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ADFS *employee newsletter*

current topics >>>

75 Years in the Making



One of the nation's oldest crime laboratory systems was formed in Auburn, Alabama in 1935. Governor Bibb Graves signed the bill into law on July 17, 1935, which formally created the State Department of Toxicology. In 1978, the governing legislation was updated and the name was changed to the Department of Forensic Sciences. The original lab facility was located in the Ross Chemistry building on the Alabama Polytechnic Institute (API) campus. API would later become known as Auburn University. The Department was located in two white, wood-frame houses on Bibb Graves Drive, also known as Graves Center, near the intersection of Mell Street and Samford Avenue. The houses had been formerly used by the U.S. Navy ROTC program. The Department remained in that location until a new facility was dedicated (with the assistance and active support of Governor John Patterson) on the Auburn University campus at Wire Road in 1962.



Message from the Director

Greetings:

The third quarter of FY 2010 is coming to a close and ADFS continues to meet all financial obligations. Total staffing is 203 as of June 16, 2010. That number is a 10% reduction from December of 2008.

I commend all staff for their hard work and commitment as we strive to move forward during these difficult budget cycles. We will continue to observe the politics in Washington. The federal Medicaid monies could be the deciding factor for our approved general fund budget. 30 states including Alabama are counting on federal dollars to provide necessary funding for Medicaid.

Our building projects continue forward with the new HQ and Auburn lab construction contracts finalized and awaiting Building Commission approval. Construction work should commence in July. The Mobile project has an agreement in principal for ADFS to purchase the adjacent research building and renovate it for Biology, Chemistry and FA/TM. The Mobile project architect will be selected shortly. The Tuscaloosa lab began receiving evidence in our new location June 23, 2010.

There have been changes in our HQ administrative staff assignments. Alice is working with Marc Bass to handle subpoenas and

certified copies. Sheila and Dena are working with Holli Baker. Dena is also assisting with clerical duties in MG several days a week. These changes have freed Janice to concentrate on the Administrative Procedures Manual. ISO concentrates heavily on management topics and the administrative manual is a key component.

ADFS hosted the Forensic Science Directors of Louisiana, Mississippi, Florida, Georgia, Tennessee, South Carolina and North Carolina on June 22, 2010 in Hoover. This was the second meeting for this group as we discussed situations in which we could cooperate. One agreement is in the area of conflict of interest cases that we could assist each other in analyzing casework involving relatives of our employees. Also our legal divisions will cooperate in the future to share legal opinions, ideas, etc. Our next meeting will be in November in North Carolina. Kudos are in order to the Hoover staff for their hospitality and meeting coordination. North Carolina has a very high bar to follow that event!

Special thanks to Sherry and her assistants for all the work hard that went into providing us with a quality ASAFS meeting in Gunterville.

Mike.



Court Revisits Ruling Forcing Lab Analysts To Testify

by Nina Totenberg
NPR, January 11, 2010

On Monday, the U.S. Supreme Court revisited an issue it had appeared to resolve just months ago dealing with crime lab test results and when crime lab analysts must testify in court. In two cases from Virginia, the court flirted with undermining or reversing that ruling.

Until June, the vast majority of state and local prosecutors routinely submitted notarized reports from crime lab analysts for evidence at trial. The burden was on the defense to subpoena the state's forensic analysts if it wanted to cross-examine them.

But less than seven months ago, the Supreme Court, by a 5-to-4 vote, said that procedure is unconstitutional and that the burden is on the prosecution to produce its witnesses to testify live unless the defense agrees to something less. The court's decision was written by conservative Justice Antonin Scalia, over the strong dissent of four justices.

Since June, only one thing has changed: One member of the five-justice majority — David Souter — has retired, replaced by Sonia Sotomayor, who served for years as a prosecutor in Manhattan.

So all eyes were on Sotomayor on Monday as the court considered two drug convictions based on affidavits from crime lab analysts as to what the substance was that was found on or near the defendants. Sotomayor did not disappoint, asking lots of questions. But at the end of the day, she was noncommittal.

Virginia Law At Issue

Virginia changed its law in August to comply with the Supreme Court's June decision. The convictions at issue, however, were under the state's old law, which allowed for affidavit

testimony without the consent of the defense.

On the steps of the Supreme Court on Monday, both sides saw the issue in dire terms. The state's solicitor general, Steve McCullough, said that since enactment of the new law some five months ago, demands for live testimony have increased tenfold and so has defense lawyer gamesmanship.

