## Oklahoma's State Plan for the Improvement of Forensic Science and Toxicology Medical Examiner Services 2017



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## 2017 Oklahoma State Plan for the Improvement of Forensic Science and Toxicology Medical Examiner Services

## PURPOSE

The purpose of the Oklahoma State Plan for the Improvement of Forensic Science and Toxicology Examiner Services is to improve the quality and timeliness of forensic sciences and toxicology examiner services for the criminal justice system in Oklahoma and to reduce the backlog of forensic science cases. The original plan was developed in 2002 prior to the submission of the Coverdell Forensic Science Improvement Grant Program. The plan was updated and approved in 2006, in 2010, and presently in 2017.

## **OVERVIEW OF FORENSIC SCIENCE LABORATORIES IN OKLAHOMA**

Oklahoma Statue S74-150.36 passed an act known as the "Forensic Laboratory Accreditation Act" in 2002. This act requires all forensic laboratories as defined in the act to be accredited by July 1, 2005. Laboratories that exclusively and solely perform forensic toxicology analysis may be either accredited through an accrediting body as defined in the statute or by the American Board of Forensic Toxicology accreditation standards.

The accreditation requirement is not applicable to the following:

- breath testing for alcohol;
- field testing, crime scene processing, crime scene evidence collection, searches, examinations, or enhancements of digital evidence, and crime scene reconstruction;
- latent print identification performed by an International Association for Identification (IAI) certified latent print examiner; and
- marijuana identification using methods generally accepted in the forensic field that are approved by a forensic laboratory accredited in controlled substances.

In addition to these requirements, there are financial costs associated with accreditation that the forensic laboratory must bear. The annual fees for accreditation, for example, can range from \$3000 to \$11,000. There are also on-site surveillance costs required every two years and full on-site assessment costs required every four years ranging from \$15,000 to \$40,000 depending on agency size.

Currently, there are nine forensic laboratories operating within the state that are accredited for specific disciplines.

The Oklahoma State Bureau of Investigation (OSBI) has four laboratories involving multiple disciplines operating regionally throughout the state located in Edmond, Enid, Tahlequah, and McAlester.

Both Oklahoma City Police Department and Tulsa Police Department, the two major metropolitan jurisdictions in the state, have multiple discipline forensic laboratories.

Two other agencies, Ardmore Police Department and Norman Police Department each have laboratories accredited in latent prints.

The Office of the Chief Medical Examiner Toxicology Laboratory is accredited through the American Board of Forensic Toxicology (ABFT) and solely performs forensic toxicology analysis to assist in investigating sudden, unexpected, and suspicious deaths.

AGENCY	Biology	Drug Chemistry	Firearms/ Tool Marks	Latent Prints	Questioned Documents	Toxicology	Trace Evidence
Oklahoma State Bureau of Investigation (4 sites)	Х	Х	Х	Х		Х	Х
Office of the Chief Medical Examiner						Х	
Ardmore Police Department				Х			
Norman Police Department				Χı			
Oklahoma City Police Department <sup>2</sup>	Х	Х	Х	Х		<b>X</b> <sup>3</sup>	
Tulsa Police Department	Х	Х	Х	Х	Х	X3	

<sup>1</sup> Latent print processing only

<sup>2</sup> Non-participating agency in grant program (not included in plan statistics)

<sup>3</sup> Blood/urine alcohol testing only

## **COVERDELL FORENSIC SCIENCE IMPROVEMENT GRANT PROGRAM**

In 2002, the National Institute of Justice, U.S. Department of Justice established the Coverdell Forensic Science Improvement Grant Program which included both formula and discretionary funding. The District Attorneys Council serves as the state administering agency for these federal funds.

Since the inception of the grant program in 2002, the State of Oklahoma has received \$1,591,581 in formula and discretionary funding of which \$1,432,422.90 pass-through was funding for the participating forensic agencies. The remaining amount was administrative costs for the District Attorneys Council to implement the grant program. The following chart identifies the funds received by fiscal year since 2006.



Coverdell Forensic Science Improvement Program Grant State of Oklahoma Funding 2006 - 2016

The Coverdell Grant funds have served as a significant source of supplemental funding for the accredited forensic laboratories in Oklahoma. Because of the Coverdell Forensic Science Improvement Grant Program, a number of critical advancements have been afforded to the participating forensic laboratories which likely would not have occurred otherwise. The following chart identifies the categories in which the funding was expended.



