce more-accurate analytical results but require additional time to complete the analyses. DOJ was unable to provide us with written documentation of the extent to which new technologies it implemented affected turnaround times. DOJ also indicated that crime laboratory analysts at times help to consider evidence at crime scenes, which reduces the amount of time available to analyze evidence in the crime laboratories.

As shown in Table 9, the median turnaround times for assignments created in FY 2022-23 ranged from 23 days for forensic imaging units to 102 days for the trace evidence unit. The median turnaround time for the trace evidence unit was approximately 30 days in each of the prior three fiscal years but increased in FY 2022-23, in part, because the number of analysts in the unit had decreased from two to one.

Table 9

Median Turnaround Times for DOJ's State Crime Laboratories to Analyze Evidence for Assignments Created in FY 2022-23, by Type of Unit¹

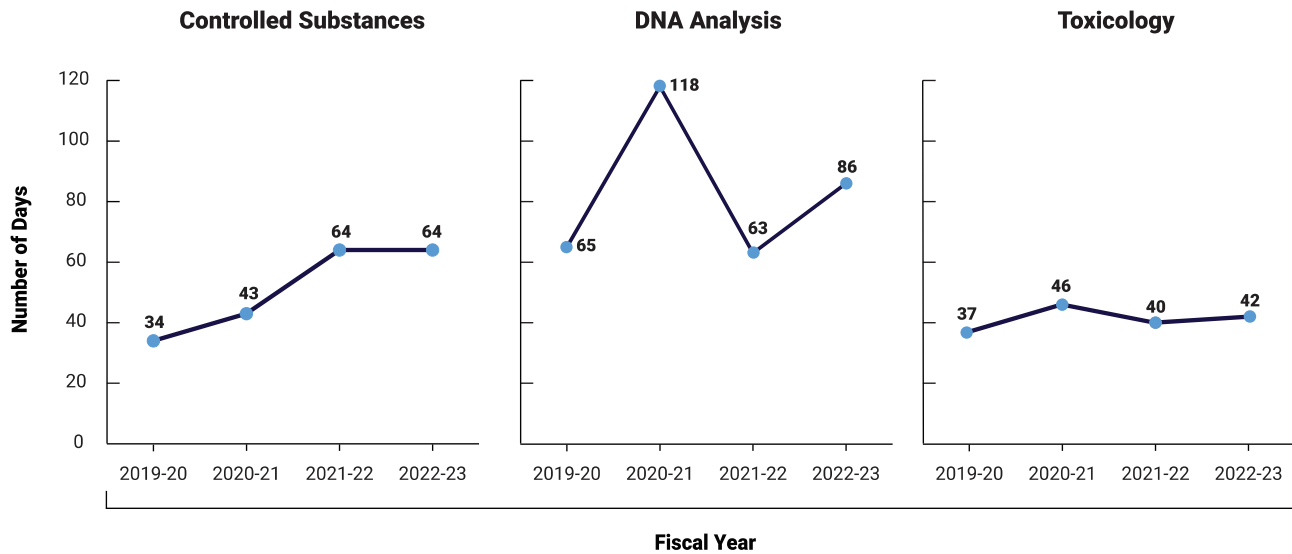
Type of Unit	Number of Days
Controlled Substances	64
DNA Analysis	86
Toxicology	42
Latent Prints and Footwear	47
Forensic Imaging	23
Firearms and Toolmarks	79
Trace Evidence	102

¹ Includes assignments completed as of November 2023.

We determined the median turnaround times for assignments created in each fiscal year and assessed how they changed from FY 2019-20 through FY 2022-23. As shown in Figure 8, the median turnaround times increased over that four-year period for the three types of units with the most assignments.

Figure 8

Median Turnaround Times for DOJ's State Crime Laboratories to Analyze Evidence for Selected Types of Units, by Fiscal Year That Assignments Were Created¹
(in days)



¹ Includes assignments completed as of November 2023.

We determined the counties with the five highest and the five lowest median turnaround times. We did so for assignments created from FY 2019-20 through FY 2022-23, over which the median turnaround time was 51 days. Authorized individuals in most of these counties submitted evidence associated with relatively few cases.

As shown in Table 10, the median turnaround times ranged from 131 days for Iron County to 34 days for Barron County. We conducted a statistical analysis of potential explanations for the differences in median turnaround times among counties and found that the proportion of assignments created for the controlled substances, DNA analysis, and firearms and toolmarks units explained the most variation in turnaround times among counties.

Table 10

Median Turnaround Times for DOJ’s State Crime Laboratories to Analyze Evidence Submitted by Statutorily Authorized Individuals in Selected Counties¹
 Assignments Created from FY 2019-20 through FY 2022-23

County	Number of Days	County	Number of Days
Iron	131	Pepin	40
Lafayette	89	Oneida	38
Forest	75	Grant	37
Florence	71	Sheboygan	36
Jackson	70	Barron	34

¹ Includes assignments completed as of November 2023.

Assignments Completed within 60 Days

DOJ completed 48.8 percent of the assignments it created in FY 2022-23 within 60 days.