"What we've seen again and again is that the analyst shows up, and the defense lawyer says, 'Oh, I'm ready to stipulate now,' " McCullough says, meaning that the defense agrees to

admit the forensic report without live testimony. The crime lab analyst who has come to court does not have to testify.

Countering that was defense lawyer Richard Friedman, who contended that if Virginia's old statute is upheld, it would mean "the sky is the limit" — that any witness could avoid live testimony.

He pointed to child abuse cases, for instance, where the prosecution has taken a written or videotaped statement from a child and introduces it, knowing that if the defense calls the child for cross-examination, it will likely cost the defense dearly.

High Costs Of Testimony Exaggerated?

Justice Ruth Bader Ginsburg confronted Friedman with the expense question raised by many states. Would it be all right, she asked, if in order to save money, crime lab analysts testified via video conference from the lab?

Friedman noted that some states are experi-

menting with that, but he contended that, in fact, dire predictions of high costs are exaggerated.

"How can you say that," asked Justice Samuel Alito, "when we have a brief from 26 states and the District of Columbia saying exactly the opposite?"

Confronting Witnesses

McCullough told the justices that the confrontation clause of the Constitution stems from the Colonists' fear of anonymous accusers and no-show witnesses, and that the old Virginia law doesn't permit it either.

But Scalia wasn't buying that argument, noting that under the old Virginia law, once a lab report is introduced, it may stay in evidence even if the lab analyst is a no-show later for cross-examination.

Supporting Virginia on Monday, the federal government's lawyer, Leandra Kruger, said that as long as the analyst is available, the prosecution has satisfied its burden at trial.

Scalia asked whether that would apply to other witnesses as well?

Yes, replied Kruger.

If you have an eyewitness, asked Justice John Paul Stevens, could the prosecution follow the same procedure?

Again the answer was yes, as long as the defense has the opportunity to cross-examine if it wants to.

Sotomayor for the first time appeared incredulous: "Are you saying that a trial by affidavit is OK" under the Constitution?

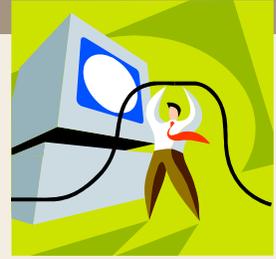
Essentially, yes was the answer. And it didn't seem to sit very well.

prosecutors routinely submitted notarized reports from crime lab analysts for evidence at trial

as long as the analyst is available, the prosecution has satisfied its burden at trial

FQS –International Top Ten Non-conformities

The FQS Update, Volume 5, Issue 2 March 2010



Number 1- 5.4 Test and calibration methods and method validation. 5.4.1 was a problem for agencies seeking initial accreditation, in that they lacked procedures or had incomplete procedures, or simply were not in conformance with the procedures that they had. 5.4.2 and 5.4.5 were cited either in connection with lack of validation records for some tests that were being conducted, or when required aspects of validation were not addressed (particularly true in DNA testing, where the DNA quality assurance standards are quite specific about what is required for validation).

failure to control all
management system
documents—forms,
external manuals or
standards

Number 2- 4.3 Document Control. There were numerous findings throughout the clause. Chief among them were the failure to control all management system documents, most notably some forms or external manuals or standards; master lists of documents that were incomplete; lack of objective evidence for review of documents; and revision identifiers that were either obsolete or completely lacking.

Number 3- 4.1.5 Organization and Management. Non-conformities were distributed throughout the sub-clauses. Examples are citations for lack of required policies/procedures, policies/procedures that did not adequately ensure freedom from undue pressures, and failure to adequately document the responsibilities and position of the Quality Manager and/or designate a deputy for that key managerial position.

Number 4- 4.13 Control of Records. Non-conformities were clustered in three clauses: (1) 4.13.1.1—Either the laboratory's proce-

dures did not cover all required elements, or the lab was not following its own procedures; (2) 4.13.2.1—agencies were not following their own procedures for recording data; and (3) 4.13.2.3—Corrections to data were not made properly, with numerous instances of obliterations and/or lack of identification of the person who made the correction.

Number 5- 5.5 Equipment. The non-conformities were spread out fairly evenly over the clauses in this section, with no single predominant “problem” clause.

Number 6- 5.2 Personnel. Non-conformities were evenly distributed between sub-clauses 5.2.1, 5.2.2, and 5.2.5. The lack of appropriate records—for training and educational background (5.2.1) and for competency testing and authorization to perform work (5.2.5)—were cited as non-conformities. Under 5.2.2, non-conformities were (1) lack of training plans for areas of testing performed in the agency and (2) training/education/skills goals that either were not documented or were too narrow in scope to effectively anticipate future needs.

