

State of New York
Office of the Inspector General



Investigation into the
New York State Police
Forensic Investigation Center

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Inspector General

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EXECUTIVE SUMMARY

The New York State Police Forensic Investigation Center (Forensic Investigation Center) reported to the New York State Inspector General that Craig Grazier, a contract employee performing firearms analysis, intentionally made inaccurate entries in his laboratory notes regarding the results of his comparison of evidence in a firearms case.

The Inspector General subsequently conducted an investigation of this allegation and determined that Grazier failed to properly report the results of his forensic examination that found a Utica Police Department test fire casing did not match either the crime scene evidence or the New York State Police (State Police) generated test fire casings. Specifically, Grazier falsely reported that he only inventoried and did not examine the Utica Police Department test fire casing, when in fact he had analyzed the test fire casing and determined it did not match a State Police generated test fire casing or the crime scene casings. Grazier's conduct violated State Police policy requiring the results of examinations to be accurately and completely recorded.

Even more troubling, the Inspector General determined that Grazier's motivation for failing to accurately report his findings was his desire to protect the prosecution's case. As a forensic scientist, Grazier has a professional and ethical responsibility to completely and accurately report all findings regardless of their ramifications. He failed to uphold that responsibility.

The Inspector General further determined that the State Police took prompt and appropriate action concerning Grazier's misconduct. The State Police reported Grazier's conduct to the appropriate authorities, which resulted in the termination of his contract; thoroughly reexamined the evidence in the case at issue to ensure the integrity of the investigation; and issued a report properly including the full results of its firearms analysis. Grazier had not drafted any other case reports during his brief time as a consultant in the Forensic Investigation Center. The State Police also arranged for an outside laboratory to conduct a reanalysis of cases handled by Grazier during his previous employment as a State Police firearms examiner. The outside laboratory determined the cases had been properly analyzed and reported.

In addition, the State Police have fully rewritten procedures relating to firearms evidence analysis and instructed staff to ensure compliance with recording and reporting requirements.

The Inspector General also referred the findings to the New York State Attorney General's Office.

INTRODUCTION AND BACKGROUND

The New York State Police Crime Laboratory System

The State Police Crime Laboratory System (Crime Laboratory System) provides forensic science services to the entire state criminal justice system, and is comprised of the Forensic Investigation Center in Albany and three regional laboratories: Mid-Hudson Regional Crime Laboratory in Newburgh, Southern Tier Regional Crime Laboratory in Port Crane, and Western Regional Crime Laboratory in Olean. The Crime Laboratory System contains sections responsible for firearms examination, biological sciences (DNA, the DNA Database, and serology), breath testing, drug chemistry, forensic identification (fingerprints), toxicology, and trace evidence, as well as units responsible for administration, clandestine drug laboratories, field response, evidence receiving, interagency relations, training, and quality assurance.

Since October 17, 2013, Ray Wickenheiser has served as the State Police Director of Forensic Services responsible for oversight of the State Police Crime Laboratory System. Prior to that time, and during the periods relevant to this investigation, the director position was vacant. Major Donald Faughan and Major Timothy Munro served as Acting Director of Forensic Services and Director of the Forensic Investigation Center.

Oversight of Forensic Laboratories in New York State

All public laboratories conducting forensic testing in the state are subject to the oversight of the New York State Commission on Forensic Science (Forensic Commission). The Forensic Commission consists of various members from the forensic and legal community and is chaired by the Commissioner of the New York State Division of Criminal Justice Services (DCJS). The Forensic Commission determines accreditation standards for forensic laboratories in New York State, and, as part of its oversight responsibilities, reviews reported instances of laboratories'

non-compliance with the standards. In addition, the Forensic Commission requires that New York State laboratories be accredited by the American Society of Crime Laboratory Directors/ Laboratory Accreditation Board (ASCLD/LAB).¹

Under the rules established by the Forensic Commission, laboratories are inspected by ASCLD/LAB representatives upon initial application for accreditation and periodically thereafter. The inspection process is designed to measure the laboratories' compliance with established standards pertaining to management, operations, personnel, procedures, equipment, physical plant, security, and health and safety. Between inspections, ASCLD/LAB relies on laboratories to demonstrate continued compliance with established standards and accreditation criteria through annual proficiency testing of laboratory analysts and self-reporting of deviations from the standards and criteria.

