

**Texas Forensic Science Commission
Minutes from August 15, 2008 Meeting in Houston, Texas**

Members Present: Kerrigan, Watts, Bassett, Eisenberg, Natarajan, Adams, Levy, Hampton, Hamilton

Members Absent: None

(Additional attendees included: Barbara Deane, Assistant Attorney General; Leigh Tomlin, TFSC Coordinator; Christie Davidson, SHSU staff; Edwin Colfax, The Justice Project; Gabriel Oberfield, The Innocence Project; Pat Johnson, DPS; and Harold L. Hurtt, Irma Rios, and Lori Bates Wilson, all from the Houston Police Department. Alan Turner, from the Houston Chronicle, and Pablo Asado, from the Associated Press, were also present.)

Sam Bassett proceeded with opening comments, discussing the functions of the Texas Criminal Justice Integrity Unit, a unit with specific recommendations on improving the Texas criminal justice system. Bassett discussed one member of the Texas Criminal Justice Unit's proposal to create mobile crime lab inspection units that can travel around the state and conduct inspections of crime labs. The scope of the mobile inspection units may fall under the Texas Forensic Science Commission's duties. Bassett mentioned that forensic science errors are a small component of wrongful convictions, but the field of forensic science is rapidly expanding.

The minutes from the June 2008 meeting were approved by Motion from Eisenberg. The Motion was seconded by Kerrigan.

Tomlin continued with an update on the physical office for the TFSC. A website status/hit report was provided, showing the number of website hits over a month's time period and from which agencies the website hits came. The report will be used to monitor activity on the TFSC's website. Tomlin also announced that the info@fsc.state.tx.us email address is now working. Additionally, a spec/quote for the TFSC server purchase was presented. A motion to purchase the server for the Commission was presented by Watts, seconded by Levy, and approved by the Commission. The Computer Services department at Sam Houston State University will provide the maintenance and service to the server and the TFSC website.

Several of the Commission members presented the idea of providing a "Commission Members Only" online portal on the Commission's website, in which commission members can access and download important meeting information. Tomlin reported on her discussion of the idea with a representative Sam Houston State University. It was decided by the Commission that they would allow Computer Services to provide the online portal from which they will access documents. Tomlin is to work with the Computer Services department to set up the online portal.

Tomlin briefly reported on the Commission's letterhead, envelopes, and business cards ordered. Each commission member was provided with one copy of each.

A generic "stakeholder letter", approved by the commission members at the last meeting, was sent to all DPS accredited labs and agencies. A list of the agencies the letter was sent to was provided to each commission member. Tomlin reported on several of the responses received from stakeholders.

Tomlin reported on contacting several publications regarding a press release on the Commission's status. The content of a proposed announcement created by Tomlin was approved by Motion from Eisenberg and seconded by Kerrigan. It was decided that the Commission would proceed on any free public announcement offers and attempt to avoid any publications asking for a paid advertisement. It was also decided that the announcement would be published no more than twice a year and would be no more than ½ page in size. The commission members gave Chair, Sam Bassett, authority to approve/disapprove any publication costs until the next meeting. Levy is to get in contact with the Texas Bar Journal regarding a public announcement for the Commission. Tomlin is to follow up on contacting the different publications with the approved announcement.

Three generic investigation denial letters, including a "no funds", a "no merit" and a "no jurisdiction" letter, were reviewed by commission members. After making a few minor changes, a Motion was presented by Eisenberg to approve the "no funds" letter. The Motion was seconded by Levy and approved by the Commission. A Motion to approve the "no merit" letter was presented by Kerrigan, seconded by Adams and approved by the Commission. A Motion to approve the "no jurisdiction" letter was presented by Eisenberg, seconded by Alan Levy and approved by the Commission. The letters will be used in response to complaints on which the commission will not continue a further investigation.

The Commission members took a short break from 10:45 a.m. until approximately 10:55 a.m. After convening, the Commission's budget was discussed. It was explained that the TFSC budget request for the 2010-2011 session was submitted under Sam Houston State University's larger budget request, as a "special item" legislative appropriations request ("LAR"). The Commission's priority on the Sam Houston State University's budget was briefly discussed. It was also discussed whether or not the TFSC funds could be a separate LAR, separated from Sam Houston State University's larger budget. It was decided that the budget would be discussed in further detail at the October meeting and a more detailed accounting of expenditures would be provided by Sam Houston State University's representatives.

