

TEXAS FORENSIC SCIENCE COMMISSION

Justice Through Science

FINAL REPORT ON SELF-DISCLOSURE BY
TEXAS DEPARTMENT OF PUBLIC
SAFETY (AUSTIN) CONCERNING SEIZED
DRUG ANALYST TIMOTHY CORNELISEN

January 29, 2021



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I COMMISSION BACKGROUND

A. History and Mission of the Texas Forensic Science Commission

The Texas Forensic Science Commission (“Commission”) was created during the 79th Legislative Session in 2005 with the passage of HB-1068. The Act amended the Texas Code of Criminal Procedure to add Article 38.01, which describes the composition and authority of the Commission.¹ During subsequent legislative sessions, the Texas Legislature further amended the Code of Criminal Procedure to clarify and expand the Commission’s jurisdictional responsibilities and authority.²

Texas law requires the Commission to “investigate, in a timely manner, any allegation of professional negligence or professional misconduct that would substantially affect the integrity of the results of a forensic analysis conducted by a crime laboratory.”³ The law also requires the Commission to develop and implement a reporting system through which a crime laboratory must report professional negligence or professional misconduct and require crime laboratories that conduct forensic analyses to report professional negligence or professional misconduct to the Commission.⁴

The term “forensic analysis” is defined as a medical, chemical, toxicological, ballistic, or other expert examination or test performed on physical evidence, including DNA evidence, for the purpose of determining the connection of the evidence to a criminal action.⁵ The statute excludes certain types of analyses from the “forensic analysis” definition, such as latent fingerprint analysis,

¹ See, Act of May 30, 2005, 79th Leg., R.S., ch. 1224, § 1 (2005).

² See e.g., Acts 2013, 83rd Leg. ch. 782 (S.B. 1238) §§ 1-4 (2013); Acts 2015, 84th Leg. ch. 1276 (S.B. 1287) §§ 1-7 (2015); TEX. CODE CRIM. PROC. art 38.01 § 4-a(b).

³ TEX. CODE CRIM. PROC. art. 38.01 § 4(a)(3).

⁴ *Id.* at § 4(a)(1)-(2) (2019). Additionally, pursuant to the Forensic Analyst Licensing Program Code of Professional Responsibility, members of crime lab management shall make timely and full disclosure to the Texas Forensic Science Commission of any non-conformance that may rise to the level of professional negligence or professional misconduct. See, 37 Tex. Admin. Code § 651.219(c)(5) (2018).

⁵ TEX. CODE CRIM. PROC. art. § 38.35(a)(4).

a breath test specimen, and the portion of an autopsy conducted by a medical examiner or licensed physician.⁶ The statute does not define the terms “professional negligence” and “professional misconduct.” The Commission has defined those terms in its administrative rules.⁷

The Commission has nine members appointed by the Governor of Texas.⁸ Seven members are scientists or medical doctors and two are attorneys (one prosecutor nominated by the Texas District and County Attorney’s Association and one criminal defense attorney nominated by the Texas Criminal Defense Lawyer’s Association).⁹ The Commission’s Presiding Officer is Jeffrey Barnard, MD. Dr. Barnard is the Chief Medical Examiner of Dallas County and Director of the Southwestern Institute of Forensic Sciences in Dallas.

B. Investigative Process

The Commission’s administrative rules set forth the process by which it decides whether to accept a complaint or self-disclosure for investigation as well as the process used to conduct the investigation.¹⁰ The ultimate result is the issuance of a final report. The Commission’s administrative rules describe the process for appealing final investigative reports as well as any resulting disciplinary action against a license holder or applicant.¹¹

⁶ For complete list of statutory exclusions see TEX. CODE CRIM. PROC. art. 38.35 (a)(4)(A)-(F) and (f).

⁷ “Professional misconduct” means the forensic analyst or crime laboratory, through a material act or omission, deliberately failed to follow the standard of practice that an ordinary forensic analyst or crime laboratory would have followed, and the deliberate act or omission would substantially affect the integrity of the results of a forensic analysis. An act or omission was deliberate if the forensic analyst or crime laboratory was aware of and consciously disregarded an accepted standard of practice required for a forensic analysis. “Professional negligence” means the forensic analyst or crime laboratory, through a material act or omission, negligently failed to follow the standard of practice that an ordinary forensic analyst or crime laboratory would have followed, and the negligent act or omission would substantially affect the integrity of the results of a forensic analysis. An act or omission was negligent if the forensic analyst or crime laboratory should have been but was not aware of an accepted standard of practice. 37 Tex. Admin. Code § 651.302 (7) and (8) (2020).

