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the SOURCE

ASSESSORS SCRUTINIZE OPERATIONS

OSBI GETS NOD FROM CALEA

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A team of assessors with the Commission on Accreditation for Law Enforcement Association (CALEA) arrived at OSBI headquarters Sunday, April 10th. Their job, to review OSBI proofs to ensure the bureau meets more than 400 applicable standards.

Assessors tour Information Services Division of OSBI Headquarters

During the four day stay, the team toured headquarters, interviewed a panel of supervisors, visited each investigative regional office, and scrutinized every OSBI policy. Janelle Melia, OSBI's CALEA Accreditation Manager, has spent the past three years gathering and coordinating proofs to show OSBI compliance with the applicable standards. All of these proofs were assessed by the CALEA team which consisted of Howard Shearer (Ohio), Geoffrey Ice (Connecticut), and Dennis Nelson (Georgia).

OSBI gained CALEA certification in July 2002. This international recognition proves the bureau has and meets the highest standards in law enforcement. Accreditation provides a stronger defense against lawsuits and citizens' complaints, greater accountability within the agency, and support from government officials. The bureau is the only state law enforcement agency in Oklahoma that has gained CALEA accreditation and one of only three law enforcement agencies in the entire state to undergo the rigorous assessment process.

CALEA was formed for two reasons more than 25 years ago. It was created to develop a set of law enforcement standards; and to establish and administer an accreditation process through which law enforcement agencies could demonstrate voluntarily that they meet or exceed professionally recognized criteria for excellence in police management and service delivery.

OSBI's formal re-accreditation will be in Boston, MA, in July.

OSBI Citizens' Academy Moves to Tulsa

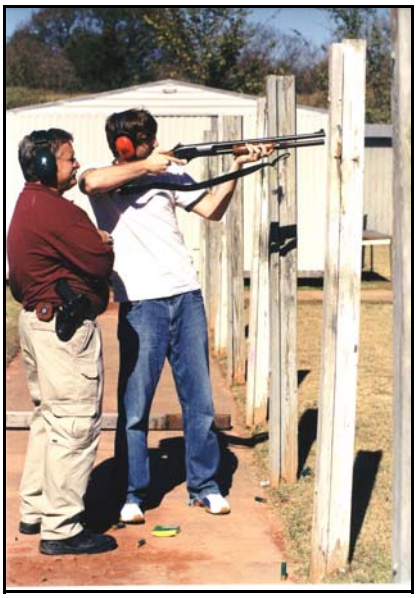
Laymen Learn the Law

More than a dozen community leaders from the Tulsa area are part of the first OSBI Citizens' Academy in that region. The bureau initiated the academy project in 2004 with the inaugural academy in Oklahoma City. Fifteen people graduated from the OKC academy including a state chief justice, two state representatives and a state senator. Students in the 8 week Tulsa academy include a state senator, several bank presidents, the president of Northeastern State University, an associate district judge, and the Tulsa County Court Clerk.

During the academy, participants learn about the history of the bureau, the investigative role and procedures of agents, and the laboratory techniques used to identify DNA and other evidence left at crime scenes. Academy graduates will walk away with a better understanding of law enforcement as well as OSBI's role in assisting agencies across the state with criminal cases.

The OSBI Citizens' Academy is not modeled after any one law enforcement citizen's academy. The bureau conducted extensive research of the various academies held by law enforcement across the nation. The goal of the OSBI was to take the most successful elements of various academies and form the OSBI Academy.

Other OSBI Citizens' Academies are in the planning stages. An academy will take place in Lawton starting in August and a second one in Oklahoma City is scheduled for early 2006. The academies are by invitation only.



OSBI Deputy Inspector and Firearms Instructor Rick Zimmer teaches a shooting technique.

Forensic Lab Gets Identity

In 2001, the Oklahoma Legislature passed a law allowing OSBI to gather money in a Forensic Science Improvement Revolving Fund. This mechanism should raise more than $20 million dollars to pay for the bond issued on the 80,000 square feet building.

