



TEXAS FORENSIC SCIENCE COMMISSION

Justice Through Science

Texas Forensic Science Commission Minutes from May 26, 2017 Quarterly Meeting in Austin, Texas

The Texas Forensic Science Commission met at 8:00 a.m. on Friday, May 26, 2017 at the Omni Austin Southpark, 4140 Governor's Row, Austin, Texas 78744

Members of the Commission were present as follows:

Members Present: Barnard, Daniel, Downing, Drake, Hughes-Stamm, Kerrigan, Johnson, Parsons

Members Absent: Budowle

Staff Present: Lynn Garcia, General Counsel
Leigh Savage, Associate General Counsel
Kathryn Adams, Commission Coordinator

Review and adopt minutes from February 10, 2017 Forensic Science Commission Quarterly meeting.

MOTION AND VOTE: *Daniel moved to adopt the meeting minutes draft. Downing seconded the motion. The FSC unanimously adopted the motion.*

Office administrative update (FY2017 budget status report; 85th Legislative Session Legislative Appropriations Request; SB-298 and SB-1124; report on collaboration with Judge Hervey on NIJ training grant; discuss Garcia participation in FBI root cause project; and acquisition of content management software required for the FSC Licensing Program). (Garcia/Savage)

Garcia informed the Commission of the passing of SB-298 and SB-1124 by the Texas Legislature and briefly reviewed the contents of each bill. She also reported the Commission's transfer from administrative attachment with Sam Houston State University to the Office of Court Administration. Court of Criminal Appeals Judge Barbara Hervey's office applied for a grant for forensic training with the National Institute of Justice through Governor Abbott's office and included TFSC in the request. Garcia was included in a Quattrone Center (University of Pennsylvania) response to Request for Proposal related to root cause analysis concerning the FBI's hair microscopy review. A new software contract for administration of the Commission's forensic analyst licensing program will soon be executed.

Discuss and consider pending complaints and laboratory self-disclosures and all new complaints or self-disclosures received through May 11, 2017. (Daniel)

Disclosures Pending from February 10, 2017

1. No. 17.01; Houston Forensic Science Center (Biological Screening/DNA)

HFSC disclosed a non-conformance in its biology/DNA section where a screening analyst mistakenly identified the presence of semen in a small amount of fecal matter using an acid phosphatase press out method. The analyst noted a strong positive color change and a portion of the underwear was sent for DNA testing. DNA was not obtained in the sperm fraction of the cutting and only two alleles were present in the epithelial fraction. Re-examination of other cuttings of the underwear produced negative results. The laboratory took corrective action including removing the screener from casework and providing retraining, reviewing all of the analyst's cases, and amending the initial report in the case for which the semen was mistakenly identified.

The Complaint Screening Committee ("CSC") recommended issuance of a "No Further Action" ("NFA") letter in light of the additional information and corrective actions provided by HFSC.

The FSC unanimously voted to accept the recommendation of the CSC.

2. No. 17.03; Houston Forensic Science Center (Toxicology)

HFSC disclosed an incident in its toxicology section in which an examiner incorrectly reported preliminary results were positive for one or more drugs when the report should have stated results were negative for all. Garcia explained the contents of new information received from HFSC and highlighted changes implemented by the lab. The CSC recommended issuance of a NFA letter in light of corrective action taken by the lab.

Kerrigan pointed out case material stating a report had already been issued and the error was discovered in administrative review. She inquired as to how a report was issued prior to administrative review. A lab representative (toxicology section manager) explained how this occurred. The conclusion was drawn that the cover letter to the disclosure did not properly describe the incident as the error was caught incidentally in a second administrative review (to ensure a signature from LIMS was transferred) after the report was issued.

The FSC unanimously voted to accept the recommendation of the CSC.

Disclosures Received as of May 11, 2017

1. No. 17.12; NMS (Toxicology – Signature Issue)

NMS disclosed an incident in its toxicology section where 152 analytical toxicology reports were released to the Houston Forensic Science Center without a toxicologist's signature

during the time period August 30, 2016 to January 18, 2017. The issue occurred after an update was made in the laboratory's LIMS that prevented the reports from being sent for final toxicologist review and signature as they had been in the past.

The CSC recommended issuing a NFA letter since the lab corrected the LIMS issue.