## **ORGANIZATIONAL STRUCTURE**

In 2002, the Forensic Science Improvement Task Force was formed. The overall goals of the Task Force are to improve the quality and timeliness of forensic science services for criminal justice purposes, to reduce the backlog of forensic science cases, and to provide input into the Coverdell Forensic Science Improvement Grant. The current participants on the Task Force include representatives from the following agencies and/or departments:

- District Attorneys Council
- Oklahoma Sheriffs' Association
- Oklahoma Association of Chiefs of Police
- Ardmore Police Department
- Norman Police Department
- Office of the Medical Examiner
- Oklahoma City Police Department
- Oklahoma State Bureau of Investigation
- Tulsa Police Department

The members representing the District Attorneys Council, the Oklahoma Sheriffs' Association, and the Oklahoma Association of Chiefs of Police serve as consumers of forensic science services in the state and provide additional perspective in achieving the overall goals of the Task Force.

The other participants from the above referenced agencies represent forensic agencies in the major metropolitan areas as well as medium sized jurisdictions within the state.

The Task Force operates under the purview of the Justice Assistance Grant (JAG) Board. The Oklahoma JAG Board is charged with overseeing the Justice Assistance Grant Program and other criminal justice grant programs funded through the Bureau of Justice Assistance. The goal of this grant program is to improve the criminal justice system. Projects funded in Oklahoma under this grant program have a special emphasis on drug-related crimes, violent crimes, and serious offenders. Forensic laboratories are indelibly intertwined in these types of crimes, so the Task Force functions as a committee of the JAG Board.

The JAG Board, comprised of 17 voting and non-voting members, is charged with determining priorities for funding, reviewing grant proposals, and determining awards. The following is a list of the agencies and the representing members of the JAG Board.

## Justice Assistance Grant Board Membership Roster

<u>Voting Members</u> Trent Baggett, Executive Coordinator District Attorneys Council Richard Smothermon, Designee

#### Mary Fallin, Governor

State of Oklahoma Jennifer Chance, Designee

#### **Rob Barris, District Attorney**

District Attorney District 25 Jason Hicks, Designee

## **Steven Buck, Executive Director**

Office of Juvenile Affairs Jim Adams, Designee

#### Mike Hunter, Attorney General

Office of the Attorney General Megan Tilly, Designee

#### Joe Allbaugh, Director

Department of Corrections Clint Castleberry, Designee Lesia Miser, Designee

#### Stan Florence, Director

Oklahoma State Bureau of Investigation Charles Curtis, Designee

#### Michael C. Thompson, Commissioner

Department of Public Safety Gerald Davidson, Designee

#### John Scully, Director

Bureau of Narcotics Dangerous Drugs Control Bob Cook, Designee

#### John Whetsel, Sheriff

Oklahoma County Oklahoma Sheriffs' Association Ricky Barrow, Designee David Baisden, Designee

#### Terri White, Commissioner

Department of Mental Health and Substance Abuse Services David Wright, Designee

#### George Haralson, Chief

Oklahoma Board of Dentistry Oklahoma Association of Chiefs of Police

#### Non-Voting Members

Sanford C. "Sandy" Coats

U.S. Attorney for the Western District Ashley Altshuler, Designee

#### Danny C. Williams

U.S. Attorney for the Northern District Allen Litchfield, Designee

Mark F. Green U.S. Attorney for the Eastern District Doug Horn, Designee

**Richard W. Salter** Assistant Special Agent in Charge Drug Enforcement Administration William Melodick, Designee

## OKLAHOMA'S IMPROVEMENT IN TURNAROUND TIME AND BACKLOG

In Oklahoma, the first Case Turnaround Survey was disseminated in July 2003 to all of the forensic agencies throughout the state to obtain a baseline average for case turnaround time for the various forensic lab disciplines. After the data was collected and reviewed, the Task Force set a standard, or goal, for each discipline.

Progress reports from each participating laboratory have been conducted semi-annually from July 2004 to present. Each progress report includes turnaround time and backlog data. The data is monitored by the Task Force and the Grants Division staff for grant reporting purposes.

