

INTEROFFICE COMMUNICATION

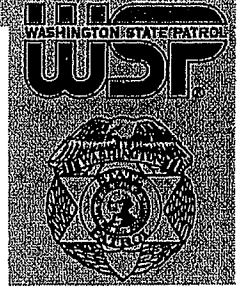
WASHINGTON STATE PATROL

TO: Dr. Barry K. Logan, Forensic Laboratory Services Bureau

FROM: Captain Stephen M. Davis, Evidence and Records Division

SUBJECT: Toxicology Laboratory Annual Evidence Audit - 2004

DATE: October 12, 2004



On August 17, 2004, an audit of the Washington State Patrol Toxicology Laboratory was conducted. The audit team consisted of members of the Audit/Inspection Division (Dr. A. Donald Sorenson), Evidence and Records Section (Sergeant Patricia Lankford), Public Disclosure Office (Ms. Gretchen Dolan), and Records Retention Section (Ms. Kristin Young). Sergeant Lankford and Dr. Sorenson inspected the open cases submitted for examination by user agencies to the Toxicology Laboratory. Ms. Dolan and Ms. Young examined files and databases maintained by Laboratory personnel.

This audit complies with Regulation 21.00.020 and CALEA 84.1.6, requiring an annual inventory of evidence held by the agency.

AUDIT SCOPE

The purpose of one portion of the audit was to ensure the integrity of the evidence system by determining if the evidence system and related records were being administered and handled in accordance with Crime Laboratory Division policies, rules, regulations and statutory requirements. The audit included a random sample of 373 (of 12,897) evidence samples. The random sampling provided for a 95% confidence level with a +/-5% confidence interval. When samples were not found, the respective evidence files were examined to ensure proper documentation of their location.

The purpose of the second portion of the audit was to ensure compliance with the proper administration of public disclosure and records retention policies, rules, regulations and statutory requirements.

ACCOUNTABILITY OF EVIDENCE

The Toxicology Laboratory holds blood vials and urine samples submitted for testing. After the testing is completed, these samples are either destroyed or held longer per the request of the originating agency.

Evidence submitted by user agencies for analysis is physically located either in the refrigerators or in the long-term storage freezers. Representative cases were selected and inspected for integrity of seals and proper documentation.

CASE NO: 0669127
PLTF./PETR. EXH. NO. 0677574
OFFER./RESP. EXH. NO. 37
QUALIFIED REQUESTOR

Gilbert Swanson



FINDINGS-EVIDENCE

The examination of all property revealed no apparent evidence of theft, tampering, or misappropriation. However, there were one hundred and twenty one (121) tubes that were unaccounted for following the transfer of tubes from the old freezers to the new frost-free ones. Auditors were told by the Lab Manager that the tubes were destroyed during the transition. A review of the case files revealed that there are no notations in the respective files as to this occurrence. Another one hundred and twenty two tubes (122) were destroyed during the transition but the date of that destruction is "unknown." Finally, another two hundred ninety five (295) tubes were broken during the transition. The Lab Manager indicated that this was due to the fact that tubes had frozen together in blocks of ice over time and the force necessary to retrieve them from the old freezers resulted in mass breakage and destruction of the samples. The Lab Manager stated that she did not believe this to be a problem in that the cases were from 2003 and past the nine month retention time frame.

A marked improvement was noted in the storage of tubes in metal trays as opposed to plastic trays that were prone to flex and break during retrieval of samples for testing. Of the seventy five trays examined, fully two-thirds had been converted to metal and it is recommended that the Laboratory continue with replacing metal for plastic trays in conjunction with the manufacturer's delivery of these items.

Glass tube breakage was an issue as well but one that must be dealt with on a continual basis. Of the three hundred seventy three (373) samples examined, seventeen (17) were cracked and set aside to thaw so that the sample could be transferred to a new tube. Approximately ten additional tubes not included in the random sample were observed to be cracked during the course of the audit and these too were set aside to be thawed and transferred at a later time.

