



LOCAL HOSPITAL TOXICOLOGY ANALYSIS

SUBMITTED TO THE NORTH CAROLINA GENERAL ASSEMBLY
JUSTICE & PUBLIC SAFETY OVERSIGHT COMMITTEE
PURSUANT TO S.L. 2013-360, 18B.4

NORTH CAROLINA CONFERENCE OF DISTRICT ATTORNEYS
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In the Appropriations Act of 2013, the General Assembly appropriated \$500,000 to the Judicial Department for the 2013-2014 fiscal year to be allocated to the Conference of District Attorneys. These funds were appropriated to provide district attorneys across the State with the resources **“to obtain toxicology analysis from local hospitals on persons charged with driving while impaired whose conduct did not result in serious death to others.”**

For several years, the State Crime Lab has experienced an increase in their pending caseload partially due to increased filings. Exacerbating this increase have been a number of factors:

- The U.S. Supreme Court decision, *Melendez Diaz*, greatly increased the obligation on lab analysts’ time in courtrooms and travel time to courtrooms across our state.
- Concerns about lab quality resulted in increased certification requirements which took time and manpower away from lab analysis.
- The increased certification requirements increased qualifications for lab analysts which created competition from county / city labs and private labs for these highly certified lab analysts.
- Consequently, the Lab now faces a higher turnover rate of analysts.

All of these factors contributed to significant increases in turnaround time for lab results and consequently increasing case ages in the courts. In the past five years, Superior Court Felony Case Age has increased 30% and Misdemeanor Case Age has increased 40%. Many cases have been summarily dismissed by judges who determined the wait time was simply too long to meet the requirements of justice.

The General Assembly’s response to appropriate resources for blood alcohol analysis in DWI cases on a local level addressed two issues: (1) cases would be analyzed and prepared for court in a timely manner and (2) analysts would be more readily available to the court for testimony. The advantage to the State Crime Lab would be to alleviate the number of cases from coming into the State Crime Lab and would free up lab analysts in the lab from travelling as often.

The Appropriations Act of 2015 has again addressed this issue by allowing the Conference of District Attorneys some flexibility with these funds. The act changed the language allowing the Conference to continue contracting with hospitals to also include contracting with other providers of toxicology analyses. The Conference of District Attorneys attempted to develop a contract through the Administrative Office of the Courts that would allow outsourcing for other testing. Through conversations with representatives of the North Carolina State Crime Lab, this was determined to be a duplication of effort that would be more confusing to prosecutors in the field. With additional funds from the General Assembly, the North Carolina State Crime Lab anticipated covering the needs for outsourcing.

Contracts & Expenditures

The following chart shows the prosecutorial districts that currently have contracts with local hospitals. Additionally, it shows the number of tests and amount expended between **July 2, 2016 to June 30, 2017**. Please note that districts have negotiated varying rates for testing.

District	District Attorney	Hospital	Amount Expended	# of Tests
19B	Andy Gregson	Randolph Hospital	\$3,265	29
25	David Learner	Catawba Valley Medical Center	\$5,150	100
27B	Locke Bell	Caromont Health	\$9,106	100
29A	Ted Bell	McDowell Hospital	New Contract	
TOTAL			\$17,521	229

Since the inception of this program, hospitals have performed 1,332 tests under these contracts with total expenditures amounting to \$101,912. Additionally, restitution has been received from some defendants amounting to \$2,076.52. The Clerk of Court sends these checks to the Administrative Office of the Courts and they are applied back to the hospital toxicology fund. The balance to date in the fund is \$356,809.50

These hospital contracts as well as the emergence of local labs and the State Crime Lab's ability to outsource have all combined to significantly improve the backlog of alcohol toxicology analysis for DWI cases.