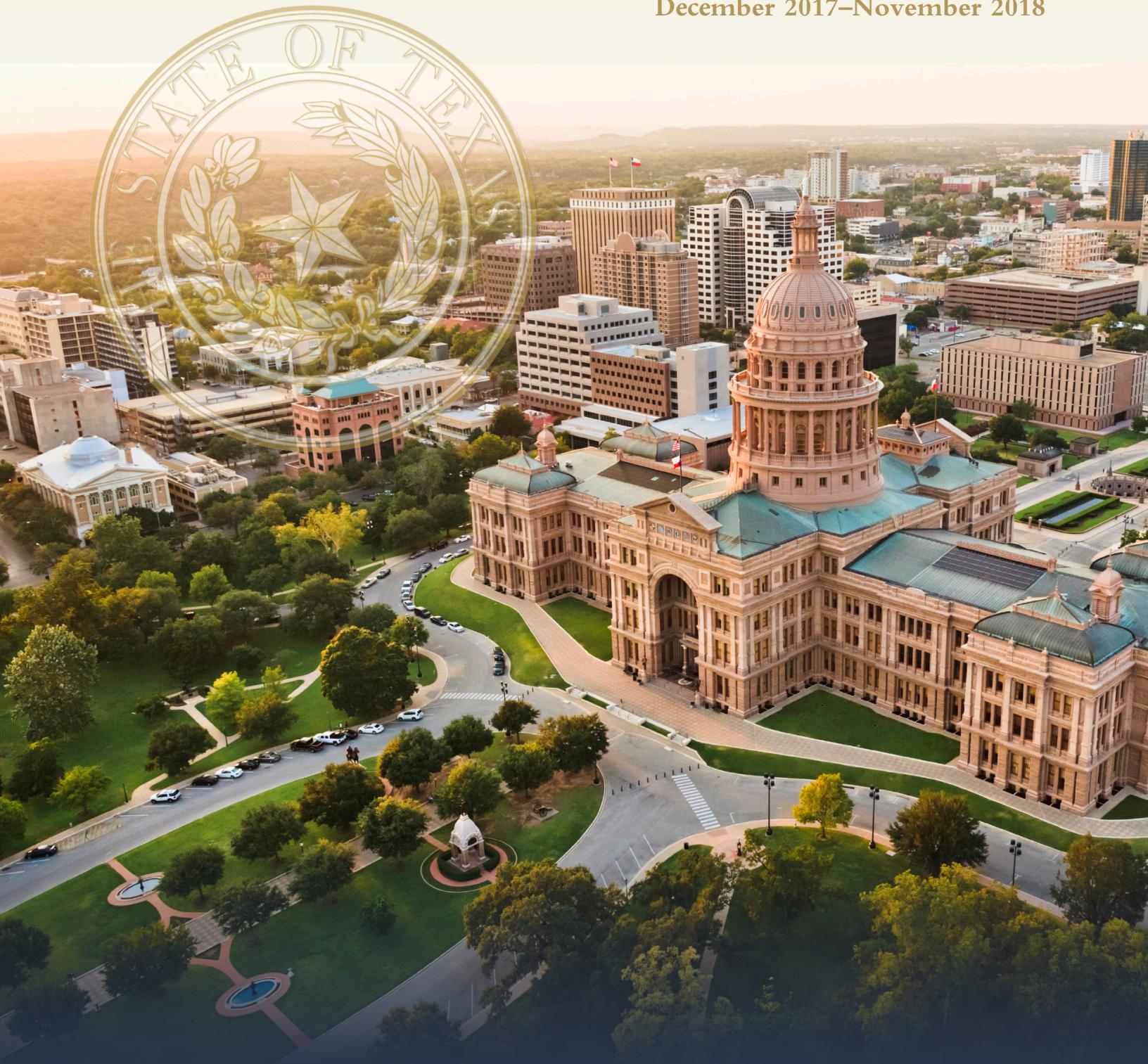


TEXAS FORENSIC  
SCIENCE COMMISSION  
*Justice Through Science*

SEVENTH ANNUAL REPORT  
December 2017–November 2018



**TEXAS FORENSIC SCIENCE COMMISSION**  
**SEVENTH ANNUAL REPORT**  
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**EXHIBIT LIST**

**Exhibit A** **Copy of Texas Code of Criminal Procedure Article 38.01**

**Exhibit B** **FY2019 Budget Plan**

**Exhibit C** **Complaint/Disclosure Spreadsheet**

## **I. Introduction and Executive Summary**

This is the seventh annual report of the Texas Forensic Science Commission (“FSC” or “Commission”). The Commission is required to publish an annual report each year by December 1<sup>st</sup> in accordance with its statute. (See **Exhibit A**, TEX. CODE CRIM. PROC. art 38.01, § 8.) The first annual report provided a historical assessment of the Commission’s work since the agency was created in 2005, covering Commission decisions through the April 2012 meeting. The second report covered Commission activities from May 1, 2012 through November 1, 2013. The third report covered Commission activities from November 2, 2013, through November 30, 2014. The fourth report covered Commission activities from December 1, 2014, through November 30, 2015. The fifth report covered Commission activities from December 1, 2015, through November 30, 2016. The sixth report covered activities from December 1, 2016, through November 30, 2017. This report covers Commission activities from December 1, 2017, through November 30, 2018.

This report focuses on the following key developments in the Commission’s work:

1. A description and update on the Commission’s legislatively mandated activities, including its:
  - a. Crime Laboratory Accreditation Program.
  - b. Forensic Analyst Licensure Program.
  - c. Pending investigations of complaints and laboratory self-disclosures; and
  - d. Studies regarding use of drug field test kits and crime scene investigations.
2. The status of pending discipline-specific reviews, including the Commission’s Hair Microscopy, DNA Mixture Interpretation, Crime Scene Investigation, and Crime Scene Analysis and Reconstruction, including bloodstain pattern analysis reviews.
3. Forensic development activities in Texas and nationally, including the Commission’s 1) case sampling project; 2) STRmix Symposium/Roundtable Discussion; 3) staff conferences and presentations; 4) international interest in Commission activities; and 5) activities and developments from the national OSAC.

## II. Texas Forensic Science Commission Legal Duties and Investigative Scope

### A. Historical Perspective

For a complete historical perspective on the creation and evolution of the Texas Forensic Science Commission, please see Section II of our first annual report, which may be obtained on the Commission's website, or by emailing Commission staff at [info@fsc.texas.gov](mailto:info@fsc.texas.gov).

### B. Investigative Jurisdiction

The Commission is responsible for implementing a system through which crime laboratories must report professional negligence or professional misconduct. The Commission requires crime laboratories that conduct forensic analyses to report professional negligence or professional misconduct to the Commission through its self-disclosure program.

The Commission also investigates complaints received from outside parties or initiates an investigation on its own depending on the circumstances. The statute divides the Commission's investigative responsibilities into the following three categories:

- a) **Investigations Initiated by the Commission:** The Commission may initiate an investigation of a forensic analysis for educational purposes without receiving a complaint if the Commission determines by majority vote that the investigation would advance the integrity and reliability of forensic science in Texas.
- b) **Complaints Involving Unaccredited Labs or Unaccredited Forensic Fields:** The Commission may investigate a complaint involving a crime laboratory that is not accredited by the Commission or investigate in response to an allegation involving a forensic method or methodology that is not an accredited field of forensic science.
- c) **Complaints Involving Accredited Labs and Accredited Forensic Disciplines:** The Commission is also charged with investigating allegations of professional negligence or misconduct against accredited crime laboratories involving accredited forensic disciplines.

For the first two investigative categories set forth above, Commission reports *may not contain a finding of negligence or misconduct*, and the reports must be limited to: (1) observations regarding the integrity and reliability of the forensic analysis conducted; (2) best practices

identified during the course of the investigation; and (3) other relevant recommendations as determined by the Commission.

However, under the third category of investigations involving accredited crime laboratories and accredited forensic disciplines, Commission reports must be more extensive. Required categories per the Commission's statute include: (1) a description of the alleged negligence or misconduct; (2) whether negligence or misconduct occurred; (3) any corrective action required of the laboratory; (4) observations regarding the integrity and reliability of the forensic analysis conducted; (5) best practices identified during the course of the investigation; (6) other relevant recommendations, as determined by the Commission; and (7) the methods and procedures used by the Commission to identify the items listed above.

In addition, the statute provides that reports may include: (1) retrospective reexamination of other forensic analyses conducted by the laboratory that may involve the same kind of negligence or misconduct; and (2) follow-up evaluations of the laboratory to review: (a) implementation of any corrective action required; or (b) conclusion of any retrospective reexamination.

The Commission may not issue a finding relating to the guilt or innocence of any party in a civil or criminal trial involving conduct investigated by the Commission. Commission reports are not admissible in a civil or criminal action. Information filed or obtained as part of a complaint or laboratory self-disclosure is not subject to release under the Public Information Act until the conclusion of a Commission investigation.<sup>1</sup>

### **III. Legislative Changes and Initiatives**

#### **A. Administrative Attachment Move from SHSU to OCA**

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<sup>1</sup> See Tex. Att'y Gen. OR2014-16371.

Effective September 1, 2017, Senate Bill 1124 changed the Commission's administrative attachment from Sam Houston State University ("SHSU") to the Office of Court Administration ("OCA") with Senate Bill 1124. Though the Commission did not change locations physically, it is now part of OCA and the Commission's employees are employees of OCA. OCA provides the Commission with valuable support services such as budget management, information technology management, licensing program support and human resources services.

### **B. Funding for Implementation of the Forensic Analyst Licensing Program**

After moving the Commission's administrative attachment to OCA, the 85<sup>th</sup> Legislature allotted the Commission an additional, temporary \$138,000 necessary to implement its Forensic Analyst Licensing program for fiscal year 2018, including contracting for appropriate content management software, hiring a senior scientific advisor with forensic expertise to assist in managing the program, and other items necessary to implement the program as required by law. The Commission receives revenue from licensing fees, and the expectation is that the program will eventually become self-sustaining. The Commission's allotted funds for fiscal year 2019 were reduced to \$528,000 with the expectation of the receipt of revenue from licensing fees to support the licensing program. To date the Commission has received at least \$70,000 in revenue available for necessary administrative support of the licensing program's administration and other Commission activities during fiscal year 2019.

### **C. Studies Regarding Use of Drug Field Test Kits and Crime Scene Investigations**

Through House Bill 34, the 85<sup>th</sup> Legislature required the Commission to conduct a study and issue a report regarding the use of drug field test kits by law enforcement agencies in Texas. Specifically, the HB-34 required the Commission to (1) evaluate the quality, accuracy, and reliability of drug field test kits; (2) identify any common problems with drug field test kits; (3)

evaluate the availability and adequacy of training for law enforcement officers regarding the use of drug field test kits and the interpretation of the test results; and (4) develop legislative recommendations regarding the use of drug field test kits by law enforcement agencies and regarding related training for law enforcement officers. The report will be available on the Commission's website by December 1, 2018.

In addition to the drug field test kit study, HB-34 required the Commission to conduct a study regarding the way crime scene investigations are conducted in Texas. As part of the Commission's recommendations from the Joe Bryan case referenced in Section VI of this document, the Commission recommended accreditation oversight for the forensic discipline of crime scene analysis and reconstruction, including bloodstain pattern analysis. The Commission is in the process of developing standards for accreditation/oversight of crime scene analysis and reconstruction, including bloodstain pattern analysis. Once those standards are developed, the Commission will require, through its administrative rulemaking, laboratories conducting crime scene investigation and reconstruction to be accredited by the Commission. The HB-34 report on recommendations for crime scene investigation and reconstruction, including recommendations for accreditation of the discipline, will be available on the Commission's website by December 1, 2018.

#### **D. Crime Laboratory Accreditation Program**

In June 2015, the 84<sup>th</sup> Legislature expanded the scope of the Commission's responsibilities by passing SB-1287. *See Tex. S.B. 1287, 84th Leg., R.S. (2015)*. SB-1287 transferred Texas' Crime Laboratory Accreditation Program oversight from the Texas Department of Public Safety to the Texas Forensic Science Commission beginning September 1, 2015. In response to the legislation, the Commission established an accreditation process for crime laboratories and other

entities conducting forensic analyses for use in criminal proceedings. As part of its accreditation mandate, the Commission is responsible for establishing procedures, policies and practices to improve the quality of forensic analyses conducted in Texas. The Commission currently recognizes accreditation for 98 laboratories located both in and outside of Texas. Please see the accreditation page on the Commission's website for more information about the crime laboratory accreditation program, its requirements and a list of accredited labs in and outside of Texas.

