

California State Auditor

B U R E A U O F S T A T E A U D I T S

Department of Health Services: *The Forensic Alcohol Program Needs to Reevaluate Its Regulatory Efforts*



August 1999
97025.1

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August 3, 1999

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Governor of California
President pro Tempore of the Senate
Speaker of the Assembly
State Capitol
Sacramento, California 95814

Dear Governor and Legislative Leaders:

The Bureau of State Audits presents its audit report concerning the Department of Health Services' Forensic Alcohol Program titled *Department of Health Services: The Forensic Alcohol Program Needs to Reevaluate Its Regulatory Efforts*. This audit was conducted to followup on issues identified during our 1998 audit of 19 local forensic laboratories.

SUMMARY

This report concludes that the Department of Health Services' (department) regulatory efforts primarily emphasize reviewing written methods. Although necessary and important, the reviews are not completed promptly and focus on issues that do not improve the labs' analyses. Further, although the department also conducts periodic site visits and proficiency tests, a greater emphasis on these activities may be more beneficial to the labs than method reviews. Finally, the department's requirements for training operators of breath-alcohol analysis equipment are unnecessarily restrictive.

BACKGROUND

Forensic alcohol analysis is the measurement of the concentration of ethyl alcohol in samples of blood, breath, and urine taken specifically from persons involved in traffic accidents or traffic violations. Sections 100700 and 100720 of the Health and Safety Code give the department the authority to license and

regulate labs conducting forensic alcohol analysis. Currently, 42 private and public labs in California are licensed to perform forensic alcohol analysis.

In 1970, the department promulgated regulations governing the licensing and oversight of forensic alcohol labs. These regulations were incorporated into the California Code of Regulations Title 17—Public Health (Title 17). Through its Forensic Alcohol Program (FAP), the department’s Food and Drug Laboratory Branch enforces the regulations. The FAP’s goals are to ensure the competency of the 42 forensic alcohol labs, the qualifications of lab employees conducting forensic alcohol analysis, and the accuracy of law enforcement agencies’ breath-alcohol testing procedures. To fulfill these goals, the FAP issues annual licenses to the labs, reviews and approves the written procedures each lab develops for its forensic alcohol analysis (methods), evaluates the qualifications of lab personnel, and conducts proficiency testing and site visits.

SCOPE AND METHODOLOGY

To comply with the California Penal Code, Section 13892, which mandated the Bureau of State Audits (bureau) to assess the needs of select forensic labs, the bureau released a report in December 1998 titled *Forensic Laboratories: Many Face Challenges Beyond Accreditation to Assure the Highest Quality Services*. During this audit, several labs raised concerns about the department’s administration of Title 17 regulations. The labs raised specific concerns about the length of time the department was taking to review and approve the methods they use to perform forensic alcohol analysis and about the requirements established for training operators to use breath-analysis equipment. Because these issues did not relate directly to the audit in progress but warranted further study, under the Government Auditing Standards published by the Comptroller General of the United States, the bureau was required to address in a future audit the labs’ concerns.

Initially, we reviewed the relevant laws and the Title 17 regulations to develop a clear understanding of the requirements of the forensic alcohol-analysis program. To ascertain the length of time the department takes to review and approve the labs’ methods, we sampled 16 methods submitted between

July 1, 1995, and March 31, 1999, and calculated the length of time the department's analysis took compared to the time the labs spent responding to the department's comments. In addition, we investigated the reasons for certain time delays. Finally, we reviewed the requirements in Title 17 governing the training of breath-alcohol analysis equipment operators and compared those requirements to the department's practices.

THE FAP HAS MISDIRECTED ITS EFFORTS TO REGULATE FORENSIC ALCOHOL ANALYSIS

The department's FAP licenses and regulates forensic alcohol labs throughout the State. Although the FAP's role is necessary and important, it needs to reevaluate its regulatory efforts. The FAP's regulatory authority includes conducting site visits and proficiency tests as well as reviewing and approving forensic alcohol methods. Of the three areas, reviewing labs' written procedures is the FAP's primary emphasis; however, the FAP does not complete its reviews in a timely fashion. At the same time, the labs complain that the reviews' modifications often address editorial aspects of the written procedures and do not improve the labs' overall methods. Because the FAP spends at least half its time on method reviews but focuses on minor issues, its regulatory efforts are not as fruitful as if it spent more time making site visits and administering proficiency testing for lab staff.

