

TEXAS FORENSIC SCIENCE COMMISSION

Justice Through Science

FINAL REPORT ON SELF-DISCLOSURE BY
TEXAS DEPARTMENT OF PUBLIC SAFETY
(AUSTIN) CONCERNING MATERIALS
(TRACE) ANALYST KATRINA BATTLE

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 Commission is also required 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.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, a breath test specimen, and the portion of an autopsy conducted by a medical examiner or licensed

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).

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

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).

¹⁷ *Id.* at § 4-a(b).

Pursuant to its licensing authority, the Commission may take disciplinary action against a license holder or applicant on a determination that the individual has committed professional misconduct or violated Texas Code of Criminal Procedure Article 38.01 or an administrative rule or other order of 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 discussed in this final investigative report—Materials (Trace)—is subject to the accreditation and licensing authority of 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 Katrina Battle is the subject of this final investigative report. She was a licensed forensic analyst in Texas until December 3, 2020 at which point her license expired. She has not sought renewal of her license.

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.

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. SUMMARY OF SELF-DISCLOSURE

This report concerns a June 25, 2020 self-disclosure by DPS (Austin) describing misconduct by Katrina Battle, a former analyst in the materials (trace) section. At its July 24, 2020 quarterly meeting, the Commission voted to form an investigative panel ("Panel") to assist the Commission in determining whether DPS's conclusions are supported by the facts and circumstances, available data and related documentation. The Panel includes Patrick Buzzini, Ph.D., Mark Daniel, Esq., and Jarvis Parsons, Esq.

In December 2019, analyst Katrina Battle lost a questioned hair while transferring evidentiary items from a glass slide to a heat-sealed acetate sheet, a process commonly referred to as demounting. She did not document the loss of the questioned hair or report it to her supervisor at the time. Instead, she attempted to cover her mistake by renumbering evidentiary items to make it appear as if the lost hair never existed. When the supervising analyst first suspected a questioned

²³ *Id.* at § 4(g) (2019).

²⁴ *Id.* at § 11 (2019).

hair was indeed missing and questioned Battle about it, Battle provided nonsensical responses about what the supervising analyst observed and denied losing the hair.

The DPS Office of Inspector General (“OIG”) conducted an investigation and provided its results to the laboratory on May 18, 2020. DPS provided Commission staff with a copy of the OIG report and supporting materials. The OIG found the analyst improperly adjusted case documentation related to hair evidence and gave inconsistent statements when questioned about the incident. Battle was terminated by DPS on June 30, 2020.

DPS subsequently amended its self-disclosure to include observations regarding Battle’s actions after it became obvious to any reasonable observer that the questioned hair was lost. In light of the activities shown in the video footage of Battle’s work area as well as the various communications occurring that same day, DPS concluded that Battle removed a hair from the victim’s known standard and placed it onto the corner of a tape lift to make it appear as if the questioned hair had not been permanently lost but rather temporarily misplaced.

III. SELF-DISCLOSURE FACTS

A. Background

Katrina Battle was a materials (trace) analyst at DPS (Austin) for approximately five years. During that time, she received training in several sub-disciplines of trace, including filament analysis, paint analysis, impression analysis, physical match analysis and hair analysis. In the beginning of 2019, after completing a year-long training program, she began supervised casework in microscopical hair analysis. Supervised casework is the final step before an analyst is approved to perform independent casework.

B. June 2019-October 2019: Initial Microscopical Analysis

On June 11, 2019, Battle completed the microscopical analysis of hair evidence in a criminal case as part of her supervised casework. The questioned specimens consisted of 21 individual hairs recovered from a gas can. Battle mounted each of the 21 hairs on a slide with a semi-permanent

fixative. She compared the 21 questioned hairs to the known hair sample of the victim. For each hair, Battle generated a corresponding set of notes documenting her microscopical examination.

After finishing her analysis, Battle submitted the case for review to a more experienced analyst in Austin. However, before beginning the review, the assigned reviewer notified DPS of her intent to take personal leave. The case was reassigned to Jenny Lounsbury, an analyst who is authorized to perform technical and administrative review but works in the Houston Regional Laboratory. On October 8, 2019, Battle sent the case in question, including all physical evidence, to DPS Houston for Lounsbury's review.

As part of the routine process for supervised casework, Lounsbury provided feedback to Battle regarding her analytical observations and related conclusions. Lounsbury determined several of the questioned hairs did not have sufficient microscopic characteristics for comparison. Many of the hairs were short, dark and difficult to see through. An analyst must be able to see the internal features of a hair to perform a scientifically supportable comparison. If the hair is too dark and an analyst cannot see the internal features, the hair should be deemed unsuitable for comparison. Lounsbury provided feedback to Battle regarding the hairs Lounsbury believed were unsuitable for comparison. Battle was instructed to evaluate and consider this feedback. Lounsbury then returned the case, including all physical evidence, to DPS Austin. Of critical importance, Lounsbury retained a copy of Battle's original case notes.

C. December 4, 2019: Case Returned to Austin

Lounsbury returned the evidence to Austin on December 4, 2019. Battle was expected to review Lounsbury's feedback and either revise her assessment of the evidence or document her disagreement. Battle disagreed with Lounsbury's view that the comparison should be deemed "inconclusive" for a few of the hairs and opted to keep one of them on a slide for continued

discussion. For the remaining 20 hairs, Battle removed each hair from the slides in a process called demounting. The process involves removing the cover slip and using tweezers to extract the hair from the fixative. She then placed each hair into small individual heat-sealed acetate sheet pouches marked to correspond with the item number. Trace analysts often perform this task after finishing a microscopical comparison so the hairs are more readily accessible to analysts in the forensic biology section.

During the process of demounting the hairs, Battle lost Hair 16. She did not immediately report the lost hair to anyone. Instead, she removed the hair worksheet for Hair 16 and renumbered the remaining hairs. For example, the original Hair 17 became the new Hair 16 in the notes, and each item number continued to decrease by one for the remaining evidentiary items. She did not disclose her note revisions to Lounsbury or alert a supervisor regarding her decision to renumber the questioned hairs.

D. December 18, 2019: Case Sent Back to Houston for Second Review

On December 18, 2019, Battle sent the evidence back to Lounsbury for a second review. On January 7, 2020 Lounsbury began her review of the case. She noticed something did not seem right with the numbering of the questioned hairs and first thought a worksheet was missing. She sent Battle a message inquiring whether there was a missing worksheet. Battle responded that she would “have to figure out the other pages unless I miscounted when I went back and did the corrections.” Minutes later, Battle responded “Is there a Q21 in the actual envelope with the hairs? I don’t have anything else here so I may have updated the hair numbers, or I miscounted and got some stuff mixed up.” **(Exhibit A)**

After reviewing the file in more detail, Lounsbury sent Battle another message regarding the possibility of the questioned hair itself being lost. Battle responded by stating “I will have to make a note about it getting misplaced or possibly lost. I had a lot of stuff out in my space at one

time and it may have gotten thrown out by accident along with some non-casework stuff and the notes about it may have ended up in my shred pile.” Battle advised she would likely have to do a “QI” (quality incident) and she would ask her supervisor, Lyndsi De La Rosa. **(Exhibit B)**.

Battle’s response that it could be “misplaced or possibly lost,” was a significant red flag to Lounsbury. The laboratory has clear procedures to address significant events such as the loss of evidence. When an item is lost, analysts are expected to report the event to a supervisor immediately so a quality incident may be initiated and the customer notified.

Battle then sent Lounsbury another message stating “For the hair I can’t find I believe it is there but that I ended up moving it back to one of the tape lifts since it wasn’t used in the comparison. That is my thought. *I’m sure I did not lose it...*” **(Exhibit C)**. [emphasis added]

Lounsbury then conducted an in-depth review of Battle’s bench notes. She compared the notes she received in December to the copy of the original notes she retained from the October review. The notes each contained a magnified photograph of the hair described in the notes. Lounsbury noticed the root photograph for one of the questioned hairs was different between the two sets of notes. Upon further comparison of the photographs, Lounsbury realized the note page for the original Hair 16 was missing and the remaining evidence item numbers had been adjusted accordingly. Lounsbury scanned the relevant pages of the two sets of notes and e-mailed them to Battle for her review. Battle did not respond. **(See, Exhibit D- Original and Adjusted notes; January 7, 2020 Email from Lounsbury to Battle)**.

While Lounsbury was in the process of comparing the two sets of notes, Battle sent her a message stating she believed she had moved the missing hair back to one of the tape lifts since it was not deemed suitable for comparison. This explanation struck Lounsbury as odd considering there were other hairs not deemed suitable for comparison, but those hairs were placed in heat-

sealed bags. It is also not standard practice to place a hair back on a tape lift once it has been mounted on a slide.

Lounsbury searched the LIMS and discovered the description for the last evidentiary item in the list of 21 had been changed to “this item does not exist.” Lounsbury saw this as a “big red flag” because she knew the item existed when she conducted the first review. Indeed, it was recorded in the internal chain of custody as having been transferred between Austin and Houston during the initial review process. Moreover, the phrase “this item does not exist” is typically used when there is a simple data entry mistake. Lounsbury was confident Hair 21 did in fact exist and was not entered into the LIMS by mistake.

On January 8, 2020, Lounsbury examined the tape lifts in an attempt to ascertain whether Battle had placed the hair back onto one of them as she claimed. It did not appear to Lounsbury that the tape lifts had been manipulated (*i.e.*, it did not look like any corners were pulled up). However, Lounsbury acknowledged it was not possible to conclude with absolute certainty that Battle did not return the hair to one of the tape lifts based on a visual inspection.

On the same day, Battle and De La Rosa had a conversation during which Battle informed De La Rosa that a hair from the case might have been lost based on Lounsbury’s observation that she only had 20 of 21 hairs. De La Rosa instructed Battle to search her workspace area for the missing hair. De La Rosa did not take any further action that day due to the limited information Battle provided.

E. January 9, 2020: Houston Manager Alerts Austin Trace Supervisor

On January 9, 2020, DPS (Houston) laboratory manager Andrew Gardiner contacted De La Rosa to advise her of the discrepancies Lounsbury observed between the first and second review of the hair evidence and analysis. Gardiner supplied De La Rosa with an email containing Lounsbury’s review notes, case chronology, and a copy of Battle’s original and adjusted notes.

De La Rosa went back to Battle to discuss the incident further but did not mention she had reviewed the documentation from Houston. According to De La Rosa, some of Battle's statements were inconsistent and seemed unusual considering how evidence is typically handled. Battle seemed confident she had placed the hair back on one of the tape lifts. This concerned De La Rosa because that is not something normally done. Once the hair has been mounted on a slide, it would either remain on that slide or be demounted and packaged separately because the hair would need to be tracked after mounting. De La Rosa asked Battle why she put the hair back on the tape lift and Battle responded that she was not sure.

De La Rosa then obtained and viewed December 16, 2019 video footage from a security camera that captured the activities in Battle's workspace. The footage showed Battle demounting the hairs and packaging them in heat-sealed envelopes. At one point during the process, Battle put a hair down, got distracted by her phone, and upon returning her attention to the evidence began searching as if something had gone missing. According to De La Rosa, this observation caught her off guard because Battle had not reported a hair loss to her and there was no indication in her notes that a hair was lost.

De La Rosa asked Battle to provide a statement of the events so she could initiate a quality incident. **(Exhibit E- De La Rosa Email Requesting Statement)**. Battle emailed her a statement on January 14, 2020. **(Exhibit F- Battle Original Statement)**. The statement was inconsistent with the video footage. For instance, Battle's statement described a slide that had gone unnoticed under a package until all of the other slides had been demounted. There was no indication in the video footage that this occurred.

F. January 15, 2020: Battle Replaces Lost Questioned Hair with Victim Known

De La Rosa notified Battle that she wanted to be present when Battle reviewed the evidence upon its return from Houston. Battle acknowledged the email and they scheduled a time to look at the tape lifts on the afternoon of January 15, 2020. **(Exhibit E – De La Rosa email to Battle).**

When she arrived at the meeting, De La Rosa noticed the tape lifts were already out and appeared to have been examined. Battle immediately showed De La Rosa a tape lift with a loose corner that had a hair attached to it, claiming this was the missing hair. De La Rosa noticed the hair had debris on it, unlike the other hairs on the tape lift. She recalled Lounsbury's review of the tape lifts and observation that none of the tape lifts appeared to have been manipulated. In De La Rosa's view, Lounsbury would have easily flagged a tape lift in this condition had it been among the tape lifts she examined in Houston.

De La Rosa instructed Battle to re-examine the hair under a microscope. De La Rosa also examined it. Battle told De La Rosa that she did not have her notes anymore, so they accessed a copy retained by Lounsbury. According to De La Rosa, the hair had similar appearance to the descriptors listed in her notes for the hair in question, but there was debris on the hair that De La Rosa felt would not have been present if the hair had been previously mounted in the fixative, as the hair in question had been. In addition, the debris present on the hair was not observed on any other hairs on the tape lift. Ultimately, De La Rosa concluded the hair Battle presented as the lost hair was not the same hair as the one that was actually lost during the original demounting process.