The State Police Crime Laboratory System also receives funding as part of the federal Paul Coverdell Forensic Science Improvement Grants Program administered by the United States Department of Justice. The Coverdell program provides funds to state and local governments to improve the timeliness and quality of forensic science and medical examiner services, and to eliminate backlogs in the analysis of forensic evidence.

Under the Federal Justice for All Act of 2004, entities applying for Coverdell funding are required to certify that "a government entity exists and an appropriate process is in place to conduct independent external investigations into allegations of serious negligence or misconduct substantially affecting the integrity of forensic results committed by employees or contractors of any forensic laboratory system . . . that will receive a portion of the grant amount." The Forensic Commission has designated the New York State Office of the Inspector General as the governmental entity responsible for conducting these independent external investigations.

¹ As of June 21, 2013, the State Police Crime Laboratory System has been accredited by ASCLD/LAB as one laboratory with four locations. Previously, each location was individually accredited with a director at each location.

FORENSIC FIREARMS CONSULTANT CRAIG GRAZIER ACTED IMPROPERLY IN HIS HANDLING OF A TEST FIRE SUBMITTED BY AN OUTSIDE POLICE AGENCY

Grazier Made a False Entry in his Draft Report and Case Notes

In April 2012, DCJS contracted with Craig Grazier to provide consulting services for forensic firearms analysis. Grazier, a retired State Police sergeant, had been a firearms examiner for the last 15 years of his career with the State Police, from 1993 to 2008. The contract was part of an initiative by DCJS to assist forensic laboratories in the backlog of forensic firearms cases throughout the state by providing the laboratories with forensic firearms consultants. Pursuant to the contract, “Consultants will work under the line supervision of the Laboratory Director; however, [DCJS] retains oversight authority of consultants engaged under this agreement and reserves the right to terminate the contract for any reason.” DCJS assigned Grazier to the Forensic Investigation Center in Albany, and he began work on May 21, 2012.

On June 7, 2012, Grazier was working on a forensic firearms case submitted to the Forensic Investigation Center by the Utica Police Department. Uncharacteristically, the case included a test fire cartridge casing submitted by the Utica Police Department. For the most part, submitting agencies rely on the Forensic Investigation Center to conduct its own test fires. The State Police reported that a search of their Laboratory Information Management System (LIMS) revealed that of the 7,079 firearms cases in the system, only 129, less than 2 percent, had agency created test fire cartridge casings submitted with them. Pursuant to the State Police Laboratory System practice, a technical sergeant performs test fires upon submission of firearms cases, even when the submitting agency has submitted a test fire cartridge casing. The technical sergeant conducted such test fires in this case.

As part of his work on the case at issue, Grazier analyzed the test fire casing submitted by the Utica Police Department and determined that it “looked significantly different” from the crime scene evidence and the test fire casings created by the State Police technical sergeant. Grazier verbally noted his finding to several employees of the Forensic Investigation Center including the technical sergeant. He even showed the test fire casings under the microscope to several members of the firearms section and specifically noted to one that it was a good training opportunity to see casings that do not match. Notwithstanding his forensic determination,

Grazier stated to the members of the firearms section that he intended to report that he did not compare the casings and would use the phrase “Inventory Only – No Examination” regarding the Utica Police Department test fire casing.

Bradley Brown, the Supervisor of the Trace and Firearms Section, overheard this conversation and instructed Grazier that all findings must be reported and that failing to do so by stating “Inventory Only – No Examination” is improper. In fact, State Police policy² specifically states, “All relevant information required by [ISO] 5.10 must be recorded within the technical record relating to a particular case.”³ Disregarding Brown’s instruction, Grazier entered in his draft report and case notes, “Inventory Only – No Examination” with regard to the Utica Police Department submitted test fire casing.

