



North Carolina State Crime Laboratory

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TO: Attorney General Josh Stein
FROM: SCL Director Vanessa Martinucci
SUBJECT: Response to the 2019 North Carolina State Crime Laboratory Ombudsman's Report

The North Carolina State Crime Laboratory (SCL) appreciates the recommendations made in the Ombudsman report. I would like to take the opportunity to respond to current and future activities at the SCL that address these recommendations. SCL Management and scientists are committed to conducting the highest quality, technically proficient forensic analysis in a timely manner and to providing impartial expert witness testimony. We are always open to recommendations that will strengthen the operations of the laboratory.

Laboratory Culture

The accreditation guidelines that the laboratory follows under ISO/IEC 17025:2017 section 5.5 require the laboratory to define the management structure of the laboratory and to specify the responsibility, authority and interrelationship of personnel who manage, perform, or verify the work affecting the results of laboratory activities. Defining organization charts and having clear job descriptions are ways to meet these requirements. As reflected in the report, the Administrative Policy and Procedures has been updated to remove the term "chain of command" and replace it with "management structure".

Recommendations

- 1. Create a single point of access for all stakeholders to receive SCL communication.**

The Laboratory's external SharePoint site is the single point of access. This site houses all policies and procedures both current and archived, all annual reports to the General Assembly, all external accreditation and audit reports, and Forensic Updates. Users of this site can configure personal notifications to receive an email message when any documents are added to the site, modified, and/or



deleted from the site. The use of distributing the information via paper copies and email as well as adding it to the Forensic Advantage “splash” page are used in addition to the SharePoint site. This is done to utilize as many different communication strategies as possible to disseminate the information to customers.

In reference to the blog, current staffing levels do not provide for dedicated Crime Lab staff responsible for communications. This blog would also be a duplicate effort to the SharePoint site.

2. Prioritize ease of access for the public for all SCL public documents.

The Laboratory supports ease of access for documents. All electronic documents including PDF’s are alterable. The copy of the document that is the official copy is the one that resides in SharePoint. The examples referencing other state’s sites are not their official copy, but a duplicate for public viewing.

The use of a public website for document distribution was the old way in which the Laboratory provided the information to its customers. There were two databases that had to be maintained in order to have the public facing site. Only the current policies and procedures were on the public facing site, not the archived procedures. That process required more server storage space to maintain multiple copies, and the public database was not always in sync with the official database.

The logon requirement for user access was mandated by DOJ IT for system security. The decision to remove the logon requirement is deferred to DOJ IT. The SharePoint site in its current form could be adjusted to allow access without a logon requirement.

3. Publish proposed changes to existing policies and procedures as well as new policies and procedures for public comment every time a modification or addition is sought.

The Laboratory is always open to public comment on its policies and procedures. The public webpage has a link that will allow anyone to send comments on the policies and procedures at any time. These comments are handled according to Laboratory procedure to determine if a change needs to be implemented. This is the same process that was used when the original procedures to meet ISO/IEC 17025:2005 standards went into effect in September 2012. Public comments were received after the implementation of the procedures. Since the Laboratory’s Policies and Procedures are “living” documents, they can always be updated as needed based on stakeholder feedback.

The policy notices that the Virginia Department of Forensic Science provide are not a mechanism to seek input on policy and procedure changes. These notices are stakeholder notifications of change that are similar to the Forensic Updates that are periodically published by the Laboratory.

4. Upon announcing a proposed change, the SCL should offer an explanation as to why the change is necessary and whether the change calls into question tests done under prior methods.

Changes, their impacts, and the reasons for the changes are currently communicated and will continue to be. These communications occur through the Forensic Update and through conference appearances such as Judges Conference, District Attorney’s Conference, and Whiskey in the Courtroom through Duke Law (as applicable based on topic). SCL personnel are always available by telephone to discuss changes. If a

change calls into question tests done under prior methods, the SCL Quality System will ensure that any changes do not cause adverse effects. We are always available to discuss the possibility of retesting evidence in a case that was previously worked, and encourage investigators and District Attorneys to call the Laboratory with any questions.

5. Create a simple, streamlined sub-website for the State Crime Lab and the Ombudsman.

The design and layout of the DOJ website is not under the control of the SCL. The Laboratory supports ease of access to documents and contact information. The SharePoint site is the main resource for all stakeholders and members outside the criminal justice system. Forensic Advantage, the Laboratory's case management system, is a secure portal for case access only.