MOTION AND VOTE: *Parsons moved to issue a NFA letter to the laboratory. Kerrigan seconded the motion. The FSC unanimously adopted the motion.*

2. No. 17.17; NMS (Toxicology – Cannabinoids)

NMS Labs Willow Grove, PA disclosed an incident in its toxicology section where 20 toxicology cases did not undergo proper screening for cannabinoids and reports were released to the HFSC without uncertainty of measurement applied to the positive confirmation results. The issue occurred when a test code for cannabinoids panel was incorrectly provided to the HFSC by NMS. The particular test code did not include an ELISA screen or the reporting of uncertainty of measurement with positive results.

The CSC recommended issuance of a NFA letter since the issue was one of miscommunication of a testing code and not with the performance of a forensic analysis.

MOTION AND VOTE: *Johnson moved to issue a NFA letter to the laboratory. Kerrigan seconded the motion. The FSC unanimously adopted the motion.*

3. No. 17.18; Tarrant County Medical Examiner's Office (Toxicology)

The Tarrant County Medical Examiner's Office disclosed an incident in its toxicology section where data used to report the blood alcohol result for one case was incorrectly reported for another case; therefore, the results of each case were typed and reported out incorrectly to each corresponding submitting agency.

The laboratory took corrective action to remedy the issue and provided extensive documentation. The laboratory's quality manager was available to answer questions regarding the corrective action. The CSC recommended issuance of a NFA letter.

MOTION AND VOTE: *Kerrigan moved to issue a NFA letter to the laboratory. Hughes-Stamm seconded the motion. The FSC unanimously adopted the motion.*

4. No. 17.22; Houston Forensic Science Center (Crime Scene Unit)

The HFSC disclosed issues in its Crime Scene Unit including deficiencies in documentation, collection, recovery and preservation of evidence at multiple crime scenes that led to the removal of a crime scene investigator and a technical supervisor.

The director of HFSC's Crime Scene Unit, Jerry Peña, was present to answer questions, discuss corrective action taken as well as future training efforts. Garcia explained why the CSC

recommended an investigation of this matter (the Commission has been tasked with studying and issuing reports on field drug tests and crime scene investigations by the Timothy Cole Exoneration Review Commission) and discussed the possibility of collaborating with Judge Hervey and the Court of Criminal Appeals on training initiatives for crime scene. Hughes-Stamm asked about including external faculty to assist with training.

MOTION AND VOTE: *Barnard moved to accept the disclosure for further investigation and issuance of best practice and education recommendations, and to form a review panel. Kerrigan seconded the motion. The FSC unanimously adopted the motion.*

An investigative panel including Drake, Johnson and Parsons was formed.

5. No. 17.25; Jefferson County Regional Crime Lab (Drug Chemistry)

The Jefferson County Regional Crime Laboratory disclosed an issue in its drug chemistry section in which the laboratory discovered that since March 2016 it had been incorrectly reporting the “Group A component” for the drug fluoro-ADB as methyl methoxy oxobutane instead of the correct methoxy dimethyl oxobutane where fluoro-ADB was reported in combination with FUB-AMB.

Laboratory representative Chris Fontenot was present and explained the automatic text for that drug was incorrectly entered and it was being copied and pasted into reports. He also explained the corrective action implemented by the laboratory.

MOTION AND VOTE: *Kerrigan moved to issue a “No Further Action” letter to the laboratory. Hughes-Stamm seconded the motion. The FSC unanimously adopted the motion.*

6. No. 17.26; DPS El Paso (Lost DNA Evidence)

DPS El Paso disclosed an incident in its DNA section in which an analyst was unable to locate an envelope containing three cuttings for DNA testing which were believed to have been returned to the evidence section.

DPS Deputy Assistant Director Brady Mills was present and explained details of the self-disclosure. The laboratory’s conclusion was that the cuttings were inadvertently discarded. DPS has issued an initial Quality Action Plan and plans to update the QAP with more information regarding the analyst's method of transporting the evidence. It was noted that QAP’s received from DPS are undated. Garcia requested that they be dated from now on.

Johnson recused himself from deliberations and voting on this case.

MOTION AND VOTE: *Hughes-Stamm moved to table the disclosure pending receipt of the updated QAP. Drake seconded the motion. The FSC unanimously adopted the motion.*

7. No. 17.27; DPS Midland (Barcode Issue/Lost Evidence)

DPS Midland disclosed a circumstance in which evidence for three cases in its controlled substance section believed to have been labeled for destruction could not be located due to the fact that the bar code scanner had malfunctioned.