The FAP presents further difficulties for the labs because of its restrictive requirements for training operators of breath-alcohol analysis equipment. Not only do these requirements make it impractical for the small number of lab staff to train the thousands of law enforcement officers who need to use the equipment, they compel lab staff to spend valuable time on training instead of on their regular duties.

The FAP's Reviews of Lab Methods Are Not Timely or Properly Focused

As part of its regulation of forensic alcohol labs, the FAP reviews and approves the labs' methods for measuring the concentration of ethyl alcohol in blood, urine, and breath. Specifically, the FAP reviews methods to determine if they comply with requirements listed in Title 17. Until the FAP is satisfied, it requires the labs to make changes to their methods. Although necessary to ensure

the labs conduct analyses in accordance with Title 17, the FAP's reviews are not prompt and frequently result in changes that are not material to the labs' analyses.

We reviewed 16 (approximately 26 percent) of the 62 methods forensic labs submitted to the FAP for approval between July 1, 1995, and March 31, 1999. On average, the FAP took a total of nearly nine months to approve a method, but only after it returned the proposed method to the respective lab an average of two times for modifications. On the other hand, the labs took an average of six months to make all of the changes the FAP required. Therefore, an average of fifteen months elapsed before the 16 methods in our sample underwent review, modification, and approval.

Although both parties contribute to the length of the review process, the FAP generally takes longer than the labs to complete its tasks. Much of the FAP's tardiness stems from its lack of a standard, internal process to shepherd reviews to timely completion. Specifically, the FAP estimates completion dates but often neglects to meet them, does not monitor the progress of its reviews, and does not follow up with the labs after it returns methods for changes. Because of these shortcomings, the FAP cannot and does not review and approve forensic alcohol methods promptly. The delays thus limit the labs' use of procedures and equipment they have designed and purchased.

Contributing to the FAP's slow review process is its management's failure to make timeliness a priority. Once a lab submits a method, the FAP usually sends that lab an acknowledgement letter estimating a review completion date. We compared the estimates from available letters with the dates of completed reviews and found, on average, the FAP exceeds its estimates by five months.

According to the FAP's supervising chemist, he based his estimate for each review's completion date on the assigned chemist's workload. However, completing the review was essentially left up to the discretion of the designated chemist. The supervisor listed scheduled reviews on a weekly assignment sheet, but the chemists themselves were responsible for managing their own workloads. According to the supervisor, the chemists were to review the sheet and know which reviews they needed to complete. Furthermore, the chief of the department's

Abused Substances Analysis Section added that because it was assumed every chemist was working as hard possible, no prompting was necessary.

The FAP also does not follow up after it has returned a method to a lab for changes. In our sample of 16 reviews, 3 have been outstanding for one year or more. That is, the FAP returned the methods to the labs, but the labs have yet to respond. According to the forensic alcohol supervisor at one of the three labs, the FAP's modifications did not improve its method, and therefore the lab was not in a hurry to address them. The second lab claims it never received the review, and the third lab's forensic alcohol supervisor responded that although licensed to do so, it was not actively conducting forensic alcohol analysis and was not planning to invest the time to make the required changes. According to the chief, the FAP used to send follow-up letters to labs to encourage them to respond promptly; however, it has not consistently done so since 1993 because of a staffing shortage. If the FAP does not ensure that labs promptly attend to its comments, it cannot assure the labs are operating in compliance with Title 17.

In addition to creating obstacles through its lengthy approval process, the FAP can present further difficulties for the labs because its modifications to their methods may have little bearing on the quality of their analyses. During a method review, the assigned chemist lists changes in one of two categories: those necessary for compliance with Title 17, and those that are optional, but which the FAP still considers improvements. The following are examples of changes the FAP has required:

- Modifying titles and word choice.
- Specifying the source of a chemical.
- Including an introduction.
- Paginating a method.

Although these items may enhance written clarity, not one is a specific requirement under Title 17. Neither is it clear how these largely editorial changes affect the quality of analysis a lab performs, nor how they differ significantly from what the FAP considers optional modifications, such as altering word choice and correcting spelling and grammar.

Other Regulatory Activities Could Be More Beneficial to the Labs

According to the chief of the Abused Substances Analysis Section, full-time chemists for the FAP dedicate 50 percent of their time to method reviews. Although such reviews are an important, necessary part of the FAP's regulatory role, the FAP's emphasis on minor aspects of the method reduces the effectiveness of the review. Other regulatory activities—such as site visits and proficiency testing—may be more beneficial to the labs and the quality of their analyses. Furthermore, a professional society within the forensic community accredits lab activities; nonetheless, the FAP does not consider the accreditation requirements as meeting the regulations. By relying on the accreditation when appropriate, the FAP may be able to redirect its regulatory efforts to areas that provide more value.

