

Following is the Office of the Sheriff's response to Grand Jury Report No. 0704, "County Crime Lab – High Quality Test Results, Chronically Delayed"

FINDINGS

Finding No. 1:

The Contra Costa County Forensics and Crime Laboratory is a division of the Office of the Sheriff.

Response: AGREE

Finding No. 2:

The Lab has a total staff of 72, a combination of scientific, technical, support, and administrative personnel. The Lab staff is assigned to four functional areas: Drug, Alcohol & Toxicology Section, Criminalistics Section, Central Identification Services (fingerprinting), and Property & Evidence Services.

Response: AGREE

Finding No. 3:

The Lab maintains accreditation from the American Society of Crime Laboratory Directors, Laboratory Accreditation Board (ASCLD-LAB). The Lab is one of several county crime laboratories in the nation that has earned such recognition. ASCLD-LAB standards do not include a criterion for test turnaround timeliness.

Response: AGREE

Finding No. 4:

The Lab provides forensic testing and consultation services (scientific analysis of crime scene physical evidence) to the Sheriff's Office, as well as to local police agencies, the Solano County District Attorney, Vallejo, and recently Oakland, on a contracted, fee-for-service basis. Oakland's services are limited to selected fingerprint testing.

Response: AGREE

Finding No. 5:

The Lab is one of only four county crime labs in the state of California that charge contracting agencies fees for their services; Alameda, Santa Clara, and Sacramento are the other three.

Response: AGREE

Finding No. 6:

Based on fiscal year 2005-2006 data, forensic testing and consultation fees charged by the Lab to contracting police agencies generated \$1.8 million. That represented approximately 25% of the Lab's \$7.2 million total cost of providing the services. The percentage of the service cost covered by fees charged to police agencies ranges from a low of 19% for selected Criminalistic Section tests to a high of 76% for selected tests completed by the Drug, Alcohol & Toxicology Section. Following are program cost and client fee recovery percentage details:

Program Cost and Percent of Cost Recovery From Client Fees
Fiscal Year 2005-2006

<u>Program</u>	<u>Total Cost</u>	<u>Percent of Cost Recovery</u>
<i>Criminalistics</i>	\$2.79 million	19%
<i>Latents</i>	\$320,000*	37%
<i>Livescan</i>	\$120,000*	47%**
<i>Identification</i>	\$533,000*	15%***
<i>CAL-ID</i>	\$1.45 million	47%
<i>Alcohol</i>	\$607,000	76%
<i>Drugs</i>	\$900,000	67%
<i>Toxicology</i>	\$523,000	54%

* *Lab estimates*

** *Non-police clients; e.g., job applicants*

*** *Custody Alternative Program "client" and Martinez Detention Center detainee fingerprint screening*

Program Descriptions

Criminalistics--Firearms, DNA, Trace Evidence, Crime Scene Investigation

Latents—Fingerprint evidence from crime scenes

Livescan—Electronic fingerprinting of job, license, and permit applications

Identification—Identification of subjects booked at the Martinez Detention Center by the Office of the Sheriff

CAL-ID—Identification of subjects booked at the Martinez Detention Center by local police departments; Crime scene fingerprint evidence from local police departments

Alcohol—Blood and breath alcohol analysis

Drugs—Solid dosage (sample) drug analysis

Toxicology—Ante mortem (before death) and postmortem (after death) drug and body fluid analysis

NOTE: *The Lab generated additional revenue from other sources, such as fines, asset seizures and state-mandated fees. Together, revenues from other sources (\$2.3 million), and fees charged to local police agencies (\$1.8 million), offset*

approximately 57% (\$4.1 million) of the Lab's \$7.2 million cost of providing forensic services.

Response: AGREE

Finding No. 7:

*The Lab's published mission statement reads: "Provide a high level of **timely** (emphasis added), thorough, accurate, and objective evidence analysis, consultation, and crime scene processing services."*

Response: AGREE

Finding No. 8:

The Lab's Drug, Alcohol & Toxicology Section, located at Muir Road in Martinez, regularly reports testing turnaround times that do not vary widely from those of other crime labs around the state and across the country. This section's reported turnaround times are accurate because they do not carry a significant backlog of test requests.