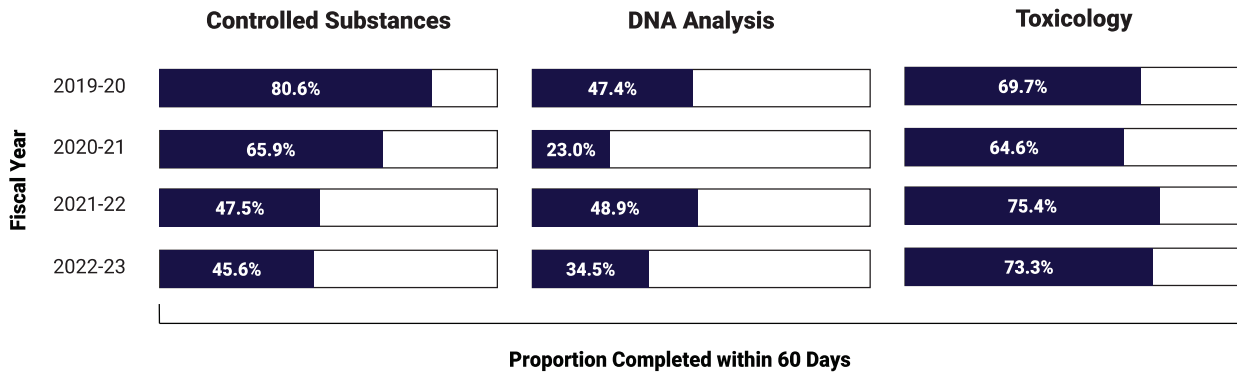
Because the median turnaround time was 58 days in FY 2022-23, we determined the proportion of assignments DOJ completed within 60 days. We found that DOJ completed 48.8 percent of the assignments it created in FY 2022-23 within 60 days.

Figure 9 shows the proportion of assignments completed within 60 days by the three types of units with the most assignments. From FY 2019-20 through FY 2022-23, this proportion decreased for controlled substances and DNA analysis units, and it increased for toxicology units.

Figure 9

Proportion of Assignments That DOJ's State Crime Laboratories Completed within 60 Days, by Selected Types of Units¹

Assignments Created from FY 2019-20 through FY 2022-23



¹ Includes assignments completed as of November 2023.

Time Spent Completing Tasks

Senior and advanced analysts recorded the amount of time they spent completing selected tasks.

Senior and advanced analysts, who are responsible for completing assignments, recorded the amount of time they spent completing selected tasks. Table 11 shows how such analysts recorded their time from FY 2019-20 through FY 2022-23. Over this four-year period, such analysts recorded that they spent 71.9 percent of their time analyzing evidence.

Table 11

Number of Hours That Senior and Advanced Analysts at DOJ's State Crime Laboratories Spent Completing Selected Types of Tasks¹

Type of Task	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23
Evidence Analysis	120,085	117,847	125,005	116,399
Training	24,868	24,683	12,770	12,868
Equipment Validation	9,288	6,827	7,531	8,999
Court-Related	3,218	2,453	4,303	4,859
Other ²	14,877	18,381	14,411	16,935
Total	172,336	170,191	164,020	160,060

¹ As indicated in timesheets.

² Includes accreditation-related tasks, staff meetings, and time not coded to specific types of tasks.

Statutes require crime laboratory staff to provide expert witness testimony in response to subpoenas. This testimony is based on analyses of evidence and often involves testifying in person at courts throughout the state. DOJ's information indicated staff received 4,453 subpoenas in 2023, which DOJ indicated was an increase from prior years, in part, because cases not tried during the public health emergency were subsequently brought to trial. Time spent on court-related tasks, such as preparing to testify, traveling to and from court, and testifying, cannot be spent analyzing evidence.

The amount of time that senior and advanced analysts spent completing court-related tasks accounted for 3.0 percent of their total time in FY 2022-23.

We found that the amount of time senior and advanced analysts spent completing court-related tasks accounted for 3.0 percent of their total time in FY 2022-23. In FY 2019-20, senior and advanced analysts had spent 1.9 percent of their time completing such tasks. DOJ indicated completing court-related tasks affected turnaround times.

The amount of time that senior and advanced analysts spent on training-related tasks does not appear to significantly affect median turnaround times. From FY 2019-20 through FY 2020-21, the number of hours such analysts spent on training-related tasks decreased 0.7 percent, but the median turnaround time increased from 39 days to 57 days. In FY 2021-22 and FY 2022-23, such analysts spent approximately one-half as much time on training-related tasks as they had spent in FY 2020-21. However, median turnaround times in FY 2021-22 and FY 2022-23 were similar to the median turnaround time in FY 2020-21.

Sexual Assault Kits

DOJ contracts with a private laboratory to test DNA evidence in some sexual assault kits.

DOJ contracts with a private laboratory to test DNA evidence in some sexual assault kits. DOJ indicated the evidence it sends to the private laboratory is not associated with cases district attorneys are prosecuting or with cases that represent a threat to public safety. DOJ analyzes evidence not sent to a private laboratory.

Under the FY 2023-24 contract, the private laboratory is paid up to \$900 to test the evidence in a given kit. From FY 2019-20 through FY 2022-23, DOJ sent evidence from 532 kits to the private laboratory. If the private laboratory's test results yield evidence that is potentially admissible in court, DOJ creates assignments for its DNA analysis units, which analyze the test results.

