



Central (Richmond)



Northern (Manassas)



Eastern (Norfolk)



Western (Roanoke)

DEPARTMENT OF FORENSIC SCIENCE UPDATE

Linda C. Jackson, Director

Presented to the Forensic Science Board

July 10, 2024



Central Laboratory Construction Project

<https://dfs.virginia.gov/regional-labs/new-central-laboratory-facility/>





NAFSB Membership

- National Association of Forensic Science Boards
 - Applied for membership as directed
 - Received notification of acceptance
 - Planning to attend conference November 21 - 22, 2024
- Disseminated *Best Practices Document for Development of State Forensic Science Boards* in April 2024
- Requested to give a Virginia Spotlight



Burton Case Review

- 3,416 cases including 4,231 named suspects
- Letters sent to 174 law enforcement agencies and 125 localities
- Information regarding convictions being returned from law enforcement agencies, Commonwealth's Attorneys and Clerks of Court
- DFS will begin notification of defendants, prioritizing those that are currently incarcerated for a Burton case once identified by the Virginia State Crime Commission



CERTIFICATE OF ACCREDITATION

The ANSI National Accreditation Board

Hereby attests that

**Virginia Department of Forensic Science
Crime Laboratory System**

Fulfills the requirements of

ISO/IEC 17025:2017

ANAB Forensic Testing & Calibration AR 3125:2019

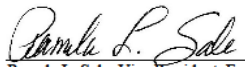
FBI Quality Assurance Standards for Forensic DNA Testing Laboratories:2020

FBI Quality Assurance Standards for DNA Databasing Laboratories:2020

In the field of

Forensic Testing & Calibration

This certificate is valid only when accompanied by a current scope of accreditation document.
The current scopes of accreditation can be verified at www.anab.org.


Pamela L. Sale, Vice President, Forensics



Expiry Date: 30 September 2026
Certificate Numbers:
FT-0051
FT-0052
FT-0053
FT-0054
FC-0004



Accreditation

- Surveillance Assessment May 21-23, 2024
- Controlled Substances and Materials (Trace) technical assessors
- Certificates and Scopes are available on the DFS website: <https://www.dfs.virginia.gov/about-dfs/accreditation/accreditation-documentation/>
- Current cycle expires September 30, 2026

Customer Notice – Honorarium Policy

- DFS scientific staff who issue Certificates of Analysis may be required to support those examinations by providing expert court testimony after separating from the agency.
 - Evidence may no longer be available for reanalysis
 - Reanalysis discouraged
- Also applies to scientific staff who issue Certificates of Instrument Accuracy

<https://dfs.virginia.gov/wp-content/uploads/NOTICE.DFS-Honorarium-for-Testimony.pdf>



COMMONWEALTH of VIRGINIA

DEPARTMENT OF FORENSIC SCIENCE

OFFICE OF THE DIRECTOR
A Nationally Accredited Laboratory
dfs.virginia.gov

700 North 5th Street
Richmond, Virginia 23219-1416
(804) 786-2281 FAX (804) 786-6857

AGENCY NOTICE

To: All Criminal Attorneys
From: Linda C. Jackson, Department Director 
Date: June 28, 2024
RE: Department of Forensic Science Honorarium Policy

The Department of Forensic Science (DFS) is pleased to announce that it has established an honorarium policy for its former employees to facilitate their testimony in cases worked while previously employed with the agency. DFS will now provide these employees an honorarium of \$500 per day, or any part thereof, when the former employee appears in court to testify. The party requiring such testimony must still obtain lawful service of a witness subpoena for that individual. DFS only accepts service of witness subpoenas for current employees.

Prior to any such appearance, the former employee must submit and have approved the Department's Testimony Honorarium Application and Agreement. A copy of the application and agreement is attached to this Agency Notice and addresses the process for them to obtain their case file and prepare for testimony. Please note that the Department is not responsible for the employee's travel expenses, and former staff will be directed to submit reimbursement requests to the subpoenaing party.

Please contact the Lab Director for your service area at the number listed if you have any questions or concerns.

Laboratory	Lab Director Contact	Phone Number
Central (Richmond)	Scott Maye	(804) 786-4707
Eastern (Norfolk)	David Koppenhaver	(757) 683-8327
Northern (Manassas)	Josh Kruger	(703) 335-8100
Western (Roanoke)	Kevin Patrick	(540) 561-6600

Customer Notice – DNA Allele Tables

- As of July 1, DNA Certificates of Analysis will no longer include a Table of Typing Results
- HB 898 (Kent) eliminated the requirement that DNA profiles be included in any DFS Certificates of Analysis for the results of that analysis to be admissible in criminal proceedings.
- Additional language was added to Virginia Code § 19.2-270.5 to clarify that the underlying case file documentation, including the developed evidentiary and comparison profiles, could be obtained with a lawfully served subpoena *duces tecum* under Virginia Code § 19.2-187.2 (as with any other DFS case file documentation).

<https://dfs.virginia.gov/wp-content/uploads/NOTICE.Removal-of-DNA-Typing-Results-Tables.pdf>




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Richmond, Virginia 23219-1416
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AGENCY NOTICE

To: All Agencies Served by DFS
From: Linda C. Jackson, Department Director 
Date: July 1, 2024
RE: **Removal of Typing Results Tables from Department of Forensic Science Certificates of Analysis**

Historically, Certificates of Analysis for forensic biology (DNA) cases have included a Table of Typing Results as an appendix if the forensic scientist's examination of the evidence resulted in a positive probative association (i.e., non-elimination). In recent years, other forensic laboratories have moved away from the inclusion of these tables in their reports. This change occurred due to (1) genetic privacy concerns and (2) scientific advancements with DNA probabilistic genotyping. Tables of typing results contain genetic information of victims, consensual partners, and/or suspects, and they can be made part of the public record when the Certificate of Analysis is filed in a court proceeding. Furthermore, the allelic tables are not reflective of all the data that is used in current DNA interpretation methods which was not the case when these tables were first introduced over 25 years ago.

