



# Texas Forensic Science Commission

*Justice Through Science*

April 11, 2013

*Via Email*


Ms. Rhonda Austin  
Tyler, Texas 75762

Dear Ms. Austin:

At the Commission's April 5<sup>th</sup>, 2013 quarterly meeting, members voted to dismiss your complaint because it falls outside the Commission's jurisdiction. Your questions about the toxicology work performed in connection with your daughter's autopsy, while reasonable, do not constitute an allegation of professional negligence or misconduct that would substantially affect the integrity of the results of a forensic analysis conducted by an accredited laboratory, facility or entity, as required by the Commission's enabling statute. (TEX. COD. CRIM PROC. § 38.01, 38.35).

For unanswered questions regarding the toxicology work performed in connection with your daughter's autopsy, the forensic pathologists on the Commission expressed a consensus view that the best way to obtain an accurate answer is to speak directly with the forensic pathologist who performed the autopsy. If he does not reply your attempts to contact him, you may consider directing your inquiry to the Texas Medical Board, the National Association of Medical Examiners Ethics Committee, and/or the American Academy of Forensic Sciences Ethics Committee.

Please let us know if we can be of further assistance.

Sincerely,  


Leigh Tomlin  
Commission Coordinator

**Commission Office**

Lynn M. Robitaille  
*Commission General Counsel*

Leigh M. Tomlin  
*Commission Coordinator*

cc: FSC Members  
FSC General Counsel, Lynn Garcia

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Austin/NMS

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TEXAS FORENSIC SCIENCE COMMISSION

Justice Through Science

COMPLAINT DISPOSITION FORM

Complaint # #12-14 13-01? No 12-14 on table

Name/Subject of Complaint NMS Labs

- Complaint was dismissed based on the following factor(s) pursuant to §3.0(c) of the FSC policies and procedures:

The Complaint was unanimously dismissed by the FSC, because it falls outside the limited jurisdiction of the FSC. The complaint does not allege any negligence or misconduct affecting the integrity of the results of a forensic analysis in accordance with Texas Code of Criminal Procedure Section 38.01(4)(a)(3).

- Complaint was accepted and submitted for action by an Investigative Panel in accordance with §3.0(b) (2) and §4.0(a) of the FSC policies and procedures.

Investigation Panel Members:

Four horizontal lines for listing investigation panel members.

- Other such action was taken as appropriate and in accordance with §3.0(c) of the FSC policies and procedures.

Four horizontal lines for additional notes or actions.

**Final Disposition of ACCEPTED complaint**

In accordance with FSC policies and procedures §4.0(c), the Texas Forensic Science Commission found that:

- there was insufficient credible information to conclude that professional negligence or misconduct occurred in the forensic analysis.
- the forensic analysis met the standard of practice that an ordinary forensic analyst would have exercised at the time the analysis originally took place.
- there was clear and convincing evidence that professional negligence or misconduct occurred in the forensic analysis; or
- took such other action as appropriate and described below:

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- The FSC has made a final report available to the public on the FSC website and provided appropriate copies of the report as described in §4.0(e) of the FSC policies and procedures.

**As described in FSC policies and procedures §4.0(d), a finding is not a comment upon the guilt or innocence of any individual and is not necessarily a basis for relief in litigation or in any other forum. Any final report itself is not prima facie evidence of the information or findings contained in the report.**