

AUSTIN CRIME LAB NEWSLETTER

JULY 2010



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Evidence Receiving

Hours of Operation

8:00 AM-4:30 PM

Website

[www.txdps.state.tx.us/
criminal_law_enforcement/
crime_laboratory/index.htm](http://www.txdps.state.tx.us/criminal_law_enforcement/crime_laboratory/index.htm)

Submission Information

www.txdps.state.tx.us

GREETINGS

Greetings from the Austin Crime Laboratory! We have received many positive comments regarding our newsletter and hope it will continue to be an effective tool to increase the lines of communication between the laboratory and our clients.

Thank you for all of your suggestions on how we can improve our service and please continue to use the laboratory e-mail to communicate with the laboratory. E-mails can be sent to Rebecca Vasquez (newsletter editor) at:

austincrimelab@txdps.state.tx.us

In this issue you will find "Frequently Asked Questions," section updates, reminders, and other important policy changes that have recently been made by the Austin Crime Laboratory.

STATE OF THE LAB

As we enter the summer months, the Austin Crime Laboratory is starting to plan the move to our new building. The lab should be moving to the new site located on the Guadalupe side of the DPS Austin campus during the month of September.

In an effort to help our move, the Evidence Coordination staff is clearing out our evidence vaults. You may see an increase in evidence returns

over the next few months.

As always, please contact us if any of the cases you have submitted have been closed by the investigative process and the physical evidence no longer needs to be examined. This will be extremely important as we begin our move to the new laboratory. Any case update(s) the laboratory receives ensures that we are using our resources in the most effective manner.



CUSTOMER SURVEY

Please remember that we value and need your feedback. Tell us how we can better serve you by filling out and returning our customer survey. The survey can be found at:

[www.txdps.state.tx.us/
criminal_law_enforcement/
crime_laboratory/clabforms.htm](http://www.txdps.state.tx.us/criminal_law_enforcement/crime_laboratory/clabforms.htm)

CODIS UPDATE

Recently, Mario Mora, Adrian Passdar-Shirazi, Becky Shane and CODIS Liaison Rebecca Vieh (not pictured) packed and shipped 10,000 CODIS kits in less than two days for shipment to various law enforcement agencies throughout Texas. The kits will be used to collect DNA samples from convicted offenders serving probation, registered sex offenders, and arrestees that meet certain criteria. Part of those collected are a result of Senate Bill 727 which took effect September 1, 2009. For more information on who is required to submit a DNA sample to the CODIS program, please go to:

[www.txdps.state.tx.us/criminal_law_enforcement/
crime_laboratory/codisstatewide/index.htm](http://www.txdps.state.tx.us/criminal_law_enforcement/crime_laboratory/codisstatewide/index.htm)



Photo by Rebecca Vieh

Pictured (l-r): Mario Mora, Adrian Passdar-Shirazi, and Becky Shane

DNA POLICY CHANGE

Case Acceptance Policy for Biological Evidence Screening and DNA Testing Effective May 1, 2010

Introduction

The DPS Crime Laboratories test and examine evidence received from more than 2,000 law enforcement agencies statewide. In recent years, biological evidence and DNA testing have been very successful in matching individuals to crime scene evidence. Due to this success, the number of biology/DNA cases submitted to the Crime Laboratory continues to rise at greater than 20% per year. This has resulted in an increased turn around time for DNA cases to be completed. The laboratory is instituting a number of changes in order to reduce the time to complete DNA cases and, therefore, better serve our customers in the criminal justice system.

Some of the changes being implemented include: increased automation, additional DNA personnel, streamlined procedures, and the case acceptance policy provided below. Only with all of these changes will the laboratory be able to provide the timely service that our customers need.

DNA Case Acceptance Policy

The Crime Laboratory will limit the type of cases analyzed for DNA evidence and will limit the number of samples that can be submitted for a case based on the type of offense committed. For all cases accepted, the number of items that will be tested in each case will be limited to the minimum number necessary to answer the relevant questions in the case. **It is imperative that agencies submit DNA evidence as soon as possible after it has been collected so that the laboratory can provide timely service.**

The laboratory does not accept paternity cases. The laboratory does not perform DNA testing on drugs or drug paraphernalia.

Sample Submission Limits

The type and number of samples that may be submitted will be based on the type of offense. The known standards from suspects, victims, or elimination standards will not count against the number of items that may be submitted.

Listed below is a summary of the policy changes:

Burglary or Property Crimes

Submission is limited to two (2) items. Additional items may be accepted if the circumstances (such as multiple perpetrators) dictate the need for additional analysis.