Earlier this year, House Bill 898, carried by Delegate Hillary Pugh Kent, was passed by the General Assembly. The bill (now Chapter 210 of the 2024 Acts of the Assembly) amends Virginia Code §§ 19.2-270.5 and 19.2-310.4 to eliminate the requirement that DNA profiles be included in any DFS Certificates of Analysis for the results of that analysis to be admissible in criminal proceedings. Additional language was added to Virginia Code § 19.2-270.5 to clarify that the underlying case file documentation, including the developed evidentiary and comparison profiles, could be obtained with a lawfully served subpoena *duces tecum* under Virginia Code § 19.2-187.2 (as with any other DFS case file documentation). Please note that DFS is not considered a party under Rule 3A:12(i) of the Rules of the Supreme Court of Virginia.



Drugs Submitted in CY 2023 Report

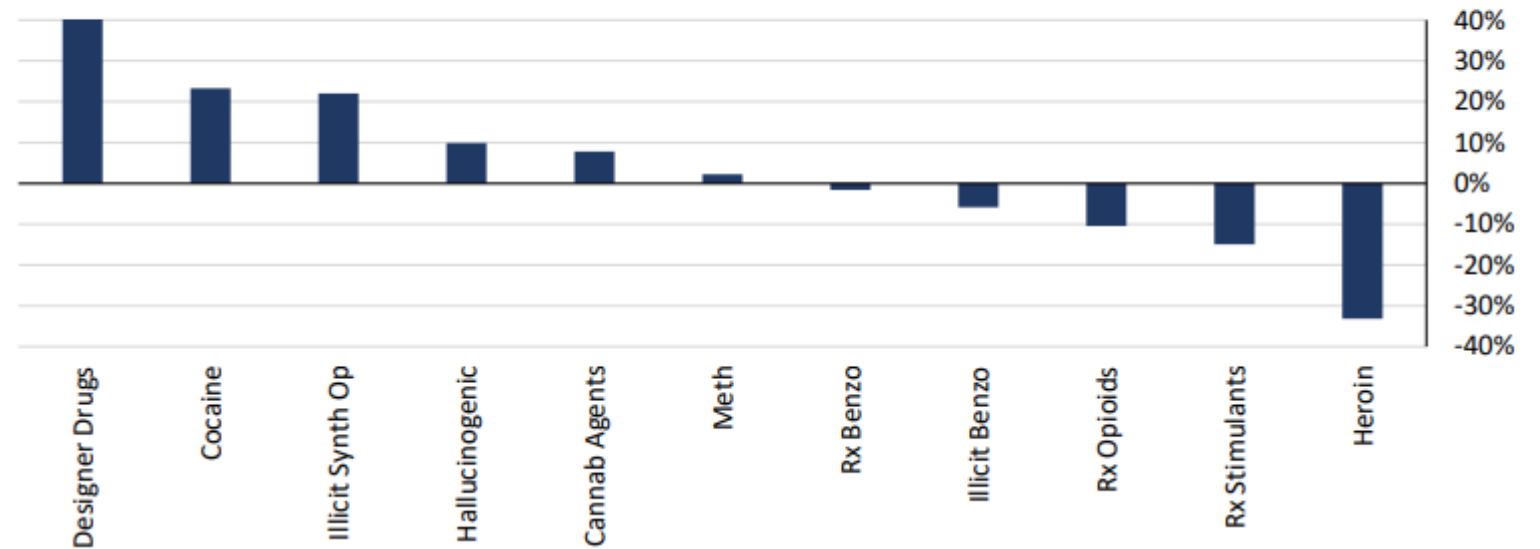
Top Ten

The ten most common substances identified in 2023 were:

- | | |
|--------------------------|------------------|
| 1. Methamphetamine | 6. Buprenorphine |
| 2. Cocaine | 7. Xylazine |
| 3. Fentanyl | 8. Naloxone* |
| 4. Marijuana* | 9. Heroin |
| 5. N,N-dimethylpentylone | 10. Oxycodone |