Drake asked questions regarding the laboratory's process for evidence destruction (and documentary evidence of same). Mills explained this is maintained in the LIMS system; the three cases were not bar-coded and therefore supporting documentation was not in LIMS. Evidence in the three cases has not yet been found but they were believed to have been destroyed as part of the ordinary course of evidence destruction for drug cases.

Johnson recused himself from deliberation and voting in this case.

MOTION AND VOTE: *Kerrigan moved issue a NFA Letter. Drake seconded the motion. The FSC unanimously adopted the motion.*

8. No. 17.28; DPS Garland (Blood Alcohol)

DPS Garland (Blood Alcohol) disclosed an incident in which an examiner (Chris Youngkin) had switched a sample in 2014. A corrective action was implemented for the switched sample, but the analyst subsequently testified regarding the incident in a manner that was not forthcoming and resulted in various district attorney offices served by DPS Garland to decline to sponsor Mr. Youngkin as an expert.

MOTION AND VOTE: *Daniel moved to accept the disclosure for investigation. Hughes-Stamm seconded the motion. The FSC unanimously adopted the motion.*

Garcia suggested formation of an investigative panel including collaboration with the Quattrone Center for the Fair Administration of Justice. This case will be combined with the Richards complaint. Garcia reviewed Youngkin's court testimony and concerns resulting therefrom. DPS Deputy Assistant Director Mills explained Mr. Youngkin has been removed from analytical work and is currently working for DPS in a different division. Mills stated Youngkin's testimony from 2013-2016 has been reviewed by the laboratory.

The issue of lack of access to trial transcripts was discussed. Dawn Boswell (Tarrant County Conviction Integrity Unit Chief) suggested contacting court reporters directly. Sometimes they will allow copying relevant portions if the transcript is being produced for appeal. Transcripts are not always available since they are not produced in every case.

An investigative panel including Daniel, Parsons and Kerrigan was formed. Johnson recused himself from deliberation and voting in this case.

MOTION AND VOTE: *Drake moved to approve panel members chosen and combine this case with the Richards complaint. Downing seconded the motion. The FSC unanimously adopted the motion.*

Complaints Pending from February 10, 2017

1. No. 16.54; Gulley, Britney (SWIFS; Firearms/Toolmarks)

This complaint was filed by inmate Britney Gulley alleging a Southwestern Institute of Forensic Sciences (“SWIFS”) firearms analyst misidentified a firearm and bullets that led to her wrongful conviction for murder. SWIFS has agreed to re-analyze the case; this is amenable to all parties. SWIFS had returned the evidence as part of the normal course but it was located by the District Attorney’s office and re-submitted to SWIFS.

Barnard recused himself from deliberation and voting in this case.

MOTION AND VOTED *Daniel moved to table the complaint pending re-analysis of the evidence by SWIFS. Hughes-Stamm seconded the motion. The FSC unanimously adopted the motion.*

2. No. 16.69; Richards, Dylan (DPS Garland; Blood Alcohol)

This complaint was filed by inmate Dyllyn Richards alleging DPS Garland crime lab analyst Chris Youngkin may have falsely represented the blood alcohol level reported in his case which led to Richards’ conviction for intoxication manslaughter of a peace officer.

MOTION AND VOTE: *See discussion under Case no. 17.28, DPS Garland (Blood Alcohol)*

3. No. 17.04; Gefrides, Lisa (Houston Forensic Science Center; Biology/DNA)

This complaint was filed by forensic biology consultant, Lisa Gefrides, alleging the HFSC’s biology section was not adequately identifying and controlling errors during testing of biological evidence.

Garcia informed the Commission that Dr. Budowle has agreed to review the complaint. She suggested it be tabled pending completion of his review.

MOTION AND VOTE: *Hughes-Stamm moved to table the complaint pending review by Budowle. Daniel seconded the motion. The FSC unanimously adopted the motion.*

4. No. 17.05; Innocence Project of Texas (DPS Austin; DNA-CODIS)

This complaint was filed by the Innocence Project of Texas on behalf of inmate Cedric Millage alleging the DPS Austin CODIS Laboratory failed to comply with National DNA Index System (“NDIS”) procedures when uploading a DNA search profile into the Combined DNA

Index System (“CODIS”) such that one of the obligate alleles would have excluded the defendant being compared had the profile been properly uploaded.