DOJ's data included turnaround times for 146 assignments created from FY 2019-20 through FY 2022-23, based on the private laboratory's test results. We found that these 146 assignments were completed a median of 292 days after the evidence had been submitted to DOJ by statutorily authorized individuals. The 292 days included the amount of time to send the evidence to the private laboratory, receive the results of the tests completed by the private laboratory, and analyze the results of these tests. It took more than six months to process 142 of these 146 assignments (97.3 percent). Statutes currently do not require DOJ to analyze evidence in sexual assault kits within a specified amount of time.

2023 Wisconsin Act 58, which takes effect in July 2024, requires sexual assault kits to be processed within six months, or within 60 days if a victim reports a sexual assault to a law enforcement agency, the perpetrator's identity is unknown, and a public safety threat exists. Act 58 does not specify that the amount of time a private laboratory needs to complete its tests of evidence associated with certain kits should be excluded from the required timelines for processing the kits.

DOJ should ensure sexual assault kits are processed within the deadlines required by Act 58.

DOJ should monitor the timeliness in processing sexual assault kits, including the amounts of time a private laboratory takes to complete its tests. DOJ should ensure kits are processed within the deadlines required by Act 58. DOJ should take appropriate action, such as providing additional training and guidance to crime laboratory staff or modifying how it uses the services of private laboratories, if the statutorily required deadlines are not met. Doing so will be important, given that it took more than six months to process 97.3 percent of evidence a private laboratory had tested.

Recommendation

We recommend the Department of Justice:

- *monitor the timeliness in processing sexual assault kits;*
- *ensure sexual assault kits are processed within the deadlines required by 2023 Wisconsin Act 58;*

- take appropriate action, such as providing additional training and guidance to crime laboratory staff or modifying how it uses the services of private laboratories, if the statutorily required deadlines are not met; and
- report to the Joint Legislative Audit Committee by September 30, 2024, on the status of its efforts to implement these recommendations.

Stakeholder Opinions

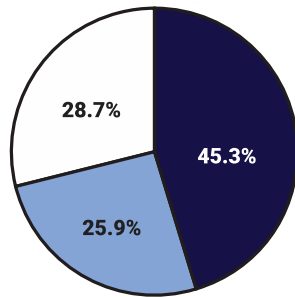
A total of 45.3 percent of survey responses indicated satisfaction with the timeliness of crime laboratory units in analyzing evidence in 2023.

In January 2024, we asked survey recipients to indicate their level of satisfaction with the timeliness of each of the seven types of crime laboratory units in analyzing evidence and then totaled these responses to determine an overall satisfaction level. As shown in Figure 10, 45.3 percent of survey responses indicated satisfaction with the timeliness of crime laboratory units in analyzing evidence in 2023. In contrast, 28.7 percent of responses indicated dissatisfaction with the timeliness.

Figure 10

**Stakeholder Opinions:
Satisfaction with the Timeliness of DOJ’s State Crime Laboratory Units
in Analyzing Evidence in 2023¹**

Satisfied
 Neither Satisfied nor Dissatisfied
 Dissatisfied



¹ According to 49 sheriffs, 189 police chiefs, 28 district attorneys, 92 circuit court judges, 48 public defenders, and 6 medical examiners and coroners who responded to our January 2024 survey.

Survey respondents indicated their satisfaction with timeliness in 2023 ranged from a high of 53.8 percent for DNA analysis units to a low of 40.2 percent for the firearms and toolmarks unit. We also compared the

overall satisfaction of each group, other than medical examiners and coroners because so few of them responded to this question. We found that overall satisfaction with timeliness in 2023 was:

- 66.8 percent for sheriffs;
- 61.0 percent for district attorneys;
- 56.3 percent for police chiefs;
- 22.0 percent for circuit court judges; and
- 7.6 percent for public defenders.

Statutorily authorized individuals can indicate to DOJ that analyzing specific evidence should be prioritized if, for example, the evidence is associated with a pending court trial or a high-profile criminal investigation. In response to our survey, 168 of 245 (68.6 percent) sheriffs, police chiefs, district attorneys, medical examiners and coroners, and public defenders indicated they were satisfied with the timeliness in these situations in 2023. In contrast:

- 59 of 90 circuit court judges (65.6 percent) indicated they were dissatisfied with DOJ in providing analytical results before court dates in 2023; and
- 65 of 90 circuit court judges (72.2 percent) indicated they had scheduled one or more court dates in 2023 in order to make particular analyses a higher priority for DOJ, which prioritizes assignments associated with scheduled court dates.

In total, 200 of 410 survey respondents (48.8 percent) indicated the amount of time DOJ took to provide analytical results affected their ability to perform their duties in a timely manner in 2023. For example:

- 108 respondents indicated the amount of time affected how the legal system functioned, including by contributing to delays in court cases. One public defender wrote, “Many cases were not able to be tried to a jury in the timeline sought by the lawyers, defendants, victim, and judges due to the extensive delays in waiting for results from the [crime laboratories]. This leads to backlogs and frustrations on all sides.”
- 49 respondents indicated the amount of time affected investigations. One sheriff wrote, “Often times we need evidence tested to add to the information we know before we accuse the suspect in an interview. Without that piece of forensic evidence it may be hard to convince a suspect they are caught and to confess. Evidence sits waiting on a court date while we wait on results for a case that isn’t strong enough to refer to

the DA without the lab results. If the lab has been sitting on evidence for 6 months waiting for a court date before they test it perhaps they should contact the agency to see what is happening and if it was needed for investigative purposes. Results that don't support the theory of the crime is even more important to get back sooner."