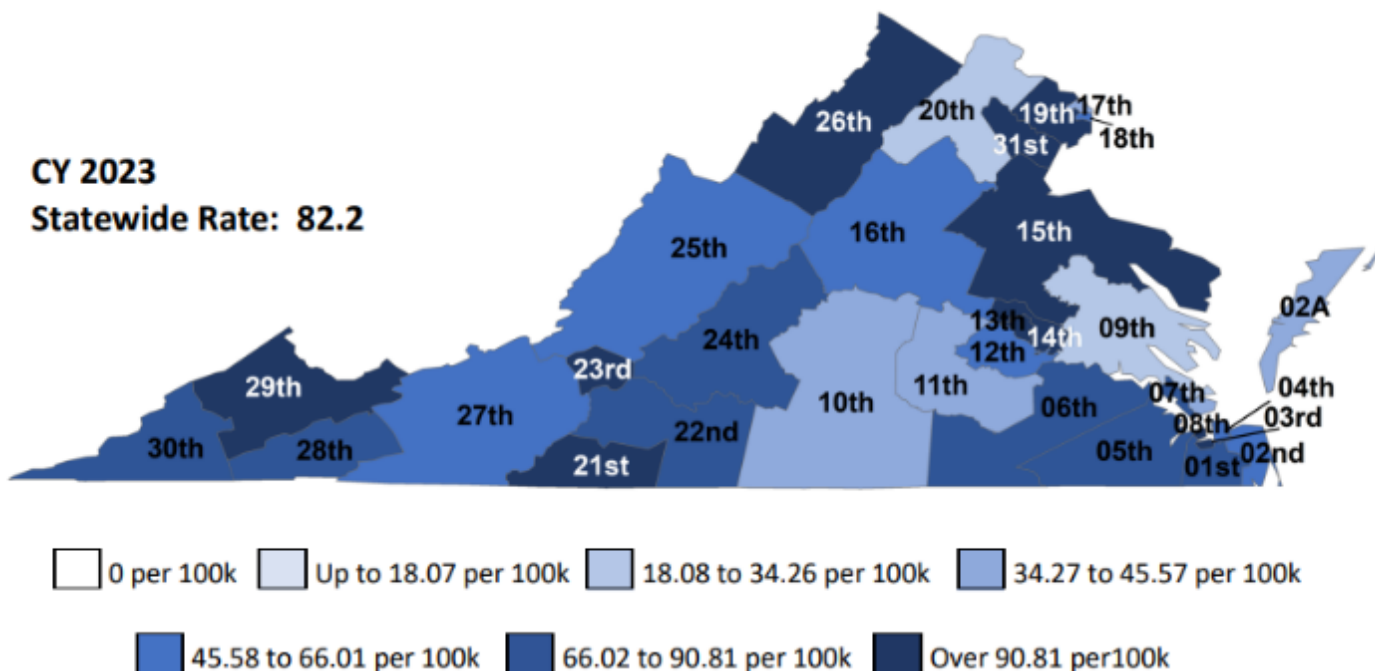
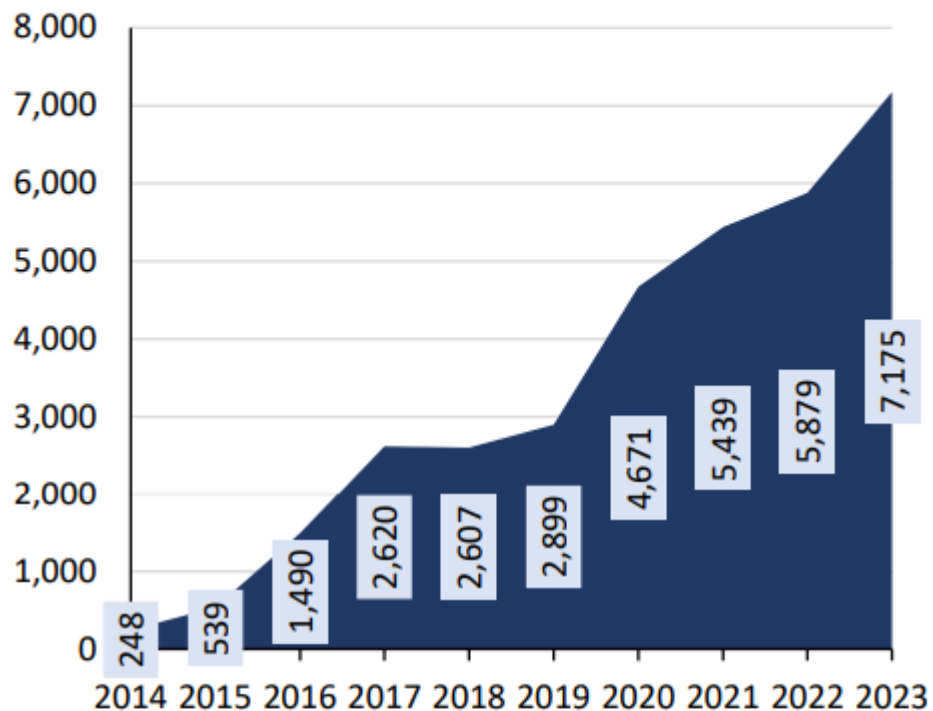
*Marijuana and naloxone are not included in this report

Change in Submissions—CY 2022 to 2023



<https://dfs.virginia.gov/wp-content/uploads/2023DFSDrugReport.pdf>

Illicit Synthetic Opioid Submissions CY2014-2023



Illicit Synthetic Opioids Identified*

Substance Identified	CY2015-17	CY2018-20	CY2021-23
Fentanyl	3,309	9,783	18,110
Fentanyl Analogs			
Para-Fluorofentanyl	1	24	1,613
Acetyl Fentanyl	82	514	156
Fluoro-isobutyryl fentanyl	400	223	3
Furanyl Fentanyl	766	25	1
Fentanyl Analog - Other	135	158	32
Other Illicit Synthetic Opioids	370	212	145

Top Ten

The ten most common substances identified in 2023 were:

1. Methamphetamine
2. Cocaine
3. Fentanyl
4. Marijuana*
5. N,N-dimethylpentylone
6. Buprenorphine
7. Xylazine
8. Naloxone*
9. Heroin
10. Oxycodone

*Marijuana and naloxone are not included in this report



Agency Outreach

- Commonwealth's Attorneys' Annual Summer Conference – August 2 (*Amy Jenkins*)
- Virginia Chiefs of Police – August 25 – 28 (*Linda Jackson and Amy Jenkins*)
- Public Defenders Conference – October 2 (*Linda Jackson and Mason Byrd*)

Forensic Training



- 50th Anniversary of Forensic Science Academy
- 112th FSA Session graduated June 28, 2024
- FSA Annual Retraining Conference will be held September 3 – 5, 2024



Board of Pharmacy Expedited Scheduling



DFS recommended four (4) compounds in April 2024. The compounds were considered at the Board's June 25th meeting and are pending final approval.

