

**Contact: Olga Jones
Foreperson
(925) 957-5879**

COUNTY CRIME LAB: HIGH QUALITY TEST RESULTS, CHRONICALLY DELAYED

**Severe Understaffing Compromises County Lab's Criminalistics Section
Performance**

SUMMARY

Sophisticated scientific tools like DNA, firearms, and trace material testing are important to solving crimes in Contra Costa County. However, while local law enforcement agencies increasingly look toward Martinez for assistance in solving crimes, the County Forensics & Crime Laboratory's Criminalistics Section struggles to meet the growing demand for their specialized services.

County crime lab records confirm that DNA, firearms, and trace material test requests routinely require 6-12 months for a response. Many requests take as long as 24 months and several are languishing in the lab's bulging case backlog more than three years after they were first submitted.

The quality of the tests performed by the lab's nationally acclaimed Criminalistics Section is not in question, but rather its chronic inability to respond in a timely manner to the many requests for the testing services they have contracted to provide local police agencies.

Despite the fact that the county's population has grown from 656,000 in 1980 to more than 1.1 million today, the County Forensics Lab's Criminalistics Section has the same 11 authorized criminalists positions it had in 1980. And, only 10 of those 11 positions are currently budgeted. Four of the 10 criminalists are dedicated to the growing number of DNA cases. By comparison, the city of San Diego's police department has assigned 13 of its 26 laboratory criminalists to handle DNA test requests generated by a similarly sized population.

The long-standing shortage of criminalists, and the resulting testing delays, place an added burden on local police agency crime investigators who are trying to quickly develop leads, solve crimes, apprehend suspects, and prevent new offenses.

The complete report is available on the Contra Costa County Grand Jury web site: www.cc-courts.org/grandjury.

CONTRA COSTA COUNTY GRAND JURY REPORT 0704

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One or more Grand Jurors recused themselves due to a possible conflict of interest and did not participate in the preparation or approval of this report.

**TO: Contra Costa County Board of Supervisors
Office of the Sheriff, Contra Costa County**

BACKGROUND

The Office of the Sheriff (“Sheriff”) for Contra Costa County (“County”) is responsible for operating and managing the County’s Forensics and Crime Laboratory (“Lab”). The Lab provides a variety of scientific laboratory and crime scene investigation services to the Sheriff’s Office, and under contract, to city police agencies in Contra Costa County, the Solano County District Attorney, the city of Vallejo, and recently Oakland.

Of the Lab’s total staff of 72, 10 serve as criminalists in the Criminalistics Section, trained scientists who perform tests on evidence gathered in the course of criminal investigations. Criminalists perform tests on a variety of samples. In the past several years, many more of these tests have included routine deoxyribonucleic acid (“DNA”) screening as that science has become increasingly sophisticated. Criminalists also test thousands of firearms each year that have been submitted by local investigative agencies. DNA and firearm test results are also added to the FBI’s two major national databases.

Lab test results serve as a good, sometimes the only, source of leads for local law enforcement investigators, and they often help solve crimes. In turn, evidence secured during investigations, and any associated scientific test results and analysis, often play an equally important role in the judicial prosecution and conviction of criminal defendants.

The Lab’s mission statement includes a timeliness element, yet the performance in this regard varies dramatically. While alcohol, drug, and toxicology tests completed by a different Lab section are performed in a timely manner, the Criminalistics Section’s

performance has fallen short of contracting police agency, and indeed the Lab management's, expectations for decades.

The primary reason for the chronic lack of Criminalistics Section timeliness is that the number of scientifically trained criminalists and crime scene investigators has not increased in more than 25 years. Over the same period, the County has seen steady population growth as well as an increase in demand by law enforcement and the judicial system for sophisticated crime testing and analysis.

Today, law enforcement, prosecutors, defense attorneys, judges, and jurors place growing importance on DNA, firearms, and trace material evidence. That's why chronic delays, in some cases years, by the Lab's Criminalistics Section in completing high-quality scientific testing, represent a serious problem.

FINDINGS

1. The Contra Costa County Forensics and Crime Laboratory is a division of the Office of the Sheriff.
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.
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.
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.
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.
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>
Criminalistics	\$2.79 million	19%
Latents	\$320,000*	37%
Livescan	\$120,000*	47%**
Identification	\$533,000*	15%***
CAL-ID	\$1.45 million	47%
Alcohol	\$607,000	76%
Drugs	\$900,000	67%
Toxicology	\$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.

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.”

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.
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.
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.
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.
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.
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.
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.
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.

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

CONCLUSIONS

1. The County's Forensics and Crime Laboratory enjoys a well-deserved reputation for providing a consistently high level of testing quality and staff professionalism.

However, the Lab, and especially its Criminalistics Section, suffers from a long-standing inability to meet the testing turnaround time expectations of its many police agency clients.

2. The fact that the Lab continues to operate using a 40-year old management model, combined with an approved criminalist complement that remains at a 1980 level, places a significant burden on the staff to meet the ever-increasing expectations of the Lab's many police agency clients. The continuing requirement that criminalists divide their time between lab-based scientific testing and crime scene investigation duties is an increasingly inefficient use of their time.
3. Raised expectations place an ever-increasing burden on the Criminalistics Section's Biology, Firearms, and Trace sub-units, to deliver both consistently high quality and timely test results. DNA testing and analysis in particular is a sophisticated and rapidly changing scientific discipline that requires a staff of thoroughly trained and dedicated scientists large enough to serve the growing needs of the County.
4. Police agency investigators are frustrated with the length of time it takes to obtain Biology, Firearms and Trace test results. They point to the fact that chronic delays make it difficult to develop leads that help solve active cases. Investigators also complain that their ability to work so-called "cold cases" is severely compromised since it's unlikely that the Criminalistics Section will be able to work considerably older cases when they are struggling to keep up with daily incoming test requests.
5. The inability to develop investigative leads and solve crimes using scientific test results not only frustrates police investigators, but crime victims and family members alike. Investigators also point out that their inability to quickly identify and apprehend crime suspects increases the chances they may re-offend.
6. The inability of the Criminalistics Section to consistently respond in a timely manner inhibits the Lab's ability to charge user fees that, when combined with other sources of revenue, more closely approximate the cost of providing services.

RECOMMENDATIONS

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 Criminalistic Section's Biology, Firearms, and Trace & Impression sub-units.
2. The Sheriff should expedite the anticipated elimination of the requirement that new criminalists must also be sworn peace officers.

3. The Sheriff should eliminate the requirement that staff criminalists divide their time between scientific, laboratory-based testing and crime scene investigation.
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.
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.
6. The Lab should expand its turnaround time reports to include all backlog data to more accurately and completely report "aging" test requests.
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.

REQUIRED RESPONSES

Findings:

Contra Costa County Office of the Sheriff: 1-23
Contra Costa County Board of Supervisors: 1-23

Recommendations:

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Contra Costa County Board of Supervisors: 1-7