De La Rosa also traced the audit trail in the LIMS and confirmed it was Battle who changed the description of Hair 21 to "This item does not exist."

De La Rosa then obtained video footage capturing what occurred at Battle's workstation before their meeting on January 15, 2020. The footage shows Battle conducting her own examination of the evidence before meeting with De La Rosa. The chain of custody indicates that Battle first accessed the evidence at approximately 10:51 that morning. The video footage shows

Battle opening the evidence directly on her desk without first laying down a sheet of white paper. She then took the following actions: (1) retrieved the tape lifts and quickly screened them; (2) pulled up notes on the computer including a photograph of the lost hair; (3) retrieved the victim's known hair standard; (4) cut off the end of the heat-sealed envelope containing the known hairs; (5) pulled something out of the envelope; (6) resealed the envelope and put it away; and (7) used tweezers to place an item on a tape lift containing questioned hairs. In sum, the most likely explanation for this series of events is that Battle retrieved a hair from the victim's known standard and placed it onto a tape lift containing questioned hair samples.

IV. BATTLE'S STATEMENTS TO OIG

Battle provided a written statement to the OIG dated April 10, 2020 (sworn April 15). (**Exhibit G – Battle Statement to OIG**). The OIG investigator assigned to the matter also conducted a series of telephone interviews with Battle on April 10, 2020 and April 16, 2020. These interviews were conducted after Battle was provided an opportunity to review the video surveillance footage. The OIG investigator did not review the video footage with her.

A. December 16, 2019: Loss of Questioned Hair and Subsequent Renumbering

On December 16, 2019, Battle began the process of demounting the hairs that had already been through the analysis and review process, and for which she and Lounsbury were in agreement about the most appropriate conclusion to report based on the characteristics observed. Materials (trace) analysts often demount hair evidence from slides after the analysis and review process is complete in order to make them more readily accessible for DNA testing. After demounting the hair from the slide, each individual hair is placed into a heat-sealed pouch. Battle decided to demount all but one of the slides (Hair 2). She reserved Hair 2 on a slide because she disagreed with Lounsbury's assessment that the hair exhibited insufficient characteristics for comparison and wanted Lounsbury to re-examine the slide.

Battle told the OIG that during the demounting process, she believes she temporarily misplaced the slide for Hair 16, either underneath a bag or "off to the side" where she did not see

it. She also maintained that she eventually found the slide for Hair 16 after all the other hairs had been demounted. She told the OIG she then “made a judgment call” to return Hair 16 back to one of the tape lifts, thereby removing it from the population of evidentiary items that had already been analyzed and reviewed. She did not document her decision to return Hair 16 to a tape lift instead of placing it in a heat-sealed pouch. Nor did she mark any of the tape lifts to indicate where she deposited Hair 16.

Battle claims she then adjusted the numbering of the remaining hairs to reflect her decision to return Hair 16 to a tape lift. She admitted to having shredded her original case notes that included her review of all 21 items. She defended this decision by claiming the shredding of notes was “common practice” among certain supervising analysts in the trace section. When the OIG pointed out this as a violation of the Crime Laboratory Service Manual, Battle acknowledged the language in the policy but maintained it was common practice and the “way she had been trained.”

When questioned about the video footage, Battle acknowledged she was looking for something but maintained it was something other than Hair 16. She did not provide a coherent explanation about what that something was. Battle also asserted there were times when she was out of view of the camera and it could have been during those moments when she discovered she accidentally skipped the slide for Hair 16. She explained that “she could have grabbed it and demounted it quickly” outside the view of the camera.

B. January 15, 2020: Case Returned from Houston

Battle admitted to having received an email from De La Rosa requesting a statement about the incident and that she be present when Battle reviewed the evidence returning from Houston. Battle supplied De La Rosa with a short statement but maintained she did not take De La Rosa’s request to be present as a direct order. Battle began to screen the tape lifts alone, ostensibly looking for Hair 16.

Battle attempted to rationalize her decision to open the known hair standard of the victim during her solo examination by claiming she was “pushing hair fragments that were on the edge

back up onto the tape lift.” She claimed she checked the known hair envelope to make sure she had placed everything on a tape lift and mistakenly opened some evidence that did not need to be opened because she misread the packaging. She further claimed the video shows her opening various containers for the purposes of re- sealing them because they did not appear to be well-sealed.

Battle claimed she was initially unable to locate Hair 16 on any of the questioned tape lifts, so she set up her workspace to prepare to look through them again once De La Rosa arrived. Battle maintained she was unable to find Hair 16 until she found it while reviewing the evidence with De La Rosa. This contradicted De La Rosa’s account that Battle already had the tape lift with the hair Battle claimed was Hair 16 out and ready to show De La Rosa when she arrived for the meeting. Battle claimed that during her joint screening with De La Rosa, she found the hair in question on a tape lift and showed it to De La Rosa under the microscope. De La Rosa disagreed this was the hair based on the microscopic characteristics, and informed Battle that Hair 16 should be reported missing.

V. CASE REVIEW AND LEGAL DISCLOSURES

On June 16, 2020, DPS notified the submitting law enforcement agency about the incident described in this report. DPS then determined that Battle had worked 114 cases in 49 counties during her tenure at DPS. The elected district attorney or a designee for each county received a notification with information about the cases Battle worked in the county during her tenure at DPS. DPS plans to follow up with each county by providing a copy of the Commission’s final report and offering to perform a re-examination of any case previously analyzed by Battle.

In addition to the analyst’s misconduct, the laboratory’s root cause analysis noted the process of utilizing an offsite mentor prohibited the mentor from performing direct observation of the analyst as she handled the hair evidence and made corrections to the notes. The laboratory system no longer allows the practice of off-site mentorship.

VI. COMMISSION INVESTIGATION

The Panel and Commission staff reviewed all documents provided by DPS and the OIG, including the initial disclosure, statements and recordings of the witnesses, video surveillance footage, and the results of the root cause analysis and corrective action submitted by DPS.

A. Investigative Notice to Analyst and Interview Request

The Commission notified Battle the self-disclosure was accepted for investigation on August 26, 2020. (See, **Exhibit H, Letter to Battle**). The letter extended Battle the opportunity to be interviewed but she declined.

DPS amended its original disclosure to add the January 15, 2020 incident regarding the suspected removal of a hair from the victim's known standard and the placement of the hair on the tape lift containing questioned hairs. On December 1, 2020, the Commission notified Battle of this amended disclosure. (See, **Exhibit I Letter to Battle**). She was asked to respond by January 8, 2021. Battle responded on January 4, 2020, and again declined to be interviewed.

B. Witness Interviews and Review of Video Footage

On September 25, 2020, Commissioner Patrick Buzzini, Ph.D. and Commission staff reviewed the video footage showing the activities at Battle's workstation on December 16 and 17, 2019 and January 15, 2020, with the assistance of De La Rosa. De La Rosa had previously constructed a timeline of events describing her observations on the video. (See, **Exhibit J De La Rosa Timelines**). The Commission finds the observations made by De La Rosa are supported by the depictions on the video footage. The Panel also conducted formal interviews with Lounsbury and De La Rosa on November 17, 2020.

VII. FINDINGS OF THE COMMISSION

A. Determination 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

1. Battle's Conduct on December 16, 2019

The Commission finds that on December 16, 2019, Battle lost a questioned hair (Hair 16) during the demounting process. The video footage depicting this is clear. The Commission finds that Battle failed to report the lost hair. Instead, she attempted to cover her mistake by renumbering exhibits and adjusting her notes.

Battle's explanation that she temporarily misplaced the slide for Hair 16 and recovered it shortly thereafter is not supported by the video. At no time during the video footage does she discover a slide as she stated to the OIG investigator. The notion that Battle found the slide, demounted the hair and placed it on a tape lift all out of view of the camera is simply not credible. Even if she had discovered the slide during the brief periods she is out of view, she is never seen returning with an item or demounting an item while the evidence and Xylene are out, or at any other time. Battle's explanation that she did all of this off camera and then unilaterally made a decision to remove Hair 16 from the population of analyzed and reviewed hairs to place it back on a tape lift is unpersuasive and contradicted by the available evidence.

The Commission finds Battle committed professional misconduct by failing to report the loss of Hair 16 and changing the underlying documentation in an attempt to conceal it.

2. Battle's Conduct on January 15, 2020

A review of the video evidence of Battle's conduct on January 15, 2020, is deeply disturbing. As noted above, on December 16, 2019, she lost a hair during the demounting process and renumbered questioned hair evidence in attempt to cover the loss. After Lounsbury realized the hair was lost during her review of the case in Houston, she returned the case to Austin,

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

including all physical evidence. De La Rosa specifically requested to be present when Battle accessed the returned evidence. “When the tape lifts get here for this case I would like to be present with you when you go through them to assess if the hair is there.” (See, **Exhibit E De La Rosa Email**). Instead of following this instruction, Battle accessed the evidence alone.

After reviewing all available information, including video footage, interviews with witnesses and case documentation, the Commission concludes that on January 15, 2020, Battle retrieved a hair from the victim’s known hair standard and placed it onto a questioned hair tape lift to make it appear as if Hair 16 had not been lost. The Commission finds Battle’s actions constitute professional misconduct.

B. Texas Code of Professional Responsibility for Forensic Analysts

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.²⁶

Battle’s conduct as described in this report violated numerous provisions of the Code. For example, analysts are expected to: 1) avoid tampering [with] evidentiary materials; 2) conduct thorough, fair and unbiased examinations; 3) make and retain full, contemporaneous, clear and accurate written records of all examinations; 4) base conclusions on procedures supported by sufficient data, not on outside influence; 5) present accurate and complete data in reports, oral and written presentations; 6) retain any record, item, or object related to a case, such as work notes, data, and peer or technical review; 7) communicate honestly and fully with all parties; 8) and document and notify management or quality assurance personnel of adverse events, such as an unintended mistake, or breach of ethical, legal, scientific standards, or questionable conduct”).²⁷ Battle failed to meet these expectations during the course of the events described in this report.

²⁶ *Id.* at §651.219 (2019).

²⁷ *See, Id.* at §651.219(4)(6)(7)(8)(12)(14)(15) and (16) (2019)

C. Observations Regarding Critical Role of Effective Documentation & Communication

The following four observations merit emphasis:

1. Note Retention. Lounsbury made a critically important decision in retaining a copy of Battle's notes from the first review of the case. Because she had a contemporaneous accounting of what Battle originally did, she was able to quickly compare the first list to the second and identify a problem not only with the reduction in number of items, but also with Battle's explanation of events.

During interviews, Battle stated that senior analysts in the trace section sometimes "shredded case notes." She presented this information as support for her decision to shred the original case notes here. The Panel asked De La Rosa about this assertion and learned that not all notes created during supervised casework are retained. When an analyst is still engaged in supervised casework, the notes containing the back-and-forth questions and answers between the supervising analyst and the trainee are sometimes shredded; the notes that are ultimately retained document the observations and conclusions that are agreed upon between supervising analyst and trainee.

While it is clear the specific context in which Battle shredded her notes described here would never be acceptable at DPS, the Commission remains concerned about the loss of any case documentation, even if the analyst is under supervision. This concern emanates from the fact that legal disclosure obligations in criminal cases do not distinguish between documents generated by an agent of the State who is still in supervised casework and one who is not. Indeed, the Texas Code of Professional Responsibility for Forensic Analysts and Crime Laboratory Management states that management should "maintain case retention and management policies and systems based on the presumption that there is potential evidentiary value for any information related to a

case, including work notes, analytical and validation data, and peer or technical review.”²⁸ The language is intentionally broad because it is difficult to anticipate what information may ultimately constitute an “exculpatory, impeachment or mitigating document, item or other information” subject to disclosure under Texas law.²⁹ Additionally, current accreditation standards require records to be created and maintained in a “permanent matter.” Thus, the question of how notes are preserved is both a legal question and a potential risk for an accreditation finding.

2. Photomicrographs. The photomicrographs of evidence included in the case record were essential to getting to the truth of what occurred. Because the photomicrographs showed the characteristics of the questioned hairs, Lounsbury and De La Rosa were able to compare the photomicrographs of the original Hair 16 to the one Battle later substituted on the tape lift. The importance of including photographic evidence in casework, especially for disciplines in which the strength of an association may be dependent on a visual comparison of certain characteristics, cannot be overstated.

3. Proactive Steps Taken by Management. It is clear from the record that DPS (Houston) Laboratory Manager Andrew Gardiner understood and appreciated the potential ramifications of the information Lounsbury brought to his attention. By quickly addressing it with De La Rosa and providing her the backup she needed to understand what was happening, Gardiner showed a thoughtful appreciation of his professional responsibilities as a manager and leader within the DPS system. Similarly, De La Rosa was extremely thorough in her investigation of the incident, leaving no stone unturned as she attempted to understand the events that occurred. De La Rosa should also be commended for her honesty and forthright evaluation of a difficult situation in her explanation of events to DPS upper management and the OIG. At no point did she attempt to downplay or minimize the seriousness of the situation or its potential ramifications.