Hallucinogenic Properties:

- 4-fluoro methylbenzylpiperazine
- 4-fluoro-alpha-PiHP
- Pyrazolam

Cannabimimetic Agent:

- MDMB-BUTINACA

Case Statistics

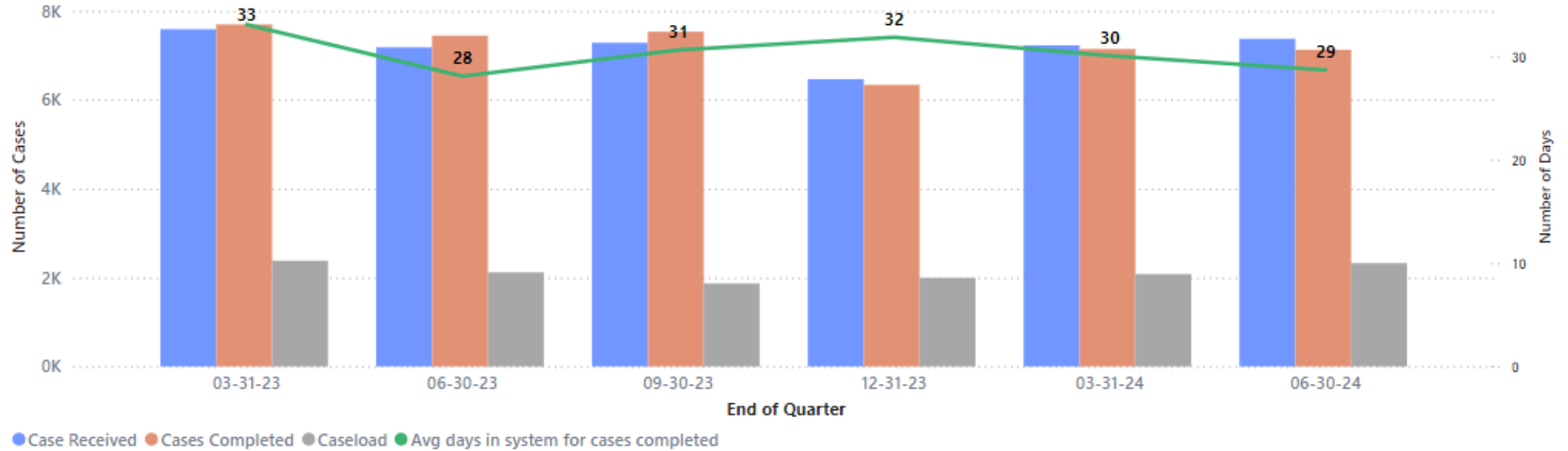


FY 2024 Case Statistics Comparison

Discipline	2020	2021	2022	2023	2024	% change (20 to 24)
Controlled Substances	33,757	27,111	23,997	27,217	28,403	-16%
Digital & Multimedia Evidence	119	178	212	254	176	48%
Firearms & Toolmarks	7,202	8,169	6,314	6,450	5,341	-26%
Forensic Biology (DNA)	5,988	6,430	6,450	6,891	6,616	10%
Latent Prints & Impressions	2,581	2,196	2,143	2,355	2,083	-19%
Toxicology	10,047	11,384	9,883*	10,642*	10,196*	1%
Trace Evidence	679	714	702	725	692	2%

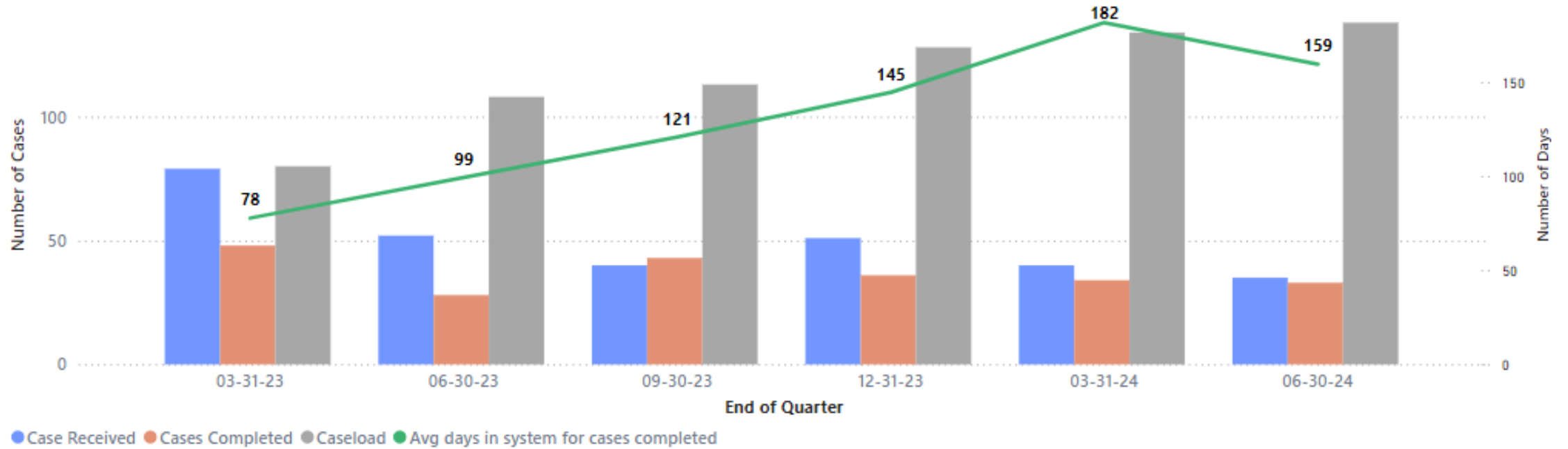
*2022 - 2024 Toxicology submissions are artificially low due to OCME outsourcing. Outsourcing was completed in CY2023.