⁸ TEX. CODE OF CRIM. PROC. art. 38.01 § 3.

⁹ *Id.*

¹⁰ *See*, 37 Tex. Admin. Code § 651.304-307 (2019).

¹¹ 37 Tex. Admin. Code § 651.309; *Id.* at § 651.216.

C. Accreditation and Licensing Jurisdiction

The Texas Code of Criminal Procedure prohibits forensic analysis from being admitted in criminal cases if the crime laboratory conducting the analysis is not accredited by the Commission.¹² The term “forensic analysis” is defined as follows:

“Forensic analysis” means a medical, chemical, toxicological, ballistic, or other expert examination or test performed on physical evidence, including DNA evidence, for the purpose of determining the connection of the evidence to a criminal action (except that the term does not include the portion of an autopsy conducted by a medical examiner or other forensic pathologist who is a licensed physician).¹³

The term “crime laboratory” includes a public or private laboratory or other entity that conducts a forensic analysis subject to this article.¹⁴

In addition to its crime laboratory accreditation authority, the 84th Texas Legislature expanded the Commission’s responsibilities by creating a forensic analyst licensing program that: (1) establishes the qualifications for a license; (2) sets fees for the issuance and renewal of a license; and (3) establishes the term of a forensic analyst license.¹⁵ The law also defines the term “forensic analyst” as “a person who on behalf of a crime laboratory [accredited by the Commission] technically reviews or performs a forensic analysis or draws conclusions from or interprets a forensic analysis for a court or crime laboratory.”¹⁶ The law further requires that any person who on behalf of a crime laboratory accredited by the Commission “technically reviews or performs a forensic analysis or draws conclusions from or interprets a forensic analysis for a court

¹² TEX. CODE CRIM. PROC. art. 38.35 § (d)(1).

¹³ *Id.* at art. 38.01 § 2(4).

¹⁴ *Id.* at art. 38.35 § (a)(1).

¹⁵ *Id.* at art. 38.01 § 4-a(d).

¹⁶ *Id.* at art. 38.01 § 4-a(a)(2).

or crime laboratory” must hold a forensic analyst license issued by the Commission, effective January 1, 2019.¹⁷

Pursuant to its licensing authority, the Commission may take disciplinary action against a license holder or applicant for a license on a determination by the Commission that a license holder or applicant for a license has committed professional misconduct or has violated Texas Code of Criminal Procedure Article 38.01 or an administrative rule or other order by the Commission.¹⁸ If the Commission determines a license holder has committed professional misconduct or has violated an administrative rule or order by the Commission, the Commission may, (1) revoke or suspend the person’s license; (2) refuse to renew the person’s license; (3) reprimand the license holder; or (4) deny the person a license.¹⁹ The Commission may place on probation a person whose license is suspended.²⁰ Disciplinary proceedings and the process for appealing a disciplinary action by the Commission are governed by the Judicial Branch Certification Commission.²¹

D. Jurisdiction Applicable to this Self-Disclosure

The forensic discipline at issue in this final investigative report is Seized Drugs—a forensic discipline subject to accreditation and licensing requirements by the Commission. The disclosing laboratory in this case, the Department of Public Safety Crime Laboratory Services – Austin Regional Laboratory (“DPS Austin”) is accredited by the Commission and the ANSI-ASQ National Accreditation Board (“ANAB”) under the International Organization for Standardization accreditation standard 17025 (“ISO”).²² The individual that is the subject of this final investigative

¹⁷ *Id.* at § 4-a(b).

¹⁸ TEX. CODE CRIM. PROC. art. 38.01 § 4-c; 37 Tex. Admin Code § 651.216(b) (2019).

¹⁹ *Id.* at 651.216(b)(1)-(4).

²⁰ *Id.* at (c).

²¹ TEX. CODE CRIM. PROC. art. 38.01 § 4-c(e); 37 Tex. Admin. Code § 651.216(d) (2019).

²² *See*, <http://www.txcourts.gov/fsc/accreditation/> for a list of accredited laboratories.

report, Timothy Cornelisen, is a forensic analyst license holder, licensed by the Commission as a Seized Drugs Analyst.