The FAP has the authority to monitor the labs' performance by conducting periodic site visits and proficiency tests as well as by reviewing staff qualifications. It currently spends some time on these activities, but a greater emphasis on them may be more beneficial to the labs than method reviews.

Site visits in particular could allow FAP staff to increase its familiarity with the labs' operations, assess the labs' analysis techniques, and observe personnel doing the analyses or being trained. According to the chief of the Abused Substances Analysis Section, full-time chemists for the FAP dedicate 50 percent of their time to method reviews. Because the FAP invests so much time in reviews, during the past three years, it has visited an average of 4 labs each year. At this rate, it will take the FAP ten years to visit all 42 labs. If the FAP conducted more site visits, which include reviews of written methods, its oversight of lab operations would be more extensive and beneficial to the labs. Its current practice of focusing mainly on the method reviews essentially limits its oversight to a narrow aspect of operations.

Increasing the FAP's proficiency testing could further benefit the labs. To test a lab's proficiency for conducting blood alcohol analysis, the FAP prepares blood samples and requires the labs to determine the alcohol concentration in those samples. Proficiency testing evaluates the abilities of the labs' analysts, but it also indirectly assesses the labs' written methods, which its practices must be based upon. Because proficiency testing—like the site visits—evaluates the labs on more than one level, it is

reasonable for the FAP to invest more time on this testing than on method reviews. However, according to the chief, the FAP spends only 25 percent of its time on proficiency testing.

Finally, the integrity of a forensic lab's analysis has received much attention in recent years. The forensic community itself believes it is important for labs to participate in the voluntary accreditation program of the American Society of Crime Laboratory Directors Accreditation Board (ASCLD/LAB). To obtain accreditation, a lab must demonstrate that it meets established standards for management, operations, personnel, procedures, equipment, facilities, security, and health and safety procedures. The program also requires labs to implement proficiency testing, continuing education, and other programs that improve their staff members' overall skills and services. Currently, California has at least 16 accredited forensic labs. However, the FAP does not consider accreditation when regulating labs under Title 17 and, in effect, may be duplicating efforts to demonstrate compliance with the regulations.

To be accredited, a lab receives an inspection by a team of analysts from other accredited labs. The inspection team is knowledgeable in the types of work the lab performs. To maintain the accreditation, a lab is inspected every five years. Thus, the ASCLD/LAB inspects accredited labs twice as often as the FAP does; as mentioned above, the FAP inspects labs only once every ten years. In addition, practicing forensic analysts conduct the ASCLD/LAB's inspection, while staff chemists—who are not well versed in the daily demands of a forensic lab—make the FAP's site visits.

Furthermore, the ASCLD/LAB evaluates a lab's procedures to ensure that they are documented, generally accepted in the forensics field, and thoroughly tested using known and unknown samples to prove their efficacy. Although the FAP may still be required to evaluate the methods for certain requirements of Title 17, its current intensive review may duplicate a great deal of the ASCLD/LAB's evaluation and may not be fully necessary.

THE FAP’S TRAINING REQUIREMENTS FOR BREATH-ALCOHOL EQUIPMENT OPERATORS ARE UNNECESSARILY RESTRICTIVE

Title 17 gives the FAP oversight for training those who operate breath-alcohol equipment. As part of its responsibilities, the FAP requires forensic lab personnel to be physically present at the training. Their presence could mean the lab personnel are acting as instructors or supervising surrogate trainers. However, compared to other conditions specified by Title 17, the FAP’s requirement appears unnecessarily restrictive because it is both time-consuming and costly—particularly for some forensic labs with limited staff, who must personally train thousands of sworn officers.

Title 17, Section 1221.4(a)(4) of the California Code of Regulations states, “Training in the procedures of breath-alcohol analysis shall be under the supervision of persons who qualify as forensic alcohol supervisors, forensic alcohol analysts, or forensic alcohol analyst trainees in a licensed forensic alcohol laboratory.” According to the FAP, this section requires a qualified individual from the forensic lab to be present during the training. However, three other regulations under Title 17 place additional requirements on the training personnel in general and on potential operators of breath-alcohol analysis equipment in particular. These additional regulations act as checks and balances to assure the quality of instruction. Therefore, the FAP’s requirement that forensic lab personnel personally instruct or otherwise be physically present during operator training appears unnecessary.