Test tube tops that came off due to pressure build-up occurring in the interior of the tube were noted in a dozen cases. The current policy is to replace any top that comes off with a plastic cap and this appears to be occurring.

There were two instances of tubes that were in the wrong locations (03-1798 and 03-2171) and one instance of a basket of tubes that had been placed backwards in the metal tray. All three of these items were corrected on site.

During a cross check of case files, the location of two of four tubes for case 03-2203 could not be determined when comparing the number of tubes on record versus the number of tubes located in the freezer.

Overall, the level of cleanliness in the freezer compartments was very good. Less than a third of the trays contained tubes whose tops had small amounts of blood and urine

residue on them or leakage from either the tube itself or nearby tubes whose contents had expanded during freezing.

The first freezer unit had several trays with accumulated ice build-up that would require thawing prior to removal of tubes for testing purposes.

The Lab's Administrative Policies and Procedures Manual is somewhat confusing in that Section K, Subsection 2, indicates that all visitors to the laboratory must sign in on a visitor log and specifically references auditors. Subsection 3 states that WSP employees need not sign in on the visitor's log. In any case, neither of the auditors who entered the lab were asked to sign in on the visitor's log. While protective apparel was offered for the morning session of the audit, safety glasses were not offered for the afternoon session and neither of the auditors were encouraged to review a Bio-Safety card (Section K, Subsection 2-c).

Renovation of the testing areas of the lab is continuing and so only a cursory examination of that area occurred. Again, the overall cleanliness of the lab appeared good in spite of the disruption caused by the movement of equipment to allow for construction work to progress.

The Lab Manager was asked for copies of the first two Quarterly Audits (WSP Regulation 21.00.020, /CALEA 84.1.2, 84.1.6) and stated that the audits were not conducted.

FINDINGS-RECORDS

The two audit team members reviewing the Toxicology Laboratory's handling of documents, records retention, and public disclosure requests provided the following information.

Destruction File

Non-Compliant

Violation: RCW 40.14.060

No file was available for review

One (1) "Destruction Authorization Form" was found. Ms. Gordon indicated that she has not had time to file it.

Recommendation: Review all files and follow prescribed procedures for destruction or archiving as necessary. Develop and maintain a "Destruction Authorization" file.

Databases

Non-Compliant

Violation: RCW 40.14.060.

A current listing of databases used at the Toxicology Lab was provided by Linda Collins. The list includes:

- Tox Database
- Discovery Excel (PD Tracking)
- Saving Samples Database

No databases were able to be audited for retention as no retention schedule has been established.

Recommendation: Schedule immediately.

Disclosure Requests ***Compliant***

Non-

Violations: RCW 42.17.260

Regulation Manual 6.01.040 Public Records Requests
CALEA 46.1.4, 54.1.1, 54.1.3, 82.1.1, 82.2.5.

Ms. Gordon refers to all records requests received by the Toxicology Lab as Discovery requests. Under WSP Regulation, all such requests are all to be retained and tracked as disclosure requests. Toxicology Lab's SOP Manual indicates adherence to WSP regulations for disclosure. Ms. Gordon indicated that she did not have time to follow WSP policies and therefore would not be doing it.

- Redactions are being made without exemptions being explained to requestor.
- Not using WSP database for tracking – using excel spreadsheet.
- Not keeping requests in proper files, but rather in binders all together, or in envelopes.
- No tracking # assigned.
- Inappropriate filing of Blood work and BAC requests.
- No billing being done for non subpoenaed requests.

Recommendation: That the Bureau Director be informed of the gravity of these matters and request a mitigation plan within thirty (30) days.

Performance Records (DOC Books)

Non-Compliant

***Violations: Regulation Manual 7.01.030, 15.00.030
CALEA 26.1.8, 35.1.10, 35.1.13***

- No signed SCAN logs were found in the files.
- Two (2) of four (4) records reviewed contained materials past the retention period.
- One (1) Doc book was not transferred with employee when he transferred out of the Tox Lab.

