

**The Texas Forensic Science Commission met on January 27, 2023, at the Stephen F. Austin Building at 1700 North Congress Avenue, Room 170, Austin, Texas 78701**

**Members Present:** Jarvis Parsons, J.D.  
Mark Daniel, J.D.  
Patrick Buzzini, Ph.D.  
Michael Coble, Ph.D.  
Jeffrey Barnard, M.D.  
Jasmine Drake, Ph.D.  
Nancy Downing, Ph.D.  
Bruce Budowle, Ph.D.

**Members Absent:** Sarah Kerrigan, Ph.D.

**Staff Present:** Lynn Garcia, General Counsel  
Leigh Tomlin, Associate General Counsel  
Robert Smith, Senior Staff Attorney  
Veena Mohan, Assistant General Counsel, Office of Court Administration  
Maggie Sowatzka, Program Specialist

**During this meeting, the Forensic Science Commission (“Commission”) considered and acted on the following items. The Commission took breaks as necessary.**

**1. Call meeting to order. Roll call for members. Excuse any absent board members.**

Barnard called the meeting to order at 9:01 a.m. Commissioners were present as indicated above.

**MOTION AND VOTE:** *Daniel moved to excuse Kerrigan’s absence. Parsons seconded the motion. The Commission unanimously voted in favor of the motion.*

**2. Review and adopt minutes from October 7, 2022 Forensic Science Commission quarterly meeting.**

**MOTION AND VOTE:** *Downing moved to adopt the meeting minutes draft. Buzzini seconded the motion. The Commission unanimously voted in favor of the motion.*

**3. Office administrative update (introduce new attorney Veena Mohan; FY2023 second quarter budget status report; updates from conferences and trainings by staff, including February 2023 American Academy of Forensic Sciences Annual Meeting; launch of licensing database functions).**

Garcia introduced new attorney Mohan. Mohan supports the Office of Court Administration as legal counsel and serves both the Judicial Branch Certification Commission and the Forensic Science Commission. Garcia described Mohan’s professional background and her work experience at the Texas Attorney’s General’s Office Administrative Law Division. Garcia and staff reviewed the current budget status report with commissioners that included staff salaries, and

other highlighted costs such as fees for a DNA expert and travel costs for staff and conference participants who will participate in a Commission-sponsored training to be held in February at the University of North Texas Health Science Center – Center for Human Identification (“UNTHSC-CHI”) on assessing suitability for interpretation of DNA mixtures.

**MOTION AND VOTE:** *Daniel moved to adopt the budget as reflected in the meeting materials. Drake seconded the motion. The Commission unanimously voted in favor of the motion.*

Garcia reported that the licensee portion of the Commission’s new database is now live. Licensee certificates are available for download; information on both past and current licensees is available. Garcia explained the Office of Court Administration is currently able to devote more time to completing work on other portions of the database. Interested stakeholders can view the portal in its current state by visiting [www.fsc.texas.gov](http://www.fsc.texas.gov). Staff expects progress on the OSAC Registry implementation and accredited laboratory sections to develop over the next couple of months.

**4. Review and adopt amendment to rules to effectuate revisions to investigative process, including elimination of panels in favor of delegation of investigations to staff and permanent retention of subject matter experts to assist with technical aspects of investigative process and report-writing.**

Members and staff discussed the possibility of changing the Commission’s investigative process to remove investigative panels in favor of retaining subject matter experts to support the Commission’s investigative work.

At 9:12 am, the Commission convened a closed session under Texas Government Code section 551.071 on this agenda item to receive legal advice from the Commission’s attorney. All members of the public were requested to leave the meeting room at 9:12 am. The closed session ended at 9:37 a.m. and members of the public returned to the meeting. There were no motions on this agenda item.

**5. Discuss and consider complaints and laboratory self-disclosures pending from October 7, 2022 quarterly meeting and new complaints and laboratory self-disclosures received through January 6, 2023, as detailed below.**

Disclosures Received as of January 6, 2023:

1. No. 22.52; Jefferson County Regional Crime Laboratory (Firearms/Toolmarks)

A self-disclosure by the Jefferson County Regional Crime Laboratory reporting an incident in the laboratory’s firearms section where a firearms examiner failed an internal proficiency test by incorrectly eliminating two items as fired from the same unknown firearm. A second examiner verified the incorrect eliminations.

**MOTION AND VOTE:** *Daniel moved to take no further action based on the root cause analysis and corrective actions taken by the laboratory. Drake seconded the motion. The Commission unanimously voted in favor of the motion.*

2. No. 22.58; Houston Forensic Science Center (Seized Drugs)

A self-disclosure by the Houston Forensic Science Center reporting an incident in its seized drugs section where an analyst misidentified a new (uncontrolled) designer benzodiazepene as alprazolam.

