

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

IN RE:
MATTER OF THE NORTH
CAROLINA STATE CRIME
LABORATORY

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ORDER REQUIRING DISCLOSURE OF
INFORMATION TO EACH ELECTED
DISTRICT ATTORNEY IN STATE

This cause came on to be heard and was heard by the undersigned Superior Court Judge on the 20th day of June, 2012, on Motion of the State of North Carolina through Senior Deputy Attorney General William P. Hart, Sr. This Court having considered the contents of said Motion finds as follows:

1. In 2011, the North Carolina General Assembly passed the Forensic Sciences Act, codified in Session Law 2011-19 with subsequent amendments at Session Law 2011-307, requiring in pertinent part that forensic science professionals working for the North Carolina State Crime Laboratory, which operates under the administration of the State Bureau of Investigation, obtain individual certification consistent with international and ISO (International Organization for Standardization) standards in their specialty area, unless no such certification is available for that specialty. Pursuant to that requirement, a number of those forensic science professionals took tests in December, 2011, in their respective fields. Some of those professionals were not successful in obtaining certification.
2. On June 12, 2012, Colon Willoughby, District Attorney for the Tenth Prosecutorial District, with the knowledge and consent of the Director of the North Carolina State Crime Laboratory, the Director of the SBI, and officials with the Attorney General's Office, filed a Motion in this Court requesting that he be provided with certain information for his use in dealing with criminal cases in his district. That information included a complete list of all scientists and analysts employed at the North Carolina State Crime Laboratory; the results of the certification examinations that were administered in December of 2011 to these scientists and analysts, pursuant to The Forensic Sciences Act, codified in Session Law 2011-19 with subsequent amendments at Session Law 2011-307; and the results of future certification examinations that are administered to any scientists and analysts, pursuant to The Forensic Sciences Act, codified in Session Law 2011-19 with subsequent amendments at Session Law 2011-307. (See copy of said motion attached) At least

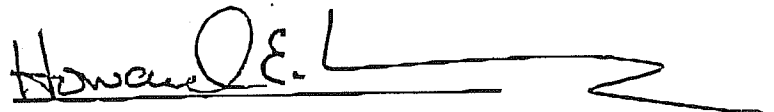
eight other District Attorneys around the State, with the knowledge and consent of the Director of the North Carolina State Crime Laboratory, the Director of the SBI, and officials with the Attorney General's Office, have filed similar motions relating to their districts in the Superior Courts of their districts.

3. On June 15, 2012, the Honorable William R. Pittman, Superior Court Judge presiding in Wake County Superior Court, signed an Order providing for disclosure to Colon Willoughby, the District Attorney of Wake County, a list of scientists and analysts employed by the North Carolina State Crime Lab and the results of the certification examinations that were administered in December of 2011 to scientists and analysts employed by the North Carolina State Crime Lab, pursuant to The Forensic Sciences Act, codified in Session Law 2011-19 with subsequent amendments at Session Law 2011-307, and results of similar such tests administered in the future to any such scientists and analysts. (See copy of said order attached) Similar consent orders have been signed by superior court judges in at least eight other districts throughout the State.
4. After conferring with several District Attorneys in other districts and officials at the North Carolina State Crime Lab and the Attorney General's Office, Senior Deputy Attorney General William P. Hart, Sr. believes that it would facilitate the administration of justice throughout the State for this Court to issue an order for the North Carolina State Crime Lab to provide the information requested above to each of the District Attorneys throughout the State of North Carolina rather than continuing the current process of working with each District Attorney to seek a consent order from a superior court judge in that District Attorney's district. This Court concurs with that assessment.
5. Disclosure of the certification test results to the elected District Attorneys throughout the State is necessary to assist them in their duty to provide appropriate discovery materials in the criminal cases in their districts in the interests of justice.
6. To the extent that such test results are included in the personnel files of the scientists and analysts employed by the North Carolina State Crime Lab and protected by the Personnel Privacy Act, such disclosure to the District Attorneys to comply with their statutory and constitutional requirements to provide discovery in criminal cases would be necessary and in the interests of justice pursuant to N.C.G.S. § 126-24. Therefore, this order serves as an order pursuant to N.C.G.S. § 126-24 authorizing release of said information.
7. The Director of the North Carolina State Crime Lab, the Director of the SBI, and the Attorney General know about this motion and consent to the entry of an order by this Court requiring the requested disclosures in the interests of justice with appropriate safeguards for privacy protection of personnel information.

Based on the findings and conclusions above, this Court concludes and orders as follows:

1. Within five working days of the date of this Order, the North Carolina State Crime Laboratory shall furnish to each District Attorney in the State a complete list of all scientists and analysts employed at said Crime Laboratory, the results of the certification examinations that were administered on or after December 1, 2011, to said scientists and analysts, pursuant to The Forensic Scientists Act, codified in Session Law 2011-19 with subsequent amendments at Session Law 2011-307.
2. The necessity of providing such test results being a continuing obligation, the State Crime Laboratory shall furnish to each District Attorney in the State the results of certification examinations undertaken by Lab analysts upon such analysts taking the exams and the Laboratory officials receiving the results of such future exams, without the necessity of obtaining a further order of this Court pursuant to N.C.G.S. § 126-24.
3. To the extent that any of the information requested in the motion and released as a result of this order is contained in the personnel file of an employee of the North Carolina State Crime Laboratory, this Order shall serve as a court order pursuant to N.C.G.S. § 126-24 authorizing release by the North Carolina Crime Laboratory of said information.
4. Any names and results of certification examinations released to the various District Attorneys pursuant to this order shall be used by said District Attorneys and their Assistants only on an individual case by case basis, and shall not, unless otherwise ordered by a court of competent jurisdiction, be released, disclosed, or used in any way by any person except in conjunction with the discovery requirements in said individual cases.

This the 20th day of June, 2012.



Superior Court Judge Presiding