

**Texas Forensic Science Commission
Minutes from April 4, 2014 Meeting in Austin, Texas**

The Texas Forensic Science Commission met at 9:00 a.m. on Friday, April 4, 2014, at the Omni Austin Southpark, 4140 Governor's Row, Austin, Texas 78744.

Members of the Commission were present as follows:

Members Present: Alpert, Peerwani, Di Maio, Barnard, Eisenberg, Kessler, Mozayani

Members Absent: Lerma, Kerrigan

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

Review and adopt minutes from 1/10/14 and 11/22/13 meetings.

MOTION AND VOTE: *Alpert moved to adopt the meeting minutes drafts. Eisenberg seconded the motion. The FSC unanimously adopted the motion.*

Dr. Di Maio introduced new Commission members Dr. Ashraf Mozayani and Dr. Harvey Kessler.

Office administrative update.

Staff discussed FY2014 budget items, information technology improvements, new website, new complaint forms and distribution in TDCJ's prisoner handbook, and a possible summer intern.

Staff and members discussed creating versions of FSC's complaint forms and the FSC's website in Spanish. Staff will look into translation options for the complaint forms and the website.

MOTION AND VOTE: *Barnard moved to approve hiring an intern for Summer 2014 to assist with database management of the FSC's hair microscopy case review and related issues. The intern will be paid a stipend equivalent to that paid to SHSU students. Peerwani seconded the motion. The FSC unanimously adopted the motion.*

Discuss and consider recommendations from Complaint Screening Committee concerning pending complaints and self-disclosures.

1. #13-07 DPS – Garland (Controlled Substance – Hawkins)

MOTION AND VOTE: *Peerwani moved to dismiss the complaint, because after review of the case file, there is no viable allegation of negligence or misconduct in the complainant's submission. Barnard seconded the motion. The FSC unanimously adopted the motion.*

2. #13-08 DPS – Abilene (Controlled Substance – Hutchinson)

MOTION AND VOTE: *Alpert moved to dismiss the complaint, because complainant's allegations about improper weighing of the controlled substance by the laboratory are contradicted by the documents, and allegations of police misconduct in the initial weighing of the substance are beyond the scope of the Commission's jurisdiction. Eisenberg seconded the motion. The FSC unanimously adopted the motion.*

3. #14-01 – Bell County DA's Office, Knox and Associates – (Digital Video – Powell)

MOTION AND VOTE: *Eisenberg moved to direct staff to obtain the trial transcript, contact the Bell County District Attorney, contact the complainant with a status update, and possibly reach out to digital evidence experts regarding an independent assessment of the evidence in the case. Peerwani seconded the motion. The FSC unanimously adopted the motion.*

4. #14-02 Bexar County Forensic Center – (DNA – Fuller)

MOTION AND VOTE: *Alpert moved to recommend the full FSC dismiss the complaint and direct staff to contact the Innocence Project about assisting the complainant in obtaining any DNA records that may be available in his case. Mozayani seconded the motion. The FSC unanimously adopted the motion.*

*Dr. Di Maio recused himself from discussion and vote on this complaint.

5. #14-03 Baylor College of Medicine – (DNA – Padiou)

MOTION AND VOTE: *Barnard moved to dismiss the complaint, because the laboratory is not an DPS-accredited laboratory and commission members see no potential educational benefit in pursuing the complaint further. Eisenberg seconded the motion. Alpert, Di Maio, Barnard, Eisenberg, Kessler, Mozayani voted in favor of the motion. Peerwani voted against the motion.*

6. #14-04 Civil – General Allegations (Medical Report – Levee)

MOTION AND VOTE: *Eisenberg moved to dismiss the complaint, because it is related to a civil case that falls outside the Commission's jurisdiction. Barnard seconded the motion. The FSC unanimously adopted the motion.*

7. #14-05 Bexar County Crime Lab – (DNA – Sutton)

MOTION AND VOTE: *Alpert moved to dismiss the complaint, because the analysis occurred before the effective date of the DPS accreditation program, the Commission is unable to obtain the results of DNA analysis on behalf of complaints, and members see no potential educational benefit in pursuing the complaint further. Peerwani seconded the motion. The FSC unanimously adopted the motion.*

*Dr. Di Maio recused himself from discussion and vote on this complaint.

