

DNA TESTING:
Turnaround time must improve
to meet national guidelines

January 2012

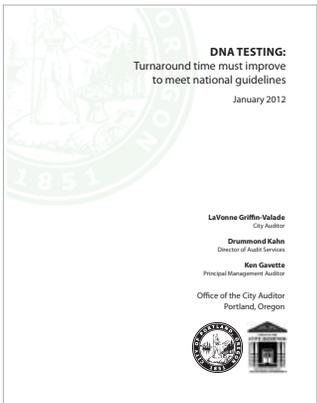
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CITY OF PORTLAND

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January 12, 2012

TO: Mayor Sam Adams
Commissioner Nick Fish
Commissioner Amanda Fritz
Commissioner Randy Leonard
Commissioner Dan Saltzman
Michael Reese, Chief of Police

SUBJECT: Audit Report – *DNA testing: Turnaround time must improve to meet national guidelines*
(Report #427)

The attached report contains the results of our audit of turnaround time for DNA samples submitted by the Portland Police Bureau to the Oregon State Police Forensic Services Division (State crime lab).

Crime laboratories are processing more evidence samples than ever before. Sample results entered into the national database can tie together seemingly unrelated crimes and take serial offenders off the street. In fact, State crime lab representatives told us they get about a 50 percent match to existing database DNA on samples they test. Unfortunately, both locally and nationally, labs have not been able to keep up with increasing demand.

Maximizing the effectiveness of this new technology to stop serial offenders and exonerate the innocent depends on timely sample analysis. We found that only about 30 percent of tested DNA samples meet the 30 day turnaround time recommended by the National Institute of Justice, and delays in testing can mean delays in justice.

While representatives of the Portland Police Bureau and the State crime lab have worked cooperatively in the past to clear backlogs, more needs to be done to avoid increasing turnaround times. We make several recommendations in this report, but do not have authority to audit or make operational recommendations to the State Police.

We ask the Portland Police Bureau to provide us with a status report in one year, through the Office of the Mayor, detailing steps taken to address the recommendations in this report.

We appreciate the cooperation and assistance we received from Portland Police Bureau staff and from the Oregon State Police Forensic Services Division as we conducted this audit.

LaVonne Griffin-Valade
City Auditor

Audit Team: Drummond Kahn
Ken Gavette

Attachment

DNA Testing:

Turnaround time must improve
to meet national guidelines

Summary

Portland depends on the State of Oregon to perform analysis of DNA samples collected from crime scenes or from victims and suspects in crimes. National guidelines hold that a 30-day turnaround time is an appropriate goal for the timely analysis of DNA evidence, anything more is considered to be backlogged.

In general, only about 30% of Portland's submitted biological DNA samples are being tested within the 30-day national benchmark. State managers have recognized a growing backlog and reported it in their most recent State budget. They indicate the solution to improving turnaround time is the addition of resources.

There are also hundreds of DNA samples at the Police Bureau's Property and Evidence Division (PED) which have not been submitted for testing. There are many reasons why samples are not submitted. However, further review by the Bureau could help determine whether the appropriate samples are submitted for testing.

Background

For public safety agencies and the overall judicial system, DNA collection and analysis is a powerful tool for convicting the guilty and exonerating the innocent. When biological evidence is collected and stored properly, it can help investigators identify suspects in current cases, tie seemingly unrelated cases together, and even help solve cases that are decades old.

The National Institute of Justice (NIJ), a division of the U.S. Department of Justice, writes that delays in submitting evidence to a forensic laboratory, and in analyzing the evidence, result in delays

of justice. In worst cases, it can result in additional victimization by serial offenders or in prison time for those who are wrongly accused. Timely submission and analysis of DNA samples is critical to a well-managed investigative process and a fair judicial process.

Nationwide, the U.S. Department of Justice is concerned about the growing backlog of DNA samples that need to be tested. Since 2004, the Federal government has provided almost \$400 million to laboratories for the purpose of reducing these backlogs. Locally, the Oregon State Police Forensic Services Division (State Police crime lab) has recognized a growing backlog in its work. The demand for DNA testing is rising primarily due to the increased awareness of the potential for DNA analysis to help investigators and the expanded effort to collect DNA samples from arrestees.

The NIJ defines a backlogged case as one that has not been tested 30 days after submission to the crime laboratory. The State Police crime lab also recognizes 30 days as an appropriate turnaround target for analysis of all types of samples. The last self-reported average turnaround time for the State lab was 39 days in 2008, but the most recent State budget acknowledged that the turnaround time was increasing again after falling from a peak of over 50 days in 2005.

