

<b>Court Testimony Monitoring</b>		
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## Court Testimony Monitoring

### 1 Guiding Principles and Scope

- 1.1 Court testimony is the culmination of the work performed by the laboratory's scientists. To ensure that court testimonies are relevant, and presented in a clear and professional manner, the testimony of each testifying examiner is monitored at least once during a calendar year, providing testimony is rendered.
- 1.2 This document describes the Department of Forensic Biology's courtroom testimony monitoring program.

### 2 Procedure

- 2.1 When a case goes to grand jury or trial, the Reporting Analyst (RA) will be contacted to testify either by phone or subpoena. An informal request by phone should be directed to the RA's supervisor to gather details of the testimony. OCME counsel should be consulted if the request is via a subpoena. In either case, a pre-trial with the Assistant District Attorney (ADA) or defense attorney is advisable to discuss or go over the line of questioning. The RA should pull the case and all cross-referenced cases and/or suspect files. The RA should also bring a copy of his/her curriculum vitae and a spell-sheet to court.
- 2.2 If this is the RA's first testimony for the year or if the RA is inexperienced, their supervisor should be present at the pre-trial and trial. In addition to answering questions and providing support, the supervisor is responsible for evaluating the RA's testimony at trial. Evaluation of the RA's testimony at grand jury is left to the ADA, since no observers are allowed into court for grand jury.

### 3 Documenting Court Attendance

- 3.1 Staff members who are called to appear in court must have each court appearance documented, regardless of whether testimony was provided and/or evaluated.

### 4 Testimony Monitoring

# FORENSIC BIOLOGY QUALITY ASSURANCE/QUALITY CONTROL MANUAL

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- 4.1 The testimony of each examiner is monitored at least once each calendar year, assuming that testimony is rendered. It is the responsibility of each testifying examiner to ensure that this is done.
- 4.2 Acceptable methods of courtroom monitoring are:
- 4.2.1 Direct courtroom observation by a higher-level supervisor (Criminalist Level IV or above).
    - 4.2.1.1 This is the preferred method for trial testimony.
    - 4.2.1.2 In most cases the “higher-level supervisor” will be the immediate supervisor of the testifying examiner; however, a peer of the immediate supervisor or a higher level manager may perform the monitoring.
  - 4.2.2 Direct courtroom observation by an ADA and/or defense attorney present during the testimony.
    - 4.2.2.1 Evaluation by the ADA is the preferred method for Grand Jury testimony.
    - 4.2.2.2 For evaluation of trial testimony, the testifying examiner should attempt to get feedback from both the ADA and the defense attorney. The testifying employee can ask the attorney who summoned them to court to provide an evaluation form to the opposing counsel; however, if the attorney is not willing to do so it is not necessary to insist that it be done.
- 4.3 The testimony evaluator completes a Forensic Biology Court Testimony Evaluation Form. The form includes evaluations/comments on the following areas:
- 4.3.1 Appearance
  - 4.3.2 Poise
  - 4.3.3 Effectiveness of presentation (technical knowledge, ability to convey scientific concepts)
  - 4.3.4 Interpretation of laboratory results
- 4.4 Evaluation forms completed by someone other than the testifying employee’s immediate supervisor are forwarded to the testifying examiner’s immediate supervisor.
- 4.4.1 Immediate supervisors review the evaluation with the testifying examiner, discussing areas of strengths and weaknesses.

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4.4.1.1 The immediate supervisor may prescribe remedial action if the evaluation is unsatisfactory. Deficiencies in knowledge or courtroom presentation may require remedial training that includes one or both of the following:

- Retraining on technical information if the testimony was inaccurate.
- Moot court retraining if the testimony showed deficiencies in the ability to express the concepts clearly.

4.4.2 The immediate supervisor and the testifying examiner sign/initial and date the evaluation form.

4.4.3 Completed evaluation forms are forwarded to the Quality Assurance Unit for entry into LIMS and hardcopy storage.

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