Members took a brief break from 10:26 – 10:44 a.m.

Update on Attorney General Opinion Request submitted by District Attorney Rod Ponton and status of responses.

An Attorney General Opinion related to the request has not yet been issued.

Update from Houston Police Department (“HPD”) Crime Lab Director Irma Rios on transition to Houston Forensic Science LGC and recent Bromwich report.

Irma Rios gave a presentation for this agenda item. The presentation covered the transition from HPD to an independent laboratory. The presentation also covered the laboratory’s experience with a major sexual assault kit backlog reduction initiative, as well as recent findings by Michael Bromwich as a follow-up to his initial investigative report issued in June 2007. Members of the Commission and the public asked questions.

Update on arson case review and implementation of recommendations.

The Innocence Project of Texas’ Jeff Blackburn and Nick Vilbas addressed the FSC with a brief update on the review.

Members broke for lunch at 11:39 and reconvened at 12:15 p.m.

Report from AAFS February 2014 annual meeting attendance and presentations.

Dr. Di Maio, Lynn Garcia, and the Honorable Judge Barbara Hervey updated Commission members on their participation and feedback from presentations at the AAFS conference.

Report from February 3-4 National Commission on Forensic Science meeting.

Dr. Di Maio and Lynn Garcia reported on their attendance at the meeting.

Report from February 28, 2014 Actual Innocence seminar at the Center for American and International Law in Plano, Texas.

Lynn Garcia reported on her presentation at the seminar.

Texas Department of Public Safety – El Paso #11-11 language clarification addendum request from TACLD.

MOTION AND VOTE: *Mozayani moved to table the issue and direct general counsel to work with TACLD and the DPS in publishing an addendum clarifying the “ion trap” language in the final report. Barnard seconded the motion. The FSC unanimously adopted the motion.*

Update from FSC’s Hair Microscopy Panel, including introduction of technical review team co-chairs, and recommended action items from March 7, 2014 meeting in Houston.

FSC’s general counsel, Lynn Garcia, provided an introduction of technical review team members and an overview of action items from the panel’s March 7, 2014 meeting at DPS – Houston’s crime laboratory. Garcia reviewed a detailed hair microscopy review process flowchart with members.

MOTION AND VOTE: *Barnard moved to accept the proposed flowchart for the hair microscopy review. Peerwani seconded the motion. The FSC unanimously adopted the motion.*

MOTION AND VOTE: *Barnard moved to accept the proposed hair microscopy review technical review team and selected chairs. Alpert seconded the motion. The FSC unanimously adopted the motion.*

Texas Department of Public Safety – Houston Self-Disclosure #12-06, including latest retesting results and release of Texas Court of Criminal Appeals opinion in *Ex Parte Coty*.

Lynn Garcia reported on an additional corrective action discovered in the Salvador case retesting and review. Garcia also reported on the recent *Coty* decision and discussed its legal significance.

Forensic Development Committee update

Staff reported on the West Virginia University Leadership Academy trainings, web-based training for laboratory managers, developing a cognitive bias lecture for laboratory employees, approving funds for ASCLD-LAB assessor training, Foresight plans with the Texas Association of Crime Lab Directors.

MOTION AND VOTE: *Peerwani moved to approve the allocation of \$10K in Commission funds for ASCLD-LAB assessor training for TACLD members. Mozayani seconded the motion. The FSC unanimously adopted the motion.*

MOTION AND VOTE: *Peerwani moved to approve the allocation of \$35K in Commission funds from its FY14 budget for one SHSU employee to begin the web-based certification training project. Mozayani seconded the motion. The FSC unanimously adopted the motion.*

Members discussed and approved hiring Ron Singer to develop a cognitive bias lecture for Texas crime lab employees.

Consider proposed agenda items for next quarterly meeting.

Members will send any requested agenda items to Commission staff.

Schedule and location of future meetings.

MOTION AND VOTE: *Peerwani moved to hold the FSC's next quarterly meeting in Fort Worth, Texas. Alpert seconded the motion. The FSC unanimously adopted the motion.*

The Commission will meet for its next quarterly meeting August 1, 2014 in Fort Worth, Texas.

Hear public comment.

None.

Adjourn.