**MOTION AND VOTE:** *Daniel moved to take no further action based on the root cause analysis and corrective actions taken by the laboratory. Drake seconded the motion. The Commission unanimously voted in favor of the motion.*

3. No. 23.01; Fort Worth Police Department Crime Laboratory (Firearms/Toolmarks)

A self-disclosure by the Fort Worth Police Department Crime Laboratory reporting an incident in its firearms section where an analyst reported three inconclusive results on their external proficiency test in contrast with expected consensus results of three exclusions and one inclusion.

**MOTION AND VOTE:** *Daniel moved to take no further action based on the root cause analysis and corrective actions taken by the laboratory. Drake seconded the motion. The Commission unanimously voted in favor of the motion.*

4. No. 23.02; Fort Worth Police Department Crime Laboratory (Quality System)

A self-disclosure by the Fort Worth Police Department Crime Laboratory reporting the discovery of data loss from its quality management system after the former quality assurance coordinator allegedly deleted or discarded data upon separation from the lab.

**MOTION AND VOTE:** *Daniel moved to table the self-disclosure pending receipt of the laboratory's final corrective action. Coble seconded the motion. The Commission unanimously voted in favor of the motion.*

5. No. 23.03; Bexar County Criminal Investigation Laboratory (Seized Drugs)

A self-disclosure by the Bexar County Criminal Investigation Laboratory reporting an incident in its seized drugs section where an analyst misidentified a substance as methamphetamine and the laboratory later discovered data in case notes indicated the substance was heroin. The error was not caught by the technical reviewer.

**MOTION AND VOTE:** *Daniel moved to take no further action based on the root cause analysis and corrective actions taken by the laboratory. Drake seconded the motion. The Commission unanimously voted in favor of the motion.*

Complaint Pending from October 7, 2022:

6. No. 22.40; Nix, Meda (Department of Public Safety (DPS) Austin; Breath Alcohol)

A complaint by DPS forensic scientist Meda Nix alleging unfair and discriminatory promotional practices at Texas Department of Public Safety Crime Laboratory – Austin’s Breath Alcohol section. The allegations are currently being investigated by the Texas DPS Office of Inspector General.

**MOTION AND VOTE:** *Daniel moved to table the complaint pending completion of the DPS Inspector General’s internal investigation of the matter. Drake seconded the motion. The Commission unanimously voted in favor of the motion.*

Complaints Received as of January 6, 2023:

7. No. 22.45; King, Tommy (Dallas Police Department; Forensic Biology/DNA)

A second complaint by defendant Tommy King alleging a Dallas Police Department detective planted blood evidence on a knife submitted for analysis in his case.

**MOTION AND VOTE:** *Daniel moved to dismiss the complaint because the Commission has no jurisdiction over police officers alleged to have committed misconduct. Buzzini seconded the motion. The Commission unanimously voted in favor of the motion.*

8. No. 22.46; Hyland, Richard (DPS Corpus Christi; Blood Alcohol)

A complaint by defendant Richard Hyland against DPS Corpus Christi disputing evidence that he was intoxicated when involved in a motorcycle crash that killed his passenger wife. Allegations include lack of a video depicting his blood draw by hospital personnel and that persons who handled the bloodwork were unable to say it was his blood.

**MOTION AND VOTE:** *Daniel moved to dismiss the complaint for failure to allege professional negligence or professional misconduct related to the forensic analysis of physical evidence. Drake seconded the motion. The Commission unanimously voted in favor of the motion.*

9. No. 22.47; Rodriguez, Mark Anthony (DPS Lubbock; Forensic Biology/DNA)

A complaint filed by Mark Rodriguez against DPS Lubbock alleging blanket allegations of “faulty, discredited and unreliable [DNA] mixture” analysis and requesting retesting and testing of additional evidence utilizing probabilistic genotyping.

**MOTION AND VOTE:** *Daniel moved to dismiss the complaint for failure to allege professional negligence or professional misconduct related to the forensic analysis, allegations made in the complaint were not supported by case record, and the Commission has no authority to order additional case analyses. Parsons seconded the motion. The Commission unanimously voted in favor of the motion.*

10. No. 22.49; Henderson, Arthur (Southwestern Institute of Forensic Sciences (SWIFS); Toxicology)

Barnard recused himself from the deliberation and vote on this agenda item out of an abundance of caution as he is the Director and Chief Medical Examiner of the Southwestern Institute of Forensic Sciences.

A complaint by defendant Arthur Henderson against SWIFS alleging the toxicology report in his case was erroneous and alleging various issues with autopsy findings including the medical significance of post-mortem blood toxicology relative to cause of death determination.