E. Limitations of this Report

The Commission's authority contains important statutory limitations. For example, no finding by the Commission constitutes a comment upon the guilt or innocence of any individual.²³ The Commission's written reports are not admissible in civil or criminal actions.²⁴ The Commission has no authority to subpoena documents or testimony. The information the Commission receives during any investigation is dependent on the willingness of stakeholders to submit relevant documents and respond to questions posed. The information gathered in this report has not been subject to the standards for admission of evidence in a courtroom. For example, no individual testified under oath, was limited by either the Texas or Federal Rules of Evidence (*e.g.*, against the admission of hearsay) or was subject to cross-examination under a judge's supervision.

II. BACKGROUND AND SUMMARY OF DISCLOSURE

A. Self-Disclosure and Investigative Decision by the Commission

This report contains observations and recommendations regarding an August 5, 2020 self-disclosure by DPS Austin, reporting an incident of misconduct by former seized drugs analyst Timothy Cornelisen. At its October 23, 2020 meeting, the Commission voted to form an investigative panel ("Panel") to assist the Commission in determining whether DPS's conclusion that Mr. Cornelisen committed misconduct is supported by the facts and circumstances of the incident and any available data or documentation. The Panel includes Mr. Mark Daniel, Esq., Jasmine Drake, Ph.D. and Sarah Kerrigan, Ph.D.

²³ TEX. CODE CRIM. PROC. art. 38.01 at § 4(g).

²⁴ *Id.* at § 11.

B. General Summary of Reported Incident

The self-disclosure describes two occasions where seized drugs analyst Timothy Cornelisen cheated when responding to assessments administered by DPS. Cornelisen began working at DPS in September 1, 2019. On October 3, 2019, he accessed his notes during a closed book examination. When confronted, Cornelisen maintained he was not cheating but rather forgot to close his notebook before the test began. DPS management concluded they had insufficient evidence to sustain a cheating allegation at that time. However, in January 2020, Cornelisen was caught and subsequently admitted to having copied answers from another trainee's exercise submission. He did this by going into a supervisor's work area, retrieving the other analyst's work product and copying her answers onto his own submission.

On May 8, 2020, the Office of Inspector General began an administrative investigation concerning the cheating allegations. The investigation consisted of a review of all the relevant documentation and interviews with the Seized Drug Section Supervisor Drew Fout, Seized Drug Analyst and Trainer Katy Suttle, Seized Drug Analyst and Trainees Nathan Sosa, Dominika Hulley-Buczny, Timothy Cornelisen, and other witnesses. The OIG sustained the cheating allegations. DPS terminated Cornelisen on August 4, 2020.

1. General Laboratory Training Quality Assurance Exam

On October 3, 2019, DPS administered the General Lab Training Quality Assurance Exam to the three new seized drugs trainees via email. The trainees had experienced this testing format previously without incident. They were instructed that it was a closed book exam both the day before the exam was administered and again on the day of the exam. The trainees were instructed to print out the completed test and leave it on Section Supervisor Drew Fout's desk. Fout was out of the office attending a meeting when the test was administered.

Katie Suttle, a seized drug analyst and trainer, returned to the laboratory after her lunch break on October 3, 2019, and observed Cornelisen shuffling papers underneath his desk while taking the exam. Suttle left the room and returned to confirm what she saw. She again observed him shuffling papers underneath his desk. Seized drug analyst Brittainy Koon was with Suttle at the time. Koon also observed Cornelisen in an awkward position leaning over the leg portion of his desk.

Suttle stayed in the room a few minutes to observe him. She then approached and asked what was under his feet. Cornelisen replied it was his notebook and that he did not have enough time to put the materials away before he started the test. (Tests are sent via email on a timed delivery as an attachment. The trainees know when it will be delivered and must open the email and the attachment before the test begins). Suttle asked Cornelisen for the notebook. Cornelisen closed the notebook and handed it to her. She was unable to see what page it was opened to while it was under his feet.

When Fout returned to the laboratory, Suttle informed him she had observed Cornelisen taking the test with a notebook open under his desk. Suttle reported that she confronted Cornelisen about the notebook, and he told her it was out because he did not have time to put it away before beginning the exam. Cornelisen denied looking at the notebook. Suttle gave the notebook to Fout. A review of the notebook revealed it contained notes regarding the Quality Assurance system, which was the subject of the exam.