In Portland, the primary provider of DNA analytical services is the State Police crime lab. Portland Police, along with other local law enforcement agencies, medical examiners and prosecuting attorneys, submit DNA samples to the State for analysis. The State Police crime lab does not charge for their work. In a small number of cases, the Portland Police Bureau sends samples to private laboratories. It is also the responsibility of the State to enter DNA forensic data into the CODIS system, a national DNA database (see sidebar).

What is CODIS?

CODIS (Combined DNA Index System) is the FBI's platform for storing and retrieving DNA profiles. Using CODIS, DNA analysts can search and compare DNA profiles from various crime scenes and from arrestees. In Oregon only convicted felons are routinely swabbed for DNA samples. CODIS generates leads for investigators when matches are obtained, and allows investigators to focus their investigations appropriately.

A separate but related issue is the number of untested and unsubmitted DNA samples that remain on the shelves of police storage rooms around the country. These are not considered backlogged cases and are not included in NIJ analysis of backlogs. They are important however, in that they might contain valuable DNA evidence that if entered into the CODIS system could solve crimes or exonerate the innocent. In fact, the national Innocence Project alone claims that 280 people have been exonerated by DNA testing, including 17 who served time on death row.

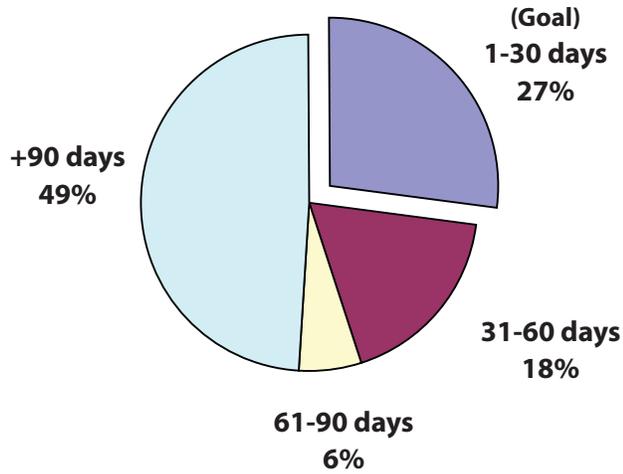
There are many reasons why investigators might not submit DNA evidence to a crime lab. For example, the DNA evidence might not provide substantive proof needed by investigators, or charges may have been dropped, or the suspect may have already pled guilty. In sexual assault cases where “consent” is the issue, the biological evidence may not be in dispute. Investigators may not submit samples knowing the limited capacity of the lab to conduct tests. The State lab estimates that Statewide up to 30% of past crimes needing evidence examined by the lab, was not submitted. A detailed survey conducted by the NIJ estimated that nationwide, 14 percent of unsolved homicide cases and 18 percent of unsolved rape cases contained forensic evidence not submitted for analysis. Whether these estimates apply directly to Portland Police is not known. The NIJ says that more research is needed to completely understand why investigators decide to submit or not submit evidence and what proportion of open cases could benefit from forensic testing.

Backlog substantial

The PED reported that about 14,000 biological items, containing primarily blood samples, oral swabs, and sexual assault evidence are currently stored under their authority. This represents samples from about 7,000 cases, dating as far back as 1970.

As of November 2011, there were 140 samples at the State Police crime lab for analysis. One hundred-and-two of the samples, or 73%, had been at the lab for more than thirty days. Figure 1 shows a breakout of time at the lab in 30-day increments.

Figure 1 Days current samples* have been at the State Police crime lab and percent of total



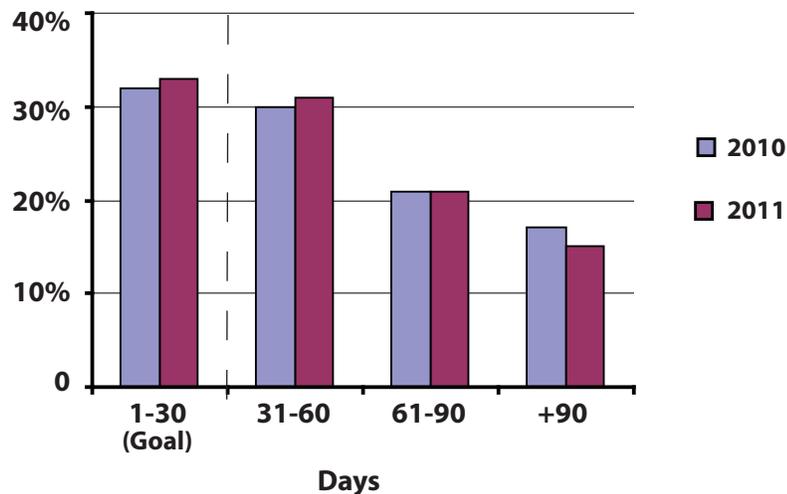
* as of November 28, 2011

Source: Portland Police Bureau Property and Evidence Division records

Only about 27% of biological items had been at the State lab for 30 days or less. Some of these samples had only recently arrived and likely will not meet the 30-day standard. Almost half of the samples had been at the lab for over 90 days.

