

2009 Non-Mandated Expenditures Department Response

DEPARTMENT: Coroner

DEPARTMENT HEAD / ELECTED OFFICIAL: O'dell Owens, MD, Coroner

OCA TITLE: 320028, 320044 and 320051

Hamilton County departments and agencies have the opportunity to respond and provide insight to the Office of Budget and Strategic Initiatives (BSI) initial assessment as to non-mandated services. This response form should be used for each specific BSI assessment; not a general response for entire department. Take as much space as necessary for each question.

1. Are there elements of the BSI non-mandated services that you believe are mandated? If so, provide the specific Ohio Revised Code (ORC) citation, Code of Federal Regulation (CFR) and/or relevant case law information. Please be especially diligent if there is a specific service or staffing level prescribed by law.

I believe the determination of whether or not a service is mandated would be best established by a formal Prosecutor's Opinion, however, the time constraints of this exercise prevents obtaining the same. ORC 313.07 gives the coroner the authority to establish "suitable quarters, *laboratories* and equipment necessary for the proper performance of the duties of the coroner." Our fundamental job is to determine cause and manner of death, and each section of the laboratory at one time or another plays a part. At a minimum, the Toxicology and Histology Sections are essential to each death investigated within this county. 90% of the work completed by the Toxicology Section supports the coroner function by performing analysis of postmortem samples for drugs and alcohol, while the remaining 10% is dedicated to OVI (operating a vehicle while impaired) and DFSA (drug facilitated sexual assault/date rape) submissions. 100% of the work completed by the Histology Section supports the coroner function by processing tissue samples for further examination by the forensic pathologists. Both Tox and Histology are critical components used to determine cause and manner of death.

All other forensic disciplines within the laboratory add value to the coroner operation by playing a role in the prescribed death investigation, and one could easily argue the mandate of their existence. The Firearms Section is used in the investigation of suicides to compare weapons recovered from the scene to projectiles recovered from the decedent during autopsy, a critical step to establishing credibility when ruling a death a suicide. The DNA Section aids in the investigation of unidentified remains. The Trace Evidence Section processes gunshot residue analysis on victims of homicide and suicide. The Drug Section analyzes unknown substances found at death scenes.

2. Who are the recipients of the service or activity for the non-mandated service? How many recipients? Please note any internal customers, other county departments, jurisdictions, businesses, etc. If the service is geographic specific (i.e., a satellite probation office), please identify the neighborhood, township or municipality.

The Crime Laboratory provides forensic services for all 44 law enforcement agencies within Hamilton County, including the Hamilton County Sheriff; 7 other Hamilton County agencies,

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including Prosecutor's Office, Environmental Services, Park Rangers, Adult Probation, Electronic Monitoring Services (EMU), Arson Task Force and Juvenile Court; 3 Federal agencies, including ATF, FDA and FBI; 2 State of Ohio agencies; and 26 other agencies in Southwestern Ohio, Northern Kentucky and Southeastern Indiana.

A total of 82 agencies.

3. Are there county revenues associated with the non-mandated services? If so, please provide the methodology for any lost revenues. Please consider state or federal reimbursements, grants, fees, etc. Please note if the service or activity is included in the county's indirect cost plan.

2007 Revenues: \$945,940.50

2008 Revenue, thru 9/30/08: \$668,289.70

Methodology: We currently bill law enforcement agencies within Hamilton County for illicit drug analysis, OVI (operating a vehicle while impaired) and DFSA (drug facilitated sexual assault/date rape) submissions only. All other agencies are billed for every service received. Our recently revised fee schedule includes a per hour charge for some services, while others are billed at a flat rate.

The grant funding we receive is not exclusive to the laboratory, but rather the funding also benefits the toxicology section and staff members that support the coroner function. The amount varies annually, but we have averaged \$100,000+ per year.

The service/activity is not included in the county's indirect cost plan.

4. If the county did not provide the non-mandated service, is there the potential for increased expenditures in another jurisdiction within Hamilton County? If so, please list the specific municipality and/or township.

