

**Texas Forensic Science Commission
Minutes from July 27, 2012 Meeting in Austin, Texas**

The Texas Forensic Science Commission met at 8:00 a.m. on Friday, July 27, 2012, at the Omni Austin Southpark, 4140 Governor's Row, Austin, Texas 78744. 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

Introduction of Dr. Brent Hutson, new Commissioner appointed by Lieutenant Governor Dewhurst. Appointment of Dr. Hutson to panels/committees as necessary.

MOTION AND VOTE: *Lerma moved to appoint Dr. Hutson to the Legislative Development Committee and the Tarrant County Laboratory Disclosure's investigative panel. Alpert seconded the motion. The FSC unanimously adopted the motion.*

Review and adopt minutes from 5/15/12 APD Panel Meeting, 6/4/12 Tarrant County Laboratory Disclosure Panel Meeting, 6/6/12 Roundtable Meeting, and 4/13/12 FSC Quarterly Meeting

MOTION AND VOTE: *Alpert 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, updated commission members on the distribution of the FSC's 2011 Annual Report, and provided information on various office-related administrative items.

Discuss updated information, facts and recommendations in Austin Police Department controlled substance investigation

Alpert and Robitaille led a discussion on action items related to the APD investigation since the FSC's last meeting, 4/13/12, including retesting results provided by NMS Laboratories and a two-day site visit at APD's controlled substance section along with ASCLD-LAB's Patti Williams. Patti Williams explained that although she found documentation concerns, she found no technical concerns with the laboratory's work product.

Members engaged in a lengthy discussion regarding the statutory and policy definitions of “professional negligence” and “professional misconduct”, including the relevant factual scenarios described in the complaints.

MOTION AND VOTE: *Eisenberg moved to accept the APD investigative panel's recommendation to find no professional negligence or misconduct in the APD – Controlled Substance investigation. Kerrigan seconded the motion. The FSC adopted the motion with Hutson abstaining.*

Members directed Counsel to draft a final report in the APD – Controlled Substance matter to be presented at the FSC’s quarterly meeting in October.

Review and adopt El Paso Police Department Crime Laboratory investigation final report

MOTION AND VOTE: *Eisenberg moved to adopt the final report with edits as discussed in the El Paso Police Department Crime Laboratory investigation and direct staff to distribute the report to appropriate parties. Kerrigan seconded the motion. The FSC adopted the motion with Hutson abstaining.*

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

1. DPS – Houston Laboratory Disclosure #12-06

MOTION AND VOTE: *Alpert moved to accept the disclosure for investigation. Di Maio seconded the motion. The FSC adopted the motion with Hutson abstaining.*

MOTION AND VOTE: *Barnard moved to appoint Kerrigan, Peerwani and Lerma as members of the DPS – Houston Laboratory Disclosure investigative panel. Eisenberg seconded the motion. The FSC adopted the motion with Huston abstaining.*

2. DPS – Houston Wilson #12-04

MOTION AND VOTE: *Kerrigan moved to dismiss the complaint, because it falls outside the jurisdiction of the FSC because the forensic analysis in the case occurred before the effective date of the FSC’s enabling statute. Alpert seconded the motion. The FSC adopted the motion with Huston abstaining.*

3. HCME Autopsy Johnson inquiry – Members discussed no action was necessary in this matter. Staff sent a complaint form to the individual and is awaiting reply.
4. Wille Inquiry/Letter – Members discussed no action was necessary in this matter. Staff sent a complaint form to the individual and is awaiting reply.

5. Suarez Inquiry (BCME – Autopsy) – Members discussed no action was necessary in this matter. Staff sent a complaint form to the individual and is awaiting reply.

MOTION AND VOTE: *Alpert moved to give FSC's general counsel authority to handle letter inquiries and report to full FSC on any correspondence. Lerma seconded the motion. The FSC adopted the motion with Huston abstaining.*

Discuss updated information, facts and recommendations in Tarrant County Laboratory disclosure investigation

Members reviewed findings and recommendations from the investigation panel. Members engaged in a lengthy discussion regarding the statutory and policy definitions of “professional negligence” and “professional misconduct”, including the relevant factual scenarios described in the disclosure.

MOTION AND VOTE: *Barnard moved to find professional misconduct in the Tarrant County Laboratory disclosure investigation. Eisenberg seconded the motion. The FSC adopted the motion with Huston abstaining.*

Members directed Counsel, point-by-point, to draft a final investigative report in the matter.

Update on arson case review

Jeff Blackburn provided an update on the arson case review being conducted by the Innocence Project of Texas. IPOT has isolated 24-26 cases thus far that merit further review.

Chris Connealy, Texas State Fire Marshal, addressed the Commission regarding his plan to implement all recommendations from the Willis/Wilingham investigative report.

Update from FSC/TCJIU June conference and roundtable session and deliberation regarding action items

MOTION AND VOTE: *Kerrigan moved to instruct staff to work with the Forensic Development Committee in drafting and finalizing 1) June 6, 2012 Roundtable Discussion Final Report and 2) List of prioritized action items from the Roundtable Discussions for distribution to relevant stakeholders and groups involved. Alpert seconded the motion. The FSC unanimously adopted the motion.*

Discuss any remaining issues related to certification, methods of analysis, regional crime labs, and pseudo-science

Di Maio addressed the Commission on certification, methods of analysis, regional crime labs and pseudo-science issues continued from the FSC's last quarterly meeting, 4/13/12. Members engaged in a general discussion regarding these issues.

Legislative discussion, including budget and legislative appropriations request

Members and staff discussed development of FY14-15 legislative appropriations request and the university LAR process.

Discuss and consider any amendments to policies and procedures

Members plan to discuss negligence and misconduct definitions outlined in the current policies and procedures at the next quarterly meeting.

Consider proposed agenda items for next quarterly meeting

Schedule and location of future meetings

The next quarterly meeting is scheduled for October 5, 2012.

Hear public comment

Sarah Chu – national Innocence Project