Number 7- 4.14 Internal Audits. Most non-conformities were clustered in sub-clause 4.14.1. These included: no predetermined schedule and/or audit procedures that did not address all elements of the management system. (Note to DNA labs: an audit with the FBI QAS will not address all elements of the ISO 17025 standard. Note to all agencies: Don't forget to audit the internal audit pro-

gram.) The biggest issue in the remaining sub-clauses of 4.14 dealt with appropriate follow-up on problems that were identified during internal audits.

Number 8- 4.15 Management Review. Non-conformities were evenly distributed between the two sub-clauses. Problems with 4.15.1 were incomplete procedures (all required elements not addressed) and the lack of predetermined schedules for conducting management review. In 4.15.2, many laboratories failed to record “actions arising” from Management Review and/or did not establish timescales for dealing with the “actions arising” from the review.

Number 9- 4.6 Purchasing Services and Supplies. At least half of the non-conformities were clustered in clause 4.6.1 and were due to incomplete procedures that did not contain all required elements. For example, a laboratory might have had a procedure that covered the purchase of critical supplies, but did not address the purchase of critical services, such as calibration.

Number 10- 5.6 Measurement Traceability. The non-conformities were spread throughout the section. There were some citations for missing procedures and some citations for lack of documented traceability (to national standards) of reference standards used by the laboratories. There were also situations where laboratories were using non-ISO 17025 accredited calibration laboratories for calibration of critical measuring equipment, and the competence of these providers had not been otherwise established.

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Osmotic Rehydration

Submitted by Tonya Pichea

Over the past 1-½ years, Mobile Region IV Laboratory has performed three Osmotic Rehydration procedures with success, thanks to the technology shared by the FBI. This procedure enables the department to rehydrate a decedent's hand, in order to recover latent prints for identification. It is extremely cost effective and efficient, especially when compared to identifications made by DNA and Dental comparison. Local agencies are able to quickly move forward with their investigations. Families are given closure and are able to proceed with final disposition arrangements, opening up much needed storage space at ADFS.

Osmotic Rehydration was discovered and used by the FBI Laboratory during the 2004 TSU-ANMI effort in Thailand. Osmotic Rehydration was then taught to the Evidence Response Team. Representatives from 35 countries that assisted in the TSUANMI effort were also instructed about the proper administration of the procedure.

Osmotic rehydration is used on the dermal layer of skin. First, one needs to cleanse the

target area, completely removing the epidermal layer and any other debris. Second, one needs to soak the dermal layer of skin in H2O heated to 212 degrees. Soaking time is 10 to 15 seconds. If there are cuts or abrasions on the fingertips, soak time is 7 to 10 seconds. The fingertips are dried, and prints are obtained as usual. Caution: Fats/Oils may exude through pores and necessitate more patience recording prints. Inks may not readily adhere and powders can become contaminated. Alcohol bath and/or soap wash may help remove any residues.

Prep for Osmotic Rehydration: Large boiler, two oven mitts, stove eye, and water. Also have latent ink, roller, and print cards ready for immediate use.

On June 10, 2008 the FBI lab shared this learned technology with the Mobile Region IV Lab. The first Osmotic Rehydration was performed on a decedent who was submerged under water for approximately one week. Prints were retrieved successfully, but unfortunately the decedent had no ante mortem fingerprints on file for comparison. On August 24,

2009 the second Osmotic Rehydration was performed on a decedent who was in a state of advanced decomposition. Latent prints were recovered and taken to a local police department for comparison; the decedent was positively identified. On January 05, 2010 the Mobile Region IV Lab performed the third Osmotic Rehydration, again with great success. This decedent was submerged under water for thirty-one days. Latent inked prints were obtained and taken to the FBI lab, for comparison with ante mortem prints believed to belong to the decedent. He was positively identified, and the family was notified on the same day.

In cases where the epidermal layer of the fingers is lost or damaged, Osmotic Rehydration can be a useful technique for positively identifying a decedent through fingerprints. It is quick, easy, and cost effective, relative to other means of identification. As with all identifications made by fingerprints, known ante mortem prints must be available for comparison.