Architectural model of new Forensic Science Center

The state of the art facility will house all forensic disciplines in one building plus a forensic science institute. Currently, OSBI's central lab sits in a dilapidated building which was once bureau headquarters. However, improving technologies in the field of forensics necessitates more room. In the past decade, OSBI has experienced an explosion of cases submitted by requesting agencies across the state. Since the bureau is a request agency, criminal justice agencies submit possible evidence for testing through OSBI's forensic laboratory services at no cost to them. Since the OSBI Forensic Laboratory is accredited through the American Society of Crime Laboratory Directors/Laboratory Accreditation Board, requestors know OSBI employs the highest standards in forensics. However, implementing some new machinery and techniques in the current 33-year-old crime lab has proven difficult. A new, much larger building can embrace the most high tech forensics

available. Work on the four level Forensic Science Center has already begun, although actual construction is months away. Crews will build the FSC on a 6.75 acre site south of Second Street in between Fink Park and the former Ramada Inn. Construction should begin this fall with completion in the fall of 2007. The facility will initially house approximately 67 employees which is expected to grow to approximately 100 employees in the next ten years.
This project combines OSBI, the City of Edmond and the University of Central Oklahoma. For the past 20 years, the bureau and UCO have worked together to build a strong partnership. OSBI supports its Bachelor of Forensic Science program by accepting forensic science practicum students. The OSBI and UCO will expand the partnership by establishing a Forensic Science Institute which will enhance UCO's new forensic science masters program and possibly allow for a future PhD program. The first class Forensic Science Institute will result in the OSBI, UCO, City of Edmond and the State of Oklahoma being viewed as a national leader in the forensic science community.

Architectural model of new Forensic Science Center

The new OSBI Forensic Science Center will house a training laboratory as well as classrooms to support the Institute. Classes offered will range from the basics of forensic lab analysis, scientific ethics, to forensic lab management and leadership. UCO students, under OSBI supervision, could conduct extensive research, development, and validation studies on scientific projects ranging from DNA to soil comparisons. This research could be published in forensic science journals and presented at professional meetings. In all — it's a win win situation for the criminal justice community in Oklahoma.

OSBI Bills in 50th Legislative Session

As of this writing, the Governor has signed one of OSBI request bills into law. Senate Bill 0803 – authorizes the submission of incident based *and* summary based data for the Uniform Crime Report.

SB 315 – Amends current law to include another attorney for the OSBI Legal Division.

SB 0802 -- Allows OSBI to purchase equipment "for" agencies and transfer title if necessary.

SB 0646 – Expands law to include all felons to be entered into CODIS (Combined DNA Indexing System) This will be quite expensive, but well worth the cost.

HB 1227 – Eases confidentiality of records to outside agencies, e.g. allows OSBI to use a Spanish speaking interpreter to help question a witness or suspect who cannot speak in English. (Rep. Nance, Sen. Crain).

.HB 1318 – Mandates the use of livescans and expands identifiers for on-line criminal history checks. When amended it will also allow the director to spend state money on awards and enter into contracts for food, lodging, etc.

HB 1385 – Allows OSBI to hire four more special investigators to make a background unit. It also gives the bureau two more MIS employees.

HB 1544 – Drops SDA license holders age 65 and above from paying to renew license. This could cost OSBI tens of thousands of dollars and possibly pass on the increased cost to taxpayers.

THE *CSI* FACTOR-A PROBLEM OR AN OPPORTUNITY?

By Jimmy Bunn Jr., OSBI Chief Legal Counsel

The Problem

Prosecutor Jodi Hoos undoubtedly thought this was her day. While prosecuting a gang member for raping a teenager in Peoria, Ill., she told the jury, "You've all seen *CSI*. Well this is your *CSI* moment. We have DNA." Investigators matched saliva on the victim's breast to the defendant, who denied touching her. This along with other compelling testimony seemed to make a very strong case.[1]

The jury found the defendant not guilty. Despite the DNA evidence, the jurors felt police should have tested debris found in the victim to see if it matched soil from the park.[2] Where did they hear of this forensic opportunity? You guessed it, *CSI*.

In another Illinois case, jurors cited the failure to test a victim's bloody bed-sheets for DNA in their decision to acquit her boyfriend of stabbing her. There was no evidence that anyone but the victim had been injured in the attack. The sheets were soaked with her blood. The victim testified to the attack. Even though the defendant was acquitted of that crime, he went back to prison on a parole violation. Once he was released, he stabbed his ex-girlfriend. Again. This time fatally.[3]

This "*CSI* Factor" isn't unique to Illinois. It is occurring right here in Oklahoma. According to Oklahoma County Assistant DA, Gary Ackley, "No matter what the charge, whether its murder or littering, they believe every imaginable forensic technique known to science has been performed."[4] *CSI* and its spin-offs attract over fifty million viewers every single week.[5] Similar shows like *Cold Case*, *Law and Order*, and *Forensic Files* also routinely rank high in viewers. These shows establish an unnaturally high expectation for forensic evidence in every single case. This is a particularly burdensome challenge for agencies routinely facing shortages in funding, personnel, and resources. "If all you know is what you see on TV, then you are going to need some explanation of what is real" according to ADA Ackley.[6]

What Can Be Done? Education, Accreditation, and Presentation

All hope is not lost. Effective investigations and prosecutions can still be maintained despite the "*CSI* Factor". A jury's expectations can be dealt with through education, accreditation, and presentation.

