

TEXAS DEPARTMENT OF PUBLIC SAFETY

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CRIME LABORATORY CASE ACCEPTANCE POLICY DIGITAL AND MULTIMEDIA EVIDENCE/COMPUTER FORENSICS TESTING [AUGUST 3, 2011]

Mobile and digital devices have penetrated our daily lives, so much so, that it has changed the way criminals choose to communicate and commit crimes. As a result of this technological explosion, cases involving this type of evidence routinely require weeks to months to complete analyses in compliance with best practices, as well as investigative searches based on parameters supplied by our customers. It is not unusual to receive multiple terabyte evidence hard drives in priority cases where there is a victim in harm's way. The DPS Crime Laboratory in Austin examines evidence received from more than 2,000 Law Enforcement Agencies statewide. In an effort to reduce our backlog and effectively manage our current caseload and turnaround time for our customers, the Questioned Documents Section has established new acceptance policies and evidence prioritization criteria for our **Digital & Multimedia Evidence (DME)/Computer Forensics cases**. These new modifications to our current policies will be effective immediately.

Some of the changes being implemented include: streamlined procedures, installation of a new analysis and archival server system, and the case acceptance policy provided below. With all of these changes, our laboratory will be able to provide a more timely service to meet our customers' need.

- **Search Warrants and/or Consent to Search forms are needed in all DME cases without exception.** These forms need to include specific words as follows in order to avoid any unforeseen problems at the time of trial. Digital evidence examination is a more intrusive search than a "plain sight" search and it is therefore not acceptable for the Search Warrant to simply give the authority for an officer to seize the computers in a specified location. The wording on the Search Warrant or Consent Form should specifically state the data which resides on the seized digital media will be forensically examined (recovered and searched) by the TXDPS Crime Laboratory. Templates are available. We will notify the submitting officer if the information provided on the Search Warrant or Consent to Search form is inadequate for examination of the evidence or if one is not provided at the time of the evidence submission. After this notification, the officer will have 30 days to respond and provide what is needed or the case will be closed without examination. Evidence may be resubmitted to the laboratory for examination after the acceptable search warrant or consent to search form(s) has been obtained.
- **Detailed, case specific information and the required triage information form must accompany all DME submissions.** There are potentially millions of files to be examined in some DME cases. The more case specific information the analyst has initially, the quicker the data can be both examined and reported. For certain cases in which the analyst is not provided enough case specific information to determine all of the data that would be pertinent to the investigation, we will copy out some types of files in bulk for the customer to review instead. *(For example, if we are not supplied enough information about a homicide case, we may copy out and report ALL of the email contained logically on the media, and ALL of the internet history. This can potentially be a large amount of data that the customer will have to review.)*

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- **Based on the location at the crime scene and the evidence item's proximity to the suspects involved, customers will be limited to initially submitting the two (2) most probative items of evidence (i.e., devices) in each DME case.** While it is extremely important to collect ALL of the digital media that could potentially contain evidence of a crime at the scene, customers should document the location of each piece of digital evidence and determine which two (2) items are most likely to contain the information. *(For example, the laptop a suspect is carrying with him/her and the cellular telephone in his/her pocket at the time of the arrest may possibly contain the data officers are looking for, whereas the older desktop computer located in the closet and not attached to a keyboard or monitor is possibly less likely to contain the data.)* Once the first two (2) items have been examined and reported on, if the examination does not produce adequate investigative information, the next two (2) items may then be submitted for examination. This policy will prevent an analyst from spending potentially many months on one case while other priority cases stay in the backlog awaiting examination.
- **Regarding the types of crimes involving digital evidence that will be accepted by the laboratory, priority will be given to those types of crime in which a person is in immediate danger or in harm's way.** Those types of crimes which will be accepted and given priority are homicide, suicide, questioned death, sexual assault/violent crimes, child pornography or crimes against children, persons in harm's way, improper photography/video, officer-involved, and internal investigations. Cases involving offenses not listed above generally will not be accepted or will be returned without analysis. These cases, however, may be evaluated and accepted on a case by case basis.
- **You must give us at least 60 days notice for any rush requests.** The evidence must already be in the laboratory for this timeline to apply. Rush cases will be prioritized based upon their submission date, offense type, statute of limitations, court date, and whether there is a victim currently in harm's way. While the laboratory makes every effort to meet your timelines, even with 60 days notice, we cannot guarantee that the case can be completed for your court date. Please give us as much notification as possible. Additionally, if your case has been disposed of prior to completion of our examination and report, please contact us as soon as possible.

These policy revisions are subject to change based upon backlog considerations and overall customer needs. If you have any questions, please contact Dale Stobaugh, Questioned Documents Section Manager, at 512.424.7558 or Dale.Stobaugh@dps.texas.gov.

For types of offenses not contained in this acceptance policy, you can still have those examined by other qualified laboratories, some also accredited. Contact the laboratory for a list of other possible analysis solutions.