We reviewed about ten percent of the biological items submitted for analysis during 2010 and 2011 to determine turnaround times. We found the average processing time in 2010 and 2011 was 56 days. In total, 33% of samples took thirty days or less and 67% took more than 30 days. Figure 2 shows the breakdown in 30-day, 60-day, 90-day and greater than 90-day increments for each year.

Figure 2 Number of days for State Police crime lab to process biological DNA samples, and percent of total*



* Based on a review of 10 percent of all biological items received by PED during 2010 and 2011.

Source: Portland Police Bureau Property and Evidence Division records

The percentage of samples taking longer than 30 days in our two-year sample did not change substantially during the two-year period and far exceeds the 30-day target.

As we previously noted, State managers are aware of the problem of increasing turnaround times and have noted the solution to improving turnaround times is the addition of resources.

Although PED has many unsubmitted samples, more work is needed to determine which ones could benefit from testing

There are hundreds of DNA samples from 2010 and 2011 alone which have not been submitted for testing. As previously noted there may be many reasons why investigators do not submit samples. These reasons include: other evidence that is more compelling, suspects who confess, or sexual assault cases where the DNA of the suspect is not in dispute. Police Bureau representatives also told us that there are not enough investigators to submit all the samples that may need testing. It is not possible to determine statistically the number of unsubmitted samples that might benefit from testing. This must be done on a case by case review by experts.

The Bureau must be able to balance the need for testing of DNA items with the realities of the current capacity of the State lab to process the samples and the cost associated with each test procedure. It would be impossible for the State Police crime lab to analyze every DNA item stored at PED. They simply would not have the capacity, nor would it make sense to process those items with a low probability of resolving an investigation. Also, the cost of sending items to private labs, at about \$1,000 per sample, is prohibitive.

However, because of the ability of DNA analysis to link seemingly unrelated cases and to identify unknown suspects, not only locally but nationwide through the CODIS system, it is important that Police Bureau managers establish a periodic supervisory review system to ensure that DNA samples are submitted when appropriate. These reviews may be conducted by a panel of independent Police Bureau supervisors and forensic specialists.

Recommendations

1. The Commissioner in Charge and the Bureau should work with State and Federal partners to identify funding sources to help alleviate backlogs from the State Police crime lab.

The intent of this recommendation is for the City to explore ways to reduce backlogs at the State Police crime lab. Grants and other financing options may be available to provide additional resources for the crime lab, or for the City to pay private labs to analyze samples. Increasing the funding for existing grant programs may also be possible.

Representatives of both the State Police crime lab and the Police Bureau indicated that there has been past success with obtaining grants and working cooperatively to help reduce backlogs.

2. The Bureau should establish a periodic supervisory case review system to ensure that DNA samples are submitted for testing appropriately.

The review might be conducted by an independent panel of supervisors and professional staff, including forensic specialists. The panel could also determine if lab turnaround times are meeting Bureau needs.

Objectives, scope and methodology

The objective of this audit is to identify the timeliness of DNA analysis performed on the Portland Police Bureau's DNA samples sent to the State Police crime lab.

Specifically, we wanted to identify:

1. how many current samples have been at the lab for more than thirty days – the national and state benchmark for timely analysis
2. the average length of time it has taken to process samples over the past two years
3. how this compares to target turnaround times and to the national definition of backlogged cases
4. the number of cases at the Portland Police Bureau with unsubmitted DNA samples

To accomplish these objectives, we requested reports from the Portland Police Bureau's Property and Evidence Division (PED). This division of the Police Bureau is responsible for checking evidence of all types into and out of police custody. The division uses a barcode inventory and tracking system to identify the locations of about 300,000 individual items of criminal evidence. We analyzed these reports and sampled items submitted during 2010 and 2011.