Sexual Assaults

The initial submission will be limited to the sexual assault evidence collection kit, one pair of underwear, and one condom (if applicable). If the kit is positive, no additional submissions will be allowed unless circumstances (such as multiple perpetrators) dictate the need for additional analysis. If the SA kit is negative, a second submission of up to five (5) items such as clothing or bedding will be accepted.

Homicides

The initial submission of biological evidence is limited to ten (10) items which the investigator and/or DA believe will be informative. It is recommended that the investigating agency have a conference, either in person or electronically, with the laboratory prior to evidence submission to determine the items that will likely be probative to the case.

If no informative results are obtained from the items in the first submission, then a second submission of ten (10) additional items will be allowed.

A written request from the Prosecutor, including sufficient justification, must be received by the laboratory before any decisions on performing additional testing will



be considered once informative results have been obtained. Additional samples will not be tested to merely disprove all possible scenarios.

DNA Analysis for Court

The laboratory understands the evolving nature of criminal investigations and court schedules, however fulfilling requests for extremely short turnaround times are not possible from a laboratory standpoint without severe negative impacts to the timeliness of other case reports. The laboratory cannot provide accurate and complete information without sufficient time to perform the testing and review the results. Notice must be given to the laboratory at least 60 days prior to the date the results are needed for court purposes. This will allow the laboratory to perform the analysis in the most effective manner.



LATENT PRINT REMINDER

If your fingertips accidentally show on the sticky side of the tape, place an "X" and your initials over your own prints as seen above. This will prevent latent print examiners from spending countless hours making comparisons of prints that are not of interest and thereby allowing the examiners to work more quickly and efficiently.

TRACE UPDATES

The DPS Crime Laboratory System will no longer be performing soil analysis on evidence. If you have a case that will be needing soil analysis and/or comparisons, you may contact the FBI Laboratory for possible submission. You can get more information about their submission policies at:

www.fbi.gov/hq/lab/handbook/forensics.pdf

We also do not perform analysis on plant materials, entomological evidence, drug content in hair samples, fire debris evidence, or failure analysis. If you have any questions about these types of analysis, please give us a call and we can help you assess your case and direct you to an appropriate expert to assist you.

Please remember that as of April 1, 2010, the Austin Crime Laboratory no longer performs analysis on 4-stub GSR kits. Only 2-stub GSR kits will be accepted.

FREQUENTLY ASKED QUESTIONS – TRACE

What is a representative hair sample?

This is a hair sample that captures all of the variation from a particular source. A representative hair standard is obtained by pulling and combing hairs from different areas of the head and/or pubic region. A representative hair standard consists of at least 25 hairs, with roots, that represent the variation of the all the hairs in the region. It is strongly recommended that greater than 25 hairs be collected. Please note that collecting more hairs, up to 100, will ensure all variation is represented. An insufficient hair standard may adversely affect our ability to perform a meaningful comparison.

Why do you need a known sample?

We can identify materials that are submitted to the lab (i.e. fiber type, paint type, powder identity) but our conclusions are often most meaningful when we can perform a comparison to a known sample. For example, a blue olefin fiber found on the victim's socks has little meaning unless we can compare that fiber to the known blue olefin

fibers from the suspect's trunk liner.

Do you examine body hairs?

Body hairs do not contain a sufficient number of characteristics for us to perform a meaningful comparison. We can identify hairs as belonging in the body hair category and assess the root for DNA suitability.

DPS is no longer performing analysis on 4-stub GSR kits as of April 1, 2010.

What do I do with my old 4-stub kits?

You can still use your 4-stub kits. Two of the stubs will get discarded and the remaining stubs should be re-labeled "left hand" and "right hand" and be submitted for analysis. The 2 discarded stubs that you took out of the original kit can be used as another kit, however, be sure that you have not opened the stubs which could introduce possible contamination. You will also need a copy of the blank paperwork from the original kit or from our website for submission. You may also be able to contact your original vendor to see if they will exchange the kits for you.



Photo by Mike Holle

Trace analyst Phillip Stout analyzes GSR evidence

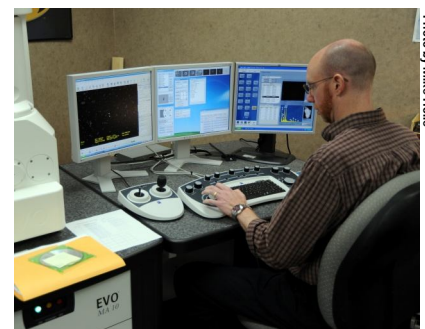


Photo by Mike Holle

Trace analyst Rusty White analyzes GSR particles

DID YOU KNOW...

that Texas Government Code 411.0205 and Texas Code of Criminal Procedure Article 38.35 require Questioned Document examinations to have been performed in a laboratory accredited by the American Society of Crime Laboratory Directors (ASCLD) in order to be admissible in criminal court. The DPS Austin Crime Laboratory is one of two ASCLD accredited laboratories in the state that examine questioned document evidence.