Specifically, Title 17, Section 1221.4(a)(3), requires operator training to contain various components, including written or practical exams. In addition, sections 1218 and 1218.1 give the FAP the authority to approve the content and instructors for the training courses and to revise training programs as necessary. In practical terms, these three regulations ensure that before they earn certification, potential operators demonstrate an understanding of the analysis, as well as an aptitude for operating the equipment, and that they have received quality information and instruction.

In addition, the numbers of potential operators within various jurisdictions suggest that the FAP’s requirements are inefficient. The following table compares the number of sworn officers—who were all potential breath-equipment operators—within

the State's 10 largest counties for calendar year 1998 to the number of lab personnel qualified to instruct or oversee operator training.

TABLE

The Number of Sworn Officers Who Were Potential Breath-Equipment Operators in 1998 Compared to the Number of Qualified Forensic Lab Personnel

County	Number of Sworn Officers*	Qualified Lab Personnel	Ratio of Sworn Officers to Forensic Lab Personnel
Alameda	3,047	20	152:1
Contra Costa	1,604	19	84:1
Los Angeles	20,502	102	201:1
Orange	4,484	42	107:1
Riverside	2,246	20	112:1
Sacramento	3,166	35	90:1
San Bernardino	2,784	17	164:1
San Diego	5,494	37	148:1
San Francisco	3,116	13	240:1
Santa Clara	2,834	13	218:1

* Sworn officers include police, sheriff, and California Highway Patrol officers. Sources for these figures are the Department of Justice, Criminal Justice Statistics Center; and the California Highway Patrol, Office of Research and Planning.

As the table shows, Los Angeles County has more than 20,000 sworn law enforcement officers who could arrest individuals for driving under the influence of alcohol. Not all officers are certified breath-equipment operators, but all could be. Under the FAP's requirements, in Los Angeles County alone, 102 forensic alcohol laboratory staff are responsible for training in excess of 20,000 sworn officers. According to the director of the Scientific Services Bureau for the Los Angeles Sheriff's Department, operator training is a half-day course. Certifying thousands of officers to use breath equipment requires months to complete. Because the FAP requires that lab personnel provide or supervise the training classes, these personnel are kept from their forensic

analysis duties. Furthermore, the sheriff's department must maintain old equipment while training on the new equipment is taking place.

Moreover, until the FAP approves training plans and operators receive training, new breath-analysis equipment may sit idle. Again, in Los Angeles County, more than \$540,000 in breath-analysis equipment was delivered in April 1999. In December 1998, in anticipation of this purchase, the county began working with the FAP to secure approval of a training plan. Since that time, the FAP has reviewed the original plan and twice requested modifications to it, but the FAP has yet to approve the training plan. Consequently, equipment worth hundreds of thousands of dollars remains in storage until the FAP approves the training plan and the county trains its operators to use the equipment.

RECOMMENDATIONS

To complete method reviews for forensic alcohol analysis as promptly as possible, the FAP should establish firm deadlines for its staff to complete reviews, develop a process to guide reviews to timely completion, and follow up with labs to encourage prompt responses to necessary changes.

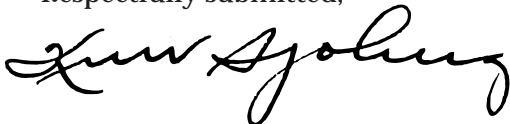
To make its regulatory efforts more beneficial, the FAP should increase the number of site visits and proficiency tests it conducts.

To avoid duplicating regulatory efforts for accredited labs, the FAP should review and understand the requirements for accreditation by the ASCLD/LAB and rely on the aspects of the accreditation review that also demonstrate compliance with Title 17 regulations.

Additionally, to permit as many sworn officers as possible to receive training on breath-alcohol equipment, when appropriate, the department should allow forensic labs the option of using lab personnel or other qualified personnel to conduct the training. Moreover, the department should allow the training to take place without the presence of staff from the forensic lab.

We conducted this review under the authority vested in the California State Auditor by Section 8543 et seq. of the California Government Code and according to generally accepted government auditing standards. We limited our review to those areas specified in the audit scope section of this report.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Kurt Sjoberg", written in a cursive style.

KURT R. SJOBERG
State Auditor

Date: August 3, 1999

Staff: Elaine M. Howle, CPA, Audit Principal
Sharon L. Smagala, CPA

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Agency's response provided as text only:

Health and Human Services Agency
Office of the Secretary
1600 Ninth Street, Room 460
Sacramento, CA 95814

Kurt R. Sjoberg, State Auditor
Bureau of State Audits
555 Capitol Mall, Suite 300
Sacramento, CA 95814

Dear Mr. Sjoberg:

The attached response by the Department of Health Services to the audit report entitled: "Its Efforts to Regulate Forensic Alcohol Laboratories Are Misplaced", has been reviewed and hereby approved.