²⁸ Tex. Admin. Code §651.219(c)(3) (2020)

²⁹ TEX. CODE CRIM. PROC. art. 39.14(h)

4. Remote Supervision. Finally, DPS has already suspended the practice of allowing an analyst to be mentored by a more senior analyst assigned to a different location within the system. While that decision is understandable given the facts of this case, the Commission recognizes that there may be certain elements of casework, such as data interpretation, that are appropriate for interlaboratory collaboration. Indeed, there are circumstances where such collaboration may be not only permissible but desirable.

VIII. RECOMMENDATIONS

- Evaluate internal practices with respect to the retention of notes in the context of supervised casework in the Materials (Trace) discipline and other disciplines across the laboratory system. Consider whether any adjustments need to be made to mitigate the risk of lost information.
- Evaluate which disciplines currently require photographic documentation and in what contexts. Consider expanding the Materials (Trace) requirement for photographic recordkeeping to any discipline for which visual observations are a critical component of the analytical result. This includes chemistry disciplines where one or more component of the analytical scheme includes an observation of characteristics or patterns that are inherently ephemeral.
- Provide a copy of this investigative report to the prosecutors previously contacted who had cases analyzed by Battle. This will ensure they have a full understanding of the facts and circumstances and can make an informed decision about whether any of the cases merit re-analysis as well as meet any disclosure obligations under Texas law.
- Consider establishing criteria for the types of activities that are appropriate for remote supervision and those that are not, and provide guidance throughout the system to assist managers with planning and training options.
- Finally, Commission staff will contact the Texas Association of Crime Laboratory Directors to recommend the organization survey the extent to which video recording is used in laboratories, and to consider the pros and cons of installing video recording systems not only as part of laboratory security in general but also to document work performed at the bench. The discussion is not intended to be punitive but rather represents one approach to mitigating risk.

EXHIBIT A

Tuesday, January 07, 2020

9:34 AM

JL

FYI - i'm working on your cases now. did you want Dev or Mack to tech review them too? or wanna keep that in-house?

10:01 AM

JL

also i seem to be missing a hair worksheet for Q21 (05-03-AE-21). 05-03-AA-20 is listed as page 27 and that's what you have on the front page of your notes, so i'm thinking it either didn't print for whatever reason or it got mixed up in another pile of papers

so i should have 28 pages total

10:12 AM

JL

also, on first review, i have four Q hairs that we disagree on - your email on 12/17 states only 2. do you happen to remember which two?

10:18 AM

JL

05-03-AA-01, 05-03-AE-02, 05-03-AE-16, and 05-03-AA-19 are the four that i have us still disagreeing on

Battle, Katrina 10:51 AM

KB

There were two others that I agreed with you at the end when I went back and looked at them that is why I didn't note them

Battle, Katrina 10:52 AM

KB

I will have to figure out the other pages unless I miscounted when I went back and did the corrections

10:52 AM

JL

ah - then the notes i have aren't updated accordingly

10:53 AM

JL

yea it's wierd. i check the other sets of notes you sent just in case that other page got mixed up with them, but it's not there either

*checked

Battle, Katrina 10:55 AM

KB

Okay I will look at that and then go back and correct that number then. The review doesn't matter it may be better to do it there since I don't really have anyone here to do it other than Kiersten and she is doing fiber training and casework

10:56 AM

JL

okay cool. i'll let Dev or mack know

Battle, Katrina 11:01 AM

KB

is there a Q 21 in the actual envelope with the hairs? I don't have anything else here so I think I may have updated the hair numbers or I miscounted and got some stuff mixed up (mind you it's been a little minute and I have been working on some other stuff). I think I messed up somewhere I don't have those papers or hairs in my workspace.

EXHIBIT B

11:07 AM

JL

ok - let me look at the evidence for aus-1712-23312 real quick so that can be done and then i'll look at that case

Battle, Katrina 11:08 AM

KB

Okay.

3:16 PM

JL

soooo i'm looking at the evidence, and i don't see 05-03-AA-21 anywhere - there's not even an empty heat sealed baggie for it. that is also the hair i'm missing the hair worksheet for

3:17 PM

JL

i check the box with the known slides in it to see if it got tucked in there, and it's not. i've also checked my work area and i don't have it. only thing i haven't opened yet is 05-03 itself

Battle, Katrina 3:20 PM

KB

it shouldn't be in 05-03. I will have to make a note about it getting misplaced or possibly lost. I had a lot of stuff out in my space at one time and it may have gotten thrown out by accident along with some non casework stuff and the notes about it may have ended up in my shred pile. I had a lot going on before the holidays. That is the only thing I can think of right now

3:52 PM

JL

i guess we should start a QI? or ask lyndsi?

Battle, Katrina 3:53 PM

KB

We will likely have to do one but I will ask her before we do anything.

3:55 PM

JL

okay sounds good.

also, i still disagree with those two hairs, but i do kinda see what you were thinking. so i was thinking we should cat 3 those

thoughts?

Battle, Katrina 4:04 PM

KB

I was going to ask if a cat 3 would be appropriate for those

Battle, Katrina 4:05 PM

KB

For the hair that I can't find I believe it is there but that I ended up moving it back to one of the tapelifts since it wasn't used in the comparison. That is my thought. I'm sure I did not lose it or that it was packaged elsewhere. i can try and find it based on the notes that you have for it but I think the ones I had ended up being shredded in my discard pile when I had multiple things out at once.

4:09 PM

JL

i think so - there are similarities, but there are also unexplainable differences. the other option is to mount more known hairs to see if there is a K that is truly similar

EXHIBIT C

Battle, Katrina 3:53 PM

KB

We will likely have to do one but I will ask her before we do anything.

3:55 PM

JL

okay sounds good.

also, i still disagree with those two hairs, but i do kinda see what you were thinking. so i was thinking we should cat 3 those

thoughts?

Battle, Katrina 4:04 PM

KB

I was going to ask if a cat 3 would be appropriate for those

Battle, Katrina 4:05 PM

KB

For the hair that I can't find I believe it is there but that I ended up moving it back to one of the tapelifts since it wasn't used in the comparison. That is my thought. I'm sure I did not lose it or that it was packaged elsewhere. i can try and find it based on the notes that you have for it but I think the ones I had ended up being shredded in my discard pile when I had multiple things out at once.

4:09 PM

JL

i think so - there are similarities, but there are also unexplainable differences. the other option is to mount more known hairs to see if there is a K that is truly similar

EXHIBIT D

Battle, Katrina

From: Lounsbury, Jenny
Sent: Tuesday, January 07, 2020 4:31 PM
To: Battle, Katrina
Subject: notes
Attachments: current notes.pdf; previous notes.pdf

So it looks like 05-03-AE-16 is the problem child – somehow, between the notes you gave me originally and the notes I have now, 05-03-AE-17 became 16 – and the notes for 16 are missing... I've attached the relevant pages for your review.

Jenny

*EMAIL FROM JENNY LOUNSBURY
NOTING THAT SHE BELIEVED
TO BE MISSING.*



TEXAS DEPARTMENT OF PUBLIC SAFETY
CRIME LABORATORY

Mounting Media Permout
Magnification 100x-200x

Lab Case # AUS-1810-22260
Analyst KNB

Hair Examination

LAB-404 Rev.00 (04/2019) p.1 Issued by: QAC

Date Started 05.30.19
Date Completed 06.11.19
Page Number _____

Item	Source	Transfer Original	Identity (Human/Animal, Racial, Somatic)	Color	Number of Hairs	Length	Morphology (Medulla, Root, Tip, etc.)
05-03-AE-16	Gas can	T	Human Head Negroid	Dark brown	1	~ 7/8"	<p>Root: Anagen phase; distorted morphology; moderate-dense pigment density; clumpy pigment aggregate shape; dark brown</p> <p>Proximal: Fine-moderate diameter (some variation observed); dark brown (nearly opaque in some areas); dense-very dense pigment density; peripheral pigment distribution (toward the cuticle with areas of dense pigmentation hair appears darker); clumpy pigment aggregate shape; continuous opaque medulla (difficult to see in some areas due to dense pigmentation); thin cuticle; possible tissue present; dark colored debris present</p> <p>Medial: Moderate-fine-moderate diameter (some variation observed); dark brown (nearly opaque in some areas); dense-very dense pigment density; peripheral pigment distribution (toward the cuticle with areas of dense pigmentation and hair appears darker); clumpy pigment aggregate shape; continuous opaque medulla; thin cuticle</p> <p>Distal: Moderate diameter (little/no variation observed); dark brown; dense pigment density; peripheral pigment distribution (toward the cuticle with areas of dense pigmentation and hair appears darker); clumpy pigment aggregate shape; absent medulla; thin cuticle; rounded end</p>

Notes/Conclusions: (05-03-AE-16) is microscopically similar in visual color, pigment distribution, and pigment aggregate shape to the head hair standard from the victim (05-04-AB).

Questioned: **05-03-AE-16**
Comparison to known: **05-04-AB**

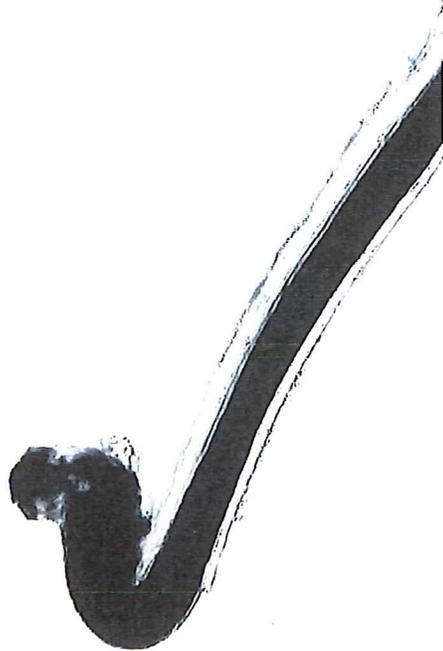
Microscopically similar:

Inconclusive (similarities/differences): _____

Verification: Yes No

Performed by: _____

Performed on: _____



05-03-AE-16 root
Magnification: 200x



TEXAS DEPARTMENT OF PUBLIC SAFETY
CRIME LABORATORY

Mounting Media Permout
Magnification 100x-200x

Lab Case # AUS-1810-22260
Analyst KNB

Hair Examination

LAB-404 Rev.00 (04/2019) p.1 Issued by: QAC

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Item	Source	Transfer Original	Identity (Human/Animal, Racial, Somatic)	Color	Number of Hairs	Length	Morphology (Medulla, Root, Tip, etc.)
05-03-AE-17	Gas can	T	Human Head Negroid	Dark brown	1	~1 1/8"	<p>Root: Anagen phase; distorted morphology; dense-very dense pigment density; clumpy pigment aggregate shape; dark brown (nearly opaque); possible follicular tissue present</p> <p>Proximal: Fine-moderate diameter (some variation observed); dark brown (nearly opaque-opaque in some areas); dense-very dense pigment density; peripheral pigment distribution (toward the cuticle with areas of dense pigmentation hair appears darker); clumpy pigment aggregate shape; absent medulla; thin cuticle; possible tissue present; dark colored debris present</p> <p>Medial: Moderate-fine-moderate diameter (some variation observed); dark brown (nearly opaque in some areas); dense-very dense pigment density; peripheral pigment distribution (toward the cuticle with areas of dense pigmentation and hair appears darker); clumpy pigment aggregate shape; trace/fragmentary opaque medulla; thin cuticle; possible damage observed</p> <p>Distal: Fine-moderate diameter (some variation observed); dark brown; dense pigment density; peripheral pigment distribution (toward the cuticle with areas of dense pigmentation and hair appears darker); clumpy pigment aggregate shape; dense pigment aggregate shape; absent medulla; thin cuticle; rounded end</p>

Notes/Conclusions: (05-03-AE-17) is microscopically similar in visual color, pigment distribution, and pigment aggregate shape to the head hair standard from the victim (05-04-AB).