Controlled Substances



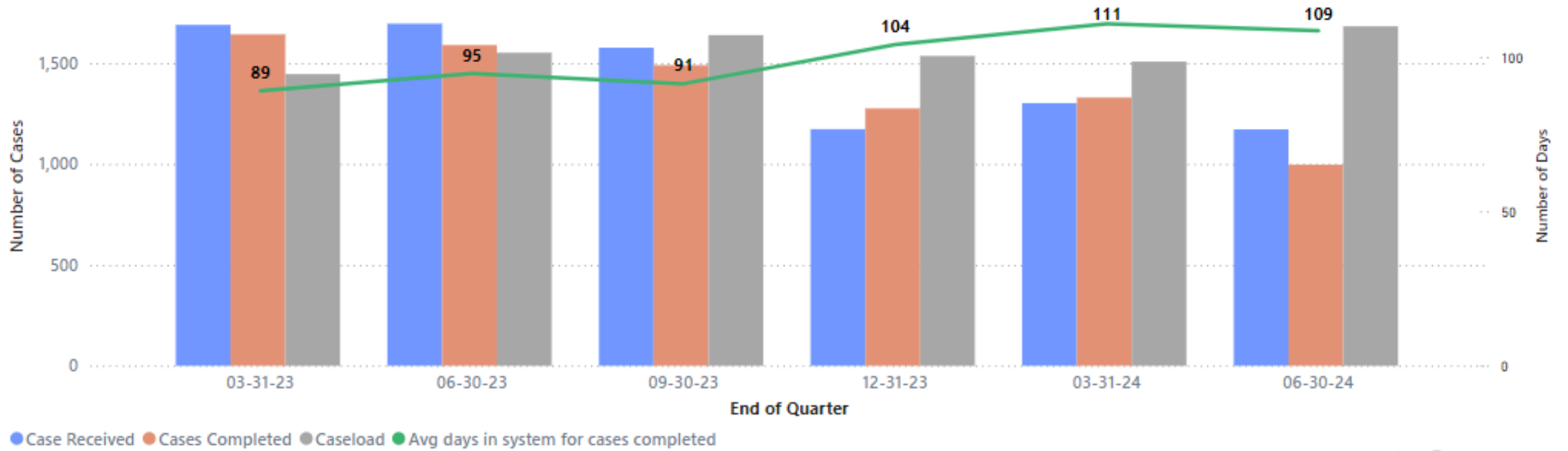
	03-31-23	06-30-23	09-30-23	12-31-23	03-31-24	06-30-24
Cases Received	7,588	7,180	7,283	6,464	7,226	7,373
Cases Completed	7,695	7,442	7,532	6,337	7,143	7,125
Caseload	2,379	2,117	1,868	1,995	2,078	2,326
Avg days in system for cases completed	33	28	31	32	30	29

Digital & Multimedia Evidence



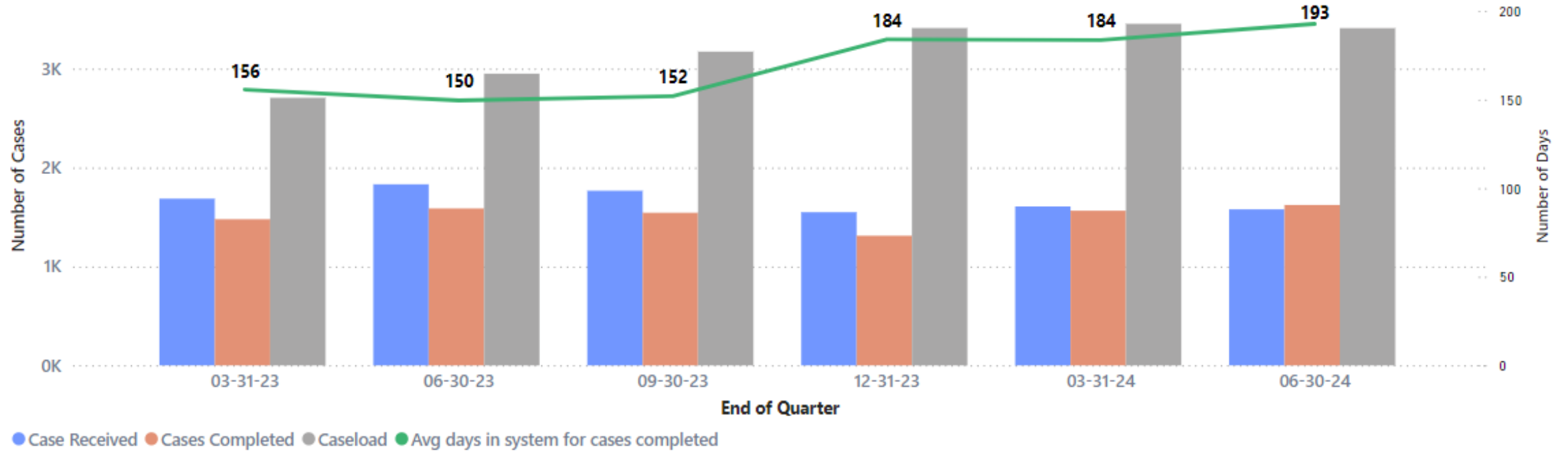
	03-31-23	06-30-23	09-30-23	12-31-23	03-31-24	06-30-24
Cases Received	79	52	40	51	40	35
Cases Completed	48	28	43	36	34	33
Caseload	80	108	113	128	134	138
Avg days in system for cases completed	78	99	121	145	182	159