#### **E. Forensic Analyst Licensing Program**

SB-1287 also required the Commission to establish forensic analyst licensing programs for forensic disciplines subject to accreditation in Texas. *See Tex. S.B. 1287, 84th Leg., R.S. (2015).* Forensic analysts in Texas are required to be licensed by January 1, 2019. The term "forensic analyst" is limited by statute to "a person who on behalf of a crime laboratory accredited under this article technically reviews or performs a forensic analysis or draws conclusions from or interprets a forensic analysis for a court or crime laboratory. The term does not include a medical examiner or other forensic pathologist who is a licensed physician."

As parts of its licensure initiative, in December 2015, the Commission selected a licensing advisory committee consisting of one prosecutor, one defense attorney and seven individuals who are forensic scientists, crime laboratory directors or crime laboratory quality managers representative of city, county, state and private laboratories. The licensing advisory committee has met more than thirty five times since its creation in December 2015 and has adopted formal licensing program rules published in [Chapter 651 of the Texas Administrative Code](#). The Commission received many comments in response to its proposed rules for the licensing program and adjusted the licensing requirements in response to many of those comments.

To date, the Commission has licensed 328 forensic analysts and technicians and expects to license a total of about 1200 before the January 1, 2019, deadline. For updates, program documents and additional information related to the Commission's Forensic Analyst Licensure Program, please visit the Commission's [licensing page](#) on its website.

#### **IV. Texas Forensic Science Commission Members and Budget**

##### **A. Appointments to Date**

To date, the FSC has had 32 different Commissioners and five full-time staff members. Following is a table providing appointment and expiration dates for current members as of November 30, 2018, as well as the basis for each appointment. The Texas Constitution provides that appointees with expired terms continue to serve until they are reappointed or replaced.

<b>Current Members</b>	<b>Original Appointment</b>	<b>Basis for Appointment</b>	<b>Expiration Date</b>
Jeffrey Barnard, MD <i>Presiding Officer</i>	10/31/2011	UT—Forensic Pathology (Dallas) Art 38.01, Section 3(a)(4)	09/01/2019
Bruce Budowle, Ph.D.	11/28/2016	UNTHSC Director—Missing Persons DNA (Fort Worth) Article 38.01, Section 3(a)(7)	09/01/2018
Mark Daniel, J.D.	11/28/2016	TCDLA—Defense Counsel (Fort Worth) Article 38.01, Section 3(a)(3)	09/01/2019
Nancy Downing, Ph.D.	11/28/2016	Texas A&M Faculty—Forensic Nursing (College Station) Article 38.01, Section 3(a)(5)	09/01/2018
Jasmine Drake, Ph.D.	11/28/2016	TSU Faculty—Forensic Chemistry (Houston) Article 38.01, Section 3(a)(6)	09/01/2018

Sheree Hughes-Stamm, Ph.D.	10/27/2014	SHSU Faculty—DNA & Forensic Anthropology (Huntsville) Article 38.01. Section 3(a)(8)	09/01/2018
Pat Johnson, M.S.	11/28/2016	Forensic Chemistry (Austin) Article 38.01, Section 3(a)(1)	09/01/2019
Sarah Kerrigan, Ph.D.	11/28/2016	Forensic Toxicology (The Woodlands) Article 38.01, Section 3(a)(1)	09/01/2019
Jarvis Parsons, J.D.	11/28/2016	TDCAA--Prosecutor (Tarrant) Article 38.01, Section 3(a)(2).	09/01/2019

## **B. New Staff Member**

In November 2018, the Commission hired a licensing program specialist to assist the Commission in the processing of license applications and other program functions, including administration of the General Forensic Analyst and Technician Licensing Exams. The new employee, Rodney Soward, will work directly with Commission staff in processing approval for forensic analyst and technician license applications and scheduling of exam sessions.

## **C. Annual Budget**

The FSC's annual budget was increased during the 85<sup>th</sup> Legislative Session to \$638,000 for fiscal year 2018, beginning September 1, 2018, to support its development and implementation of the licensing program, but was reduced to \$528,000 for fiscal year 2019. A copy of the FSC's projected budget (major categories) for FY2019 is attached as **Exhibit B**. The Commission will dedicate funds to the following critical priorities during FY2019: (1) funding of staff salary and overhead; (2) complaint and disclosure investigative activities; (3) management of the accreditation program; (4) management and administration of the Forensic Analyst Licensing Program; (5) discipline-specific reviews and related training and forensic education initiatives; (6)

forensic development and accreditation oversight of other forensic disciplines such as field drug testing and crime scene reconstruction and analysis, including blood stain pattern analysis; and (7) other collaborative training projects with the Texas Criminal Justice Integrity Unit (“TCJIU”) and other stakeholders. **Exhibit B** provides a breakdown of projected costs in major categories.

## **V. Summary of Complaints and Disclosures**

### **A. Complaint/Disclosure Tally**

Commission staff receives complaints from a range of sources, including but not limited to attorneys (both defense and prosecution), current inmates and their families/friends, national advocacy groups, former laboratory employees, other laboratories and interested members of the public. The Commission relies upon accredited crime laboratories, interested members of the public, and its own commissioners to bring issues of concern to the Commission’s attention. To date, the Commission has received a total of 236 complaints and 62 self-disclosures, and has disposed of 280 complaints and disclosures, either through dismissal, investigation and release of a report, and/or referral to another agency. Of the 298 total complaints and self-disclosures received, 60 were received from September 1, 2017, through the date of this report. The Commission currently has 18 open complaints/self-disclosures; this number includes 2 active investigations involving 2 cases, not including the discipline-specific reviews described in Section VII below. A complete spreadsheet detailing the disposition and status of each complaint is provided at **Exhibit C**.

### **B. Complaint/Disclosure Screening Process**

Pursuant to Section 3 of the Commission’s Policies and Procedures, the Commission’s Complaint and Disclosure Screening Committee conducts an initial review of complaints and disclosures before each meeting as necessary. After discussion, the Committee makes a

recommendation on what further action (if any) is merited for each complaint or self-disclosure received. The Committee's opinion is presented to the full Commission for consideration and deliberation during the quarterly meeting.

As previously described, the Commission may only review allegations of professional negligence or misconduct for those cases involving accredited crime laboratories and accredited forensic disciplines. The Commission receives many complaints falling outside those statutory requirements and typically will only review cases involving unaccredited disciplines and entities when a majority of Commissioners determines the review would be an effective use of public resources and is likely to benefit the criminal justice system in Texas. Many complaints are dismissed because they do not meet these standards. Other complaints are dismissed because they lack fundamental information or simply fail to state an actual complaint. Finally, the Commission must dismiss any complaint involving the portion of an autopsy conducted by a medical examiner or other forensic pathologist who is a licensed physician. *See* TEX. CODE CRIM. PROC. 38.01, § 2(4).

## **VI. Summary of Pending Complaint and Self-Disclosure Investigations and Final Reports Issued in FY2018.**

As of the date of this report, one complaint and one disclosure are pending investigation and release of a final report by the Commission: (1) a complaint by a former laboratory supervisor now an independent toxicology expert, alleging an employee at DPS – El Paso took data from a February 7, 2014 blood alcohol analysis batch run that was compromised and slated for re-analysis, and used those results for the supposed re-run on March 12, 2014; and (2) a self-disclosure by Sorenson Forensics describing two incidents of contamination that were not discovered prior to case reports being released. These incidents were detected by Sorenson's client. The Commission

is currently in the process of investigating these two incidents and plans to issue final reports in each case in early 2019. Copies of the final reports will be published on the Commission's website.

In October 2018, the Commission issued a final report in its investigation of a complaint filed by the Innocence Project of Texas on behalf of Joe Bryan. The report describes observations by the Commission with respect to the integrity and reliability of the bloodstain pattern analysis, serology, and related testimony conducted in the case and includes observations and recommendations with respect to the accreditation of crime scene investigation and reconstruction in Texas. The Commission's recommendations with respect to crime scene investigation and accreditation of crime scene reconstruction and analysis, including bloodstain pattern analysis are further described in Section VII C of this report. Copies of all final investigative reports, including the Joe Bryan report, may be found on the Commission's website [here](#).

## **VII. Discipline Specific Reviews**

### **A. Microscopic Hair Analysis**

#### **1. Background**

At its November 1, 2013, meeting, the Commission appointed an investigative panel to coordinate a case review of testimony in Texas hair microscopy cases in response to a review conducted by the FBI. The Commission's investigative panel formed a panel of subject matter experts and attorneys to develop case review criteria and review testimony in identified hair cases. The review panel limited its review of cases to those in which an individual was convicted of a crime, there was a positive, probative association made by a hair examiner in a laboratory report, the association was in any way significant to the outcome, and the examiner provided subsequent testimony as an expert witness at trial. The team asked the following questions regarding the cases it reviews:

1. Did the report or testimony contain a statement of identification?
2. Did the report or testimony assign probability or statistical weight?
3. Did the report or testimony contain any other potentially misleading statements or inferences?

If the answer to any of these questions was affirmative, the Commission notified interested parties of the review team's specific findings.<sup>2</sup> For a complete background on the Commission's hair microscopy review, please refer to the Commission's [Fifth Annual Report](#) published on December 1, 2016.

## **2. Case Review Status**

The Commission approved a sub-sampling approach to case identification that allows for the generation of a reasonable number of cases for review without adding to existing laboratory backlogs. Staff requested that each laboratory provide the first 10 cases from every decade for which the laboratory performed microscopic hair comparisons and received responses from 20 Texas labs. The lab responses were timely and thorough, but not uniform. In total, the labs submitted 693 cases to the Commission. In addition to the lab submissions, staff conducted case research on LexisNexis. Specific case submissions are described below:

- Texas DPS – 412 cases total representing 10 cases from each decade for each regional lab (est. 20% of total)
- Bexar County – 61 cases representing all positive associations from 1989 to present
- Fort Worth PD – 50 cases up to 1995
- Harris County IFS – 7 cases representing all cases from 1999 to 2005 (review of 1988-1998 underway)
- Houston PD – 65 of 220 cases where a report was issued
- Jefferson County – 51 cases representing all hair cases
- Pasadena – 8 cases representing all hair cases
- SWIFS – 36 cases representing all cases from 1991 where positive probation associations were made

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<sup>2</sup> *The Commission is not a court of law and therefore will not make any legal determinations regarding the materiality of the reports and/or testimony reviewed to any specific criminal case outcome. To the extent the review raises potential legal issues in individual criminal cases, those issues will be resolved by Texas courts of competent jurisdiction. If the Commission identifies deficiency in the microscopic hair analysis results or testimony provided in a given case, that fact alone should not be interpreted as a commentary on the guilt or innocence of any individual.*

- Tarrant County ME – 22 cases representing 10 per decade where hair microscopy was performed
- LexisNexis – 120 cases

Further investigation and screening of these cases was necessary to facilitate trial testimony review. Each local jurisdiction keeps its own records and does not always retain copies of trial transcripts for old cases. If post-conviction action was taken, it may be possible to access transcripts from a higher court. Even for cases that went to trial, if no appeal was filed there is a strong likelihood the transcript was not prepared by a court reporter, and thus would not be available for examination.

Retroactive case reviews starting with lab reports present certain challenges. The biggest challenge is that a laboratory report has very limited information concerning the ultimate outcome of the criminal case. There is no information concerning whether a criminal prosecution followed, the form the prosecution took (plea or trial) or the ultimate disposition. Staff utilized several steps of screening and investigation to narrow down the list of cases to those involving positive probative associations where a conviction was obtained.

To tackle the lab submissions, the hair review team split into two sub-teams to identify which reports contained positive probative associations. Each sub-team was assigned approximately half of the 693 lab reports for review. This first round of case screening resulted in 287 total cases where a positive probative association was made.

The LexisNexis list of 120 cases provided more information because it consists of criminal convictions that were appealed where hair microscopy or hair comparison evidence was mentioned in the reported opinion. Further screening of this set of cases was necessary to determine if the case fit the parameters of the review. Staff conducted additional investigation and greatly reduced the number of cases on this list.

The next step in the process involved further research of the 287 positive probative association cases to determine if a criminal conviction was obtained, whether it was by plea or trial, and finally if a trial transcript was available for review. Many counties have digitized criminal case records making it easier to search for a criminal defendant in a jurisdiction. The Texas appellate courts have a robust system-wide online case search database providing information on criminal post-conviction proceedings, both at the appellate courts and at the Court of Criminal Appeals. Other publicly available resources such as the Texas Sex Offender Registry, news websites, and Google searches provided further useful information.

