

The “**Amended Final Report Regarding Missing Evidence at the Ingham County Sheriff’s Office**” was published on March 30, 2017. At the time of its publication, the Ingham County Prosecutor’s Office had been assured that there were no sexual assault kits (SAK) discovered missing from the Ingham County Sheriff’s Office evidence room.

On April 3, we learned that there were, in fact, sexual assault kits discovered missing from the Ingham County Sheriff’s Office. The total number of missing SAK was seven.

Of these seven cases, six were submitted to the Ingham County Prosecutor’s Office, under a prior administration.

Of the six cases submitted to the Ingham County Prosecutor, two were juvenile delinquency matters; one of the two juvenile delinquency cases was authorized, and the other was denied; two were adult criminal matters that resulted in denials; two were approved and convicted of sexual assault charges.

On March 31, the current Ingham County Sheriff, Scott Wriggelsworth, stated that the missing evidence constituted a “colossal failure in leadership”. We concur with this assessment, and are evaluating our response to the missing evidence of sexually assaultive crimes. The public deserves better, and so do the victims of crime.

Carol Siemon
Ingham County Prosecutor

Amended - March 30, 2017

Amended Final Report Regarding Missing Evidence at the Ingham County Sheriff’s Office

Executive Summary

In the fall of 2016, the Ingham County Prosecutor received notification that some pieces of evidence stored at the Ingham County Sheriff’s Office (ICSO) quartermaster may be compromised. In response to that notification two separate investigations began. One investigation is being performed by the Michigan State Police (MSP) to determine whether criminal activity was involved in the evidence handling at the Ingham County Sheriff’s Office (ICSO). The second investigation was performed by the Ingham County Prosecutor’s office, via special assistant prosecutor, Catherine Emerson, to determine whether any of the evidence issues at the ICSO affected criminal cases. This is the report by the Ingham County Prosecutor regarding evidence issues discovered and cases dismissed as a result of those issues.

We examined cases issued by the Ingham County Prosecutor’s Office between the dates of January 1, 2010 to December 31, 2016. In total seventy-nine (79) open cases were dismissed because the evidence necessary for conviction was no longer available. The vast majority of those cases involved controlled substances. In some of those cases the quartermaster purposefully, but erroneously, destroyed the

illegal substances. Some of the open cases were more than ten years old and may have been dismissed due to age even if the evidence had been available.

We await the results of the Michigan State Police investigation.

All of the issues listed in this report have been, or are being, addressed by the newly elected Ingham County Sheriff. We have seen, and continue to expect, improvements in evidence handling.

GENERAL FINDINGS

The goals for the missing evidence project are as follows:

- To check as many cases as possible to verify there is probable cause to proceed
- To dismiss cases if missing evidence results in a lack of probable cause to proceed, and
- To seek solutions to the problems discovered

At the time of this report, seventy-nine (79) open cases have been dismissed because the lack of evidence resulted in lack of probable cause to proceed. Most of the cases involved controlled substances. The majority of the cases like operating while impaired, domestic violence, and financial cases were not affected. None of the evidence issues affect intoxicated driving cases because storage for the Breathalyzer and blood samples is not part of the quartermaster system. Domestic violence cases tend to involve eye witness testimony. Most financial cases, like uttering and publishing, and use of a financial transaction device involve copies of records from a financial institution.

We discovered only two cases that were open and active when the ICSO told us the evidence was missing. In both of those cases defense was told about the missing evidence at the time. The cases were dealt with accordingly. We are not aware of any other specific cases that were active in court at the time the former sheriff discovered missing evidence. The current sheriff states that he has found nothing to the contrary. The Michigan State Police are investigating this matter.

Most of the cases we have examined involved the discovery of missing evidence many months or years after the case is closed. The final disposition for many pieces of evidence for cases occurring between 2010 to mid-2013 is simply unknown. Controlled substances make up the vast majority of missing evidence.

The property room issue was discovered after a new quartermaster took over the evidence room in mid to late 2013. To explain, the quartermaster most frequently looks for evidence when s/he receives a property disposal form to destroy evidence after a case has been resolved. It was during those searches that the quartermaster, Gasper Mendez, became aware of the problems in the evidence room. Once aware of the problem, Mendez and his immediate supervisor, Jeffrey Weiss, alerted command. The Michigan State Police are currently investigating this matter.

Between the dates of January 1, 2010 to mid-2013, the property room at the ICSO department was in disarray. Evidence was not properly documented in the Record Management System (RMS). Handling of evidence was haphazard, undocumented, and without regular audits. Some of this mishandling resulted in the failure to locate evidentiary items for destruction, failure to record drug evidence going to or from the Michigan State Police Crime Lab, failure to record the return of property to the owner of the

property, and failure to record the normal destruction of evidence at the conclusion of court proceedings. The Michigan State Police are investigating this matter.

From January 1, 2010 to December 31, 2016, forfeiture funds were not recorded or kept in a uniform fashion. Some of these issues were discovered during a 2015 - 2016 investigation. The Michigan State Police are currently investigating the matter.

From January 1, 2010 to October 5, 2016, procedures and training regarding evidence handling were not conducted uniformly. Tagging of evidence was not consistently supervised and standards were not enforced. This resulted in further mismanagement of evidence, including: failure to tag evidence at the inception, failure to adequately describe evidence tagged, and failure to tag items separately.

On October 5, 2016, the Ingham County Sheriff began taking steps to correct some of the problems outlined in this report. One of those corrections involved training.