If you have any questions, please contact me at (916) 654-0658.

Sincerely,

(Signed by: Peg Gerould)

Margaret Peg Gerould
Assistant Secretary
Health & Human Services Agency

Date: July 28, 1999

To: B-24
Elaine Howle
Audit Principal
Bureau of State Audits
555 Capitol Mall, Suite 300

From: Office of the Director
714 P Street, Room 1253
657-1425

Subject: Bureau of State Audits Draft Report on Forensic Alcohol

This is the Department of Health Services' response to the July 22, 1999 Bureau of State Audits' draft report concerning the Division of Food, Drug, and Radiation Safety, Food and Drug Laboratory Branch Forensic Alcohol Program (FAP). We have been asked by Secretary Grantland Johnson to respond to your draft report.

The Department appreciates the opportunity to comment on the Bureau of State Audits' draft report on the "Department of Health Services: Its Efforts to Regulate Forensic Alcohol Laboratories are Misplaced." We were contacted by the Bureau of State Audits and informed that the title of the report was being changed to "Department of Health Services: The Forensic Alcohol Program Needs to Reevaluate Its Regulatory Efforts." The report identified four specific findings. Please find below a response to these findings.

- 1. Recommendation: To complete method reviews as promptly as possible, the FAP should establish firm deadlines for its staff to complete reviews, develop a process to guide reviews to a timely completion, and follow up with labs to encourage prompt responses to necessary changes.**

Response: The Department agrees with the auditor's recommendations on improving the process for method approvals and tracking them to completion. Action is already being taken by the program to implement these recommendations and currently only three procedures exceed a 90-day review period on the first submission (15 submissions being reviewed).

Unfortunately, FAP had not been able to provide timely responses in its reviews of materials submitted by the 42 local forensic alcohol laboratories due to staffing shortfalls. The Governor's Budget this year approved four new positions for the program (three chemists, one laboratory technician). This is a 100 percent increase in staffing as the program currently only had a supervisor, two chemists, and a clerical position. The additional staffing will allow the program to increase the frequency of laboratory onsite inspections and proficiency

tests, and convene regular meetings of the Advisory Committee on Alcohol Determination (Advisory Committee), a committee composed of district attorneys, public defenders, coroners, pathologists, and analytical chemists. It will also provide the program with the flexibility in staffing to effectively review and approve in a timely manner forensic alcohol methods and breath alcohol procedures developed by forensic alcohol laboratories.

The auditor's report was also critical of the quality of FAP's method reviews stating that there was too much focus on editorial type changes. In general, all of the items cited in FAP's reviews, including editorial type corrections or clarifications are Title 17 requirements to prevent potential sources of error. However, with the augmentation to the program described above, FAP will be able to focus on possible solutions including providing more detailed guidelines for writing methods or publishing exemplar methods.

2. Recommendation: To make its regulatory efforts more beneficial, the FAP should increase the number of site visits and proficiency tests it conducts.

Response: The increased staffing identified above will allow the program to conduct onsite visits to local laboratories every two years and increase proficiency testing to four times a year. FAP will continue to place a great deal of importance on the quality of the methods and procedures submitted by the laboratories for review and approval. This is consistent with the requirements of Section 1220(a) of the regulations which states that, "each licensed forensic alcohol laboratory shall have on file with the Department detailed, up-to-date written descriptions of each method it uses for forensic alcohol analysis." A detailed method is intended to assure that all staff follow the same procedure each and every time, thus reducing the chances for introduction of errors and variables in the method. Also, since all of the qualified laboratory personnel employ the same method, a laboratory's performance on the Department's proficiency tests will accurately reflect the capabilities of the laboratory independent of which staff person analyzed the samples. It should be noted that the program previously conducted proficiency testing (an unknown sample sent to the laboratory for testing) three times a year and conducted onsite visits to all laboratories failing this testing.

3. Recommendation: To avoid duplicating regulatory efforts for accredited labs, the FAP should review and understand the requirements for accreditation by the American Society of Crime Laboratory Directors Laboratory Accreditation Board (ASCLD/LAB) and rely on the aspects of the accreditation review that also demonstrate compliance with the Title 17 regulations.

