

**Texas Forensic Science Commission – Complaint Screening Committee
Minutes from October 31, 2013 Meeting in Austin, Texas**

The Texas Forensic Science Commission’s Complaint Screening Committee met at 4:00 PM. on Thursday, October 31, 2013, at the Omni Austin Southpark, 4140 Governor’s Row, Austin, Texas 78744.

Members of the Commission were present as follows:

Members Present: Barnard, Alpert

Members Absent: Eisenberg

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

Discuss factual information, allegations and potential recommendations for all complaints or laboratory self-disclosures received or pending since the July 12, 2013 Commission meeting.

1. #13-04 ExperTox, Inc. (Controlled Substance – Starkey)

MOTION AND VOTE: *Alpert moved to recommend the full FSC defer the complaint until further information is obtained from DPS regarding its investigation. Barnard seconded the motion. The complaint screening committee unanimously adopted the motion.*

2. #13-06 – McAllen (DNA – Mireles)

MOTION AND VOTE: *Alpert moved to recommend the full FSC dismiss the complaint because the facts of the complaint pre-date the laboratory accreditation program, and there is no indication of problems in the DNA testing conducted by DPS sufficient to merit further Commission review. The committee further noted that the Innocence Project of Texas has expressed its willingness to work with the complainant to determine if he is entitled to any other relief under Texas law. Barnard seconded the motion. The complaint screening committee unanimously adopted the motion.*

3. #13-07 DPS – Garland (Controlled Substance – Hawkins)

MOTION AND VOTE: *Barnard moved to recommend the full FSC table the complaint and direct staff to obtain laboratory reports from DPS and testimony information related to the complaint. Alpert seconded the motion. The complaint screening committee unanimously adopted the motion.*

4. #13-08 DPS – Abilene (Controlled Substance – Hutchinson)

MOTION AND VOTE: *Alpert moved to recommend the full FSC dismiss the complaint because the complaint does not allege any negligence or misconduct occurred in the forensic analysis of the evidence in the case. Barnard seconded the motion. The complaint screening committee unanimously adopted the motion.*

5. #13-09 Christus Spohn Memorial Hospital (Pregnancy testing – Barganski)

MOTION AND VOTE: *Alpert moved to recommend the full FSC dismiss the complaint, because the FSC does not have the authority to issue a negligence or misconduct finding in the case, and the committee sees no potential forensic educational value in an investigation of a pregnancy test performed in a hospital setting. Barnard seconded the motion. The complaint screening committee unanimously adopted the motion.*

6. #13-10 SWIFS (DNA – Eldridge)

Commissioner Alpert discussed the complaint with staff, including the view that there should be no individual investigation of the particular complaint by the FSC considering the age of the complaint and the fact that a sample transcript review by the National Association of Criminal Defense Lawyers found no error in the hair examiner's testimony. However, the complaint could be included on a list of cases for consideration if the FSC moves forward with a broader discipline-specific review of hair microscopy cases. Because the particular criminal case involved a SWIFS examiner, Dr. Barnard did not participate in the discussion. No motion was taken or voted upon for this agenda item.

7. #13-11 DPS – Houston (Controlled Substance – Johnson)

MOTION AND VOTE: *Alpert moved to recommend the full FSC dismiss the complaint because there is no forensic analysis in question, but to request a copy of the laboratory report from DPS as a courtesy to the complainant. Barnard seconded the motion. The complaint screening committee unanimously adopted the motion.*

8. #09-19 Plano PD; Collin County Laboratory; Collin County District Attorney; SWIFS (Propes)

MOTION AND VOTE: *Alpert moved to recommend the full FSC dismiss the complaint because there is no specific allegation of forensic negligence or misconduct but rather general allegations of conspiracy against law enforcement. Barnard seconded the motion. The complaint screening committee unanimously adopted the motion.*

Review and edit revised complaint forms.

Members discussed recommending approval of the revised complaint forms to the full FSC. No vote was taken on this issue.

Adjourn.