Garcia related Complainant’s intention to submit a new complaint focusing on Cellmark’s original DNA mixture interpretation and recommended tabling the case until Dr. Budowle has an opportunity to evaluate the new complaint.

Johnson recused himself from deliberation and voting on this case.

MOTION AND VOTE: *Hughes-Stamm moved to table the complaint pending review by Budowle. Parsons seconded the motion. The FSC unanimously adopted the motion.*

Complaints Received as of May 11, 2017

1. No. 16.41; Moreno, Jr., Valentin (Dr. A. J. Alamia; Forensic Psychology Testimony)

This complaint was filed by inmate Valentin Moreno alleging forensic psychologist Dr. A.J. Alamia gave scientifically unacceptable testimony at his trial and that prosecutors falsely misled an eyewitness to identify Moreno at trial. Moreno believes these factors led to his wrongful conviction for murder.

Members discussed FSC’s lack of jurisdiction over forensic psychology due to the fact that it does not fall within the statute's definition of "forensic analysis."

MOTION AND VOTE: *Hughes-Stamm moved to dismiss the complaint for failure to allege negligence and/or misconduct related to a forensic analysis of physical evidence and therefore the allegations are not subject to review by the Commission. Johnson seconded the motion. The FSC unanimously adopted the motion.*

2. No. 16.52; Resendez, Eustorgio (DPS Austin; Firearm/Toolmark)

This is a complaint filed by inmate Eustorgio Guzman Resendez alleging a DPS Austin firearm/toolmark expert could not identify any weapon that connected Resendez to the crime and he therefore should not have been convicted.

Members discussed the fact that no allegations of negligence or misconduct were made concerning the actual forensic analysis, but rather that the examiner could not connect the defendant (or an alternative suspect) to the crime.

Johnson recused himself from deliberation and voting on this case.

MOTION AND VOTE: *Kerrigan moved to dismiss the complaint for lack of any allegations of negligence or misconduct related to the forensic analysis in the case. Downing seconded the motion. The FSC unanimously adopted the motion.*

3. No. 17.07; Turner, Bronwen (Harris County Institute of Forensic Sciences; Firearm/Toolmark)

This complaint filed by inmate Bronwen Turner alleges because Harris County Institute of Forensic Sciences (“HCIFS”) was unable to confirm any gunshot residue particles on a vehicle used to commit the crime nor on Turner’s hands, and DNA testing comparing blood found on the victim to Turner’s results was inconclusive, Turner should not have been convicted for capital murder.

MOTION AND VOTE: *Downing moved to dismiss the complaint on grounds that no allegations were made concerning negligence or misconduct relative to any analysis of physical evidence in the case, only that Turner should not have been convicted without stronger evidence. Parsons seconded the motion. The FSC unanimously adopted the motion.*

4. No. 17.09; Washington, Kenneth Wayne (Harris County Institute of Forensic Sciences; Serology/DNA)

This complaint filed by inmate Kenneth Wayne Washington alleged DNA analysis and testimony by HCIFS analyst Jennifer Petrash confirming Washington’s saliva sample matched blood found at the crime scene was insufficient to support Washington’s conviction for burglary.

MOTION AND VOTE: *Parsons moved to dismiss the complaint as no negligence or misconduct related to the analysis was alleged, just that complainant should not have been convicted on the available evidence. Johnson seconded the motion. The FSC unanimously adopted the motion.*

5. No. 17.13; Hill, Anthony (Max Courtney; Crime Scene Reconstruction)

This complaint filed by inmate Anthony D. Hill alleged crime scene reconstructionist Max Courtney gave scientifically insupportable analysis and testimony that led to Hill’s wrongful conviction for capital murder.

Members discussed the age of the case and the possibility of obtaining more information from Tarrant County’s Conviction Integrity Unit prior to making a decision on whether or not to accept the case for investigation.

MOTION AND VOTE: *Johnson moved to table the complaint until FSC staff obtains additional information. Drake seconded the motion. The FSC unanimously adopted the motion.*

6. No. 17.16; Booker, Billy Joe (NMS/IFL Bedford; Blood Alcohol)

This complaint was filed by inmate Billy Booker alleging former IFL Bedford analyst Elizabeth Feller tested a blood sample that led to his wrongful conviction for DWI.

