



# Maine State Police Crime Laboratory

## Access to the Crime Laboratory and Staff

### 1. Scope

This policy outlines how the laboratory will address access to the laboratory by outside entities. The laboratory will make every effort to cooperate with attorneys and / or scientific representatives within the guidelines of this policy. The laboratory staff regularly meet with law enforcement agency clients who have submitted evidence for processing. This policy is not intended to curtail the flow of information between our client agencies and lab staff.

### 2. Evidence

- 2.1 The primary responsibility of the laboratory is to process evidence for the purposes of criminal investigation. The laboratory will preserve a portion of all evidence samples whenever possible and practical however, at times a sample must be consumed in order to obtain results.
- 2.2 Under no circumstances where there is a sufficient sample for independent testing, will attorneys or scientific representative(s) be allowed into the crime laboratory to observe testing.
- 2.3 When requested, the testing of a limited sample that is not of sufficient quantity for independent testing may be witnessed by the scientific representative. Witnessing will only be allowed with a court order or signed written agreement between the prosecuting agency, the Maine State Police Crime Laboratory and the defendant's legal counsel.
- 2.4 Under the circumstances outlined in subsection 2.3 above, the scientific representative will only be allowed to observe while in the laboratory. The scientific representative will not be allowed to use any materials, equipment and/or instrumentation beyond which is necessary for viewing (ie, microscope) or personal protective equipment (PPE).
- 2.5 The scientific representative shall not be allowed to ask questions of the analyst regarding the related case.
- 2.6 The testing shall be scheduled for a time that is mutually agreeable to the analyst, the Lab Director or his designee, the section supervisor and the scientific representative.
- 2.7 A stored sample of evidence shall be provided to an attorney or their scientific representative pursuant to a court order or a signed written agreement between the prosecuting agency, the Maine State Police Crime Laboratory, and the defendant's legal counsel.
- 2.8 Independent testing of a sample is the defendant's fiscal responsibility; the laboratory will not assume costs associated with testing or shipping the samples to the testing facility.



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- 2.9 When a sample is released for testing outside the crime laboratory:
- 2.9.1 Laboratory personnel assigned to the case and the receiving scientific representative will record the amount of sample taken in the manner prescribed by the Director.
  - 2.9.2 Laboratory personnel may supply the scientific representative with packaging material and sealable plastic evidence bags when necessary for the safe transportation of evidence.
  - 2.9.3 The scientific representative must return any unused portion of the sample to the Crime Laboratory for storage or destruction.
  - 2.9.4 The Laboratory Sergeant shall make every effort to collaborate with the prosecution team, the defense team and the court to author an MOU that will outline the parameters of the related independent testing.
- 2.10 **Interaction/Interviews by Scientific Representatives**
- 2.10.1 Interviews of lab staff or analysts by scientific representatives, with or without counsel present, shall not be permitted without a court order or permission from the Lab Director.
  - 2.10.2 As an alternative to an interview by scientific representatives, lab staff are permitted to answer brief procedural questions limited in duration and scope as determined by and at the discretion of the related lab analyst.
  - 2.10.3 Scientific representatives are not permitted to question lab staff who are unrelated to the case without a court order or permission from the Lab Director. Examples include lab staff who are listed in the chain of custody and those who performed the technical/administrative review of the case.
- 2.11 **Interviews by Related Attorneys**
- 2.11.1 Interviews of lab staff as a pre-trial conference by defense counsel or prosecutor may be permitted but must conform to the following standards:
    - 2.11.1.1 Interviews will be pre-scheduled and conducted with minimal impact to the employee's work assignments;
    - 2.11.1.2 Only the authorized defense attorney or prosecuting attorney and/or client agency representative may sit in during the interview.



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- 2.11.1.3 Interviews will be conducted in a courteous and professional manner; any supervisor may immediately terminate any previously permitted interview for violation of this subsection.
- 2.11.1.4 Interviews will not exceed a one hour maximum time limit. Permission to exceed the one hour time limit must be obtained from the lab director or his/her designee prior to beginning the interview.
- 2.11.1.5 Lab staff may consult with a laboratory supervisor at any time, and may opt to terminate an interview if appropriate. They may also opt to have their supervisor, adversarial attorney, or other lab manager present during the interview.
- 2.11.1.6 Recording of lab staff by any person conducting an interview of lab staff or observing testing is not permitted.

### **3. Viewing of Evidence**

- 3.1 The Maine State Police Crime Laboratory is an entity who is merely a caretaker of the evidence in our custody not the proprietor.
- 3.2 If an attorney and/or scientific representative requests to view evidence only (not the testing procedures), arrangements should be made between the client agency/law enforcement representative and the prosecutor(s).
- 3.3 Every attempt should be made to find a separate location for evidence viewing.
- 3.4 As a general rule, evidence should not be returned to the lab for evidence viewing.
- 3.5 Evidence currently in lab custody should be returned to the primary agency prior to evidence viewing so that a separate location can be identified for the viewing process.

### **4 Viewing Evidence at the Crime Lab**

- 4.1 If it is determined that the Maine State Police Crime Laboratory is the only suitable location to view the related items of evidence, the viewing must conform to the following standards:
  - 4.1.1 The viewing will be conducted at a mutually agreeable time.
  - 4.1.2 Only evidence pertaining to the related case may be viewed and/or photographed.



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- 4.1.3 Whenever possible, the viewing will be conducted in an unrestricted area of the laboratory. However, safety and contamination considerations may require that the evidence be viewed in laboratory spaces with the appropriate personal protective equipment.
- 4.1.4 Viewing shall not be allowed until the evidence has been appropriately collected, documented, examined and preserved for any future testing. Microscopes may be made available to the representative to facilitate viewing of items; however no other instrumentation or scientific equipment will be used by the scientific representative.
- 4.1.5 Photographs of the evidence may be taken by attorneys or their scientific representative during the viewing of items.
- 4.1.6 Neither attorneys nor their scientific representatives will be allowed access to laboratory evidence storage locations.
- 4.1.7 Questioning of lab staff by any scientific representative will not be permitted during the viewing process.