



**BRETT W. LIGON**

District Attorney  
9th Judicial District

Michael R. Holley  
First Assistant District Attorney

Christopher R. Smith, Chief Investigator  
Melisa G. Appleton, D.A. Administrator

March 4, 2020

**RE: DPS CRIME LAB TESTING FOR MARIJUANA CASES**

To Montgomery County Law Enforcement:

As you recall, last June the State passed HB 1325, which distinguished marijuana from legal hemp based on the THC content of the substance, creating the necessity for lab-testing in all marijuana prosecutions. Even though the Texas Department of Public Safety (DPS) had neither the capability nor the technology to analyze the THC content of marijuana at that time, our office maintained that it would continue to prosecute both felony and misdemeanor marijuana cases.

I received a limited amount of funding from county officials in order to continue the successful prosecution of marijuana cases, with the assurance that DPS was developing procedures and technology that would allow them to test for and quantify the amount of THC in marijuana. We have recently been notified by DPS that it expects to fully implement its THC testing methodology for plant material in approximately three months. A copy of that letter is attached.

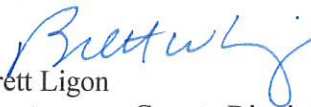
However, DPS has now stated – for the first time since passage of HB 1325 – that it will not conduct testing in misdemeanor marijuana cases. DPS claims that it does not have the capacity or the resources to accept and analyze misdemeanor marijuana cases. Additionally, they will only be analyzing and quantifying THC levels for plant material, and not for cannabis derivatives such as oils, waxes, and edibles.

In response to this news, I have started working closely with State officials, asking the State to provide DPS with the resources necessary to analyze both misdemeanor and felony cases. However, if the State refuses to provide these resources, we will all need to work together to develop an appropriate plan moving forward.

In the meantime, I have not changed my commitment to prosecute marijuana cases and will continue to do so.

Please know I will keep you advised of any developments as they occur.

Regards,

  
Brett Ligon  
Montgomery County District Attorney

Enclosure

# TEXAS DEPARTMENT OF PUBLIC SAFETY

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DALE WAINWRIGHT

February 18, 2020

Dear DPS Laboratory Clients:

As previously reported, the new THC testing methodology for plant material is expected to be finalized by Sam Houston State University (SHSU) near the end of March. Once delivered by SHSU, the DPS Crime Laboratory Service will require 60 days to conduct implementation validation studies and develop training on the method and related testimony techniques.

Once the implementation is finalized, DPS will begin testing the 845 felony plant material cases submitted with offense dates after June 10, 2019. DPS anticipates it will take approximately 75 days to complete testing on these cases, after which, DPS will begin to accept and test the felony plant material cases lab customers are currently holding. DPS lab customers should contact their local crime laboratory to schedule appointments and discuss felony testing needs.

DPS laboratories analyze more than 50,000 felony drug cases per year and we do not accept misdemeanor cases. The 86<sup>th</sup> Legislature added resources to the laboratory to help expedite the analysis of those felony cases, however, additional funding to address misdemeanor cases was not provided because the laboratory does not analyze misdemeanor drug cases. Annually, there are more than 80,000 misdemeanor marijuana arrests made in Texas. DPS will not have the capacity to accept those misdemeanor cases. Additionally, at this time, the Texas testing method is solely for plant material cases. Evaluations for use of this method or alternate methods for testing felonies associated with cannabis derivatives (oils, edibles, etc) will be ongoing in 2020.

Sincerely,

A handwritten signature in black ink that reads "Steven C. McCraw".

Steven C. McCraw  
Director