Staff conducted further screening and investigation of the positive probative association list and the LexisNexis/Westlaw list, narrowing the final list to 79 criminal convictions by trial where a trial transcript may be available for review. Staff requested and collected all available trial records. Not all cases on the final list had trial transcripts available for review. Six cases on the final list did not have a trial transcript available for review, bringing the total cases available for review down to 73. Also, the analyst did not always testify regarding the hair comparison at trial, further limiting the total cases available for review.

In addition to those cases that went to trial, staff determined that at least 29 cases were disposed of by plea. No problematic statements of association were noted in the lab reports for these cases.

The final stage of the review required the HRT to analyze trial testimony for the remaining cases, answer the three review criteria questions, and make notification recommendations to the Commission. Staff secured assistance from Latham & Watkins's Houston office to assist with this task. On October 28, 2015, staff and members of the HRT provided training for Latham & Watkins

attorneys. They provided the HRT with a completed checklist answering the three review questions, allowing the HRT to streamline its review.

### **3. Case Review Results**

One of the first steps taken by the HRT and Commission staff was to identify those cases in which individuals are still incarcerated. The team obtained laboratory reports and reviewed relevant testimony in all death penalty cases on the list while the criteria review process was still in development for other cases, to ensure those cases were evaluated in an expedited manner. Because the sub-sampling approach yielded a relatively small group of cases (for example, approximately 20% at the DPS labs), the five death penalty cases reviewed do *not* represent all inmates on death row who may have had hair microscopy as a component of their cases.

Along with the five death penalty cases, the HRT reviewed an additional 45 cases (two cases involve two codefendants tried jointly), totaling 50 transcript reviews. No notifiable errors were found in the five reviewed pending death penalty cases. Of the 45 reviewed non-pending death penalty cases, notifiable error was found in 22 cases and notification letters were sent to the interested parties. Of these 22 cases, two involved defendants who were either executed or died on death row prior to review.

### **4. Final Report**

The Commission plans to review a draft report summarizing its findings in the hair microscopy review at its January 2019 quarterly meeting. A final report will be published on the Commission's website when available.

## **B. DNA Mixture Interpretation Analysis**

### **1. Background**

In May 2015, the Federal Bureau of Investigation (FBI) issued a notification to laboratories around the country stating it had identified certain errors in the database used by laboratories to calculate DNA match statistics in criminal cases. The statistical impact of those errors was minimal as demonstrated through empirical studies at the national and state level.

In an abundance of caution, Texas laboratories notified prosecutors they would re-calculate statistics for any case using the corrected data. Some prosecutors requested new reports reflecting the re-calculations, particularly for cases currently scheduled for trial. The reports confirmed the statistical insignificance of the FBI database errors.

However, when the amended reports were issued some prosecutors noticed a significant difference in statistical results for a few of their cases, such as a change from an inclusion or “cannot be excluded” result with an accompanying population statistic to an inconclusive result, or a major change in a population statistic. When the affected prosecutors inquired how this type of change could be possible when the FBI database issues were supposed to be *statistically minimal*, they were informed the changes were attributable not to the FBI database corrections but rather to changes in mixture interpretation protocols over time.

While some variation in laboratory interpretation policies and protocols is acceptable and to be expected, mixture interpretation protocols in years past may not have adequately considered certain important scientific limitations, such as allele dropout, stutter, allele stacking, allele masking and other stochastic effects. To be clear, this is by no means isolated to Texas but rather an issue in laboratories nationwide and it does not impact every laboratory or every case involving DNA analysis. Some cases may have a significantly changed statistic when reviewed, some may have minor and insignificant changes while others may have no changes at all.

## **2. Action Taken**

Over the past year, the Commission has actively engaged with stakeholders including representatives from the Texas District and County Attorney's Association, the Texas Criminal Defense Lawyer's Association, the Office of the Governor, Office of the Attorney General, the Texas Commission on Indigent Defense, the various law school innocence clinics, the forensic laboratories, the Center for the Judiciary, the Criminal Justice Integrity Unit and others to ensure accurate and appropriate implementation of mixture interpretation principles and protocols, notification of potentially affected defendants, triage of casework and establishment of county resources for indigent defense in cases that may have been impacted. The Commission has also sought and received guidance from some of the best experts on DNA issues in the world. Not all DNA cases will have changed statistics, and not all changed statistics will be material to the case outcome.

### **3. DNA Mixture Interpretation Case Review**

#### **a. Notification and Screening Process**

Considering the Commission's findings related to mixture interpretation protocols that may not have adequately considered certain important scientific limitations, such as allele dropout, stutter, allele stacking, allele masking and other stochastic effects, the Commission felt it prudent to initiate a statewide review of DNA mixture interpretation cases. As part of a recommended notification process, the Commission requested all criminal DNA testing laboratories in the State provide DNA mixture lists of cases analyzed since the inception of STR testing to the affected prosecuting agencies for review and notification where appropriate. With the assistance of the Court of Criminal Appeals, notice was published in Texas prison libraries describing the DNA mixture interpretation issues and providing inmates with information on submitting their case for review and/or reanalysis.

### **b. Case Review Status Update**

Except for Tarrant and Travis counties, which are managing their own reviews, the statewide DNA mixture interpretation case review is currently managed by Bob Wicoff, Chief of the Appellate Division of the Harris County Public Defender's Office. The work is fully funded by a grant from the Texas Commission on Indigent Defense. Wicoff and a team of lawyers have received approximately 3,072 requests for review and/or re-analysis of cases. About 2,557 of those cases have been resolved so far. Of the 2,557 resolved, recalculation was requested and/or completed in 3.67% of cases (113 cases). The group has received recalculated results in 50 cases, 44 of which confirmed the original results, 1 in which the results changed from "cannot be excluded" to "excluded", 3 where results changed from "cannot be excluded" to "inconclusive" and 2 cases in which results were confirmed but saw a significant statistical change.

## **C. Crime Scene Investigation and Reconstruction, including Bloodstain Pattern Analysis**

### **1. Background**

At its May 26, 2017 meeting, the Commission reviewed a self-disclosure from the Houston Forensic Science Center ("HFSC") describing issues in its Crime Scene Unit including deficiencies in documentation, collection, recovery and preservation of evidence at multiple crime scenes that led to the removal of a crime scene investigator and a technical supervisor and voted to form an investigative panel consisting of Commissioners Mr. Pat Johnson, Mr. Jarvis Parsons and Dr. Jasmine Drake. The same investigative panel will combine its observations about best practices for crime scene investigation made in the HFSC disclosure with recommendations for accreditation of crime scene analysis and reconstruction, including bloodstain pattern analysis made in the Joe Bryan case discussed in Section VI of this report to fully address the 85<sup>th</sup> Legislature's request for a study of crime scene investigation described in paragraph III C above.

## **2. Status Update**

On January 22, 2018, the panel and Commissioners held a hearing at the Supreme Court of Texas where invited stakeholders in crime scene analysis and reconstruction, including bloodstain pattern analysis provided testimony on their practice and its scientific support and answered questions about whether accreditation should be required for the discipline. At its April 2018 quarterly meeting, Commissioners temporarily exempted the discipline from accreditation requirements until May 2018, so the Commission has time to develop an accreditation scheme for the discipline. In the interim, the Commission and the panel formed a collaborative working group of crime scene investigation practitioners that has met three times since May 2018 to develop standards of practice for crime scene investigation and analysis, including bloodstain pattern analysis. The group began by distinguishing crime scene processing and investigation activities from crime scene reconstruction and analysis activities by defining the terms. Crime Scene Processing may include activities such as identifying, documenting, recovering and preserving potential items of physical evidence for later examination or analysis whereas crime scene reconstruction is an applied science employing the scientific method to best identify an explanation for an event, including analysis and evaluation of information from all reasonably available sources. Over 2400 law enforcement agencies across Texas engage in crime scene processing activities that are integral to any case investigation. Only a limited number of practitioners engage in crime scene analysis and reconstruction, including bloodstain pattern analysis. With respect to crime scene processing and recommendations for best practices, the panel and working group members are working closely with the Texas Commission on Law Enforcement to revise the Basic Peace Office Training Course to include what was previously an intermediate level crime scene investigator course in the basic course and to update instructional material provided for crime

scene processing as a way to address issues in crime scene investigation/processing. With respect to crime scene analysis and reconstruction, including bloodstain pattern analysis, the panel and the working group have prepared draft accreditation/oversight requirements for presentation to the full Commission at its January 25, 2019, quarterly meeting. All recommendations and developments thus far with respect to crime scene investigation practice in Texas will be outlined in the December 1, 2018, HB-34 report required by the 85<sup>th</sup> Legislature. A copy of the report may be found on the Commission's website by December 1, 2018.

## **VIII. Forensic Development Activities**

### **A. Case Sampling Project**

On November 12, 2019, a working group formed by the Commission met at the Brazos County District Attorney's Office to discuss the consideration of different case sampling approaches in retroactive case reviews. The group's objective is to develop recommendations/guidance to accredited crime laboratories on how to approach retroactive case review, including assessing the number of cases that should be reviewed in the event of a significant nonconformance to achieve a certain level of confidence in casework overall. The group consists of Commissioners Drake, Kerrigan, Budowle and Parsons, Texas A&M Statistician Cliff Spiegelman, CEO of the Houston Forensic Science Center, Peter Stout, Sam Houston State University Associate Professor of Forensic Science, Patrick Buzzini, and National Innocence Project Senior Advisor on Forensic Policy, Sarah Chu. The group plans to meet again sometime in January 2019.

### **B. STRmix Symposium/Roundtable Discussion**

On November 15, 2018 – November 16, 2018, the Commission and the University of North Texas Health Science Center—Center for Human Identification hosted a roundtable discussion on

the probabilistic genotyping software STRmix. DNA practitioners throughout the state were invited to participate. The discussion included foundational studies, issues in STRmix validation, and identifying key areas of agreement and critique with respect to the technology. Attendees also discussed what areas of research have been completed to address areas of concern and what additional research remains.

### **C. Organization of Scientific Area Committees**

In February 2014, the National Institute for Standards and Technology and the U.S. Department of Justice announced the formation of the Organization of Scientific Area Committees (“OSAC”) to strengthen forensic science standards in the United States. The OSAC is a collaborative body of 500 forensic science practitioners and other stakeholders tasked with supporting the development and promulgation of forensic science standards and guidelines. Many representatives from Texas have been selected for OSAC subcommittees. Commission member Dr. Sarah Kerrigan is a member of the Forensic Science Standards Board, the governing body of OSAC. Various OSAC subcommittees on forensic science continue to meet and develop standards and guidelines. The Commission hopes to eventually incorporate certain OSAC guidelines as part of its accreditation and licensing requirements, particularly the recommended knowledge-based competency training topics for each forensic discipline as those guidelines are handed down.

## **IX. Additional Items Required in Annual Report by Statute**

### **A. Accreditation Updates**

As part of its statutory Annual Report requirement, the Commission must describe any forensic method or methodology the Commission designates as part of the accreditation process for crime laboratories.<sup>3</sup> In the past fiscal year, the Commission has considered whether to exempt

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<sup>3</sup> TEX. CODE CRIM. PROC. art 38.01 §8(2).

or subject to the accreditation crime scene reconstruction, including bloodstain pattern analysis and trajectory determination. Previously, the discipline was neither subject to nor exempt from accreditation requirements. Commissioners decided to exempt the discipline from accreditation requirements temporarily with a plan to subject the discipline to developed accreditation/oversight requirements by May 2019. A panel of Commissioners and a working group of stakeholders is in the process of developing those requirements for presentation to the Commission at its January 25, 2019, quarterly meeting.

### **B. Forensic Analysis Definition**

In addition to the explanation of accreditation changes, the Commission's enabling statute requires a report on recommendations for "best practices concerning the definition of 'forensic analysis' provided by statute or by rule" each year.<sup>4</sup> The Commission has not identified any recommendations regarding the definition of "forensic analysis." The Commission may revise its conclusion on this issue as necessary to ensure the advancement of forensic science in Texas.

### **C. Other Relevant Information - Open Records Requests and Open Meetings**

Pursuant to Senate Bill 1124 and the Commission's administrative attachment to the Office of Court Administration, the Commission is considered part of the judicial branch of government and must comply with judicial rules related to information requests and open meetings. The Commission must comply with Rule 12.6 – Access to Judicial Records.<sup>5</sup> The process is similar to the document review and disclosure requirements of the Public Information Act. A member of the public must submit a request in writing. The Commission will continue to accept requests via email at [info@fsc.texas.gov](mailto:info@fsc.texas.gov) or via regular U.S. mail.

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<sup>4</sup> *Id.* at §8(3).

