

**Texas Forensic Science Commission
Minutes from October 28, 2011 Meeting in Austin, Texas**

The Texas Forensic Science Commission met at 9:30 a.m. on Friday, October 28, 2011, at the Omni Austin Southpark, 4140 Governor's Row, Austin, Texas 78744. Members of the Commission were present as follows:

Members Present: Kerrigan, Adams, Evans, Peerwani, Eisenberg, Hamilton

Members Absent: Hampton

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

Review and adopt minutes from 9/8/2011 and 9/9/2011 meetings

MOTION AND VOTE: *Eisenberg moved to adopt the draft of the 9/8/2011 Complaint Screening Committee meeting minutes. Peerwani seconded the motion. The minutes were unanimously adopted by the FSC.*

MOTION AND VOTE: *Adams moved to adopt the draft of the 9/8/11-9/9/11 meeting minutes. Eisenberg seconded the motion. The minutes were unanimously adopted by the FSC.*

Update on FSC Appointments, introduction and orientation

No new appointments have been made at this time. Robitaille provided an update on the status of appointments, noting that new appointments are expected from Governor Perry and Lieutenant Governor Dewhurst before the January 2012 meeting.

Update from Legislative Committee

Evans explained that there is not much activity on the legislative front at the present time aside from the possibility that the Commission will be included in an interim charge. Robitaille explained what an interim charge entails, including the possibility that members may be called to testify at legislative hearings. She also described the three legislative committees most likely to request input from Commissioners (Senate Criminal Justice, House Public Safety and Homeland Security and House Criminal Jurisprudence).

Office administrative update (website, budget, technology, annual report, quarterly newsletter)

Tomlin provided a brief update on FSC office activities. Robitaille described the current status of the FSC's budget. Members also discussed website concerns, expressing the

need for a plan for a new website by the next meeting. Tomlin and Robitaille will work with SHSU and/or UT to begin implementing plans for a new FSC website.

Members discussed producing an electronic, semi-annual quarterly newsletter. A draft of the newsletter will be prepared and circulated by staff for review at the January 2012 meeting.

Members discussed producing a consolidated annual report. Members will email content suggestions to staff as staff prepares the first annual report. A draft of the report will be presented at the January 2012 meeting for member comment and approval. The report will be prepared both in hard copy and electronic format.

Discuss and consider any amendments to the policies and procedures

No amendments to the policies and procedures were made at this meeting.

Members discussed the current format of FSC minutes and decided to follow the same format, but focusing on a more thorough historical record and transparency in future meeting minutes.

Discuss and consider recommendations from Complaint Screening Committee

Complaint Screening Committee Chair, Eisenberg, lead a discussion on pending FSC cases.

Complaint #11-13, (Federal Ct., Handwriting Analysis/Photograph Analysis)

MOTION AND VOTE: *Eisenberg moved to dismiss the complaint based on members' recognition that it is based on an ineffective assistance of counsel allegation and does not involve forensic analysis conducted by an accredited laboratory within the meaning of the FSC's enabling statute. Thus, the complaint falls outside the jurisdiction of the FSC. Members then directed staff to forward the complaint to the Innocence Project of Texas so that they may assess the matter and determine whether additional action is merited. Kerrigan seconded the motion. The motion was unanimously adopted by the FSC.*

Update on APD and Moon memo distribution

Tomlin provided an update on final distribution of APD and Moon reports to appropriate agencies and stakeholders. Final reports are also published on FSC website.

Discuss Willis/Willingham addendum and status of recommendations

Peerwani reported on a collaborative meeting with the State Fire Marshal's Office, Innocence Project of Texas, and FSC counsel, Lynn Robitaille. The purpose of the meeting was to discuss proposed methods for approaching Recommendation #2 in the Willis/Willingham report regarding a retroactive review of arson cases.

Jeff Blackburn, Chief Counsel of the Innocence Project of Texas, outlined the organization's initial thoughts on a proposed methodology for identifying cases, and agreed to report back with additional details at the next meeting.

Stephen Saloom, Policy Director of the national Innocence Project, explained that the organization is comfortable with the approach being taken by the various entities involved and will offer resources and support as requested.

Robitaille read the entire Willis/Willingham addendum report aloud for Commissioners and the public in attendance at the meeting.

MOTION AND VOTE: *Adams moved to adopt the Willis/Willingham addendum as drafted by counsel, Robitaille. Kerrigan seconded the motion. The motion was unanimously adopted by the FSC.*

Discuss status of EPPD crime lab investigation

Kerrigan updated members on EPPD crime lab investigation and informed members of EPPD crime lab site visit by the FSC scheduled for December 13, 2011.

Members discussed the importance of efficiency and transparency for investigative panel meetings, which constitute less than a quorum of members. Members agreed that working sessions that are deliberative in nature should be open to the public, but non-deliberative meetings convened for the purpose of gathering information to present to the full FSC for discussion should be permitted by telephone to ensure efficient and timely investigations.

MOTION AND VOTE: *Evans moved for the EPPDCL investigative panel to be authorized by the FSC to have closed meetings strictly on non-deliberative issues for efficiency purposes. Eisenberg seconded the motion. The motion was unanimously adopted by the FSC.*

Members may allow non-deliberative closed meetings in the future for information-gathering purposes, such as the one voted on above for the EPPD investigative panel. A decision on this issue will be made on a case-by-case basis.

Update on forensic development initiatives

Kerrigan discussed ongoing forensic development initiatives and the development of plans for a forensic science conference next June 4-5, 2012 (either in Plano, TX or Austin, TX) in collaboration with the Texas Criminal Justice Integrity Unit. Kerrigan and staff will work with Judge Hervey's office to set up a steering committee for the conference.

Kerrigan also shared a list of potential stakeholders that staff is in the process of contacting to discuss various issues in forensic science in Texas. Robitaille reported on progress in contacting each stakeholder group.

MOTION AND VOTE: *Adams moved to proceed with contacting stakeholders to discuss their participation and potential conference topics. Hamilton seconded the motion. The motion was unanimously adopted by the FSC.*

Report from member participation in Houston SWAFS conference

Robitaille and Peerwani reported on their recent presentations at the annual SWAFS conference in Houston.

Robitaille discussed her agreement to present on the FSC at the upcoming TCDLA conference on November 4, 2011. Peerwani reported that he would be participating in a Texas State Bar conference in Irving in December 2011.

Discuss location and preference of meeting space

Members unanimously agreed to continue meeting at the Omni Austin Southpark for all future quarterly meetings.

Consider proposed agenda items for next quarterly meeting

Members discussed adding an agenda item for discussion of the definitions of professional negligence or misconduct in the FSC policies and procedures. Members discussed whether similar definitions might be developed at the national level. Commissioners also agreed to wait for new members to be appointed so that they may have input on this subject.

Schedule and location of future meetings

The Commission's next quarterly meeting will be January 13, 2012.

Hear public comment

Patricia Willingham Cox
Sarah Chu

Adjourn