

From: Flynn, Joe [Joe.Flynn@vermont.gov]
Sent: Thursday, February 04, 2016 1:38 PM
To: Pepper, James
CC: Flynn, Joe; Flynn, Keith
Subject: Forensics Lab Narrative - DPS

Hi James,

This outline was drawn up by Trisha Conti our Lab Director. Please let me know if it suffices for your needs.

Joe

...The growth in the problem with people driving impaired due to drug self-ingestion is a growing concern. As law enforcement continues to build the drug recognition enforcement (DRE) program and the Advanced Roadside Impaired Driving Enforcement (ARIDE) program more impaired driving cases as a result of drug use is occurring. Over the past several years there has been an increase in DRE evaluations performed which results in more blood samples being collected and requiring analysis. Currently, the Vermont Forensic Laboratory does not have adequate space to perform this function as it was not designed to perform this type of testing. Therefore, these blood-drug samples are sent to a private laboratory in Pennsylvania for analysis. While federal funds cover the testing expense for samples involving a DRE, the significant cost comes with the expert testimony needed for prosecution of these cases, many of which are misdemeanors. The Confrontation Clause requires prosecutors to present live witnesses against the accused. As such, for each DUI Drugs case prosecuted, the State's Attorneys must incur significant costs to secure the testimony of the expert witness from the private lab. Expert witness costs are typically estimated to be approximately \$5000 to \$10,000 for each drugged driving prosecution. Considering that most prosecutions require hearings on various issues in addition to the trial, those costs can easily increase further. Moreover, practical considerations, such as the scheduling and logistics required to bring the expert witness from the Philadelphia area to all counties in Vermont, suggest that the current model of testing is both cost prohibitive and unsustainable in the long term. In fact, experience shows that in misdemeanor drugged prosecutions, the costs for expert witness often overwhelm the limited financial resources of the State's Attorneys. These cases are often settled for a reduced charge, not because the evidence was not there, but because it was financially impossible to provide the evidence.

Vermont prosecutors need a system for drugged driving cases that runs parallel to the system that has long been established for drunk driving cases; that is, a streamlined, in-state testing model that is supported by expert witnesses who are employed by the Vermont Forensic Laboratory. The groundwork for such a system is already in place, given the professional and expert staff at the Vermont Forensic Laboratory. An area for blood-drug testing has been identified, but it requires renovations before it can be deemed suitable for analysis. By all accounts the drugged driving problem in the State of Vermont will continue to grow. Without an easy system to evaluate blood samples and arrange for expert testimony this problem will grow unchecked by the legal system. Drug-impaired drivers will not suffer the consequences of their actions because they will not be properly convicted of their offenses. This will lead to an increased number of crashes resulting in bodily injury and deaths in the State of Vermont...

Trisha L. Conti, Ph.D.
Director
Vermont Forensic Laboratory
(802) 241-5436 (desk)
(802) 585-6629 (cell)