<sup>5</sup> Tex. Gov't. Code § 552.0035.

Regarding the Open Meetings Act, the Commission voted to continue to comply with the Act in posting notice in the form of an agenda for each Commission meeting at least 7 days prior to each meeting.

# EXHIBIT A

## Tex. Code Crim. Proc. Art. 38.01

This document is current through the 2017 Regular Session and 1st C.S., 85th Legislature

**Texas Statutes & Codes Annotated by LexisNexis® > Code of Criminal Procedure > Title 1  
Code of Criminal Procedure of 1965 (Arts. 1.01 — 67.305) > Trial and Its Incidents (Chs. 32 — 39)  
> Chapter 38 Evidence in Criminal Actions (Arts. 38.01 — 38.50)**

### **Notice**

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🚩 This section has more than one version with varying effective dates.

## **Art. 38.01. Texas Forensic Science Commission. [Effective January 1, 2019]**

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**Sec. 1. Creation.** —The Texas Forensic Science Commission is created.

**Sec. 2. Definitions.** —In this article:

- (1)“Accredited field of forensic science” means a specific forensic method or methodology validated or approved by the commission under this article.
- (2)“Commission” means the Texas Forensic Science Commission.
- (3)“Crime laboratory” has the meaning assigned by Article 38.35.
- (4)“Forensic analysis” means a medical, chemical, toxicologic, 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.
- (5)“Office of capital and forensic writs” means the office of capital and forensic writs established under Subchapter B, Chapter 78, Government Code.
- (6)“Physical evidence” has the meaning assigned by Article 38.35.

**Sec. 3. Composition.**

(a)The commission is composed of nine members appointed by the governor as follows:

- (1)two members who must have expertise in the field of forensic science;
- (2)one member who must be a prosecuting attorney that the governor selects from a list of 10 names submitted by the Texas District and County Attorneys Association;
- (3)one member who must be a defense attorney that the governor selects from a list of 10 names submitted by the Texas Criminal Defense Lawyers Association;
- (4)one member who must be a faculty member or staff member of The University of Texas who specializes in clinical laboratory medicine that the governor selects from a list of five names submitted by the chancellor of The University of Texas System;
- (5)one member who must be a faculty member or staff member of Texas A&M University who specializes in clinical laboratory medicine that the governor selects from a list of five names submitted by the chancellor of The Texas A&M University System;

**(6)**one member who must be a faculty member or staff member of Texas Southern University that the governor selects from a list of five names submitted by the chancellor of Texas Southern University;

**(7)**one member who must be a director or division head of the University of North Texas Health Science Center at Fort Worth Missing Persons DNA Database; and

**(8)**one member who must be a faculty or staff member of the Sam Houston State University College of Criminal Justice and have expertise in the field of forensic science or statistical analyses that the governor selects from a list of five names submitted by the chancellor of the Texas State University System.

**(b)**Each member of the commission serves a two-year term. The terms expire on September 1 of:

**(1)**each odd-numbered year, for a member appointed under Subsection (a)(1), (2), (3), or (4); and

**(2)**each even-numbered year, for a member appointed under Subsection (a)(5), (6), (7), or (8).

**(c)**The governor shall designate a member of the commission to serve as the presiding officer.

**Sec. 3-a. Rules.** The commission shall adopt rules necessary to implement this article.

**Sec. 4. Duties.**

**(a)**The commission shall:

**(1)**develop and implement a reporting system through which a crime laboratory may report professional negligence or professional misconduct;

**(2)**require a crime laboratory that conducts forensic analyses to report professional negligence or professional misconduct to the commission; and

**(3)**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.

**(a-1)**The commission may initiate for educational purposes an investigation of a forensic analysis without receiving a complaint, submitted through the reporting system implemented under Subsection (a)(1), that contains an allegation of professional negligence or professional misconduct involving the forensic analysis conducted if the commission determines by a majority vote of a quorum of the members of the commission that an investigation of the forensic analysis would advance the integrity and reliability of forensic science in this state.

**(b)**If the commission conducts an investigation under Subsection (a)(3) of a crime laboratory that is accredited under this article pursuant to an allegation of professional negligence or professional misconduct involving an accredited field of forensic science, the investigation:

**(1)**must include the preparation of a written report that identifies and also describes the methods and procedures used to identify:

**(A)**the alleged negligence or misconduct;

**(B)**whether negligence or misconduct occurred;

**(C)**any corrective action required of the laboratory, facility, or entity;

**(D)**observations of the commission regarding the integrity and reliability of the forensic analysis conducted;

**(E)**best practices identified by the commission during the course of the investigation; and

**(F)**other recommendations that are relevant, as determined by the commission; and

**(2)**may include one or more:

**(A)**retrospective reexaminations of other forensic analyses conducted by the laboratory, facility, or entity that may involve the same kind of negligence or misconduct; and

**(B)**follow-up evaluations of the laboratory, facility, or entity to review:

**(i)**the implementation of any corrective action required under Subdivision (1)(C); or

**(ii)**the conclusion of any retrospective reexamination under Paragraph (A).

**(b-1)**If the commission conducts an investigation under Subsection (a)(3) of a crime laboratory that is not accredited under this article or the investigation is conducted pursuant to an allegation involving a forensic method or methodology that is not an accredited field of forensic science, the investigation may include the preparation of a written report that contains:

**(1)**observations of the commission regarding the integrity and reliability of the forensic analysis conducted;

**(2)**best practices identified by the commission during the course of the investigation; or

**(3)**other recommendations that are relevant, as determined by the commission.

**(b-2)**If the commission conducts an investigation of a forensic analysis under Subsection (a-1), the investigation must include the preparation of a written report that contains:

**(1)**observations of the commission regarding the integrity and reliability of the forensic analysis conducted;

**(2)**best practices identified by the commission during the course of the investigation; and

**(3)**other recommendations that are relevant, as determined by the commission.

**(c)**The commission by contract may delegate the duties described by Subsections (a)(1) and (3) to any person the commission determines to be qualified to assume those duties.

**(d)**The commission may require that a crime laboratory investigated under this section pay any costs incurred to ensure compliance with Subsection (b), (b-1), or (b-2).

**(e)**The commission shall make all investigation reports completed under Subsection (b), (b-1), or (b-2) available to the public. A report completed under Subsection (b), (b-1), or (b-2), in a subsequent civil or criminal proceeding, is not *prima facie* evidence of the information or findings contained in the report.

**(f)**The commission may not make a determination of whether professional negligence or professional misconduct occurred or issue a finding on that question in an investigation initiated under Subsection (a-1) or for which an investigation report may be prepared under Subsection (b-1).

**(g)**The commission may not issue a finding related to the guilt or innocence of a party in an underlying civil or criminal trial involving conduct investigated by the commission under this article.

**(h)**The commission may review and refer cases that are the subject of an investigation under Subsection (a)(3) or (a-1) to the office of capital and forensic writs in accordance with [Section 78.054\(b\), Government Code](#).

#### Sec. 4-a. Forensic analyst licensing.

**(a)**Notwithstanding Section 2, in this section:

**(1)**“Forensic analysis” has the meaning assigned by Article 38.35.

**(2)**“Forensic analyst” means a person who on behalf of a crime laboratory accredited under this article technically reviews or performs a forensic analysis or draws conclusions from or interprets a forensic analysis for a court or crime laboratory. The term does not include a medical examiner or other forensic pathologist who is a licensed physician.

**(b)**A person may not act or offer to act as a forensic analyst unless the person holds a forensic analyst license. The commission by rule may establish classifications of forensic analyst licenses if the

## Tex. Code Crim. Proc. Art. 38.01

commission determines that it is necessary to ensure the availability of properly trained and qualified forensic analysts to perform activities regulated by the commission.

**(c)**The commission by rule may establish voluntary licensing programs for forensic disciplines that are not subject to accreditation under this article.

**(d)**The commission by rule shall:

**(1)**establish the qualifications for a license that include:

**(A)**successful completion of the education requirements established by the commission;

**(B)**specific course work and experience, including instruction in courtroom testimony and ethics in a crime laboratory;

**(C)**successful completion of an examination required or recognized by the commission; and

**(D)**successful completion of proficiency testing to the extent required for crime laboratory accreditation;

**(2)**set fees for the issuance and renewal of a license; and

**(3)**establish the term of a forensic analyst license.

**(e)**The commission by rule may recognize a certification issued by a national organization in an accredited field of forensic science as satisfying the requirements established under Subsection (d)(1)(C) to the extent the commission determines the content required to receive the certification is substantially equivalent to the content of the requirements under that subsection.

**(f)**The commission shall issue a license to an applicant who:

**(1)**submits an application on a form prescribed by the commission;

**(2)**meets the qualifications established by commission rule; and

**(3)**pays the required fee.

**Sec. 4-b. Advisory Committee.**

**(a)** The commission shall establish an advisory committee to advise the commission and make recommendations on matters related to the licensing of forensic analysts under Section 4-a.

**(b)**The advisory committee consists of nine members as follows:

**(1)**one prosecuting attorney recommended by the Texas District and County Attorneys Association;

**(2)**one defense attorney recommended by the Texas Criminal Defense Lawyers Association; and

**(3)**seven members who are forensic scientists, crime laboratory directors, or crime laboratory quality managers, selected by the commission from a list of 20 names submitted by the Texas Association of Crime Laboratory Directors.

**(c)**The commission shall ensure that appointments under Subsection (b)(3) include representation from municipal, county, state, and private crime laboratories that are accredited under this article.

**(d)**The advisory committee members serve staggered two-year terms, with the terms of four or five members, as appropriate, expiring on August 31 of each year. An advisory committee member may not serve more than two consecutive terms. A vacancy on the advisory committee is filled by appointing a member in the same manner as the original appointment to serve for the unexpired portion of the term.

**(e)**The advisory committee shall elect a presiding officer from among its members to serve a one-year term. A member may serve more than one term as presiding officer.

**(f)**The advisory committee shall meet annually and at the call of the presiding officer or the commission.

**(g)**An advisory committee member is not entitled to compensation. A member is entitled to reimbursement for actual and necessary expenses incurred in performing duties as a member of the advisory committee subject to the General Appropriations Act.

**(h)**Chapter 2110, Government Code, does not apply to the advisory committee.

#### **Sec. 4-c. Disciplinary Action.**

**(a)**On a determination by the commission that a license holder has committed professional misconduct under this article or violated this article or a rule or order of the commission under this article, the commission may:

- (1)**revoke or suspend the person's license;
- (2)**refuse to renew the person's license; or
- (3)**reprimand the license holder.

**(b)**The commission may place on probation a person whose license is suspended. If a license suspension is probated, the commission may require the license holder to:

- (1)**report regularly to the commission on matters that are the basis of the probation; or
- (2)**continue or review continuing professional education until the license holder attains a degree of skill satisfactory to the commission in those areas that are the basis of the probation.

**(c)**Disciplinary proceedings of the commission are governed by Chapter 2001, Government Code. A hearing under this section shall be conducted by an administrative law judge of the State Office of Administrative Hearings.

#### **Sec. 4-d. Crime Laboratory Accreditation Process.**

**(a)**Notwithstanding Section 2, in this section "forensic analysis" has the meaning by Article 38.35.

**(b)**The commission by rule:

- (1)**shall establish an accreditation process for crime laboratories and other entities conducting forensic analyses of physical evidence for use in criminal proceedings; and
- (2)**may modify or remove a crime laboratory exemption under this section if the commission determines that the underlying reason for the exemption no longer applies.

**(b-1)**As part of the accreditation process established and implemented under Subsection (b), the commission may:

- (1)**establish minimum standards that relate to the timely production of a forensic analysis to the agency requesting the analysis and that are consistent with this article and applicable laws;
- (2)**validate or approve specific forensic methods or methodologies; and
- (3)**establish procedures, policies, and practices to improve the quality of forensic analyses conducted in this state.

**(b-2)**The commission may require that a laboratory, facility, or entity required to be accredited under this section pay any costs incurred to ensure compliance with the accreditation process.

**(b-3)**A laboratory, facility, or entity that must be accredited under this section shall, as part of the accreditation process, agree to consent to any request for cooperation by the commission that is made as part of the exercise of the commission's duties under this article.

**(c)**The commission by rule may exempt from the accreditation process established under Subsection (b) a crime laboratory conducting a forensic analysis or a type of analysis, examination, or test if the commission determines that:

- (1)independent accreditation is unavailable or inappropriate for the laboratory or the type of analysis, examination, or test performed by the laboratory;
- (2)the type of analysis, examination, or test performed by the laboratory is admissible under a well-established rule of evidence or a statute other than Article 38.35;
- (3)the type of analysis, examination, or test performed by the laboratory is routinely conducted outside of a crime laboratory by a person other than an employee of the crime laboratory; or
- (4)the laboratory:
  - (A)is located outside this state or, if located in this state, is operated by a governmental entity other than the state or a political subdivision of the state; and
  - (B)was accredited at the time of the analysis under an accreditation process with standards that meet or exceed the relevant standards of the process established under Subsection (b).