Recommendation: Review all DOC books for proper contents and take appropriate inclusion or purging actions.

Case Files

Non-Compliant

***Violations: Regulation Manual 10.04.100.
CALEA 11.4.2, 11.5.1, 11.5.2, 11.5.1, 11.6.4***

Multiple sets of copies were found in the files.
Form numbers were present on only a few of the forms utilized.

Recommendation: Clarify and identify what documents are to be included in case files. Ensure that all forms utilized have been assigned a WSP form number.

TARs

Non-Compliant

Violation: TAR Manual

- TARs are stored in various places, with majority being stored in three-ring binders.
- TARs are unsecured.
- January 1, 2000 to June 30, 2000 TARs were discovered in an off-site storage area.
- Copy of an original TAR found with an attached note that read: "Original at HRD?"

Recommendation: Secure all TARS at one location at the respective employee's duty station. Create and utilize consistent filing system, either by date or employee.

Simulator Solution Logbooks
Violation: Retention:

Status: Non-Compliant

Ten (10) years for in-house records. No copies of archived files/records are to be kept locally.

A random sample of the Simulator Solution Logbooks (records of quality control results for simulator solutions produced by the lab) dating from 1991-1992, 1995-1997, and 2001-2003, were examined.

- Thirteen (13) years worth of records were found on file.
- All files examined were copies; no originals found.
- Ms. Gordon indicated that the originals were archived. This has not been confirmed.

Recommendation: Originals files/records are to be retained for full retention period, and then archived. Copies are to be destroyed.

Email
Violation: Retention

Status: Non-Compliant

Checked four (4) employee's email systems. All four (4) had emails on the server more than a year old. Two (2) had emails 2-3 years old.

Recommendation: Review retention rules related to email and perform required compliance-driven activity.

Visitor Book

Compliant

Recommendation: There is a five (5) year retention requirement. Current visitor book is a bound volume with multiple years of records. It contains pages which cannot be easily removed for destruction. Therefore it is recommended that the lab use a binder with removable pages.

Forensic Toxicology Case Files

The technical content of the files prohibited the auditors from determining a measure of accuracy for file contents.

Recommendation: A master list of required file components is to be prepared.

Correspondence Files

No correspondence files were located for review.


ADMINISTRATIVE INSIGHT

The Lab Manager expressed frustration with the level of workload lab personnel must deal with while still complying with the various policies and procedures that the agency has in place. The Lab Manager stated that she exceeds the forty-hour work week on a frequent basis and is forced to work most weekends in order to meet current workload demands. When asked for suggestions to overcome these challenges, the Lab Manager indicated that she needed more personnel in order to keep up to date with all of the requirements.

It is apparent that case management, case turn-around time, and successful case prosecutions are top priorities for the lab. WSP policies and required procedures appear to be of secondary concern to lab personnel. Achievement in top priority areas is commendable. Accurate recordkeeping and quarterly auditing as required by Patrol policies and CALEA standards is severely deficient.

It is therefore recommended that the Lab Manager address the conflicting entries in the Lab's Standard Operating Procedures manual. When the manual has been updated, laboratory personnel need to review and implement those procedures. The Lab Manager is to ensure the case files for all five hundred and thirty eight tubes referenced earlier in this report are updated with notations regarding the status of the tubes. The Lab Manager is to arrange for a quarterly audit to be conducted per department policy. In addition, quarterly audits are to be conducted per department policy from that point forward.

The Forensic Laboratory Commander is asked to respond to this IOC by November 30, 2004. Questions concerning this audit are to be directed to Sergeant Patti Lankford, Evidence Section, at (360) 404-0174.

 SMD:pal

cc: Ms. Anne Marie Gordon, Toxicology Laboratory
Deputy Chief Steven T. Jewell, Investigative Services Bureau
Chief Lowell M. Porter
Dr. Donald Sorenson, Audit/Inspection Division