Firearms & Toolmarks



	03-31-23	06-30-23	09-30-23	12-31-23	03-31-24	06-30-24
Cases Received	1,690	1,696	1,577	1,173	1,302	1,172
Cases Completed	1,643	1,590	1,490	1,276	1,330	997
Caseload	1,446	1,552	1,639	1,536	1,508	1,683
Avg days in system for cases completed	89	95	91	104	111	109

Forensic Biology (DNA)



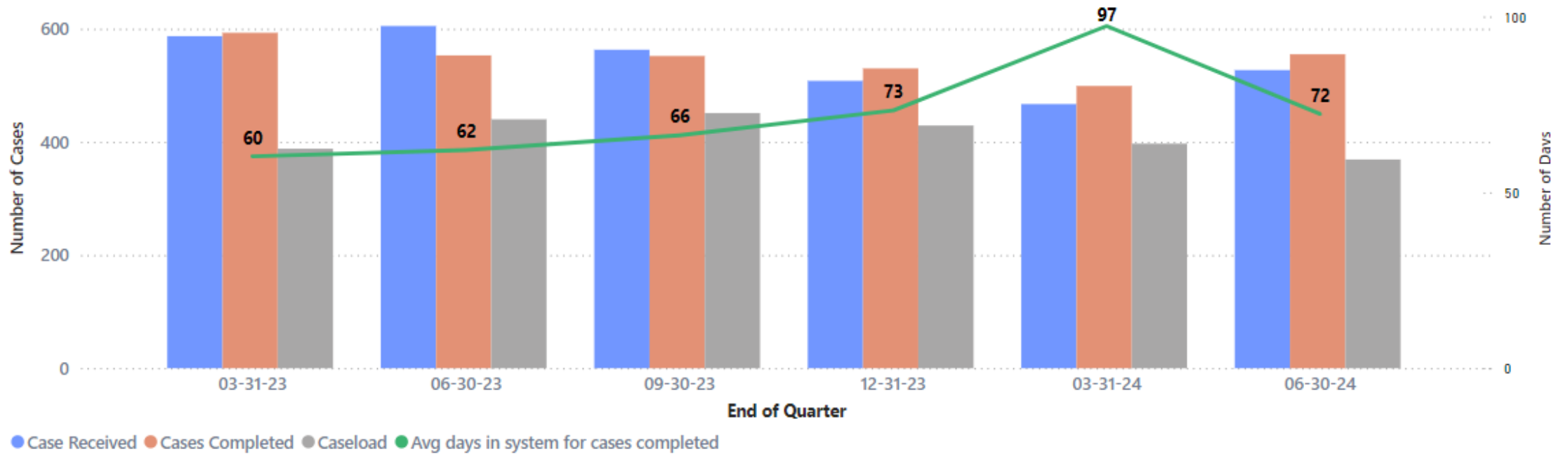
	03-31-23	06-30-23	09-30-23	12-31-23	03-31-24	06-30-24
Cases Received	1,686	1,831	1,766	1,549	1,607	1,578
Cases Completed	1,478	1,587	1,543	1,311	1,564	1,622
Caseload	2,706	2,950	3,173	3,411	3,454	3,410
Avg days in system for cases completed	156	150	152	184	184	193



DNA Outsourcing

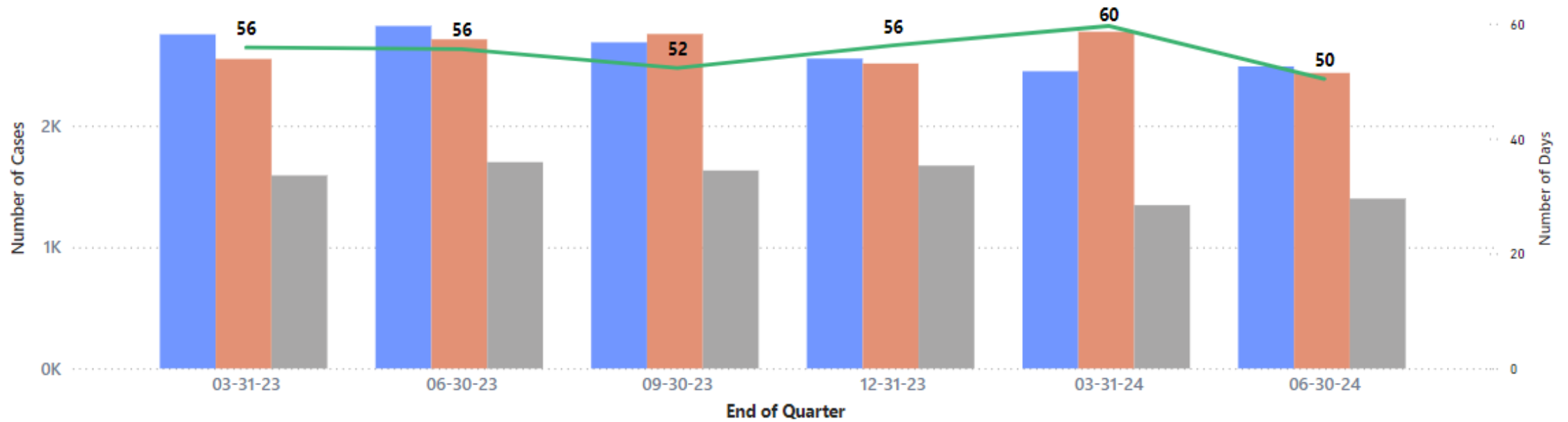
- Testing contract with private laboratory
- Preparing requirements for procurement process
- Plan to outsource “non-persons” cases from all locations
- Anticipate Certificates of Analysis will be prepared by the contract laboratory
- Customer notice will be distributed with details

