

**Texas Forensic Science Commission – Complaint Screening Committee
Minutes from October 4, 2018 Meeting in Austin, Texas**

The Texas Forensic Science Commission met at 3:00 p.m. on Thursday, October 4, 2018 at the Stephen F. Austin Building, 1700 North Congress Avenue, Suite 172, Austin, Texas 78701.

Members of the Committee were present as follows:

Members Present: Daniel, Drake, Johnson

- 1. Discuss and consider pending complaints and laboratory self-disclosures as well as new complaints and self-disclosures received through September 21, 2018.**

Disclosure Received as of September 21, 2018

1. No. 19.02; DPS – Garland (Seized Drugs)

A self-disclosure by DPS – Garland reporting an incident in its seized drugs section where the laboratory discovered drug evidence was lost after having outsourced the evidence to NMS for analysis.

MOTION AND VOTE: *Daniel moved to table any recommendation on the complaint for discussion by the full Commission. Drake seconded the motion. The Committee unanimously adopted the motion.*

Johnson recused himself from discussion and vote on this disclosure.

Complaints Pending from July 20, 2018 Quarterly Meeting

2. No. 18.21; Culbertson, Amanda (DPS – El Paso; Blood Alcohol)

A complaint by Amanda Culbertson, a former lab supervisor now a private toxicology consultant, alleging an employee at DPS – El Paso took data from a February 7, 2014 blood alcohol analysis batch run that was compromised and slated for re-analysis, and used those results for the supposed re-run on March 12, 2014.

Culbertson gave a presentation to Committee members, describing details of the incident and offering possible explanations. Culbertson believes the analyst acted intentionally.

MOTION AND VOTE: *Daniel moved to table any recommendation on the complaint for discussion by the full Commission. Drake seconded the motion. The Committee unanimously adopted the motion.*

Johnson recused himself from discussion and vote on this disclosure.

3. No. 18.25; Keller, Chance D. (DPS – Waco; Firearms/Toolmarks)

A complaint by Rob Keller for defendant Chance D. Keller, alleging incomplete DNA mixture and blood analyses by a DPS Waco analyst who retired without reporting all results obtained in the case, inadequacies in DPS Austin and DPS Waco laboratories for their inability to perform requested testing (DNA on bullet casings and testing to determine whether bullet casings were from a particular weapon) and failure to send items to other qualified laboratories or individuals to perform testing not done in DPS laboratories.

No action was taken on the complaint as Committee members discussed the full Commission should consult with Commissioner Budowle on the DNA issues in the complaint and Bob Wicoff, the point person for the DNA Mixture Review on the case's status.

Johnson recused himself from discussion of this complaint.

Complaints Received as of September 21, 2018

4. No. 18.32; Sharper; Calvin V. (SWIFS, Firearms/Toolmarks; GSR)

A complaint by Calvin Sharper requesting the Commission conduct a reconstruction of the video of a bank robbery that led to Sharper's convictions for aggravated robbery and aggravated assault on a peace officer and also alleging fingernail scrapings taken by police were never sent to SWIFS for testing/analysis.

MOTION AND VOTE: *Drake moved to recommend the full Commission dismiss the complaint for failure to state an allegation of negligence and/or misconduct with regard the forensic analyses in the case. Johnson seconded the motion. The Committee unanimously adopted the motion.*

5. No. 18.33; Miller, Jeremy BJ (Fort Worth PD; Firearms/Toolmarks)

A complaint by defendant Jeremy Miller alleging a Fort Worth Police Department Firearms/Toolmarks expert committed misconduct in her testimony with regard to a .38 caliber class including a 9-millimeter, testimony that led to his November 2010 conviction for murder.

MOTION AND VOTE: *Drake moved to recommend the full Commission dismiss the complaint given the technical explanation provided by the laboratory. Daniel seconded the motion. The Committee unanimously adopted the motion.*

6. No. 19.01; Whitfield, Jeffery A. (DPS – Waco; AP Test)

A complaint by defendant Jeffery A. Whitfield alleging a DPS – Waco analyst made speculative/presumptive conclusions in her testimony about AP testing at Whitfield's trial that led to his conviction for aggravated sexual assault and that she could have provided further information or done further testing.

MOTION AND VOTE: *Drake moved to recommend the full Commission dismiss the complaint because the analyst followed standard operating procedures with respect to screening items that*

may need to be forwarded for DNA testing and the Commission has no authority to order additional testing. Daniel seconded the motion. The Committee unanimously adopted the motion.

Johnson recused himself from discussion and vote on this complaint.

7. No. 19.03; Tyler Flood & Associates (DPS – Houston; Blood Alcohol)

A complaint by Tyler Flood & Associates reporting drug evidence mis-delivered by DPS to Mr. Flood's law office.

MOTION AND VOTE: *Daniel moved to table any recommendation on the complaint for discussion by the full Commission. Drake seconded the motion. The Committee unanimously adopted the motion.*

Johnson recused himself from discussion and vote on this complaint.

2. Hear public comment.

There was no public comment other than that noted throughout the agenda.

3. Adjourn.