Questioned: **05-03-AE-17**
Comparison to known: **05-04-AB**

Microscopically similar: Yes No
Inconclusive (similarities/differences):

Verification: Yes No

Performed by: _____
Performed on: _____



05-03-AE-17 root
Magnification: 200x



TEXAS DEPARTMENT OF PUBLIC SAFETY
CRIME LABORATORY

Mounting Media Permout
Magnification 100x-200x

Lab Case # AUS-1810-22260
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Date Started 05.30.19

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Page Number _____

Item	Source	Transfer Original	Identity (Human/Animal, Racial, Somatic)	Color	Number of Hairs	Length	Morphology (Medulla, Root, Tip, etc.)
05-03-AE-18	Gas can	T	Human Head Negroid	Dark brown	1	~ 5/8"	<p>Root: Anagen phase; distorted morphology; dense-very dense pigment density; clumpy pigment aggregate shape; dark brown (opaque)</p> <p>Proximal: Moderate diameter (little/no variation observed); dark brown (nearly opaque in some areas); dense-very dense pigment density; peripheral pigment distribution (toward the cuticle with areas of dense pigmentation hair appears darker); clumpy pigment aggregate shape; absent medulla; thin cuticle; possible tissue present; dark colored debris present</p> <p>Medial: Moderate diameter (little/no variation observed); dark brown (nearly opaque in some areas); dense-very dense pigment density; peripheral pigment distribution (toward the cuticle with areas of dense pigmentation and hair appears darker); clumpy pigment aggregate shape; absent medulla; thin cuticle</p> <p>Distal: Moderate diameter (little/no variation observed); dark brown (nearly opaque in some areas); dense-very dense pigment density; peripheral pigment distribution (toward the cuticle with areas of dense pigmentation and hair appears darker); clumpy pigment aggregate shape; absent medulla; thin cuticle; square end</p>

Notes/Conclusions: (05-03-AE-18) is microscopically similar in visual color, pigment distribution, and pigment aggregate shape to the head hair standard from the victim (05-04-AB).

Questioned: **05-03-AE-18**
Comparison to known: **05-04-AB**

Microscopically similar:

Inconclusive (similarities/differences):

Verification: Yes No

Performed by: _____

Performed on: _____



05-03-AE-18 root
Magnification: 200x



TEXAS DEPARTMENT OF PUBLIC SAFETY
CRIME LABORATORY

Mounting Media Permount
Magnification 100x-200x

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Page Number _____

Item	Source	Transfer Original	Identity (Human/Animal, Racial, Somatic)	Color	Number of Hairs	Length	Morphology (Medulla, Root, Tip, etc.)
05-03-AE-19	Gas can	T	Human Head Negroid	Dark brown	1	~ 1 1/16"	<p>Root: Anagen phase; distorted morphology; dense-very dense pigment density; clumpy pigment aggregate shape; dark brown (nearly opaque); possible follicular tissue present</p> <p>Proximal: Fine-moderate diameter (some variation observed); dark brown (nearly opaque in some areas); dense-very dense pigment density; peripheral pigment distribution (toward the cuticle with areas of dense pigmentation hair appears darker); clumpy pigment aggregate shape; continuous opaque medulla; thin cuticle</p> <p>Medial: Moderate-fine-moderate diameter (some variation observed); dark brown (nearly opaque-opaque in some areas); dense-very dense pigment density; peripheral pigment distribution (toward the cuticle with areas of dense pigmentation and hair appears darker); clumpy pigment aggregate shape; slight buckling; continuous opaque medulla; thin cuticle</p> <p>Distal: Fine-moderate diameter (some variation observed); dark brown; dense pigment density; peripheral pigment distribution (toward the cuticle with areas of dense pigmentation and hair appears darker); clumpy pigment aggregate shape; continuous opaque medulla; thin cuticle; broken end</p>

Notes/Conclusions: (05-03-AE-19) is microscopically similar in visual color, pigment distribution, and pigment aggregate shape to the head hair standard from the victim (05-04-AB).

Questioned: **05-03-AE-19**
Comparison to known: **05-04-AB**

Microscopically similar:

Inconclusive (similarities/differences):

Verification: Yes No

Performed by: _____

Performed on: _____



05-03-AE-19 root
Magnification: 200x



TEXAS DEPARTMENT OF PUBLIC SAFETY
CRIME LABORATORY

Mounting Media Permount Lab Case # AUS-1810-22260
Magnification 100x-200x Analyst KNB

Hair Examination

LAB-404 Rev.00 (04/2019) p.1 Issued by: QAC

Date Started 05.30.19
Date Completed 06.11.19
Page Number _____

Item	Source	Transfer Original	Identity (Human/Animal, Racial, Somatic)	Color	Number of Hairs	Length	Morphology (Medulla, Root, Tip, etc.)
05-03-AE-20	Gas can	T	Human Head Negroid	Dark brown	1	~ 13/16"	<p>Root: Anagen phase; distorted morphology; dense-very dense pigment density; clumpy pigment aggregate shape; dark brown (nearly opaque); dark colored debris present</p> <p>Proximal: Fine-moderate diameter (some variation observed); dark brown; dense pigment density; peripheral pigment distribution (toward the cuticle with areas of dense pigmentation hair appears darker); clumpy pigment aggregate shape; absent medulla; thin cuticle; possible tissue present</p> <p>Medial: Moderate-fine-moderate diameter (some variation observed); dark brown; dense pigment density; peripheral pigment distribution (toward the cuticle with areas of dense pigmentation and hair appears darker); clumpy pigment aggregate shape; absent medulla; thin cuticle</p> <p>Distal: Moderate diameter (little/no variation observed); dark brown; dense pigment density; peripheral pigment distribution (toward the cuticle with areas of dense pigmentation and hair appears darker); clumpy pigment aggregate shape; absent medulla; thin cuticle; square/rounded end</p>

Notes/Conclusions: (05-03-AE-20) is microscopically similar in visual color, pigment distribution, and pigment aggregate shape to the head hair standard from the victim (05-04-AB).

Questioned: 05-03-AE-20
Comparison to known: 05-04-AB

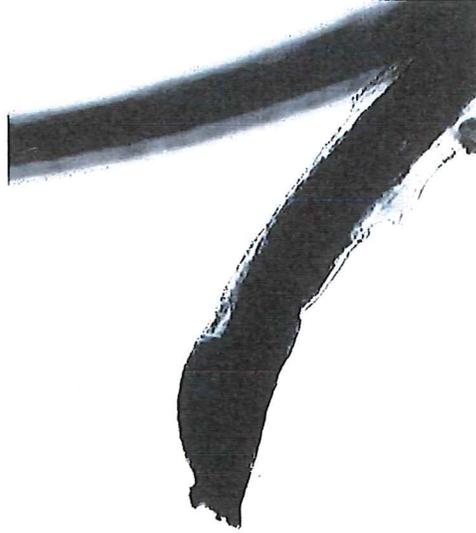
Microscopically similar:

Inconclusive (similarities/differences): _____

Verification: Yes No

Performed by: _____

Performed on: _____



05-03-AE-20 root
Magnification: 200x



TEXAS DEPARTMENT OF PUBLIC SAFETY
CRIME LABORATORY

Mounting Media Permount
Magnification 100x-200x

Lab Case # AUS-1810-22260
Analyst KNB

Hair Examination

LAB-404 Rev.00 (04/2019) p.1 Issued by: QAC

Date Started 05.30.19
Date Completed 06.11.19
Page Number _____

Item	Source	Transfer Original	Identity (Human/Animal, Racial, Somatic)	Color	Number of Hairs	Length	Morphology (Medulla, Root, Tip, etc.)
05-03-AE-21	Gas can	T	Human Head Negroid	Dark brown	1	~ 1/2"	<p>Root: Anagen phase; distorted morphology; moderate-dense pigment density; clumpy pigment aggregate shape; dark brown; dark colored debris present</p> <p>Proximal: Moderate diameter (little/no variation observed); dark brown; dense pigment density; peripheral pigment distribution (toward the cuticle with areas of dense pigmentation hair appears darker); clumpy pigment aggregate shape; absent medulla; thin cuticle; possible tissue present</p> <p>Medial: Moderate-fine-moderate diameter (some variation observed); dark brown; dense pigment density; peripheral pigment distribution (toward the cuticle with areas of dense pigmentation and hair appears darker); clumpy pigment aggregate shape; absent medulla; thin cuticle</p> <p>Distal: Moderate diameter (little/no variation observed); dark brown; dense pigment density; peripheral pigment distribution (toward the cuticle with areas of dense pigmentation and hair appears darker); clumpy pigment aggregate shape; absent medulla; thin cuticle; broken end</p>

Notes/Conclusions: (05-03-AE-21) is microscopically similar in visual color, pigment distribution, and pigment aggregate shape to the head hair standard from the victim (05-04-AB).

Questioned: **05-03-AE-21**
Comparison to known: **05-04-AB**

Microscopically similar:

Inconclusive (similarities/differences): _____

Verification: Yes No

Performed by: _____

Performed on: _____



05-03-AE-21 root
Magnification: 200x

TEXAS DEPARTMENT OF PUBLIC SAFETY
CRIME LABORATORY

Mounting Media Permount
Magnification 100x-200x

Lab Case # AUS-1810-22260
Analyst KNB
Date Started 05.30.19
Date Completed 12.09.19
Page Number 23

Hair Examination

LAB-404 Rev.00 (04/2019) p.1 Issued by: QAC

Item	Source	Transfer Original	Identity (Human/Animal, Racial, Somatic)	Color	Number of Hairs	Length	Morphology (Medulla, Root, Tip, etc.)
05-03-AE-16	Gas can	T	Human Head Negroid	Dark brown	1	~1 1/8"	<p>Root: Anagen phase; distorted morphology; dense-very dense pigment density; clumpy pigment aggregate shape; dark brown (nearly opaque); possible follicular tissue present</p> <p>Proximal: Fine-moderate diameter (some variation observed); dark brown (nearly opaque-opaque in some areas); dense-very dense pigment density; peripheral pigment distribution (toward the cuticle with areas of dense pigmentation hair appears darker); clumpy pigment aggregate shape; absent medulla; moderate-thick cuticle; possible tissue present; dark colored debris present</p> <p>Medial: Moderate-fine-moderate diameter (some variation observed); dark brown (nearly opaque in some areas); dense-very dense pigment density; peripheral pigment distribution (toward the cuticle with areas of dense pigmentation and hair appears darker); clumpy pigment aggregate shape; trace/fragmentary opaque medulla; moderate-thick cuticle; possible damage observed</p> <p>Distal: Fine-moderate diameter (some variation observed); dark brown; dense pigment density; peripheral pigment distribution (toward the cuticle with areas of dense pigmentation and hair appears darker); clumpy pigment aggregate shape; absent medulla; moderate-thick cuticle; rounded end</p>

Notes/Conclusions: (05-03-AE-16) is microscopically similar in visual color, pigment distribution, and pigment aggregate shape to the head hair standard from the victim (05-04-AB)

Questioned: **05-03-AE-16**
Comparison to known: **05-04-AB**

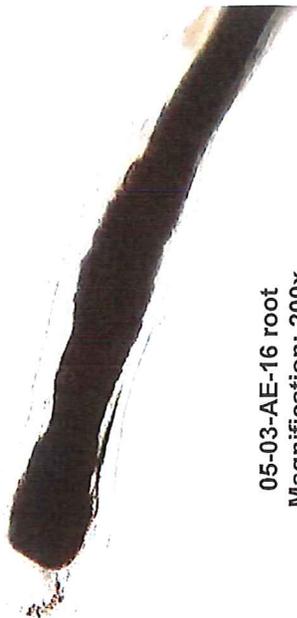
Microscopically similar:

Inconclusive (similarities/differences):

Verification: Yes No

Performed by: _____

Performed on: _____



05-03-AE-16 root
Magnification: 200x



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CRIME LABORATORY

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Mounting Media Permount

Lab Case # AUS-1810-22260

Magnification 100x-200x

Analyst KNB

Date Started 05.30.19

Date Completed 12.09.19

Page Number 24

Item	Source	Transfer Original	Identity (Human/Animal, Racial, Somatic)	Color	Number of Hairs	Length	Morphology (Medulla, Root, Tip, etc.)
05-03-AE-17	Gas can	T	Human Head Negroid	Dark brown	1	~ 5/8"	<p>Root: Anagen phase; distorted morphology; dense-very dense pigment density; clumpy pigment aggregate shape; dark brown (nearly opaque); possible follicular tissue present</p> <p>Proximal: Fine-moderate diameter (some variation observed); dark brown (nearly opaque-opaque in some areas); dense-very dense pigment density; peripheral pigment distribution (toward the cuticle with areas of dense pigmentation hair appears darker); clumpy pigment aggregate shape; absent medulla; moderate-thick cuticle; possible tissue present; dark colored debris present</p> <p>Medial: Moderate-fine-moderate diameter (some variation observed); dark brown (nearly opaque in some areas); dense-very dense pigment density; peripheral pigment distribution (toward the cuticle with areas of dense pigmentation and hair appears darker); clumpy pigment aggregate shape; trace/fragmentary opaque medulla; moderate-thick cuticle; possible damage observed</p> <p>Distal: Fine-moderate diameter (some variation observed); dark brown; dense pigment density; peripheral pigment distribution (toward the cuticle with areas of dense pigmentation and hair appears darker); clumpy pigment aggregate shape; rounded end absent medulla; moderate-thick cuticle; rounded end</p>

Notes/Conclusions: (05-03-AE-17) is macroscopically similar in visual color to the head hair standard from the victim (05-04-AB). However, unable to perform further comparisons due to the pigment density (mostly opaque along length) and/or length (too short for comparison of observable features).