Many of the evidence issues improved when Deputy Gaspar Mendez became the Quartermaster in mid-2013. Documentation of the movement of evidence to and from the Michigan State Police Crime Lab improved immediately.

The process used by the ICSSO to identify and destroy evidence did not adequately identify closed cases. Individual officers were making inaccurate choices to destroy evidence. The procedure at the ICSSO between those dates required the quartermaster to blindly follow any officer's command to keep or destroy evidence.

On a regular basis the quartermaster must dispose of evidence once a case is closed. Illegal evidence, like controlled substances, is destroyed. Other evidence, like personal property, is returned to the owner of the property. Every evidence room has a system for identifying and eliminating evidence that is no longer needed. The Ingham County Sheriff's Office used a system that required every deputy taking evidence to determine whether that item should be kept or destroyed. Without any further investigation the quartermaster would pull and destroy the evidence.

Following the faulty evidence destruction procedure, the new quartermaster (June 2016) and the supervisor erroneously destroyed evidence during a regularly scheduled evidence burn date on November 2, 2016. This resulted in the dismissal of approximately eleven (11) of the seventy-nine (79) cases the prosecutor dismissed. The Ingham County Prosecutor dismissed these cases because the evidence was destroyed and we were not able to proceed on the case. None of these cases involved criminal investigation that took place in 2016.

The evidence section of the Record Management System at the Ingham County Sheriff's Office is not fully updated. Progress toward those updates is currently underway.

SPECIFIC EVIDENCE ISSUES DISCOVERED

1. Failure to adequately describe tagged evidence
2. Failure to tag individual items separately
3. Failure to tag evidence at inception (limited instances)
4. Failure to transport drugs to the MSP crime lab for analysis
5. Failure to note the movement of evidence to and from the MSP crime lab

6. Failure to document property being returned to the owner
7. Failure to properly tag and log money
8. Failure to report forfeiture funds to the Prosecutor
9. Inadequate storage for DVD recordings
10. Failure to correctly identify and hold evidence on open cases
11. Partial destruction of evidence on open cases
12. Failure to remedy evidence procedures when informed of the problem
13. Inadequate system of determining when evidence may be destroyed
14. No evidence retention policy
15. No policy for hazardous material, awkward items, or perishable goods
16. Failure to update evidence in the Record Management System (RMS)
17. Archaic evidence recording (lack of the ability to scan evidence)
18. Recent destruction of evidence in open cases

SUGGESTED SOLUTIONS

1. Implement an evidence retention policy
2. Update policies for tagging, tracking, and preserving evidence
3. Audit the evidence procedure from beginning to end
4. Conduct frequent evidence audits until the process is complete
5. Train personnel to use the new evidence procedures
6. Describe evidence in sufficient detail
7. Tag individual items separately
8. Implement an adequate method of determining evidence to be destroyed
9. Implement an evidence scanning system (already planned and underway)
10. Implement a better method of DVD storage
11. Cease evidence destruction until a new system to identify items for disposal is implemented and a new policy for evidence retention is in place (Implemented January 2017)
12. Implement a policy regarding drug paraphernalia and partial evidence destruction
13. Provide supplemental reports to the prosecutor regarding any release or destruction of evidence on any open case
14. Implement a policy regarding plant stalks, edibles, perishables, flammable/explosive items, and other unusual evidentiary items

ACTION TAKEN

- Reviewed several thousand cases in the prosecutor's warrant system
- Reviewed cases with open warrants held in 55th district court
- Dismissed 57 misdemeanors
- Dismissed 22 felonies
- Met with the current and past quartermaster for the ICSO
- Reviewed the current evidence handling procedures
- Shared our findings with the new Ingham County Sheriff, Scott Wriggelsworth
- Agreed upon changes necessary for proper evidence handling and storage

SOLUTIONS

The Ingham County Prosecutor, Carol Siemon; Chief Assistant, Lisa McCormick; and Special Assistant Prosecutor, Catherine Emerson, met with the Ingham County Sheriff, Scott Wriggelsworth; and Undersheriff, Andy Bouck on January 30, 2017.

Sheriff Scott Wriggelsworth is aware of many of the problems we presented. The sheriff has begun a program to audit evidence from the moment it is taken until its destruction. He was able to assure us that he has already conducted an audit of each case since January 1, 2017, to assure that his deputies are properly handling and recording evidence.

After discussing the issues in detail, Sheriff Scott Wriggelsworth, assured us that he would implement a plan to address all of the Ingham County Prosecutor's concerns.

As a part of the project we sought assurances that evidence is properly handled and processed under the new administration at the ICSO. After checking the evidence currently held by the ICSO, comparing that evidence to the police reports, and physically inspecting the property room; we feel confident that evidence issues are being corrected to ensure the problems outlined here are not repeated.

CONCLUSION

We await a report from the Michigan State Police.

We have diligently reviewed cases. It is not possible to find every case that may be affected given the volume of cases. If older cases arise for prosecution we will compare them to the evidence held at the ICSO.

During the course of the project we have identified a total of seventy-nine (79) cases at the Ingham County Sheriff's Office that lacked probable cause to proceed because of missing evidence and/or the age of the case. We have dismissed those cases.

We believe the newly elected Sheriff has, or is currently, correcting the issues identified in this report. The Ingham County Prosecutor will continue to monitor evidence while Sheriff Scott Wriggelsworth implements the procedures listed above. Vast improvements are expected during the entirety of 2017.