- 39 respondents indicated the amount of time affected the legal representation of defendants. One circuit court judge wrote, "Results are not provided to prosecutor (and then defendant) until days or even hours before trial, regardless of lead time. There is no time for attorneys or other experts to review the results. That inevitably results in a continuance for the trial date."
- 15 circuit court judges described issues related to the availability of crime laboratory staff to provide expert witness testimony. One judge wrote, "We have issues (even when testing has been done) getting a case set for trial in a timely manner because analysts are not available to testify. We eventually schedule around the lab and everyone else adjusts their calendars accordingly to accommodate."

Comparisons with Other States

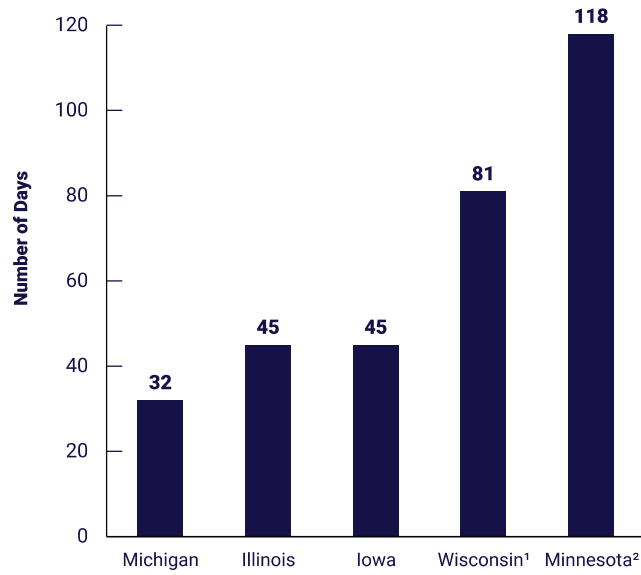
We used available information to compare Wisconsin's crime laboratories to those in other midwestern states. To do so, we reviewed other states' websites and attempted to contact the states, not all of which responded. Procedural differences and other factors may help to explain differences among states. For example, Michigan considers each item of evidence tested by a unit to be one assignment, but other states consider multiple items tested by a unit to be one assignment.

Not all crime laboratories define turnaround time as the amount of time between an assignment's creation and completion of an administrative review, as Wisconsin and Illinois define it. Michigan defines turnaround time as the amount of time between when an item of evidence is provided to a unit and a report's completion. As a result, this definition includes less of the overall process than the definition that Wisconsin and Illinois use. Some states determine average, rather than median, turnaround times.

In FY 2022-23, the average turnaround time in Wisconsin was higher than in three of four other midwestern states.

As shown in Figure 11, the average turnaround time in Wisconsin was higher than in three of four other midwestern states in FY 2022-23.

Figure 11

**Average Turnaround Time for State Crime Laboratories to Analyze Evidence, by State
FY 2022-23**

¹ Assignments created in FY 2022-23 and completed as of November 2023.

² Information is for FY 2021-22.



Improving Timeliness

DOJ should take additional actions to improve the timeliness of its crime laboratories in analyzing evidence.

DOJ should take additional actions to improve the timeliness of its crime laboratories in analyzing evidence. DOJ should improve productivity standards for senior and advanced analysts, including by formally establishing written policies for the standards and tracking the extent to which the analysts in a given unit met the standards. DOJ should also improve how its crime laboratories centrally record information, including by developing written policies that define how crime laboratories record in the laboratory information management system the priority level of assignments. In addition, DOJ should improve its annual reports on the crime laboratories. Taking such actions can help to improve the timeliness of the crime laboratories.

Productivity Standards

DOJ established productivity standards for senior and advanced analysts.

DOJ established productivity standards for senior and advanced analysts. The standards include the number of items of evidence an analyst tested per month, the number of cases on which an analyst worked per month, and the average turnaround time. The standards vary among units, as well as between senior and advanced analysts. In addition, DOJ indicated the standards may be modified for analysts who are assigned certain tasks, such as training entry analysts. DOJ indicated it emailed information about the standards to analysts and considers this emailed information to be policies. However, the Legislative Audit Bureau considers that an agency's written policies are maintained in a central location that can be accessed by employees over time, including those who were not employed at an agency when information was emailed.

DOJ does not have written policies that:

- define the productivity standards;
- require it to periodically review and potentially update the standards;
- require it to document which standard applies to a given analyst at a given point in time;
- require it to determine whether individual analysts met the standards; and
- establish potential actions to take if analysts do not meet the standards.

We found that DOJ's data included incomplete information on the productivity standards. The data indicated the number of items of evidence a given analyst tested per month and the number of cases on which an analyst worked per month. However, the data did not indicate whether analysts had met the specific standards established for them.

DOJ can improve its productivity standards for senior and advanced analysts.