05-03-AE-17 root
Magnification: 200x



TEXAS DEPARTMENT OF PUBLIC SAFETY
CRIME LABORATORY

Hair Examination

LAB-404 Rev.00 (04/2019) p.1 Issued by: QAC

Mounting Media Permout

Lab Case # AUS-1810-22260

Magnification 100x-200x

Analyst KNB

Date Started 05.30.19

Date Completed 12.09.19

Page Number 25

Item	Source	Transfer Original	Identity (Human/Animal, Racial, Somatic)	Color	Number of Hairs	Length	Morphology (Medulla, Root, Tip, etc.)
05-03-AE-18	Gas can	T	Human Head Negroid	Dark brown	1	~ 1 ¹ / ₁₆ "	<p>Root: Anagen phase; distorted morphology; dense-very dense pigment density; clumpy pigment aggregate shape; dark brown (nearly opaque); possible follicular tissue present</p> <p>Proximal: Fine-moderate diameter (some variation observed); dark brown (nearly opaque in some areas); dense-very dense pigment density; peripheral pigment distribution (toward the cuticle with areas of dense pigmentation hair appears darker); clumpy pigment aggregate shape; continuous opaque medulla; moderate-thick cuticle</p> <p>Medial: Moderate-fine-moderate diameter (some variation observed); dark brown (nearly opaque-opaque in some areas); dense-very dense pigment density; peripheral pigment distribution (toward the cuticle with areas of dense pigmentation and hair appears darker); clumpy pigment aggregate shape; slight buckling; continuous opaque medulla; moderate-thick cuticle</p> <p>Distal: Fine-moderate diameter (some variation observed); dark brown; dense pigment density; peripheral pigment distribution (toward the cuticle with areas of dense pigmentation and hair appears darker); clumpy pigment aggregate shape; continuous opaque medulla; moderate-thick cuticle; broken end</p>

Notes/Conclusions: (05-03-AE-18) is macroscopically similar in visual color to the head hair standard from the victim (05-04-AB). However, unable to perform further comparisons due to the pigment density (mostly opaque along length) and/or length (too short for comparison of observable features).



05-03-AE-18 root
Magnification: 200x



TEXAS DEPARTMENT OF PUBLIC SAFETY
CRIME LABORATORY

Mounting Media Permout
Magnification 100x-200x

Lab Case # AUS-1810-22260
Analyst KNB

Hair Examination

LAB-404 Rev.00 (04/2019) p.1 Issued by: OAC

Date Started 05.30.19
Date Completed 12.09.19
Page Number 2

Item	Source	Transfer Original	Identity (Human/Animal, Racial, Somatic)	Color	Number of Hairs	Length	Morphology (Medulla, Root, Tip, etc.)
05-03-AE-19	Gas can	T	Human Head Negroid	Dark brown	1	~ 13/16"	<p>Root: Anagen phase; distorted morphology; dense-very dense pigment density; clumpy pigment aggregate shape; dark brown (nearly opaque); dark colored debris present</p> <p>Proximal: Fine-moderate diameter (some variation observed); dark brown; dense pigment density; peripheral pigment distribution (toward the cuticle with areas of dense pigmentation hair appears darker); clumpy pigment aggregate shape; absent medulla; moderate-thick cuticle; possible tissue present</p> <p>Medial: Moderate-fine-moderate diameter (some variation observed); dark brown; dense pigment density; peripheral pigment distribution (toward the cuticle with areas of dense pigmentation and hair appears darker); clumpy pigment aggregate shape; absent medulla; moderate-thick cuticle</p> <p>Distal: Moderate diameter (little/no variation observed); dark brown; dense pigment density; peripheral pigment distribution (toward the cuticle with areas of dense pigmentation and hair appears darker); clumpy pigment aggregate shape; absent medulla; moderate-thick cuticle; square/rounded end</p>

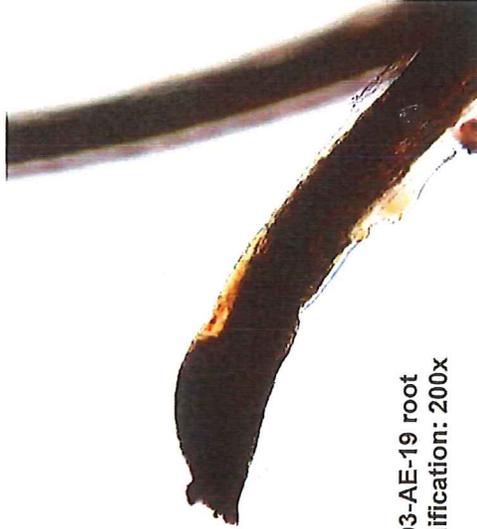
Notes/Conclusions: (05-03-AE-19) is microscopically similar in visual color, pigment distribution, and pigment aggregate shape to the head hair standard from the victim (05-04-AB).

Questioned: **05-03-AE-19**
Comparison to known: **05-04-AB**

Microscopically similar:
Inconclusive (similarities/differences): Yes No

Verification: Yes No

Performed by: _____
Performed on: _____



05-03-AE-19 root
Magnification: 200x



TEXAS DEPARTMENT OF PUBLIC SAFETY
CRIME LABORATORY

Hair Examination
LAB-404 Rev.00 (04/2019) p.1 Issued by: QAC

Mounting Media Permount Lab Case # AUS-1810-22260
 Magnification 100x-200x Analyst KNB ^{KAB}
 Date Started 05.30.19
 Date Completed 12.09.19
 Page Number 27

Item	Source	Transfer Original	Identity (Human/Animal, Racial, Somatic)	Color	Number of Hairs	Length	Morphology (Medulla, Root, Tip, etc.)
05-03-AE-20	Gas can	T	Human Head Negroid	Dark brown	1	~ 1/2"	<p>Root: Anagen phase; distorted morphology; moderate-dense pigment density; clumpy pigment aggregate shape; dark brown; dark colored debris present</p> <p>Proximal: Moderate diameter (little/no variation observed); dark brown; dense pigment density; peripheral pigment distribution (toward the cuticle with areas of dense pigmentation hair appears darker); clumpy pigment aggregate shape; absent medulla; moderate-thick cuticle; possible tissue present</p> <p>Medial: Moderate-fine-moderate diameter (some variation observed); dark brown; dense pigment density; peripheral pigment distribution (toward the cuticle with areas of dense pigmentation and hair appears darker); clumpy pigment aggregate shape; absent medulla; moderate-thick cuticle</p> <p>Distal: Moderate diameter (little/no variation observed); dark brown; dense pigment density; peripheral pigment distribution (toward the cuticle with areas of dense pigmentation and hair appears darker); clumpy pigment aggregate shape; absent medulla; moderate-thick cuticle; broken end</p>

Notes/Conclusions: (05-03-AE-20) is macroscopically similar in visual color to the head hair standard from the victim (05-04-AB). However, unable to perform further comparisons due to the pigment density (mostly opaque along length) and/or length (too short for comparison of observable features).



05-03-AE-20 root
Magnification: 200x

EXHIBIT E

Battle, Katrina

From: Battle, Katrina
Sent: Tuesday, January 14, 2020 10:38 AM
To: De La Rosa, Lyndsi
Subject: RE: AUS-1810-22260
Attachments: AUS-1810-22260 QI statement.docx

Sensitivity: Confidential

Please see attached document.

Thank You,

Katrina N. Battle, Ph.D.

Forensic Scientist – Trace Section
Texas Department of Public Safety
Crime Laboratory Services
5800 Guadalupe, Austin, TX 78752
Ph: 512.424.2105 x3116
Fax: 512.424.5322
katrina.battle@dps.texas.gov

E-MAIL CONFIDENTIALITY STATEMENT

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Your feedback is valued. Please participate in the Texas Department of Public Safety Crime Laboratory customer survey by following the link below: <https://www.surveymonkey.com/r/TXDPS-LAB-CustomerSurvey>

From: De La Rosa, Lyndsi <Lyndsi.DeLaRosa@dps.texas.gov>
Sent: Tuesday, January 14, 2020 9:32 AM
To: Battle, Katrina <Katrina.Battle@dps.texas.gov>
Subject: AUS-1810-22260
Sensitivity: Confidential

When the tape lifts get here for this case I would like to be present with you when you go through them to assess if the hair is there. Just let me know when you plan to work them beforehand so I can make sure im available.

Also, can you type me up a statement as to what occurred from beginning (when you initially sent case to HOU) to now. Include everything you can remember, please keep it factual and include all details. I will be initiating a QI to document what has occurred.

Thank you,

Lyndsi (Ayers) De La Rosa, M.S.

Trace Evidence Section Supervisor
Texas Department of Public Safety
Crime Laboratory Services
5800 Guadalupe St.
Austin, TX 78752
(ofc) 512-424-2105 x3193



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Your feedback is valued. Please participate in the Texas Department of Public Safety Crime Laboratory customer survey by following the link below: <https://www.surveymonkey.com/r/TXDPS-LAB-CustomerSurvey>

EXHIBIT F

AUS-1810-22260

Received one sealed medium brown box (05) from the Houston laboratory. There were two slide holder boxes; one with questioned hairs and one with known hairs from the victim. Removed both boxes from (05) along with the envelope for (05-04) and brown paper bag (05-03). The slide box containing the known hairs was stored in envelope (05-04) and put away. The questioned hairs needed to be demounted from the slides in order to be sent to the DNA section for potential DNA analysis. The hairs would need to be demounted from each slide one by one. An attempt was made on a few slides using liquid nitrogen but it did not remove the slide covers as smoothly so that method was abandoned and the decision was made to soak the slides in the reagent Xylenes for a few minutes in order to remove the slide covers from each slide. This was done one by one for each slide individually. After demounting each hair, the hair was stored in a heat-sealed pouch.

The slide for questioned hair (05-03-AE-16) was underneath the bag (05-03) and went unnoticed until all other questioned hairs had been demounted and the Xylenes disposed of. It was decided to use the remaining 20 questioned hairs (felt there were more than enough questioned hairs to do the comparison) that had already been demounted and stored in the heat-sealed pouches for the microscopic hair comparison and send them on for further potential DNA analysis and move the hair that had gone unnoticed back to one of the original tapelifts it came from. The case notes were adjusted, with each remaining hair after (05-03-AE-16) being moved ^{Down} up in number by one, since questioned hair (05-03-AE-16) was no longer a part of the microscopic hair comparison. The heat-sealed pouches were stored in a 7.5x10 envelope (09). The tapelift was stored in the 6x9 envelope (05-03-AE) with the other tapelifts and then stored in the brown paper bag (05-03). All evidence was sealed and in stored in the medium brown box (05).

There was no note made of which tapelift the questioned hair was placed on. The updated notes and the sealed evidence was then sent back to the Houston laboratory to be looked at by an experienced analyst for supervised hair casework.

STATEMENT
SENT
JAN 14, 2020

EXHIBIT G

AFFIDAVIT

STATE OF TEXAS

COUNTY OF TRAVIS

Before me, the undersigned authority in and for the State of TEXAS, on this day personally appeared, APRIL 10, 2020 who, after being by me duly sworn, deposed and said:

My name is KATRINA N. BATTLE. I am of sound mind, 18 years of age or older, and competent to give this affidavit.

In the initial complaint sent via email to Crime Laboratory Service Assistant Laboratory Director Alice Amilhat and Austin Regional Laboratory Manager Haley Yaklin on January 16, 2020, it was stated that the supervised hair case was sent offsite due to the original supervising analyst (Stephanie Freiwald) going on leave. I don't believe that to be an accurate representation of the reason why the case was sent offsite or the timeline involved regarding the supervised work process. My analysis notes indicate that I finished my initial examination of the hairs on June 11, 2019. I gave the evidence to the original supervising analyst at that time. It's my understanding that the original supervising analyst did begin the process of looking at the evidence and making notes for corrections. It's also my understanding that they eventually placed the evidence and the notes aside in order to complete other work, causing a delay in the completion of the supervised work. I had no further communication with the original supervising analyst about the case until I was notified by Stephanie Freiwald via email (see attachment) on October 3, 2019, that she would no longer be able to complete the supervised casework review as originally assigned and that I should send it offsite to one of the other regional laboratories to complete the supervised casework review process. To my knowledge, the original supervising analyst went on maternity leave in November 2019. The leave in November does not account for the delay between June 2019 and October 2019 (approximately 3 months).

Sometime around October 07, 2019, I contacted an analyst (Jenny Lounsbury) in the Houston Regional Laboratory and we agreed that I would send the evidence to her to look over and provide feedback. Due to the change in supervising analysts, the protocol changed and I was required to mount all questioned hairs in a semi-permanent fixative on microscope slides in order to protect the evidence. After mounting, I properly packaged the evidence and sent it to the Houston Regional Laboratory via our Evidence Receiving Section. According to the evidence chain of custody the evidence left my possession on October 07, 2019. The new supervising analyst reviewed my notes and the evidence and provided feedback in a word document via email on December 02, 2019.