Response: There may be certain aspects of ASCLD/LAB certification that are beneficial to evaluating the laboratory. This recommendation will be taken to the Advisory Committee

*California State Auditor's comments on this response begin on page 19.

and implemented as appropriate. However, ASCLD/LAB has no performance standards or procedure requirements specific to forensic alcohol analysis and there are no requirements at all covering breath alcohol analysis. There are also significant differences in requirements for record keeping, proficiency testing, and employee qualifications. In addition, this is a voluntary certification program conducted by the laboratories themselves which may lack the regulatory authority to assure the competence of laboratories and employees to perform forensic alcohol analysis.

- 4. Recommendation: Additionally, to allow as many sworn officers as possible to be trained on breath alcohol equipment, when appropriate, the Department should allow the forensic labs option of using lab personnel or other qualified personnel to do the training. Moreover, allow the training to take place without the presence of staff from the forensic lab.**

Response: Title 17 [Section 1221.4(a)(4)] requires that the training of instrument operators in the procedures of breath alcohol analysis must be under the supervision of laboratory personnel. These regulatory requirements help ensure the admissibility of evidence in drunk-driving cases.

Case law supports the admissibility of breath test results provided that three conditions are met: (1) the method of analysis is reliable, (2) the instrument is in good working order and (3) the operator of the instrument is qualified. All three conditions are made the responsibility of the licensed laboratory under California's regulations.

In the past, the Los Angeles County Sheriff's Department laboratory has proposed training procedures in which a small number of officer-operators would be trained by the laboratory and then these operators would then in turn be entirely responsible for training the remaining operators. FAP reviewed this proposal and found that it did not satisfy the requirements of the regulations and that the training in the scientific procedures of breath alcohol analysis should be reserved for laboratory. It should also be noted that the original draft of the Title 17 regulations included an "Operator Supervisor" category made up of experienced police officer-operators who would be responsible for the training of the regular operators. The Advisory Committee reviewing the draft regulations examined this concept and rejected it.

The question of the need for the laboratory staff to supervise operator training will be referred to the Advisory Committee for reevaluation. Any laboratory could make a proposal for officer directed training and it would be discussed in a forum with all the interested parties present (i.e., the laboratories, district attorneys, public defenders, criminalists, etc.).

The draft report recognizes the value of a Department forensic alcohol reference laboratory for the 42 local laboratories. It also provides some meaningful suggested improvements for the laboratory. The recently approved increased staffing for FAP will allow the establishment of a comprehensive

Elaine Howle
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DUI reference laboratory that supports the proper conviction and removal of drunk drivers from California streets and highways which is an important public health and safety benefit. Your attention to the comments provided would be appreciated.

If you have any questions, please contact Larry Barrett, D.V.M., M.S., Chief, Division of Food, Drug, and Radiation Safety, at (916) 324-3266.

Sincerely,

Diana M. Bontá, R.N., Dr.P.H.
Director

Elaine Howle
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bcc: Prevention Services
Division of Food, Drug, and
Radiation Safety

CCU 990825

Author: Clay Larson/510-450-3941
Food and Drug Laboratory Branch

Division Chief: Larry Barrett/324-3266

COMMENTS

California State Auditor's Comments on the Response From the Department of Health Services

To provide clarity and perspective, we are commenting on the Department of Health Services' (department) response to our audit report. The numbers correspond to the numbers we have placed in the response.

- On page 5 we list changes the Forensic Alcohol Program (FAP) has required labs to make in order to comply with Title 17. Not one of these changes was listed as a specific requirement under the regulations. Further, we question why, with its limited resources, the program has invested its time identifying typographical and grammatical errors labs have made in the documents they submit to the FAP.
- The American Society of Crime Laboratory Directors Accreditation Board (ASCLD/LAB) standards for accreditation address good laboratory practices. For example, the ASCLD/LAB requires technical procedures be thoroughly tested to prove their efficacy, that equipment be in working order, and that all staff pass proficiency tests in the functional areas they work in. Although not specific to forensic alcohol analysis, these standards apply to all disciplines for which the labs perform analyses.
- It should also be noted that Title 17 was originally drafted in 1970. With the passage of 29 years, it is not unreasonable to re-examine the decisions made regarding the training of breath-alcohol equipment operators.

cc: Members of the Legislature
Office of the Lieutenant Governor
Attorney General
State Controller
Legislative Analyst
Assembly Office of Research
Senate Office of Research
Asssembly Majority/Minority Consultants
Senate Majority/Minority Consultants
Capitol Press Corps