

**Texas Forensic Science Commission
Minutes from May 15, 2009 Meeting in Dallas, Texas**

Members Present: Bassett, Kerrigan, Hampton, Adams, Eisenberg

Members Absent: Hamilton, Natarajan, Watts, Levy

(Additional attendees included: Veena Mohan, Assistant Attorney General, Administrative Law Division; Leigh Tomlin, TFSC Coordinator; Gabriel Oberfield, Innocence Project; Mark Adams, Office of the Governor; Erin Spargo, SWIFS; Stacy McDonald, SWIFS; Timothy Sliter, Dallas County, SWIFS; Elizabeth Todd, SWIFS; Manuel Valadez, Jr., DPS Garland; Lorna Beasley, DPS Garland)

The meeting began with an approval of the March 2009 meeting minutes. The Commission approved the minutes with revisions by Motion from Kerrigan. The Motion was seconded by Hampton. Bassett announced that the March 2009 meeting minutes will be posted on the Commission's website on Monday.

The meeting continued with an update on office activities from Tomlin. Tomlin reminded commission members to submit any outstanding reimbursement requests and/or personal financial statements. The personal financial statement extended deadline is June 29th for those who requested an extension before the April 30th deadline. Tomlin reviewed the TFSC complaint list and reviewed the status of each case with Commission members. No new complaints have been received by the Commission other than the revised complaint form from the anonymous complainant. Tomlin indicated that the Anonymous complaint form and the individual complaint forms have been modified with the Commission's revisions and also posted on the website. In addition, the website has also been updated with a short press release from the Commission on the NAS report. A link to the summary of the NAS report is also provided. Tomlin also mentioned her communications with Dr. Shaler, the expert to review the Moon case. Tomlin informed Dr. Shaler that he was selected by the Commission to conduct the investigation. Dr. Shaler indicated his availability for the investigation. Tomlin indicated that Eisenberg would provide more information about communications with Dr. Shaler later in the meeting.

The Willis/Willingham case was then discussed by the Commission. Bassett indicated that the Commission should expect something for Dr. Beyler the first half of June. The Fire Marshal's Office has communicated to Bassett that they will be providing a more detailed response to the complaint before the Commission's July meeting. Bassett explained that he expects that the Commission will be able to come up with their own report sometime in the fall, after the July meeting.

The status of the Moon case was then discussed by the Commission. Eisenberg took the lead in this discussion, commenting on his conversations with Dr. Shaler, the expert to review the Moon case. Dr. Shaler conveyed what his hourly rates were and what his availability looked like in the upcoming months. Eisenberg explained that the

Commission would need to obtain more information about the case to provide to Dr. Shaler, before he can provide the Commission with a concrete estimate on the cost of the investigation. In order to obtain that information, the Commission will send a letter to DPS requesting any information available on the case. The Commission will also send a similar letter to the El Paso DA's office.

The meeting continued with a discussion of current legislation (HB4143 and SB1909) involving the Commission. Bassett explained that if the bills pass without funding, it will be a future agenda item to discuss how we would like to proceed in contacting the appropriate committees for funding the activities proposed in the bills. Bassett indicated he had some conversation with Senator Gallegos' Chief of Staff. Bassett explained to him that we were open to the idea of the bills being put under our jurisdiction, but will need the funding and the time. From what Bassett understood, it is intended that the program will be approved first and funding logistics will come later. Kerrigan indicated that there is significant concern for any mobile testing of samples for an audit, as any mobile retesting of samples could completely compromise the outcome of any investigation involving the samples. Commission members discussed that a paper audit protocol seems more plausible than audits involving random retesting of samples. Bassett indicated that the Commission could, over the next couple of years, come up with ideas on how we would implement a paper audit program as opposed to actually retesting samples.

The next agenda item discussed was the NAS Report in Comparison to Texas Forensic Laboratory Procedures and also the Proposal for Open Meeting on Development/Expansion of TFSC's Oversight. Kerrigan indicated that she was able to get in touch with some people about potential meeting locations in which stakeholders would be invited to bring their ideas. Stakeholders in the field of forensic science would be invited to look at ideas concerning the 13 recommendations in the NAS report and put together a comparison to the State of Texas' current practices. The meeting would consist of a series of roundtable discussions in which stakeholders could put together some solutions to the current problems in Texas. Kerrigan indicated that the four meeting locations would probably be Houston, Austin, Dallas and possibly San Antonio. Adams recommended that the Commission should conduct a similar meeting in El Paso or in Lubbock also, to reach that part of the state. Kerrigan explained that DPS would host us a site for the meeting in Austin. Kerrigan will work on the logistics of the meetings if approved. The meetings would be conducted over a year. The Commission indicated they would like to include as many agencies as possible. Several topic ideas for the roundtable discussions were presented by Commission members.

It was decided that Kerrigan will work on setting up specific dates, locations, cost estimates, timeframes, registration forms, roundtable topics, a rough agenda and potential meeting facilitators that may work best for the meetings. Kerrigan will provide the Commission with an update at the July meeting in Houston.

At this time, Bassett and Commission members discussed the best location and date for the next Texas Forensic Science Commission meeting. It was decided that the next meeting will be held in Houston, July 24th, 2009.

Distribution of information on the TFSC was discussed next. A list of potential Commission outreach activities was reviewed by Commission members. Commission members would like to attend each meeting and give a short informative presentation on the Commission to inform stakeholders of the Commission's activities. Commission members made some assignments to appear at certain meetings throughout the state. Bassett is to contact Ed Salazar regarding the Fire Marshal's annual meeting in October. Bassett will give a presentation on the Commission at that meeting if possible.

The TFSC poster to be placed in all DPS labs was discussed. Tomlin is to get with CJ publications at Sam Houston State University regarding revisions to the design of the poster. Tomlin and Kerrigan will work on distribution of the poster. Tomlin is to keep track of where the poster goes and the response received from labs.

The Commission also discussed lab visits for Commission members. For those Commission members that are less familiar with lab environment, it was discussed that it may be useful in conjunction with the town hall forums for them to visit the labs.

The meeting continued with a review of any complaint forms received. It was decided that for one pending case more information would be requested from the agency the complaint is against. For a new complaint received by the Commission, it was decided that all of the complaint materials would be sent to the agency the complaint is against, along with a request for a response to the complaint. It was also decided that the complaint would be forwarded to the corresponding accrediting agency. The Commission will review any updates on these cases at the July meeting in Houston.

Legislative budgeting was then addressed by Bassett. Bassett indicated that his expectation is that the budget will remain unchanged for the next two years. Sam Houston State University has been taking care of any calls to testify as far as Bassett knows.

The meeting continued with a public comment period in which meeting attendees were invited to comment on the Commission's activities. Tim Sliter reiterated the stress and the problems that would be involved in retesting samples as part of an audit process. He indicated that it would be highly problematic for labs. Manuel Valadez, Jr. also offered similar comments.

The Commission then conducted a short review of any agenda items or assignments to be completed before the next meeting. After a brief closing discussion, the meeting was adjourned by Motion from Bassett and seconded by Kerrigan.

The Commission reviewed any agenda items to be completed before the next meeting.

The next meeting for the Commission is to be held in Houston on July 24th, 2009, beginning at 9:30 a.m.

The meeting following the July 2009 meeting shall take place in September 2009, and the date and location will be determined at the July 24th, 2009 meeting.