

# TENNESSEE BUREAU OF INVESTIGATION

## Forensic Services Division



### Quality Assurance Manual Impartiality and Confidentiality

## 4 General Requirements

### 4.1 Impartiality

**4.1.1** All TBI-FSD activities will be conducted in an impartial manner. This policy applies to testing/calibration activities in the lab and in the field as well as testimonies performed by laboratory personnel.

**4.1.2** TBI-FSD management is committed to the development of impartial laboratory personnel and strives to maintain an impartial environment for all laboratory activities.

**4.1.3** TBI-FSD management will ensure all personnel are free from any undue pressures and influences with the potential to negatively influence the quality of their work (TBI Policy and Procedures). All TBI-FSD personnel are responsible for assuring the integrity of the examination process.

**4.1.3.1** In order to ensure all laboratory activities are conducted in an impartial manner and to help further the ethical development of laboratory personnel, the laboratory management will require the annual review of the 'Guiding Principles of Professional Responsibility for Forensic Service Providers and Forensic Personnel'. The annual review will be documented in the electronic training record.

**4.1.4** The TBI Assistant Director of Forensic Services is in charge of the TBI Forensic Services Division and reports directly to the Deputy Director of the TBI. This ensures independent and impartial activities of the TBI Forensic Services Division from the other divisions of the TBI. If TBI Crime Laboratory personnel encounter situations causing them undue pressure and/or adversely affecting the quality of their work, they will inform their Regional or Unit Supervisor or the Quality Assurance Manager.

- Laboratory management will continually monitor laboratory activities/personnel and take necessary measures when the potential for unethical practices exists. This includes, but is not limited to, the lack of objective testing/calibration activities.

**4.1.5** Laboratory management will address possible risks to impartial laboratory activities. Risks assessments and steps taken to eliminate or minimize risks will be addressed in the annual management reviews.

### 4.2 Confidentiality

**4.2.1** TBI-FSD policies and practices are in place to protect the confidential information of all agencies. These policies and practices include guidance for protecting the electronic storage and transmission of *TBI Official Reports* and Calibration Certificates.

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**4.2.2** TBI-FSD case files and calibration records are confidential pursuant to T.C.A. § 10-7-504 (a) (2) (A) and cannot be released without valid court order or subpoena from a court of record; or, in cases of blood results concerning the driving under the influence, pursuant to T.C.A. § 55-10-401 *et. seq.* If a legal obligation requires the release of confidential information the submitting agency and corresponding District Attorney's office should be informed prior to the release. Should TBI personnel have any questions on the release of TBI Files or information they may contact the TBI Professional Standards Unit for assistance.

**4.2.3** If agency information is provided to the laboratory by a third party, the information and the identity of the third party will be held as confidential unless explicitly agreed upon by all parties involved and pursuant to any applicable law.

**4.2.4** All laboratory personnel or any person(s) acting on the laboratories behalf, including but not limited to subcontractors, will adhere to all policies regarding customer confidentiality.

**4.2.5** TBI-FSD is subject to the following requirements for the handling of case records and record disposition as stated in TBI Written Policy 7-1-002:

- The records and reports of the Forensic Services Division shall be maintained in the central and regional laboratory files. All laboratory reports, with the exception of Blood Alcohol and Toxicology Reports, are confidential relative to TCA 10-7-504(a) confidential records-(a). The medical records of patients in state hospitals and medical facilities, and the medical records of persons receiving medical treatment, in whole or in part, at the expense of the State, shall be treated as confidential and shall not be open to inspection by members of the public. The information contained in such records shall be disclosed to the public only in compliance with a subpoena or an order of a court of record; however, such investigative records of the Tennessee Bureau of Investigation shall be open to inspection by elected members of the General Assembly if such inspection is directed by a duly adopted resolution of either House or of a standing or joint committee of either House. Records shall not be available to any member of the executive branch unless he/she is directly involved in the investigation in the Tennessee Bureau of Investigation itself and the governor himself.
- Destruction of Records
  - Blood Alcohol reports shall be destroyed after five (5) years by the state- approved method. Drug Analysis reports shall be destroyed after eight (8) years by the state approved method. (Reference: RDA #905 and 909)



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-Reports from non-capital cases (cases where a sentence of death has not been imposed), excepting rapes and homicides, shall be maintained eight (8) years or until the Statute of Limitation has run, whichever is sooner, and then destroyed by the state-approved method (Reference: RDA #905, 909 and 2406).

-Reports from capital cases, rapes and homicides shall be retained indefinitely.

- Each laboratory will generate and maintain a laboratory case record on each submission to the laboratory which has been identified as a case. The case record will contain all data which depicts the work performed by the Forensic Scientist(s) within the laboratory. Included in the case record will be all notes, charts, graphs, worksheets, spectra, submission forms, and chain of custody records which are produced and utilized in reaching any conclusions associated with analysis of the evidence. All notes, charts, graphs, and other records will have the laboratory number or evidence exhibit number, the date the record was generated, and the initials or signature of the Forensic Scientist on each page of the notes. The appropriate technical reviewer will record his/her initials after review of the case record. Notes will be made as evidence is analyzed to document all tests and examinations performed. These notes will be kept so the Forensic Scientist, a supervisor, or another forensic expert in that discipline can review the notes and determine the analysis scheme on which the results were derived. The notes of each case will include a description of evidence submitted. The records will be filed in chronological order by laboratory number in the files within the appropriate laboratory administrative area.
- Amendments requested by a submitting agency to a previously completed laboratory report will be made only pursuant to a written request by the agency. The written request should be directed to the crime laboratory regional supervisor of the appropriate laboratory, should state clearly the information that is incorrect or incomplete, and state the desired modification. Reports amended as a result of such request will be performed by the Forensic Scientist and a final remark identifying the changes will be sent to all individuals who received the original report. A copy of the original report, written request to amend the report, and amended report shall be maintained in the laboratory case file.



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- Amended reports initiated by personnel of the Forensic Services Division will be performed by the appropriate laboratory and a notation on each laboratory report identifying the changes will be made. An amended report will be made available to all individuals who received the original report(s). A copy of the original report and amended report will be maintained in the laboratory case file.
- The official laboratory report with original signatures of all Blood Alcohol Reports will be made available to the submitting individual. The submitting individual will receive a copy of the toxicology report and the original laboratory report will be maintained by the laboratory. (TCA 55-10-406). The official laboratory report with original signatures of all other forensic units will be maintained in the laboratory case file. A copy of Blood Alcohol and original Toxicology Reports shall be maintained in the laboratory case file.
- A copy of the appropriate forensic unit report shall be made available to the submitting individual. A copy of all laboratory reports shall be made available to the appropriate District Attorney General. TBI Case Agents will be responsible for distributing Official TBI Reports to the appropriate District Attorney General for cases they submit to the Laboratory as an exhibit within the agency case file.