

director indicated no notification was sent to prosecutors about the incident because the issue was related to a proficiency test and not actual casework. Garcia and Commissioners discussed whether prosecutors should be notified when an analyst fails a proficiency test.

Several members of the public offered comments and discussion related to the notification issue, including Jack Roady, Galveston County District Attorney; Brady Mills, DPS Deputy Assistant Director; Tim Fallon, Bexar County Crime Laboratory Director; Inger Chandler, Harris County Conviction Integrity Unit Chief; Dawn Boswell, Tarrant County Conviction Integrity Unit Chief; and Dr. Norma Farley, Anatomic, Clinical and Forensic Pathologist in McAllen, Texas.

Some discussion participants expressed concern about the potential chilling effect disclosure of failed proficiency test results would have on an otherwise productive learning opportunity. After thorough discussion of the issue, Commissioners and prosecutors in attendance agreed notification is absolutely necessary, due to *Brady* and other obligations, even where an analyst makes a mistake or fails a proficiency test, assuming the failed proficiency test is not related to problems with the test itself.

MOTION AND VOTE: *Alpert moved to issue a letter to the laboratory advising the lab should notify the prosecutor when an analyst fails a proficiency test and explaining no further action related to the disclosure is necessary at this time in light of the root cause analysis and corrective action taken by the lab. Mozayani seconded the motion. The FSC unanimously adopted the motion.*

Complaints Received as of February 1, 2016

#1116.15.14 Wilson (DPS—Houston, DNA)

Inmate Jackie Wilson filed this complaint, alleging a DPS (Houston) analyst issued a false and misleading report and gave false and misleading testimony regarding the DNA analyses performed in his case.

MOTION AND VOTE: *Alpert moved to refer the complaint to the DNA Mixture Triage Team because the allegations are related to DNA mixture interpretation. Mozayani seconded the motion. The FSC unanimously adopted the motion.*

#1117.15.15 Elam (Harris County District Attorney's Office, DNA)

Inmate Darius Elam, who was granted post-conviction DNA testing on fingernail clippings from the victim in his case, filed this complaint. The results excluded him as a contributor and identified another profile. The profile was run against CODIS but no hit was identified. Elam alleges the Harris County District Attorney has denied him relief by claiming they cannot eliminate the victim's DNA as the source of the profile. He further alleges the District Attorney's office falsified a latent print connecting him to the crime scene.

MOTION AND VOTE: *Kessler moved to refer the complaint to the DNA Mixture Triage Team because the allegations are related to DNA mixture interpretation. Alpert seconded the motion. The FSC unanimously adopted the motion.*