DOJ can improve its productivity standards for senior and advanced analysts. DOJ should formally establish comprehensive written policies pertaining to the standards. DOJ should track the extent to which the analysts in a given unit met the policy-defined standards during a given period of time, such as monthly or quarterly. DOJ should periodically review the policy-defined standards and determine whether they need to be modified. In addition, DOJ should use the information from the policy-defined standards to assess the operations of the crime laboratories, such as whether existing staff are working as productively as possible. DOJ indicated it plans to use the productivity information to inform future budget requests.

☑ Recommendation

We recommend the Department of Justice:

- *formally establish comprehensive written policies pertaining to the productivity standards for senior and advanced analysts;*
- *track the extent to which analysts in a given unit met the policy-defined productivity standards during a given period of time;*
- *periodically review the policy-defined productivity standards and determine whether they need to be modified;*

- *use the information from the policy-defined productivity standards to assess the operations of the crime laboratories; and*
- *report to the Joint Legislative Audit Committee by September 30, 2024, on the status of its efforts to implement these recommendations.*

Crime Laboratory Information

DOJ uses a laboratory information management system to centrally track assignments. Each laboratory determines whether an assignment has a low, normal, or high priority, based on factors such as whether an assignment is associated with a scheduled court date or a public safety threat. An assignment's priority level is recorded in the system.

DOJ did not develop written policies for recording the priority level of assignments and inconsistently recorded the priority levels.

We found that DOJ did not develop written policies for recording the priority level of assignments and inconsistently recorded the priority levels. From FY 2019-20 through FY 2022-23, information provided by DOJ indicated 96.0 percent of assignments in the Milwaukee crime laboratory had a normal priority, but 50.3 percent of assignments in the Madison crime laboratory had a normal priority.

We found that DOJ inconsistently recorded in its system information about the priority levels of assignments. For example:

- DOJ inconsistently recorded in its system the scheduled court dates associated with evidence. It indicated it recorded such information in its system only if the dates are known when evidence is submitted. If courts subsequently schedule such dates, this information was not recorded in its system.
- DOJ inconsistently recorded in its system whether evidence was associated with a speedy trial, which statutes require to occur within 90 days of a defendant demanding it in felony cases.

In October 2023, DOJ specified in writing that six types of units require notice of at least eight weeks to complete their analyses before court dates, and that forensic imaging units require notice of at least four weeks. We found that DOJ did not monitor whether assignments associated with court dates were completed within the times specified in writing.

In February 2023, DOJ executed a \$1.6 million contract that requires a firm to implement a new laboratory information management system no later than August 31, 2024. The contract is supported by ARPA funds. DOJ expects the new system to improve how it records and tracks key information. For example, the system is anticipated to incorporate court dates from the Wisconsin Court System.

DOJ can improve how its crime laboratories centrally record information.

DOJ can improve how its crime laboratories centrally record information. DOJ should develop written policies for recording the priority level of assignments in the laboratory information management system, as well as key information associated with assignment prioritization, such as scheduled court dates, whether speedy trial requests have been made, and whether assignments are related to public safety threats. DOJ should provide training and guidance to crime laboratory staff on these written policies. In addition, DOJ should monitor whether staff consistently comply with these written policies, as well as whether staff complete assignments within the times it has specified in writing. Taking these actions will help DOJ to complete assignments in a timely manner and help to ensure court trials are not affected because DOJ has not analyzed evidence in a timely manner.

☑ Recommendation

We recommend the Department of Justice:

- *develop written policies that define how crime laboratories record in the laboratory information management system the priority level of assignments, as well as key information associated with assignment prioritization;*
- *provide training and guidance to crime laboratory staff on these written policies;*
- *monitor whether crime laboratory staff consistently comply with these written policies;*
- *monitor whether crime laboratory staff complete assignments within the times it has specified in writing; and*
- *report to the Joint Legislative Audit Committee by September 30, 2024, on the status of its efforts to implement these recommendations.*

Annual Reports

DOJ annually reports on the performance of the crime laboratories.

DOJ annually reports on the performance of the crime laboratories. In its 2022 report, DOJ compared the timeliness of the crime laboratories to the timeliness of local, state, national, and private laboratories participating in Project FORESIGHT, which is an initiative of West Virginia University. Although the 2022 report states that DOJ participates in Project FORESIGHT, DOJ does not participate but indicated it has considered participating in the future.

Project FORESIGHT defines standardized measures of laboratory performance that managers can use for comparative and benchmarking purposes. It defines two measures of turnaround time, including one that is based on the date the first item of evidence for an assignment is received and a second that is based on the date the last item of evidence is received. In contrast, DOJ measures turnaround time based on the date an assignment is created, which may be before or after the first item of evidence is received. Project FORESIGHT indicated to us it is inaccurate for a crime laboratory to make direct comparisons to its information without using a standardized measure of turnaround time.

We found concerns with how DOJ's 2022 annual report compared the timeliness of the crime laboratories to the timeliness of Project FORESIGHT laboratories.

We found concerns with how DOJ's 2022 annual report compared the timeliness of the crime laboratories with Project FORESIGHT laboratories. The annual report compares calendar year 2022 information for DOJ's crime laboratories to FY 2021-22 information published by Project FORESIGHT. DOJ's 2022 annual report does not specify that it compares calendar year information with fiscal year information, although its 2021 annual report had specified this when making similar comparisons for 2021 information.