The information from the 2010-2016 progress reports have been compiled for review below.

CASE TURNAROUND TIME COMPARISON BY FORENSIC LAB DISCIPLINE 2010 – 2016									
	<b>C</b> ontrolled Substances	Biology	Firearms and Tool Marks	Latent Prints	Questioned Documents	Toxicology	Trace Evidence	Digital Evidence	
October 2010	18	117	220	43	51	29	22	8	
October 2011	22	94	323	60	57	30	49	4	
October 2012	31	51	268	73	54	35	31	4	
October 2013	46	194	120	119	82	58	60	n/a	
October 2014	19	249	401	96	97	25	43	40	
October 2015	28	136	203	96	91	40	82	53	
October 2016	33	129	103	155	0	24	74	32	
Median	28	129	244	85	70	33	46	20	
Goal	30 Days	45 Days	30 Days	45 Days	l 20 Days	30 Days	90 Days	30 Days	

From the table above, it is apparent that case turnaround times have fluctuated both among and within the different forensic science disciplines over the course of six years. Most disciplines exceed or meet the goal each year; however, three disciplines continue to struggle. Those three disciplines are latent prints, firearms and tool marks, and biology.

For the three disciplines that are not meeting the goal turnaround time the barriers were further examined. Primary reasons for the failure to meet the baseline goal according to participating agencies are listed.

## Latent Prints

- Difficulty in recruitment and retention of qualified personnel
- Inability to create or fill vacancies due to budget constraints
- Use of case working analysts to train newly hired analysts
- Continued increase in submissions/requests
- Supporting local agencies when testing is temporarily or permanently terminated

#### **Firearms and Tool Marks**

- Testing multidiscipline evidence items; examinations were delayed due to items being processed in other disciplines first
- Difficulty in recruitment and retention of qualified personnel
- Use of time and resources to in-house train inexperienced analysts
- Increase in database examination and entry requests
- Completing neglected (years old) database examinations

## Biology

- Time and resources used to validate methods, software and instruments
- Difficulty in recruitment and retention of qualified personnel
- Inability to create or fill vacancies due to budget constraints
- Ineffective submission policies

CASE BACKLOG COMPARISON BY FORENSIC LAB DISCIPLINE 2010 – 2016									
	Controlled Substances	Biology	Firearms and Tool Marks	Latent Prints	Questioned Documents	Toxicology	Trace Evidence	Digital Evidence	Total
October 2010	148	194	1678	461	3	131	29	8	2652
October 2011	21	357	1035	561	6	122	25	0	2127
October 2012	119	350	484	828	5	69	7	0	1862
October 2013	135	613	454	898	3	915	43	N/A <sup>1</sup>	3061
October 2014	38	498	802	572	6	115	19	2	2052
October 2015	337	338	<b>99</b> <sup>2</sup>	1290	0	188	56	25	2333
October 2016	109	170	24	352	0	50	62	20	787
<decrease> Increase from Previous Year</decrease>	<228>	<168>	<75>	<938>	0	<138>	6	<5>	

<sup>1</sup> In 2013, Broken Arrow permanently terminated their latent print and digital evidence testing services. Beginning in 2014, the OSBI added digital evidence testing under their Laboratory Division.

<sup>2</sup> Beginning October 2015, TPD reported only cases pending firearm examinations and did not include cases pending NIBIN examinations as in previous years.

Although backlog has fluctuated over the past six years, four sections had the lowest backlog this past October than in the past 6 years previous. They are biology, firearms, latent prints, and toxicology. Additionally, the backlog decreased from the previous year in all disciplines except trace evidence. Some of the barriers identified above have been present for many years. The decrease in backlog perhaps shows promising progress in handling those issues.

In summary, the statewide case backlog is being reduced but timeliness is still an issue for some disciplines. This trend may be positive. Backlog and turnaround time are not always directly correlated. Forensic laboratories cannot always work oldest cases first. When staffing issues arise, some disciplines may need to focus on examining violent crime evidence or cases pending court dates. Once staffing issues are remediated, backlog is reduced and more time is directed to the older less critical cases. Older cases are completed and their reports are released. When this happens, the backlog decreases but the turnaround time increases. Over time, the statewide turnaround time will decrease if no significant barriers arise.