There is not just the potential, but a guarantee of increased expenditures for jurisdictions within Hamilton County, including the 44 law enforcement agencies, Hamilton County Sheriff, Prosecutor's Office, Environmental Services, Park Rangers, Adult Probation, Electronic Monitoring Services (EMU), and Arson Task Force.

More importantly, there is a significant increase in expenditures for the judicial system within Hamilton County. The turnaround time for our Drug Section allows for the Rapid Indictment program to exist and succeed. Additionally, the turnaround time for the other disciplines within the laboratory (DNA, trace, firearms, etc.) is far better than what the Ohio Bureau of Criminal Identification and Investigation (BCI) has to offer which is 3 months or more. We process nearly 15,000 submissions per year, which would equate to a 60% increase in submissions for the BCI lab system. According to Steven Greene, BCI's Deputy Superintendent of Laboratory Operations, "In my opinion, an increase of that magnitude

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would cripple the current BCI laboratory operation and have a negative impact on the entire criminal justice system".

Senate Bill 8 (effective 8/17/06), also referred to as the Per Se Drug Law, requires law enforcement agencies to have certain analyses performed on OVI (formally DUI) samples. This laboratory is the only lab south of Franklin County certified to perform those analyses, and BCI does not perform any toxicology studies. It may force the City of Cincinnati and Hamilton County Health Department's to provide this service to local law enforcement. Needless to say, the abolishment of this service will certainly impact the effective prosecution of OVI offenders.

5. Does the non-mandated service include Board of County Commissioner policy via resolution or motion?

The resolution passed on 10/1/08 indicates reducing crime and improving safety in the County as the highest priority during the 2009 budget process. The role the Crime Laboratory plays in this process is vital. We provide significant tools to law enforcement in the investigatory process (CODIS, NIBIN) and aid the judicial process with timely and accurate scientific results and expert testimony.

BOCC support for Project Disarm was established by resolution in May 2008. The laboratory is a partner in this initiative through serial number restorations and entry of gun cartridges and shell casings into the National Integrated Ballistics Information Network (NIBIN) in an effort to identify firearms that have been used in multiple crimes. Additionally, the DNA Section is requested to search for DNA on firearms in an effort to identify the shooter, and the Drug Section performs extensive analyses and quantifications on illicit drug submissions in an attempt to increase charges to the federal level.

Rapid Indictment is a program that has been in existence since 1993. It was an effort to reduce the jail population and save money by eliminating preliminary hearings related to drug arrests. I am unsure if the initiative was supported by a BOCC resolution, but the program has been very successful and the less than 10 day turnaround of our Drug Section is the reason for that success.

6. Are there contracts or agreements that preclude the elimination of a non-mandated service? If so, please provide the specific language as to termination and/or amendment terms.

The forensic scientists are obligated to complete casework on evidence already submitted for analysis, as well as provide consultation and testimony on those cases going to trial.

Grant funding from awards effective 10/1/08 would have to be returned to the appropriate agencies. This process would have to be handled by County Administration as the Grant Manager is also our Laboratory Director.

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7. What are the equipment/non-personnel expenditure considerations with discontinuing a non-mandated service? (i.e., surplus equipment).

As indicated in #1 above, *at minimum*, the Toxicology and Histology Sections must remain. A *very rough* operational cost estimate of these sections is \$660,000. The respective work areas are located within the laboratory; therefore, the utility costs remain constant. Each laboratory analyst is equipped with a PC, therefore, at least 18 PCs will be abandoned. Each section is comprised of very expensive, highly scientific equipment, most of which has a separate PC attached. It has been our experience when dealing with obsolete scientific equipment, the true value of the equipment is not realized when the equipment has been disposed of. Additionally, grants funds have been used to purchase some of the equipment and disposal of that equipment would have to comply with federal regulations.

8. Do any of the non-mandated services include employees represented by a bargaining unit? If so, please note the union and provide information as to reduction-in-force and job abolition considerations.

