



Quality Division Use Only

Quality Tracking #:	2021-072	Classification:	Corrective Action
Non-Conformance Level:	Class II	Section:	Biology/DNA
Date of Discovery:	12/08/21	Date of Incident:	12/08/21

Forensic Case Number(s), if applicable:	Agency Case Number(s), if applicable:
N/A	N/A

Description of Non-conformance:

As part of HFSC's transcript review project, a Forensic Biology DNA analyst's testimony transcript was reviewed involving testimony given on May 9, 2018. The reviewers identified concerns regarding the analyst's explanation of statistics and her responses to some of the questions asked by the prosecutor involving this subject. There were numerous other opportunities for improvement identified as well.

Additional Information/Follow-Up:

The transcript review project is maintained by the Quality Division. Transcripts are requested and reviewed by a committee of individuals consisting of a technical expert in the field that the testimony was given, a Quality Division representative and a staff member serving as a layperson. The staff member serving as a layperson does not have the technical expertise specific to that discipline. The committee writes a consensus evaluation which is then reviewed with the testifying staff member.

As part of the quality investigation into these concerns, the transcript review was extended to other testimonies given by this analyst. According to HFSC's testimony records, there are nine testimonies involving this analyst. Two of the testimony transcripts were not available as relayed by the Harris County District Attorney's Office because one case had been dismissed and the other had been expunged. The remaining 7 transcripts were reviewed.

In one of the additionally reviewed transcripts where testimony was given by the involved analyst on October 2, 2019, HFSC identified a concern regarding a lack of statistics being provided to the jury when the comparison of the evidentiary DNA profiles to the complainant's known reference sample was discussed. HFSC's concern regarding this transcript was communicated to the involved prosecutor as well as to the Harris County District Attorney's Office Conviction Integrity Unit.



In a second transcript HFSC's review identified concerns, however these were not of a technical nature. The concerns were related to the analyst's understanding of the practice of outsourcing. It is HFSC's opinion that the analyst's testimony did not promote confidence in the admissibility of outsourced evidence, however, since this case is already in the court of criminal appeals, we are in agreement with the Harris County District Attorney's Office that the most prudent course of action is to wait until a final ruling is made to better understand what is legally required from analysts in this situation.

Summary of Root Cause Analysis:

Note: Incidents are documented for tracking purposes and trend analysis. Root Cause Analysis is not required for incidents.

The analyst is currently employed as a contract employee with the Forensic Biology section that primarily performs reviews on outsource cases as her schedule allows. She is a former full-time analyst who left the Forensic Biology section in August 2017 and subsequently returned as a contract employee in January 2018. The analyst was provided testimony training as part of her training program while a full-time employee at HFSC and prior to testifying as an expert witness. The testimony that was reviewed as part of the transcript review project occurred in May 2018. Although the analyst was functioning as a contract worker at the time of the testimony, she was disconnected from the Forensic Biology section and working full-time in her new career.

Actions Taken:

The Forensic Biology Manager, Forensic Biology Technical Leader and the Quality Director met with the analyst to discuss the concerns identified from the original testimony review. Based on the review of the transcript and subsequent discussion with the analyst, it was determined that she would be required to complete remedial training that would encompass both statistics and testimony training to include a mock trial.

In the interim of time between when the remedial training plan was completed the analyst agreed to disclose the details of this quality investigation to any subpoenaing attorney and notify Forensic Biology section management if she was called to testify.

The analyst completed remedial training and her remedial mock trial occurred on October 5, 2022. While the analyst's mock trial testimony was sufficient, after the mock trial she acknowledged that she could benefit from refresher training more routinely, especially if she is called to testify. She also acknowledged that while she has the scientific knowledge, she sometimes struggles to remember details about accreditation and how to explain quality-related concepts such as technical review.

The Forensic Biology's former Training Coordinator created a refresher training for the analyst to use during testimony preparation to help her remember potential questions and concepts she should be able to respond to during testimony. This refresher training is available to all Forensic Biology staff to assist them in trial preparation.



On January 19, 2023, the Technical Leader, Quality Director and Interim Quality Director held a meeting with the analyst to review the transcript that had been reviewed as part of the transcript review project. In addition to acknowledging the concerns that the committee identified regarding testimony about statistics, the analyst reviewed all of the feedback from the committee. The analyst was responsive to the feedback, demonstrated accountability, was self-reflective, was able to accurately explain scientific concepts and was able to offer alternate responses than the ones given during the testimony. The analyst acknowledged that while she was attempting to simplify complex concepts for the jury, she sometimes oversimplified to the point that it could be difficult for a layperson or another DNA analyst to understand.

Overall, the analyst has demonstrated her ability to convey statistics appropriately during testimony and will utilize the provided refresher training in preparation for testimony to assist with forensic biology specific explanations.

Section Manager: Courtney Head

Date: 03/06/23

Division Director: Amy Castillo

Date: 03/09/23

Incidents or Corrective Actions that involve the Biology/DNA section are reviewed by the Technical Leader and CODIS Administrator.

Technical Leader: Cheron Maxwell

Date: 02/24/2023

CODIS Administrator: Jennifer Clay

Date: 02/28/2023

Quality Director: Jackeline Moral

Date Closed: 03/13/23



TEXAS FORENSIC
SCIENCE COMMISSION

Justice Through Science

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April 25, 2022

Via e-mail to PStout@houstonforensicscience.org

Peter Stout, Ph.D.
President and CEO
Houston Forensic Science Center
500 Jefferson St., 13th Fl.
Houston, Texas 77002

RE: FSC Self-disclosure No. 22.01 – Houston Forensic Science Center (Forensic
Biology/DNA)

Dear Dr. Stout,

At its April 22, 2022 quarterly meeting, the Commission reviewed the referenced self-disclosure. Based upon the corrective action taken, root cause analysis and transcript review performed by the laboratory, commissioners concluded no further action is necessary at this time.

If the laboratory identifies any material changes to the information provided regarding this disclosure, please notify the Commission as soon as possible. Thank you and please feel free to contact the Commission's office with any questions you may have.

Sincerely,
Leigh M. Tomlin
Leigh M. Tomlin
Associate General Counsel

cc: Erika Ziemak