Fout spoke to Cornelisen who stated he made a mistake by not putting the notebook away before the exam. Cornelisen denied looking at the notebook during the exam. Cornelisen stated that after Suttle confronted him, he deleted his exam and started over. Cornelisen denied cheating or using his notes during the exam. Fout returned the notebook to Cornelisen.

Fout then spoke with a member of laboratory management and they concluded there was insufficient proof of cheating, so Fout spoke with Cornelisen again, stressing the seriousness of the situation and reminding him that forensic analysts must avoid even the appearance of being unethical. Fout instructed him nothing like this could ever happen again. Cornelisen stated he understood the seriousness and assured Fout that nothing like this would happen again.

2. Seized Drug Extraction Exercise

After training in general laboratory policies and procedures ended, the trainees were placed under Suttle's supervision for drug chemistry training. As part of the trainees' preparation to be qualified for independent casework, Suttle administered a drug extraction exercise. On January 21, 2020, Suttle began grading the trainees' work in response to the exercise. Dominika Hulley-Buczny submitted her training exercise on January 17, 2020 by placing it in an inbox on Suttle's desk. Cornelisen submitted his exercise on January 20, 2020, which happened to be a holiday in observation of Martin Luther King Jr.'s birthday when most employees were not present in the laboratory. During the grading process, Suttle noticed that Hulley-Buczny and Cornelisen had the exact same answers on the exercise (including the exact same wrong answers).

Suttle informed Fout that two of the trainees' extraction exercises were virtually identical. Fout instructed Suttle to ask Hulley-Buczny and Cornelisen what happened.

Suttle met with the two trainees, laid the exercises out side-by-side, and asked for an explanation regarding why the answers were the same. Hulley-Buczny explained that she turned her exercise in on Friday the 17th. Cornelisen maintained he worked on his exercise independently on Monday the 20th. When asked if they worked together on the exercise, they both responded no. Suttle asked Hulley-Buczny if she had sent Cornelisen the exercise, and she stated she had not.

Suttle again asked how this occurred and Cornelisen stated he did not know. Suttle instructed the two to return to their desks.

Hulley-Buczny began looking at the papers on her desk because she sometimes kept copies of her exams to use as study material later. She asked Cornelisen where her paper was. Cornelisen told her he took it out of the basket on Suttle's desk. This admission was witnessed by trainee Nathan Sosa. Hulley-Buczny told Cornelisen to report this to Suttle.

Cornelisen then confessed to Suttle that he looked over Hulley-Buczny's exercise for help in responding to the difficult questions. The admission to Suttle was witnessed by Amy Arellano. At this point, Arellano stated that she had also seen Cornelisen looking at the papers under his desk during the October 2019 incident. Suttle asked Cornelisen to show her which answers he copied. Cornelisen pointed to a few answers at the end of the exercise. She asked again and he pointed out a few more copied items.

Cornelisen came back after a few minutes and apologized and attempted to explain his actions. He described his fear of being wrong. Cornelisen told Suttle that he had taken Hulley-Buczny's exercise out of the box on Suttle's desk. Suttle reminded him that they have discussed, multiple times, the importance of integrity in the field of forensic science. Suttle asked him if he had ever cheated in any other way, and Cornelisen said no. Cornelisen brought up the incident with the notebook during the QA exam. Cornelisen maintained that his eyes were closed and he was not looking at his notebook during the exam. They discussed the matter further, but Cornelisen did not admit looking at his notebook during the QA exam.

Suttle met with Fout again and informed him that Cornelisen confessed to copying responses from another trainees' exercise. They agreed that they were no longer comfortable with Cornelisen as a member of the section.

Fout met with Cornelisen who again admitted he had taken another trainees' exercise from Suttle's desk and copied some of the answers.

3. Timothy Cornelisen Interview with OIG

Cornelisen was served with a personnel complaint on May 8, 2020 and submitted a written response on May 12, 2020. He was also interviewed and recorded by an OIG investigator on May 28, 2020. He provided a written statement to the OIG on June 1, 2020.

In his written statement, Cornelisen described circumstances in his work environment he claimed contributed to his conduct in October 2019 and January 2020. He stated he was given the impression that he was "not their first choice" in a candidate and that Fout told him "he didn't think he was going to make it." Cornelisen claimed this pressure led to a lack of confidence.