It is extremely important that officers, attorneys, and judges know where questioned document evidence must be examined in order to prevent evidence from being excluded from court or providing the basis for an appeal.

FREQUENTLY ASKED QUESTIONS – QUESTIONED DOCUMENTS**What kind of evidence is questioned document evidence?**

In short, paper. We primarily examine documents for handwriting, including suspected forgeries or simulated writing, as well as manual or electronic cut-and-paste. We also examine documents for alterations, obliterations, latent writing impressions, and types of writing instruments used.

Can you examine a copy of a questioned document?

The best evidence is ink original evidence. Our examinations are best performed with original documents because we can see microscopic characteristics that are not typically visible on a copy. However, high resolution copies of handwriting evidence documents can be used to report qualified analysis results, which are admissible in court.

What is needed to perform a handwriting examination?

In addition to a questioned document, we need a large volume of known writing that contains the same characters and/or words as present in the questioned handwriting. It is also important to submit known writing that is the same style as the questioned writing, as we must compare cursive with cursive, and printing with printing.

What do you mean by "large volume of known writing"? Why is that necessary?

Unlike other types of physical evidence, handwriting is dynamic – meaning that it can change a lot for a number of reasons,

including but not limited to age, injury, illness, alcohol/drug usage or abuse, intentional distortion, etc. Therefore, a fundamental premise of forensic handwriting comparison holds that a larger amount of handwriting sample is needed to determine a subject's overall penmanship ability and range of variation.

Where can I obtain known handwriting?

Known handwriting can be collected or requested:

- Normal course of business documents include, but are not limited to, applications (driver's license, credit card, bank loan, employment, insurance, etc.), journals and letters, checks and check registers, contracts, school and college reports, and wills.
- Exemplar forms, which are writing samples written at the request of another person.

Do I have to make my own exemplar forms?

No. For your convenience, we will provide handwriting exemplar blanks custom designed for your case, which will provide text for the suspect to copy that repeats the questioned material. Then you only have to administer those exemplars to your suspect(s) and submit the completed exemplars along with the questioned evidence to our laboratory for examination.

Please note that it is our policy to close out cases for which exemplar forms are created but not returned to our laboratory within 30 days.

What should I NOT do before submitting questioned documents to DPS?

- Do NOT process documents for latent prints. We can preserve and protect items for latent print examination.
- Do NOT pencil-shade documents looking for latent writing impressions. This permanently alters the evidence.
- Do NOT staple, type, or write on evidence unless you must mark it for identification. Make any ID marks away from the questioned portions.
- Do NOT fold documents.
- Mark evidence containers BEFORE inserting questioned documents.

What if I need more information about questioned documents?

Please feel free to call the DPS Questioned Document section if you have any other questions about how to submit evidence, what examinations we can perform, and what evidence we need.



DIGITAL MEDIA EVIDENCE REMINDERS

DME (Digital Media Evidence) examiners are frequently asked by submitting officers, "How long will it take to work my case?" We have made changes in our questioned documents section to reduce our backlog and increase turn-around time, including adding forensic work stations and training new examiners. In addition, listed below are some reminders that will help expedite cases.

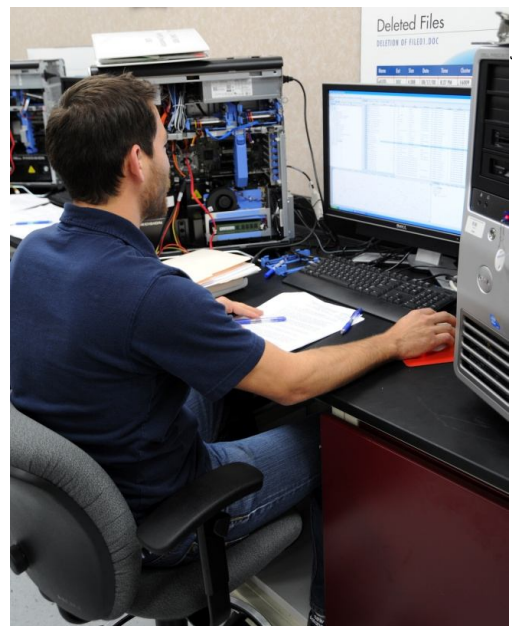
- You must submit a search warrant or consent to search with **ALL** digital media evidence that permits a forensic examination. Think of digital media evidence like a closed container, such as a briefcase or file cabinet. We need a search warrant or consent to search that allows us to "open" the evidence and view the digital contents. If you are unsure of the necessary wording, please contact our office.

