

**Texas Forensic Science Commission
Minutes from April 10, 2015 Meeting in Austin, Texas**

The Texas Forensic Science Commission met at 9:00 a.m. on Friday, April 10, 2015, at the Omni Austin Southpark, 4140 Governor's Row, Austin, Texas 78744.

Members of the Commission were present as follows:

Members Present: Di Maio, Alpert, Barnard, Eisenberg, Hughes-Stamm, Kessler, Lerma, Mozayani

Members Absent: Peerwani

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

Update from Hair Microscopy Panel, including update from March 27, 2015 meeting at DPS headquarters in Austin.

Members deliberated regarding the criteria for reviewing transcripts including whether and how to consider the context of an examiner's statements in testimony. Members of the Hair Microscopy Review Team attended and answered questions. Commissioners provided input to the team regarding the notification decisions on select transcripts.

Review and adopt minutes from January 23, 2015 quarterly meeting and January 23, 2015 complaint screening committee meeting.

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

Office administrative update (FY2015 budget update; DIR overcharges and reimbursement; hiring administrative staff).

Staff gave a brief overview and discussion of the items listed above.

Discuss and consider recommendations from complaint screening committee concerning pending complaints and laboratory self-disclosures.

1. #14-22 – Bowman NMS (Toxicology)

MOTION AND VOTE: *Lerma moved to dismiss the complaint, because FSC members did not believe the complaint stated any ground for an investigation of negligence or misconduct by the laboratory. Mozayani seconded the motion. The FSC adopted the motion.*

*Di Maio abstained from discussion and voting on this complaint.

2. #15-02 – DPS Breath Alcohol Testing Program

MOTION AND VOTE: *Kessler moved to notify the laboratory that no further action is necessary at this time. Alpert seconded the motion. The FSC unanimously adopted the motion.*

3. #15-01 Dean – Orchid Cellmark Laboratories (DNA Testing)

MOTION AND VOTE: *Hughes-Stamm moved to dismiss the complaint because it fails to allege negligence or misconduct in forensic analysis, and the Commission has no jurisdiction or authority to determine which items are eligible for post-conviction DNA testing. Eisenberg seconded the motion. The FSC adopted the motion.*

Staff will send a disposition letter to complainant indicating no further correspondence will be considered without material new information.

*Barnard abstained from discussion and voting on this complaint.

Update on arson case review and implementation of recommendations.

Nick Vilbas, Executive Director of the Innocence Project of Texas, gave a brief update on the status of the arson case review.

Informational presentation on Texas Breath Alcohol Testing Program.

Mack Cowan, Director of the DPS Texas Breath Alcohol Testing Program, gave a presentation and demonstration on the program and how it is administered in Texas.

Collin County Fire & Arson Investigation Association – Fire Death Investigations/Post Blast: “Positive Identification of Burned Remains: Resources for Investigators” – update on proposal reviewed and funding of same.

Staff reported funding \$10,000 for the CCF&AIA fire death conference from the FSC’s forensic development and training funds.

Update from DPS – El Paso Disclosure #14-21 (Controlled Substance), including follow-up documents requested by Commissioners at the last quarterly meeting.

Members briefly discussed follow-up communications between DPS and ASCLD/LAB, copies of which were provided by DPS as requested.

Update from Hair Microscopy Panel, including update from March 27, 2015 meeting at DPS headquarters in Austin.

Members revisited this agenda item to add Sandy Parent as a member of the Hair Microscopy Review Team, replacing Phil Aviles who stepped down due to scheduling conflicts.

MOTION AND VOTE: *Eisenberg moved to add Sandy Parent to the hair review team. Kessler seconded the motion. The FSC unanimously adopted the motion.*

Update on Texas Department of Public Safety (“DPS”) Houston regional crime laboratory self-disclosure #12-06, including latest re-testing results from DPS.

Garcia provided a brief case update. No non-conformances have been found in re-testing since the Commission’s last quarterly meeting.

Update on objection letter received from Houston Forensic Science Center (Toxicology) #14-13 and discussion of policy regarding disclosure of information to accrediting and investigative bodies.

MOTION AND VOTE: Barnard moved that no further action or response to the laboratory is necessary at this time. Kessler seconded the motion. The FSC unanimously adopted the motion.

Update from Blazek (SWIFS – Firearms/Tool Marks) #14-08 investigative panel.

The Commission is awaiting a written report on this complaint from expert John Murdock and there was no action taken on the complaint.

Update from IFL (Firearms/Tool Marks) #14-07 investigative panel, including discussion of adding Commissioner Alpert to investigative panel.

The Commission is awaiting a written report on this complaint from expert John Murdock and there was no action taken on the complaint.

Update from Bell County (Digital Video Evidence) #14-1 investigative panel, including discussion of adding Commissioner Alpert to investigative panel.

Barnard provided a brief update on the complaint. The Commission is awaiting analysis and findings on this complaint from expert Grant Fredericks of Forensic Video Solutions.

MOTION AND VOTE: *Kessler moved to add Alpert to the Bell County (Digital Video Evidence) #14-1 investigative panel. Barnard seconded the motion. The FSC unanimously adopted the motion.*

Update from forensic development committee.

Commission members discussed the following items:

- a. Status of Blackboard-based forensic training program in collaboration with New York Office of Forensic Services;
- b. Status of scenario-based ethics training program;
- c. Development of Michael Morton/*Brady* training project with TCJIU;
- d. Status of root cause analysis training as addition to online course offering;
- e. Update on Foresight support; and
- f. Update on Hair/Fiber training by Skip Palenik.

Discussion of certification/licensure initiative and legislative developments regarding same.

Garcia gave a brief status update on SB-1287, relating to the certification/licensure of forensic examiners in Texas.

Discussion of other potential legislative issues including HB-3312 (blood alcohol exemption for defense) and SB-3079 (adding forensic writs to Office of Capital Writs).

Garcia gave a brief status update on the above pending legislation.

Release of guidance for judges and lawyers on forensic discovery issues in collaboration with Judge Hervey.

Alpert reported the Commission's forensic discovery packet was distributed to judges and lawyers for discovery reference in DUI cases.

Report from National Commission on Forensic Science January meeting in Washington, D.C.

Di Maio gave a brief update on the status of items pending before the National Commission on Forensic Science.

Report from meeting of Scientific Area Committees.

Garcia provided a brief update on the Scientific Area Committee on which she serves.

Consider proposed agenda items for next quarterly meeting.

Schedule and location of future meetings.

The Commission will meet again either July 17 or August 14 at the Omni Austin Southpark depending on availability.

Hear public comment.

Sarah Chu briefly addressed the Commission.

Adjourn.