

**Texas Forensic Science Commission
Minutes from October 5, 2012 Meeting in Austin, Texas**

The Texas Forensic Science Commission met at 8:30 a.m. on Friday, October 5, 2012, at the Doubletree Hilton Austin University Area, 1617 North IH-35, Austin, Texas 78702.

Members of the Commission were present as follows:

Members Present: Kerrigan, Lerma, Eisenberg, Alpert, Di Maio, Barnard, Hutson

Members Absent: Hampton, Peerwani

Staff Present: Lynn Robitaille, FSC General Counsel
Leigh Tomlin, Commission Coordinator

Review and adopt minutes from 9/27/12 DPS – Houston Disclosure Panel Meeting and 7/27/12 FSC Quarterly Meeting.

MOTION AND VOTE: *Lerma moved to adopt all meeting minutes drafts. Eisenberg seconded the motion. The FSC unanimously adopted the motion.*

Office administrative update

Staff briefly discussed the projected budget for FY13, office purchases, network infrastructure, distribution of annual report, and an open records opinion request received.

Members discussed salary adjustment for Commission Coordinator position. Robitaille will contact SHSU Dean Vincent Webb to request fulfillment of changes recommended by the FSC.

Report from Houston DPS Investigative panel, including discussion of action items for investigation

MOTION AND VOTE: *Lerma moved to allow the Houston - DPS investigative panel to have non-deliberative meetings. Eisenberg seconded the motion. The FSC unanimously adopted the motion.*

MOTION AND VOTE: *Kerrigan moved for the following:*

- 1) *Instruct FSC General Counsel to work with staff in contacting every District Attorney on the affected counties list requesting a) final disposition on each affected case; and b) each DA's plan to address the problem; and*

- 2) *Contact the Innocence Project of Texas, Texas Criminal Defense Lawyers Association, Texas Indigent Defense Commission, and Texas District and County Attorneys Association to solicit recommendations to the panel on how each potentially affected defendant and/or defense attorney might be notified of the discrepant work found at Houston DPS.*

Lerma seconded the motion. The FSC unanimously adopted the motion.

Review and adopt Tarrant County laboratory disclosure investigation final report.

MOTION AND VOTE: *Eisenberg moved to adopt the Tarrant County Medical Examiner's Office Crime Laboratory Report with minor amendments as discussed. Barnard seconded the motion. The FSC unanimously adopted the report.*

Staff will amend and edit the report as necessary, distribute to parties named in the FSC statute (TEX. CODE CRIM. PROC. art. 38.01 §7) and FSC policies and procedures and post on the FSC's website.

Review and adopt Austin Police Department controlled substance investigation final report.

MOTION AND VOTE: *Barnard moved to adopt the Austin Police Department Crime Laboratory Report with amendments as discussed. Kerrigan seconded the motion. The FSC unanimously adopted the report.*

Staff will amend and edit the report as necessary, distribute to parties named in the FSC statute (TEX. CODE CRIM. PROC. art. 38.01 §7) and FSC policies and procedures and post on the FSC's website.

Update on status of outsourcing to IFL and feedback on distribution of El Paso Police Department final investigation report.

Members discussed El Paso Police Department Crime Laboratory outsourcing its operation completely to Integrated Forensic Laboratories, Inc., and discussed recommendations from ASCLD-LAB regarding the laboratory's transition.

Discuss and consider recommendations from Complaint Screening Committee concerning complaints and self-disclosures received since last FSC meeting.

1. Nueces County District Attorney's Office - #12-07

MOTION AND VOTE: *Lerma moved to dismiss the complaint on jurisdictional grounds, because it does not contain any allegation against a DPS-accredited crime laboratory that would fall within the jurisdiction of the FSC. Kerrigan seconded the motion. The FSC unanimously adopted the motion.*

2. Texoma Medical Center – (Sexual Assault Nurse Examiner kit) - #12-08

MOTION AND VOTE: *Lerma moved to dismiss the complaint on jurisdictional grounds, because it does not contain an allegation against a DPS-accredited crime laboratory that would fall within the jurisdiction of the FSC. Barnard seconded the motion. The FSC unanimously adopted the motion.*

*FSC staff forwarded the complaint to the Innocence Project of Texas prior to today's meeting. Members also discussed staff should forward the complaint to the nursing board that oversees sexual assault nurse examiners.

3. DPS – Houston (DNA) - #12-09

MOTION AND VOTE: *Kerrigan moved to instruct staff to gather more information for the FSC's Complaint Screening Committee, including the following:*

- 1) *Contact Sorenson and DPS to ask for specific pieces of documentation (to be described by Eisenberg); and*
- 2) *Obtain the interpretation and validation guidelines to determine whether there was any impropriety or bias involved in the interpretation.*

Hutson seconded the motion. The FSC unanimously adopted the motion.

The Complaint Screening Committee panel plans to meet again before the next quarterly meeting in January to discuss information gathered for the complaint.

4. Ector County (DNA) - #12-10

MOTION AND VOTE: *Lerma moved to dismiss the complaint because it falls outside the FSC's jurisdiction, because the DNA analysis in question occurred in 1989, prior to the FSC statute's effective date. Hutson seconded the motion. The FSC unanimously adopted the motion.*

Update on arson case review

Nick Vilbas presented an update on the arson case review being conducted by the Innocence Project of Texas. Vilbas explained there are 2 cases of 26 found that they are further evaluating, but that will unlikely go anywhere. There is 1 case where law students found outdated, old investigative techniques. In that case, the investigator determined it was arson before arriving to the scene of the crime. IPOT expects to have further update for the FSC at the FSC's quarterly meeting in January.

Chris Connealy, Texas State Fire Marshal, also provided comments related to the arson case discussion, updating members on activities organized by the Texas State Fire Marshal's office to develop the education of fire investigators throughout the state and conduct retroactive reviews of casework.

Forensic Development Committee update (including update on initiatives/action items from FSC/TCJIU June conference and roundtable session.

Kerrigan discussed action items and assignments formulated by Forensic Development Committee and staff via teleconference since the FSC's last quarterly meeting. Action items include a first step of developing a survey for responses to certification issues and identification of any laboratory partnerships with academic institutions.

The Forensic Development Committee will meet again and follow up on these items prior to the FSC's next quarterly meeting.

Legislative discussion, including budget, legislative appropriations request and upcoming legislative session.

Members discussed budget recommendations for upcoming session.

Whitehouse Subcommittee on Forensic Science meeting report.

Di Maio and Robitaille discussed their presentation given at the White House Subcommittee on Forensic Science and Texas' leadership in forensic science oversight.

Crown Defence Conference in Winnipeg, Manitoba report.

Di Maio discussed his presentation at the Crown Defence Conference.

Texas Tribune Festival forensic science panel discussion report.

Robitaille discussed staff attendance at the Texas Tribune festival and Peerwani's presentation and panel discussion on the development of forensic science.

Review of recently released 2009 Census of Publicly Funded Crime Laboratories.

Kerrigan discussed the recent census of publicly funded crime laboratories.

Discuss and consider any amendments to policies and procedures.

Consider proposed agenda items for next quarterly meeting.

Schedule and location of future meetings.

Members discussed reviewing negligence and misconduct definitions at the next quarterly meeting.

The next quarterly meeting will be held January 18, 2012.

Hear public comment.

Devon Potts, National Innocence Project

Adjourn.