

## **Finances & Forensics**

The forensic testing and CSI techniques used in criminal cases cost money, and more and more funds have been spent to expand the use of forensics. The budgets of publicly funded crime labs, which conduct most of the forensic testing in the United States, have grown considerably. In 2014 they totaled \$1.7 billion. At the same time backlogs have grown as the demands on labs have increased. Following the money sheds important light on why forensics face so many challenges in the United States. The crime lab funding at the state and local levels is skewed towards prosecution priorities. It encourages labs to do quicker tests, but not necessarily to improve how well they do their work or catch errors.

## **Lab Fees**

### **How are crime labs funded, exactly?**

In many states, all people convicted of a crime are charged a fixed crime lab fee, say \$50 or \$60. In at least 25 states, state law requires that fees be assessed and the money sent to crime labs if a person is convicted.<sup>1</sup>

Sometimes fees are laid on top of fees. For example, a person charged with a crime may be charged a basic fee for forensic evidence, whether they have the ability to pay or not, but then a larger fee, \$600 in North Carolina, if a forensic test is actually done in the case, and if the person is convicted. In Kansas, a person convicted must “pay a separate court cost of \$400 for every individual offense if forensic science or laboratory services or forensic computer examination services are provided in connection with the investigation.” In Washington state, any conviction involving lab analysis involves a \$100 lab fee.

How much of this money is actually collected may vary. After all, many people accused of crimes cannot afford to pay any fee, no matter how small. There may be consequences for their nonpayment, including that their parole may not end so long as the fees are unpaid. But the labs may not collect the money.

Nor does the money always go to labs. The money from these fees may go directly to the crime lab, or it may just go to the state’s general operating budget. For example, in Michigan, everyone who is convicted is assessed a series of fees, including crime lab fees, which are sent to a Justice System Fund; however, the

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<sup>1</sup> Roger Koppl, Letter to the Editor—Do Court-assessed Fees Induce Laboratory Contingency Bias in Crime Laboratories?, 65 J. For. Sci. 1793 (2020).

state crime lab receives funds in proportion to the number of people convicted in the state.<sup>2</sup>

Researchers Roger Koppl and Meghan Sacks have described how Arizona, Alabama, California, Illinois, Kansas, Kentucky, New Jersey, New Mexico, North Carolina, Missouri, Tennessee, Virginia, Washington, and Wisconsin, all have provisions of that type, providing labs with funding through fees, but only if a person is convicted. In some labs, court fees provide most of the funding for entire labs. Roger Koppl has described, for instance, that fees made up 94% of revenues for Louisiana's Acadiana Criminalistics Laboratory. Fees averaged about a million dollars per state, according to a study by Jeremy Triplett conducted in 2013.<sup>3</sup>

Given this reality, many funding structures, whether intentional or not, are set up to incentivize convictions. Therefore, it is all the more important that we have an adequate indigent defense system that enables proper checks on prosecutorial power yet the longstanding reality on the defense side, is that funding is often nonexistent for experts who can attack the credibility of forensic results. Judges often refuse requests from indigent defendants for funds to hire their own expert. As a result, jurors often only hear from crime lab analysts. There usually is no battle of the experts. The one-sided presentation of forensic science amplifies bias. Research shows that a defense expert can make a real difference in a case, even if that expert speaks just to the limitations of methods, and does not re-analyze the evidence.<sup>4</sup>

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<sup>2</sup> Mich. C. L. 600.181 (2017).

<sup>3</sup> Jeremy Triplett, *National Survey on the Use of Court Fees for the Funding of Crime Laboratory Operations* (2013), <https://www.asclد.org/wp-content/uploads/2013/06/Triplett-Court-Fees-Poster.pdf>.

<sup>4</sup> Gregory Mitchell & Brandon Garrett (2021). Battling to a draw: Defense expert rebuttal can neutralize prosecution fingerprint evidence. *Applied Cognitive Psychology*, 35, 976-987.