We found that DOJ's 2022 annual report contained incomplete information about the timeliness of the crime laboratories. For example:

- The report did not accurately reflect the timeliness of footwear-related assignments. It indicated 17 assignments had a median turnaround time of 8 days, but it excluded 27 assignments that had a median turnaround time of 86 days. DOJ indicated these assignments were excluded because of an oversight.
- The report presented a median turnaround time that included the amount of time DNA analysis units spent analyzing the test results of a private laboratory that helped to process sexual assault kits, but the turnaround time excluded the amount of time a private laboratory took to complete the tests. Except for cases that involve a private laboratory, DOJ includes in the turnaround time the number of days it took both to conduct tests and to analyze the test results.

DOJ can improve its annual reports on the crime laboratories.

DOJ can improve its annual reports on the crime laboratories. First, DOJ should adopt a standardized measure of turnaround time when comparing the timeliness of its crime laboratories to the timeliness of laboratories participating in Project FORESIGHT, as indicated by Project FORESIGHT. When DOJ is not making such comparisons, it can continue to calculate timeliness based on its own definition of turnaround time. Second, DOJ should ensure its annual reports indicate the total amount of time it took to process sexual assault kits, including the amount of time a private laboratory took to test evidence associated with the kits.

Recommendation

We recommend the Department of Justice:

- *adopt a standardized measure of turnaround time when comparing the timeliness of its state crime laboratories to the timeliness of laboratories participating in Project FORESIGHT;*
- *ensure its annual reports on the state crime laboratories indicate the total amount of time it took to process sexual assault kits, including the amount of time a private laboratory took to test evidence associated with the kits; and*
- *report to the Joint Legislative Audit Committee by September 30, 2024, on the status of its efforts to implement these recommendations.*

■ ■ ■ ■

Appendices

Appendix 1

Ten Organizations We Contacted

American Society of Crime Laboratory Directors

Badger State Sheriffs' Association

National Conference of State Legislatures

Office of the State Public Defender

Project FORESIGHT

Wisconsin Chiefs of Police Association

Wisconsin Coroners and Medical Examiners Association

Wisconsin Association of Criminal Defense Lawyers

Wisconsin District Attorneys Association

Wisconsin Sheriffs and Deputy Sheriffs Association

Appendix 2

**Turnaround Times for DOJ’s State Crime Laboratories,
by Type of Unit and Fiscal Year That Assignments Were Created¹**

Type of Unit	Fiscal Year	Number of Days		
		Minimum	Median	Maximum
Controlled Substances	2019-20	1	34	508
	2020-21	1	43	383
	2021-22	1	64	774
	2022-23	1	64	493
DNA Analysis	2019-20	1	65	1,228
	2020-21	1	118	1,178
	2021-22	1	63	759
	2022-23	1	86	407
Toxicology	2019-20	1	37	513
	2020-21	3	46	883
	2021-22	3	40	525
	2022-23	1	42	399
Latent Prints and Footwear	2019-20	1	36	537
	2020-21	2	39	984
	2021-22	1	50	561
	2022-23	2	47	483
Forensic Imaging	2019-20	1	22	314
	2020-21	2	35	492
	2021-22	1	23	339
	2022-23	1	23	231
Firearms and Toolmarks	2019-20	1	49	831
	2020-21	1	176	897
	2021-22	1	87	840
	2022-23	1	79	461
Trace Evidence	2019-20	3	29	1,447
	2020-21	8	30	657
	2021-22	4	27	512
	2022-23	5	102	361

¹ Includes assignments completed as of November 2023.

Responses



STATE OF WISCONSIN
DEPARTMENT OF JUSTICE

Josh Kaul
Attorney General

114 East, State Capitol
P.O. Box 7857
Madison, WI 53707-7857
608/266-1221
TTY 1-800-947-3529

June 25, 2024

SENT VIA EMAIL (Dean.Swenson@legis.wisconsin.gov)

Joe Chrisman, State Auditor
Legislative Audit Bureau
22 E. Mifflin Street, Suite 500
Madison, WI 53703

Dear State Auditor Chrisman:

The Wisconsin Department of Justice (DOJ) appreciates the opportunity to submit this response to the Legislative Audit Bureau's (LAB) report regarding the timeliness of the evaluation of evidence by the state crime labs (LAB Report).

The issuance of the LAB Report follows an extensive audit that stretched months longer than anticipated. Despite this thorough review, the LAB Report proposes only minor changes in how the crime labs are managed. Boiled down, the report's recommendations for improving the productivity of the crime labs are (1) more "formally establishing" policies regarding productivity standards and reviewing whether analysts met those standards; and (2) tracking data differently.

The limited nature of LAB's suggestions speaks volumes about the professionalism and efficiency with which the crime labs are run. Moreover, it is clear that implementation of LAB's recommendations would have at best, a minimal impact on the efficiency of the labs. The need for the legislature to fund and authorize additional positions for the crime labs is glaring.

