

**Texas Forensic Science Commission  
Minutes from October 10, 2008 Meeting in Dallas, Texas**

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

Members Absent: Kerrigan

(Additional attendees included: Barbara Deane, Assistant Attorney General; Leigh Tomlin, TFSC Coordinator; Edwin Colfax, The Justice Project; and Gabriel Oberfield, The Innocence Project.)

Sam Bassett proceeded with opening comments, discussing the possibility of a mobile command unit for random inspection of forensic laboratories throughout the state. The pros and cons to operating a mobile command unit were discussed by commission members and the representatives from The Innocence Project and The Justice Project. Edwin Colfax, from The Justice Project, offered an explanation of Judge Barbara Hervey's mobile command unit ideas. It was discussed that the mobile inspection unit could be a function/duty of the Texas Forensic Science Commission in the future. The Commission discussed inviting Judge Hervey to the December meeting for further discussion of the mobile inspection unit ideas.

The minutes from the August 2008 meeting were approved by Motion from Adams. The Motion was seconded by Eisenberg.

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. Tomlin explained that the Commission's server is in operation and will be handled and maintained by Sam Houston State University's computer department. As per Ms. Tomlin's discussion with computer services, no maintenance or service fee contract will be required by the University. Tomlin explained the use of an online portal in which commission members can access important meeting documents before each meeting. Tomlin provided instructions on accessing the portal to each of the commission members. Tomlin gave an overview of all office correspondence and communications, discussing complaint forms received and letters sent on behalf of the Commission. The Commission and Ms. Tomlin discussed the purchase of a laptop for the Commission office to be used in traveling to meetings and for other office purposes. The laptop purchase was approved by Motion from Bassett and seconded by Adams. Ms. Tomlin will purchase the laptop for the TFSC through Sam Houston State University's computer services department.

An update on contacting publications and different agencies regarding a press release on the Commission was given by Tomlin. Levy discussed the Texas Bar Journal providing a free press release for the Commission in their publication. Levy will work with the Texas Bar Journal on publishing a press release. Tomlin discussed several agencies that

published blurbs about the Commission and provided copies of the press releases to Commission members.

Tomlin informed Commission members that a press release was sent to a list of forensic agencies, informing them of the Commission's objectives and duties. Copies of the press release and letter were provided to all Commission members.

A detailed accounting of the commission's budget was provided by Tomlin, showing use of funds in fiscal years 2007 and 2008. Tomlin briefly explained the budget breakdown and the Commission's request for an increase in funds for the 2010-2011 budget. The University submitted the increase request as part of their 2010-2011 budget requests.

Bassett proceeded with a discussion on legislative budgeting. Bassett invited Levy to come to Austin and serve as the legislative liaison for the Commission.

The discussion continued with Bassett providing information on his meeting with Amanda Crawford, at the Attorney General's office, regarding confidentiality and public information concerns the Commission has on sharing case information. Bassett concluded that there are minimal to no exceptions covering non-disclosure for the Commission. The Commission must assume as it proceeds that if anyone makes an open records request, all information is subject to disclosure.

Barbara Deane, the representative from the Attorney General's office, offered her thoughts on DPS sharing files with the Commission. DPS may have concerns for sharing information with the Commission, because once the information transfers to the Commission it will be subject to being disclosed. Ms. Deane would like the opportunity to discuss those issues, research and investigate the exchange and sharing of information between DPS and the TFSC. Ms. Deane will report on her findings at the next Commission meeting. It was mentioned that most of the cases that will be investigated by the Commission have already been litigated and all of the information is subject to disclosure.

During the public comment period, a letter from The Innocence Project was discussed by Commission members. Gabriel Oberfield offered comments on behalf of The Innocence Project. The mobile command unit idea was also discussed during the public comment period. Edwin Colfax discussed improving the oversight structure for forensic labs, resulting in a quality impact on evidence used in Texas cases. It was mentioned that oversight should be expanded to be more proactive in quality control issues. Different ways that the Commission might become involved in the lab accreditation process were discussed. The general idea would be to have private accreditation as more of a base-line for labs and perhaps have the Commission develop certain kinds of responsibilities in this area.

It was discussed that there is a general overreliance on private accreditation programs in Texas. Edwin Colfax agreed to put together a memo discussing how existing accreditation programs are falling short. Also, a comparative analysis of the process,

limits and requirements of forensic accreditation programs, national and private, will be discussed at the next meeting. Oberfield mentioned that The Innocence Project could offer their suggestions on the analysis, but that a more scientific entity could offer better comments.

The meeting continued with Tomlin giving an update on information regarding the University's process on hiring an expert to review the Willis/Willingham cases. Tomlin reported on her meeting with SHSU purchasing and stated that the process may be a bit simpler than originally discussed. Ultimately, the Commission will select and hire the expert, but the Commission must follow Sam Houston State University's procedure, which is comparatively the same for any state agency, under Texas state law.

Tomlin presented an Invitation for Offers to be posted on the Texas registry for hiring a fire expert to review the Willis/Willingham cases. The Invitation for Offers was edited and approved by the Commission by Motion from Bassett. The Motion was seconded by Eisenberg.

Adams suggested linking the posting for the expert hiring to the TFSC website. Tomlin agreed to work with computer services on linking the posting to the website, once it is posted.

Tomlin presented a draft of an evaluation matrix to serve as the standard evaluation criteria in hiring an expert. The matrix was edited by Commission members and approved by the Commission.

Tomlin will work with the SHSU purchasing department in getting the Invitation for Offers posted on the Texas Registry. As responses to the posting are received, Tomlin will forward them to Commission members. Tomlin will initiate contact with the selected experts by sending them a letter regarding the investigation and inviting them to apply.

The meeting continued with further discussion on potentially available experts submitted by commission members. Eisenberg presented three candidates for investigation of the Moon case. It was decided that Tomlin will work with Eisenberg in drafting an Invitation for Offers and a matrix for evaluation criteria for the Moon case to be approved by commission members at the next meeting.

The Commission reviewed a draft of the letter to the potential fire expert. Barbara Deane indicated that there will be a contract that will override any terms in a letter to the expert, so the discussion of the letter was tabled until the December meeting. The Commission then reviewed a letter drafted to the Texas Fire Marshal's Office. The letter was edited and approved by the Commission by Motion from Bassett and second by Eisenberg. The letter as edited and all of the Willis/Willingham case documents will be sent to the Fire Marshal's Office by Ms. Tomlin before the next meeting.

The Commission completed a review of complaint forms received and made decisions to deny three complaints received due to the fact that the complaints were outside the scope of the Commission's duties.

The meeting was adjourned by Motion from Adams. The Motion was seconded by Bassett.

**The next meeting for the Commission is to be held in San Antonio on December 12, 2008, beginning at 9:30 a.m.**

**The meeting following the December meeting shall take place in February, and the date and location will be determined at the December 12<sup>th</sup> meeting.**