Further compounding Grazier’s misconduct is that, according to Brown, Grazier had noted that reporting the results of the comparison he conducted “could affect Utica’s case.” When subsequently interviewed by the State Police about this issue, Grazier repeated his concern, stating, “I think if I report [the Utica Police Department test fire casing as not matching], that’s only gonna open up a whole can of worms.” As a forensic scientist, Grazier is required to report his findings in an unbiased manner.⁴

Brown immediately reported Grazier’s conduct and his conversation with Grazier to Forensic Investigation Center Director Faughan, and as a result, the State Police commenced an investigation of the matter the next day, June 8, 2012. Upon notification of the matter by the State Police, the Inspector General’s Office monitored the State Police investigation.

² New York State Police Criminal Laboratory System Quality Assurance Policy 5.10 Reporting the Results.

³ The International Organization for Standardization (ISO) 5.10 states, in pertinent part: “The results of each test, calibration, or series of tests or calibrations carried out by the laboratory shall be reported accurately, clearly, unambiguously and objectively, and in accordance with any specific instructions in the test or calibration methods.”

⁴ The Association of Firearms and Tool Mark Examiners (AFTE) Code of Ethics states, in pertinent part, “The examiner is unbiased and refuses to be swayed by evidence or matters outside the specific materials under consideration.” The Code also states with regard to court presentation that, “[t]he expert will avoid unclear, misleading, circuitous, or ambiguous language that may be misconstrued or misunderstood.” www.afte.org/AssociationInfo/a_codeofethics.htm.

State Police Notification and Investigation

At the outset of its investigation, the State Police contacted the Utica Police Department to advise it of the inconsistency between the police department test fire casing and the Forensic Investigation Center test fire casings. At the same time, the State Police advised the Oneida County District Attorney of the inconsistency between the test fire casings as well as Grazier's misconduct. The district attorney's office then notified the court and defense counsel. In its email notification, the district attorney's office stated that it surmised that the Utica Police Department had submitted the wrong test fire casing. This explanation appears the most likely reason for the discrepancy. The defendant pleaded guilty to felony charges of criminal possession of a weapon and criminal possession of a controlled substance. The State Police advised DCJS of Grazier's misconduct on June 11, 2012, and DCJS terminated Grazier's consulting contract by letter dated June 22, 2012. On that same day, June 22, 2012, the State Police reported the incident to ASCLD/LAB.

Grazier acknowledged to State Police officials that the Utica Police Department's submitted test fire casing did not match the test fire casings created by the Forensic Investigation Center, and that the Utica Police Department submitted test fire casing did not match the crime scene casing. Nonetheless, Grazier reported it as "Inventory Only – No Examination" despite his findings because, in his opinion, the Utica Police Department test fire casing was a control and not evidence. When asked if he had ever engaged in similar conduct, Grazier declared that he had not and that he could not recall police agencies ever submitting test fire casings. The State Police also questioned the other members of the firearms section regarding their practices. Each stated that Grazier's actions in failing to report the test fire casings inconsistency was not the practice at the laboratory and denied any similar conduct.

Significantly, Grazier's draft report regarding the Utica Police Department submitted case was never issued because the State Police identified the issue prior to submission of the draft report for technical and administrative review. After identifying the issue, the State Police directed another DCJS consultant assigned to the Forensic Investigation Center to retest the evidence in that case. In a July 26, 2012 report on the case, this consultant concluded that the Utica Police Department submitted test fire casing and the State Police test fire casings did not

match and were not fired from the same weapon. He also confirmed Grazier's conclusion that the crime scene evidence matched the State Police generated test fire. Grazier had been assigned only one other case while working as a consultant in the Forensic Investigation Center. He had not yet prepared a report in that case, which was re-assigned to another firearms examiner when Grazier's conduct came under scrutiny.