Garcia explained the FSC previously investigated Feller and pointed out this complaint is about courtroom procedure and not about the forensic analysis. Though the report in the case was not admitted and the analyst did not testify, the judge allowed the prosecutor to reference

Booker's blood alcohol level during argument. This is a decision within the sole purview of the court and thus falls outside the scope of the Commission's jurisdiction.

MOTION AND VOTE: *Kerrigan moved to dismiss the complaint. Johnson seconded the motion. The FSC unanimously adopted the motion.*

7. No. 17.19; Thain, Blake Allen (Harris County Sheriff's Office; Firearm/Toolmark)

This complaint filed by inmate Blake Allen Thain alleged a firearm/toolmark analyst from the Harris County Sheriff's Department exceeded the bounds of scientifically acceptable testimony when he stated at Thain's trial that all .380 shell casings he examined were fired from the same weapon. Thain believes this led to his wrongful conviction for murder.

Garcia explained that the analyst testified on the stand that firearm and tool mark analysis is somewhat subjective, which is in fact a true statement. Members discussed the case and concluded the facts as presented do not merit a best-practices review. Barnard emphasized the issue merits further discussion and the problems are already being addressed within the larger community of firearm/tool mark examiners.

MOTION AND VOTE: *Daniel moved to dismiss the complaint as the analysis occurred prior to the accreditation program in Texas and a best practices review is not merited at this time. Drake seconded the motion. The FSC unanimously adopted the motion.*

8. No. 17.21; Cervantes, Reynaldo (DPS McAllen; Serology)

This complaint filed by inmate Reynaldo Cobio Cervantes requested DNA testing and alleged DPS McAllen lab director Joe Marchan gave perjured testimony related to the type of blood found on a jacket that connected Cervantes to a murder and eventually led to his conviction.

Johnson recused himself from deliberation and voting on this case.

MOTION AND VOTE: *Drake moved to dismiss the complaint as the FSC has no authority to request additional testing in any case and cannot intervene in court proceedings; complainant should be sent a letter explaining the basis for dismissal and contact information for publicly funded innocence clinics in Texas. Parsons seconded the motion. The FSC unanimously adopted the motion.*

9. No. 17.23; Ghant, Travis (Scott & White– Temple Sexual Assault Nurse Examiner Alice Lindner; S.A.N.E).

This complaint filed by inmate Travis Ghant alleged S.A.N.E. Alice Linder from Scott & White Temple gave scientifically insupportable testimony related to a "V-shaped" tear in the victim's hymen that led to his wrongful conviction for sexual assault of a child.

Garcia explained SANE examinations are exempt from accreditation. Any review by the FSC would therefore be limited to a best practices analysis and related recommendations.

MOTION AND VOTE: *Daniel moved to table the complaint pending further review by Dr. Downing. Parsons seconded the motion. The FSC unanimously adopted the motion.*

10. No. 17.24; Smithwick, Roy (Bexar County Criminal Investigation Lab; Serology and Firearms/Toolmarks)

This complaint filed by inmate Roy Louis Smithwick, Jr. alleged Bexar County Criminal Investigation Laboratory former analysts Ron Dodson and Fred Zain gave false and misleading firearms/toolmarks and serology testimony that led to his wrongful conviction for murder.

Garcia summarized correspondence with the Director of the Bexar County laboratory concerning whether this case was reviewed as part of a prior broader review of Fred Zain's cases upon discovery of his misconduct. The director was unsure whether this case was part of that review but stated the lab is in the process of researching the firearm/tool mark analysis.

MOTION AND VOTE: *Drake moved to table the complaint pending further information from the laboratory. Johnson seconded the motion. The FSC unanimously adopted the motion.*

11. No. 17.29; Drummer, Cornell (Bexar County Criminal Investigation Lab; Firearm/Toolmark)

This complaint filed by inmate Cornell Drummer alleged Bexar County Medical Examiner's Office firearm and tool mark examiner Richard Stengels gave scientifically invalid testimony at Drummer's trial that led to his wrongful conviction for murder.

MOTION AND VOTE: *Johnson moved to dismiss the complaint as the analysis in question occurred prior to creation of the state's crime laboratory accreditation program, and the facts as presented do not merit a best practices review. Downing seconded the motion. The FSC unanimously adopted the motion.*

Discuss granting staff discretion to dismiss complaints that are requests for DNA testing and complaints related to non-physical evidence, such as forensic psychology and forensic hypnosis because these disciplines fall outside the Commission's jurisdiction as they are not "forensic analysis" in accordance with Tex. Code Crim. Proc. art 38.35 (a)(4).