On December 04, 2019, I went to retrieve the evidence from the Evidence Receiving Section. I reviewed the feedback that was provided via email on December 02, 2019 and made notes of what hairs I needed to go back and examine and what corrections needed to be made to my notes. I received one sealed medium brown box (05) from the Houston Regional Laboratory. There were two slide holder boxes; one with questioned hairs and one with known hairs from the victim. I removed both boxes from (05) along with the envelope for (05-04) and brown paper bag (05-03). The slide box containing the known hairs was then stored in the envelope (05-04) and then stored in the original box (05). The questioned hairs previously mounted in the semi-permanent fixative required demounting from the slides in order to be sent to the DNA Section for potential DNA analysis. Using routine procedures, the hairs are demounted from each slide one by one. An attempt was made on a few slides using liquid nitrogen (an approved laboratory procedure) but it was not successful so that method was abandoned and the decision was made to soak the slides in the reagent Xylenes for a few minutes in order to remove the slide covers from each slide (also an approved laboratory procedure). This was performed one by one for each slide individually. There were 21 hairs in all that required demounting. After demounting, each hair was stored individually in a heat-sealed pouch.

During the demounting process, the slide for questioned hair (05-03-AE-16) was missed. It is my opinion that the slide was misplaced underneath the bag (05-03) or it could have been off to the side and I didn't see it; I cannot recall this exactly. Regardless, this slide went unnoticed until after all other previously mounted questioned hairs had been demounted as routine practice. I made a judgement call to use the remaining 20 questioned hairs that had already been demounted and

stored in the heat-sealed pouches. This decision was based on the fact that I felt there was a sufficient amount of questioned hairs to perform the microscopic hair comparison at this stage in the analysis. Based on this decision, the hair that had gone unnoticed during the demounting process was placed back on one of the tapelifts in order to preserve the evidence. Based on my analysis notes and my recollection of the events that took place, I am confident that this hair in question (05-03-AE-16) was not lost and was placed back on one of the tapelifts. There was no note made of which tapelift the questioned hair was placed nor was the hair marked to be identifiable on the tapelift. I do not believe this to be a violation of any laboratory procedure. The tapelift was stored in the 6x9 envelope (05-03-AE) with the other remaining evidence tapelifts and then stored in the brown paper bag (05-03).

Due to the sequence of events that occurred, I again used my judgement to the best of my ability as a trainee under supervised casework and the case notes were adjusted to reflect what occurred. The exhibit number for each remaining hair after (05-03-AE-16) was moved down in number by one (e.g. 05-03-AE-17 became 05-03-AE-16 and so on), since questioned hair (05-03-AE-16) was no longer a part of the microscopic hair comparison. Again, the hair originally labeled 05-03-AE-16 was not lost; it was placed on a tapelift and was not utilized in the microscopic hair comparison. The heat-sealed pouches containing the other 20 questioned hairs used for hair comparison were stored in a 7.5x10 envelope (09). All evidence was sealed and stored in the medium brown box (05) before returning (05) to the Evidence Receiving Section.

The updated notes and the sealed evidence was then sent back to the Houston Regional Laboratory to be looked at by the supervising analyst for review. This occurred on December 17, 2019, as reflected in the evidence chain of custody. The notes originally sent to the new supervising analyst were shredded. I did this based on common practice of the supervising analysts I had been working with here in Austin. The common practice that I have been performing as a trainee involves a supervising analyst(s) (hair analysts Kiersten Coffin and Stephanie Freiwald) writing any feedback or corrections directly on the notes from the analyst which are then returned for corrections or additions. I would then correct my notes in a word document and then give them the new copy and the old notes would be shredded. This practice was done before and after the Crime Laboratory Service Manual was implemented in April 2019. I understand now that this is a violation of the current manual, but it was common practice and the way that I have been trained. I am certain that I wasn't the only analyst within the section participating in that practice and, to my knowledge as of the date of this statement, the practice has not yet been clarified or discussed with the section by Trace Section Supervisor Lyndsi de la Rosa.

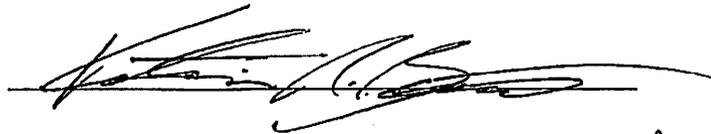
After everyone returned back to work from the Christmas-related holidays, I spoke with the supervising analyst in the Houston Regional Laboratory about the case. She noted that there was a discrepancy in the most recent version of notes that I sent her and the previous set that she had. Although I had shredded the original copy per routine practice, she had maintained a copy that she created during the initial review which occurred in December 2019. She stated that a hair was missing and I told her that I sent her all of the evidence and nothing should be missing, but I told her I would go check and make sure I left nothing out when sending it back for her review. I told her that I did not see any evidence related to the case among the other items of evidence that I had in my possession. At this point, I had not thoroughly reviewed the details of the analysis and I told her in general terms that if the hair is lost then we would have to report the incident to the section supervisor. I then stated that a Quality Incident would need to be initiated for the case if evidence was indeed lost. This is in line with the required quality reporting procedures when events like lost evidence occur. I went to my section supervisor immediately and self-reported the incident that day while she was in her office and stated that the supervising analyst in Houston thinks that a hair from the case is missing but that I did not believe any hair to be lost. I told her that I would need some time to review what happened.

Again, due to the delays with the original supervising analyst, the need to perform additional procedures in order to send the evidence offsite for review, and the Christmas holiday period, this case was in various stages of work with extended periods of inactivity. In the meantime, I was additionally focused on other work and needed time to ensure that I was able to discuss the case accurately based on my documentation and recollection. I received an email on January 07, 2020, from the supervising analyst in the Houston Regional Laboratory explaining that she determined which hair in question was missing and she sent me some of the original notes and the updated notes. After going back to my work area I reviewed what I did the last day I worked with the evidence. I told the analyst that I had moved the hair in question to a tapelift since I didn't think it was necessary for the microscopic hair comparison because there were several other hairs. At this time, I had not made a notation of what I did in regards to questioned hair originally labeled 05-03-AE-16. I then went to my section supervisor and told her what I told the supervising analyst about what I did when working with the hair. My section supervisor came back to me and questioned me about my confidence in what I did because I seemed more sure now in contrast to when I first came to her and self-reported on the incident. I told her that I was sure of what I did and that I had moved the hair in question to a tapelift but that I didn't know which tapelift I placed the hair on because I did not label it. When questioned about the incident I felt that her tone was accusatory in nature and it seemed that I was not believed when I said what I did. As I previously stated, my initial self-reporting of the potential need for a Quality Incident was based on the conversation with the supervising analyst in the Houston Regional Laboratory and at that time I stated that I would need time to review the case and I stated that I did not believe a hair to be lost. My initial self-reporting was performed in line with the requirements of ethical laboratory practices and quality assurance procedures.

On January 14, 2020, I received an email (see attachment) from my section supervisor stating that I needed to write a statement about what occurred and to be factual and detailed. I wrote a statement which was sent to her via email (see attachment). At this time, my section supervisor also stated that she would like to be present when the evidence came back to Austin so that I could screen the tapelifts for the hair that had been moved (questioned hair previously labeled 05-03-AE-16). I did not understand this to be a direct order since the language in the email did not include "must be present" or anything similar to language that would be used when giving a person a directive. I emailed her on January 15, 2020 that the evidence had arrived from Houston (see attachment). From my recollection I told her the day that I planned to screen the tapelifts and at no time did she provide clarification that she must be present. Therefore, upon receiving the evidence back into my possession from the Evidence Receiving Section on January 15, 2020; I began to screen the tapelifts for the hair that had been moved (questioned hair previously labeled 05-03-AE-16). I did not wait for my supervisor as she asked since I had other things that I needed to work on relating to the case and I also had other casework that I wanted to finish up as well before the day was complete. Furthermore, I did not understand her email request to be a directive due to the language used therein. I made the decision to go ahead and look for the hair in question on the tapelifts to see if I could find the hair in question (previously labeled 05-03-AE-16) in order to save some time so that it could be located and shown to her once she got there. I also looked at some of the tapelifts for the known hair as well and pushed some hairs and hair fragments that appeared to be on the edge back up on the tapelifts so that they were secure.

Additionally, I checked the known hair envelope to make sure I had placed everything that appeared to be a hair or hair fragment on a tapelift although there was debris left behind in that envelope (the hairs were bloody). I made the mistake and opened some evidence that did not need to be opened (I misread the packaging) so I had to seal it again. At no point did I remove a known hair from the tapelift or the original known hair envelope and place it on a tapelift containing questioned hairs. I was unable to initially locate the hair in question (previously labeled 05-03-AE-16) on any of the questioned hair tapelifts so I set up my workspace to prepare to look through them again once my supervisor arrived. My section supervisor sat beside me in my workspace as I screened the tapelifts again. During the screening, I felt that I had located the questioned hair (previously labeled 05-03-AE-16) on a tapelift and showed her what I saw on the microscope, but she disagreed that the hair that I found was the hair in question (previously labeled 05-03-AE-16). She seemed confident about it and I found it odd since she had never seen the hair evidence before that day. She then asked for the tapelifts so that she could look at them herself and then screened the tapelifts at her own workspace. I remained in my own workspace as she did this and the tapelifts were never in her possession as far as chain of custody. She said she did not see anything different from what I had already showed her when I screened the tapelifts and felt that the hair should be reported missing. I respectfully disagree, and continue to assert that based on my documentation and recollection, I am confident that the hair in question (previously labeled 05-03-AE-16) was not lost or knowingly mishandled in any way which would compromise its integrity.

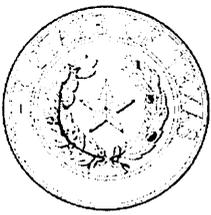
I have read the above statement consisting of 3 page(s), which is based on my personal knowledge, and it is true and correct.



Subscribed and sworn to before me, the undersigned authority, on this the 15 day of April
A.D. 2020.

Victoria Edinger
Notary Witness, OIG, Lt. Victoria Edinger

EXHIBIT H



TEXAS FORENSIC
SCIENCE COMMISSION

Justice Through Science

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

August 26, 2020

Via Federal Express No. 7713 5794 4963

Ms. Katrina Battle
15510 Ranch Road 620N
APT 4207
Austin, Texas 78717

Re: Forensic Science Commission Laboratory Self-Disclosure No. 20.40; Department of Public Safety Austin (Materials (Trace)) - Requested Action by September 30, 2020

Dear Ms. Battle,

The Commission voted at its July 24, 2020 quarterly meeting to investigate the laboratory self-disclosure referenced above regarding an incident related to your work at the Department of Public Safety Austin Crime Laboratory. Specifically, the Commission is investigating the Department of Public Safety's determination that you committed professional misconduct in the incident described in the enclosed materials provided 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 the results of a forensic analysis conducted by an accredited crime laboratory and issue a written report on its findings.¹ Complaints are investigated by an Investigative Panel of three or four Commissioners in preparation of a completed, written report.² The Commission appointed commissioners Dr. Patrick Buzzini, Mr. Jarvis Parsons, and Mr. Mark Daniel to investigate the allegations of professional misconduct 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 for a license has committed professional misconduct, the Commission may (1) revoke or suspend the person's license; (2) refuse to renew the person's license; (3) reprimand the

¹ TEX. CODE CRIM. PROC. art. 38.01 § 4(a)(3); *Id.* at § 4(b).

² Tex. Admin. Code § 651.304.

³ Tex. Admin. Code § 651.307.

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 self-disclosure. The Commission strongly encourages your input, particularly if you disagree with the professional misconduct finding by the Department of Public Safety. Absent other information, the Commission may accept the misconduct finding by the Department of Public Safety which could result in the revocation of your forensic analyst license. If you wish to respond in writing or otherwise, the Commission requests your response by **September 30, 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 concluding 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 by telephone at (512) 936-0661 or via email at leigh@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 panel members, please let me know so I can provide you with meeting details and information to facilitate your appearance.

Sincerely,

Leigh Savage

Leigh M. Savage

Associate General Counsel

encl.

⁴ Tex. Admin. Code § 651.216(b).

⁵ Tex. Admin. Code § 651.216.

⁶ Tex. Admin. Code § 651.216(e).

TEXAS DEPARTMENT OF PUBLIC SAFETY

5805 N LAMAR BLVD • BOX 4087 • AUSTIN, TEXAS 78773-0001

512/424-2000

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DIRECTOR
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STEVEN P. MACH, CHAIRMAN
NELDA L. BLAIR
STEVE H. STODGHILL
DALE WAINWRIGHT

June 22, 2020

Katrina Battle
Forensic Scientist III
Law Enforcement Support Division
5800 Guadalupe Street
Austin, Texas 78752

Dear Ms. Battle:

This letter will address your status as an employee of the Department of Public Safety. The Department has completed complaint investigation #OIG2020-0026. The investigation has been forwarded to me by your supervisors along with their recommendations that you be discharged. This letter is to advise you of my preliminary decision with respect to this matter.