Regarding the October 3, 2019 GLT exam, Cornelisen described spending additional time studying, frequently late into the night. He maintained that stress coupled with lack of sleep caused him to feel uncertain about his preparation. He felt if he performed badly it would lead to termination. Cornelisen maintained that he looked quickly over his notes minutes before the exam began. He knew it was a closed book exam. He stated he then "shoved his notebook under his desk" and turned his attention to beginning the exam. Cornelisen asserted that he made no attempt, nor did he think about cheating on the exam. When he was confronted by Suttle during the exam and she asked him what was under his desk, he told her it was his notebook. Cornelisen gave the notebook to her. Cornelisen suspected she thought he was cheating so he deleted the exam he had started and proceeded to start over with a new exam. Cornelisen acknowledged being counseled by Fout later that day and the next day.

After this incident, Cornelisen maintained he made a concerted effort to study after work, often late into the night. Cornelisen claimed once the training shifted away from general lab policy

and toward drug chemistry, he found it difficult to communicate with Suttle. He maintains his questions were met with demeaning responses by Suttle and she appeared “unreceptive to his learning style”. Cornelisen explained that even though he was told he could retake exams if he did not pass the first time, when he failed his first exam he was told by Suttle that it was unacceptable not to pass these exams and he needed to put in more work studying the applicable materials. He also received feedback from Fout emphasizing not passing the first time was unacceptable and he needed to improve.

Cornelisen claimed that between October 2019 and January 2020 he received limited feedback from his supervisor and trainer and generally lacked constructive direction. Cornelisen further described several instances before January 20, 2020 that allegedly contributed to his lapse in judgment. He described difficulty with a color test and his reluctance to seek assistance from Suttle. When he did have discussions with her, he claims she never expressed confidence in his ability to perform seized drug analysis.

By the time training shifted from the screening module to the extraction module at the end of the 2019 holiday season, Cornelisen had fallen behind the pace of his fellow trainees. He felt additional pressure and had difficulty sleeping at night which led him to struggle to stay on task. He claimed that on January 20, 2020, he decided to work the holiday to catch up on some exercises. Two other employees were in the lab that day. Cornelisen describes how, in an inexcusable lapse of judgment, he looked at the answers Hulley-Buczny’s exercise for a few of the more difficult questions.

Cornelisen acknowledged he was confronted by Suttle the next day. He initially told her he worked independently on the exercise, but eventually confessed that he looked at Hulley-

Buczny's exercise out of the box on her desk for a couple of the tougher questions. He showed Suttle the answers he looked at. He then apologized to Hulley-Buczny and Suttle.

Cornelisen concluded his written statement by reiterating his view that lack of confidence from his training team influenced the events of October 2019 and January 2020 significantly. According to him, an environment was created where "no matter how hard he worked or how much he tried to meet expectations," any successes he achieved were discounted.

C. Case Impact and Disclosure to Affected Parties

Because the analyst's actions occurred during new hire training, no criminal cases were affected and thus no legal disclosures were necessary.

III. COMMISSION INVESTIGATION

A. Panel Meeting

On December 7, 2020, the Panel and Commission staff reviewed the documents provided by DPS and the OIG including the disclosure, the OIG investigative report and witness statements. The Panel concluded the materials gathered during the OIG investigation were clearly sufficient to establish professional misconduct by the analyst. The Panel further observed that additional interviews were not needed and would not constitute a judicious use of state resources. Panel members instructed staff to seek additional information from DPS regarding what management believed were lessons learned from the incident, which DPS agreed to provide in the form of an after-action review including a list of corrective actions with respect to exam security.

B. Investigative Notice to Analyst and Interview Request

On November 20, 2020, the Commission notified the analyst that the self-disclosure was accepted for investigation. (*See, Exhibit A* Letter to Cornelisen.) He was invited to respond by December 21, 2020 but he did not respond to the request.