The State Police Conducts Retesting of Grazier's Prior Work

Given concerns that Grazier may also have failed to report findings of examined evidence in cases he analyzed during his tenure as a State Police firearms examiner, the State Police searched for cases in which similar language was used in the reports. A search of all cases in the State Police LIMS revealed that the phrase "Inventory Only – No Examination" or similar phrases were used in 77 of 19,174 cases, excluding the case at issue, 66 of which were firearms cases. Of those 66 cases, 25 cases included police department test fire casings. Of these 25 cases, 24 were analyzed by Grazier during his 1993–2008 tenure with the State Police. The other entry was made by another former State Police firearms examiner. The remaining 41 firearms cases referred to items, such as unexpended ammunition, holsters, clothing, and gunshot residue kits, which would not be analyzed by a firearms examiner.

The State Police contacted all of the agencies who had submitted the evidence in the 24 cases analyzed by Grazier and asked them to resubmit the evidence, but was able to obtain the evidence from only 14 of the cases. In the remaining 10 cases, the submitting agencies reported that the evidence was no longer available.

For the 14 resubmitted cases, the State Police instructed the other DCJS consultant to compare police agency submitted test fire casings to the State Police test fire casings and to issue supplemental reports documenting the results. The consultant confirmed that the police agency submitted test fire casings matched the State Police test fire casings in 13 of the 14 resubmitted cases. In one case, he found that the police agency test fire casing was consistent with the State Police test fire casings, but lacked sufficient microscopic details necessary for positive identification at this point due to corrosion.

In view of the seriousness of the concerns regarding Grazier's conduct, the State Police also retained an independent laboratory to conduct additional reanalysis of a representative sampling of Grazier's forensic examinations in homicide cases during his tenure as a State Police firearms examiner. Homicide cases were chosen because of their seriousness and the likelihood that the evidence would be retained. To that end, State Police determined that Grazier issued reports in 66 homicide cases, from 20 counties in New York State. The State Police also reviewed Grazier's prior testimony in homicide cases and found it to be consistent with his notes and reports.

The State Police contacted all of the district attorneys and submitting agencies who had handled the identified homicide cases and asked them to resubmit the evidence. Evidence was obtained in 46 cases. In the remaining 20 cases, some submitting agencies reported they were unable to locate the evidence; others reported that the evidence had been destroyed; and some failed to respond after repeated inquiries. State Police retained Integrated Forensic Laboratories (IFL) of Bedford, Texas, to perform the independent reanalysis of the 46 cases. In addition, the State Police sent for reanalysis 14 cases of two other forensic firearms examiners as a representative sampling of other analyses within the firearms section. IFL initially conducted a blind reanalysis of each case: the IFL examiner reanalyzed each case without knowledge of the results of the Forensic Investigation Center's initial report. Subsequently, two other IFL examiners reviewed and compared the initial results of the Forensic Investigation Center with the result of the IFL examiner in 51 of the cases.⁵ This report ultimately concluded:

Overall, the audit revealed that no instances of misidentification or incorrect elimination were reported by [the State Police]. A significant number of cases that were reported as inconclusive by [the State Police] were matched by IFL. However, this was not necessarily due to a lack of expertise by the analyst and is likely due to the differences in the equipment used. There were several areas that could be improved upon, especially consistency in note taking and the use of controlled, pre-printed worksheets.

Specifically, IFL found nine cases in which Grazier reported the analysis as "inconclusive" when IFL was able to reach a conclusion. IFL also characterized three cases as "inconsistent": in two of these cases, Grazier reported items as lacking comparable impressions, but IFL found

⁵ The comparison included 45 Grazier cases. A 46th case was examined but not compared because the case was sealed. The comparison also looked at six cases handled by the two other firearms examiners.

impressions; in the other case, Grazier did not compare the item, but IFL did so. With regard to the inconsistent results, IFL stated in its report, “These instances are minor and do not appear to have an impact on their case results.” IFL also reported that these differences in findings may have resulted from improved equipment. IFL further noted that in six cases, Grazier did not analyze certain evidentiary items, which is not remarkable, as forensic laboratories are not required to compare every item submitted.