Education must start at the earliest stages of the trial. District Attorneys in *voir dire* should educate jurors regarding what forensic evidence can or cannot do. They must establish an understanding that investigators in Oklahoma simply don't have the unlimited and often unrealistic forensic resources portrayed on TV. According to Oklahoma County District Judge Jerry Bass, educating jurors is the key to beating the "*CSI* Factor". For Judge Bass, understanding is accomplished by taking the time to explain that what is seen on TV is a long way from what really happens in Oklahoma.[7]
This education process must continue throughout the trial. If certain forensic tests weren't performed, witnesses must be prepared to explain why. They should also be prepared to explain how and why no reasonable doubt exists despite the absence of such tests. One of the worst questions to leave with a jury in the *CSI* age is "Why didn't they test…"

Accreditation and certification by neutral third parties can also go far in helping establish the reliability and credibility of evidence. Establishing that the highest standards of accuracy and skill are maintained by witnesses testifying regarding forensic evidence is essential. You do not have to be Gus Grissom to realize

how important forensic analysis has become in the investigation and prosecution of crime. Max Houck, Director of the Forensic Science Initiative at West Virginia University notes, "Because of the weight the analysis is now given, professional ethics and certification of labs has never been more important."[8]

Accreditation and certification is becoming increasingly difficult in today's era of government cutbacks and budget slashing. "In many places, crime labs are the bastard stepchildren of public safety," says Barry Fisher, a member of the Forensic Science Consortium and Director of the L.A. County Sheriff's Department Crime Lab.[9] Asked about the importance of mandatory certification, he said, "I don't know if I would go to a hospital that wasn't accredited. The same goes with labs."[10]

Accreditation is even more critical as a result of 74 Oklahoma Statutes §150.37. This statute makes accreditation a mandatory prerequisite to presenting evidence in a criminal prosecution for many forensic disciplines. Quite simply, without accreditation, you won't be able to testify for the prosecution regarding a large number of forensic examinations.

Facts, data, and hard evidence are the "meat and potatoes" of every single forensic expert witness in a criminal prosecution. Like in the restaurant business though, an otherwise great tasting plate of food can be ruined by poor presentation. Thanks to the "*CSI* Factor", witnesses will have to pay attention to "how they say it" almost as much as "what they say".

More and more we live in a visual world. On shows like *CSI*, viewers ultimately see all of the disparate evidence collected by myriad investigators all drawn together and wrapped up neatly into a visual re-enactment of what it all means and how it all fits together. Jurors, consequently, have come to expect the same thing in a prosecution.

In *Harris v. State of Oklahoma,* I13 P.3d 489, 2000 OK CR 20, (Okla. Crim. App., 2000), the Oklahoma Court of Criminal Appeals allowed the use of video or computer crime scene re-enactment as long as certain safeguards and admissibility standards are met and proper cautionary jury instructions are given. Witnesses and prosecutors should consider the use of more visual cues in presenting their evidence to jurors. The use of such visual cues can help meet the jurors' expectations that they will be shown explicitly how all the cumulative separate evidence fits together to establish guilt beyond a reasonable doubt. It can also show and establish why certain evidence or testing hasn't been presented or isn't needed to establish proper proof of guilt. As the old saying goes, "seeing is believing". Today's juries expect to "see" the evidence just like they do on TV. Simply hearing about it will be increasingly inadequate for them.

Conclusion-A problem AND an opportunity

The "*CSI* Factor" undoubtedly makes the jobs of prosecutors and public safety officials harder and more involved. Dealing with unreasonable and unrealistic expectations regarding forensic evidence will require education, accreditation, and better presentation skills. Pursuing such education, accreditation, and presentation, however, will ultimately make public safety agencies and prosecutors better and more effective. Consequently, the "*CSI* Factor" is also a very real opportunity to improve service and knowledge in the critical area of forensic examinations. As long as public safety agencies meet the "problem" head-on, it can and should be turned into an "opportunity" to improve services.

NOTES

1. "The CSI Effect" by Kit R. Doane and Dan Morrison, p.2. US News and World Report Website, 4/25/05; www.usnews.com/usnews/culture/articles/050425/25csi.htm

2. *Ibid.*

3. *Ibid.,* p.3.

4. "Real life meets 'CSI'" by Ty McMahan. The Oklahoman, May 2, 2005, p. 2.

5. *Ibid.*

6. *Ibid.*

7. *Ibid.*

8. "The CSI Effect", p. 4.

9. *Ibid.*

10. *Ibid.*