## **PROBLEM IDENTIFICATION**

The Forensic Science Improvement Task Force developed the first Improvement Plan for Forensic Science and Toxicology Medical Examiner Services in 2002, prior to receiving funding from the Coverdell Forensic Science Improvement Grant and in advance of accreditation for the majority of the laboratories. The problems identified in the first plan related primarily to accreditation, such as time constraints in meeting the state statutory deadlines for accreditation and the costs of accreditation.

A periodic review is imperative to continue to address the goals of improving the quality and timeliness of forensic science and toxicology medical examiner services for the criminal justice system in Oklahoma and to reduce the backlog of forensic science cases. Since obtaining accreditation, the issues facing laboratories changed and the original state plan was revised in 2006. The second plan focused on a variety of topical issues, some of which are ongoing. In the 2010 State Plan, the Task Force addressed the recommendations issued in the National Academy of Science (NAS) Report. This 2017 plan incorporates survey responses and discussion from all NFSIA task members regarding current forensic laboratory issues.

The Task Force identified the following ongoing concerns (in no particular order) with regard to improving the quality and timeliness of forensic science services and reducing the backlog of forensic science cases in Oklahoma:

- I. Recruiting and Maintaining Personnel
- 2. Increase in Requests/Submissions
- 3. Ensuring Continuing Education and Training for Personnel
- 4. Addressing the CSI Effect
- 5. Maintaining or Discontinuing Testing Services
- 6. Non-efficient Laboratory Processes

The Task Force supports using Coverdell Grant awards to assist agency efforts when trying to resolve these issues. The issues pertaining to each of these topics and proposed solutions are discussed in the following sections.

## **RECRUITING AND MAINTAINING PERSONNEL**

One of the primary concerns for forensic agencies is related to personnel. Appropriate qualifications are essential for producing reliable results. Forensic laboratories frequently experience personnel shortages which impact the ability of the lab to test cases, contributing

to the overall backlog of cases. In addition, as criminal investigations become increasingly more complex due to the constantly improving technology and the higher demand for physical evidence by the legal system, cases take more time to complete. In order to compensate for the complexity factor, additional personnel are required to complete a similar number of cases in the same time span.

Vacancies are sometimes frozen or eliminated due to budget cuts. *If* budgets permit and vacancies are posted, entry-level personnel can often be found for positions. However, training inexperienced analysts is time consuming, costly, and challenging to retain personnel once they are fully trained.

Entry level staff must successfully complete adequate competency testing in all applicable disciplines **prior** to performing independent case-connected examinations. Competency testing often includes evaluation of knowledge of existing literature, written and/or oral examinations, examination and identification of known and unknown material, and moot court. For some positions, the training for entry level personnel can take anywhere from one to two years before analyzing casework can begin. During the training period, these personnel are not analyzing cases nor are the experienced analysts who are conducting the training. An extensive and lengthy training period can contribute to the backlog of cases.

It is also important to recognize that experienced and qualified forensic science personnel are difficult to retain. The market demand for qualified and experienced forensic laboratory personnel is high. Entry level personnel frequently develop knowledge and expertise then move to a larger market for the pay increase. Loss of experienced laboratory personnel also places a burden on the judicial system. Once an examiner separates from an agency, there is no guarantee he or she will be available to testify to their results. With the Melendez-Dias ruling, defendants have the right to face their accuser which includes the analyst issuing the laboratory must retest the evidence and issue another report. Retesting impacts speedy trial and discovery requirements, not to mention, placing additional burden on the forensic laboratory.

Overstaffing, sending personnel to external training academies, providing overtime, increasing pay, and encouraging university graduate programs to add specialized competency skills to their curriculum are a few proposed solutions.

## **INCREASE IN LABORATORY REQUESTS/SUBMISSIONS**

The continued increase in submissions is a statewide issue. From 2012 to 2016 (2013 data unavailable), submissions from the top three participating agencies increased from 27,225 cases to 34,735 cases (27.6% increase). Submission increase does not always correspond to budget allocations by parent agencies. Some agencies were appropriated the same (sometimes less) budget in 2016 as in 2012.