The IFL report concluded, “There were no observed instances of bias” in the work and that, “the methods used [by the State Police], as observed in the case notes, was appropriate, or superior to the methods in general use at the time.” IFL, however, recommended that the State Police utilize standardized worksheets to ensure that examiners consider all possible types of examinations.

Additional Corrective Action

In addition to the termination of Grazier’s contract and the retesting of his prior work discussed above, the State Police initiated corrective action. Specifically, Forensic Investigation Center supervisors reminded firearms section employees that they must record and report all of their examinations and findings in the case records. State Police also contacted submitting agencies and requested that in the future they provide two test fire casings from each weapon test fired as a quality control to assist in detecting instances where submitting agencies mistakenly provide casings from other guns.

FINDINGS AND RECOMMENDATIONS

The Inspector General’s investigation found that Grazier failed to properly report the results of his forensic examination that found a Utica Police Department test fire casing did not match either the crime scene evidence or the State Police generated test fire casings. In his draft report and case notes of his analysis, Grazier falsely reported “Inventory Only – No Examination” concerning the Utica Police Department test fire casing. Grazier’s conduct violated State Police policy requiring the results of examinations to be accurately and completely recorded. His conduct was also directly contrary to instruction given to him by his supervisor to fully and accurately report the results of his analysis.

More troubling, Grazier's admitted motivation for failing to report that the Utica Police Department's test fire casing did not match either the crime scene evidence or the State Police generated test fire casings was his concern that the finding would negatively affect the prosecution's case. As a forensic scientist, Grazier has a professional and ethical responsibility to completely and accurately report all findings regardless of their ramifications. The criminal justice system must have trust that the work of forensic laboratories is accurate, objective, and complete. Grazier's conduct violated that trust.

The Inspector General determined that the State Police identified Grazier's misconduct prior to his issuing an official report on the case in question and took prompt and appropriate action. Grazier's supervisor, who overheard Grazier discussing his intended actions, directed Grazier to follow proper procedure. When Grazier failed to do so, the supervisor immediately reported the matter to the director of the Forensic Investigation Center, and Grazier's contract was terminated by DCJS soon thereafter. The State Police retested the evidence in the case in question and issued a report properly including the negative result of the Utica Police Department test fire casing. The State Police also reported the matter in a timely manner to the Utica Police Department, the Oneida County District Attorney, DCJS, ASCLD/LAB, and the Inspector General. Grazier had not drafted any other case reports during his brief time as a consultant in the Forensic Investigation Center.

In addition, the State Police identified cases involving police agency test fire casings in which the phrase "Inventory Only – No Examination" or similar phrases were used. The State Police reanalyzed each case in which the evidence was available and found no discrepancies. The State Police also obtained evidence in 46 homicide cases handled by Grazier while employed as a State Police firearms examiner and sent the evidence to an outside laboratory, Integrated Forensic Laboratories, for reanalysis. In addition, the State Police submitted a sampling of other firearms examiners' cases to IFL for retesting, which determined there existed "no instances of misidentification or incorrect elimination."

IFL recommended that the State Police adopt a standardized worksheet to ensure that all submitted firearms pieces of evidence (i.e. firearms, casings and projectiles) are compared to every other applicable item. However, forensic laboratories are not required to compare every item submitted. In many cases, such comparison would become overly burdensome and result in

additional backlogs of work. Indeed, Grazier and other firearms examiners were contracted by DCJS to assist in addressing a backlog. Therefore, this specific recommendation by IFL may not be necessary or practical in every case. The Inspector General also recommended that the State Police review its firearms analysis worksheets and related procedures.

The State Police advised that in the past year firearms procedures were reviewed and rewritten in their entirety to improve analysis processes and workflow, and that two new worksheets were incorporated into the process. In addition, all analysts were reinstructed regarding the requisite standards for reporting all of their examinations and findings in case records.

The Inspector General also referred the findings to the New York State Attorney General's Office.