The discussion continued on legislative budgeting. It was agreed that Bassett would contact the legislative budgeting board to develop a collaborative strategic plan for the Commission's budget.

The process of the Texas Forensic Science Commission's interaction with DPS was discussed. Pat Johnson, from DPS, spoke about sharing information with the Commission. Johnson indicated that DPS would be glad to share any information on cases or complaints that were relevant to the Commission. Johnson also stated that DPS was willing to assist in any investigations, but only if DPS had the statutory authority to investigate. It was agreed that DPS will forward any complaints received regarding forensic negligence or misconduct to the Texas Forensic Science Commission. It was also discussed that the Texas Forensic Science Commission may have the statutory obligation itself to require labs to report to the Commission.

Comments regarding the Public Information Act and Open Meetings Act were presented by the Attorney General's office representative, Barbara Deane. A discussion regarding the consequences of the Public Information Act and sharing information with DPS continued from the last meeting. Bassett is to meet with Amanda Crawford at the AG's office before the next meeting and will report further on this item.

Regarding information disclosure, Deane suggested that the Commission review each request individually, identify any exceptions, and use them as applicable. It was agreed that each case will be different in that they will not all share the same major exceptions. The major concerns for information disclosure included witness statements, cases photos, etc. Deane reiterated that all major exceptions must be claimed within 10 days of receiving an information request.

Chief Harold Hurtt began the public comment period, discussing the advancements in the crime labs and other areas at the Houston Police Department. Hurtt indicated improvements in quality control and forensic science services and reported on the Department's meeting with UK law enforcement. It was also discussed that forensic science will become more prevalent in non-violent crime investigations in the near future. Levy commented on the storage problems at the Houston Police Department. Hurtt stated that the Department is building a new property room and public safety complex to assist with these problems. Hurtt also indicated that the state needs more regional crime labs to support the case load.

Ms. Irma Rios, from the HPD Crime Lab Operations, also commented. Rios indicated that the crime lab is more automated and sustains a higher level of quality control. The focus will be on how to eliminate backlog and decrease turn-around time. The Department expects that in 5-10 years they will be at their desired level.

After breaking for lunch, the Commission's meeting convened with a discussion on the hiring of experts for independent reviews of the cases, along with a review of the complaint forms received. Natarajan presented a brief overview of the Willis/Willingham case. Natarajan's proposal was that the case be submitted to an independent arson review specialist. The main question for the arson review specialist will be to determine whether or not the testimony of the expert was negligent or whether it was actually valid at the time of testimony. Natarajan presented the names of three experts to the Commission, of which one expert stood out to be the most qualified of the

three. It was decided that the agency the complaint pertains to is the Texas Fire Marshal's Office, and they should be notified of the complaint. Hamilton presented a Motion to proceed with an investigation of the Willis/Willingham matter. The Motion was seconded by Hampton and approved by the Commission.

A discussion continued regarding what information the Commission should provide to experts. It was decided that the Commission would disclose all non-confidential case information and documents to experts, including original data and more recent reports.

Davidson, Kerrigan, and Tomlin agreed to meet with the SHSU purchasing department regarding the university's process of hiring an independent expert. They will report on the university's hiring process at the next meeting.

Eisenberg continued with a discussion and overview of the Brandon Moon case. Eisenberg stated that it was his recommendation that the Commission hire a serology expert to independently examine the case. Tomlin is to disperse the resumes of the recommended experts once received from Eisenberg. An independent expert for the Moon case will be selected at the next meeting. Eisenberg indicated that there should not be a substantial amount of time involved in reviewing the Moon case. A Motion was presented by Adams to proceed with an investigation of the Moon complaint. The Motion was seconded by Hamilton and approved by the Commission. It was decided that the agencies the complaint pertains to will be sent information regarding the investigation, but not to any individual the complaint may be against. It was decided that all non-confidential information on the Moon case would be disclosed to DPS.

Bassett presented a Motion to delegate Eisenberg and Hamilton to help in developing a Request for Proposal in hiring an independent expert, if required by the University. The Motion was seconded by Watts and approved by the Commission.

Tomlin is to send a letter and a complaint form to all those complaints who have not yet received the form.

The next meeting for the Commission is to be held in Dallas on October 10, 2008, beginning at 9:30 a.m.

The meeting following the October meeting shall take place on December 12, 2008 in San Antonio.