The reasons for the increase vary with each agency but are apparently most widely linked

with the increase in abuse of legal and illegal drugs. Only a multi-pronged approach will be successful in dealing with the onslaught. In terms of individual agencies, streamlining processes, triaging casework, and prioritizing casework types and comprehensiveness are most of the few options available. Statewide: addressing the causes of the increase, expanding personnel numbers and instituting more efficient technology are limited by the availability of space, funds, and authorized full-time positions.

Solutions to address the increase in laboratory submissions should emphasize: (a) the prioritization of requested services; (b) a coordinated effort to inform state and local officials of the scale of the growing problem; (c) the identification of required technologies; and (d) the determination of the number of analysts to solve the problem.



Figure 1: Case submissions per year for top 3 participating agencies

## ENSURING CONTINUING EDUCATION AND TRAINING FOR PERSONNEL

The problem of obtaining Continuing Education (CE) credits and training has been a long standing issue. Since it has no immediate effect on agency production it has historically been ignored during appropriation and budgetary planning. Forensic directors have been forced to parcel out rare bits of funding from grants or rarer still, one time windfalls from miscellaneous unused or leftover appropriations.

In today's geography of accreditation and individual certifications, requirements for CE credits have become increasingly mandatory to maintain approved status and meet accreditation and federal standards. Although course fees and conference/seminar fees have escalated the main cost for obtaining CE credits is usually out of state travel. This is not a luxury as opportunities for CE credits within the state are rare and in the case of some forensic disciplines nonexistent. Ultimately the solution is making CE a continuing line item on budgets and sufficient funding to meet at least minimum CE credits for all appropriate personnel to maintain certifications and accreditations.

An additional solution is to fund in state opportunities open to all qualified state and local agencies. Since bringing in these opportunities is fairly expensive and beyond the budgetary ability of smaller agencies a statewide approach has the benefit of greatly reduced cost per attending individual, thus is much more monetarily efficient with larger numbers benefiting. Any grant funding obtained to pay appropriate portions of the costs could further reduce fees. This type of training could additionally be used to train and qualify new forensic examiners to work in their specific disciplines.

Over one third (35%) of the Coverdell Grant funds since inception of the grant program have been used to provide continuing education and training for forensic personnel. Without these funds, it is reported that the funding for the ongoing continuing education and training would not have been available or budgets in other areas would have suffered. The Coverdell Grant funds have been incredibly valuable in this area.

## ADDRESSING THE CSI EFFECT

The "CSI Effect" is the vernacular term for unrealistic and often fanciful expectations on the part of the public, politicians, attorneys, and the courts in general. These have been commonly linked to currently popular crime investigation shows on television. Although the popularity and number of these shows may wane over time, for the foreseeable future it remains a problem. The expectations regarding turnaround times and the ability to test trace residues, or identify specific items or sources of items compared to reality borders on the miraculous. National organizations such as AAFS, ASCLD and SOFT have expressed concern over this problem. Education and outreach are currently the only means of combatting the "CSI Effect".

In some cases, individual state agencies with varied success have attempted to reach out to law enforcement and court officials to provide educational opportunities combatting the misperceptions. A collaborative effort between agencies to provide a more comprehensive and interactive opportunity may draw in the critical target audience in larger numbers providing a more effective and efficient approach to remedy this issue. Speaking with a combined voice we may be able to provide a greater return on their investment of time and motivate attendance. When opportunities present a specific agency to address specific groups like legislators or court related organizations, better communication between agencies may also provide a more comprehensive experience for those audiences

## MAINTAINING OR DISCONTINUING TESTING SERVICES

Several testing services have been discontinued by Oklahoma forensic laboratories over the past five years. Reasons include lack of customer requests, loss of experienced personnel, budget cuts, and re-appropriation of funds directed to more conclusive testing (e.g. DNA).

Lamp filament, paint, general chemical, explosive, blood/urine drug, and glass testing have been discontinued in one local agency alone. Another local agency has discontinued latent print comparisons due to losing experienced personnel and lack of funding to train others.

To maintain testing services, laboratories must retain at least two qualified analysts, have the necessary appropriations, and maintain current technologies. An agency in the middle of a budget crisis is likely to temporarily or permanently terminate testing when they lose personnel, money, or a piece of equipment/instrument. When this happens to a local agency, the testing responsibility falls on the state agency. The Oklahoma State Bureau of Investigation (OSBI) may not have the available resources to absorb the additional requests resulting in a significant increase in their backlog and turnaround time.