Members discussed granting staff discretion to dismiss cases falling into the categories outlined above.

MOTION AND VOTE: *Parsons moved to grant staff discretion to dismiss cases that constitute requests for DNA analysis and/or allegations unrelated to forensic analysis as that term is defined under Texas law. Hughes-Stamm seconded the motion. The FSC unanimously adopted the motion.*

Discuss status of crime laboratory accreditation program, including accreditation non-conformances received since February 10, 2017 meeting, discussion of comments and responses on proposal and final adoption of rule for removal of forensic hypnosis from exempted forensic disciplines list, exemption regarding age assessment and human identification, and exemption regarding testing for sexually transmitted diseases. Discussion of rule proposals to add footwear and tire tread comparison to trace evidence sub-disciplines subject to Commission accreditation requirements, remove serial number restoration from exempted forensic disciplines list, correct citations and other non-substantive edits to adopted accreditation rules, and add fire investigation to exempted forensic disciplines list. (Garcia/Savage)

Savage informed members that rule changes have been published and forensic hypnosis has been removed from the exemption list while forensic odontology for age assessment and human identification and testing for sexually transmitted diseases have been added.

Garcia explained language in rules should be explicit that footwear and tire tread comparison are sub-disciplines of trace evidence. Parsons asked whether footwear and tire tread analysis is being performed outside of accredited laboratories such as in police departments. Garcia responded FSC should therefore do more research on this topic. A recommendation will be made at the next full meeting.

Garcia explained that fire scene investigation is not currently exempt from the accreditation requirement as the rules were carried over from DPS. Garcia consulted with the Texas State Fire Marshal who explained there are currently only two accredited fire investigation organizations in the world. Though Texas is moving in the direction of accreditation, it will take some time to achieve this goal. As a result, the most prudent course at this time would be to exempt fire scene investigation from the accreditation requirements.

MOTION AND VOTE: *Johnson moved to add Fire Scene Investigation to the list of exempt disciplines. Parsons seconded the motion. The FSC unanimously adopted the motion.*

Discuss licensing advisory committee program and progress to date, including recent licensing advisory committee meetings (3/3/2017 and 4/24/2017) and review, discuss and adopt proposed draft rules for licensing program. (Hilbig/Garcia/Savage)

Members had an extensive discussion regarding the licensing program (applicable only to analysts in working accredited disciplines in accredited laboratories) and draft rules as reflected in the meeting recording.

MOTION AND VOTE: *Kerrigan moved to harmonize the FSC's descriptions and definitions in its rules with those of national accrediting bodies. Hughes-Stamm seconded the motion. The FSC unanimously adopted the motion.*

MOTION AND VOTE: *Drake moved to harmonize the FSC's educational requirements for forensic analysts and genres of science included under the umbrella of "natural sciences" with*

those of national accrediting bodies. Hughes-Stamm seconded the motion. The FSC unanimously adopted the motion.

MOTION AND VOTE: *Daniel moved to spend up to \$25,000 to hire the psychometric company ACS to assist the FSC with forensic analyst exam formation. Hughes-Stamm seconded the motion. The FSC unanimously adopted the motion.*

MOTION AND VOTE: *Daniel moved to accept the licensing rules for publication with edits approved during the meeting. Pat Johnson seconded the motion. The FSC unanimously adopted the motion.*

Discuss Commission reporting requirements, including Commission disclosure guidance per statute and possible revisions to policies and procedures. (Garcia)

The Commission discussed the need to provide additional guidance to laboratories regarding their disclosure obligations to the Commission under Section 38.01 of the Texas Code of Criminal Procedure.

MOTION AND VOTE: *Parsons moved to form an advisory panel to make recommendations to the FSC relative to laboratory self-disclosures. Downing seconded the motion. The FSC unanimously adopted the motion.*

An investigative panel including Daniel, Parsons, Kerrigan and Johnson was formed.

Discuss transfer of policies and procedures related to the filing and processing of complaints and disclosures to the Texas Administrative Code. (Garcia/Savage)

Garcia and Savage relayed the need to transfer the Commission's policies and procedures into published rules under the Texas Administrative Code. Staff will work on the transfer and report back to the Commission.