Latent Prints & Impressions



	03-31-23	06-30-23	09-30-23	12-31-23	03-31-24	06-30-24
Cases Received	587	605	563	508	467	527
Cases Completed	593	553	552	530	499	555
Caseload	388	440	451	429	397	369
Avg days in system for cases completed	60	62	66	73	97	72

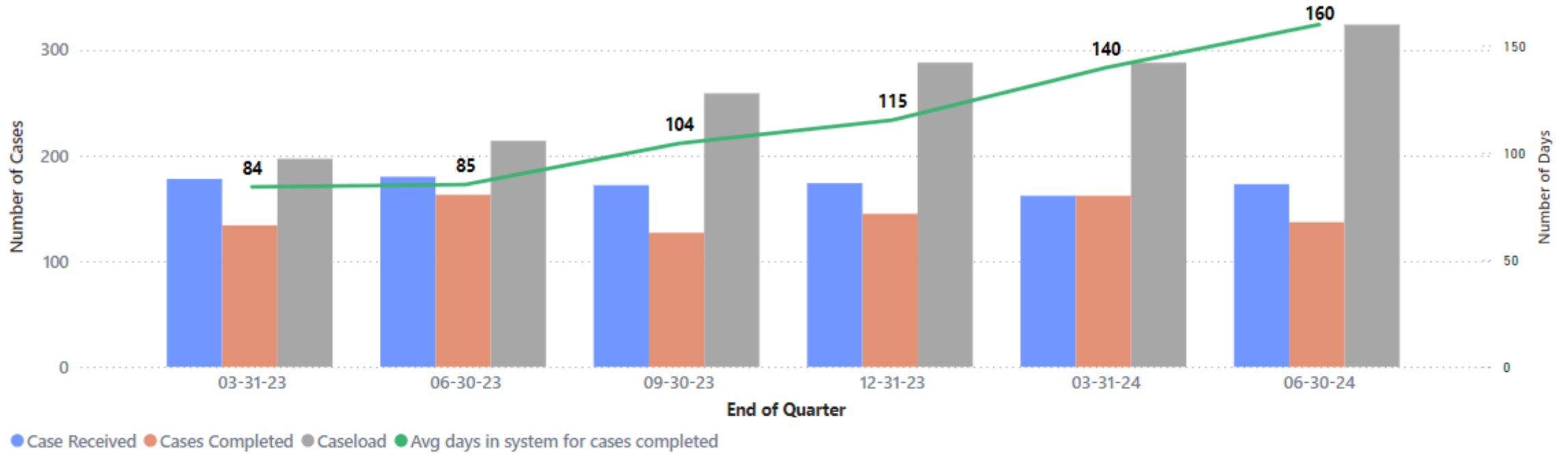
Toxicology



● Case Received ● Cases Completed ● Caseload ● Avg days in system for cases completed

	03-31-23	06-30-23	09-30-23	12-31-23	03-31-24	06-30-24
Cases Received	2,754	2,823	2,688	2,554	2,450	2,490
Cases Completed	2,551	2,713	2,757	2,514	2,776	2,436
Caseload	1,591	1,701	1,632	1,672	1,346	1,400
Avg days in system for cases completed	56	56	52	56	60	50

Trace Evidence



	03-31-23	06-30-23	09-30-23	12-31-23	03-31-24	06-30-24
Cases Received	178	180	172	174	162	173
Cases Completed	134	163	127	145	162	137
Caseload	197	214	259	288	288	324
Avg days in system for cases completed	84	85	104	115	140	160

Budget and Resources



Year End Balances

FY24 Year End Balance: \$2,894,013

- Included the \$2,365,142 that was carried over from FY23 to pay for new evidential Breath Alcohol instruments
- Due to the anticipated dates of delivery for the new instruments, DFS will be requesting to carryover the balance to FY25



Biennial Budget for FY25/26

Title	FY25	FY26	GF FTE	NGF FTE
Fund increase in staffing for Forensic Biology (DNA) Section (2 Biologists (in training), 1 Forensic Scientist (in hiring process))	\$ 278,026	\$ 353,976	3	-
Fund increase in staffing and oversight for Evidence Receiving Section	\$ 225,548	\$ 225,548	3	-
Fund tools used to unlock mobile cellular devices	\$ 107,770	\$ 107,770	-	-
Reclassify positions to align with fund source	-	-	-	2
Fund strangulation kits and DNA Forensic Scientist position (in hiring process) (required by HB2150 (2023))	\$ 119,333	\$ 163,442	1	-
Forensic Laboratory Specialist, instrument and supplies for screening high alcohol DUI cases for drugs	\$238,739	\$196,638	1	-



Grant Applications – Board Approval Needed to Accept Funds

Bureau of Justice Assistance DNA Capacity Enhancement and Backlog Reduction Program

DFS applied to BJA for funding under this program, in the amount of \$2,085,911, to support efforts in the Forensic Biology Section statewide (casework and data bank) to increase capacity and reduce the case backlog. Funds will be utilized for personnel, supplies, and required continuing education for DNA staff.