(d)The commission may at any reasonable time enter and inspect the premises or audit the records, reports, procedures, or other quality assurance matters of a crime laboratory that is accredited or seeking accreditation under this section.

(e)The commission may collect costs incurred under this section for accrediting, inspecting, or auditing a crime laboratory.

(f)If the commission provides a copy of an audit or other report made under this section, the commission may charge \$6 for the copy, in addition to any other cost permitted under Chapter 552, Government Code, or a rule adopted under that chapter.

**Sec. 5. Reimbursement.** —A member of the commission may not receive compensation but is entitled to reimbursement for the member's travel expenses as provided by Chapter 660, Government Code, and the General Appropriations Act.

**Sec. 6. Assistance.** —The Texas Legislative Council, the Legislative Budget Board, and The University of Texas at Austin shall assist the commission in performing the commission's duties.

**Sec. 7. Submission.** —The commission shall submit any report received under Section 4(a)(2) and any report prepared under Section 4(b)(1) to the governor, the lieutenant governor, and the speaker of the house of representatives not later than December 1 of each even-numbered year.

**Sec. 8. Annual Report.** —Not later than December 1 of each year, the commission shall prepare and publish a report that includes:

- (1)a description of each complaint filed with the commission during the preceding 12- month period, the disposition of each complaint, and the status of any complaint still pending on December 31;
- (2)a description of any specific forensic method or methodology the commission designates as part of the accreditation process for crime laboratories established by rule under this article;
- (3)recommendations for best practices concerning the definition of "forensic analysis" provided by statute or by rule;
- (4)developments in forensic science made or used in other state or federal investigations and the activities of the commission, if any, with respect to those developments; and
- (5)other information that is relevant to investigations involving forensic science, as determined by the presiding officer of the commission.

**Sec. 9. Administrative Attachment to Office of Court Administration.**

**(a)**The commission is administratively attached to the Office of Court Administration of the Texas Judicial System.

**(b)**The Office of Court Administration of the Texas Judicial System shall provide administrative support to the commission as necessary to enable the commission to carry out the purposes of this article.

**(c)**Only the commission may exercise the duties of the commission under this article. Except as provided by Subsection (b), the Office of Court Administration of the Texas Judicial System does not have any authority or responsibility with respect to the duties of the commission under this article.

**Sec. 10. Open Records Limitation.**—Information that is filed as part of an allegation of professional misconduct or professional negligence or that is obtained during an investigation of an allegation of professional misconduct or professional negligence is not subject to release under Chapter 552, Government Code, until the conclusion of an investigation by the commission under Section 4.

**Sec. 11. Report Inadmissible As Evidence.**—A written report prepared by the commission under this article is not admissible in a civil or criminal action.

**Sec. 12. Collection of Certain Forensic Evidence.** The commission shall establish a method for collecting DNA and other forensic evidence related to unidentified bodies located less than 120 miles from the Rio Grande River.

**Sec. 13. Texas Forensic Science Commission Operating Account.** The Texas Forensic Science Commission operating account is an account in the general revenue fund. The commission shall deposit fees collected under Section 4-a for the issuance or renewal of a forensic analyst license to the credit of the account. Money in the account may be appropriated only to the commission for the administration and enforcement of this article.

## History

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Acts 2005, 79th Leg., ch. 1224 (H.B. 1068), § [1](#), effective September 1, 2005; am. Acts 2013, 83rd Leg., ch. 782 (S.B. 1238), §§ [1](#)—4, effective June 14, 2013; am. [Acts 2015, 84th Leg., ch. 1215 \(S.B. 1743\), §§ 8, 9](#), effective September 1, 2015; am. Acts 2015, 84th Leg., ch. 1276 (S.B. 1287), §§ 1—7, effective September 1, 2015; am. [Acts 2017, 85th Leg., ch. 212 \(S.B. 1124\), § 1](#), effective September 1, 2017; 2017, 85th Leg., ch. 324 (S.B. 1488), § 24.001(4), effective September 1, 2017; am. [Acts 2017, 85th Leg., ch. 1115 \(S.B. 298\), § 1](#), effective September 1, 2017.

Annotations

## LexisNexis® Notes

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## Notes

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### STATUTORY NOTES

Editor's Notes.

## Tex. Code Crim. Proc. Art. 38.01

A former art. 38.01, Rules of Common Law, as added by Acts 1965, 59th Leg., ch. 722 (S.B. 107), § 1 was repealed by the Texas Court of Criminal Appeals pursuant to Acts 1985, 69th Leg., ch. 685 (H.B. 13), § 9.

Acts 2013, 83rd Leg., ch. 782 (S.B. 1238), § 7 provides: "The term of a person appointed under former Subdivision (3), Subsection (a), Section 3, *Article 38.01, Code of Criminal Procedure*, as that law existed immediately before the effective date of this Act [September 1, 2013], expires September 1, 2014, and the governor shall appoint a person to fill each vacancy on that date in accordance with Subdivisions (7) and (8), Subsection (a), Section 3, *Article 38.01, Code of Criminal Procedure*, as amended by this Act. On the expiration of a term under former Subdivision (1) or (2), Subsection (a), Section 3, *Article 38.01, Code of Criminal Procedure*, as that law existed immediately before the effective date of this Act, the governor shall appoint a person to fill each vacancy in accordance with Subdivision (1), (2), (3), (4), (5), or (6), Subsection (a), Section 3, *Article 38.01, Code of Criminal Procedure*, as amended by this Act, as applicable."

Acts 2013, 83rd Leg., ch. 782 (S.B. 1238), § 8 provides: "Not later than December 1, 2014, the Texas Forensic Science Commission shall submit the first annual report required by Section 8, *Article 38.01, Code of Criminal Procedure*, as added by this Act."

Acts 2015 ch. 1276 (S.B. 1287) §17(b) provides: Section 4-a(b), Article 38.01, Code of Criminal Procedure, as added by this Act, takes effect January 1, 2019.

### **Effect of amendments.**

**2013 amendment**, rewrote Section 2, which read: "Definition. —In this article, 'forensic analysis' has the meaning assigned by Article 38.35(a)."; in Section 3, rewrote (a), pertaining to the composition of member in the commission and rewrote (b), which read: "Each member of the commission serves a two-year term. The term of the members appointed under Subsections (a)(1) and (2) expires on September 1 of each odd-numbered year. The term of the members appointed under Subsection (a)(3) expires on September 1 of each even-numbered year.>"; in Section 4, substituted "a crime laboratory may" for "accredited laboratories, facilities, or entities" in (a)(1), added "professional" after "negligence or" in (a)(1), (a)(2), and (a)(3), substituted "a crime laboratory" for "all laboratories, facilities, or entities" in (a)(2), substituted "a crime laboratory" for "an accredited laboratory, facility, or entity" in (a)(3), added (a-1), (b)(1)(D), (b)(1)(E), (b)(1)(F), (b-1), (b-2), (f), and (g), in the introductory language of (b), added "If the commission conducts" and "of a crime laboratory that is accredited by the Department of Public Safety under Section 411.0205, Government Code, pursuant to an allegation of professional negligence or professional misconduct involving an accredited field of forensic science, the investigation"; substituted "crime laboratory" for "laboratory, facility, or entity" in (d), and substituted "Subsection (b), (b-1), or (b-2)" for "Subsection (b)(1)" throughout (d) and (e); added Sections 8 through 11; and made related changes.

**2015 amendment**, by ch. 1215, added Section 2(5) and Section 4(h).

**2015 amendment**, by ch. 1276, in Section 2, substituted "commission under this article" for "public safety director of the Department of Public Safety under Section 411.0205(b-1)(2), Government Code, as part of the accreditation process for crime laboratories established by rule under Section 411.0205(b) of that code" in (1) and added (5); substituted "five names" for "10 names" in (a)(4), (a)(5), (a)(6), and (a)(8) of Section 3; substituted "under this article" for "by the Department of Public Safety under Section 411.0205, Government Code" in the introductory language of (b) and (b-1) of Section 4; added Sections 3-a, 4-a, 4-b, and 4-c.

**2017 amendment by ch. 1115 (S.B. 298), § 1**, added Section 13.

**2017 amendment by ch. 212 (S.B. 1124), § 1**, in Section 9, substituted "Office of Court Administration" for "Sam Houston State University" in the section heading; substituted "the Office of Court Administration of the Texas Judicial System" for "Sam Houston State University" at the end of (a); in (b), substituted "The Office of Court Administration of the Texas Judicial System" for "The Board of Regents of the Texas State University System" at the beginning, and added "enable the commission" following "necessary to"; and substituted "the Office of Court Administration of the Texas Judicial System does not have" for "neither the Board of Regents of the Texas State University System nor Sam Houston State University has" in (c).

**2017 amendment by ch. 324 (S.B. 1488), § 24.001(4)**, redesignated Section 2, subdivision (5), as added by Acts 2015, ch. 1276 (S.B. 1287), as Section 2, subdivision (6).

## Case Notes

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### Notes to Unpublished Decisions

#### Criminal Law & Procedure: Bail: Conditions of Release

*Unpublished decision:* Habeas corpus was properly denied; the court did not abuse its discretion by increasing defendant's bail after he tested positive for marihuana because, even assuming that [Tex. Code Crim. Proc. Ann. art. 38.35](#) applied to bail proceedings and required evidence demonstrating that the entity conducting the drug test was accredited by the commission, defendant did not satisfy his burden at the hearing. [Ex parte Bernal, No. 10-16-00403-CR, 2017 Tex. App. LEXIS 4494 \(Tex. App. Waco May 17, 2017\)](#).

## Opinion Notes

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### OPINIONS OF ATTORNEY GENERAL

#### Investigative Authority.

By the plain language of *Tex. Code Crim. Proc. Ann. art. 38.01, § 4(a)(3)*, the Texas Forensic Science Commission does not have investigative authority over evidence tested or offered into evidence before September 1, 2005. 2011 Tex. Op. Att'y Gen. GA-0866.

The Forensic Science Commission's investigative authority under *Tex. Code Crim. Proc. Ann. art. 38.01, § 4(a)(3)* is limited to those laboratories, facilities, or entities that were accredited by the Department of Public Safety at the time the forensic analyses took place. 2011 Tex. Op. Att'y Gen. GA-0866.

The Forensic Science Commission ("FSC") may not investigate fields of forensic analysis expressly excluded from the statutory definition of "forensic analysis"; forensic analysis that is neither expressly included nor excluded, but that falls under the generic definition of "forensic analysis" found in [Tex. Code Crim. Proc. Ann. art. 38.35\(a\)\(4\)](#), is generally subject to FSC investigation, assuming all other statutory requirements are satisfied. 2011 Tex. Op. Att'y Gen. GA-0866.

#### Accreditation.

A court would likely conclude that (1) "forensic analysis" as defined in [Tex. Code Crim. Proc. Ann. art. 38.35](#), from a crime laboratory that is neither accredited by the Forensic Science Commission nor exempt from accreditation by statute or administrative rule is inadmissible in a criminal action in a Texas court under art. 38.35(d)(1); and (2) the Commission may refrain from granting an exemption from accreditation under *Tex. Code Crim. Proc. Ann. art. 38.01*, subpart (4-d)(c) in its reasonable discretion. 2017 Tex. Op. Att'y Gen. KP-0127.

#### Reporting.

A court would likely conclude that, pursuant to *Tex. Code Crim. Proc. Ann. art. 38.01*, subpart 4(a)(2), a crime laboratory must report professional negligence or professional misconduct pertaining to forensic analyses in all disciplines-not just those that are accredited-to the Commission. 2017 Tex. Op. Att'y Gen. KP-0127.

#### Toxicological analysis

Tex. Code Crim. Proc. Art. 38.01

Post-mortem toxicological analysis requested by a medical examiner or forensic pathologist is subject to the Forensic Science Commission's accreditation authority only if it is performed for the purpose of determining the connection of physical evidence to a criminal action; such purpose depends on why a medical examiner or forensic pathologist requests the analysis, not how the results are ultimately used; whether any particular post-mortem toxicological analysis is performed for the purpose of determining the connection of physical evidence to a criminal action is for the Commission to determine in the first instance, subject to judicial review. Tex. Op. Att'y Gen. KP-0188 (2018).

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## EXHIBIT B

**Budget Status Report FY19**

First Quarter - 10/01/18

Category	Description	YTD	Projected	Current Remaining	% Total Budget	% Projected Used	% Projected Remaining
<b>FY19 Expenditures</b>							
<b>Staff salaries</b>							
	All labor costs for 4 full-time employees	36,000.15	434,944.66	398,944.51	68.17%	8.28%	91.72%
	Buffer for new licensing specialist overhead/longevity	-	1,055.34	1,055.34	0.17%	0.00%	100.00%
<b>Travel Commissioners and Committee Members - FSC Meetings &amp; Licensing Panel Mtgs.</b>							
	Travel reimbursements	-	30,100.00	30,100.00	4.72%	0.00%	100.00%
<b>Travel/Conference/Training Fees/Membership Fees - 4 Staff</b>							
	All employee travel in-state and out-of-state, conferences and membership fees	-	15,000.00	15,000.00	2.35%	0.00%	100.00%
<b>Office Supplies</b>							
	Allotment for office supplies	-	3,700.00	3,700.00	0.58%	0.00%	100.00%
<b>IT Services FY18</b>							
	Filemaker Database Management and Design	80.00	1,000.00	920.00	0.16%	8.00%	92.00%
	Filemaker Software License Renewal	-	642.00	642.00	0.10%	0.00%	100.00%
	WBT Systems - TopClass Licensing Software - Annual Maintenance Fee	9,600.00	9,600.00	-	1.50%	100.00%	0.00%
	ALIS Licensing Software implementation \$56,000 paid out of OCA IT Fund	-	-	-	0.00%	0.00%	0.00%
	ALIS Annual Maintenance \$30,000 paid out of OCA IT Fund	-	-	-	0.00%	0.00%	0.00%
	IT Miscellaneous Supplies (Keyboard and mouse)	91.00	91.00	-	0.01%	100.00%	0.00%
	Other Miscellaneous	4,184.67	4,187.67	3.00	0.66%	99.93%	0.07%
<b>General Operating Expenses (copier, phone, internet, other utilities, including \$30K administrative fee to Office of Court Administration)</b>							
<b>FY18</b>							
	<b>Encumbered Operating Expenses</b>						
	Administrative Fee - OCA	30,000.00	30,000.00	-	4.70%	100.00%	0.00%
	Xerox	9,934.92	9,934.92	-	1.56%	100.00%	0.00%
	Xerox Copies/Overages	2,000.00	2,000.00	-	0.31%	100.00%	0.00%
	Verizon	1,823.52	1,823.52	-	0.29%	100.00%	0.00%
	ATT	230.66	230.66	-	0.04%	100.00%	0.00%
	DIR	7,690.43	7,690.43	-	1.21%	100.00%	0.00%
	Lexis Research	880.00	880.00	-	0.14%	100.00%	0.00%
	Dropbox	211.08	211.08	-	0.03%	100.00%	0.00%
	Prezi Presentation Software	172.12	172.12	-	0.03%	100.00%	0.00%
	GoTo Meeting Annual Software License Fee	588.00	588.00	-	0.09%	100.00%	0.00%

**Budget Status Report FY19**

**First Quarter - 10/01/18**

	<i>Lucid Software</i>	107.40	107.40	-	0.02%	100.00%	0.00%
	<i>EAP</i>	83.04	83.04	-	0.01%	100.00%	0.00%
	<i>CenturyLink</i>	10.00	10.00	-	0.00%	100.00%	0.00%
	<i>Miscellaneous</i>	3,268.83	3,268.83	-	0.51%	100.00%	0.00%
<b>Mailing/Fedex/PO Box</b>							
	<i>Mail Service Costs</i>	-	1,200.00	1,200.00	0.19%	0.00%	100.00%
<b>Training and Forensic Development</b>							
		-	25,000.00	25,000.00	3.92%	0.00%	100.00%
<b>Investigative Costs</b>							
		-	27,500.00	27,500.00	4.31%	0.00%	100.00%
<b>Discipline Specific Reviews</b>							
	<i>Travel Reimbursements and other Costs</i>	-	25,000.00	25,000.00	3.92%	0.00%	100.00%
<b>Licensing Program</b>							
	<i>ACS Ventures/Psychometric testing</i>	-	7,500.00	7,500.00	1.18%	0.00%	100.00%
	<i>Licensing cards</i>	2,045.93	2,045.93	-	0.32%	100.00%	0.00%
	<i>Licensing stickers for embossment</i>	238.15	238.15	-	0.04%	100.00%	0.00%
	<i>Shipping for certificates and stickers</i>	19.48	19.48	-	0.00%	100.00%	0.00%
	<i>Statistics Course Development</i>	-	25,000.00	25,000.00	3.92%	0.00%	100.00%
	<i>Miscellaneous</i>		6,826.77	6,826.77	1.07%	0.00%	100.00%
<b>FY19 Revenue</b>		-					
	<i>Licensing fee revenues as of 10/1</i>	19,820.00	70,000.00	50,180.00	10.97%	28.31%	71.69%
		<b>\$ 106,955.82</b>	<b>\$ 607,651.00</b>	<b>\$ 568,391.62</b>		<b>17.60%</b>	<b>93.54%</b>

## EXHIBIT C

FSC Case No.	Status	Complainant	Subject Entity	Forensic Discipline(s)	Disposition/Report
1000.09.01	Closed	Todd Willingham	Tx State Fire Marshall Corsicana	Arson	Final Report Issued 4/15/11
1001.09.02	Closed	Brandon Lee Moon	DPS El Paso	Serology	Final Report Issued 6/30/11
1002.09.03	Closed	Robert J. Seitz	SWIFS	Serology; ballistics	Dismissed
1003.09.04	Closed	Ismael Padilla	SWIFS	DNA	Dismissed
1004.09.06	Closed	Bruce Garrett	Ft. Worth PD	Serology	Dismissed
1005.09.08	Closed	Harley Winland	Houston PD Crime Lab	Trace Evidence; Firearms	Dismissed
1006.09.10	Closed	Dedra Wilson	Ellis County ME	Autopsy	Dismissed
1007.09.11	Closed	Jerry Don Hartless	Medical Examiner Lufkin	Autopsy	Dismissed
1008.09.12	Closed	Eustorgio Resendez	Hidalgo County ME	Autopsy; Serology	Dismissed
1009.09.13	Closed	Christopher Kingerly	Houston PD Crime Lab	DNA	Dismissed
1010.09.14	Closed	Preston Hughes	Houston PD Crime Lab	Serology	Dismissed
1011.09.15	Closed	Anonymous	SWIFS	Quality Assurance	Dismissed
1012.09.18	Closed	Johnnie Propes	Plano PD Lab	Ballistics; trace evidence	Dismissed
1013.09.19	Closed	Harsha Pherwani	Lab Corp Dallas	Toxicology	Dismissed
1014.09.20	Closed	Cynthia Robinson	SWIFS	Autopsy	Dismissed
1016.10.02	Closed	Ronald Hollerman	Dallas County DA	Police Report	Dismissed
1021.10.21	Closed	Charles Cupp	Harris County ME	Autopsy	Dismissed
1024.10.25	Closed	Cecily Hamilton	Austin PD Crime Lab	Quality Assurance	Final Report Issued 9/8/11
1025.10.22	Closed	Jimmy Todd	SWIFS	DNA	Dismissed
1026.10.23	Closed	Charles Frederick	Orange Co. Sheriff's Dept	Ballistics	Dismissed
1028.10.26	Closed	Erie Holmes	Harris County ME	Toxicology; Autopsy	Dismissed
1029.10.27	Closed	Sonia Cacy	Bexar County ME	Gas chromatography	Dismissed
1033.10.28	Closed	Luis A. Luera	Unknown Tarrant Co.	Hair/DNA	Dismissed
1034.11.03	Closed	John Edward Weeks	DPS Austin	DNA Report	Dismissed
1035.11.01	Closed	Tarrant Whitlock	SWIFS	Trace Evidence	Dismissed
1036.11.02	Closed	Robert Lee Helm	SWIFS	Trace Evidence/Firearms	Dismissed
1037.11.04	Closed	Rojean Gibson	Waco Fire Department	Arson	Dismissed
1039.11.05	Closed	Mario L. Cockerham	Ft. Bend Co. Sheriff/Dep. Pikett	Dog scent line up	Dismissed
1040.11.10	Closed	Randal Caraway	Tarrant Co. ME	Toxicology; Autopsy	Dismissed
1041.11.07	Closed	Debra Stephens	Austin PD Crime Lab	Quality Assurance	Dismissed
1042.11.08	Closed	Brian W. Devening	Forensic DNA & Drug Testing Services, Inc.	Toxicology	Dismissed
1043.11.09	Closed	Jeffery W. Cooksey	DPS Waco	Controlled Substance	Dismissed
1044.11.11	Closed	Nat'l Innocence Project	El Paso PD Crime Lab	Controlled Substance	Final Report Issued 8/23/12
1045.11.12	Closed	Michael McDade	Linda James	Handwriting Analysis	Dismissed
1048.11.14	Closed	Jose G. Castillo	Edna, Texas Fire Department	Arson	Dismissed
1049.11.13	Closed	Thomas Florence	UNT Health Science Center	DNA	Dismissed
1050.12.01	Closed	Debra Stephens	APD Crime Lab	Controlled substance	Final Report Issued 10/23/12
1051.12.02	Closed	Michael Cruthird	SWIFS	Autopsy	Dismissed
			McClennan Co., TX;-Forensic Science		
1052.12.05	Closed	Anthony Melendez	Assoc. of California	DNA	Dismissed
1055.12.04	Closed	Jackie Wilson	DPS - Houston	DNA	Dismissed
1059.12.07	Closed	Debra Firo	DPS-Corpus Christi	Trace evidence, Firearms	Dismissed
1060.12.08	Closed	Maynard Roberts	Texoma Medical Center	General Testimony	Dismissed
1061.12.09	Closed	Joseph Desmoreaux	DPS- Houston	DNA	Dismissed
1062.12.10	Closed	Pourner Rodney	Ector County DA's Office	DNA	Dismissed
1063.12.11	Closed	Larry Yoakum	Unknown	Controlled Substance	Dismissed
1064.12.12	Closed	Merlon Hines	DPS - Austin	DNA	Dismissed
1065.12.13	Closed	Ken Murphy	DNA Diagnostics, Inc./Dr. Melba Ketchum	DNA	Dismissed
1067.13.01	Closed	Rhonda Austin	NMS Lab, PA	Toxicology; Autopsy	Dismissed
1068.13.03	Closed	Eugene Ellis	Houston PD Crime Lab	Serology; DNA	Dismissed

1069.13.04	Closed	Kenneth Starkey	ExperTox	Controlled Substance	Dismissed
1070.13.05	Closed	Leslie J. Williams	Lubbock Co. DA	Trace Evidence; DNA	Dismissed
1071.13.06	Closed	Gustavo Mireles	DPS- McAllen	DNA; fingerprints	Dismissed
1072.13.07	Closed	Iran Hawkins	DPS- Garland	Controlled Substance	Dismissed
1073.13.08	Closed	Che Hutchinson	DPS- Abilene	Controlled Substance	Dismissed
1074.13.09	Closed	Robert Barganski	Christus Spohn Hosp Corpus Christi	Gunshot Wounds	Dismissed
1075.13.10	Closed	Jesse Eldridge	SWIFS	Trace Evidence	Dismissed
1076.13.11	Closed	Cordell Johnson	DPS - Austin	Controlled Substance	Dismissed
1078.13.12	Closed	Barton Ray Gaines	Ft. Worth PD Forensic Science Lab	Ballistics	Dismissed
1079.13.13	Closed	Larry M. Roche	Tarrant County- lab not specified	Blood Alcohol	Dismissed
1081.14.01	Closed	George Robert Powell III	Bell County	Digital Evidence	Final Report Issued 4/18/16
1082.14.02	Closed	Alonzo Fuller	Bexar County ME	DNA	Dismissed
1083.14.03	Closed	Philippe Padieu	Baylor Col of Medicine- Genetics Lab	DNA	Dismissed
1084.14.04	Closed	Theodore Levee	Unknown	Medical Testimony	Dismissed
1085.14.05	Closed	Dempsey Sutton	Unknown	DNA	Dismissed
1086.14.06	Closed	Teddy Robinson	Lubbock General Hospital/UMCHSC	Autopsy	Dismissed
1088.14.08	Closed	Frank Blazel for Joshua Ragston	SWIFS	Firearms/tool marks	Final Report Issued 4/19/16
1089.14.09	Closed	Richard E. Gambles	DPS- Lubbock	Judicial Misconduct	Dismissed
1092.14.12	Closed	George Scharmen	DPS- Austin	Record Request	Dismissed
1097.14.17	Closed	Rene Rivas	Cameron Co. DA	Request for DNA Testing	Dismissed
1099.14.19	Closed	Roxanne Maddex	Bexar County ME	Records request	Dismissed
1102.14.22	Closed	Gregory Bowman	NMS Lab, PA	Autopsy; blood assay	Dismissed
1103.15.01	Closed	Sharieff H. Dean	Orchid Cellmark	DNA	Dismissed
1104.15.02	Closed	James P. Taylor (City of Pearsall)	Pearsall PD	Evidence Room	Dismissed
1105.15.03	Closed	Deandra Grant	IFL	Blood Alcohol	Dismissed
1106.15.04	Closed	James Legate	Bexar County Forensic Science Center	GSR	Dismissed
1107.15.05	Closed	Stephanie Beckendam	DPS- Austin	Blood Alcohol	Dismissed
1108.15.06	Closed	Curtis Adams	Bexar County ME	DNA	Dismissed
1109.15.07	Closed	Nat'l Innocence Project for Steve Chaney	None Specified	Bite Mark Analysis	Final Report Issued 4/19/16
1110.15.08	Closed	Eloy Redd	Harris Co. Childrens Assessment Center	SANE	Dismissed
1111.15.09	Closed	James E. Wilcox	DPS- Waco	DNA	Dismissed
1112.15.10	Closed	Stevie L. Davis	DPS- Garland	BAC/gas chromatograph	Dismissed
1113.15.11	Closed	Rodney Hazlip	DPS- Houston	Blood Alcohol	Dismissed
1114.15.12	Closed	Jeff Sailus	TFSC	Procedural	Dismissed
1115.15.13	Closed	Angella Nickerson for Raphael Holiday	Dr. John DeHaan	Arson	Dismissed
1116.15.14	Closed	Jackie Wilson	DPS- Houston	DNA	To DNA Triage Team
1117.15.15	Closed	Darius Elam	DPS- Houston	DNA	To DNA Triage Team
1118.15.16	Closed	Mario L. Cockerham	SE Tx Forensic Science Center (defunct)	Autopsy; dog scent lineup	Dismissed
1119.15.17	Closed	Debra Stephens	Austin PD Crime Lab	Controlled Substance	Dismissed
1120.15.18	Closed	Jason Spence	Walter Reaves	DNA	Dismissed
1121.15.19	Closed	Randy Virgil Echols	DPS- Waco	DNA	To DNA Triage Team
1122.15.20	Closed	Roger L. McCluer	Dr. Vincent Di Maio	Trial testimony in murder case	Dismissed
1123.15.21	Closed	D. Jarnyl Brown	Ft. Worth PD Crime Lab	Ballistics	Dismissed
1124.15.22	Closed	Guadalupe Padilla	DPS- Austin	DNA	Dismissed
1125.15.23	Closed	Melvin Pinion	Tarrant Co. Criminal District Court	Video Tapes	Dismissed
1126.16.01	Closed	Catrice Nelson for Frederick Ervin	Jasper County	DNA; general	Dismissed
1127.16.02	Closed	Chaz Rodgers	IFL Euless	Ballistics	Dismissed
1128.16.03	Closed	James Downs	DPS- Austin, El Paso, Lubbock	DNA; latent prints; trace evidence	Dismissed
1129.16.04	Closed	Carlos V. de la O	Bexar Co. FSC	DNA- paternity	Dismissed
1130.16.05	Closed	Marlin Wayne Webb	Dr. Suzanna Dana	Blood spatter	Dismissed
1131.16.06	Closed	Lawrence James, Jr.	DPS- Houston	DNA	Dismissed

1132.16.07	Closed	Shannon Mark Douthit	SWIFS	Ballistics	Dismissed
1133.16.08	Closed	Edrick Dunn	DPS Lubbock	DNA	To DNA Triage Team
1134.16.09	Closed	Victoria Kujala	Ft. Worth PD Crime Lab	Hostile work environ; retaliation	Dismissed
1135.16.10	Closed	Charles Ray Hayes	McClennan Co. Jail	Blood Sugar Test	Dismissed
1136.16.11	Closed	Leonard Charles Hicks	Child Assessment Center, Houston	Forensic Interview	Dismissed
1137.16.12	Closed	Anonymous	Houston Forensic Science Center	Toxicology	Dismissed
1138.16.13	Closed	Laura Jenkins for Roy Adams, Jr.	Alpert; Peerwani; Garland PD	Blood Alcohol	Dismissed
1139.16.14	Closed	Cross, Kevin L.	SWIFS and analyst Kerri Kwist	Blood analysis	To DNA Triage Team
1140.16.15	Closed	Wynn, Eric	DPS Garland	DNA (STR) analysis	To DNA Triage Team
1141.16.16	Closed	Lenox, Robert W.	DPS Garland	EMIT (enzyme multiplied immunoassay technique)	Dismissed
1142.16.17	Closed	Watson Jr., Van	DPS - Houston	DNA	To DNA Triage Team
1143.16.18	Closed	Escalante, Damian	Bexar County Forensic Science Center	DNA	To DNA Triage Team
1144.16.19	Closed	Anderson, Eric D.	Dr. Ann Simms	Trial testimony in sexual abuse case	Dismissed
1145.16.20	Closed	Leonard, Isreal	SWIFS; Dr. Joni McClain	Toxicology; trial testimony	Dismissed
1146.16.21	Closed	Moreno, Juan A.	University Health System, San Antonio	DNA	Dismissed
1147.16.22	Closed	Furtado, Christopher Ty	Dr's Campbell, Loomis, Reese	Bite Mark Analysis; DNA	To Bite Mark Team
1148.16.23	Closed	Gerland, Eric	Valley Baptist Medical Center	Medical Malpractice	To DNA Triage Team
1149.16.24	Closed	de la Rosa, Paulo	Children's Medical Center of Dallas	Physical Exam	Dismissed
1150.16.25	Closed	McCain, Greg	Dr. Leah Lamb	Physical Exam	Dismissed
1151.16.26	Closed	Tienda Jr., Ronnie	Charles Clow	Ballistics; expert testimony at trial	Dismissed
1152.16.27	Closed	Black, Victor Jewell	SWIFS	Contamination of Evidence; DNA	To DNA Triage Team
1153.16.28	Closed	Drummer, Cornell	Dr. Vincent Di Maio	Ballistics	Dismissed
1154.16.29	Closed	Garcia, Daniel Lopez	Harris County Forensic Science Center	Toxicology, Autopsy, Ballistics	Dismissed
1155.16.30	Closed	Smith, Collin	DPS - Austin	Ballistics	Dismissed
1156.16.31	Closed	Hunt, Kenneth	Harris County IFS	DNA	To DNA Triage Team
1157.16.32	Closed	Hooks, Ray Dale	DPS- Tyler	BAC	Dismissed
1158.16.33	Closed	Rogers, Dennis Wayne	DPS- Garland	Serology; DNA	Dismissed
1159.16.34	Closed	Reyes, Jr., Reynaldo	Bexar Co. Criminal Investigation Lab	DNA	To DNA Triage Team
1160.16.35	Closed	Webb, Clinton & John	UNTHSC	DNA	To DNA Triage Team
1161.16.36	Closed	Dunnivant, Catherine	DPS- Garland	Controlled Substance	Dismissed
1162.16.37	Closed	Gruenfelder, Daniel	Dr. Clarice Grimes	Sexual Assault	Dismissed
1163.16.38	Closed	Pinkerton, Romeo	SWIFS	DNA	To DNA Triage Team
1164.16.39	Closed	Sanders, Del Ray	DPS- Houston	Hair, Blood, Trace	Dismissed
1165.16.40	Closed	Clark, Norma	Harris County IFS, HPD, HCSD	Blood spatter, GSR	Final Report Issued 2/28/18
1166.16.41	Closed	Moreno Jr., Valentin	Dr. A.J. Alamia	Forensic Psychology	Referred to Nat'l IP
1167.16.42	Closed	Kennemur, Kevin	Yoakum County Hospital	Blood Alcohol	Dismissed
1168.16.43	Closed	Sanchez, Rodys S.	Harris County IFS	DNA	To DNA Triage Team
1169.16.44	Closed	Dawson, Julius T.	Children's Medical Center of Dallas	Rape kit (DNA)	To DNA Triage Team
1170.16.45	Closed	Anonymous	All DPS Texas Labs	Toxicology	Dismissed
1171.16.46	Closed	Aekins, Donald	APD Crime Lab	DNA	To DNA Triage Team
1172.16.47	Closed	Nix, Thomas E.	Tx Ranger Steven L. Black	Forensic Hypnosis	Dismissed
1173.16.48	Closed	Tyler Flood for HCCLA	HCIFS/Fessesework Guale	Toxicology	Final Report Issued 2/2/18
1174.16.49	Closed	Sosa, David	HPD/HCIFS	Ballistics	Dismissed
1175.16.50	Closed	Ludwig, Ronald David	Private investigator fr DC	John O'Neal	Dismissed
1176.16.51	Closed	Gonzales, David	DPS Austin	Blood/DNA	Dismissed
1177.16.52	Closed	Resendez, Eustorgio	DPS Austin	Ballistics/DNA	Dismissed
1178.16.53	Closed	Jones, De'Voderick R.	SWIFS	DNA	Dismissed
1179.16.54	Closed	Gulley, Britney	SWIFS	Firearms/Tool Marks	Referred to Dallas Co CIU
1180.16.55	Closed	Carrizales, Gilbert	Children's Hospital Corpus Christi	Sexual Assault exam by dr	Dismissed
1181.16.56	Closed	Reaves, Walter for Joe Bryan	Robert Thorman (expert witness)	Blood spatter	Investigation Complete
1182.16.57	Closed	Decker, Rex A. for Travis D. Gray	SWIFS	Autopsy	Dismissed

1183.16.58	Closed	Wilson III, William	James Miller/HFSC	Analysis for presence of gasoline	Dismissed
1184.16.59	Closed	Stout, Jeffrey	None specified	Sexual assault exam	Dismissed
1185.16.60	Closed	Davis, James	Garland PD	Blood draw	Dismissed
1186.16.61	Closed	Dodson, Theodis	Tarrant County ME	DNA	To DNA Triage Team
1187.16.62	Closed	Griffin, Derrick L.	Dr. James Bruce of Lufkin	Autopsy	Dismissed
1188.16.63	Closed	Jackson, Robert Charles	Cornea Associates of Dallas	Eye Examination	Dismissed
1189.16.64	Closed	Johnson, Kevin Lamar	"Observation Only"	"Entities of Law	To DNA Triage Team
1190.16.65	Closed	Stephens, Debra	Blood Alcohol Procedure	APD	Dismissed
1191.16.66	Closed	Morgan, Pascal	Megan Clemens (FBI)	DNA	To DNA Triage Team
1192.16.67	Closed	Bennett, Billy Ray	HCIFS	DNA	To DNA Triage Team
1193.16.68	Closed	Moreland, Thomas	UNTHSC; DPS Houston	DNA	Dismissed
1194.16.69	Closed	Richards, Dylyn	DPS - Garland/Curt Youngkin	Blood Alcohol	Investigation Complete
1195.16.70	Closed	Gray, Dale	Autopsy	SWIFS	Dismissed
1196.16.71	Closed	Alejandro, Danny R.	Ballistics	Harris Co SD	Dismissed
1197.16.72	Closed	Pierson, Arthur Lee	Psyche Eval	CPS Ft. Worth	Dismissed
17.10	17.04	Gefrides, Lisa	Forensic Biology	Houston FSC	Investigation Complete
	17.05	IPOT for Cedric Millage	DPS Austin	CODIS Upload/DNA	Dismissed
	17.06	Danny R. Alejandro	Harris Co SD/Jill Dupre	Ballistics	Dismissed
	17.07	Turner, Bronwen	Harris Co ME	None	Dismissed
	17.08	Closed- to DNA	Kelton Yates	Houston FSC	DNA/Blood
	17.09	Closed- to DNA	Kenneth Wayne Washington	Harris County IFS	Serology/DNA
	Closed	Christopher Boulds	None specified	Handing of transcript	Dismissed
		Michael Aaron Jayne	APD Crime Lab	Fingerprints/DNA	Dismissed
	17.11	Closed- to DNA	Anthony D. Hill	Expert Witness Max Courtney	Crime Scene Reconstruction
	17.13	Closed	William Mark Gibson	Waco Fire Marshal Jerry Hawk	Arson
17.20	17.14	Closed- to SFMO	Jason Omar Moreno	None Specified	DNA
	17.15	Closed	Billy Joe Booker	IFL; Analysts Feller & Lemon	Blood Alcohol
	17.16	Closed	Blake Allen Thain	Harris Co SD/Matthew Clements	Ballistics
	17.19	Closed	Errick Johnson	ME Dr. Stephen K. Wilson	Cause of Death
	17.21	Closed	Reynaldo Cobio Cervantes	DPS McAllen/Joe Marchan	Blood Typing
	17.23	Closed	Travis Ghant	SANE Alice Linder/Scott & White	Sexual Assault Exam
	17.24	Closed	Roy Louis Smithwick, Jr.	Bexar Co Forensic Science Ctr	Serology/Ballistics
	17.29	Closed	Cornell Jackie Drummer	Bexar Co Forensic Science Ctr	Ballistics
	17.30	Closed- to DNA	Hymon A. Walker	Houston PD (HFSC), Identigene	DNA
	17.31	Closed- to DNA	Daniel D. Garcia	Bexar Co CIL	DNA
13.06	17.32	Closed- no lab	Samuel M. Ward	Kerrville PD Lab (non-existent)	Controlled Substance
	17.33	Closed- no lab	Maizumi,Manuel Luis	Kerrville PD	Controlled Substance
	17.34	Closed	Jane Caldwell for Christopher Aric Radke	SWIFS	DNA/Blood
	17.35	Closed	Benjamin James Patterson	DPS Waco	Biological Evidence
	17.36	Closed	Tarrant Daron Whitlock	SWIFS	GSR
	17.37	Closed	Ava Newman	National Screening Center	DNA (Paternity)
	17.39	Closed- to SFMO	Brandon Ray Morgan	Harris Co IFS	Toxicology
	17.40	Closed	Eugenio Lopez Rodriguez	Unknown	Unknown
	17.41	Closed	Rolando Gomez Reyes	Valley Baptist Hospital	Physical Exam
	17.42	Closed	Maurice E. LaVoie	Madison Co Prosecutor	DNA
17.43	Closed	Gustavo Lopez Mireles	DPS McAllen	DNA	Dismissed
	Closed	NOT USED- old case no. for Mireles used	SWIFS/Heather Thomas	Firearms/Tool Marks	Dismissed- to Dallas Co
17.46	Closed	Quang Tran	Harris Co SD/Deputy J. Ortiz	Blood spatter	Dismissed
17.49	Closed	David Wayne Isenhower	SWIFS	Toxicology	Dismissed
17.51	Closed	Timothy Strong	SWIFS	DNA (Paternity)	To Dallas Co CIU 10/3/17
17.52	Closed	Gary Hill	Hill Co DA Nicole Crain	General	Dismissed
17.54	Closed	Roger L. McCluer			

17.55	Closed	Tony Chavez	Tarrant Co. ME	DNA	To Tarrant Co CIU 1/11/18
17.56	Closed	Christopher Wiley	Harris Co IFS	Possible DNA	Dismissed- to DNA Team
17.57	Closed	Rickey Wayne Layfield	Sane Paula Wilson/Scott & White Temple	Physical Exam	Dismissed
18.02	Closed	Daymond Lamont Stewart	DPS Waco/Serena Zboril	DNA	Dismissed- to DNA Team
18.05	Closed	Sarah Gray for Stefon Joe Brantley, Jr.	Dallas PD/David England	Crime Scene Analysis	Dismissed
18.08	Closed	Ernest Edward Gaines	DPS Garland	DNA	Dismissed
18.09	Closed	Charles Lee Martin	Orchid Cellmark	DNA	Dismissed
18.10	Closed	Romarcus D. Marshall	HCIFS	DNA/Hair	Dismissed
18.12	Closed	Emmanuel Obi	Mont. Co. SD/Celestina Rossi	BPA	Dismissed
18.16	Closed	Richard C. Gipson	DPS Austin	Toxicology	Dismissed
18.19	Closed	Anonymous	DPS CAP	General	Dismissed- to Quattrone
18.21	Open	Amanda Culbertson	DPS El Paso	Blood Alcohol	Accepted for Investigation
18.25	Open	Rob Keller for Chance Deallen Keller	DPS Waco & DPS Austin	Firearms/Tool Marks	
18.27	Closed	George Ray Holmes	DPS Tyler	Seized Drugs	Dismissed
18.28	Closed	Tommy E. Harrell	Longview PD/Det. D. Reigstad	Police Statement	Dismissed
18.31	Closed	Margaret E. Kizzee	Harris Co IFS	Autopsy	Dismissed
18.32	Closed	Calvin V. Sharper	SWIFS	Firearms/Tool Marks; Crime Scene	Dismissed
18.33	Closed	Jeremy B.J. Miller	Ft. Worth PD Crime Lab	Firearms/Tool Marks	Dismissed
18.34	Closed	John Edward Holmes	DPS Lubbock/Analyst Caitlin Lott	DNA	Dismissed- to DNA Team
18.35	Closed	Julio Cortez	Houston PD/HFSC	Forensic Biology	Dismissed- to DNA Team
18.36	Closed	Jesse R. Curry, Jr.	HCIFS/Robin Freeman	Forensic Biology	Dismissed- to DNA Team
18.37	Closed	James Lee Botley	DPS - Houston	DNA	Dismissed- to DNA Team
18.38	Closed	Jeffery Allen Whitfield	DPS Waco	AP Test	Dismissed
18.40	Open	Tyler Flood & Associates	DPS Houston	Blood Alcohol	
18.41	Closed	Randell Eron Outland	Mont. Co. Child Advocacy Ctr	Forensic Interview	Dismissed
18.42	Open	Tyrone D. Richard	HCIFS	Urinalysis	
18.43	Open	Tommy Wayne Davis	SANE Kimberly Tarla-Rash	Sexual assault exam	
18.44	Closed	Jesus Davila	none specified	Capital Murder case	Dismissed
18.46	Open	Lawrence James Napper	Houston PD Crime Lab	DNA; Semen	
18.47	Open	Jacob Mediano	UNT Health Science Center	DNA (Paternity)assoc w/criminal case	
18.49	Open	George Scharman	DPS Austin	Serology	
18.50	Open	George Scharman	DPS Austin	Serology	
18.53	Open	Michael J. Spence	DPS Weslaco	Forensic Biology	
18.54	Open	Brandon Ray Morgan	HCIFS	Toxicology	

#### LABORATORY SELF-DISCLOSURES

TFSC File #	Status	Reporter	Laboratory	Forensic Discipline	
2000.12.01	Closed	Tarrant County ME	Tarrant County ME	Serology	Final Report Issued 10/17/12
2001.12.02	Closed	DPS Houston	DPS -Houston	Controlled substance	Final Report Issued 4/7/13
2002.14.01	Closed	Quality Director	IFL	Firearms/Tool Marks	Final Report Issued 11/4/15
2003.14.02	Closed	Lab Manager	DPS - Austin	Toxicology-Blood Alcohol	No Further Action
2015.14.10**	Closed	Lab Analyst	Houston FSC	Serology	Final Report Issued 1/26/15
2004.14.03	Closed	Lab Manager	DPS - Garland	DNA	No Further Action
2005.14.04	Closed	Lab Director	SWIFS	Controlled substance	No Further Action
2006.14.05	Closed	Lab Manager	Houston Police Department Crime Lab	DNA	No Further Action
2007.14.06	Closed	Lab Manager	IFL	Blood Alcohol	No Further Action
2008.14.07	Closed	Lab Manager	DPS - Tyler	Controlled substance	No Further Action
2009.14.08	Closed	Lab Manager	DPS - Austin	Breath Alcohol	No Further Action
2010.14.09	Closed	Lab Manager	DPS - El Paso	Controlled substance	No Further Action
2011.15.01	Closed	Lab Manager	DPS Houston Breath Alcohol Calibration Lab	Breath Alcohol Testing	No Further Action

2012.15.02	Closed	Lab Director	APD Crime Lab Corpus Christi PD Forensic Services Division	Crime Scene Reporting	No Further Action
2013.15.03	Closed	Lab Director		Missing evidence (bullet fragment)	No Further Action
2014.15.04	Closed	Lab Manager	DPS Abilene	Controlled substance (missing evidence)	No Further Action
2016.15.05	Closed	Assistant Laboratory Director	DPS Weslaco Corpus Christi PD Forensic Services Division	Latent Prints	No Further Action
2017.15.06	Closed	Forensic Services Supervisor		Latent Prints (re-opened)	No Further Action
2018.16.01	Closed	Lab Director	APD Crime Lab	Failed prof test-serial no restoration	No Further Action
2019.16.02	Closed	Quality Director	Harris Co IFS	Toxicology	Investigation Complete
2020.16.03	Closed	Lab Manager	Bexar Co CIL	Firearms/Tool Marks	No Further Action
2021.16.04	Closed	General Counsel	Houston FSC	Controlled substance	No Further Action
2022.17.01	Closed	General Counsel	Houston FSC	DNA Analysis	No Further Action
2023.17.02	Closed	General Counsel	Houston FSC	Latent Prints	No Further Action
2024.17.03	Closed	General Counsel	Houston FSC	Toxicology- ELISA drug screen	No Further Action
17.12	Closed	Lab Director	NMS Labs	Toxicology	No Further Action
17.17	Closed	Lab Director	NMS Labs	Toxicology	No Further Action
17.18	Closed	Lab Manager	Tarrant County ME	Toxicology	No Further Action
17.22	Closed	Houston FSC	HFSC	Crime Scene Unit	No Further Action
17.25	Closed	Jefferson Co Regional CL	Jefferson Co RCL	Drug Chemistry	No Further Action
17.26	Closed	DPS El Paso	DPS El Paso	Lost Evidence	No Further Action
17.27	Closed	DPS Midland	DPS Midland	Barcode malfunction; lost evidence	No Further Action
17.28	Closed	DPS Garland	DPS Garland	C Youngkin/Bld Alc	Investigation Complete
17.38	Closed	Jefferson Co Regional CL	Jefferson Co RCL	Drug Chemistry	No Further Action
17.44	Closed	DPS Tyler	DPS Tyler	Contr subst- destruction of evidence	No Further Action
17.45	Closed	DPS Tyler	DPS Tyler	Contr subst- LIMS Error	No Further Action
17.47	Closed	Houston FSC	Houston FSC	Toxicology	No Further Action
17.48	Closed	Houston FSC	Houston FSC	DNA Evidence Handling	No Further Action
17.50	Closed	Houston FSC	Houston FSC	CODIS	No Further Action
17.53	Closed	Houston FSC	Houston FSC	Latent Prints	No Further Action
18.01	Closed	Houston FSC	Houston FSC	Forensic Multimedia	No Further Action
18.03	Closed	NMS Labs	NMS Labs	Seized Drugs	No Further Action
18.04	Closed	SWIFS	SWIFS	Controlled substance	No Further Action
18.06	Closed	DPS Garland	DPS - Garland	Forensic Biology	No Further Action
18.07	Closed	Austin PD	Austin PD	Firearms/Tool Marks	No Further Action
18.11	Closed	Ft. Worth PD	Ft. Worth PD	Latent Prints	No Further Action
18.13	Closed	Signature Science	Signature Science	Contamination of Reagent Bottles	No Further Action
18.14	Closed	DPS Weslaco	DPS Weslaco	Incongruous AP testing results	No Further Action
18.15	Closed	DPS Waco	DPS Waco	Discrepancies in lab records	No Further Action
18.18	Closed	Houston FSC	Houston FSC	Forensic Multimedia	No Further Action
18.20	Closed	DPS Garland	DPS Garland	Erroneous Destruction of Evidence	No Further Action
18.22	Closed	Corpus Christi PD	Corpus Christi PD	Failed prof test-serial no restoration	No Further Action
18.23	Closed	Harris Co. IFS	Harris Co IFS	Drug Chemistry	No Further Action
18.24	Closed	DPS Austin	DPS - Austin	Breath Alcohol	No Further Action
18.26	Closed	Texas Department of Insurance	TDI	Fire Debris	No Further Action
18.29	Closed	NMS Labs	NMS Labs	Toxicology-Blood Alcohol	No Further Action
18.30	Open	Sorenson		Forensic Biology	Accepted for Investigation
18.39	Open	DPS Garland		Controlled substance (missing evidence)	Tabled
18.45	Open	Houston FSC		Latent Prints	
18.48	Open	DPS Lubbock	DPS Lubbock	Serology/Loss of Blood Evidence	
				Serology/Erroneous Destruction of Blood Evidence	
18.51	Open	DPS Lubbock	HFSC	Crime Scene Analysis	
18.52	Open	HFSC			