Allegation I

In December 2019, you improperly adjusted documentation related to hair evidence.

Allegation II

On or about January 9, 2020, you gave inconsistent statements to Supervisor Lyndsi De Le Rosa when questioned about the incident referenced in Allegation I.

Policies Violated

Crime Laboratory Manual, Chapter 33, Laboratory Code of Ethics

Section 33.2, Code of Professional Responsibility

A. Each forensic scientist/examiner/analyst:

4. Avoids tampering, adulteration, loss, or unnecessary consumption of evidentiary materials.
12. Presents accurate and complete data in reports, oral and written presentations and testimony based on good scientific practices and valid methods.

16. Documents and notifies management or quality assurance personnel of adverse events, such as an unintended mistake or a breach of ethical, legal, scientific standards, or questionable conduct.

Section 33.3, ANAB Guiding Principles of Professional Responsibility for Forensic Service Providers and Forensic Personnel

B. Competency and Proficiency

1. Ethical and professionally responsible forensic personnel:

- e) Give utmost care to the treatment of any samples or items of potential evidentiary value to avoid tampering, adulteration, loss or unnecessary consumption.

C. Clear Communications

1. Ethical and professionally responsible forensic personnel:

- b) Present accurate and complete data in reports, testimony, publications and oral presentations.

General Manual, Chapter 5, Section 05.06.04, Competency to Perform Duty

All members of the Department shall maintain sufficient competency to properly perform their duties and assume the responsibilities of their positions. Duties shall be performed in a manner which will tend to establish and maintain the highest standards of efficiency in carrying out the functions and objectives of the Department. Incompetence may be demonstrated by a lack of knowledge of the application of laws required to be enforced; an unwillingness or inability to perform assigned tasks; the failure to conform to work standards established for rank, grade, or position; the failure to take appropriate action on the occasion of a crime, disorder, or other condition deserving police attention; or absent from duty without leave.

General Manual, Chapter 5, Section 05.13.00, Relationships With Superiors

A member of the Department of Public Safety shall obey any lawful command issued by a superior officer or supervisor.

All members of the Department shall be honest, truthful and straightforward with superior officers or supervisors regarding Department matters.

General Manual, Chapter 6, Section 06.10.01, DPS Ten General Orders

As a member of the department it shall be my duty:

- (4) To know and obey at all times the U.S. and state constitutions, federal and state laws, and lawful orders and instructions.
- (7) To conduct my duties in a straightforward, honest, and respectful manner, relying upon poise, competence, and soundness of character.

General Manual, Chapter 6, Section 06.20.02, Standards of Conduct

a. An employee shall not:

8. knowingly make misleading statements, either oral or written, or provide false information, in the course of official business.

Preliminary Determination

Pursuant to my authority under Section 411.007(e), Texas Government Code, I have made a preliminary determination that there is just cause for termination of your employment from the Texas Department of Public Safety.

Opportunity to Respond

You may now provide any information which you believe should bear upon my final decision. The burden is entirely upon you to come forward and present evidence to me. Up until the expiration of five (5) days from the date upon which you receive this letter, I will refrain from a final determination regarding your employment to give you an opportunity to contact me.

You may request a teleconference meeting with me by contacting my assistant, Sophie Yanez, at 512/563-3912 or submit your position to me in writing via email to: Sophie.Yanez@dps.texas.gov, but it must be received by the deadline set forth above. The purpose of this opportunity is to allow you to provide information to me. Therefore, any meeting you request will not be conducted as an adversarial evidentiary hearing.

If I have not heard from you upon the expiration of the time set out above, your employment will be terminated effective that date.

You are hereby suspended with pay pending my final determination in this matter. You will surrender all Department property to your supervisor immediately upon receipt of this letter. Further, you are to take no action for or on behalf of the Texas Department of Public Safety during the pendency of this matter.

In closing, I remind you that if you have compelling reasons for me to reconsider my preliminary determination, the burden is on you to present such reasons to me within the period set out above.

Sincerely,



Steven C. McCraw
Director

SCM:DPA:DJS:js

Katrina Battle

Page 4 of 4

**cc: Jeoff Williams, Deputy Director, Law Enforcement Services
Mike Lesko, Chief, Law Enforcement Support Division
Brady Mills, Assistant Chief, Crime Laboratory Services
Valerie Brown, Chief, Human Resource Operations
Norma Cortez, Assistant Chief, Human Resource Operations
Phillip Ayala, Inspector General, Office of Inspector General
D. Phillip Adkins, General Counsel, Office of General Counsel**

Katrina Battle
OIG2020-0026

RECEIPT

I acknowledge receipt of the letter dated June 22, 2020, signed by the Director of the Department of Public Safety, regarding the status of my employment.

Signature: _____ Date/Time: _____
(Katrina Battle)

Witness: _____ Date/Time: _____

TEXAS DEPARTMENT OF PUBLIC SAFETY

5805 N LAMAR BLVD • BOX 4087 • AUSTIN, TEXAS 78773-0001

512/424-2000

www.dps.texas.gov



STEVEN C. McCRAW
DIRECTOR
FREEMAN F. MARTIN
RANDALL B. PRINCE
JEFF WILLIAMS
DEPUTY DIRECTORS



COMMISSION
STEVEN P. MACH, CHAIRMAN
NELDA L. BLAIR
STEVE H. STODGHILL
DALE WAINWRIGHT

June 25, 2020

Pamela Sale, Vice President-Forensics
ANSI-ASQ National Accreditation Board (ANAB)
2000 Regency Parkway, Suite 430
Cary, NC 27518

Dear Ms. Sale,

We are notifying ANAB of a significant incident for the Texas Department of Public Safety Crime Laboratory Service – Austin Regional Laboratory (FT-0227).

Description of Nonconformance

On April 25, 2019, Pflugerville PD submitted various items of evidence, including several possible hairs, for trace evidence and DNA analysis. An experienced trace evidence analyst newly authorized to perform supervised hair analysis casework was assigned the case for analysis. On December 16, 2019, after trace evidence analysis was complete, one hair was lost during the transfer of items from the glass slides used in analysis to the storage containers. Although trace evidence analysis was complete, this hair is no longer be available for DNA analysis. The loss of the hair was not properly documented in the case record. Upon final review of the case by the mentor, it was noted that the documentation related to the hair in question was missing from the record and that the documentation for the remaining hairs had been adjusted and renumbered. The changes made were dated and initialed by the analyst.

This incident is tracked in our system as quality incident QI-AUS-2020-0108-TE. An internal complaint investigation related to this nonconformance is open pending final decision (OIG-2020-0026). The laboratory identified the incident as significant upon receipt of the completed investigation, on May 18, 2020.

Potential Root Cause(s)

Due to the limited staff availability in Austin at that time, the mentor who was selected to supervise the casework process was located off-site at the DPS Houston Regional Laboratory. This prohibited the mentor from performing direct observation of the analyst as they handled the hair evidence. Lack of an on-site mentor restricted the analyst's opportunity to receive immediate feedback on proper evidence handling techniques unique to hair evidence and proper documentation of observations and activities.

Affected Stakeholders

On June 16, 2020, the Trace Evidence Supervisor contacted the case representative with Pflugerville PD and informed them that a submitted hair was lost during analysis. The sergeant understood the issue and stated that he did not feel this would have a major impact on the case.

Corrections and Action Plan

At the time of loss, the analyst examined the immediate laboratory workspace and surrounding surfaces in an attempt to locate the lost hair. The mentor had previously completed their review of the case and was able to observe all hairs prior to the loss of evidence. It was determined that there were additional hairs in the case that were suitable for DNA analysis and those will remain available if needed.

The laboratory system no longer allows the practice of off-site mentorships. Analysts who are performing supervised casework will require direct observation of the work being performed by an individual who is currently or previously authorized in the same method of analysis.

If you require additional supporting documentation and/or need additional information at this time, please contact us.

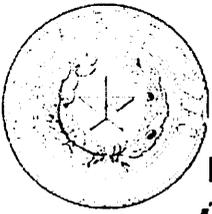
Sincerely,



Haley Yaklin
Austin Laboratory Manager

cc: Brady Mills, Assistant Chief, Crime Laboratory
Alice Amilhat, Assistant Laboratory Director
Melissa Valadez, Assistant Laboratory Director
Heather Greco, System Quality Manager
Lynn Garcia, Texas Forensic Science Commission

EXHIBIT I



**TEXAS FORENSIC SCIENCE
COMMISSION**

Justice Through Science

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

December 1, 2020

Via Federal Express No. 7722 2514 1180

Ms. Katrina Battle
15510 Ranch Road 620 N
APT 4207
Austin, Texas 78717

**Re: Texas Department of Public Safety Crime Laboratory Amended Self-Disclosure No. 20.40
(Materials/Trace) – Requested Action by January 8, 2020**

Dear Ms. Battle:

As you are aware, the Commission voted at its July 24, 2020 quarterly meeting to investigate a self-disclosure by the Texas Department of Public Safety (DPS) crime laboratory regarding an incident related to your employment as a Materials (Trace) analyst. Specifically, the Commission is reviewing the laboratory's determination that you committed professional misconduct as described in the materials enclosed in the Commission's letter to you dated August 26, 2020. On November 25, 2020, DPS submitted an amended disclosure to the Commission describing a related incident of professional misconduct allegedly committed on or about January 15, 2020. (*See Enclosed*)

Pursuant to the Texas 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 the results of a forensic analysis conducted by an accredited crime laboratory and issue a written report of its findings.¹ Complaints are investigated by a panel of three or four Commissioners.² The Commission appointed Dr. Patrick Buzzini, Mr. Jarvis Parsons, and Mr. Mark Daniel to investigate the allegations of professional misconduct 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

¹ TEX. CODE CRIM. PROC. art. 38.01 § 4(a)(3); *Id.* at § 4(b).

² Tex. Admin. Code § 651.304.

³ Tex. Admin. Code § 651.307.

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 for a license has committed professional misconduct, the Commission may (1) revoke or 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 previously extended a request to interview with respect to the events and circumstances described in the initial self-disclosure. In light of the fact that DPS amended its original disclosure as reflected in the attached materials, the panel extends you this opportunity again.

We welcome any written response either in addition to or in lieu of an interview. The Commission encourages your input, particularly if you disagree with the factual description and/or professional misconduct finding by DPS. Absent other information, the Commission may accept the misconduct finding by the DPS which could result in the revocation of your forensic analyst license. If you wish to respond in writing or otherwise, the Commission requests your response by **January 8, 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 concluding the investigation. Final investigative reports by the Commission issued pursuant to the Commission's investigative authority under Code of Criminal Procedure, Article 38.01 §4(b) that concern an individual not licensed by the Commission are governed by Chapter 2001, Government Code.⁵ A written request for a hearing before the State Office of Administrative Hearings must be received by the Commission within thirty (30) days of the date you receive notice of the Commission's final investigative report, or the right to a hearing is waived and the final investigative report by the Commission stands.

To schedule an interview, you may reach me directly via email at robert.smith@fsc.texas.gov. You may submit written responses to me electronically or via regular mail to the address provided above. If you would like to speak to Commission staff and/or panel members, please let me know at your earliest convenience.

Sincerely,

Robert M. Smith
Staff Attorney
Texas Forensic Science Commission

encl.

⁴ Tex. Admin. Code § 651.216.

⁵ Tex. Gov't Code Ch. 2001.

EXHIBIT J

TEXAS DEPARTMENT OF PUBLIC SAFETY INTEROFFICE MEMORANDUM

To: Victoria Edinger, Lieutenant, OIG **Date:** 4/10/20
From: Lyndsi De La Rosa, Trace Section Supervisor **Division:** LES
Subject: Security Footage for January 15, 2020

I have included an approximate time and activity for suspicious or atypical portions of the security footage from January 15, 2020. Please note that I do not have all of her actions in the footage outlined in the list on the next page. I have also included some of my reasoning for why an action is suspicious or atypical in brackets. A short list of definitions for some of the terms used to assist with understanding are listed below.

Head hair standard- A known set of hairs collected directly from an individual for the purpose of comparison. It will generally consist of 25+ hairs from the head and/or pubic regions.

Stereoscope - A low powered microscope that goes from about 10-45x magnification. Each analyst in the Trace Section has one at their work space (also called U-space).

Tape lift - A piece of clear tape that is used to collect material or preserve material. The material/hair is stuck to the adhesive of the tape and the piece of tape is stuck down onto a plastic sheet which allows the analyst to view the material through the tape.

Heat-sealed acetate sheet - An envelope that is created using two acetate sheets (or plastic sheets) that are heat sealed on the sides to make a square and contain material/hair for easy viewing.