Response: AGREE

Finding No. 9:

The Lab's Criminalistics Section, located at Escobar Road in Martinez, also reports turnaround times that do not vary widely from those reported by other labs. However, in this case the information is inaccurate and misleading because this section consistently carries a significant backlog of test requests.

Response: AGREE

Finding No. 10:

The Criminalistics Section reports the average length of time between receiving test requests and completion. The turnaround time calculations do not include any "backlogged" or "aging" test requests; i.e., cases where testing is either incomplete or has not yet begun.

Response: AGREE

Finding No. 11:

Contracting police agencies routinely follow a procedure encouraged by the Criminalistics Section management to expedite cases of special interest. They call management directly to request special consideration of selected cases. Management responds as often as it can by directing criminalists to set aside other test requests in the work queue to complete the special requests.

Response: AGREE

Finding No. 12:

Local police agencies report a consistently high level of confidence in the quality of Lab test results. However, they also report long-standing dissatisfaction and frustration with testing turnaround times, especially those involving the Criminalistics Section. Local police agencies report they are using, or are considering using, alternative testing facilities such as the FBI or private labs on a selective basis.

Response: AGREE

Finding No. 13:

The Criminalistic Section's Biology, Firearms and Trace backlog data reflects test requests dating back more than three years. Further, the Criminalistics Section reports an estimated 2500-3000 firearms that have not even been catalogued, and are yet to be added to the formal backlog count.

Response: AGREE

Finding No. 14:

The Lab's Criminalistics Section is organized into four functional sub-units based on the types of services each provides; i.e., Biology (DNA, liquid blood, sexual assault, and miscellaneous biology screening), Firearms (identification and testing), Trace & Impressions (fabrics, paint, hair, and arson), and Crime Scene Investigation.

Response: AGREE

Finding No. 15:

The Criminalistics Section staff includes 11 approved criminalist positions for all three sub-units, as well as two crime scene investigators. However, one of the approved criminalist positions currently is unfunded due to budgetary constraints. In 1980, the Lab had the same number of approved criminalists as it does today. At that time, criminalists had a broader range of testing responsibilities, including drug, alcohol and toxicology. In 1980, DNA testing procedures did not exist. Today, four of the 10 budgeted criminalists are assigned to DNA testing.

Response: AGREE. In addition, the Lab has ten Forensic Toxicologist positions assigned to the Alcohol, Drug, and Toxicology disciplines raising the total of approved scientist-level positions to 21.

Finding No. 16:

By comparison the city of San Diego police department's crime lab has a complement of 26 criminalists, 13 of which are assigned to DNA testing. The city of San Diego's population is similar in size to Contra Costa County.

Response: AGREE

Finding No. 17:

Since 1980, Contra Costa County's population has increased from approximately 656,000 to more than 1.1 million.

Response: AGREE

Finding No. 18:

The Lab makes use of a 40-year old functional model that requires criminalists to divide their time between performing laboratory-based scientific tests and conducting crime scene investigations. Statistics for 2005 show that 36% of total criminalists' work hours were devoted to crime scene investigations.

Response: AGREE

Finding No. 19:

The County requires scientifically trained criminalists to be sworn peace officers; i.e., County Deputy Sheriffs. Contra Costa is the last county in the state with the sworn officer requirement. The next to last, San Bernardino County, eliminated the requirement 20 years ago.

Response: AGREE

Finding No. 20:

The County received applications from only two qualified, experienced candidates for the vacant Deputy Sheriff-Criminalists positions during the 2005 recruitment effort, due in part to the sworn officer requirement.

Response: AGREE

Finding No. 21:

Few of the local police agencies the Lab's Criminalistics Section serves have their own dedicated Crime Scene Investigation ("CSI") units. Instead, they rely on the Criminalistics Section to provide such support, reportedly in some cases, coverage for simply unavailable, ill or vacationing investigators in some local police departments.

Response: AGREE.

Finding No. 22:

By comparison to the Lab's newer and larger Muir Road facility, the available space for the Criminalistics Section's staff at the Escobar Road location is outdated and inadequate from a square footage standpoint to meet current staff, testing, and storage requirements, let alone future, needs if it were appropriately staffed.