If awarded, the grant will begin on October 1, 2024 and will end on September 30, 2026.

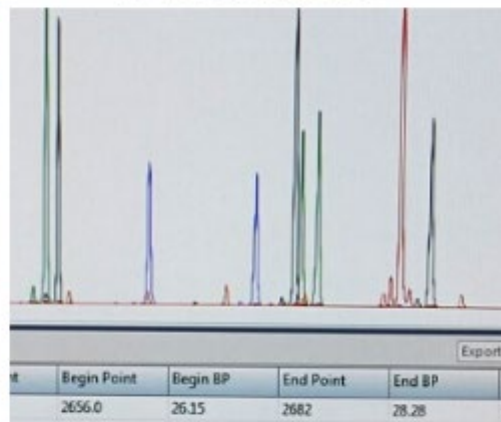
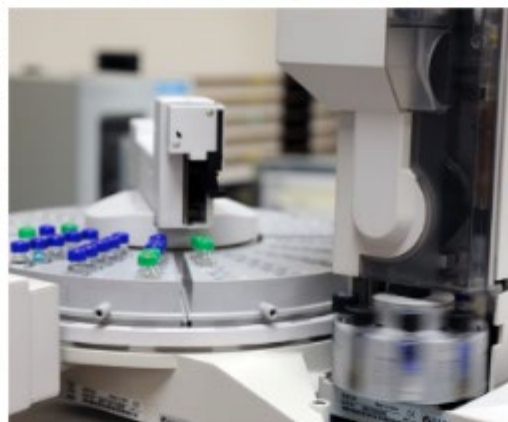
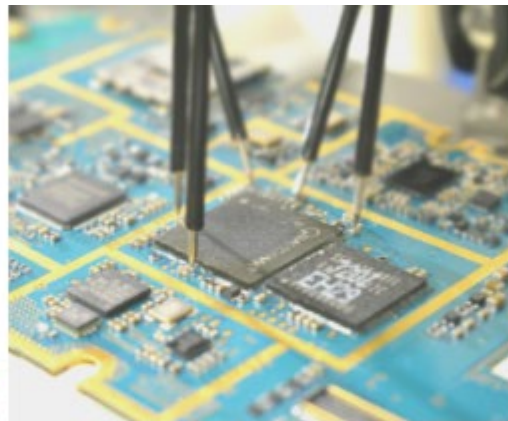


Grant Applications – Board Approval Needed to Accept Funds

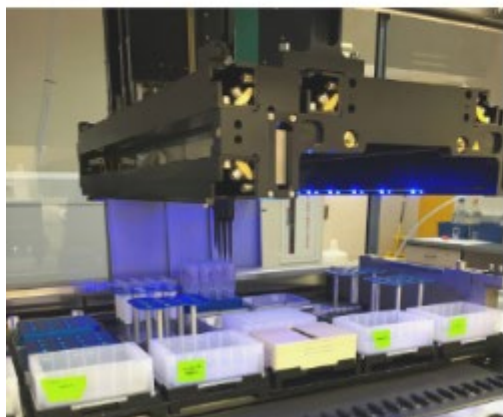
Paul Coverdell Forensic Science Improvement Program through Department of Criminal Justice Services (DCJS)

- DFS applied for funding under this grant program through DCJS, the State Administering Agency. The amount allocated for DFS is \$252,449. DFS will utilize funding, if awarded, for the following purposes:
 1. Continuing education for scientific staff in the Chemistry, Physical Evidence, and Toxicology program areas
 2. Equipment for the Firearms & Toolmarks Section to increase efficiency and reduce turnaround time

The award is expected to begin on January 1, 2025 and end on June 30, 2026.



Thank you!





Central (Richmond)



Northern (Manassas)



Eastern (Norfolk)



Western (Roanoke)

SMITH v. ARIZONA

Amy Jenkins, DFS Counsel

Presented to the Forensic Science Board

July 10, 2024



Smith v. Arizona, No. 22-899, 2024 U.S. LEXIS 2712 (June 21, 2024)



- **Facts:** Smith was charged with several drug offenses. Items seized from a search of his father's property were submitted to the Arizona Department of Public Safety (DPS) for analysis. After she had completed the analysis and prepared the report, but before the trial, the forensic scientist left DPS. A different DPS analyst testified for the state as its expert witness. The new expert witness testified, coming to the same conclusions as the original examiner, in reliance on the original report and notes.
- **Question Presented:** Does the Confrontation Clause of the Sixth Amendment permit the prosecution in a criminal trial to present testimony by a substitute expert conveying the testimonial statements of a nontestifying forensic analyst?

Smith v. Arizona, No. 22-899, 2024 U.S. LEXIS 2712 (June 21, 2024)



- **Holding:** When an expert conveys an absent analyst's statements in support of his opinion, and the statements provide that support only if true, then the statements come into evidence for their truth. If the out-of-court statements were also testimonial, their admission violated the Confrontation Clause. The case was remanded to the Arizona Supreme Court to determine if the out-of-court statements were testimonial.
- **Hiccup:** Arizona had (arguably) already conceded that the out-of-court statements were testimonial.