



The Commonwealth of Massachusetts
Executive Office of Public Safety and
Security

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DANIEL BENNETT
Secretary

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Dear Colleague:

We take this opportunity to report to you about the activity of the Massachusetts State Police Crime Laboratory's Office of Alcohol Testing (OAT) over the course of the last year. Since the District Attorneys elected to forego the use of breath test results in criminal prosecutions after the discovery violation in the consolidated litigation of *Commonwealth v. Ananias*, OAT has been diligently working to improve transparency by increasing the availability and accuracy of documents and data in its possession. Throughout this process, law enforcement agencies have continued to administer breath tests pursuant to their obligations under G.L. c. 90, § 24, and OAT has continued to fulfill its obligations pursuant to 501 CMR 2.04.

Much of what has transpired at the Laboratory over the last year also contributes to OAT's ultimate goal to apply for accreditation within the next twelve months. Pursuing accreditation will be a significant undertaking for OAT, as the application process alone is quite involved and detailed, and requires effort and resources above and beyond the daily work of complying with OAT's responsibilities as outlined in the law.

We want to emphasize that OAT is first and foremost a calibration laboratory with the responsibility to annually certify each of the Commonwealth's breath test instruments. The documentation associated with the certification and related handling of the instruments by OAT is contained within voluminous instrument files for each of the nearly 400 instruments throughout the Commonwealth. OAT has nearly finalized the digitization of these files as well as all ancillary documents relating to OAT's certification responsibilities.

Since 2016, OAT has had in place an electronic public portal, known as eDiscovery, which permits viewing and printing of discovery documents related to breath tests and certifications, among other materials. OAT is in the process of expanding the site, and the expansion will be fully available by the end of the summer. All of OAT's digitized documents, as described above, will be uploaded to eDiscovery for discovery purposes and transparency. OAT is not only expanding the breadth of information available on eDiscovery, but also the date ranges for searches of breath tests administered in the field and periodic tests performed on the instrument by law enforcement.

Since the fall of 2017, OAT has been providing all District Attorneys digital copies of documents and data, via discs, including two categories of raw data generated by the instrument. The document and data production also includes data dictionaries, which provide the source and the description of the data. The first category of raw data is generated by law enforcement agencies when breath tests are administered or the instrument is periodically tested in the field and transmitted to a server housed at the Department of Criminal Justice Information Services (DCJIS). The second category of raw data is generated by OAT when it performs its functions as a calibration laboratory. As the eDiscovery portal does not currently have the capacity to include either category of raw data, OAT will continue to provide both categories of data to the District Attorneys on a quarterly basis. OAT will also coordinate with the Massachusetts District Attorneys Association to continue offering regional trainings on navigating discovery and using the eDiscovery portal.

OAT is in the process of filling existing vacancies and increasing staff to fulfill its responsibilities of providing appropriate documents and data. Funding has been approved to hire an additional forensic scientist, an attorney, and a program coordinator, all who will be dedicated to the needs and mission of OAT. The attorney, with the assistance of the program coordinator, will not only oversee the process of providing documents and data but will also be involved in coordinating education and training programs in-house and for the wider legal community. Despite the ease of accessing and using eDiscovery it is anticipated that there will be a demand for education in this area.

Finally, the drafting of a guide for attorneys so that discovery can be determined between the prosecutors and defense counsel, with disputes being determined by the court, is nearly complete and will be uploaded to the eDiscovery portal by the end of this summer. It is anticipated that the guide will not only describe the expansion of eDiscovery but also the procedures by which OAT will comply with additional document requests.

In closing, we look forward to continuing our working relationship with you and to providing OAT's services with the utmost integrity, transparency, and professionalism.

Sincerely,



Matthew Moran
Undersecretary for
Forensic Science and Technology



Kristen Sullivan
Chief Science Officer / Director
Massachusetts State Police Crime Laboratory