IV. OBSERVATIONS AND FINDINGS

A. Assessment Regarding Professional Misconduct

“Professional Misconduct” means the forensic analyst or crime laboratory, through a material act or omission, deliberately failed to follow a standard of practice that an ordinary forensic analyst or crime laboratory would have followed, and the deliberate act or omission would substantially affect the integrity of the results of a forensic analysis. An act or omission was deliberate if the forensic analyst or crime laboratory was aware of and consciously disregarded an accepted standard of practice.²⁵

The Commission finds Cornelisen’s decision to access his notes during a closed book exam in October 2019 and copy the answers of a fellow trainee during his January 2020 exercise, constitute professional misconduct. These acts of cheating “would substantially affect integrity of the results of a forensic analysis” as that phrase is defined by administrative rule. The phrase “would substantially affect the integrity of the results of a forensic analysis” does not necessarily require that a criminal case be impacted, or a report be issued to the customer in error.²⁶ The phrase includes acts that would call into question the integrity of the forensic analysis, *the forensic analyst*, or the crime laboratory as a whole.²⁷

The Commission finds the evidence sufficient to support a finding of professional misconduct given the materials and description of the incident provided by the laboratory and the OIG investigation. The Commission agrees with DPS’s conclusion that the analyst committed misconduct when he accessed his notes during a closed book exam and when he copied answers from another person during a seized drug extraction exercise.

²⁵ 37 Tex. Admin. Code § 651.302(7) (2020).

²⁶ 37 Tex. Admin. Code § 651.302(10) (2020).

²⁷ *See, Id.*

B. Code of Professional Responsibility

The Commission's administrative rules include a Code of Professional Responsibility for Forensic Analysts and Crime Laboratory Management designed to provide a framework for promoting integrity and respect for the scientific process and to encourage transparency in forensic analysis in Texas.²⁸

Cornelisen's lack of candor during the exams and when later confronted by management for cheating violates the Forensic Analyst Code of Professional Responsibility requirement that forensic analysts communicate honestly and fully with all parties.

C. Factors in Determining Possible Adverse Actions

Commission rules describe certain factors to be considered in determining possible adverse action against a forensic analyst license holder.²⁹ These include, inter alia, the seriousness of the violation, the prevalence of misconduct by the individual, the potential harm to the laboratory, and attempted concealment of the act by the individual. The rules also include a list of potential mitigating factors to consider in determining the severity of the disciplinary action, including, inter alia, candor in addressing the violation, including voluntary admissions of the misconduct and willingness to cooperate with the Commission.

Cornelisen's conduct was serious. He began cheating almost immediately after being hired by DPS, and he repeated his conduct even after being given the benefit of the doubt the first time and receiving clear counseling from his supervisor. Two cheating violations in less than four months is sufficient to constitute prevalent conduct. Cornelisen also attempted to conceal his actions by lying when confronted. He did not address the events with candor, and he has not cooperated with the Commission's investigation. DPS provided Cornelisen an opportunity for a

²⁸ *Id.* at § 651.219 (2019).

²⁹ 37 Tex. Admin. Code § 651.216(d) (2021).

clean start after the first incident where cheating was suspected but not proven. After the second incident, DPS terminated his employment. The Commission declines to give Cornelisen an opportunity to engage in similar conduct at another crime laboratory subject to the Commission's jurisdiction.

D. Disciplinary Action

Upon a finding of professional misconduct, the Commission may: revoke or suspend a person's license, refuse to renew a license, reprimand a license holder or deny a license application. The Commission finds the actions taken by Cornelisen merit license revocation, not only for the cheating incidents themselves but also for the associated lack of candor. While it is true that forensic analysts face a tremendous amount of pressure and stress due to the high volume of cases, adversarial legal system and critical nature of the work, the Commission finds Cornelisen's assertions that these pressures caused him to cheat unpersuasive.

E. Laboratory Corrective Actions

DPS conducted an "After-Action Review" of the cheating incidents and identified deficiencies in the laboratory's exam administration process. For example, at the time of this incident, tests were emailed and completed at a desk outside the trainer's view. Completed exercises were permitted to be placed on the trainer's desk even when the trainer was not present. The exercises sometimes remained accessible on the trainer's desk over weekends and/or holidays. DPS also recognized that trainees working at different paces face some pressure to "keep up" with each other. Additionally, the trainer's upcoming leave imposed a completion goal date for the training schedule that may have contributed to an overall sense of pressure to stay on schedule.

To address the exam security observations, DPS rearranged desks so the trainees would be within the trainer's line of site. Tests will be administered via flash drive on a computer located in

a separate room with no internet access. Exercises will be submitted to the trainer via email and test corrections will be completed on a separate document and turned in via email. Management is also in the process of conducting meetings with all trainees regarding integrity and its importance in the field of forensic science. These actions were implemented immediately in the Austin seized drugs section. DPS management is also considering extending them to the entire laboratory system. The Commission encourages DPS to follow through with these initiatives and to use this incident as a training tool for other analysts within the system, regardless of forensic discipline.