Over the past three biennial budgets, the legislature has authorized far fewer positions for the labs than DOJ has requested.¹ The legislature still has not authorized even the number of positions recommended for the crime labs in a needs assessment report that was issued *in 2018*.² In the most recent state budget, DOJ requested 16 positions for the labs, but the budget passed by the legislature included just three positions beginning in FY2024-25. Notably, the responses to the survey conducted by LAB as part of the audit show that "43 respondents . . . indicated the

¹ DOJ's original budget request submitted in September 2018 requested 10 additional positions for the Wisconsin State Crime Laboratories (WSCL) in the 2019-21 biennial budget, but a revised request submitted in 2019 increased the request to 15.

² See National Forensic Science Technology Center at Fla. International Univ., *Wisconsin State Crime Laboratory Bureau Needs Assessment Report* (Sept. 2018), available at https://www.doj.state.wi.us/sites/default/files/news-media/WSCL_Needs_Assessment.pdf.

crime laboratories need additional staff or resources.”

Even with this under-resourcing, those who responded to the LAB’s survey of stakeholder opinion regarding the timeliness of the evaluation of evidence by the crime labs were much more likely to indicate that they were satisfied (45.3% of responses) than that they were dissatisfied (28.7% of responses) with the timeliness of crime lab units. Satisfaction with the timeliness of the evaluation of evidence by the crime labs was reflected in the responses of approximately 2/3 of sheriffs (66.8% of responses) and over half of DAs (61% of responses) and police chiefs (56.3% of responses). These responses are another reflection of the effectiveness of the crime labs.

Below, this response addresses certain issues discussed in the LAB Report.

Funding and Staffing Trends

The LAB Report recommends that DOJ “fill the 3.0 full-time equivalent positions authorized by 2023 Wisconsin Act 19, the 2023-2025 Biennial Budget Act, with forensic toxicologists, as required by the Joint Committee on Finance motion.” DOJ has already taken action to convert 3.0 toxicologists who were funded by federal American Rescue Plan Act (ARPA) dollars to the 3.0 FTE GPR toxicologist positions authorized by 2023 Wisconsin Act 19.

In addition, the report recommends that DOJ “retain all existing forensic toxicology positions after it fills the 3.0 full-time equivalent positions with forensic toxicologists.” DOJ agrees with this recommendation.

Staffing Issues

As Figure 4 in the LAB Report reflects, vacancy rates fluctuate over time. As of Friday, June 21, 2024, the vacancy rate at the Wisconsin State Crime Lab (WSCL) for FTE permanent analyst positions was 6.8 percent.

Compensation

Closely related to the need for additional staff is the need to increase pay to retain staff. As the LAB Report notes, “senior and advanced analysts in Wisconsin typically were paid less, on average, than their counterparts in four other midwestern states.” The legislature should authorize, and fund pay progression to assist the WSCL in retaining senior and advanced level analysts.

Timeliness in Analyzing Evidence

② While many factors impact turnaround times, it is notable in the context of this section of the LAB Report that a sizable increase in median turnaround time

coincided with the global COVID-19 pandemic, as Figure 7 of the LAB Report illustrates.

Sexual Assault Kits

As the 2022 annual report explains, the sexual assault kits that were outsourced were from “certain cases in which district attorneys had decided not to pursue a criminal prosecution and DNA was not on file for the listed suspect. In those situations, [the Division of Forensic Sciences] DFS sends evidence to a[n] . . . outside laboratory for processing, after which DFS evaluates the results and, where appropriate, uploads those results to [the Combined DNA Index System (CODIS)], potentially creating leads in other cases.”³ In other words, the testing of these kits was not being conducted as part of active criminal cases.

- ③ With respect to the recommendation that DOJ “monitor the timeliness in processing sexual assault kits,” WSCL has done this for years.

Comparison with Other States

As discussed below, the comparisons in this section of the LAB Report are less informative than the comparisons with Project FORESIGHT data included in DOJ annual reports. To the extent that comparisons are being made between the WSCL and other labs, using Project FORESIGHT data for comparisons is a better approach than that taken in the LAB Report.

Productivity Standards

The report notes that “DOJ established productivity standards for senior and advanced analysts.” DFS is a leader among crime labs in this regard.

Of note, DFS currently monitors staff performance metrics and addresses them through the annual and interim performance evaluation process.

Crime Laboratory Information

DFS currently monitors and tracks priority status of cases, court obligations, and speedy trial requests outside of its information management system. For example, DFS routinely monitors Wisconsin’s Circuit Court Automation Program (CCAP) to determine whether an assignment is associated with a scheduled court date. In addition, DFS maintains an Excel file to monitor whether evidence is associated with a speedy trial demand.

³ Wis. Dep’t of Justice, 2022 Annual Report, Division of Forensic Sciences, at 11 n.3.

As the LAB Report notes, when DFS finalizes the implementation of its upgraded laboratory information management system, the monitoring and tracking work that is currently being done manually will be automated.