Providing overtime opportunities, cross-training or adding personnel, replacing antiquated technology, purchasing additional proficiency testing materials, and adding services to scope of accreditation are proposed solutions.

## NON-EFFICIENT LABORATORY PRACTICES

Government forensic laboratories across the nation have been forced to do more with less. Oklahoma is no exception. At times, laboratory budgets have been cut and vacancies frozen at the state and local level. Forensic laboratories face pressure to keep up with the demand to produce quality test results fast, but without sacrificing quality.

There are a few tools to assist forensic laboratories to determine the root cause of laboratory issues and achieve high levels of performance and productivity.

One option is participating in the Foresight Project. The Foresight Project is a business guided self-evaluation of forensic science laboratories across North America. Participants of this project by West Virginia University can assess resource allocations, efficiencies, and value of services. The mission is to measure, preserve what works, and change what does not. Participation in this project can also help agencies determine how best to use their budgeted allocations and grant funding. However, to participate in the Foresight Project agencies need to input numerous and specific metrics and data typically available only through Laboratory Information Management System (LIMS) reports. Without a LIMS, an agency would find it almost impossible to collect the necessary data to participate.

Adopting a Lean Six Sigma methodology is another option. Lean Six Sigma is a management and organization process that identifies and targets problem areas, streamlines processes, and eliminates bottlenecks and non-value activities. This results in increased lab quality control and productivity. Hiring a Lean Six Sigma consultant or sending personnel to achieve six sigma certification along with the implementation of new and improved efficiency processes could prove worthy in decreasing backlog and turnaround time without overtime, adding additional personnel, or purchasing additional instrumentation. Oklahoma government forensic laboratories could use these tools to effectively reduce backlog and turnaround time without sacrificing quality.

# PLAN FOR USE OF THE COVERDELL FORENSIC SCIENCE IMPROVEMENT GRANT FUNDS

The Task Force uses a consensus decision-making process to determine the most appropriate use of the Formula and Discretionary Grant funds. The focus of the Task Force has been to utilize the Coverdell funds for programs that achieve the broadest impact for the State.

Most funds from the FY2002 Forensic Science Improvement Formula Grant were used for accreditation costs. The FY2002 Forensic Science Improvement Discretionary Grant funds were used to enhance training of personnel in all disciplines through continuing education opportunities. The FY2003 through FY2010 Forensic Science Improvement Formula and/or Discretionary Grant funds were used to strengthen the infrastructure of the forensic science and toxicology medical examiner laboratories, and/or to train personnel. FY2011 through FY2016 Forensic Science Improvement Formula and/or Discretionary Grant funds were used to improve backlog issues while staying abreast with forensic science advancements in both training and equipment.

Members of the Forensic Science Improvement Task Force, who represent the District Attorneys Council, the Oklahoma Sheriffs' Association, and the Oklahoma Association of Chiefs of Police, serve as consumers of forensic science services in the state. They provide additional perspectives in achieving the overall goals of the Task Force. These representatives indicate that significant improvements were made, and have been maintained, in the timeliness of forensic analysis of evidence, thereby reducing court delays.

In determining award amounts for sub-recipients, the Task Force set a minimum base so that the smaller agencies receive adequate funds in order to develop an effective project. The minimum allocation (\$3000) applies to laboratories that may have only one or two analysts. Remaining funds are divided based on the percentage of analysts in each laboratory and compared to the total number of analysts in the participating agencies.

Starting with the 2017 Coverdell Discretionary Grant, the Task Force evaluated projects presented by Oklahoma laboratories. High scoring projects totaling within the Oklahoma funded max amount were accepted for grant application. Using this new approach, the Task Force hopes to achieve two objectives. I. Smaller agencies will have access to more funding to support projects with a larger impact. 2. Our state Coverdell Discretionary Grant application would be more competitive.

Future Coverdell Grant Program funding should look to address issues facing Oklahoma forensic laboratories. The Task Force is also tasked with looking for solutions to permanently eradicate the barriers Oklahoma forensic agencies face.