Please note: If a valid search warrant or consent to search is not received within 30 days of the submission of evidence, the submission will be re-evaluated. This may include closing the case without conducting an examination.

- You must complete the "Required Information for Digital Media Evidence Submissions" form when you submit evidence. Answering these five short questions will help triage cases based upon the threat to a known or potential victim, the incarceration of a suspect, and what we should specifically be searching for. The "Required Information for Digital Media Evidence Submissions" form will be available on our website in the future. Until then, you may contact the laboratory to have the form e-mailed or faxed to you.
- Include a copy of your case report or search warrant affidavit with your submission form. It will facilitate our examination to know victim and suspect names, e-mail addresses, important dates, and other case-specific information. Let us know if there is anything in particular you are looking for on the digital media evidence, including e-mails, chat files, images, deleted files, encrypted files, Internet history, documents, phone logs, text messages, etc.
- Remember to submit the phone charger and data cable when submitting cell phones. When submitting a laptop, do not forget to include the power cable.

- Stay in contact with us. Investigations continue after evidence is submitted, so please inform us of important changes in the status of your case.
 - Are there new victims?
 - Has a court date been set?
 - Is the suspect currently waiting in jail?
 - Do you still need the evidence examined?
- Remember that we can examine a wide variety of digital media evidence including :
 - Hard drives contained in computers and laptops
 - DVDs, CDs, floppy disks, USB thumb drives, or other media storage devices
 - Cell phones, including smart phones and PDAs
 - Memory cards from digital cameras
 - Other digital media

Please refer to the DPS Physical Evidence Handbook for evidence collection and packaging procedures. If you have any questions regarding Digital Media Evidence, do not hesitate to call the laboratory.



Questioned Document analyst Nathan Calderon views .html file extensions using forensic software



Photo by Mike Holte

Toxicology analyst James Burris prepares samples for a blood alcohol batch

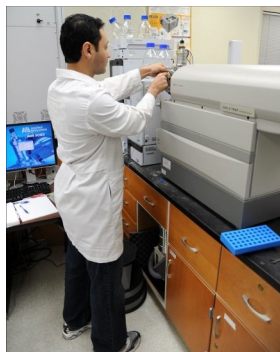


Photo by Mike Holte

Toxicology analyst Eddie Padilla performs routine maintenance on the LCMS

TOXICOLOGY REMINDERS

If a case submission form has a name discrepancy from the blood tube, please note any explanation on the submission form regarding the difference (e.g. fake ID given when blood drawn so name on tube is incorrect). Analysts verify that the name on the tube matches the information from the submission form as part of our quality checks when sampling for analysis. With your information that there is a discrepancy, we can save time needed to contact you for clarification.

Provide all the information you have regarding confiscated drugs, pill bottles, suspect's comments about drugs used, SFST results, and DRE results. With that information, the analysts can assure that

appropriate testing methods are used for your case to report the suspected drug if it is detected.

When a suspected drug is not detected, our report will state "no drug detected" unless other drugs are reported. If our methodology would not detect the drug at a significant concentration, our report will also include a note "The analytical methodology did not exclude suspected drug(s) [drug name]." This note will also be included if we can detect the drug in high concentrations but not in lower concentrations where that drug may cause impairment. The objective is to let you know that the suspected drug may be there but below our lower detection limit.

Controlled substance versus Dangerous Drug – Which one is it?

"Controlled substance" means a substance, including a drug, an adulterant, and a dilutant, **listed in Schedules I through V or Penalty Groups 1, 1-A, or 2 through 4.**

"Dangerous drug" means a device or a drug that is unsafe for self-medication and that is **not included in Schedules I through V or Penalty Groups 1 through 4 of Chapter 481** (Texas Controlled Substances Act). The term includes a device or a drug that bears or is required to bear the legend:

(A) "Caution: federal law prohibits dispensing without prescription" or "Rx only" or another legend that complies with federal law; or

(B) "Caution: federal law restricts this drug to use by or on the order of a licensed veterinarian."

If a substance is listed in the Schedules or the Penalty Groups, it is a Controlled Substance.

If a substance requires a prescription to obtain and is **not listed** in the Schedules or the Penalty Groups, it is a Dangerous Drug.

Examples:

- Diazepam (valium) is a Controlled Substance because it is listed.
- Alprazolam (xanax) is a Controlled Substance because it is



Photo by Joel Budge

Alprazolam

listed.

- Fluoxetine (Prozac) is a Dangerous Drug.
- Tramadol (Utram) is a Dangerous Drug.