

**Texas Forensic Science Commission  
Minutes from April 5, 2013 Meeting in Austin, Texas**

The Texas Forensic Science Commission met at 8:30 a.m. on Friday, April 5, 2013, at the Omni Austin Southpark, 4140 Governor's Row, Austin, Texas 78744.

Members of the Commission were present as follows:

Members Present: Hampton, Kerrigan, Alpert, Di Maio, Barnard, Lerma

Members Absent: Peerwani, Eisenberg, Hutson

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

**Review and adopt minutes from 1/25/13 FSC Meeting.**

**MOTION AND VOTE:** *Barnard moved to adopt the meeting minutes draft. Alpert seconded the motion. The FSC unanimously adopted the motion.*

**Office administrative update.**

Staff briefly discussed the FY13 budget status, office purchases, office network and infrastructure and live-streaming quarterly meetings.

**MOTION AND VOTE:** *Barnard moved to broadcast future FSC quarterly meetings live on the FSC's website. Kerrigan seconded the motion. The FSC unanimously adopted the motion.*

**Review and adopt DPS – Houston investigation report for Complaint #12-06.**

Kerrigan and Garcia led a detailed discussion and review of the DPS – Houston Complaint #12-06 investigative report.

**MOTION AND VOTE:** *Alpert moved to adopt the DPS – Houston draft report with edits and additions from members, and direct staff to publish and distribute to appropriate parties pursuant to the FSC's enabling statute and FSC policies and procedures. Barnard seconded the motion. The FSC unanimously adopted the motion.*

**Discuss and consider recommendations from Complaint Screening Committee concerning pending complaints and self-disclosures.**

1. NMS Labs (Toxicology/Autopsy) - #12-14

**MOTION AND VOTE:** *Kerrigan moved to dismiss the complaint, because it does not allege negligence or misconduct against an accredited crime laboratory, but rather asks questions regarding the toxicology analysis performed in connection with an autopsy. Kerrigan moved*

*to direct staff to write the complainant a letter recommending she contact the forensic pathologist who performed the autopsy directly, and if she does not receive an answer, the National Association of Medical Examiners, The Texas Medical Board and/or the American Academy of Forensic Sciences. Lerma seconded the motion. The FSC unanimously adopted the motion.*

2. SWIFS (Forensic Biology) - #12-15

**MOTION AND VOTE:** *Lerma moved to dismiss the complaint, because its primary allegation pertains to perjured testimony during a court hearing, an area that is within the sole purview of Texas courts, and because the quality assurance concerns raised were previously addressed by the Commission. Lerma moved to direct staff to compose a letter to the complainant explaining that further duplicative complaints, absent new material information, will be dismissed. Alpert seconded the motion. The FSC unanimously adopted the motion.\**

\*Dr. Barnard recused himself from discussion and voting on this complaint due to his leadership position at SWIFS.

3. DPS – Houston (DNA – Desormeaux) #12-09

Dr. Eisenberg is in the process of reviewing documentation received on this complaint since the last Commission meeting and will report back to the Complaint Screening Committee and the full FSC for deliberation on this complaint at the FSC's next quarterly meeting.

**Discussion of Thomas Florence (Dismissed Complaint #11-13) communication regarding lawsuit.**

The FSC briefly discussed a letter received from the above complainant indicating a lawsuit would be filed against the FSC. Staff briefly discussed contact with the Attorney General's office to notify them of the letter and verify that as of today's date, the Commission has not been served with any legal pleadings in this matter.

**Report from February 4, 2013 Senate Nominations Committee hearing for Governor's appointments.**

Alpert and Di Maio addressed FSC members about their appearance and testimony at the Senate Nominations Committee hearing. Garcia reported that all of the Governor's appointees were unanimously confirmed by the Senate Nominations Committee and the full Senate.

**Report from February 21, 2013 House Committee on Homeland Security and Public Safety Committee**

Garcia reported on her appearance on behalf of FSC members at the House Committee on Homeland Security and Public Safety Committee hearing.

## **Legislative discussion, including update on 83<sup>rd</sup> Session legislation pertaining to the Forensic Science Commission**

Garcia gave a legislative update on three FSC-related bills that were filed this legislative session, including SB 694, SB 1238 and SB 1728 and further explained how each might impact the FSC's jurisdiction. Garcia commented that she would continue to follow the legislative session closely and remain available to legislators requesting information related to the bills throughout the session.

## **Forensic Development Committee update, including joint conference with TCJIU, crime lab manager academy, TTAGs, survey results and research project with UT Arlington**

### Forensic Management Academy

**MOTION AND VOTE:** *Kerrigan moved to approve using FSC funds to deliver a three-day intensive lab manager training program to Texas public crime laboratory directors in Austin, Texas. Barnard seconded the motion. The FSC unanimously adopted the motion.*

### Texas Technical Advisory Groups

The Commission will continue to work with the Texas Association of Crime Lab Directors to organize discipline-specific advisory groups to discuss current issues in that particular field and issue observations related to same.

### Joint Roundtables with Texas Criminal Justice Integrity Unit

The FSC discussed plans to host two half-day roundtable sessions this summer in collaboration with TCJIU, one focused on certification in Texas and the other defendant notification in cases involving high-volume disciplines.

### Survey Results

Members discussed feedback from the laboratory manager survey related to certification that was distributed to managers.

### Research Project with UT Arlington

Members discussed tentative plans to work with UT Arlington in developing a business case that analyzes the costs and benefits of properly funding crime laboratories. Eisenberg will provide further update at next quarterly meeting.

### **Update on arson case review and implementation of recommendations.**

Jeff Blackburn addressed the Commission regarding the status of the arson case review. Blackburn explained the Innocence Project of Texas has selected a handful of cases that are being reviewed by a collaborative Scientific Working Group initiated by the Texas State Fire Marshal's office.

### **Update on announcement re: National Forensic Science Commission.**

Members discussed the creation of the National Forensic Science Commission.

### **Webinar series for West Virginia University Forensic Science Initiative.**

Garcia will deliver a one-hour webinar on the Forensic Science Commission's creation, its legislative mandate and current casework to be broadcast live to participants registered for the seminar through the West Virginia University Forensic Science Initiative.

### **Report from American Academy of Forensic Science's Annual Conference.**

Members and Garcia reported on their attendance and presentations at AAFS's annual conference.

### **Consider proposed agenda items for next meeting.**

Members will email suggested agenda items to staff.

### **Schedule and location of future meetings.**

The Commission will meet for its next quarterly meeting July 12, 2013 in Austin.

### **Adjourn**