No

9. For positions within non-mandated services, are there any special circumstances that preclude a traditional job abolition process? Separation costs will be addressed centrally including leave balance payouts, unemployment compensation and severance (based on current Commission policy).

Not that I am aware of.

10. In addition to positions associated with non-mandated services, the Budget Office included a review of management layers, support staff, and currently vacant positions. Please comment on the impact of eliminating these positions.

All personnel/positions within this department, regardless of mandated or not, have participated in some form of cross training. This has provided the unique opportunity to handle increased caseloads or extended absences as well as increased professional diversity and organizational value. No one position is without a back-up.

Administrative Assistant: ORC 313.05 allows for the coroner to appoint "secretaries." In addition to providing secretarial support to the coroner, the Administrative Assistant has a broad spectrum of responsibilities including, but not limited to, accounts payable/receivable, payroll processing, purchasing and benefits administration. If abolished, these duties could not be effectively transferred to any other position within the department.

Technical Typist: ORC 313.05 allows for the coroner to appoint "an official stenographer" which is essentially what this position accomplishes. Our transcription was outsourced in 2002, a decision that generated a \$20,000+ cost and FTE savings. ORC 313.09 also mandates the coroner keep records and further requires prompt delivery of those records to

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the prosecutor when necessary. The Technical Typist is responsible for proofreading autopsy reports, making corrections, putting the document into final format and distribution of the record to required and requesting parties. There is not an existing position within the department to handle these duties.

Custodial Worker: Although there is no provision in the ORC specific to the role of a custodian, the facility is comprised of 33,000 square feet. Efficient maintenance of a county owned facility is not just taking out the trash and stocking the restrooms. This building is accessed by the public on a daily basis and must be kept in a condition deserving to those who visit as well as those employed. Additionally and more importantly, our current Facilities Assistant/Custodian has been cross trained as a Forensic Assistant. He is able to assist in the autopsy suites in the absence of a fully trained Forensic Assistant. This has precluded the need to hire an additional FTE in the morgue.

11. What is the performance impact of not providing the non-mandated service? For example, wait times, waiting lists, case loads, operating hours and other consequences of not providing the service.

As alluded to in question #4, the impact is immeasurable to the law enforcement agencies, prosecution and court system. Although, BCI is an option for the aforementioned, their backlog and case processing limitations are issues that cannot be ignored. This laboratory provides law enforcement a significant investigatory tool with local access to CODIS (DNA database) and NIBIN (ballistics database). Additionally, BCI is not local as their closest lab is in London, Ohio. This provides a hardship for the agencies who wish to submit evidence, and the availability of analysts for consultation and testimony is limited.

12. Are there any alternatives that result in savings to the general fund?

We could charge all agencies for all services which would increase general fund revenue. However, this is not a practical solution as the cost of services would create a such a financial burden on the law enforcement agencies that they would be forced to utilize BCI and I.

13. Are there more efficient ways to deliver a mandated service that may allow for the savings to offset the cost of a non-mandated service?

How do you make investigating death more efficient? Death is what it is. We have no control over who dies or under what circumstances. We do, however, feel an obligation to the citizens of this county to investigate the deaths that fall under our jurisdiction equally and without compromise. We could certainly eliminate the investigation of certain manners of death (ie. suicide), but do not consider that being efficient, but rather incompetent and a great disservice to our deceased residents and their survivors.

14. Is there an opportunity to transfer any non-mandated expenditures to another funding source (i.e., restricted fund or grant)?

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We have already transferred a significant amount of mandated and non-mandated expenditures to the restricted fund. There is concern that increased dependence upon the restricted fund will affect its long term solvency.

15. Does your department have any fees that could be raised to offset the cost of a mandated service?

We recently (October 1, 2008) imposed new fees upon the law enforcement agencies within Hamilton County, revised DNA fees charged to agencies outside Hamilton County, and will institute a per hour rate increase in January 2009 that will affect all billable agencies.

Other Considerations and Comments: