Texas Forensic Science Commission

Justice Through Science

MEMORANDUM REGARDING COMPLAINT NO. 10.25, CECILY HAMILTON (AUSTIN POLICE DEPARTMENT CRIME LABORATORY; FORENSIC BIOLOGY/DNA)

September 8, 2011

TABLE OF CONTENTS

TABLE OF EXHIBITS

I. BACKGROUND

On July 8, 2010, Travis County District Attorney, Rosemary Lehmberg, and Austin Police Department ("APD") Chief of Police, Art Acevedo, contacted the Texas Forensic Science Commission ("FSC") regarding a complaint filed by Cecily Hamilton, a DNA analyst formerly employed with the Austin Police Department's Forensic Science Division Crime Laboratory ("Lab") (*See* Exhibit A)[1]. Ms. Hamilton's complaint fell into two general categories: allegations regarding personnel conflicts (including hostile work environment) and allegations regarding work performance in DNA analysis. The FSC's jurisdiction is limited to issues involving quality assurance and work performance. The following is a summary of the relevant allegations:

(1) DNA contamination occurred at the Lab, including contamination of drug packaging evidence in a high-profile case involving the APD shooting deathof Nathaniel Sanders in May 2009.

(2) One of the analysts took an unusually long period of time to complete her DNA training (implying incompetence by the analyst).

(3) Impropriety occurred during competency exams (that the DNA Technical Leader helped an analyst cheat).

(4) The DNA Technical Leader was not qualified to lead the Lab.

On December 14, 2010, the FSC's Complaint Screening Committee ("CSC") voted to recommend that the full FSC review the case. On January 21, 2010, the full FSC accepted the CSC's recommendation, and the FSC's Presiding Officer appointed three members to serve on an APD review panel: Dr. Sarah Kerrigan, Dr. Art Eisenberg and Atty. Lance Evans.

On April 15, 2010, the APD panel met to discuss the case. Because the case came to the FSC from the Travis County District Attorney and Austin Police Chief, and no formal complaint was filed by the employee, the APD panel recommended that the full FSC dismiss the case as a complaint and instead prepare a brief memorandum that would: (1) review the facts; (2) provide

[1] A brief history of the APD Lab's DNA division and funding sources is provided at Exhibit B.

a history of audits and investigations; and (3) make observations regarding best practices for similar cases. On the same day, the FSC voted to accept the APD panel's recommendation and instructed the general counsel to prepare this brief memorandum.

II. SUMMARY OF FSC REVIEW

Before preparing this memorandum, FSC staff met with Ed Harris, APD's Chief of Field Support Services and Bill Gibbens, APD's Forensic Services Manager. FSC staff also contacted the individuals responsible for conducting the audits and investigations described in Section III below. Finally, staff and members of the APD panel reviewed numerous documents related to the case (*See* Exhibit C for list), and confirmed with the Lab receipt of all relevant documents. Though the APD panel considered interviewing other affected parties, such as Lab employees, panel members concluded that it was unnecessary in this case due to the FSC's limited role, and the fact that the employees have already been interviewed by other investigative and auditing agencies. The FSC was given access to written statements by key employees that helped inform the analysis contained herein.

III. COMPLETED APD LAB AUDITS AND INVESTIGATIONS

The Lab is subject to various periodic audits. Some are conducted internally, some externally, some by ASCLD-LAB, some by the FBI (for CODIS compliance) and still others by the NIJ for assessment of grant progress (the Lab receives significant grant money for the reduction of DNA backlog). The following audits and investigations have been conducted since the complaint was filed in this case:

1. *APD Internal Investigation Report (March 2010) (Exhibit D):* Bill Gibbens (Forensic Services Manager) and Tony Arnold (Quality Assurance Manager) reviewed each allegation in detail. In addition to documentary evidence, they

interviewed and sought written responses from all APD employees who could have contributed relevant information. They concluded that Ms. Hamilton's allegations regarding quality and supervision were unfounded. They further concluded that Ms. Hamilton violated Lab standard operating procedures related to honesty, retaliation against co-workers, harassment of peers, and malicious gossip.

2. *Texas Rangers Investigation Report (September 2010) (Exhibit E):* The Texas Rangers also conducted a review of the contamination and competency allegations. The investigative team included two subject matter experts: Blake Goertz, the Regional DPS Section Supervisor for DNA (Waco) and Cathy McCord, the Regional DPS Section Supervisor for DNA (Lubbock). The team concluded that: (1) the Lab has extensive procedures in place to minimize contamination; (2) the complainant and investigators were unable to identify a single case of bad science being used in criminal prosecutions; (3) the APD's DNA training program was sufficient and protocols are in line with national standards; (4) the DNA analyst in question was well-trained and competent; and (5) the Technical Leader's qualifications were sufficient during the Rangers' audit and the previous five external audits. There was one reporting issue found (the Quality Assurance Manager had failed to complete a Corrective Action Report ("CAR")). The issue was remedied promptly.

3. *ASCLD-LAB Audit Report (September 2010) (Exhibit F):* This audit was a standard ASCLD-LAB audit; it was not conducted specifically to respond to Ms. Hamilton's allegations. However, information about the allegations was shared with ASCLD-LAB. Though Ms. Hamilton was not present at the Lab during the audit due to administrative leave, APD management informed the auditors that they would contact her

upon request. The audit team did not interview Ms. Hamilton but they did forward information about the complaint to ASCLD-LAB's main office after leaving the Lab. No investigative follow-up was requested beyond the various requirements of the standard audit process.

4. *FBI CODIS Audit Report (December 2010) (Exhibit G):* The FBI reviewed the following: (1) whether the Lab was in compliance with NDIS participation requirements; (2) whether the Lab was in compliance with quality assurance standards issued by the FBI; and (3) whether the Lab's forensic DNA profiles in CODIS databases were complete, accurate and allowable for inclusion in NDIS. The report concluded that there were no deficiencies with regard to the Lab's compliance with the Quality Assurance Standards reviewed, and no recommendations were made. The FBI cited the findings in the APD internal investigation and Texas Rangers investigation, but did not adopt its ownfindings on the issues raised by Ms. Hamilton.

FSC staff contacted each of the external auditing agencies listed above. None of them had additional information to offer that would contradict any of the conclusions stated in their respective reports. The agency that conducted the most thorough and targeted investigation of the complaint was the Texas Rangers. They confirmed that all of their findings are reflected in Exhibit E to this memorandum, and have no additional feedback. The Department of Justice also confirmed their conclusions (reflected in Exhibit G to this memorandum). They further explained that their audit was primarily focused on CODIS compliance, but they extended the audit to include a review of Ms. Hamilton's allegations to the extent they might impact CODIS compliance. For example, they conducted a limited review of contamination analysis, proficiency testing and policies and procedures. After reviewing the file, they found no areas of concern or comment.

Finally, ASCLD-LAB explained that though they did not interview Ms. Hamilton, they did conduct a thorough review of the Lab's quality assurance program among many other areas, and determined that the Lab was in compliance and merited continued accreditation. Ms. Hamilton was on administrative leave when the auditors were present at the site. APD Lab personnel informed the DNA subject matter expert from the audit team that they would contact Ms. Hamilton and ask her to be available for an interview upon request. However, the lead auditor explained that ASCLD-LAB auditing teams generally do not contact employees at home. The lead auditor further explained that ASCLD-LAB often receives "personnel-type" complaints during audit visits. He does not personally recall learning about the complaint until some point toward the end of the audit visit. However, after leaving the site, the team made the main office of ASCLD- LAB aware of the complaint. The team was not asked to conduct any additional follow- up beyond the scope of their standard audit report.

IV. ANALYSIS

The most substantive allegation involving forensic science made by Ms. Hamilton was that contamination occurred in the DNA analysis in the Nathaniel Sanders case in May 2009. As the Texas Rangers stated in their investigative report, contamination can and does happen in DNA labs due to the sensitive nature of the technology. In the Sanders case example, contamination of drug packaging evidence (Ziploc baggies) occurred during the controlled substance analysis phase, before the evidence was submitted to the DNA section for processing. The contamination was documented and addressed in the DNA report according to Lab policy. The DNA section also deemed the entire sample inconclusive. In addition, steps were taken to ensure that any evidence with the potential for DNA analysis must be guarded against contamination in the event that it is tested for other reasons (*e.g.,* presence of controlled

substance) before being sent for DNA analysis. Under APD policies effective February 15 and June 10, 2009, all non- DNA lab departments are required to guard against contamination to prevent similar contamination problems from occurring in the future. Employees are also required to submit DNA samples for cross-referencing purposes. (*See* APD Policies attached as Exhibit H).

When auditors from the Texas Ranger team discovered that the Quality Assurance Manager had not completed a CAR for the contamination in the Sanders case, remedial action was taken immediately and the report was completed. Neither the ASCLD-LAB audit nor the APD Lab internal audit (*See* Exhibit I) conducted in August 2009 (covering the previous year) picked up the fact that a CAR was not completed for the contamination. It was not until the Texas Rangers conducted their audit that the error was identified and a Class 2 CAR was completed.

With respect to allegations of exam cheating, poor competency and lack of qualifications by DNA technical leadership, the auditing and investigative authorities found no evidence of cheating or other misconduct. The Texas Rangers found that the DNA Technical Leader was qualified based both on her educational background and years of experience. There was also insufficient evidence to substantiate Ms. Hamilton's claim that a forensic analyst had cheated on her competency exam, and interviews of the analyst showed her to be a well-trained and competent analyst. ASCLD-LAB also did not find any indication of inadequate competence or training of DNA analysts during its audit.

The FSC has previously described the standards that accredited disciplines of forensic science should abide by when examining cases in which the integrity and reliability of the science is questioned. The FSC believes that whenever allegations of material errors are made,

leadership should be guided by certain principles and standards in determining how to proceed. Those standards include: (1) duty to correct; (2) duty to inform; (3) duty to be transparent; and (4) implementation of corrective action. The FSC observes that in this case, the Lab took proactive steps to ensure that these standards were upheld and a successful resolution occurred.

Duty to Inform. APD Lab leadership promptly notified the Travis County District Attorney regarding Ms. Hamilton's allegations. The District Attorneywas then able to alert the relevant defense attorneys so that cases could be assessed to determine whether additional review or analysis was needed. The Lab also informed the appropriate auditing and investigative authorities, which allowed for multiple review opportunities.

1. Duty to Be Transparent. Lab leadership immediately requested that Ms. Hamilton write her concerns in a memorandum and asked for written replies from affected employees. This allowed all parties to systematically and openly evaluate each complaint. As a result, interested parties were able to review the case documents and easily develop a thorough understanding of what steps were taken to: (a) assess the nature and scope of each complaint; (b) analyze the merit of each complaint; (c) notify outside parties as necessary; and (d) take corrective action.
2. Duty to Correct. The FSC is not aware of any DNA analysis that required correction in this case. However, the fact that the Lab informed the District Attorney, who in turn informed defense counsel, allowed the court system to decide whether additional DNA analysis was merited on a case-by-case basis. Though the allegations did not involve a specific case (with the exception of the Nathaniel Sanders case which had already been addressed), by alerting all potentially interested parties of the broad-based allegations, the Lab provided the opportunity for correction if necessary.

3. Implementation of Corrective Action. Though no re-testing was required, there was corrective action taken both in personnel policies and procedures and a CAR (Class 2) was ultimately prepared by the Lab. To adhere to ASCLD-LAB standards, the Lab routinely must document and act upon corrective action reports. Neither ASCLD-LAB nor the Lab's internal audit in August 2009 identified the fact that the CAR for the Sanders contamination had not been completed. Lab management should review its policies and procedures periodically to ensure that its internal audits identify similar problems in the future.

The APD Lab, like other accredited laboratories, is guided by its internal policies and procedures. A copy of the Lab's policy regarding the handling of complaints is attached hereto as Exhibit J. The policies and procedures are subject to scrutiny by the Lab's accrediting agency, ASCLD-LAB, as part of the standard accreditation review process. Though the Lab's policies and procedures sufficiently address the complaint process, the FSC makes some suggestions for potential enhancements in Section V below.

V. RECOMMENDATIONS

1. Consistent Adoption of Review Standards Across Texas. The FSC strongly encourages all crime laboratories to take proactive steps whenever they are faced with complaints regarding the integrity and reliability of the forensic science practiced in their labs. Though no two laboratories are alike, all laboratories should observe the standards set forth above when determining how to approach complaints.
2. Alerting the Criminal Justice System. The Lab's policies and procedures make clear that leadership may contact the District Attorney and/or appropriate accrediting agency regarding a complaint. All laboratories should alert the criminal justice system and the appropriate accrediting agency whenever substantive allegations are made regarding

the integrity and reliability of forensic analysis, especially where the outcome of a specific criminal case may have been impacted.

3. Further Clarity on Contacting Outside Investigative Agencies. Though the Lab's policies and procedures discuss the possibility of contacting outside resources to perform independent investigations, there are no specific criteria listed to guide decision-makers in determining when a case is significant enough to contact such an agency. The decision appears to be left to the judgment of leadership. Lab management exercised its discretion for independent consultation appropriately in this case. It also complied with the general requirement applicable to all accredited laboratories that it report the allegations to the appropriate accrediting agency and counsel.

Dr. Garry Adams
Professor and Coordinator of Biodefense & Emerging Disease
Texas A&M University, College of Veterinary Medicine and Biomedical Sciences
College Station, Texas

Dr. Arthur J. Eisenberg
Professor and Director, DNA Identity Laboratory
University of North Texas Health Science Center
Fort Worth, Texas

Lance T. Evans
Partner, Criminal Defense Attorney
Evans, Daniel, Moore & Evans LLP
Fort Worth, Texas

Dr. Jean Hampton
Professor and Director, College of Pharmacy and Health Sciences
Texas Southern University
Houston, Texas

Dr. Stanley R. Hamilton
Director, M.D. Anderson Division of Pathology & Laboratory Medicine
Houston, Texas

Dr. Sarah Kerrigan
Professor and Director, Sam Houston State University Regional Crime Lab
Huntsville, Texas

Dr. Nizam Peerwani
Chief Medical Examiner
Tarrant County, Texas

Dr. Nizam Peerwani
Presiding Officer
Texas Forensic Science Commission

EXHIBIT A

Rosemary Lehmberg ✯ Travis County District Attorney
P.O. Box 1748 Austin, Texas 78767 • Telephone: 512-854-9400 • Fax: 512-854-9534
e-mail: district.attorney@co.travis.tx.us • www.traviscountyda.org

July 8, 2010

Leigh M. Tomlin
Commission Coordinator
Texas Forensic Science Commission
Sam Houston State University
College of Criminal Justice, Box 2296
816 17th Street
Huntsville, Texas 77341-2296

Dear Ms. Tomlin:

Enclosed please find copies of a complaint, responses and internal investigation report involving the Austin Police Department Crime Lab for your consideration and action as deemed appropriate.

Sincerely,

Rosemary Lehmberg
Travis County District Attorney

Art Acevedo
Chief of Police
Austin Police Department

Enclosures:
Initial 22 page written concern by Cecily Hamilton
25 page memo by Cecily Hamilton dated February 16, 2010
38 page memo with responses by Cassie Carradine dated February 16, 2010
Response to written questions by Cecily Hamilton dated March 2, 2010
Response memo by Claire McKenna dated March 2, 2010
Response memo by Diana Morales dated March 2, 2010
Response memo by Elizabeth Morris dated March 2, 2010
Investigative results memo dated March 22, 2010
Austin Police Department DNA lab external audit history

EXHIBIT B

History

The Forensic Science Division was established in 1972.

In 1998 a DNA supervisor was hired to establish a DNA Section. In 2003 a change in management warranted an audit of the DNA section. The audit revealed that after five years there was a lack of progress and that even though the DNA section now had four staff members, very little serology screening and no DNA casework was being conducted. A new direction was taken for the section to include the hiring of a new DNA supervisor at the end of 2003. The new qualified supervision was able to re-establish implementation efforts and in March of 2004 the Division moved into a new 60,000 square foot forensic science facility. The DNA Section began conducting DNA analysis September 1, 2004, nine months after the hiring of this new supervisor.

On August 2, 2005 the Forensic Science Division including the DNA section was accredited by ASCLD/LAB.

The DNA section currently employs one supervisor and five analysts.

The DNA section 2011 annual budget is $542,000.

The DNA Section has also benefited from the following grants that have funded equipment, personnel, training and overtime for casework:

- 2004 DNA Improvement grant - **$112,800**
- 2005 DNA Backlog Reduction - **$ 90,000**
- 2006 DNA Improvement - **$121,000**
- 2006 DNA Backlog Reduction - **$ 90,000**
- 2007 DNA Backlog Reduction - **$165,000**
- 2008 DNA Backlog Reduction - $**137,490**
- 2009 DNA Backlog Reduction Grant - $**176,651**
- 2010 DNA Backlog Reduction Grant - $**182,097**

Total Grant Funding Since 2004: **$1,075,038**

Statistics

	2003	2004	2005	2006	2007	2008	2009	2010
Serology Testing Performed	8	185	262	317	430	431	498	456
DNA Testing Performed	N/A	40	136	180	224	261	299	245
CODIS Entries	0	28	106	151	216	224	296	200
- Evidence	0	21	69	93	114	121	173	114
- Suspect	0	7	37	58	102	103	123	86
CODIS Identifications	0	3	5	19	22	27	41	42

CODIS Identifications:

FY07 – 27 Case Identifications
16 Property Related Offenses
11 Person Crime Related Offenses

FY08 - 27 Case Identifications
13 Property Related Offenses

14 Person Crime Related Offenses

FY09 - 45 Case Identifications
22 Property Related Offenses
23 Person Crime Related Offenses

FY10 - 50 Case Identifications
33 Property Related Offenses
17 Person Crime Related Offenses

Percentage of CODIS Identifications by Crime Type:

Property Crime Related Cases -	56.4%
Sex Crime Related Cases -	23.5%
Robbery Related Cases -	13.4%
Homicide Related Cases -	2.0%
Assault Related Cases -	1.3%
Other -	3.4%

Technology Improvements:

- CODIS – Acquired 2002 through FBI. The CODIS participation has been instrumental in this laboratory solving crime.
- ABI 9700 Thermal Cycler – Acquired through grant funding. This instrument that performs the PCR process: the additional unit ensures the section does not experience a backlog at this stage of the process.
- ABI 7500 real Time PCR Quantitation Instrument – Acquired through grant funding. This instrument determines how much DNA is contained within the sample and complements the ABI 7000. This instrument will ensure no backlog is experienced at this stage of the process. This laboratory was one of the first laboratories to utilize this instrumentation in a forensic application.
- Qiagen Qiacube robots (5) – Acquired with grant funding. These robots will perform the initial extraction process of the DNA. They will free up to 2 hours of analyst time per batch of evidence samples. This process is currently performed manually and this new technology will improve efficiency as well as reduce contamination possibilities.
- Genemapper ID- Software upgrade from Genescan/Genotyper for DNA interpretation.
- Maxwell 16 Robots (3) – Acquired with grant funding. These robots will perform the initial extraction process of DNA from reference samples. They will free up to 1.5 hours of analyst time per batch of reference samples and will reduce the possibility of contamination.
- ABI 3100 (2) – Acquired through grant funding. This instrument performs the final typing step of the DNA process. ABI 310 instruments are currently being used which processes one sample every 30 minutes. The 3130 will process 4 samples every 30 minutes. This will enable the analysts to get their information needed for interpretation in a more expedient and timely manner.
- Sperm Hy-Liter – Acquired through grant funding. This instrument is a microscope adapted with special filters and lighting to allow for the visualization of spermatozoa without the visualization of the other cellular components. The benefit is that the process of searching for sperm will be decrease from an hour to minutes, saving considerable time on sexual assault cases.
- Corbett CAS 1200- Acquired through grant funding. Liquid handling robot used for quantification setup.
- Qiagen QIAgility (2)- Acquired through grant funding. Liquid handling robots. One will be used for PCR setup and the other will be used for sample setup for capillary electrophoresis.

EXHIBIT C

EXHIBIT C

Table of Contents

EXHIBIT D

M E M O R A N D U M

Austin Police Department
Forensic Science Services

TO: Sean Mannix, Assistant Chief of Police
Edward Harris, Jr., Chief of Field Operations
FROM: William Gibbens, Manager
DATE: March 22, 2010
SUBJECT: Investigation Results - Critical Issues within the APD DNA Laboratory

---

On February 11, 2010 a meeting was attended in Assistant Chief Mannix' office by the following persons:

Sean Mannix, Assistant Chief
Ed Harris, Chief of Field Operations
Bill Gibbens, Forensic Services Manager
Tony Arnold, Quality Assurance Manager
Tonya Scaperlanda, Human Resources Supervisor

Assistant Chief Mannix advised that DNA analyst Cecily Hamilton met with him concerning several issues within the division that included a hostile work environment, supervisor issues and quality issues. AC Mannix briefed the group on the conversation held between him and Mrs. Hamilton and requested that an investigation take place. The hostile workplace environment concerns would be addressed by Human Resources and the supervisor and quality issues are to be addressed by Division Management. It was decided that a written complaint would be requested from Mrs. Hamilton so that her concerns were clear to those investigating the claims.

On February 11, 2010 a written document was requested from Mrs. Hamilton regarding all of her concerns and allegations so that all they could be properly investigated. **(See Memo Dated 02/11/10 – Attachment 1)**

On February 16, 2010 a 25 page document was delivered to Tonya Scaperlanda and me from Mrs. Hamilton outlining her concerns and allegations. **(See Hamilton Memo Dated 2/16/10 – Attachment 2)**

On February 23, 2010 Mrs. Hamilton's memo was forwarded to DNA Supervisor Cassie Carradine for response and to provide documentation with regards to the allegations. A list of documents was also forwarded to Ms. Carradine. On February 26, 2010 Ms. Carradine provided a response to the allegations, as well as the requested documents. **(See Carradine Response Memo – Attachment 3)**

On March 2, 2010 a list of questions initiated by the initial memo submitted was provided to Mrs. Hamilton for response. On March 8, 2010 a response was provided by Mrs. Hamilton. **(See Hamilton Response Memo – Attachment 4)**

On March 2, 2010 a list of questions developed from Mrs. Hamilton's initial memo was provided to Ms. McKenna for a response. A meeting was held with the employee to explain the investigative process. On March 8, 2010 Ms. McKenna provided her response. **(See McKenna Response Memo – Attachment 5)**

On March 2, 2010 a list of questions developed from Mrs. Hamilton's initial memo was provided to Mrs. Diana Morales for a response. A meeting was held with the employee to explain the investigative process. On March 9, 2010 Mrs. Morales provided her response. **(See Morales Response Memo – Attachment 6)**

On March 2, 2010 a list of questions developed from Mrs. Hamilton's initial memo was provided to Mrs. Elizabeth Morris for a response. A meeting was held with the employee to explain the investigative process. On March 10, 2010 Mrs. Morris provided her response. **(See Morris Response Memo – Attachment 7)**

On March 11, 2010 Mr. Anthony Arnold, QA Manager completed his review of the quality related issues that were initiated in Mrs. Hamilton's memo. **(See QA Report – Attachment 8)**

The following is an outline of the quality and supervision issues identified by Mrs. Hamilton including the investigative results and responses. There are also clarifications included in this report.

1. Throughout the five years that a lab is accredited through ASCLD/LAB, the lab is required to undergo an external audit using the ASCLD/LAB audit document every other year. The year that the external audit is not performed an internal audit must be performed using the ASCLD/LAB audit document.

   Response
   The Forensic Science Division is accredited through ASCLD/LAB however the external audit takes place every five years, not every other year as stated. The audits that take place every other year involve only the DNA section and the FBI Quality Assurance Standards document is utilized.

2. The FBI Quality Assurance Standards Audit for DNA Casework Laboratories document specifically spells out the responsibilities and obligations of the DNA Technical Leader. The DNA Technical Leader is solely responsible for all technical operations and procedures in the DNA lab.

Response

The APD DNA section consists of 5 staff members; 1 Supervisor, 2 Sr. Forensic Scientists and 2 – Forensic Scientists. Because of the size of the laboratory the DNA Supervisor is also the DNA Technical Leader. The responsibilities outlined above are all the responsibility of the DNA Supervisor. This has been the structure of the section since its inception in 2004. ***(See Table of Organization – Attachment 9****)*

3. It is the basic, standard underlying function and expectation of the DNA Technical Leader in any crime lab across the county to be able to follow and perform all of the regulations within the ASCLD/LAB Audit Document and the FBI Quality Assurance Standards Audit for DNA Casework Laboratories document and to make sure that the DNA lab is prepared for audits.

Response

The DNA section has participated in 5 ASCLD/LAB audits and 5 external FBI Audit Document audits:

- *2004 – External FBI Audit performed on March 23, 2004 by Texas DPS DNA Supervisor Robin Freeman.* ***(See Audit Documentation – Attachment 10)***
- *2004 – External FBI Audit performed on August 4, 2004 by Tarrant County Medical Examiner Office QA Manager/Sr. DNA Analyst Carolyn Van Winkle.* ***(See Audit Documentation – Attachment 11)***
- *2005 – External FBI Audit performed on March 25, 2005 by the ASCLD/LAB inspection team* ***(See Audit Documentation – Attachment 12)***
- *2007 – External FBI Audit performed on June 29, 2007 by Bexar County Crime Laboratory DNA Analyst Garon Foster.* ***(See Audit Documentation – Attachment 13)***
- *2009 – External FBI audit performed on September 18, 2009 by the University of North Texas Center for Human Identification DNA Analysts Christina Capt and Amy Smuts.* ***(See Audit Documentation – Attachment 14)***
- *2005 – External ASCLD/LAB and FBI audit performed on March 25, 2005 by the ASCLD/LAB inspection team.* ***(See Audit Documentation – Attachment 15)***
- *2006 – Internal ASCLD/LAB audit performed on July 20, 2006 by internal auditors.* ***(See Audit Documentation – Attachment 16)***
- *2007 – Internal ASCLD/LAB audit performed on July 5, 2007 by internal auditors.* ***(See Audit Documentation – Attachment 17)***
- *2008 – Internal ASCLD/LAB audit performed on August 15, 2008 by internal auditors.* ***(See Audit Documentation – Attachment 18)***
- *2009 – Internal ASCLD/LAB audit performed on September 29, 2009 by internal auditors.* ***(See Audit Documentation – Attachment 19)***

There have been no significant issues identified within the DNA section in any of these audits.

4. Any DNA casework lab that uploads profiles into CODIS is also governed by the FBI NDIS audit document for CODIS labs. NDIS is maintained by the FBI. The FBI Quality Assurance Standards Audit for DNA Casework Laboratories document mandates that the CODIS Administrator is authorized to terminate an analyst's or the laboratory's participation in CODIS if the CODIS Administrator identifies or becomes aware of an issue with the data.

   Response
   The CODIS administrator does possess the authority to terminate a user if; the data is falsified, the profile is not CODIS eligible, an analyst has failed a proficiency test, there has been a security breech, the laboratory has not maintained compliance with the FBI DNA audit document (not just a finding but blatant disregard for the standards); or the laboratory does not follow NDIS procedures. This only applies to the ***final*** *DNA information that is to be uploaded to CODIS.* ***(See CODIS User Procedures – Attachment 20 and Section SOP for CODIS – Attachment 21)***

5. There is one final area in which the crime lab is audited. The APD crime lab is greatly funded by NIJ grant money. This money was made available to crime labs, specifically DNA labs, across the country to help reduce DNA backlogs. It is regulated and audited by NIJ.

   Response
   The Division has received 18 State and Federal grants from 2004 to present. Audits of our program are conducted on a regular basis by NIJ to ensure that the program is being administered correctly, that the funds are being expended correctly and that the program meets the requirements of the grants. The last external grant audit team inspected 7 active grants June 9-11, 2008 and at that time there were no significant issues identified. The Division we will be audited again in 2010. The grant system with APD requires Council approval of acceptance of the grant funds and the execution of the grant is under the oversight of a grant manager, project manager, finance and purchasing manager to ensure that the grant requirements are followed. ***(See NIJ Grant Audit Document – Attachment 22)***

6. All Serology and DNA casework must be technically reviewed and administratively reviewed before a final report can be issued. A Forensic Scientist performs technical review only in the areas that they are currently qualified in or have previously been qualified in. For example, a Forensic Scientist who has been signed off as an independent Serologist can perform technical and administrative review in Serology, but cannot perform technical or administrative review in DNA analysis until they have been signed off as an independent DNA analyst. A DNA analyst who has been signed off to perform independent casework in Serology and DNA analysis performs technical and administrative review in Serology and DNA analysis.

Response

As per the Division SOP and DNA SOP, the technical review must be performed by someone who has expertise in that specific discipline. Administrative reviews can be conducted by anyone designated by the QA Manager or deemed appropriate by the Technical Leader. Administrative reviews are conducted to ensure that all elements of the report are met and to check for logic, completeness, factual and consistent information and grammatical correctness. By definition an Administrative staff member can conduct administrative reviews if designated by the QA Manager. ***(See Division SOP – Attachment 23 and DNA Section SOP – Attachment 24)***

7. Training in technical and administrative review is typically begun in the Serology training process and continues throughout DNA analysis training so that when a Forensic Scientist has been signed off in Serology and/or DNA analysis they can begin to technically and administratively review casework. Once a Forensic Scientist is signed off to perform independent casework in either Serology or DNA analysis, it is a generally expected and accepted practice that the analyst will begin at a minimum, technically reviewing other Forensic Scientist's casework. It is the decision of the DNA Technical Leader to allow a Forensic Scientist to technically and/or administratively review casework

Response

Within the Division it is the responsibility of the section supervisor to determine when an employee will be allowed to conduct technical or administrative review of casework. Within the DNA Section it is the responsibility of Ms. Carradine to determine when an analyst will perform these tasks, based on her experience and comfort level with the employee doing these tasks and the needs of the section.

8. Per the FBI Quality Assurance Standards Audit for DNA Casework Laboratories document, a new Forensic Scientist starting in the lab must have 6 months of documented human-DNA laboratory experience with at least three months in a forensic or database DNA laboratory before being able to perform any type of independent casework. The training is the responsibility of the DNA Technical Leader. It has been the past history of the APD DNA lab that a Forensic Scientist is hired, begins their Serology training (if they were not already trained in Serology in another accredited casework laboratory), is signed off as an independent Serologist, begins DNA training and is then signed off as an independent DNA analyst. It has been my experience and is my expert opinion that the training in Serology and DNA analysis of a new Forensic Scientist that has no previous experience should generally take approximately 1½ years to complete after their start date. At which point that Forensic Scientist should be able to perform independent casework in Serology and DNA analysis and begin technical review. This timeframe is a typical training period generally accepted in the DNA Forensic Community.

Response

There are several factors that impact the training time of DNA employees; the size of the laboratory, no dedicated training staff, the supervisor continues to perform casework and the critical need to conduct training in conjunction with casework to ensure timely results reported to the customers. It would be preferred that the training did not take so long to complete, however casework turnaround times would suffer if the section pulled analysts to perform full time training.

9. I began my time at APD by completing my competency samples and at the same time I began technical review of casework that had been completed by Elizabeth Morris but had not been technically reviewed. I did notice that there were a lot of cases that needed review and was told this was because there had been so much turnover in the unit. I did take a little bit of pause over this because Cassie Carradine could do technical review. Cassie Carradine is the DNA Technical Leader so she is able to perform both technical and administrative review. But I accepted her explanation and took her at her word.

Response

During the time frame that Mrs. Hamilton was referring to, there were only two qualified DNA analysts; Elizabeth Morris and Cassie Carradine. As the DNA Supervisor and Technical Leader Cassie Carradine has to; manage all the operations of the section, perform all the quality assurance measures on the equipment, handle any casework questions by the analysts, speak with detectives and attorneys daily, and perform casework. The supervisor conducts administrative review on almost every case that is processed by the laboratory. ***(See DNA Section Personnel Timeline – Attachment 25)***

10. Also, when I started I was told that Diana Morales was just about to complete her training in DNA. I was a little concerned by this fact, because I really thought she would have already completed DNA training and would have already been performing independent DNA analysis. I only thought this because I worked with her at DPS before she left to go to APD and she was a trained and signed off independent Serologist at that lab. At the DPS lab, a Forensic Scientist is typically signed off to perform independent DNA analysis within approximately 1½ years after beginning their Serology training. When I came to work at APD, Diana Morales had already been here for 2 years. I discussed with Cassie Carradine why it was taking so long for Diana Morales' training and was told the same thing as the technical review question that I asked. I was told that there has been so much turnover in the unit that Cassie Carradine was doing casework and didn't have very much time for training and that due to the Serology backlog, Diana Morales was screening.

Response

With the turnover in this section and the limited staff, it has been a struggle to have five fully trained DNA analysts. It is paramount that the section be able to turn casework around in a timely manner. The management of the personnel resources plays a major role in the section's ability to provide casework to the investigators in a timely manner. Ms. Morales was fully trained in serology at Texas DPS before she joined the section. From January 1, 2007 to current the section's average casework turnaround time is approximately 52 days, which far exceeds the expectations of other laboratories. It is the proper use of staff that enables the section to meet these turnaround times. Unfortunately the training of staff has been impacted but those employees have not been unproductive. They have played a very integral part in the process by performing the serology functions. ***(See Statistical information – Attachment 26)***

11. It was during the time that I was technically reviewing, I noticed that Elizabeth Morris' case flow was very different from mine. I also brought this to Cassie Carradine's attention because I was a little concerned about the fact that Elizabeth Morris has so many runs in her cases and because there just didn't seem to be a smooth flow in her casework. Cassie Carradine told me that every analyst works differently and that some do a lot of runs and some don't.

Response

Mrs. Morris came to the section trained by another laboratory in another state. Even though she was trained in DNA it took her time to learn the way in which our laboratory performs DNA analysis. Mrs. Hamilton's concern is caseload parity. In 2009 Mrs. Morris' caseload consisted of 100 serology cases, 108 DNA cases and 423 items processed at an average turnaround time of 31.94 days. Mrs. Hamilton's caseload consisted of 61 serology cases, 73 DNA cases and 422 items processed at an average turnaround time of 46.23 days. Regardless of the manner in which the analysis is being conducted it is apparent that cases are being analyzed in a timely manner. Mrs. Hamilton's concern in which case work is being done is unfounded. ***(See Statistical information – Attachment 27)****. Mrs. Hamilton's concern that Elizabeth Morris could not keep up with her technical reviews is also unfounded. Statistics show that Mrs. Morris conducted a total of 539 technical reviews from January 1, 2007 to present, 318 of those reviews being on Mrs. Hamilton's cases. By comparison, Mrs. Hamilton performed a total of 377 technical reviews since February 5, 2007 when she began employment, 258 of those technical reviews for Mrs. Morris.* ***(See Statistical Information – Attachment 28)***

12. When I began work at APD, I shared a screening room with Claire McKenna. Claire McKenna was hired as a Forensic Scientist, but has only been trained and signed off as an independent Serologist even though as of 2010 she has been with the DNA unit for at least four years. It was very difficult for me to get into the room we shared because I never wanted to be in her way and never knew when she would need the room, especially for Lumalighting purposes where the Serologist needs the room to

be completely dark to use the alternate light source. I just felt like I was in the way. I had nowhere to screen. I made this very clear to Cassie Carradine. By September of 2008 I had brought this point to Cassie Carradine three times and she still did nothing about it.

Response
The screening rooms were set up to be shared rooms. Currently, Mrs. Hamilton and Ms. McKenna are assigned one screening room, Ms. Carradine and Mrs. Morris is assigned one screening room and the third screening room is assigned to Mrs. Morales. Because Mrs. Hamilton wanted her own screening room, Ms. Carradine converted another part of the laboratory for her. As part of this investigation Quality Assurance Manager Anthony Arnold reviewed the current screening room arrangements. He reports the following: "Conversations with the DNA supervisor indicate that sharing workspace is common in most DNA labs she has worked in or inspected as an FBI Audit Document inspector. When the need arises for special circumstances, such as using the alternate light source or examining large items such as bed sheets, arrangements are made with the coworker to schedule the time in the room. Otherwise, the room available is sufficient for more than one analyst to work at the same time. There have been no space allotment complaints to the quality assurance office from other DNA analysts and there were no issues noted during the 2005 ASCLD/LAB inspection or any of the DNA FBI Audit Document external audits.

Conclusion: *Each employee has adequate work space to accomplish assigned tasks."*
(See Attached Memo from Anthony Arnold – Attachment 8)

It should be noted that one of the standards reviewed during the ASCLD/LAB inspection and FBI Audit document concerns work space. No audit has identified our current arrangement as failing to meet standards.

13. When I started at APD, I was given my initial SSPR paperwork letting me know my expectations and my quota for my job. I asked Cassie Carradine if the expectations for casework were similar to DPS because Cassie Carradine had also worked at DPS and she said yes. Therefore, I read my SSPR to mean that I was expected to perform casework on 7 DNA/serology cases. At DPS, when we did casework, whether you were performing serology or performing DNA, it counted as a case. So I took my SSPR to mean that I was expected to perform casework on 7 cases per month. Apparently that was not correct. During my first year end evaluation I was informed that the case load expectation was an average of 7 DNA cases per month and an average of 7 Serology cases per month. I expressed my concerns over these numbers because this was not how I understood it and at the same time I expressed my concerns over being able to screen an average of 7 cases per month because I had nowhere to screen, and then I expressed my concerns over getting an average of 7 DNA cases done per month when she had told me to not do such large batches and to slow down.

Response

Currently there is only one SSPR plan that encompasses both the DNA and Sr. DNA analysts. The stated standards for a Sr. Analyst are not higher than that of a DNA Analyst, however the rating is based on their caseload in the areas that they are authorized to perform. The SSPR clearly states "minimum of 15 serology cases per month when available/minimum 7 DNA/Serology Cases per month when available". ***(See Attached SSPR form and Job Descriptions – Attachment 29)***

14. In January 2008, the Forensics Division was called to a meeting with Chief Acevedo in regard to the completion of the market study. It was at this meeting that Chief Acevedo distributed paperwork to each person in the division informing each person if there was going to be an increase in their pay based on the market study results. When the paperwork was distributed, people sitting by you could easily see what you made. Elizabeth Morris, Diana Morales, and I were sitting next to each other in the front row. It was observed that Diana Morales was being paid at the same rate as Elizabeth Morris and I. We had this concern not only because of the meeting that had just occurred but also because Diana was listed on her time sheets as being a Senior Forensic Scientist.

    Also in October 2008, Elizabeth Morris went downstairs to retrieve the mail for our unit when she noticed a document amongst the mail that listed the overtime pay per hour for the DNA unit employees. She came to me and informed me that this document also showed Diana Morales making the same pay per hour in overtime that she and I make. This fact was very unsettling to both of us because now this was the third time that we observed documents showing that she was being paid or had the same title as us.

    Response

    The position that Mrs. Morales was originally hired in was a Sr. Forensic Chemist position that was converted to begin the DNA section in the late 1990 timeframe. It was a position acquired by the Division as part of an annexation expansion. For years attempts had been made to change the title to correctly reflect the position without success. Because of Mrs. Morale's seniority and pay for performance raises she did stay consistent with the pay of the other analysts however she was never considered a Sr. DNA Analyst. In 2008 a market study was conducted which resulted in a change to the job titles and pay was adjusted to take into consideration experience and education. At that time Mrs. Morris was elevated to a Sr. DNA analyst and Mrs. Morales' title was finally changed to reflect her position correctly. With that change also came pay adjustments that leveled the pay accordingly. ***(See Attached Email from Cathy Bixler – HR, dated February 24, 2010 – Attachment 30)***

15. The DNA unit is required to perform cleaning duties every Friday in the DNA laboratory. Some of these duties are understandable and are common place in all laboratories such as cleaning the countertops, cleaning centrifuges, making any reagents that are low, and just making sure that the laboratory overall is not cluttered

and is in an organized manner. However, the DNA unit is also mandated by Cassie Carradine to sweep and mop the floors and to take out the trash.

Response
Who performs this task is again the prerogative of the supervisor. If Ms. Carradine believes that this is the best way to keep her lab clean, protect the integrity of the evidence and prevent contamination, then it is her decision to make in the best interest of the section.

16. I informed Bill Gibbens about the issues between Diana Morales and Elizabeth Morris including the text message, the hostility that Diana Morales showed toward Kate Carlson who had separated from the department by then, and the blatant nepotism shown by Cassie Carradine to Diana Morales. I also discussed the document that Elizabeth Morris saw in the DNA unit mail and asked him if Diana Morales made the same as Elizabeth Morris and I. It was clear to me that Bill Gibbens had done something about the issues I brought to him but I did not know what was done and he never followed up with me on this matter. I did observe that the picture of Diana Morales and Cassie Carradine was no longer on Cassie Carradine's desk.

Response
I did discuss the concerns that Mrs. Hamilton had concerning the section with Ms. Carradine. I advised her to get with HR and discuss the issues so that they could assist with the resolution, which she did. I also advised Ms. Carradine about the concerns that Mrs. Hamilton had with the photograph of her and Diana on her desk. I did not tell her to take it down. She did that to try and alleviate the perceptions of Mrs. Hamilton. I did not provide Mrs. Hamilton a follow up because it was a personnel matter. The action taken between a supervisor and an employee should be a matter between those two individuals and is not the concern of anyone else. She stated she knew something had been done. If the environment had gotten worse as she reports she should have initiated a follow up meeting to advise me.

17. Not long after we returned from our training, Elizabeth Morris, Diana Morales, Claire McKenna and I were forced to sign a memo that was given to us by Cassie Carradine. She told the unit that this was the decision that she, Bill Gibbens, and HR had made and that we were all required to sign it. The memo was a copy of the personnel section of the APD General Orders describing how you should treat your coworkers. I was not happy about this because I informed Cassie Carradine that I did not feel I should have to sign it. She said that all four of us are to blame for the hostility and that we all needed to sign the memo. I let her know that I strongly disagreed with having to sign the memo because I had been gone to a week long CODIS training during the timeframe in which this decision was made and that I had never been approached by HR or Bill Gibbens after bringing my concerns to his attention. She said that that was my choice but that not signing the memo would lead to further disciplinary action, so I signed the memo. She also explained to me that there was a new system for reporting problems and then further described the new process and

said that if there was an issue, the issue was to be brought to her and that she, Bill Gibbens, and HR would determine who should be written up.

Response
The memo signed by all employees of the section was concerning the expectations of employees in the work place as outlined by the General Orders. The decision to issue this memo was made by HR and me as a way to remind everyone that they have responsibilities to each other. ***(See Memo dated November 25, 2008 – Attachment 31)***

18. By December 2008, Cassie Carradine no longer spoke to me unless she had to. When she had to speak to me; she was very short and was often condescending. I no longer received any communication in regard to the happenings of the laboratory which was not acceptable because it affected my ability to stay informed about current information in regard to the lab such as when reagents and kits were coming in, changes to procedures, etc… I felt completely isolated and ostracized from the rest of the unit.

Response

ASCLD/LAB Criteria: *1.3.1.1 (desirable) Is there constructive discussion between supervisors and subordinates?*

Observations (based on personal observations and conversation with the DNA supervisor/technical leader):

An issue list is posted in the DNA common office with daily information updates. This posting may include supplies received, equipment status, tours, etc. Each entry is dated. Although each employee is aware of the location of this posting, there is no verification that each employee has read the posting. Section meetings are not held on a regular schedule, but are documented when they occur. There have been no vertical communication objections voiced during the 2005 ASCLD/LAB inspection or any of the DNA FBI Audit Document external audits.

Conclusion: *Although regularly scheduled staff meetings are encouraged, it is up to the discretion of the supervisor how to maintain constructive discussion between supervisors and subordinates. The postings and staff meeting notes indicate that there is constructive discussion between supervisors and subordinates.*
(See Attached Memo from Anthony Arnold – Attachment 8)

19. I went to HR and met with Tonia Scaperlanda and shared with her my concerns. I told Tonia Scaperlanda about the nepotism, about going to Bill Gibbens, and about the hostile work environment. At that time I told her that Cassie Carradine was alright as the DNA Technical Leader but that I had a great concern in regard to the relationship between Diana Morales and Cassie Carradine and that I did not feel that I could trust Cassie Carradine as my Supervisor or my DNA Technical Leader because

of this relationship and because she was harassing me and being hostile toward me, especially since I went to Bill Gibbens. I told Tonia Scaperlanda that Cassie Carradine did not have the basic necessary skills to be a Supervisor. She lacks interpersonnel skills, she refuses to use technological media such as Outlook and e-mail because she said e-mails come back to haunt her, and she has an inability to communicate effectively. I also told Tonia Scaperlanda about my concerns in regard to my SSPR's. I told her that Cassie Carradine did not know how to properly give an evaluation. I told Tonia Scaperlanda that Cassie Carradine had told me and the rest of the unit during one of her impromptu meetings that above average or higher on an evaluation should be reserved for the sworn because since those classifications were tied to a larger raise at that time, that it was the sworn that really deserved that money and that Cassie Carradine has reiterated this statement during my last SSPR. Tonia Scaperlanda said she would make sure that Cassie Carradine had gone through the required APD training for a Supervisor. She also said that Cassie Carradine had not broken any General Orders and that she felt I should take the matter to Bill Gibbens. I told Tonia Scapaerlanda that I did not want to go back to Bill Gibbens because my work environment had become so much more hostile since going to him before. Tonia Scaperlanda said she did have concerns over the way Cassie Carradine was performing evaluations. She brought up the idea of going to mediation and I said that mediation was not going to work because all of the problems are symptoms of a bigger problem which was that Cassie Carradine lacked the basic necessary management skills to be a Supervisor.

Response

Ms. Carradine has given a rating other than successful to employees that she believed deserved the rating. This was done with Mrs. Morales in 2006 and Mrs. Morris in 2009. ***(See past SSPR forms of Section Employees – Attachment 32)***

Mrs. Hamilton states that Mrs. Scaperlanda would make sure Ms. Carradine had the proper supervisor training. Ms. Carradine has completed the City New Supervisor Training, which she began in 2003. She also has amassed a total of 156 hours of city sponsored training related to her supervisory positions as well as many hours of technical training. ***(See Ms. Carradine's training records – Attachment 33)***

20. My SSPR's are not adequately reflecting my work performance or my case output. Cassie Carradine has even told me that casework performed during overtime does not count as work because I am paid handsomely for it. I had to really push the issue to even get the casework I do in overtime put into my evaluations and even then she will not use any of that casework as part of my overall work performance. She refuses to put any statistics in regard to the amount of court time I have or the amount of technical review or administrative review I perform.

Response

The decision to use overtime casework in evaluations has been discussed at length in the past with Ms. Carradine. The SSPR as it is written now is to document the workload expected in a 40 hour work week. Overtime is optional and can be

documented in the SSPR but it is not used for rating purposes. In reviewing Ms. Hamilton's past SSPR forms she has yet to meet her expected case output for any review periods. ***(See Mrs. Hamilton's past SSPR forms – Attachment 32)***

21. A couple of years ago Cassie Carradine nominated me to Bill Gibbens to be the new Forensic Division representative for the REAP committee. I joined that committee and have enjoyed the work I have done on that committee. Once it became clear to Cassie Carradine that I enjoyed and was successful on that committee, she began harassing me about my work on that committee. While on the REAP committee, I was asked to be a part of the Retiree Luncheon Committee. Again, Cassie Carradine began harassing me about the time I would use to go to the meetings. I again asked her why because I always got my work done. She still had a problem with it but never told me I couldn't do it. Last year during the Civialian/REAP event for 2009 Cassie Carradine told me that the time I worked the event on Saturday would not count as work time because she had checked with Bill Gibbens and he said it was considered voluntary time. I did not agree with this at all but had no choice but to comply so none of the time that I worked on the event that Saturday counted as work time. Now, this year the coordinator of the Retiree Luncheon asked Bill Gibbens if I could be a part of the luncheon. Bill Gibbens gave his permission and in an e-mail wrote that I just needed to let Cassie Carradine know whenever I would be working on the luncheon. I immediately let the coordinator of the luncheon know that I needed to do as much of my portion of the work electronically and meet as little as possible. In the morning on Monday, February 8, 2010, I went to Cassie Carradine's office to let her know that I had a Retiree Luncheon Meeting at 9:30 am. She was very hostile towards me and said that I now had to keep a log of any time that I spent on the retiree luncheon. I asked her why? She said because Bill Gibbens wanted me to keep a log. I returned to my cubicle and re-read the e-mail from Bill Gibbens giving me permission to be on the committee and nowhere in that e-mail did he mention keeping a log. I returned to Cassie Carradine's office and let her know that I had re-read Bill Gibben's e-mail and that he had not asked for a log but had just written that I needed to get with her. She then said well then I want a log. I again inquired why she wanted a log. She said because if I wasn't spending time on that I could get casework done. I said that I already get a lot of casework done and that I always put it first. She said well then you could get even more casework done. I asked her to clarify what she wanted in the log and she said that she wanted me to include all meetings, e-mails, and telephone calls. I have since then maintained a log of any time I spend working on the Retiree Luncheon. It feels like this action by Cassie Carradine is in retaliation to the incident from Friday 5, 2010. I e-mailed Tim Atckison to let him know that I was going to have to keep a log all of my meetings, phone calls and e-mails in regard to any work I did for the Retiree Luncheon. I then went to the Retiree Luncheon meeting. It was at this meeting that Tim Atckinson asked me what was going on and he asked me if I wanted to speak to Commander O'Brien. I said that I really thought I should speak to her and Tim Atckinson said he would set up a meeting with her. The meeting with Commander O'Brien was set up for Wednesday, February 10, 2010 at 4:30 pm.

Response
I initiated the placement of Mrs. Hamilton to the REAP Committee and Ms. Carradine agreed to allow her on the committee. Initially she was just a member of the committee but with the exiting of the Chair she was appointed chair of the committee. I was told by HR that she was supposed to have discussed this appointment with management, which was never done to my knowledge.
I was contacted by email by Commander O'Brien about Mrs. Hamilton assisting with this year's Retiree Luncheon. I believed that this was part of the REAP functions and after agreeing to her meeting Ms. Carradine advised that this was a totally different function and that she had already told Mrs. Hamilton that she could not do this function again this year as it took too much time last year. Ms. Carradine agreed to allow her to meet with coordinators. The email was very clear that Mrs. Hamilton was to determine how much time the event was going to take from her and to let Ms. Carradine know the level of commitment once determined. The only thing I initially agreed to was the meeting with Sgt. Atchison to discuss her role. She should have then gotten back with Ms. Carradine on the time commitment. Ms. Hamilton took the email to mean that she has carte blanche to participate and has never determined the time commitment and relayed that information to Ms. Carradine. ***(See Email dated January 22, 2010 – Attachment 34)***

The issue with using personal time for the REAP Luncheon was a decision made by Division Management and not Ms. Carradine. Employees attending also went on their own time if it was their regular day off. Those on duty were allowed to go by and eat and receive their award.

22. No one in the DNA unit is currently speaking to me unless I speak to them.

Response
Please review the memos submitted by the other DNA employees and you will see why no one talks to her any longer. She has alienated all section employees with her past actions and comments and the employees no longer trust her. ***(See Memo of employees – Attachment 5, 6 and 7)***

23. Over the past three years I have observed that there is a real division on this team. It seems like there is a team of the Senior Forensic Scientists and then a team of the Forensic Scientists. There is an unequal division of the work of this unit. I realize and completely understand that as a Senior Forensic Scientist I should be expected to perform casework on more complex cases than the Forensic Scientists with less experience and I should be tasked with more assignments but it is clear that on this team work is not distributed equally even based on expected competency and skill level. Elizabeth Morris and I are expected to reach all of Cassie Carradine's erroneous expectations and quotas while Diana Morales and Claire McKenna are not. Diana Morales and Claire McKenna can do just about whatever they want to. They are not held accountable for anything, even when they fail to get their assignments done and miss meetings with external customers such as attorneys. Claire McKenna comes to work virtually every day late. She then takes an hour lunch while the rest of us take

30 minutes. She takes an hour everyday because she goes and gets her lunch and Cassie Carradine's lunch. Claire McKenna then leaves at 4:00 pm if not earlier, rarely completing an 8 hour day. We are allowed to take an hour lunch if we choose but it is clear that we are to make up that time during normal business hours. Claire McKenna misses a lot of work but supposedly makes a lot of it up. She is allowed to come in late, leave when she wants, make trips to HEB, the bank, etc… All of this is done during normal business hours. I can understand needing to run a personal errand occasionally but this has become commonplace for Claire McKenna. She is often allowed to make up her time, if she makes up her time, during non business hours. We are allowed to come in early and stay late or come in on the weekend to work but that time is reserved for overtime. Otherwise, on a normal basis we are supposed to be at work and available during normal business hours 7:30 am – 4:00 pm. Claire McKenna has been allowed to come in late, take long lunches, make up normal time missed at very late hours, even as late as 8 pm. Again, when overtime was approved for us it was made clear that we could come in to perform overtime at these times but that we were still required to be at work during normal business hours.

Response

By City Policy employees can be allowed to flex time at the discretion of the supervisor. Flex time cannot be performed during "normal working hours". All personnel submit a timesheet to the supervisor on a weekly basis and their time is accounted for. Ms. Carradine utilized a paper log by the entry door but it was discontinued because Ms. Hamilton was spending considerable time calculating everyone else's time to see if it added up. Ms. Carradine has since switched to an electronic form. Mrs. Hamilton has no knowledge of the leave time people use.

24. Cassie Carradine approves leave for Claire McKenna to allow her to go and race in competitive bike races. Claire McKenna is a sponsored cyclist and also receives monetary compensation if she wins at these races. The problem is that Clare McKenna constantly becomes injured in these races and it does affect her work performance. When she is injured, which again is very often, she either misses work or comes to work and is unable to perform her duties. The last injury she received was very extensive. She is now in a sling for her arm and will be in this sling for many weeks and cannot perform any Serology, the only area that she is currently signed off in to perform independent casework. Again, Claire McKenna has been with APD for at least 4 years. The other problem with this is that she is always very distracted and many times has no energy for work. Therefore, I do not understand why there is a problem with me attending meetings or working on APD functions that are for the benefit of the department.

Response

Claire does bike race competitively. This is done on her time, whether it be on weekends or using personal time. She has been injured but because she is conducting serology as well as training, there are tasks that she has been able to perform. She has been productive when she has been injured. The last injury was severe and Ms.

Carradine contacted Risk Management about how to handle the injury. She was able to make accommodations for Ms. McKenna with no impact to the section.

25. The DNA unit was at a conference here in Austin during the summer of 2009. This conference is held by an organization called AFDAA. AFDAA is an organization comprised of DNA analysts and administrators. It is also comprised of aspiring DNA analysts and students. It meets twice a year in Austin to bring together DNA analysts from across the country to discuss DNA technology and advancements. All of the employees in the DNA unit are members of this organization. While at this conference, I was approached by the one of the current board members of AFDAA and asked if I would think about being on the board for the next year. I was excited and honored by her asking me and I told her that I didn't think I needed Cassie Carradine's permission but I wanted to ask her to be respectful. Elections were going to be that day so the board member and I went to find Cassie Carradine. We found Cassie Carradine speaking to Claire McKenna, Elizabeth Morris, and Mario who was one of our summer interns. The board member and I approached Cassie Carradine and the board member told her that she wanted to nominate me for the AFDAA board. Cassie Carradine became angry and in front of Elizabeth Morris, Claire McKenna, Mario, and the board member, said in a very loud and hostile tone that it would not be alright because she didn't want two people from the APD DNA unit to be on the board for AFDAA. Cassie Carradine is currently the Vice-President of the board. I asked her if it was an APD rule that there could not be more than one person on a board for an organization because I was legitimately seeking clarification and then in an even louder and more hostile tone she said no it is my rule! I was so embarrassed. Not only had she done this in front of my co-workers and our intern but also did it in front of a board member from AFDAA who worked for a different lab system. The board member was embarrassed for me and profusely apologized to me for having even asked Cassie Carradine. I was humiliated. This also upset me because you really can't move up in the AFDAA organization without being a board member.

Response

This issue has been responded to in the memos of those employees who were there at the time this took place. No one validates Mrs. Hamilton's statement of the demeanor of this conversation. ***(See Memos from DNA employees – Attachments 3, 5, and 7)****. Many of us have held offices and positions within professional organizations. It is customary to advise your supervision before accepting this responsibility. I have even communicated possible organizational positions with Mr. Harris before pursuing them. Ms. Carradine was already a board member. She knew the time commitments that being on this board takes and it is her prerogative as the supervisor to determine how many of her employees should hold offices and positions within professional organizations.*

26. One day I was in the laboratory in the amplification room setting up my amplification. Cassie Carradine was also in that area. I cannot remember if she was also setting up an amplification or if she was setting up a quantification, but the amplification and quantification rooms are only separated by a door. I had opened this

door to go to the freezer in the quantification room to retrieve a portion of the amplification kit that is retained frozen in this freezer. This freezer is very close to this door and I had the freezer door open and was reaching into the freezer to get what I needed while at the same time holding the door partially open because for prevention of contamination we try to touch the doors as little as possible. While I was doing this, Cassie Carradine came racing through the door and I tried to stop the door but had the kit from the freezer in my hand and could not stop the door and it slammed my right hand was slammed into the door. This hurt a lot. Cassie Carradine did not even stop to see if I was alright but instead turned around with a smile while continuing in the other direction and said watch the door. I went and told Elizabeth Morris what happened and the next day showed her my bruised hand.

Response

Ms. Carradine and Mrs. Morris both remember the incident. Ms. Carradine stated she asked Ms. Hamilton if she was OK when it occurred. Mrs. Morris stated that Mrs. Hamilton reported it to her the same day and she asked if she reported it to Ms. Carradine and she stated she would. There is no injury report on the incident on file. It was an accident and was not intentional.

27. Since I began at APD three years ago, the overhead lights in the cubicle area have always been turned off. I found this very odd when I first started and still find it odd, but didn't say anything about it. I noticed it was difficult to see. We do each have lights under a portion of our individual cubicles but with no overhead lighting, it is really hard to see. I wear glasses anytime I am on the computer, to read, and to technically review. I have a very hard time seeing. A couple of months ago I went to Cassie Carradine to speak to her about the lighting situation in the cubicle area. I told her that the lights had been off since I started here and that I was really having a difficult time seeing. I had always had difficulty seeing but my vision has gotten worse over time and now it is really difficult. She said that she didn't care if I turned the overhead lights on and that she had never cared if they had been turned on. I began turning the overhead lights on every morning after my conversation with Cassie Carradine. The switch I used only turned on the lights over my cubicle and in Cassie Carradine's office. The remainder of the cubicle area remained dark. A couple of days after I began turning on the overhead lights over my cubicle and Cassie Carradine's office, Cassie Carradine had a maintenance person come into the cubicle area and separate the circuits for my cubicle and her office and now the lights are on over my cubicle only and the remainder of the cubicle area and Cassie Carradine's office do not have the overhead lights on. The cubicle area is very dark, especially in the morning and in the evenings when it is dark outside. I have never worked in an environment where I was not allowed and it was not a normal function for the overhead lights to be turned on while you are working.

Response

There is no policy or procedure that prevents employees from turning on and off the lights. The only confirmed employee who has concerns about this is Mrs. Hamilton as stated in the responses from the other employees. There was no re-wiring of

circuits involved in the solution. Ms. Carradine had the maintenance crew disengage the light bulbs in her office.

ASCLD/LAB Criteria: *3.2.3 (important) Is there adequate and proper lighting available for personnel to carry out assigned tasks?*

Observations (based on personal observations and conversation with the DNA supervisor/technical leader):
There are two light switches in the DNA common office area. The south end of the office originally also controlled the lighting in the DNA supervisor's office. Currently, the two light switches control the common office area. The DNA's office lighting is not controlled by either of these switches. Lighting in the DNA office is typical for office work space and is supplemented by ambient lighting from windows which run approximately 4 feet to the ceiling down the length of the DNA office. Also, each work area has an operational fluorescent light built into the work cubical over the work area. There have been no office lighting objections voiced during the 2005 ASCLD/LAB inspection or any of the DNA FBI Audit Document external audits.

Conclusion: *There is adequate and proper lighting available for personnel to carry out assigned tasks.*

(See Attached Memo from Anthony Arnold – Attachment 8)

28. Forensic Training Network, LLC is a private company co-owned by Catherine Caballero that offers a variety of training solutions for forensic professionals. Catherine Caballero is a former employee of Applied Biosystems. Applied Biosystems is the company that APD DNA lab purchases its laboratory kits and instruments from that are needed to perform DNA analysis. Cassie Carradine and Catherine Caballero have known each other for a very long time and Cassie Carradine has made arrangements with Forensic Training Network, LLC so that their products are being used by Cassie Carradine and Claire McKenna in Claire McKenna's DNA training. I have observed both Cassie Carradine and Claire McKenna using these products and editing and critiquing these products for this company on city time. Forensics Training Network, LLC is allowing Cassie Carradine and Claire McKenna to use their products for free in exchange for Cassie Carradine's and Claire McKenna's expertise, market research, and proof of concept on their products.

Response
The program in which Mrs. Hamilton is referring to was an opportunity offered to every DNA lab through a NIJ Grant. The grant funded Customized Self-Learning Forensic DNA Training Modules for DNA laboratories. Ms. Carradine did come to me before we entered into a written Memorandum of Understanding was initiated between the funded organization and APD. This program allowed for APD to acquire computer based training materials based on our own standard operating procedures at no cost to the Department. One of Mrs. Hamilton's concerns is that the training program needs improvements. This is one attempt to improve the

training program. This program can and will be used for future employees and it was done in conjunction with Mrs. Morales' training, which allowed for effective changes and improvements while not impacting the laboratory. ***(See Attached NIJ MOU – Attachment 35)***

29. The training program at the APD DNA laboratory needs significant improvement. The training manual that is used is well written and meets quality assurance guidelines. The original version of this training manual was derived from the State of Texas Crime Laboratory System DNA training manual and was modified to meet the needs of the APD DNA lab. The training manual is now modified periodically to include any updates or changes that need to be made due to new technology or due to new mandates from the FBI Quality Assurance Standards Audit for DNA Casework Laboratories document. However, the way that the APD DNA Technical Leader implements the training manual and puts it into practice to train new Forensic Scientists is of poor quality. The DNA Technical Leader either performs the training or delegates another Forensic Scientist to perform all or portions of the training. This is an acceptable practice as long as the Forensic Scientist that the DNA Technical Leader appoints to perform the training is qualified in the area in which they will be training and as long as that analyst's work performance is acceptable.

    From my observations and experience and from conversations with new Forensic Scientists in the unit who have either undergone training or are undergoing training in this lab, the majority of the training that is being performed in the DNA unit is very unorganized, is not performed in a fluid manner, and takes an extremely long time. The DNA Technical Leader has delegated the training of Serology to Diana Morales on many occasions. Diana Morales, as will be discussed later on in this portion of this memo, is not able to perform her own quality work as a Forensic Scientist.

    Response

    There has only been two staff members trained while Mrs. Hamilton has been with the crime lab; Mrs. Morales and Ms. McKenna. Both stated they were satisfied with the training provided. ***(See Memo of employees – Attachment 5 and 6)***

    Diana Morales was fully trained in serology and was approved for independent casework in serology at the time she performed serology training, which is an acceptable practice. The staff members that Ms. Morales trained were grant funded contractors who were trained before Mrs. Hamilton began employment with the Division.

30. I was delegated by Cassie Carradine to train Claire McKenna in the use and validation of one of our robots, the Qiacube robot, and I was to also to train Claire McKenna in Quantification. I was only delegated this assignment because I spoke to Cassie Carradine about my concerns in regard to training at APD and asked why the only Forensic Scientist allowed to do any training was Diana Morales and why training overall took so long. Soon after I asked this to Cassie Carradine I was allowed by the DNA Technical Leader to train Claire McKenna in the previously

mentioned areas but was told how to go about training her. I expressed my concerns to Cassie Carradine that I thought it was not a good idea to train a new Forensic Scientist in such a way that you break up the process of DNA analysis so that the trainee does not begin training at the beginning of the DNA process and then moves forward as you would in casework. I suggested allowing me to train Claire McKenna in the manual extraction procedures we currently had approved. Cassie Carradine said she was fine with having Claire McKenna learn the Qiacube and quantification first and that she, Cassie Carradine, would perform the rest of Claire McKenna's training at a later date. I expressed my concerns again because performing Claire McKenna's DNA training in this manner, in my opinion and experience, would most likely make the training process longer than it needed to be and I also knew that this kind of training often frustrates and confuses trainees. It is my experience that a Forensic Scientist who is being trained in DNA analysis is trained first in the manual extraction procedures and then the robotic procedures and then would be trained in quantification after the extraction procedures are mastered. This practice is done to allow the trainee time to adjust to his/her DNA analysis training and then you move on to more advanced procedures. It is also done this way to ensure that the trainee can master their pipetting skills and can become very comfortable at their DNA bench first and so that the trainer can monitor and become familiar with the trainee's laboratory skills. I was aware that our manual extraction protocols were in transition because we were implementing robotic protocols but I still strongly felt that not beginning Claire McKenna's DNA training in the manual extraction procedures was doing her a disservice because so many of the downstream processes of DNA rely upon basic, fundamental laboratory practices that are often not mastered in a Forensic laboratory until DNA analysis training. No matter what manual DNA extraction procedure a Forensic Scientist is trained on, that Forensic Scientist is expected to be able to adapt to any changes to protocols that may occur due to advancements in technology such as robotics but basic laboratory skills are paramount to successful DNA analysis.

Response

Ms. McKenna states in her response that she has not been confused or frustrated by the training. She states that the only issue she had with training was when Mrs. Hamilton trained her wrong in the procedures she was responsible for teaching, and she asked that Ms. Hamilton not be involved in her training. ***(See Ms. McKenna's response memo – Attachment 5)***

31. During the summer of 2009, Cassie Carradine delegated Diana Morales to supervise an intern. Together, Diana Morales and the intern were to validate the Qiacube robot that Diana Morales was to use in DNA casework. Diana Morales and the intern were unable to successfully validate the robot. The Qiacube robot was only successfully validated as of a couple of weeks ago. The DNA Technical Leader has openly expressed her opinion that the unsuccessful validation was entirely the intern's fault. Yet, the intern was under the direct supervision of Diana Morales. But nothing was ever done by Cassie Carradine to hold Diana Morales accountable for this failure and

Cassie Carradine completed the validation for Diana Morales but not until a couple of weeks ago.

Response

Mrs. Morales was never assigned to train or supervise this intern. When we agreed to participate in this intern's program we were ensured that he had the experience to perform validation independently. Ms. Morales worked with the intern because it was her QIAcube (robot) being validated. All others had been validated previously. Each analyst has her own instrument and has been involved in the validation of it. Ms. Carradine came to me on several occasions and had concerns about the intern's lack of motivation and initiative. We agreed to allow him to complete the internship but he was given sub par ratings for his performance. When the intern left, all of the validation work had been completed on the instrument. The delay in signoff on the instrument was that prior to reviewing the validation documentation, the FBI audit document changed and included was a new requirement for validations. This requirement had to be met for all instruments so Ms. Carradine had to complete that portion of the study for all instruments. It took Ms. Carradine time to complete the study due to other time constraints but this did not constitute a quality issue.

32. I spoke very bluntly with Cassie Carradine that she had no business signing Diana Morales off as an independent DNA analyst. Cassie Carradine ignored my concerns and the concerns of Elizabeth Morris and signed Diana Morales off as an independent DNA analyst in July 2008.

Response

Ms. Morales was signed off on to do independent DNA casework by management in July 2008. Mrs. Morris has responded to the statement that she had no concerns about Ms. Morales in her memo. She states, "To my knowledge Diana successfully completed her DNA training and the technical leader/ supervisor deemed her a qualified DNA analyst. I have confidence that Cassie would not sign anyone off who was not ready. I do not feel that any of my concerns are ignored. In regards to her abilities I have not seen a DNA case of Diana's come across my desk that I believe has a quality issue. I have not seen a great number of DNA cases, but I have no reason to question her work based on what I have seen of the final product". ***(See Sign Off Form – Attachment 36)***

33. One day I observed Diana Morales in Cassie Carradine's office. I observed Cassie Carradine holding a calculator and calculating something. This immediately sent up a red flag to me because I was pretty certain that the only samples Diana Morales was working on was her Competency samples. It appeared to me from my observation that Cassie Carradine was assisting Diana Morales in calculating her amplification amounts. I waited to see if Diana Morales was getting ready to amplify samples and a little while later I saw Diana Morales go into the amplification room to amplify. I immediately went to Elizabeth Morris and told her what I saw. We were both very concerned because there are two types of samples that a DNA analyst is not allowed to receive assistance on and those are competency and proficiency samples. I waited

for Diana Morales' samples to finish amplifying and then waited for her to load her samples onto the instrument. Once her samples were loaded I looked at her injection list on the instrument and it appeared to me that those samples were indeed her competency samples.

Response

ASCLD/LAB Criteria: *2.5.4 (essential) Did each examiner successfully complete a competency test prior to assuming casework responsibility?*

Observations (based on personal observations and conversation with the DNA supervisor/technical leader):
Competency testing is one of the cornerstones of our quality assurance program. An accusation of assisting an analyst during a competency exam is a grievous violation of professional ethics and would result in disciplinary action including dismissal of the supervisor. In addition, the professional reputation of the supervisor would be tainted and hamper their ability to gain employment in the field. Making an accusation of this nature with no verifiable evidence is irresponsible.
During interview with the DNA supervisor/technical leader it was clear that Cassie understands the seriousness of this accusation and is adamant that no assistance was given to any of the DNA analysts completing either competency or proficiency exams. She reiterated that this action would be unethical and would result in the termination of her career as a DNA analyst.

Conclusion: *I found no tangible evidence to prove or disprove this indictment. Again, making an accusation of this nature with no verifiable evidence is irresponsible, and is an indictment of our division quality assurance program.*

Making statements of this type without any proof is a direct attack on the persons accused as well as the division is unacceptable and cannot be tolerated.

(See Attached Memo from Anthony Arnold – Attachment 8)

34. During Diana Morales' mock trial it was also very clear to me that she was not prepared to be a DNA analyst. I was present at her mock trial and filled the role of the prosecutor. Elizabeth Morris was the defense attorney. It was during Elizabeth Morris' final cross examination that Cassie Carradine stopped the mock trial and said that it was enough, even though Diana Morales was not able to answer questions correctly. Elizabeth Morris and I were both concerned. Diana Morales did her very best job that she could do but she was not able to even answer all of Elizabeth Morris' questions and they were nothing in comparison to a real courtroom setting.

Response
Documentation from all observers involved in the mock court, including Mrs. Hamilton and Mrs. Morris did not document any major concerns. In fact Mrs. Hamilton gave all "excellent" and "good" ratings, and stated "Good Job! Way to

go!" on her evaluation form. ***(See Attached Court Testimony forms of mock trial evaluators – Attachment 37)***

There have since been three actual courtroom evaluations performed by both Mrs. Carradine and the District Attorneys office and there are no major deficiencies noted on the evaluation forms. ***(See Attached Court Testimony forms of trial evaluators – Attachment 38)***

35. Cassie Carradine performed all of the DNA casework technical review on Diana Morales' DNA casework since the time Diana Morales has been signed off as an independent DNA analyst. Diana Morales was never put into the technical review process and Elizabeth Morris and I had never seen any of Diana Morales's DNA casework for technical review but we both knew something was not right because as experienced DNA analysts, you can tell when an analyst is having issues in their casework.

Response

It is once again the supervisor's prerogative to determine when to allow an employee to be involved in the review process. Ms. Carradine routinely does reviews and she has the ability to select which reviews she will conduct. The review process is an extension of the training program for less experienced employees and it is the responsibility of the supervisor to ensure that the employee's casework is up to standards. All section supervisor's have this discretion in the review process.

36. During the DNA unit's last external audit, I was interviewed by one of the auditors and she asked me if I had any concerns. I told her all of my concerns in regard to nepotism and quality assurance. But during the closeout meeting, the auditors said nothing about what I had told them so I was really confused. I was told by Elizabeth Morris in February 2010 that the auditors had told Cassie Carradine about what I said during my interview and that Cassie Carradine had gone to Bill Gibbens to try to get me fired. This was news to me. I had no idea the auditors had told Casie Carradine. I thought they had just ignored me.

Response

We have several trained auditors within our Division. In auditor training they teach how to differentiate between a disgruntled employee and valid concerns. Those concerns that cannot be validated via the audit are not included. This could be that there is no proof or that it is not part of the audit document. Many times that information is provided as extraneous information to the supervisor to investigate further. I am sure that Ms. Hamilton did report her concerns to the auditors as the auditors did advise Ms. Carradine of those concerns. However, there was no quality issues as none of these concerns were documented in the actual audit document.

Mrs. Morris stated the following about her stating that Ms. Carradine tried to get her fired, "I told her that they did not ignore her and I asked her as the CODIS manager what she felt was being violated. She said she could not find one and was hoping the

auditors could come up with one. I felt she was trying to sabotage the lab. She then became upset and realized that the auditors did say something and she thought that was confidential. I said I don't think those conversations are confidential. She asked if Cassie knew and I told her yes. At that point Cecily asked if Cassie had gone to Bill and I responded that I had no idea what Cassie had done. She immediately jumped to the conclusion that I bet she has and that they are going to try and fire me. Cecily frequently makes comments about Cassie, Bill, and upper management wanting to fire her". **(See Morris Response Memo – Attachment 7)**

37. There is a double standard when it comes to how Cassie Carradine deals with technical issues in DNA casework. During the end of 2007 and into 2008, Elizabeth Morris had a lot going on in her personal life. She was very distracted and it began to affect her casework. There were several issues that occurred and Elizabeth Morris was placed on a PIP and her work was strictly monitored by Cassie Carradine until Cassie Carradine approved her to return to her regular duties. During this timeframe, according to Elizabeth Morris, she was almost fired. Cassie Carradine also performed the technical review of most of Elizabeth Morris' cases during this timeframe. I include this example in my memo to demonstrate that Cassie Carradine knows when something is wrong in casework but treats analysts differently. The distractions ended and Elizabeth Morris' casework returned to the way it was and there were no more issues.

Response

Ms. Morris was placed on a PIP due to the number of errors that occurred during a short time frame pertaining to contamination, not based on a single incident. These errors were quality related and Ms. Morris was advised that failure to resolve the issue could result in further performance related action. She was able to successfully complete the PIP and subsequently received an above average rating on her next year's evaluation. The system does work. ***(See Ms. Morris' PIP – Attachment - 39)***

There have been other issues in the section with all employees. Isolated incidents are handled accordingly at the discretion of the supervisor. Mrs. Hamilton and Ms. Morales have both experienced contamination in casework in the past 6 months and each case was treated the same. It was documented as a single incident and no PIP was initiated. ***(See employee issue documentation: Mrs. Morales -Attachment 40, Mrs. Hamilton – Attachment 41)***

38. On Friday, February 05, 2010, Elizabeth Morris, as the APD CODIS Administrator, came to me as the Backup CODIS administrator seeking clarification about some proper procedures for a DNA case she was technically reviewing. I did not see the case folder, but she asked me very specific questions in regard to what solutions would be necessary to fix some specific problems in the case. I gave her the solutions and she returned to her cubicle. It was a little later that I heard Elizabeth Morris and Diana Morales discussing a case and it was then that I realized it must be Diana Morales' case that Elizabeth Morris was technically reviewing. Elizabeth Morris came to me again a little later and told me that based on the technical review she was

performing and based on the fact that Diana Morales had failed the interview portion of the internal CODIS audit Elizabeth Morris and I had recently performed, she was no longer comfortable having Diana Morales as a CODIS user. I agreed.

Response

Ms. Morris, CODIS Administrator states that we have never had a CODIS audit. We recently instituted a CODIS assessment program to help us prepare for our CODIS audit. After the assessment Cecily said she was concerned with Diana's answers she didn't feel she answered correctly. Mrs. Morris spoke with Ms. Carradine and agreed that Mrs. Morris would speak with Diana and re-train her on some of the CODIS issues. Mrs. Morris and Mrs. Morales met and it was felt that she could have come up with better answers, but was not completely off base. In the end Mrs. Morris was satisfied that she had learned better ways to explain our CODIS policies.

Mrs. Morales took the CODIS training online and received a 100%, and has always received a score of 100% on the CODIS training. In fact only Mrs. Hamilton has ever received a less than 100%. **(See Morris Response Memo – Attachment 7)**

(See Internal CODIS Assessment report – Attachment 42)

39. On Monday February 08, 2010, I went to Cassie Carradine's office to let her know that I had a Retiree Luncheon meeting at 9:30 am that morning. I immediately knew that she was aware of what had occurred on Friday because she was hostile towards me. She began harassing me about the Retiree Luncheon Committee, saying that she had told me last year that I could not do the committee and that she now wanted a log of every moment I spent working on the committee. I told her that she never told me I could not be on the committee and that I had minimized my time to the best of my ability in regard to the committee. I knew at this point that she was completely retaliating against me for speaking to Tony Arnold.

Response

Mrs. Hamilton failed to get with Ms. Carradine on the time commitment to be made for the luncheon. The supervisor felt the need to document the time spent on the luncheon and that is within her authority to request.

40. Per the FBI Quality Assurance Standards Audit for DNA Casework Laboratories document a DNA Technical Leader is solely responsible for the technical operations of a laboratory. The DNA Technical Leader is mandated to abide by the entire document for all personnel and all procedures in the laboratory. It is extremely important to understand that in regard to DNA analysis the means does not justify the end results. This means that not only does the final product going out of the laboratory have to meet quality assurance standards, but also, the Forensic Scientists performing the work must be qualified and capable of performing the work and that the work performed by the Forensic Scientist must meet quality assurance standards. It is not acceptable to think that just because there are technical and administrative review systems in place, that it is alright if something goes wrong in a person's

casework because it can be discovered in the review processes. Not all mistakes that are discovered during technical review or administrative review can be rectified.

Response

Ms. Carradine has the full confidence of the Division management. She was initially hired because of her integrity, experience and work ethic. In 2004 previous management had failed for four years to implement a DNA section. New management made a change in the DNA section supervision and Ms. Carradine was hired to lead us into the future. She came to the section with previous experience as a DNA analyst and supervisor with Texas DPS. She was one of the auditors that exposed the Houston PD DNA laboratory issues which resulted in the suspension of their operation and total re-organization. Within months the section was approved for serology work and soon after moving into the new facility was approved for DNA case work. The DNA section under her guidance has never had a major finding in any audit, which is remarkable. The turnaround times and casework of the section far exceeds the expectations of other laboratories. There have never been any issues brought to management attention from customers questioning the importance Ms. Carradine places on the quality of the laboratory.

Conclusion

*The allegations made by Ms. Hamilton concerning quality and supervision are **unfounded**. The supervision according to all other subordinates as well as management is in line with proper supervision. The quality issues have been investigated and there is no proof that these allegations have any validity.*

What has become apparent during this investigation and from the interviews with the other DNA employees is that Ms. Hamilton is the disruptive member of the section and is the one who has created a hostile work environment. Mrs. Morris cites an event in which Ms. Hamilton got angry with her and pinned her to the desk so that she could not face her during a discussion. In describing Ms. Hamilton co-workers use terms of "Demeaning", "Temperamental", "Hostile", "Aggressive" and "Retaliate". Mrs. Morris cites concern with announcing her pregnancy for fear of how Ms. Hamilton will react.

She has proven that she has no problem with attacking co-workers, supervisors, management and the laboratory without regard for proof. She has little regard of others by using them in her statement to bolster her claims, even though they do not support her concerns. She makes derogatory statements against co-workers even though in some issues her own documentation does not support her claims.

The most egregious of the claims is that the supervisor assisted another scientist on proficiency testing. She has absolutely no proof that this occurred and to throw this claim out with no proof is irresponsible. One concern I have is that if this event "mortified" her then ethically she should have reported it immediately so that if

could be properly investigated. This would have occurred before July 2008 when Ms. Morales was signed off for independent casework. When she met with me in November of 2008 this was not even on her list to discuss. Her list pertained to salary, SSPR process and the way she was being treated.

In reviewing the information from all other employees within the section, it is apparent that she has continually had a negative impact on the section. With this latest event it is apparent that there is no trust in her from management or her co-workers. Her co-workers have now voiced concern that they do not trust her and fear that she will sabotage the lab and co-workers in order to support her claims. Currently staff members are locking up their critical supplies and/or remaking them when they use them in order to ensure that the have not been tampered with, compromising their analysis, which in turn has impacted the case flow within the lab.

Management readily acknowledges that improvement within the laboratory is an on-going process. The Division does annual quality system reviews to ensure that all procedures and policies are up to date and in line with the accepted standards of the discipline. In DNA the training program continues to be refined. One such method was the NIJ computer program that is being used at this time.

As a result of this investigation the following violations of General Orders have been identified as being violated by Ms. Hamilton:

A201a – General Conduct

.02 A. Honesty

1. Any statement of omission of pertinent information which intentionally, knowingly or recklessly misrepresents the facts or misleads others will be considered a false statement.

B. Acts Bringing Discredit Upon the Department

2. Members of the Department shall refrain from being a party to any malicious gossip, rumor, report or activity, whether oral or written, that would tend to bring discredit to the Department or any member thereof.

A201c - Responsibility to the Department

.02 A. Retaliation with Co-Workers

1. Mutual Respect and Courtesy

a. Employees are expected to treat each other with respect. They are to be courteous and civil at all times in their relationships, perform their duties in a

cooperative and supportive manner, and to not threaten, display physical aggression toward, or use insolent or abusive language with one another.

.03 B. Harassment

2. Employees shall not threaten or intimidate coworkers or members of the public; no shall they physically endanger, intimidate or injure them.

It is imperative that Ms. Hamilton be held accountable for her false accusations. False accusations such as these can cause irreparable damage to the reputation of the laboratory.

EXHIBIT
E

TEXAS DEPARTMENT OF PUBLIC SAFETY

5805 N. LAMAR BLVD • BOX 4087 • AUSTIN, TEXAS 78773-0001
512/424-2000
www.txdps.state.tx.us

STEVEN C. McCRAW
DIRECTOR
LAMAR BECKWORTH
CHERYL MacBRIDE
DEPUTY DIRECTORS

COMMISSION
ALLAN B. POLUNSKY, CHAIR
C. TOM CLOWE, JR.
ADA BROWN
JOHN STEEN
CARIN MARCY BARTH

September 16, 2010

Chief Art Acevedo
Austin Police Department
P. O. Box 689001
Austin, Texas 78768-9001

Dear Chief Acevedo,

In July, Texas Department of Public Safety (DPS) Director Steven McCraw authorized an investigation into allegations involving the Austin Police Department's (APD) Crime Laboratory DNA Section. I was tasked with leading the investigation. I selected a team of Texas Rangers and DPS Crime Laboratory DNA Supervisors to investigate the allegations set forth by former APD Senior Forensic Scientist Cecily Hamilton. DPS personnel selected had no affiliation to APD or APD's Crime Laboratory. The team conducted extensive interviews with the complainant and all current APD crime lab employees and supervisors. The team audited APD's DNA training program, quality control procedures related to contamination, Technical Leader qualifications, and impropriety and competency allegations regarding a specific DNA analyst.

Below you will find a summary of the investigation/audit and findings. Please feel free to contact me or the Department for further information or clarification.

Allegations of DNA contamination: Auditors noted that due to the extreme sensitivity of current DNA methodology, contamination does occur in DNA crime laboratories. Quality control measures and a quality assurance program are an integral part of every DNA laboratory's strategy to detect and address contamination when it does occur.

- APD's crime lab has extensive procedures in place to minimize contamination.
- APD's crime lab procedures differentiate between contamination that occurs prior to submission to the DNA lab and contamination that occurs after submission to the DNA lab. Contamination occurring prior to submission is documented in a Corrective Action Report by the Quality Manager, and contamination occurring after submission is addressed by the DNA analyst and DNA Technical Leader and documented in a memorandum contained within the case folder.
- All contamination incidents that occurred after submission to APD's DNA lab since the DNA section has been in existence were found to be appropriately remedied.
- Corrective Action Reports involving contamination occurring prior to and after submission to the DNA lab were reviewed for the years 2006 through the present time and were found to be appropriately remediated.
- During a lengthy interview, Mrs. Hamilton (complainant) repeatedly stated that she never alleged that bad cases were coming from APD's DNA laboratory.

TEXAS DEPARTMENT OF PUBLIC SAFETY

5805 N. LAMAR BLVD • BOX 4087 • AUSTIN, TEXAS 78773-0001
512/424-2000
www.txdps.state.tx.us

STEVEN C. McCRAW
DIRECTOR
LAMAR BECKWORTH
CHERYL MacBRIDE
DEPUTY DIRECTORS

COMMISSION
ALLAN B. POLUNSKY, CHAIR
C. TOM CLOWE, JR.
ADA BROWN
JOHN STEEN
CARIN MARCY BARTH

- Rangers and auditors were unable to locate a single case of contamination that was not appropriately remedied.

Allegation of DNA contamination in the Nathaniel Sanders case:

- Contamination of drug packaging evidence (Ziploc Baggies) in this case was determined to have occurred during the controlled substance analysis, before the evidence was submitted to the DNA section for processing. (Optimal crime lab casework evidence flow would be that DNA collections occur prior to controlled substance analysis in order to avoid potential contamination.)
- The contamination was documented in the case folder and addressed in the DNA report according to protocol.
- Auditors discovered what was described as a minor issue related to this case. The Quality Manager failed to complete a Corrective Action Report (CAR), and this was immediately remedied.
- APD's DNA Section had already taken the conservative approach and deemed the whole sample inconclusive.

Contamination in an unknown case performed by Mrs. Hamilton (spontaneous admission during an interview with the media):

- This specific case involved the contamination of an epithelial cell fraction reagent blank by an epithelial cell fraction evidentiary sample during genetic typing kit amplification.
- The contamination was resolved upon subsequent amplification of the reagent blank.
- Sufficient documentation was maintained in the case folder to support remediation to resolve the contamination.
- Mrs. Hamilton advised Rangers that she only mentioned this case to the media to illustrate that contamination does occur and can happen to anyone.

APD's DNA training program:

- Auditors reviewed APD's DNA Training Manual (version 2/15/09) and determined it adequately covers all aspects required for DNA Training.

Allegation regarding the extended DNA training timeline of a specific Forensic Scientist:

- The extended DNA training timeline in this situation is not unusual considering the analyst was performing other duties (serology) and her trainer's limited availability for training due to many additional duties.

Allegation of impropriety during competency exams by a specific Forensic Scientist and the Technical Leader:

- This allegation stemmed from Mrs. Hamilton observing the Forensic Scientist and Technical Leader in the office with a calculator around the time the Forensic Scientist would have been calculating amplification amounts for her competency exam.
- The Forensic Scientist adamantly denies cheating, and Technical Leader adamantly denies assisting with the competency examination.
- There were numerous reasons why they would have been looking at a calculator, and there is insufficient evidence to prove or disprove this specific allegation.

TEXAS DEPARTMENT OF PUBLIC SAFETY

5805 N. LAMAR BLVD • BOX 4087 • AUSTIN, TEXAS 78773-0001
512/424-2000
www.txdps.state.tx.us

STEVEN C. McCRAW
DIRECTOR
LAMAR BECKWORTH
CHERYL MacBRIDE
DEPUTY DIRECTORS

COMMISSION
ALLAN B. POLUNSKY, CHAIR
C. TOM CLOWE, JR.
ADA BROWN
JOHN STEEN
CARIN MARCY BARTH

Allegation of inadequate training and incompetence of a specific Forensic Scientist:

- Auditors reviewed eleven DNA cases performed by the analyst in question.
- Auditors interviewed the analyst regarding her knowledge of DNA analysis.
- Auditors concluded the analyst in question appears to be a well-trained and competent analyst.

Allegation regarding qualifications of the DNA Technical Leader:

- Auditors verified the Technical Leader's graduate degree; coursework in genetics, molecular biology, biochemistry, and statistics; and her experience and found her qualified to be a Technical Leader.
- Additionally, the Technical Leader's qualifications were reviewed as part of five (5) separate external DNA Audits (2004 to 2009) and found to be sufficient.

Conclusion:

APD's Crime Laboratory has extensive procedures in place to minimize contamination. The complainant and investigators were unable to identify a single case that APD failed to properly remediate. Rangers and DPS DNA experts were unable to identify a single case of bad science being used in criminal prosecutions. APD's DNA training program was found to be sufficient, and protocols are in line with the national standards. The investigation failed to prove allegations of placing the complainant on paid leave to circumvent transparency during a previous audit. The complainant was on paid leave during the audit, but she was allowed and did share her concerns with the independent auditor. The DNA analyst in question was found to be well-trained and competent. The Technical Leader's qualifications were found to be sufficient during this audit and the previous five external audits. Rangers and DPS DNA experts involved in this investigation have complete confidence in the APD Crime Laboratory's DNA section.

Respectfully,

Freeman F. Martin

Freeman Martin, Major
Texas Rangers, Company "A"
Houston, Texas

EXHIBIT
F

EXHIBIT F – ASCLD-LAB REPORT

Exhibit F is a secure document that requires a password by its administrator. The document could not be combined with other files for use in this memorandum.

EXHIBIT G

AUDIT OF COMPLIANCE WITH STANDARDS GOVERNING COMBINED DNA INDEX SYSTEM ACTIVITIES AT THE AUSTIN POLICE DEPARTMENT DNA LABORATORY AUSTIN, TEXAS

U.S. Department of Justice
Office of the Inspector General
Audit Division

Audit Report GR-60-11-005
December 2010

AUDIT OF COMPLIANCE WITH STANDARDS GOVERNING COMBINED DNA INDEX SYSTEM ACTIVITIES AT THE AUSTIN POLICE DEPARTMENT DNA LABORATORY AUSTIN, TEXAS

EXECUTIVE SUMMARY

The Department of Justice Office of the Inspector General (OIG), Audit Division, has completed an audit of compliance with standards governing Combined DNA Index System (CODIS) activities at the Austin Police Department's DNA Laboratory (Laboratory).

Background

The Federal Bureau of Investigation's (FBI) CODIS program combines forensic science and computer technology to provide an investigative tool to federal, state, and local crime laboratories in the United States, as well as those from select international law enforcement agencies. The CODIS program allows these crime laboratories to compare and match DNA profiles electronically to assist law enforcement in solving crimes and identifying missing or unidentified persons.[1] The FBI's CODIS Unit manages CODIS, as well as develops, supports, and provides the program to crime laboratories to foster the exchange and comparison of forensic DNA evidence.

The FBI implemented CODIS as a distributed database with hierarchical levels that enable federal, state, and local crime laboratories to compare DNA profiles electronically. The hierarchy consists of three distinct levels that flow upward from the local level to the state level and then, if allowable, the national level. National DNA Index System (NDIS), the highest level in the hierarchy, is managed by the FBI as the nation's DNA database containing DNA profiles uploaded by law enforcement agencies across the United States. NDIS enables the laboratories participating in the CODIS program to electronically compare DNA profiles on a national level. The State DNA Index System (SDIS) is used at the state level to serve as a state's DNA database containing DNA profiles from local laboratories and

[1] DNA, or deoxyribonucleic acid, is genetic material found in almost all living cells that contains encoded information necessary for building and maintaining life. Approximately 99.9-percent of human DNA is the same for all people. The differences found in the remaining 0.1-percent allow scientists to develop a unique set of DNA identification characteristics (a DNA profile) for an individual by analyzing a specimen containing DNA.

state offenders. The Local DNA Index System (LDIS) is used by local laboratories.

OIG Audit Objectives

Our audit generally covered the period from July 2008 through July 2010. The objectives of our audit were to determine if: (1) the Laboratory was in compliance with the NDIS participation requirements; (2) the Laboratory was in compliance with the Quality Assurance Standards (QAS) issued by the FBI; and (3) the Laboratory's forensic DNA profiles in CODIS databases were complete, accurate, and allowable for inclusion in NDIS.

Our review determined the following:

- The Laboratory was in compliance with the NDIS participation requirements we reviewed. Specifically, we found that CODIS access is properly safeguarded, Laboratory personnel requirements are being fulfilled, and policies and procedures related to NDIS are available and followed by Laboratory staff.

- We reviewed the Laboratory's policies and procedures related to sample security, sample processing, sample retention, and contamination. In addition, we examined the Laboratory's most recent internal and external audits. We found the Laboratory to be in compliance with the QAS areas we tested.

- We reviewed 100 of 667 forensic profiles the Laboratory had uploaded to NDIS as of July 1, 2010. Of the 100 forensic profiles sampled, we found that 97 of the sampled forensic profiles were complete, accurate, and allowable for inclusion in NDIS. We identified three forensic case samples that were not permissible for upload to NDIS because they were not forensic unknowns. Also, one additional unallowable profile, which was not part of our sample, was identified as a result of our review. The CODIS Administrator removed the unallowable profiles from NDIS before we completed fieldwork.

The results of our audit are discussed in detail in the Findings section of the report. Our audit objectives, scope, and methodology are detailed in Appendix I of the report and the audit criteria are detailed in Appendix II. We discussed the results of our audit with Laboratory officials and have included their comments in the report as applicable.

TABLE OF CONTENTS

AUDIT OF COMPLIANCE WITH STANDARDS GOVERNING COMBINED DNA INDEX SYSTEM ACTIVITIES AT THE AUSTIN POLICE DEPARTMENT DNA LABORATORY AUSTIN, TEXAS

INTRODUCTION

The Department of Justice Office of the Inspector General, Audit Division, has completed an audit of compliance with standards governing Combined DNA Index System (CODIS) activities at the Austin Police Department DNA Laboratory (Laboratory).

Background

The Federal Bureau of Investigation's (FBI) CODIS provides an investigative tool to federal, state, and local crime laboratories in the United States using forensic science and computer technology. The CODIS program allows these laboratories to compare and match DNA profiles electronically, thereby assisting law enforcement in solving crimes and identifying missing or unidentified persons.[2] The FBI's CODIS Unit manages CODIS and is responsible for its use in fostering the exchange and comparison of forensic DNA evidence.

OIG Audit Objectives

Our audit generally covered the period from July 2008 through July 2010. The objectives of our audit were to determine if: (1) the Austin Police Department DNA Laboratory was in compliance with the National DNA Index System (NDIS) participation requirements; (2) the Laboratory was in compliance with the Quality Assurance Standards (QAS) issued by the FBI; and (3) the Laboratory's forensic DNA profiles in CODIS databases were complete, accurate, and allowable for inclusion in NDIS. Appendix I contains a detailed description of our audit objectives, scope, and methodology, while the criteria used to conduct our audit are presented in Appendix II.

---

[2] DNA, or deoxyribonucleic acid, is genetic material found in almost all living cells that contains encoded information necessary for building and maintaining life. Approximately 99.9-percent of human DNA is the same for all people. The differences found in the remaining 0.1-percent allow scientists to develop a unique set of DNA identification characteristics (a DNA profile) for an individual by analyzing a specimen containing DNA.

Legal Foundation for CODIS

The FBI began the CODIS program as a pilot project in 1990. The DNA Identification Act of 1994 (Act) authorized the FBI to establish a national index of DNA profiles for law enforcement purposes. The Act, along with subsequent amendments, has been codified in a federal statute (Statute) providing the legal authority to establish and maintain NDIS.[3]

Allowable DNA Profiles

The Statute authorizes NDIS to contain the DNA identification records of persons convicted of crimes, persons who have been charged in an indictment or information with a crime, and other persons whose DNA samples are collected under applicable legal authorities. Samples voluntarily submitted solely for elimination purposes are not authorized for inclusion in NDIS. The Statute also authorizes NDIS to include analysis of DNA samples recovered from crime scenes or from unidentified human remains, as well as those voluntarily contributed from relatives of missing persons.

Allowable Disclosure of DNA Profiles

The Statute requires that NDIS only include DNA information that is based on analyses performed by or on behalf of a criminal justice agency — or the U.S. Department of Defense — in accordance with QAS issued by the FBI. The DNA information in the index is authorized to be disclosed only: (1) to criminal justice agencies for law enforcement identification purposes; (2) in judicial proceedings, if otherwise admissible pursuant to applicable statutes or rules; (3) for criminal defense purposes, to a defendant who shall have access to samples and analyses performed in connection with the case in which the defendant is charged; or (4) if personally identifiable information (PII) is removed for a population statistics database, for identification research and protocol development purposes, or for quality control purposes.

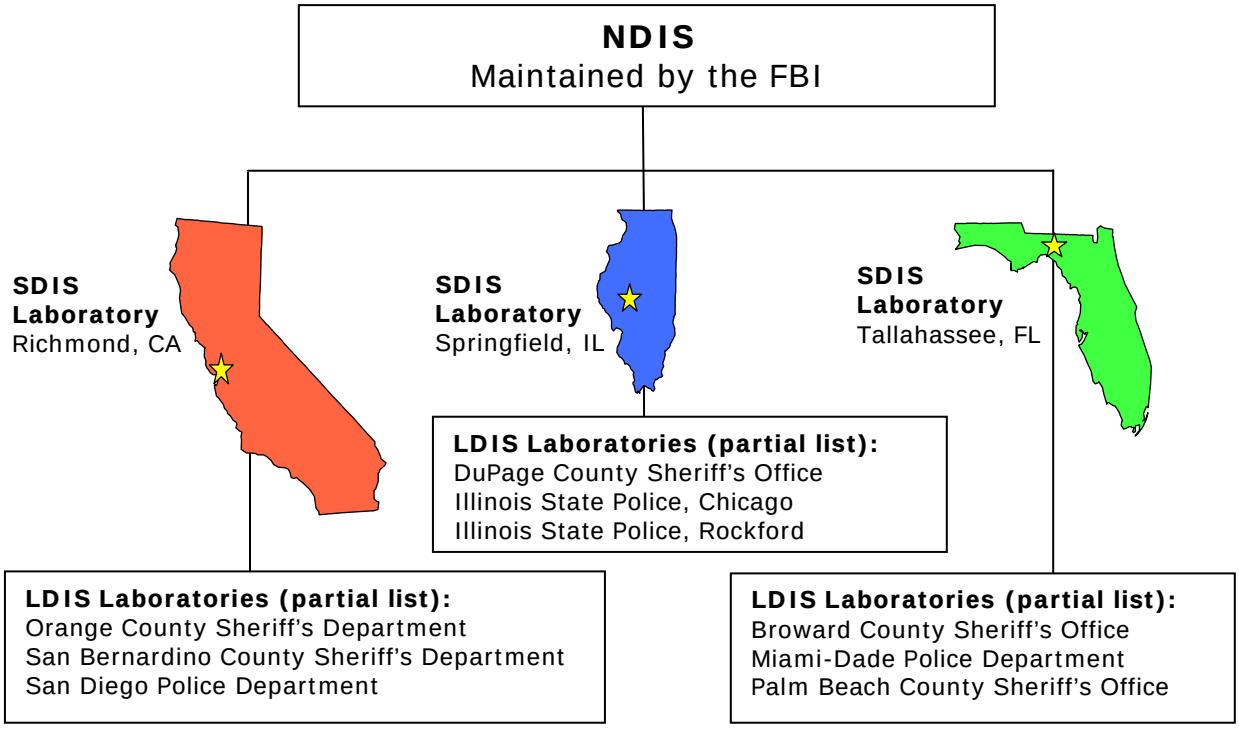
CODIS Structure

The FBI implemented CODIS as a distributed database with hierarchical levels that enables federal, state, and local crime laboratories to compare DNA profiles electronically. CODIS consists of a hierarchy of three distinct levels: (1) NDIS is managed by the FBI as the nation's DNA database containing DNA profiles uploaded by participating states, (2) the State DNA Index System (SDIS) is used at the state level to serve as a

[3] 42 U.S.C.A. § 14132 (2006).

state's DNA database containing DNA profiles from local laboratories within the state and state offenders, and (3) the Local DNA Index System (LDIS) is used by local laboratories. DNA profiles originate at the local level and then flow upward to the state and, if allowable, national level. For example, the local laboratory in the Palm Beach County, Florida, Sheriff's Office sends its profiles to the state laboratory in Tallahassee, which then uploads the profiles to NDIS. Each state participating in CODIS has one designated SDIS laboratory. The SDIS laboratory maintains its own database and is responsible for overseeing NDIS issues for all CODIS-participating laboratories within the state. The graphic below presents an example of how the system hierarchy works.

Example of System Hierarchy within CODIS



National DNA Index System

NDIS is the highest level in the CODIS hierarchy and enables the laboratories participating in the CODIS program to electronically compare DNA profiles on a national level. NDIS does not contain names or other PII about the profiles. Therefore, matches are resolved through a system of laboratory-to-laboratory contacts. Within NDIS are eight searchable indices discussed in the following paragraphs.

- Convicted Offender Index contains profiles generated from persons convicted of qualifying offenses.[4]

- Detainee Index consists of DNA records from non-United States (U.S.) persons detained under the authority of the U.S. and required by law to provide a DNA sample.

- Arrestee Index is comprised of profiles developed from persons who have been arrested, indicted, or charged in an information with a crime.

- Legal Index consists of profiles that are produced from DNA samples collected from persons under other applicable legal authorities.[5]

- Forensic Index profiles originate from, and are associated with, evidence found at crime scenes.

- Missing Person Index contains known DNA profiles of missing persons and deduced missing persons.

- Unidentified Human (Remains) Index holds profiles from unidentified living individuals and the remains of unidentified deceased individuals.[6]

- Relatives of Missing Person Index is comprised of DNA profiles generated from the biological relatives of individuals reported missing.

Although CODIS is comprised of multiple indices or databases, the two main functions of the system are to: (1) generate investigative leads that may help in solving crimes and (2) identify missing and unidentified persons.

The Forensic Index generates investigative leads in CODIS that may help solve crimes. Investigative leads may be generated through matches between the Forensic Index and other indices in the system, including the Convicted Offender, Arrestee, and Legal Indices. These matches may provide investigators with the identity of suspected perpetrators. CODIS

[4] The phrase "qualifying offenses" is used here to refer to local, state, or federal crimes that require a person to provide a DNA sample in accordance with applicable laws.

[5] An example of a Legal Index profile is one from a person found not guilty by reason of insanity, who is required by the relevant state law to provide a DNA sample.

[6] An example of an Unidentified Human (Remains) Index profile from a living person is a profile from a child or other individual, who cannot or refuses to identify themselves.

also links crime scenes through matches between Forensic Index profiles, potentially identifying serial offenders.

In addition to generating investigative leads, CODIS furthers the objectives of the FBI's National Missing Person DNA Database program through its ability to identify missing and unidentified individuals. Those persons may be identified through matches between indices in CODIS, such as through matches between the profiles in the Missing Persons Index and the Unidentified Human (Remains) Index. Identifications may also be generated through matches between the Missing Persons Index and the Relatives of Missing Persons Index. The profiles within the Missing Persons and Unidentified Human (Remains) Indices may also be vetted against the Forensic, Convicted Offender, Arrestee, and Legal Indices to provide investigators with leads in solving missing and unidentified persons cases.

State and Local DNA Index System

The FBI provides CODIS software free of charge to any state or local law enforcement laboratory performing DNA analysis. Laboratories are able to use the CODIS software to upload profiles to NDIS. However, before a laboratory is allowed to participate at the national level and upload DNA profiles to NDIS, a Memorandum of Understanding (MOU) must be signed between the FBI and the applicable state's SDIS laboratory. The MOU defines the responsibilities of each party, includes a sublicense for the use of CODIS software, and delineates the standards laboratories must meet in order to utilize NDIS. Although officials from LDIS laboratories do not sign an MOU,LDIS laboratories that upload DNA profiles to an SDIS laboratory are required to adhere to the MOU signed by the SDIS laboratory.

States are authorized to upload DNA profiles to NDIS based on local, state, and federal laws, as well as NDIS regulations. However, states or localities may maintain NDIS-restricted profiles in SDIS or LDIS. For instance, a local law may allow for the collection and maintenance of a victim profile at LDIS but NDIS regulations do not authorize the upload of that profile to the national level.

The utility of CODIS relies upon the completeness, accuracy, and quantity of profiles that laboratories upload to the system. Incomplete CODIS profiles are those for which the required number of core loci were not tested, or do not contain all of the DNA information that resulted from a DNA analysis and may not be searched at NDIS. The probability of a false match among DNA profiles is reduced as the completeness of a profile increases. Inaccurate profiles, which contain incorrect DNA information or an incorrect specimen number, may generate false positive leads, false negative

comparisons, or lead to the misidentification of a sample. CODIS becomes more useful as the quantity of DNA profiles in the system increases because the potential for additional leads rises. However, laws and regulations exclude certain types of profiles from being uploaded to CODIS to prevent violations to an individual's privacy and foster the public's confidence in CODIS. Therefore, it is the responsibility of the Laboratory to ensure that it is adhering to the NDIS participation requirements and the profiles uploaded to CODIS are complete, accurate, and allowable for inclusion in NDIS.

Laboratory Information

The Austin Police Department DNA Laboratory is a Local DNA Index System laboratory. The Laboratory serves the Austin Police Department, which covers a population of approximately 800,000. The Laboratory's initial access to CODIS and uploading of forensic profiles into SDIS began in September 2004. The Laboratory received accreditation from the American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB) in August 2005. The Laboratory completed an external audit for their reaccreditation in April 2010.

According to the Austin Police Department DNA Laboratory, a DNA analyst recently made allegations of a hostile work environment, quality assurance issues, and work performance issues. Because of the seriousness of these complaints, the Austin Police Department Human Resource Department reviewed the hostile work environment allegations, and the management of the Forensic Division reviewed the allegations concerning the quality assurance and work performance issues. The management of the Forensic Division found that there was no basis for the quality assurance and work performance issues. The Austin Police Department Human Resource Department concluded that there were no policy violations. According to the Austin Police Department DNA Laboratory officials, they invited the Texas Department of Public Safety Investigators into the Laboratory to investigate these accusations because of the seriousness of the concerns. According to the Texas Department of Public Safety, the Austin Police Department DNA Laboratory was cleared of all DNA related allegations. The OIG is not associated with this review by the Texas Department of Public Safety.

FINDINGS AND RECOMMENDATIONS

I. Compliance with NDIS Participation Requirements

The OIG examined the Austin Police Department DNA Laboratory's compliance with NDIS participation requirements. We found that the Laboratory was in compliance with the 30-day timeframe for submission of the external audit to the NDIS Custodian, the CODIS server and terminal are properly safeguarded, all Laboratory personnel had completed their annual training, and NDIS matches were confirmed in a timely manner. We found that the Laboratory was in compliance with the NDIS participation requirements we reviewed.

The NDIS participation requirements, which consist of the MOU and the NDIS Procedure Manual, establish the responsibilities and obligations of laboratories that participate in the CODIS program at the national level. The MOU describes the CODIS-related responsibilities of both the Laboratory and the FBI. The NDIS Procedure Manual is comprised of the NDIS operational procedures and provides detailed instructions for laboratories to follow when performing certain procedures pertinent to NDIS. The NDIS participation requirements we reviewed are described in more detail in Appendix II of this report.

Results of the OIG audit

We found that the Laboratory complied with the NDIS participation requirements we reviewed. Specifically, we found that CODIS access is properly safeguarded, Laboratory personnel requirements are being fulfilled, policies and procedures related to NDIS are available and followed by Laboratory staff, and NDIS matches are processed in a timely manner. These results are described in more detail below.

- NDIS requires that CODIS be physically and electronically safeguarded from unauthorized use and only accessible to limited approved personnel. Based on our tour of the Laboratory and discussion with the CODIS Administrator, we determined that the Laboratory's one CODIS terminal and server are located in a separate office in the secured Laboratory space and only CODIS users are allowed to use this workstation. Additionally, the CODIS Administrator and Technical Leader are the only Laboratory personnel with keys to this office. All users have their own CODIS user account, and their screens lock after 10 minutes of inactivity. The CODIS Administrator makes backups of

the CODIS server to tape three times a week, to the hard drive once a week, and electronically transfers backups to a secure off-site facility monthly.

- NDIS operational procedures require that CODIS users be aware of the NDIS procedures, know where to find them, and have access to them. We interviewed two of the Laboratory's CODIS users and verified they knew where to find and access the hard copy procedures in the Laboratory and the electronic version available online.

- On an annual basis, CODIS users are required to successfully complete DNA Records Acceptance training. We verified with the FBI that all current CODIS users had completed the web-based training within the last year.

- The FBI requires that the Laboratory submit the appropriate documentation regarding CODIS users. We verified that the Laboratory submitted all required information for each CODIS user.

- NDIS requires that participating Laboratories maintain personnel files for CODIS users, including proficiency testing, training, and other reports, for 10 years. According to Laboratory officials, this analyst information is maintained indefinitely. This information includes analysts' transcript, training, and proficiency-testing documentation.

- When matches are identified in the CODIS system, NDIS procedures describe a required match confirmation process. We judgmentally selected a sample of five NDIS matches and found the Laboratory to be timely in match confirmation requests, match confirmations, confirmation dispositions, and the notification of forensic matches to investigators.

- The NDIS operational procedure titled *Quality Assurance Standards External Audit Review Procedures* requires that external quality assurance review reports be forwarded to the NDIS custodian within 30 days of the Laboratory's receipt of the report. We reviewed the submission of the most recent external review and found that the report was submitted to the NDIS custodian in a timely manner.

Conclusion

We did not identify any deficiencies during our review of the Laboratory's compliance with applicable NDIS requirements. We made no recommendations concerning our review of NDIS participation requirements.

II. Compliance with the Quality Assurance Standards

We reviewed the Laboratory's policies and procedures related to DNA sample security, sample processing, sample retention, and contamination. In addition, we examined the Laboratory's most recent internal and external audits. For the items tested in our audit, we found the Laboratory to be in compliance with the QAS.

During our audit, we considered the Forensic Quality Assurance Standards (QAS) issued by the FBI.[7] These standards describe the quality assurance requirements that the Laboratory must follow to ensure the quality and integrity of the data it produces. The QAS we reviewed are described in more detail in Appendix II.

Results of the OIG audit

We found that the Laboratory complied with the Forensic QAS tested. Specifically, through observation and discussion with laboratory management, for those items tested we determined that the laboratory has adequate building and lab security, undergoes stringent annual audits, and has commensurable Quality Assurance Policies. These results are described in more detail below.

- The QAS requires laboratories to undergo an annual review, including an external review every 2 years.[8] QAS Standard 15.1 also states that the time limit between audits shall not exceed 18 months and be no less than 6 months. We determined that the Laboratory complied with this requirement by undergoing an annual audit and by alternating between an internal and an external audit each year.

- We obtained the most recent external and internal QAS review reports for the Laboratory. We determined that for both reviews, the FBI audit document was used, all instances of noncompliance were

[7] Forensic Quality Assurance Standards refers to the Quality Assurance Standards for Forensic DNA Testing Laboratories, effective October 1, 1998.

[8] The QAS require that laboratories undergo annual audits. Every other year, the QAS requires that the audit be performed by an external agency that performs DNA identification analysis and is independent of the laboratory being reviewed. These audits are not required by the QAS to be performed in accordance with the *Government Auditing Standards* (GAS) and are not performed by the Department of Justice Office of the Inspector General. Therefore, we will refer to the QAS audits as reviews (either an internal laboratory review or an external laboratory review, as applicable) to avoid confusion with our audits that are conducted in accordance with GAS.

reported, and all auditors had completed the FBI's reviewer training course. The laboratory's last internal and external review reports, did not contain any findings or recommendations.

- To help ensure that the external auditors who performed the Laboratory's most recent external review were independent when they performed the review, we requested and received a completed auditor independence statement from each auditor who participated in the laboratory's last external audit. Each external auditor attested that they were independent at the time of the external audit.

- We determined that access to the laboratory is controlled and secured in order to prevent access by unauthorized personnel. The Laboratory has secure entrances that require scanned ID cards and a receptionist for the public entrance to prevent access by unauthorized personnel. Areas within the Laboratory, including elevators, are also adequately controlled with scan cards. Overall security at the Laboratory appears to be effective and in compliance with the QAS.

- The integrity of physical evidence and forensic samples is maintained by the Laboratory in accordance with the QAS. Specifically, when evidence first enters the building, it is given a unique indentifying number and entered into both the department's evidence tracking system and the laboratory's information system. The chain of custody for evidence is tracked in both the evidence and laboratory systems. Evidence and forensic samples are properly stored from the point of receipt through processing.

- To ensure the accuracy of data loaded into the database, each case undergoes a laboratory technical review, an administrative review, and a secondary screening of the DNA sample prior to uploading the samples to LDIS. We did not note any deficiencies with regard to these processes.

- The QAS requires laboratories to perform evidence examination, DNA Extraction, and PCR setup at separate times or in a separate area from one another unless Robotics, also known as "Expert Systems," are used. If Robotics are used, QAS requires that they are internally validated by the laboratory prior to their use. For known and unknown samples, the Laboratory performs the PCR setup and amplification in separate rooms and times within the Laboratory. Both examination and extraction are done using Robotic systems, so the provision requiring a separate room and time is not required. We determined that the laboratory did internally validate its systems.

- The Laboratory retains forensic samples indefinitely and stores them in a secure manner. Prior to processing, the laboratory extracts the DNA from the evidence and sends the evidence to off-site storage. The DNA samples are stored in refrigerators and freezers in order to preserve their integrity.

- We determined that the Laboratory did not contract for the analysis of forensic samples during our audit scope period.

- In addition to the preceding steps, we also reviewed the following to determine if it is consistent with QAS standards: (1) the laboratory's procedures concerning contamination, (2) procedures for dealing with multiple instances of contamination, (3) policies for proficiency tests and corrective action, (4) the proficiency tests of all of the laboratory's analysts, (5) the documented reviews of quality assurance and proficiency testing programs in the laboratory, and (6) the amplification of negative controls. All were consistent with QAS standards.

Conclusion

Based on the review of internal and external audits, as well as Laboratory and sample security, our audit did not reveal deficiencies with regard to the Laboratory's compliance with the QAS we reviewed. We made no recommendations concerning our review of the Quality Assurance Standards.

III. Appropriateness of Forensic DNA Profiles in CODIS Databases

We reviewed 100 DNA profiles in the Laboratory's forensic CODIS database and determined that 97 profiles were complete, accurate, and allowable for inclusion in NDIS. We identified three forensic case samples that were not permissible for upload to NDIS because they were not forensic unknowns. Also, one additional unallowable profile, which was not part of our sample, was identified as a result of our review.

We reviewed a sample of the Laboratory's forensic DNA profiles to determine whether each profile was complete, accurate, and allowable for inclusion in NDIS.[9] To test the completeness and accuracy of each profile, we established standards that require a profile include all the loci for which the analyst obtained results and that the values at each locus match those identified during analysis.[10] Our standards are described in more detail in Appendix II of this report.

The NDIS operational procedures establish the DNA data acceptance standards by which laboratories must abide. These procedures prohibit a laboratory from uploading forensic profiles to NDIS that clearly match the DNA profile of the victim or another known person, unless the known person is a suspected perpetrator. The NDIS procedures we reviewed are described in more detail in Appendix II of this report.

Results of the OIG Audit

We selected a judgmental sample of 100 profiles out of the 667 forensic profiles the Laboratory had uploaded to NDIS as of July 1, 2010. We identified three case forensic profiles sampled that were not permissible for upload to NDIS because they were not forensic unknowns. Also, one additional unallowable profile, which was not part of our sample, was identified as a result of our review. The remaining profiles sampled were complete, accurate, and allowable for inclusion in NDIS. The specific exceptions are explained in more detail below.

[9] When a laboratory's universe of DNA profiles in NDIS exceeds 1,500, our sample is taken from SDIS rather than directly from NDIS. See Appendix I for further description of the sample selection.

[10] A "locus" is a specific location on a chromosome. The plural form of locus is loci.

OIG Sample Number CA-11

Sample number CA-11 was taken from a swab of blood taken from the suspect's hand. The evidence was taken during the investigation of a homicide. According to the FBI's flowchart, General Principle 8 states, "If the suspect's profile could reasonably have been expected to be on an item that is at the crime scene or is part of the crime scene independent of the crime, then it is probably not a Forensic Unknown." Because the sample was taken from the suspect and you would expect to find the suspect's DNA on his person, this sample was not a forensic unknown and, therefore, should not have been uploaded to NDIS. The CODIS Administrator deleted this forensic profile while she was reviewing the case files in anticipation of the OIG CODIS audit.

OIG Sample Numbers CA-14

Sample number CA-14 was taken from a cutting of a cigarette butt. The evidence was from a homicide in which the crime had taken place at the victim's apartment building. The sample was taken from outside of the foyer of the victim's apartment building. There was no indication that the evidence could be attributable to the crime scene. Additionally, another profile that was not selected in our sample was deleted from this same case file because it was a cutting from clothing found in the suspect's vehicle. This evidence was not a forensic unknown because the evidence was not taken from the scene of the crime, and it would be reasonable for the suspect's DNA to be present on items within his vehicle. The CODIS Administrator deleted these forensic profiles while she was reviewing the case files in anticipation of the OIG CODIS audit.

OIG Sample Number CA-29

The sample number CA-29 was taken from an aggravated robbery with a deadly weapon. The evidence that was uploaded to NDIS was a swab taken from a pistol handle. The pistol was located in the suspect's vehicle that was not located near the crime scene. The victim gave a description of the vehicle and the suspects in the vehicle, and the police officers detained the suspects at a different location. They removed the pistol from under the suspect's car seat. Because the evidence was taken from the suspect's possession, this is not a forensic unknown. When we brought this to the attention of the Technical Leader, she agreed and deleted this specimen from NDIS before we completed fieldwork.

Conclusion

We found four profiles that were unallowable for upload to NDIS. However, the CODIS Administrator or Technical Leader deleted the unallowable profiles from NDIS either before we initiated or completed our work at the Laboratory. Therefore, we make no recommendations concerning our review of forensic DNA profiles.

APPENDIX I

OBJECTIVES, SCOPE, AND METHODOLOGY

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Our audit generally covered the period from July 2008 through July 2010. The objectives of the audit were to determine if the: (1) Laboratory was in compliance with the NDIS participation requirements; (2) Laboratory was in compliance with the Quality Assurance Standards (QAS) issued by the FBI; and (3) Laboratory's forensic DNA profiles in CODIS databases were complete, accurate, and allowable for inclusion in NDIS. To accomplish the objectives of the audit, we:

- Examined internal and external Laboratory review reports and supporting documentation for corrective action taken, if any, to determine: (a) if the Laboratory complied with the QAS, (b) whether repeat findings were identified, and (c) whether recommendations were adequately resolved.[11]

  In accordance with the QAS, the internal and external laboratory review procedures are to address, at a minimum, a laboratory's quality assurance program, organization and management, personnel qualifications, facilities, evidence control, validation of methods and procedures, analytical procedures, calibration and maintenance of instruments and equipment, proficiency testing of analysts, corrective action for discrepancies and errors, review of case files, reports, safety, and previous audits. The QAS require that internal and external reviews be performed by personnel who have successfully completed the FBI's training course for conducting such reviews.

[11] The QAS require that laboratories undergo annual audits. Every other year, the QAS requires that the audit be performed by an external agency that performs DNA identification analysis and is independent of the laboratory being reviewed. These audits are not required by the QAS to be performed in accordance with the *Government Auditing Standards* (GAS) and are not performed by the Department of Justice Office of the Inspector General. Therefore, we will refer to the QAS audits as reviews (either an internal laboratory review or an external laboratory review, as applicable) to avoid confusion with our audits that are conducted in accordance with GAS.

As permitted by GAS 7.42 (2007 revision), we generally relied on the results of the Laboratory's external laboratory reviews to determine if the Laboratory complied with the QAS.[12] In order to rely on the work of non-auditors, GAS requires that we perform procedures to obtain sufficient evidence that the work can be relied upon. Therefore, we: (1) obtained evidence concerning the qualifications and independence of the individuals who conducted the review and (2) determined that the scope, quality, and timing of the audit work performed was adequate for reliance in the context of the current audit objectives by reviewing the evaluation procedure guide and resultant findings to understand the methods and significant assumptions used by the individuals conducting the reviews. Based on this work, we determined that we could rely on the results of the Laboratory's external laboratory review.

- Interviewed Laboratory officials to identify management controls, Laboratory operational policies and procedures, Laboratory certifications or accreditations, and analytical information related to DNA profiles.

- Toured the Laboratory to observe facility security measures as well as the procedures and controls related to the receipt, processing, analysis, and storage of forensic evidence.

- Reviewed the Laboratory's written policies and procedures related to conducting internal reviews, resolving review findings, expunging DNA profiles from NDIS, and resolving matches among DNA profiles in NDIS.

- Reviewed supporting documentation for 5 of 23 NDIS matches to determine whether they were resolved in a timely manner. The Laboratory provided the universe of NDIS matches as of July 6, 2010. The sample was judgmentally selected to include both case-to-case and case-to-offender matches. This non-statistical sample does not allow projection of the test results to all matches.

- Reviewed the case files for selected forensic DNA profiles to determine if the profiles were developed in accordance with the Forensic QAS and were complete, accurate, and allowable for inclusion in NDIS.

[12] We also considered the results of the Laboratory's internal laboratory review, but could not rely on it because it was not performed by personnel independent of the Laboratory. Further, as noted in Appendix II, we performed audit testing to verify Laboratory compliance with specific Quality Assurance Standards that have a substantial effect on the integrity of the DNA profiles uploaded to NDIS.

The NDIS Custodian, via the contractor used by the FBI to maintain NDIS and the CODIS software, provided a printout identifying the 667 Short Tandem Repeat forensic profiles the Laboratory had uploaded to NDIS as of July 1, 2010. We limited our review to a sample of 100 profiles. This sample size was determined judgmentally because preliminary audit work determined that risk was not unacceptably high.

- Using the judgmentally-determined sample size, we randomly selected a representative sample of labels associated with specific profiles in our universe to reduce the effect of any patterns in the list of profiles provided to us. However, since the sample size was judgmentally determined, the results obtained from testing this limited sample of profiles may not be projected to the universe of profiles from which the sample was selected.

The objectives of our audit concerned the Laboratory's compliance with required standards and the related internal controls. Accordingly, we did not attach a separate statement on compliance with laws and regulations or a statement on internal controls to this report. See Appendix II for detailed information on our audit criteria.

APPENDIX II

AUDIT CRITERIA

In conducting our audit, we considered the NDIS participation requirements and the Quality Assurance Standards (QAS). However, we did not test for compliance with elements that were not applicable to the Laboratory. In addition, we established standards to test the completeness and accuracy of DNA profiles as well as the timely notification of DNA profile matches to law enforcement.

NDIS Participation Requirements

The NDIS participation requirements, which consist of the Memorandum of Understanding (MOU) and the NDIS operational procedures, establish the responsibilities and obligations of laboratories that participate in NDIS. The MOU requires that NDIS participants comply with federal legislation and the QAS, as well as NDIS-specific requirements accompanying the MOU in the form of appendices. We focused our audit on specific sections of the following NDIS operational procedures.

- DNA Data Acceptance Standards
- DNA Data Accepted at NDIS
- Quality Assurance Standards (QAS) Audits
- NDIS DNA Autosearches
- Confirm an Interstate Candidate Match
- General Responsibilities
- Initiate and Maintain a Laboratory's Participation in NDIS
- Security Requirements
- CODIS Users
- CODIS Administrator Responsibilities
- Access to, and Disclosure of, DNA Records and Samples
- Upload of DNA Records
- Expunge a DNA Record

Quality Assurance Standards

The FBI issued two sets of Quality Assurance Standards (QAS): (1) QAS for Forensic DNA Testing Laboratories, effective July 1, 2009 (Forensic QAS) and (2) QAS for DNA Databasing Laboratories, effective July 1, 2009 (Offender QAS). The Forensic QAS and the Offender QAS describe the quality assurance requirements that the Laboratory should follow to ensure the quality and integrity of the data it produces.

For our audit, we generally relied on the reported results of the Laboratory's most recent annual external review to determine if the Laboratory was in compliance with the QAS. Additionally, we performed audit work to verify that the Laboratory was in compliance with the QAS listed below because they have a substantial effect on the integrity of the DNA profiles uploaded to NDIS.

- Facilities (Forensic QAS and Offender QAS 6.1): The laboratory shall have a facility that is designed to ensure the integrity of the analyses and the evidence.

- Evidence Control (Forensic QAS 7.1): The laboratory shall have and follow a documented evidence control system to ensure the integrity of physical evidence. Where possible, the laboratory shall retain or return a portion of the evidence sample or extract.

- Sample Control (Offender QAS 7.1): The laboratory shall have and follow a documented evidence control system to ensure the integrity of physical evidence.

- Analytical Procedures (Forensic QAS and Offender QAS 9.5): The laboratory shall monitor the analytical procedures using [appropriate] controls and standards.

- Review (Forensic QAS 12.1): The laboratory shall conduct administrative and technical reviews of all case files and reports to ensure conclusions and supporting data are reasonable and within the constraints of scientific knowledge.

  (Offender QAS Standard 12.1): The laboratory shall have and follow written procedures for reviewing DNA records and DNA database information, including the resolution of database matches.

- [Reviews] (Forensic QAS and Offender QAS 15.1 and 15.2): The laboratory shall be audited annually in accordance with [the QAS]. The

annual audits shall occur every calendar year and shall be at least 6 months and no more than 18 months apart.

At least once every 2 years, an external audit shall be conducted by an audit team comprised of qualified auditors from a second agency(ies) and having at least one team member who is or has been previously qualified in the laboratory's current DNA technologies and platform.

- Outsourcing (Forensic QAS and Offender QAS Standard 17.1): A vendor laboratory performing forensic and database DNA analysis shall comply with these Standards and the accreditation requirements of federal law.

  Forensic QAS 17.4: An NDIS participating laboratory shall have and follow a procedure to verify the integrity of the DNA data received through the performance of the technical review of DNA data from a vendor laboratory.

  Offender QAS Standard 17.4: An NDIS participating laboratory shall have, follow and document appropriate quality assurance procedures to verify the integrity of the data received from the vendor laboratory including, but not limited to, the following: (1) Random reanalysis of database, known or casework reference samples; (2) Inclusion of QC samples; (3) Performance of an on-site visit by an NDIS participating laboratory or multi-laboratory system outsourcing DNA sample(s) to a vendor laboratory or accepting ownership of DNA data from a vendor laboratory.

Office of the Inspector General Standards

We established standards to test the completeness and accuracy of DNA profiles as well as the timely notification of law enforcement when DNA profile matches occur in NDIS. Our standards are listed below.

- Completeness of DNA Profiles: A profile must include each value returned at each locus for which the analyst obtained results. Our rationale for this standard is that the probability of a false match among DNA profiles is reduced as the number of loci included in a profile increases. A false match would require the unnecessary use of laboratory resources to refute the match.

- Accuracy of DNA Profiles: The values at each locus of a profile must match those identified during analysis. Our rationale for this standard is that inaccurate profiles may: (1) preclude DNA profiles from being

matched and, therefore, the potential to link convicted offenders to a crime or to link previously unrelated crimes to each other may be lost or (2) result in a false match that would require the unnecessary use of laboratory resources to refute the match.

- Timely Notification of Law Enforcement When DNA Profile Matches Occur in NDIS: Laboratories should notify law enforcement personnel of NDIS matches within 2 weeks of the match confirmation date, unless there are extenuating circumstances. Our rationale for this standard is that untimely notification of law enforcement personnel may result in the suspected perpetrator committing additional, and possibly more egregious, crimes if the individual is not deceased or already incarcerated for the commission of other crimes.

U.S. Department of Justice

Federal Bureau of Investigation

Washington, D. C. 20535-0001

November 2, 2010

Mr. David M. Sheeren
Regional Audit Manager
Denver Regional Audit Office
Office of the Inspector General
1120 Lincoln, Suite 1500
Denver, CO 80203

Dear Mr. Sheeren:

Your memorandum to Director Mueller forwarding the draft report of the audit conducted at the Austin Police Department DNA Laboratory, Austin, Texas (Laboratory) has been referred to me for response.

Your draft report contained no recommendations relating to the Laboratory's compliance with the FBI's Memorandum of Understanding and *Quality Assurance Standards for DNA Testing Laboratories.* The CODIS Unit reviewed the draft report and since it appears that the Laboratory is in compliance with NDIS participation requirements, the CODIS Unit has no significant comments to provide about the draft report.

Thank you for sharing the draft audit report with us. If you have any questions, please feel free to contact Jennifer C. Luttman, Chief of the CODIS Unit, at (703) 632-8315.

Sincerely,

Alice R. Isenberg

Alice R. Isenberg, Ph.D
Section Chief
Biometrics Analysis Section
FBI Laboratory

APPENDIX IV

The Austin Police Department DNA Laboratory has the following comments:

"Our audit generally covered the period from July 2008 through July 2010". (page ii and page 1

Comment: CODIS profiles uploaded from September 2004 to July 2010 were reviewed. Guidelines for uploadable profiles have been changed and clarified in the past several years. The 2 profiles mentioned as being removed in preparation for the audit were uploaded prior to the issuance of the flowchart. The additional profile that was removed that was not part of the audit sampling was also uploaded prior to the issuance of the flowchart.

"OIG Sample Number CA-11" (page 14)

According to the FBI's flowchart, General Principle 8 states…"

Comment: This profile was uploaded on 07/01/05 and the flowchart was not issued until 09/20/06.

"OIG Sample Number CA-14" (page 14)

Comment: The profiles mentioned were uploaded on 08/18/06. Once again this was before the flowchart issue date with clarification of what constitutes an uploaded profile.

"OIG Sample Number CA-29" (page 14)

Comment: Although we did remove this profile from CODIS (profile was from a suspect's car), it had been uploaded due to facts within the case. There were multiple suspects in the car and the weapon was located beneath the seat. The owner (one of the suspect's) of the car denied it was his and stated he had never seen it before.

Page 17-second bullet

Comment: We do not process any convicted offender samples in our laboratory.

Thank you,

Cassie C. Carradine, M.S.
DNA Supervisor/DNA Technical Leader
Austin Police Department DNA Laboratory

APPENDIX V

OFFICE OF THE INSPECTOR GENERAL COMMENTS ON THE AUSTIN POLICE DEPARTMENT'S RESPONSE TO THE DRAFT AUDIT REPORT

Based on the information provided by the Austin Police Department, we made appropriate adjustments to our draft report. Additionally, we noted that in its response to our draft report, the Austin Police Department DNA Laboratory commented that although three unallowable profiles were deleted, the actual flowchart cited in our report was not available at the time the profiles were uploaded. We agree with this assessment and regard these uploads as isolated events without need for any audit recommendation.

EXHIBIT H

CHAPTER 11 HANDLING COMPLAINTS

Scope

The following are the guidelines for the handling of complaints received by Division personnel.

Responsibilities

It is the responsibility of Division personnel to ensure that all complaints are handled in a timely and satisfactory manner.

External Complaints

1. All complaints involving the Forensic Science Division are to be directed to the responsible section supervisor.

2. The Division Manager will be informed as to the nature of any complaints and their resolution at the discretion of the section supervisor.

3. If necessary, the Division Manager may determine the final resolution after discussions with all concerned.

4. All complaints will be handled according to the guidelines as set forth in APD General Orders and City of Austin policy.

Complaints Concerning the Quality System

1. Complaints concerning the quality system will be received and handled in a timely manner.

2. Urgent Complaints
   - A. Issues considered urgent to the quality system by the employee will be handled by first notifying a supervisor of the situation.
   - B. The supervisor will take initial steps to investigate the concern and take immediate and appropriate action, as deemed necessary by the supervisor.
   - C. Notification of the QA manager will be at the discretion of the supervisor, depending on the criticality of the issue.
   - D. The QA manager may initiate a Corrective Action Report to explain the actions taken and if further action is warranted to remedy the issue.
   - E. The Corrective Action Report will be forwarded to the division manager for review and approval.
   - F. Management will determine if the incident warrants further notifications, such as customers and the court system and/or the appropriate accrediting bodies.

3. Complaints not involving an immediate threat to safety or quality will be submitted to the supervisor on a quality incident report.
   - A. The supervisor will investigate the issue and take appropriate action to remedy any issues that are substantiated.
   - B. The supervisor will initiate a quality action plan to explain the actions taken and if further action is warranted to remedy this issue.
   - C. The quality action report will be forwarded to the QA manager to review and approval of any remediation that is to be completed.

Employee Complaints

Complaints by employees in reference to supervisors or management will follow the policies as set forth in APD General Orders.

Complaints Concerning Other Departmental Divisions

Complaints received by Division personnel on other personnel or sections outside the Division will be handled according the APD General Orders.

External Investigations

1. The Forensic Science Division utilizes external investigative resources when deemed necessary to resolve complaints and/or quality issues.

2. External resources include but are not limited to:
   - APD Internal Affairs Division
   - APD Human Resources Division
   - APD Integrity Crime Division
   - Texas Forensic Science Commission