

**Texas Forensic Science Commission
Minutes from January 27, 2017 Bite Mark Review Team Meeting in Austin, Texas**

The Texas Forensic Science Commission's Bite Mark Review Team met at 9:00 a.m. on Friday, January 27, 2017 at the Stephen F. Austin building, 1700 North Congress, Room 170, Austin, Texas 78701.

Review Team Members Present: David Senn, Paula Brumit, Frank Wright, Adam Freeman, Russell Wilson, Bob Wicoff, Bill Wirskye, and Lee Hon

Review Team Members Absent: None

Staff Present: Lynn Garcia, General Counsel
Nick Vilbas, Assistant General Counsel

**Update on developments and status of Steven Mark Chaney case in Dallas
Introductions of Bite Mark Comparison Review Team Members and Staff**

Staff and Team members introduced themselves. Chris Fabricant informed members that the Steven Mark Chaney case is currently under consideration at the Court of Criminal Appeals.

Recap of Commission report recommendations.

Garcia reviewed the narrative summary of key issues identified in the Commission's report and the bitemark comparison review team's charge—to identify possible miscarriages of justice due to bite mark comparison testimony that is not supported by current science. Garcia further commented that this is not the first time the Commission has suggested a post-conviction review of cases, specifically noting the Commission's reviews of Arson, Hair Microscopy, and DNA mixture cases.

Dr. Freeman reported nothing has happened on the research previously discussed at the Commission's final Bite Mark Panel meeting. He discussed that the ABFO has not implemented any further testing of its diplomates and has no plans to do so in the future, though Dr. Iain Pretty has received IRB approval for the proposed study. Dr. Freeman explained that NIST is the most likely avenue for further research.

Dr. Frank Wright offered that Dr. Iain Pretty's follow up study had little support at the ABFO and that there is no movement for that study to be conducted.

Dr. Senn reported there is much disagreement within the ABFO concerning the design and implementation of the original Pretty/Freeman study with concerns that it skewed the results.

Discuss case review Criteria.

Review team members discussed, reviewed and agreed on the case review criteria for presentation to the full Commission at its February 10, 2017 meeting.

Discussion of case review and notification process.

Garcia and Vilbas discussed how the cases on the list were identified for review—by utilizing Dr. Senn’s textbook, legal research, and the Innocence Project for case identification. Texas ABFO Odontologists have not provided lists because no formal request has been made.

Dr. Senn discussed that he queried Texas odontologists on whether or not they would offer a list of the cases they have worked and he received a positive response, but the Commission had not requested that info from him. Garcia stated that a request will be forthcoming.

Garcia introduced the draft criteria for the case transcript review, specifically discussing how it was modeled similarly to the arson review criteria. Members discussed each step of the review criteria in detail, including the terminology and made suggestions and edits to the language related to the materiality step of the review.

Garcia introduced the standard notification procedures involving sending notification to all stakeholders. Cases where testimony exceeding the limits of science is found by the team will receive notification while those that do not will receive no letter.

The review team elected Russell Wilson and Dr. Frank Wright as co-chairs of the Bite Mark Comparison Review Team.

MOTION AND VOTE: *Wright moved to adopt the case review criteria draft with edits to be presented to the full Commission at its February 10, 2017. Freeman seconded the motion. The review team unanimously adopted the motion.*

Preliminary review of cases on list.

The team first reviewed the list of cases pre-screened out of the review by staff. The team directed staff to attempt to gather the transcript for the Doyle case and to gather further information on the Melissa Lucio and Jay Pinkerton cases.

Kenneth Patterson Case:

The review team directed staff to gather more information on this case.

Mario Marquez Case:

MOTION AND VOTE: *Wright moved to affirmatively answer question two from the*

screening criteria, therefore ending the inquiry into the case. Wicoff seconded the motion. The team unanimously adopted the motion.

Ngoc Van Le Case:

MOTION AND VOTE: *Wilson moved to affirmatively answer question two from the screening criteria, therefore ending the inquiry into the case. Wirskye seconded the motion. The team unanimously adopted the motion.*

Aaron Litaker Case:

MOTION AND VOTE: *Wirskye moved to review the trial transcript of the case. Wicoff seconded the motion. The team unanimously adopted the motion.*

David Wayne Spence Case:

MOTION AND VOTE: *Wright moved to review the trial transcript of this case. Wilson seconded the motion. The team unanimously adopted the motion.*

Vincent Baker Case:

Review team members requested staff gather further information from the Tarrant County District Attorney's Office concerning possible DNA testing and other case facts in the Vincent Baker case.

