


TO: BUNCOMBE COUNTY CRIMINAL DEFENSE BAR 
FROM: DISTRICT ATTORNEY RONALD L. MOORE
RE: INFORMATION REGARDING TESTING OF CRIME LAB ANALYSTS
DATE: JULY 17, 2012

As you may be aware, this Office filed a Motion on June 12, 2012, seeking information from the North Carolina State Crime Lab, the State Bureau of Investigation and the Attorney General's Office, regarding testing given to Crime Lab Analysts pursuant to the Forensic Sciences Act. A hearing was held on this matter on June 26th, 2012. The Court has since issued an Order, signed on July 13, 2012, but filed today, mandating disclosure of a portion of the items we requested, including letters sent to analysts by testing organizations indicating whether or not an analyst was successful on an examination and if unsuccessful, in what areas, if any, an analyst needed further study.

We anticipate receipt of this information within ten (10) days of the entry of the Order, absent an appeal. In the meantime, we have been provided with a list of analysts indicating which analysts were unsuccessful on testing; this list includes testing which was proctored in June of this year, however this list does not include the further study area information mentioned above. Nonetheless from that information and other information which has since been provided to us, we are in the process of determining and confirming which cases are affected by these results. The information we have received from the Crime Lab indicates approximately eighty (80) cases since December 1, 2011 involved an unsuccessful analyst; of these eighty (80) cases, it appears two (2) cases involved trials. You will be individually contacted in writing regarding any cases in which you have represented an individual since December of 2011 where an analyst has been unsuccessful in this testing. Attorneys representing individuals in custody pending disposition of a case/s in which an analyst was unsuccessful, and attorneys involved as trial counsel in affected cases have already been notified prior to the date of this letter.

As you may be aware my Office has been committed since my initial election in 1990 to open file discovery, even when not required by statute. While it is now clear that many of the analysts tested since December of 2011 were in fact not required to undergo testing pursuant to the Forensic Sciences Act and that the testing which was given to analysts was in areas in which the analysts had little or no education, training or experience, this disclosure is nonetheless being made to you as part of my commitment to ensuring we have met our discovery obligations. Information regarding the June 12, 2012 Motion can be found in Buncombe County file 12CRS0138. Further, additional information regarding documentation received by this Office in the course of this Motion will be available on the automated discovery site currently available to the Defense Bar in the near future. This information will be updated as we receive additional information. If you have not yet obtained the necessary username and password for this system, please contact Suzanne Middleton at (828) 259-6463.

Should you wish to address any particular case in any manner, please don't hesitate to contact our Office. However, prior to the filing of any post-conviction motions in cases involving guilty pleas, it may be beneficial to first review the United State Supreme Court decision United States v. Ruiz, found at 536 U.S. 622, 122 S.Ct. 2450 (2002).