Discuss revisions to complaint and disclosure forms and requiring laboratories to identify name of examiner(s) involved in a particular disclosure. (Daniel/Garcia)

Daniel suggested the names of analysts involved in laboratory non-conformances should be provided on all laboratory self-disclosures. The issue was discussed with several members expressing concern that such a requirement (outside of incidences of professional misconduct) could have a chilling effect on the willingness of laboratories to self-disclose.

MOTION AND VOTE: *Daniel moved to require names of analysts involved in laboratory disclosures be filed with the FSC. The motion did not receive a second and thus did not pass.*

Update on Rio Grande Identification Project. (Hughes-Stamm/Garcia/Savage)

UNTHSC-CHI has received a grant to work in collaboration with three central American countries on the database issues related to identification of human remains. The FBI has not

changed its position on the MOU with EAAF; because the efforts to search EAAF family reference samples against human remains at UNTHSC-CHI are dependent upon FBI approval there will be no progress to report unless and until the FBI changes its position.

Update from Texas Association of Crime Laboratory Directors. (Kahn or designee)

There was no specific update given for this agenda item. Dr. Kahn provided an update at the Licensing Advisory Committee meeting on May 25, 2017.

Review recommendations in HB-34 and SB-1579 from Tim Cole Exoneration Review Commission (TCERC) as they relate to Forensic Science Commission activities. (Garcia)

The TFSC was asked to study field drug tests and evaluate the training provided to officers who administer them. A report is due to the Legislature by December 2018. Staff will work on a plan to address this recommendation and report back to the Commission.

Discuss progress on project to standardize sexual assault kits statewide. (Downing)

Downing provided an update on the status of the project, highlighting a bill to implement a barcode tracking system for sexual assault kits. She referred members to a handout on the subject and will provide further updates at subsequent meetings.

Discuss Retrograde Extrapolation Guidance Document. (Kerrigan)

Kerrigan and Heartsill discussed the strengths and limitations of the document providing guidance on retrograde extrapolation requested by former Commissioner Richard Alpert. The group discussed the importance of using the document in conjunction with other training tools, as the subject is complex and misunderstandings are prevalent. Boswell suggested consulting with Judge Hervey regarding possible training for this issue.

Update from investigative panel regarding Harris County Institute of Forensic Sciences (Toxicology, Blood Alcohol) #16.48, including March 7, 2017 panel teleconference. (Drake, Kerrigan, Daniel)

The staff recently received supplemental material from HCIFS evaluating Dr. Guale's testimony. As a result, the panel has additional material to review before any decisions can be reached in this matter. Kerrigan recognized the thorough root cause analysis performed by HCIFS. Staff will also reach out to Dr. Guale's attorney regarding her current position.

Update from investigative panel regarding combined Clark (Harris County IFS, HPD, Harris County Sheriff's Department; GSR, DNA, Blood Spatter) #16-40 case and Bryan (Robert Thorman; Blood Spatter) #16.56 case, including March 6, 2017 teleconference. (Johnson, Hughes-Stamm, Parsons)

Blood spatter expert Bob Henderson was hired to evaluate both cases. His report on the Clark case was received recently but the investigative panel has not yet had time to review it. A report on the Bryan case will be coming soon.

The gunshot residue analysis in the Norma Clark case requires an expert in statistics with particular focus on the application of statistical principles to forensic science. Professor Cliff Spiegelman from Texas A&M University serves on the Statisticians Task Group of the OSAC and also happens to be the statistician advising the subcommittee on gunshot residue analysis. He has volunteered to assist the Commission with reviewing the GSR testimony and related information. An update will be provided at the next Commission meeting.

Update from Hair Microscopy Panel, including case review status and discussion of whether additional cases should be reviewed. (Garcia)

Garcia suggests the panel reconvene and advise the Commission regarding whether a larger sample size is needed and what the next steps should be. An update will be provided at the next quarterly meeting.

Update and review regarding Bite Mark Panel (Chaney–National Innocence Project) #15-07, including record collection and March 10, 2017 case review meeting in Austin. Discussion of recommended notifications. (Garcia)

The same three criteria questions are asked in bite mark cases as were asked in hair microscopy cases. Testimony in the three cases (Bell, Hernandez, Furtado) was reviewed by the bite mark review team and notification to stakeholders was recommended for all three.