6. Review and improve Policies and Procedures to provide for Forensic Advantage Outages

The Laboratory is working on methods to continue operations when there are network connectivity issues. The main focus has been on the creation of forms for data collection outside of Forensic Advantage. This will allow the Laboratory to continue to process cases when the network is down and then upload the information when connectivity is reestablished. There are limitations to this process due to reliance on technology. In order to provide the open discovery and thoroughness of the information that customers are accustomed to receiving and to be considerate of resources, the Laboratory cannot revert to a redundant paper system.

7. Work to reduce or eliminate cognitive bias within the Forensic Advantage system.

This topic is an ongoing focus of the laboratory and all other forensic laboratories. The SCL has provided an introduction to cognitive bias to all scientists through technical meetings. The topic has become one of the courses of instruction during the Forensic Scientist Academy. Although awareness cannot eliminate cognitive bias, admitting it exists is important. With a paperless laboratory information management system, like we have with Forensic Advantage, limiting the amount of extraneous information that is available during the course of examination is difficult. As time and resources allow, additional focus will be applied to reducing the availability of this information.

8. Continue current practices designed to avoid disparate treatment of sworn- officer-employees versus non-sworn employees.

All employees have the same access and ability to move through the promotional process as vacancies become available. There are currently multiple Forensic Scientist Managers and Supervisors that are not sworn employees. Promotion into management is based on qualifications and experience not on sworn law enforcement officer status.

9. Seek the Ombudsman's input during the process of legal reviews of policies and procedures.

The Ombudsman has the ability to review and make suggestions to any Laboratory Policy or Procedure at any time, and we welcome her feedback. One purpose of the Ombudsman is to be a neutral party, outside of the Crime Laboratory System. She has not been incorporated into the official approval procedure process to maintain that neutral role.

- 10. A working group comprised of the SCL legal counsel, Ombudsman, at least one Forensic Scientist Technical Leader or Manager, and at least one additional Assistant/Deputy Attorney General with significant superior court trial experience should review existing curricula and training practices and develop additional tools for training scientists for their roles in the courtroom. This Working Group should take advantage of the resources of the UNC School of Government, and the School's experience of training prosecutors, public defenders, and judges, in crafting its product.**

The Laboratory has had and currently is involved in several working group relationships with the UNC School of Government. We, as general practice since approximately 2011, use lawyers admitted to the State Bar to run moot courts and conduct moot pre-trial hearings before a scientist is released for casework. The Laboratory also runs a "Forensic Scientist Academy" that all scientists must complete. During this Academy, the scientists receive legal training by the Laboratory Legal Counsel in topics such as Brady-Giglio and court preparation. As Director, I provided ethics training during the recent Forensic Scientist Academy. The Laboratory is open to any improvements for testimony preparation training.

- 11. Ensure that SCL analysts are aware of the procedure in effect at the time they performed casework, and whether that procedure differs from what is currently in place, prior to testifying in court.**

Analysts are trained to refer to the procedures in effect at the time the case was worked when testifying in court. They are also trained to be prepared to answer questions about any changes in the procedure since the time of analysis. If the expert testimony evaluation indicates that this practice has not been followed in a particular testimony, it will be addressed according to the Laboratory's Procedure for Complaints.

- 12. Move towards blind proficiency testing in every discipline.**

In reference to the blind testing procedures at the Houston Forensic Science Center, they themselves admit that it is not always practical for laboratories to implement blind proficiency testing. A true blind proficiency requires man hours, funding, and situational circumstances that are not available to the SCL at this time. The Laboratory will consider blind proficiency testing options as resources are available.

- 13. Continue outreach to the Bench, Bar, Law Enforcement, and Public.**

We have prepared several videos in the past and agree with the benefit of having videos for the outside world to watch. The challenge is that our services and policies evolve, and we want to avoid consuming resources with constant updates or the information being out of date. The Forensic Update serves some of these purposes, as well as other tutorials available, and analysts are available to answer questions. We will continue to work with our external stakeholders and partners within DOJ to develop beneficial videos as resources permit.

- 14. Continue to maximize SCL resources by distributing casework across locations, using outsourcing when necessary, and using Lean Six Sigma methods for continuous process improvement.**

This topic is a continuous focus of the laboratory. The Laboratory conducted Lean Six Sigma training in 2013 and 2014 that addressed projects in several disciplines. The SCL intends to initiate a new project in the next fiscal year to train additional scientists in the Lean Six Sigma methodology.

15. Continue working with court actors to optimize courtroom time for SCL employees.

This topic is a continuous focus of the laboratory. We welcome the assistance of the Ombudsman in outreach.

cc: Chief of Staff Seth Dearmin
State Crime Lab Ombudsman Sarah Jessica Farber