EXHIBIT A



TEXAS FORENSIC
SCIENCE COMMISSION

Justice Through Science

1700 North Congress Ave., Suite 445
Austin, Texas 78701

November 20, 2020

***Via email to tcornel517@gmail.com and
via Certified Mail, Return Receipt Requested No. 9214 8901 9403 8300 0026 1149 64***

Timothy Cornelisen
9801 Stonelake Boulevard
Apt 911
Austin, Texas 78759

Re: Texas Forensic Science Commission Laboratory Self-Disclosure No. 20.48 – Texas
Department of Public Safety – Austin (Seized Drugs); Requested Action by
December 21, 2020.

Dear Mr. Cornelisen:

At its October 23, 2020 quarterly meeting, commissioners voted to accept for investigation the referenced laboratory self-disclosure concerning incidents related to an examination and an extraction exercise at the Department of Public Safety's Austin laboratory. Specifically, the Commission will investigate the Department of Public Safety's determination that you committed professional misconduct relative to the incident described in the enclosed materials submitted to the Commission by the laboratory.

Pursuant to Code of Criminal Procedure, Article 38.01 §4, the Commission is required to investigate allegations of professional negligence or professional misconduct that would substantially affect the integrity of a forensic analysis conducted by an accredited crime laboratory and issue a written report on its findings.¹ Complaints and disclosures are investigated by an investigative panel of three or four Commissioners in preparation of a completed, written report.² Commissioners Dr. Sarah Kerrigan, Dr. Jasmine Drake, and Mr. Mark Daniel, Esq. are the members appointed to the investigative panel that will evaluate the allegations of professional misconduct made against you. Commission investigations may include collection and review of documents, case records, review by subject matter experts, interviews with individuals involved in the incident and other action as appropriate.³

Please be aware that the outcome of the Commission investigation may have an impact on your forensic analyst license. On a determination by the Commission that a license holder or applicant has committed professional misconduct, the Commission may (1) revoke or

¹ Tex. Code Crim. Proc. art 38.01 §4(a)(3) (2019); *Id.* At §4(b).

² 37 Tex. Admin. Code §651.304 (2018).

³ 37 Tex. Admin. Code §651.307 (2020).

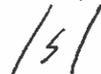
suspend the person's license; (2) refuse to renew the person's license; (3) reprimand the license holder; (4) deny the person a license; or (5) place the license holder on a probationary period.⁴

The investigative panel requests an opportunity to interview you with respect to the events and circumstances described in the enclosed laboratory disclosure. The Commission strongly encourages your input, especially if you disagree with the professional misconduct finding by the Department of Public Safety. Absent other information, the Commission may accept the laboratory's misconduct finding which may result in disciplinary action by the Commission, up to and including the revocation of your forensic analyst license. If you wish to respond in writing or otherwise, the Commission requests that you do so by **December 21, 2020**.

The Commission's investigative process may take several months to complete. A final written report will be published on the Commission's website at www.fsc.texas.gov after conclusion of the investigation. Any finding by the Commission that includes adverse action with regard to your forensic analyst license (e.g., a finding of misconduct that includes a revocation or suspension of your license) may be appealed to the Judicial Branch Certification Commission ("JBCC").⁵ A written request for a hearing before the JBCC must be received by the Commission or by the JBCC within twenty (20) days of the date you receive notice of the disciplinary action, or the Commission's decision becomes final and is not subject to further review by the JBCC or the Commission.⁶

To schedule an interview, you may reach me directly at (512) 936-0729 or via email at Robert.Smith@fsc.texas.gov. You may submit written responses to me electronically or via regular mail to the address on this letterhead. You may also address the investigative panel personally if you wish. If you would like to speak to the panel members, please let me know so I can provide you with meeting details and information to facilitate your appearance.

Sincerely,



Robert Smith
Staff Attorney

RS/mka
Encl.

⁴ 37 Tex. Admin. Code §651.216(b) (2019).

⁵ 37 Tex. Admin. Code §651.216 (2019).

⁶ 37 Tex. Admin. Code §651.216(e) (2019).