Roberto Salazar Case:

Review team members also requested staff gather further information from the Harris County District Attorney's Office concerning possible DNA testing and other case facts in the Roberto Salazar case.

Jerry Don Moye Case:

MOTION AND VOTE: *Wirskye moved to affirmatively answer question two from the screening criteria, therefore ending the inquiry into the case. Wicoff seconded the motion. The team unanimously adopted the motion.*

Michael Eddie Rios Case:

Review team members requested staff gather further information on case facts in the Michael Eddie Rios case.

Christopher Furtado Case:

MOTION AND VOTE: *Wilson moved to review the trial transcript of this case. Wright seconded the motion. The team unanimously adopted the motion.*

Yesenia Hernandez Case:

MOTION AND VOTE: *Wilson moved to review the trial transcript of this case. Wright seconded the motion. The team unanimously adopted the motion.*

Humberto Leal Case:

MOTION AND VOTE: *Wicoff moved to affirmatively answer question two from the screening criteria, therefore ending the inquiry into the case. Wirskye seconded the motion. The team unanimously adopted the motion.*

Efraim Gonzales Case:

MOTION AND VOTE: *Wright moved to affirmatively answer question two from the screening criteria pending confirmation of the DNA testing evidence by Staff. Freeman seconded the motion. The team unanimously adopted the motion.*

Wanda Blackwelder Case:

MOTION AND VOTE: *Wilson moved to affirmatively answer question two from the screening criteria, therefore ending the inquiry into the case. Wicoff seconded the motion. The team unanimously adopted the motion.*

Edward Villa Case:

Review team members requested staff gather further information on the DNA testing offered in the Edward Villa case.

Kosoul Chanthakoumanne Case:

MOTION AND VOTE: *Wilson moved to affirmatively answer question two from the screening criteria, therefore ending the inquiry into the case. Wicoff seconded the motion. The team unanimously adopted the motion.*

**Wirskye recused himself from deliberation and discussion of this case.*

David Coronado Case:

Review team members requested Staff gather further information concerning the case facts surrounding the David Coronado case.

Lazaro Del Torro Case:

MOTION AND VOTE: *Freeman moved to affirmatively answer question two from the screening criteria, therefore ending the inquiry into the case. Wilson seconded the*

motion. The team unanimously adopted the motion.

**Senn recused himself from deliberation and discussion of this case.*

Blaine Milam Case:

MOTION AND VOTE: *Wilson moved to affirmatively answer question two from the screening criteria, therefore ending the inquiry into the case. Senn seconded the motion. The team unanimously adopted the motion.*

Francis Pelkey Case:

MOTION AND VOTE: *Wilson moved to review the trial transcript of this case. Freeman seconded the motion. The team unanimously adopted the motion.*

Juanita Svenningsen Case:

MOTION AND VOTE: *Wilson moved to affirmatively answer question two from the screening criteria, therefore ending the inquiry into the case. Wirskye seconded the motion. The team unanimously adopted the motion.*

Crystal Boler Case:

MOTION AND VOTE: *Wirskye moved to affirmatively answer question two from the screening criteria, therefore ending the inquiry into the case. Wilson seconded the motion. The team unanimously adopted the motion.*

Anthony Tyrone Bell Case:

MOTION AND VOTE: *Wilson moved to review the trial transcript of this case. Wirskye seconded the motion. The team unanimously adopted the motion.*

William Patrick Jefferson Case:

The review team requested staff gather further information concerning the case facts surrounding the William Patrick Jefferson case.

Discussion of action items and recommendations, including report to full Commission at February 10th quarterly meeting

Garcia reviewed decisions on which cases would be closed prior to record review, cases that will continue to record review and those that need further information before that decision can be made. The draft criteria will be presented for approval at the February 10th full Commission meeting. A letter will be directed to Dr. Senn requesting Texas forensic odontologists to submit cases to the Commission for review.

Schedule next meeting.

The next Bite Mark Comparison Review Team meeting is tentatively scheduled for either March 10 or March 31 depending on scheduling and meeting space availability.

Public comment.

The following members of the public provided comment:

Chris Fabricant, National Innocence Project

Adjourn.