Response: AGREE

Finding No. 23:

The County's Office of the District Attorney ("DA") points to a consistently high level of test quality and Lab staff professionalism. The DA is unaware of any instances when his office was not able to expedite Lab testing if necessary for a felony case that finally went to trial.

Response: AGREE

Recommendation No. 1:

The Sheriff should seek approval to increase the number of authorized and budgeted criminalists in the Lab from the current 1980 level of 11, to between 20 and 24, to be assigned as required in the Criminalistics Section's Biology, Firearms, and Trace & Impression sub-units.

Response: The recommendation has not been implemented, but will be implemented in the future. The timeframe to implement this recommendation can not be accurately determined given the current budget constraints.

The Sheriff's Office is supportive of the recommended increase in the number of authorized and budgeted criminalists. However, county funding is required to meet this recommendation. The Sheriff's Office is actively pursuing federal and state grants to augment existing staff until county funding becomes available. County funding is not available for the expansion of criminalist staffing in the upcoming fiscal year 07/08.

Recommendation No. 2:

The Sheriff should expedite the anticipated elimination of the requirement that new criminalists must also be sworn peace officers.

Response: The recommendation has been implemented.

The Sheriff's Office has created a civilian criminalist job classification that is pending Human Resources approval.

Recommendation No. 3:

The Sheriff should eliminate the requirement that staff criminalists divide their time between scientific, laboratory-based testing and crime scene investigation.

Response: The recommendation has not been implemented, but will be implemented in the future. The timeframe to implement this recommendation can not be accurately determined given the current budget constraints.

The Sheriff's Office has created a Crime Scene Investigator job classification with the intent of transferring the majority of the routine crime scene response and processing burden from the criminalists. County funding needs to be available to expand the number of budgeted Crime Scene Investigator positions. The current authorized number of Crime Scene Investigators is two, with one of the positions possibly being held vacant to meet the proposed budget for fiscal year 07/08. County funding is not available for the expansion of Crime Scene Investigator staffing in the upcoming fiscal year 07/08.

The Sheriff's Office is also moving forward with training individuals in the Fingerprint Technician job classification to assist at crime scenes thus reducing the number of criminalists that need to respond to a call out.

Recommendation No. 4:

The Sheriff should work with those contracting police agencies without their own CSI units to help them transition to their own units to support local investigators.

Response: This recommendation has not been implemented but will be implemented in the future. The implementation of the recommendation should be completed within the next four months.

Within the past two years, the Sheriff's Office has provided training to some of the local law enforcement agencies to increase the abilities of their evidence technicians. The Sheriff's Office is developing plans to provide future training to evidence technicians from law enforcement agencies

across the county in an effort to assist local agencies with the development or enhancement of their own CSI capabilities.

Recommendation No. 5:

The Sheriff should secure adequate and up-to-date workspace to accommodate not only the Lab's existing Criminalistics Section staff but also the recommended increase in staff members.

Response: This recommendation has not been implemented but will be implemented in the future. The timeframe to implement this recommendation can not be accurately determined given the current budget constraints.

The Sheriff's Office is actively looking for a larger facility to house the Criminalistics Section and, if space permits, to possibly consolidate Criminalistics and Central Identification Services in the same location. However, a funding source to secure a larger facility has not been identified.

Recommendation No. 6:

The Lab should expand its turnaround time reports to include all backlog data to more accurately and completely report "aging" test requests.

Response: This recommendation has been implemented.

A report is available that can list the cases that are in the backlog and their corresponding date of request.

Recommendation No. 7:

Once the Lab improves its overall test turnaround time performance levels, it should take the opportunity to increase its fees so that local police agency contract income, when combined with other sources of revenue, more closely approximates the cost of providing all forensic services.

Response: This recommendation has not been implemented but will be implemented in the future. A time frame for the implementation can not be accurately determined.

The improvement in overall test turnaround times requires the increased level in staffing that can not be done without county funding. The current budget constraints prevent the hiring of additional staff and that prevents the Lab's ability to significantly improve its turnaround times to acceptable levels in the Biology Unit.

A financial analysis of the Forensic Services Division is underway to assist in determining the appropriate level of fees to local police agencies to provide timely forensic services in all disciplines.