Annual Reports

- 4 The LAB Report’s critique of DOJ’s use of Project FORESIGHT data for comparison purposes does not withstand scrutiny. While the report takes issue with the comparison in DOJ’s 2022 annual report of calendar year data from DOJ with fiscal year data from Project FORESIGHT, the LAB Report acknowledges that DOJ’s “2021 annual report had specified this when making similar comparisons for 2021 information.” Indeed, DOJ’s 2021 annual report could hardly be clearer about this point. It specifically notes that Project FORESIGHT data “is typically collected on a fiscal calendar” and states that comparisons between DFS data and Project FORESIGHT data show that “the median turnaround times for DFS (*using calendar years*) were lower than those reported by participants in Project FORESIGHT (*typically using fiscal years*).”⁴
- 5 The LAB Report also points to a difference between DOJ and Project FORESIGHT in how turnaround times are calculated, but that difference does not mean that comparisons are uninformative. Tellingly, the LAB Report itself compares turnaround times in Wisconsin with those in other states, even though the report acknowledges that “[p]rocedural differences and other factors may help to explain differences among states,” that “Michigan considers each item of evidence tested by a unit to be one assignment, but other states consider multiple items tested by a unit to be one assignment,” and that “[n]ot all crime laboratories define turnaround time as the amount of time between an assignment’s creation and completion of an administrative review, as Wisconsin and Illinois define it.” Further, the comparisons in the LAB Report are with just a handful of midwestern states, whereas the Project FORESIGHT data that DOJ used for comparisons is from a far greater number of labs and laboratory systems. In short, DOJ’s comparisons with Project FORESIGHT data are more apt than those in the LAB Report, and LAB’s own analysis demonstrates that the LAB Report’s critique of DOJ’s use of Project FORESIGHT data for comparison purposes is unfounded.
- 6 The LAB Report’s section regarding DOJ’s annual reports also goes astray in its discussion of sexual assault kits that are outsourced to a private lab for processing. In most cases, the testing of these kits does not yield a positive DNA profile for a suspect⁵, and an assignment is not created. In cases in which a positive DNA profile for a suspect is obtained, an assignment is created, DFS conducts a technical review

⁴ Wis. Dep’t of Justice, 2021 Annual Report, Division of Forensic Sciences, at 2 (emphases added).

⁵ See Wis. Dep’t of Justice, 2022 Annual Report, Division of Forensic Sciences, at 11 n.3.

of the outsourced data, and the DNA profile is uploaded to CODIS, if appropriate.⁶

As DOJ's 2022 annual report explains, "only outsourced cases with a positive DNA result are included in the DNA case count and turnaround time. DFS defines turnaround time for the positive DNA result outsourced cases as the time from when DFS receives the result from the outside laboratory until the time when DFS issues a final report regarding CODIS eligibility evaluation and possible upload of any DNA profiles."⁷ This approach is consistent with how DOJ generally calculates turnaround time ("DOJ defines turnaround time as the number of calendar days from creation of an assignment to completion of administrative review.").

⑦ Thus, to the extent that the report suggests that DOJ change how cases involving sexual assault kits that were outsourced to a private lab for processing are incorporated into DOJ's turnaround time data, it is suggesting that DOJ depart from its general practice for calculating turnaround time. Such a change would also be a departure from the approach that has been taken since the Schimel administration.

More generally, the LAB Report's discussion in this section misunderstands the function of the annual reports. There is substantial value in tracking sexual assault kits as they move through the criminal justice process, and DOJ fully supports doing so. The focus of the annual reports, however, is on the performance of the state crime labs, not that of any other lab.

In conclusion, the state crime labs are a critical part of Wisconsin's criminal justice system, and they are run efficiently. I strongly encourage members of the state legislature to make a meaningful investment in the labs in the next state budget.

Sincerely,



Joshua L. Kaul
Attorney General

JLK:CJM:alm

⁶ See *id.*

⁷ *Id.*

LEGISLATIVE AUDIT BUREAU COMMENTS ON THE AUDIT RESPONSE FROM THE DEPARTMENT OF JUSTICE

To help the Joint Legislative Audit Committee evaluate the audit response from the Department of Justice, we offer some clarifying comments. The numbers below correspond to the numbers we placed in the margin of the audit response.

- ① As directed by the Joint Legislative Audit Committee, we assessed the timeliness of DOJ's crime laboratories, not how the laboratories are managed.
- ② The public health emergency may help to explain why the median turnaround time increased from 39 days in FY 2019-20 to 57 days in FY 2020-21. However, the median turnaround time increased to 58 days in FY 2022-23, as our [report](#) indicates.
- ③ Beginning in July 2024, [2023 Wisconsin Act 58](#) requires DOJ to process sexual assault kits within required amounts of time, which do not exclude time a private laboratory spends testing evidence. To ensure compliance with Act 58, we [recommend](#) DOJ monitor the timeliness in processing the kits.
- ④ The 2022 annual report does not explain that DOJ compared calendar year data for its crime laboratories with fiscal year data for Project FORESIGHT laboratories.
- ⑤ Project FORESIGHT indicated to us it is inaccurate for a crime laboratory to make comparisons to its information without using one of its two standardized measures of turnaround time. DOJ did not use either of these standardized measures when making comparisons in its 2022 annual report, as our [report](#) indicates.
- ⑥ DOJ created 146 assignments from FY 2019-20 through FY 2022-23 based on a private laboratory's test results, and it took more than six months to process 142 of the 146 assignments, as our [report](#) indicates. Our calculation excludes kits that did not yield DNA profiles.
- ⑦ Our [report](#) recommends DOJ ensure its annual reports indicate the total amount of time it took to process kits, including the time a private laboratory took to test evidence associated with the kits. DOJ's annual reports excluded the amount of time a private laboratory took to test evidence, which can take several months.