AFTE Presentation Firearms and Tool Marks

Stephanie Luehr of the Mobile Regional Laboratory presented "Dead or Alive, What Really Matters" at the May AFTE meeting. The presentation discussed the similarities and differences between bullets fired from handguns used in homicides as compared to non-fatal assaults. Previous studies have been published in regards to fatal and non fatal assaults; however, this study focuses on specifics such as, caliber and style of bullets employed in these violent crimes.



Thanks to all who have submitted photos and articles!



Send your articles and suggestions for future newsletters to holli.baker@adsf.alabama.gov

announcements



Congratulations 2009 ASAFS Award Winners

Region I (HV, FL):

Administrator of the Year:
Scientist of the Year:

J. Allen Perry
Angela Williams

Region II (BH, IC, JV, TU):

Administrator of the Year:
Scientist of the Year:

Shari Kelley
Erin Shonsey

Region III (MM, MG, AB):

Administrator of the Year:
Scientist of the Year:

Betty Smith
Pete Macchia

Region IV (MB, DH):

Administrator of the Year:
Scientist of the Year:

Darlene Williams
John Brunner

Paul E. Shoffeit

Distinguished Service Award:

Holli Baker

Herman D. Jones Award:

Erin Shonsey

Kate Hudson Award:

Betty Smith

C. J. Rehling Awards:

Justin Sanders, Jimmy Carter, Sarah Daniel, April Leon, Derek Headley, Jessica Gissendanner, Vaughn Barron, Kerri Barrett, Mary Burns, Wendy Pope, Tiffany Warren, Torey Williams, Carl Mauterer, Angela Williams, Marc Bass, Angelo Della Manna, Kathy Richert, Sherwin Boswell, Sandra Webster, Mary Holt

Director's Awards:

Birmingham Chemistry
Auburn Laboratory
Mobile Chemistry

Birmingham Toxicology
Dothan Laboratory

Laboratory of the Year:

Birmingham Regional Laboratory

catch 'em if you can...



Mercedes Marathon

The Forensic Biology Section from Hoover took their teamwork to the streets of Birmingham on Valentine's Day and successfully completed the 26.2 mile Mercedes Marathon relay in an incredible time of 4 hours 28 minutes!!! The DNA themed team name of "Amped and Running" was a big hit, along with their custom race shirts! "This was incredible, everyone ran their hearts out and did fantastic - we'll do this again, and I invite other Labs and Sections to join us in future races, you'll love it!", said Angelo.

Team members, from left to right: April Leon, Jackie Bowling, Angelo Della Manna, Nathan Rhea, and Carl Mauterer.



ADFS Mardi Gras Marathon 2010

Forensic Sciences was well represented in New Orleans with seven (7) scientists racing the Mardi Gras Marathon and Half-Marathon - finishing the full 26.2 miles were Angelo Della Manna, Katrina Hanks and Carl Mauterer; finishing the half marathon were Curt Harper, Patti Boyd, Lori Seman and Donna Gibbons!!!



Statue 2 Statue

Autumn Cole and Angelo Della Manna successfully completed the historic Statue2Statue run, known as the "South's Toughest 15K" covering major hills in and around Birmingham while running from the Vulcan Statue to the Statue of Liberty.

Goofy Challenge

Marc Bass completed the two day Goofy Challenge at Disney World this January. The challenge consisted of a half marathon the first day followed by a full marathon the second day. Marc plans to run the Disneyland half on Labor Day and the Chicago Marathon in October.

training opportunities

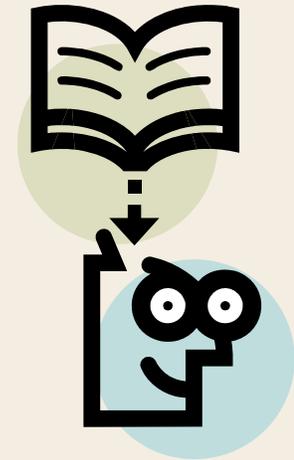
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SOP Writing for ISO 17025 Accreditation	On demand
Expert Testimony Training for the Prosecutor and Scientist	On demand
Answering the NAS: The Ethics of Leadership and the Leadership of Ethics (Ethics II)	Live virtual classroom

State Employee Assistance Program (SEAP)

Motivating Your Employee: More than a Paycheck Contact Sandra Webster



asafs 2010



2009 Lab of the Year
Birmingham Regional Laboratory



Darlene Williams



Betty Smith



Tiffany Warren



Sarah Daniel



Carl Mauterer



Sherwin Boswell

Casey Dubose



Holli Baker



Erin Shonsey



Awards Banquet