JA 4/10/20

<u>Approximate time on video</u>	<u>Suspicious/atypical activity</u>
10:57	Katrina pulls evidence out for the case, her desk area is not cleared and no white examination paper is placed down. She appears rushed or not fully set up to pull the case out. [Typically an analyst would clean work area and set out a white sheet of examination paper prior to opening evidence and I had asked her to wait for me]
10:58:40	Katrina examines tape lifts with no gloves on initially. [This is atypical; gloves are worn when touching evidence.]
11:05:58	Katrina opens the 6x9 envelope containing the hair standard from the victim. She then pulls out the heat-sealed envelope containing the hair standard from the victim. She takes the hair standard to the stereoscope and can be seen measuring something. She refers to the computer with the documentation sheet for the hair in question on screen. [There was no reason at this point in analysis to have the head hair standard out and examining it.]
11:07:09	Katrina grabs a razor blade from the counter and cuts the heat-sealed envelope containing the head hair standard open (cuts end off). She can be seen measuring hair and appears to pull one out and set it to the side. She removes the cut end from heat-sealed acetate sheet and throws it in the trash. She takes the heat-sealed acetate sheet with the hair standard to re-heat seal it. She then places the heat-sealed acetate sheet back into 6x9 envelope. [There was no reason to open the head hair standard at this point in the case, also, if it was opened, there should be documentation and the heat sealed envelope should have indication it was opened (I have not seen that item of evidence in person)]
11:13:40	Katrina continues looking at the tape lift, pulls edge back on tape lift, picks a hair from the stereoscope platform with tweezers and places it onto the tape lift. She examines it under the stereoscope, measures it, looks at hair documentation on computer, then takes the tape lift to the microscope to examine it. [Placing anything on a tape lift at this point is suspicious]
11:16:05	Katrina comes back to her workspace, pulls the hair standard out again, and examines it under the stereoscope again. I am unable to fully determine what is being done at this point but she has the tape lift and heat sealed acetate sheet with the hair standard and is handling both.
11:19:59	Katrina places the tape lifts back into the 6x9 envelope and seals the envelope with clear tape only. No initials or date. [I find it atypical to have sealed this envelope at all if we are going to look at it shortly after]
11:20:55	Katrina takes the heat sealed acetate sheet containing the head hair standard to re-heat seal it again [This item should not have been opened at all]

4/10/20

11:27:10	The head hair standard is placed back into the 6x9 envelope. The envelope is sealed with clear tape and evidence tape.
11:35:56	Katrina pulls out white examination paper to set evidence on. She lays the evidence out neatly on it. [She is now setting up workspace as I would have expected from the beginning]
12:21:35	Katrina continues to set up workspace for analysis as would typically be done for a case.
12:21:38	Katrina places razor blade in front of 6x9 envelope for tape lifts. She looks at packaging as though she is trying to decide if she should cut it and where. She opens envelope and pulls out tape lifts. She sets them next to the envelope then visually examines the tape lifts before stacking neatly next to envelope. [This seemed odd since she had just taped up the envelope approximately an hour before and she seemed to be contemplating her actions.]
13:28:38	Continues to set up work space including getting a mask out
13:58:35	Katrina puts on lab coat, mask, and gloves in preparation for looking at tape lifts with me. [These activities would typically be done before an analyst has handled the evidence]
14:38:17	While I am at the microscope examining the hair, it appears Katrina pulls up photos of hair roots on her computer, including the hair in question. She previously stated that the only documentation of this hair she had was the notes sheet provided by the Houston analyst. She quickly closes the photo when I head back to her workspace. [I am not sure what format (looks to be windows photo viewer) the photo was in that she was looking at and why she had not mentioned it if she did have an additional photo of the root.]

JD

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Approximate time	Activity
12/16/19	
14:47:13	Evidence is out. Katrina starts to label a stack of pre-made heat sealed acetate sheets.
14:51:50	Katrina opens the white slide box containing hairs 05-03-AE-01 through 05-03-AE-21, She pulls one slide out and places on the paper in front of her
14:59:49	Katrina brings liquid nitrogen in a green dewar to her desk and pours some into a glass beaker. She places slide that she previously pulled out into the beaker [This is a common demounting technique]. She pulls slide out and appears to try and remove the cover slip
15:02:46	She gets a small brown dropper bottle and drops some on slide [This is most likely Xylenes/Xyless, which is commonly used to demount hairs as well]
15:03:16	Katrina demounts that hair and places into a heat sealed acetate sheet [presumed to be hair 05-03-AE-01, hairs are typically placed into a slide box in numerical order, when demounted, it is typically done in numerical order to assist in labeling]
15:03:42	Pulls a second slide from the holder, places it into liquid nitrogen, pulls it out and attempts to remove cover slip
15:04:54	Katrina places two slides into liquid nitrogen
15:06:11	Katrina demounts a hair and places into a heat sealed acetate sheet [presumed to be hair 05-03-AE-03] [reviewed Katrina's notes that were previously provided to me by her and compared to supervised case notes provided by Houston analyst. It appears that hair 05-03-AE-02 was retained on slide due to disagreement in call]
15:06:23	Katrina labels additional heat sealed acetate sheets
15:08:31	Katrina demounts a hair and places into a heat sealed acetate sheet [presumed to be hair 05-03-AE-04]
15:12:27	Katrina comes back with the bottle of Xylenes/Xyless
15:14:51	She pours Xylenes/Xyless into a bowl with slide [soaking the slide to demount the hairs], she has a weigh boat to her left side where she is placing the cover slips and slides once she is done with them

15:17:17	Katrina demounts a hair and places into a heat sealed acetate sheet [presumed to be hair 05-03-AE-05]
15:17:39	Katrina labels additional heat sealed acetate sheets
15:21:53	She places additional slides from white slide holder into liquid nitrogen
	[overall procedure she follows for remaining hairs for demounting- she takes a slide out of the liquid nitrogen beaker, soaks it into the xylenes, removes the coverslip, soaks it a little longer, pulls the hair out places it on the napkin, dries it, then places it into the heat sealed acetate sheet]
15:24:55	Places additional slides from white slide holder into liquid nitrogen
15:26:12	Katrina demounts a hair and places into a heat sealed acetate sheet [presumed to be hair 05-03-AE-06]
15:27:49	Katrina demounts a hair and places into a heat sealed acetate sheet [presumed to be hair 05-03-AE-07]
15:29:44	Katrina demounts a hair and places into a heat sealed acetate sheet [presumed to be hair 05-03-AE-08]
15:35:18	Katrina demounts a hair and places into a heat sealed acetate sheet [presumed to be hair 05-03-AE-09]
15:36:25	Katrina demounts a hair and places into a heat sealed acetate sheet [presumed to be hair 05-03-AE-10]
15:38:41	Katrina demounts a hair and places into a heat sealed acetate sheet [presumed to be hair 05-03-AE-11]
15:41:02	Katrina demounts a hair and places into a heat sealed acetate sheet [presumed to be hair 05-03-AE-12]
15:42:52	Katrina demounts a hair and places into a heat sealed acetate sheet [presumed to be hair 05-03-AE-13]
15:48:21	Katrina demounts a hair and places into a heat sealed acetate sheet [presumed to be hair 05-03-AE-14]
15:50:41	Katrina demounts a hair and places into a heat sealed acetate sheet [presumed to be hair 05-03-AE-15]

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15:52:30	Coverslip is removed from slide and placed in discard pile. Slide/hair are placed back into xylenes
15:52:46	Hair is removed from bowl with xylenes with tweezers and placed on napkin and heat sealed acetate sheet is placed next to napkin
15:53:00	Katrina looks at her watch and turns to check her phone. She comes back to work space and looks at the items for a second. [She looks like she forgot what she was doing and had to reset]
15:53:24	Katrina labels a couple heat sealed acetate sheets
15:55:04	Katrina picks up her tweezers and adjusts a slide that is in the xylenes [she lays her arm on top of the napkin that the hair in question had been previously placed on]. She places an additional slide in the xylenes
15:55:21	She picks up tweezers and looks for the hair in question that she previously placed on the napkin
15:55:31	She lifts up her arms and starts to look for the hair in question [continuing on with numbering, this would have been hair 05-03-AE-16]
15:55:43	She checks the heat sealed acetate sheets she previously completed, she looks at the ground, she checks her immediate work area, she checks the bowl of xylenes, she looks at her discard pile of cover slips and slides, she checks her sleeves and jacket, then checks the floor again, she checks around her work area again, then looks at her heat sealed acetate sheets again
15:58:44	She pulls out a brown paper bag and opens it by lifting the tape [any entry into an evidence package should be visible. The tape should have been cut open] She pulls out 6x9 envelopes
16:00:42	She opens one 6x9 envelope and pulls out tape lifts. She quickly examines the tape lifts under the stereoscope, grabs a ruler and measures a hair
16:02:09	She folds the tape lifts over and places them back into the envelope and envelope is set to the side [during the brief time that the tape lifts were out, they were maintained in a separate area from the hairs she was demounting, she does not bring anything from the demounting area to the tape lifts]
16:02:28	Katrina sits looking at her workspace, tapping fingers on the counter. She stares off for a bit.
16:02:50	She starts to remove cover slip from another hair slide

16:03:53	Katrina wipes off the labels and re-writes the labels on remaining heat sealed acetate sheets
16:06:12	Katrina pulls up her notes for the case on her computer. [based on having a copy of her notes and the pictures of the roots on her screen, I can follow along with what page of her notes she is looking at]. She appears to be adjusting her notes. The security footage skips some due to no movement so not all activities to notes are viewable.
16:10:44	Katrina digitally cuts a picture of the root for the hair originally labeled 05-03-AE-20 and pastes it into the previous hair notes page which would be for the hair labeled 05-03-AE-19. She moves through her notes pages comparing them to the printed copy she has in front of her and it can be seen that the last page of her notes no longer has a photo of a hair root on it. [This activity seems suspicious since she was actively demounting hairs and there would be no reason to adjust hair documentation notes at this point, Especially moving photos around]
16:17:46	Katrina demounts a hair and places into a heat sealed acetate sheet [presumed to be hair 05-03-AE-17 (original labeling)]
16:18:09	She pulls the notes sheet up for originally labeled 05-03-AE-18, newly labeled 05-03-AE-17 as a reference. She labels the next heat sealed acetate sheet [This seems atypical because you would not need to reference your notes to demount hairs or label the heat sealed acetate sheets for the hairs since the slides the hairs are mounted on have that info. This activity was not done for the majority of the hairs prior to the hair in question being lost]
16:20:07	Katrina demounts a hair and places into a heat sealed acetate sheet [presumed to be hair 05-03-AE-18 (original labeling)]
16:20:50	Katrina scrolls to the next note sheet for originally labeled 05-03-AE-19, newly labeled 05-03-AE-18 as a reference. She labels the next heat sealed acetate sheet
16:21:21	Katrina demounts a hair and places into a heat sealed acetate sheet [presumed to be hair 05-03-AE-19 (original labeling)]
16:22:47	Katrina references the next note sheet for originally labeled 05-03-AE-20, newly labeled 05-

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	03-AE-19 as a reference. She labels the next two heat sealed acetate sheets. She references notes again and quickly scrolls through the last few pages
16:23:50	Katrina demounts a hair and places into a heat sealed acetate sheet [presumed to be hair 05-03-AE-20 (original labeling)]
16:24:46	She gets rid of the weight boat with discarded cover slips and slides
16:25:16	She reseals (with evidence tape) the 6x9 envelope containing the tape lifts [this would be something that I would like to check the date she wrote on the seal]. She then places clear tape over the evidence tape.
16:27:27	She sticks the tape (clear and evidence tape) of the paper bag back down and applies another piece of clear tape. No new initials or date were added. [a seal should be created with each entry of an item of evidence so this was atypical]
16:28:34	Katrina demounts a hair and places into a heat sealed acetate sheet [presumed to be hair 05-03-AE-21 (original labeling)]
16:29:54	Katrina heat seals the heat sealed acetate sheets and places them into a white 6x9 envelope
16:34:03	Katrina cleans up her work space and takes the bowl and beaker to the chemical room to be discarded, She throws away the napkin, puts the xylenes up
17:11:42	Katrina does some additional work on her computer including in our Laboratory Information Management System then concludes for the day
12/17/19	
10:03	Evidence is already out from the previous day. She places two slides into a brown slide holder [These are most likely the slides that they disagreed on that are going to remain mounted]
10:05:45	She places a pre-made heat sealed acetate sheet into a coin envelope [This is most likely the envelope for 05-03-AA, a hair they disagreed on.]
10:05:53	She places a pre-made heat sealed acetate sheet into a white 6x9 [Appears to be the envelope she placed all of the other heat sealed acetate sheets for the other hairs she previously demounted. 05-03-AE-01, 05-03-AE-03 through 05-03-AE-20]
10:06:29	She places two additional slides into a brown slide holder. [I would assume these are two slides from the hair standard – this would need to be

	confirmed with Houston analyst as to what she got back]
10:08:57	She places a sticky note onto the brown slide holders and places them into a bubble wrap envelope
10:12:16	Initials her new set of notes
10:21:22	She seals up her evidence