We confined our analysis to biological samples under PED's authority. Biological samples primarily contain blood samples and evidence from sexual assaults. We restricted our analysis to these samples because the PED inventory system does not categorize all potential DNA that may be present on evidence in every case. There are likely tens of thousands of items where DNA may be present but is not specifically identified by investigators in the tracking system. Biological samples are, however, always categorized separately.

We conducted this audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

RESPONSES TO THE REPORT



OFFICE OF MAYOR SAM ADAMS
CITY OF PORTLAND

January 4, 2012

LaVonne Griffin-Valade
City Auditor
1221 SW 4th Avenue Room 140
Portland, OR 97204

SUBJ: DNA TESTING: Turnaround time must improve to meet national guidelines
January 2012

Dear Auditor Griffin-Valade:

Thank you for the opportunity to review and respond to the City Auditor's audit report and recommendations for DNA Testing. As Commissioner-in-charge of the Police Bureau, I am committed to continuous improvement of our public safety efforts and appreciate your work to examine areas for improvement in that regard.

I believe that the two recommendations produced by the audit are insightful and relevant. I have listed the two recommendations and my responses below.

Recommendation #1: The Commissioner in Charge and the Bureau should work with State and Federal partners to identify funding sources to help alleviate backlogs from the State Crime lab.

- Because DNA testing is a cross-jurisdictional issue of critical importance, you have cited an important collaborative undertaking. I agree with this recommendation and will work with the Police Bureau and the Office of Government Relations to identify how to proceed on this front. We all agree that the advent of DNA technology has led to significant improvements in the clearance rate of a number of serious crimes including homicide and sexual assault.

Recommendation #2: The Bureau should establish a periodic supervisory case review system to ensure that DNA samples are submitted for testing appropriately.

- The Police Bureau is reviewing this recommendation to determine whether this kind of supervisory review already occurs during the approval process for

investigative reports. In reviewing this process, the Bureau has committed to pursuing any identified improvements to the system that allow the maintenance of a balanced workload as required within current and foreseeable budget restrictions.

Again, I want to thank you for the opportunity to review and respond to this audit. I understand that the audit was conducted through productive collaboration between your office and the Police Bureau. Please extend my thanks and appreciation to your staff.

Sincerely,



SAM ADAMS
Mayor

Cc: Chief Michael Reese



CITY OF PORTLAND, OREGON



Bureau of Police

Sam Adams, Mayor

Michael Reese, Chief of Police

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January 4, 2012

LaVonne Griffin-Valade
City Auditor
1221 SW 4th Avenue Room 140
Portland, OR 97204

SUBJ: City Auditor's Report: DNA Testing: Turnaround Time Must Improve to meet National Guidelines. Report issued January 2012.

Dear Auditor Griffin-Valade:

I appreciate the opportunity to review and respond to the City Auditor's audit report and recommendations for DNA Testing. This audit acknowledged the Crime Lab's strengths and the critical work done daily while also highlighting areas for improvement.

I've listed below the Bureau's responses to the two recommendations indicated in your audit report.

Police Bureau Responses to City Auditor's Report on DNA Testing:

Recommendation #1: The Commissioner in Charge and the Bureau should work with State and Federal partners to identify funding sources to help alleviate backlogs from the State Crime lab.

- The Bureau agrees with this recommendation that we as well as our federal and state partners should work toward obtaining additional funding sources for DNA testing. We all agree that the advent of DNA technology has led to significant improvements in the clearance rate of a number of serious crimes including homicide and sexual assault.

Recommendation #2: The Bureau should establish a periodic supervisory case review system to ensure that DNA samples are submitted for testing appropriately.

- The Bureau is carefully reviewing your second recommendation that the Bureau establish a periodic supervisory case review system to ensure that DNA samples are submitted for testing appropriately. We believe that this review occurs to a large degree currently when the supervisor approves the detective's investigative report. However, we will look to see if additional improvements can be made when balanced with the current supervisory workload.

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As always, I want to recognize the collaborative approach by members of your staff when conducting this audit, especially the thorough efforts of the principal auditor, Ken Gavette. Please extend my thanks and appreciation to your staff. I look forward to working with your office in future reviews of the work we do for the City of Portland.

Sincerely,

A handwritten signature in cursive script that reads "Michael Reese".

MICHAEL REESE
Chief of Police

MWR/EH/mp

Cc: AC Eric Hendricks

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DNA Testing: Turnaround time must improve to meet national guidelines

Report #427, January 2012

Audit Team Members: Ken Gavette

LaVonne Griffin-Valade, City Auditor
Drummond Kahn, Director of Audit Services

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Span of Control: Although numbers are reported, bureaus lack organizational structure goals (#397, August 2011)

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