MOTION AND VOTE: *Parson moved to send notification letters on the three cases presented in the meeting materials. Hughes-Stamm seconded the motion. The FSC unanimously adopted the motion.*

Presentation from the Quattrone Center for the Fair Administration of Justice. (Garcia/Hollway)

John Hollway, Director of the Quattrone Center for the Fair Administration of Justice addressed the Commission. Garcia suggested the Commission partner with Quattrone to address the DPS Garland Blood Alcohol (Youngkin) self-disclosure, and reported the City of Austin and Travis County are considering retaining Quattrone to review certain issues identified in the review of the Austin Police Department's DNA laboratory.

Update, review and discussion of DNA Mixture Interpretation Review and Austin PD DNA Lab progress. (Budowle/Hughes-Stamm/Koehler/Garcia)

- a. **Statewide & county-based defense triage projects (Wicoff/Boswell/Strassburger).**

Bob Wicoff provided an update on the statewide DNA Mixture Review Project. Intake of cases has recently increased mainly as a result of DA's office sending out letters on their DNA cases, particularly the Harris County District Attorney's Office. Laboratories have been very helpful throughout the process. The team has received approximately 2500 requests and has resolved more than half.

Dawn Boswell provided an update for Tarrant County. They sent about 300 notices to defense attorneys. Out of those 300 notices, about 95 have been sent for recalculation. About twenty cases have been disposed of to date. Bode has been slow getting results.

Dallas County Conviction Integrity Unit Chief Cynthia Garza is still sending out notices on Dallas mixture cases. Approximately 4,000 notices need to go out and they are about halfway complete. Between 50-100 notices are sent out each week. No notices for Cellmark cases have yet gone out.

Trudy Strassburger from the Capital Area Private Defenders Service ("CAPDS") provided an update for Travis County. Travis County is dealing with both the countywide DNA review and the issues with APD's DNA lab. They have a small group of defense attorneys reviewing cases. There are about 2,400 notices that need to go out. So far about 450 requests for reinterpretation have been made.

b. Progress regarding recommendations in Austin Police Department DNA Lab Report approved at July quarterly meeting as well as DPS addition of Capital area facility.

DPS has acquired APD's DNA lab under a five-year agreement. They are currently focused on the cases pending when the DNA section was closed.

Brandon Grunewald from Travis County Criminal Justice Planning reported the City of Austin and Travis County have partnered to: 1) establish the DNA case review being performed by CAPDS; and 2) contract with outside experts to address the concerns contained in the Commission's report. Discussions are currently underway with the Quattrone Center for root cause analysis and UNTHSC-CHI for retroactive case reviews.

c. Correspondence with ASCLD/LAB dba ANAB regarding accrediting body root cause analysis.

Garcia briefly reviewed ASCLD/LAB's response concerning its assessments of APD's DNA lab. Members expressed concerns about the adequacy of the response. Staff will work with Hughes-Stamm to determine the appropriate next steps including additional correspondence.

d. Update on DPS review of quality system.

DPS was asked by APD Chief Brian Manley to review the laboratory's quality manual. Mills related that four areas were focused on. Chief Gay responded to the issues raised by DPS

but neither Mills nor Garcia have had the opportunity to review the response. Additional information on this subject will be provided at the next quarterly meeting.

Discussion regarding NIST July 24-28, 2017 International Forensic Science Error Management Symposium. (Garcia) (5 min)

The FSC submitted several abstracts to NIST for the Symposium on Forensic Science Error Management, which happens every two years. Garcia is a plenary speaker; she was also asked by the National Association of Attorneys General to participate in two panels the week prior to the NIST conference. Garcia will report back to the Commission after the symposia.

Consider proposed agenda items for next quarterly meeting. (Barnard)

There was no specific discussion for this agenda item.

Schedule and location of future panel and quarterly meetings. (Barnard)

Savage will send Doodle polls to all panels for input concerning meeting dates. The next quarterly Commission meeting is set for August 18, 2017 at the Commission's office headquarters, the Stephen F. Austin Building, 1700 N. Congress Avenue, Austin, TX in Room 172. Overnight rooms will be reserved at the Omni Austin Hotel's downtown location. The following quarterly meeting will take place on November 3, 2017. Savage asked commissioners to review their calendars for a possible January 12, 2018 meeting as well.

Hear public comment. (Barnard)

No public comments were offered.

Adjourn.

MOTION AND VOTE: *Drake moved to adjourn the meeting. Parsons seconded the motion. The meeting was adjourned at 3:39 p.m.*