**MOTION AND VOTE:** *Daniel moved to dismiss the complaint because the medical significance of the reported blood toxicology results in determining the cause of death is outside the jurisdiction of the Commission. Parsons seconded the motion. The Commission unanimously voted in favor of the motion.*

11. No. 22.54; Cowan, Linda (DPS Austin; Firearms/Materials/(Trace))

A complaint filed by defendant Linda Cowen against DPS Capitol Area Lab alleging issues with the analysis of trace evidence detected on a distorted projectile belatedly collected from a pillow at the crime scene after a suspicious firearm was rendered operational. Complainant alleged only pillow fibers were detected and lacked traces of screen, glass, hair, and skin through which it allegedly passed. Complainant also asserted that trial testimony by the trace analyst insinuated gunshot residue (GSR) was detected on a pair of pants even though only two of the three GSR indicators were found, and the analyst failed to consider particles detected may have been present from working on a vehicle.

Garcia corrected the record to indicate that the subject of this complaint is DPS Austin and not the Capitol Area Lab.

**MOTION AND VOTE:** *Daniel moved to dismiss the complaint for failure to allege negligence or misconduct related to the forensic analysis of physical evidence and because the testimony allegations are unsupported by a review of the record. Drake seconded the motion. The Commission unanimously voted in favor of the motion.*

**MOTION AND VOTE:** *Daniel moved to accept the administrative dismissal of six complaints by commission staff. Drake seconded the motion. The Commission unanimously voted in favor of the motion.*

- 6. Discuss status of crime laboratory accreditation program, including accreditation activities, communications and reports received since October 7, 2022 quarterly meeting; approve rulemaking related to final transition of American Board of Forensic Toxicologists (ABFT) accreditation program to the ANSI National Accreditation Board (ANAB), discuss progress on incorporation of Commission assessment checklist, including November 11, 2022 staff meeting with ANAB and December 15, 2022 staff meeting with the American Association for Laboratory**

**Accreditation (A2LA) regarding TFSC assessment checklist, and meetings regarding feedback from Texas Association of Forensic Quality Assurance Managers.**

Garcia gave an update on ten accreditation events from the past. Staff will follow up on highlighted issues identified during the laboratory assessments.

Garcia discussed the proposed rulemaking that phases out ABFT accreditation pursuant to ABFT's merger with ANAB. ABFT accredited laboratories will be allowed to finish out their current term but will not be able to renew Commission accreditation solely with ABFT. There is only one laboratory (Travis County Medical Examiner's Office Crime Laboratory) that has not yet made the transition and the Commission has sent a letter to the laboratory notifying it of the transition and the final deadline.

**MOTION AND VOTE:** *Drake moved to adopt the proposed amendments to 37 Texas Administrative Code section 651.4 relating to the final transition of removal of recognition of the ABFT accreditation program. Parsons seconded the motion. The Commission unanimously voted in favor of the motion.*

Garcia provided an update on implementation of general recommendations to labs made in the Colone Final Report including a description of a webinar/training Garcia provided to over 35 laboratory participants on implementation of the universally applicable recommendations and checklist items included in the final investigative report by the Commission.

**7. Discuss licensing advisory committee update, including:**

- 1. Licenses issued and renewed;**
- 2. Licensee renewal nonconformance report (Plano Police Department);**
- 3. Voluntary licensure; and**
- 4. Full transition to General Forensic Analyst Licensing Exam II.**

Garcia reported that the Commission currently licenses over 1200 forensic analysts and technicians. Staff is considering transitioning license expiration dates to birthdays to stagger the renewal dates to that both staff and licensees are not all working on renewals at the same time each renewal cycle.

Garcia reported that the Commission has outstanding rulemakings for voluntary licensure programs for digital evidence and friction ridge analysis. Staff and the Committee plan to establish recommendations for which the Organization of Scientific Area Committees (OSAC) Registry standards are applicable (required to be adopted and implemented by the employing laboratory) in latent prints for voluntary licensees employed at non-accredited laboratories and how compliance with those standards will be determined by the Commission at the Licensing Advisory Committee's April 14 meeting.

Garcia explained the transition to the General Forensic Analyst Licensing Exam II (GFALE II) is fully complete and fully remote. Garcia also explained there are some issues with laboratories experiencing security blocks downloading and accessing the security software Respondus, which is the remote proctoring software used by Sam Houston State University to administer the exams.

Staff is working to find a more accessible option for law enforcement and other agencies with security issues that prevent the agencies from being able to use the software.

**8. Update from investigative panel for self-disclosure #22.17 Fort Worth Police Department Crime Laboratory (Proficiency Testing; ANSI National Accreditation Board (ANAB) Reaccreditation Assessment) and adoption of final report.**

ANAB and the Commission are reviewing a new disclosure by the laboratory that delayed adoption of any final report in the matter.

**9. Update regarding #20.55 ExperTox (Toxicology) appeal and discussion/adoption of amended final revised investigative report.**

There was no update on this agenda item. Staff indicated negotiations resulting from an appeal to the final investigative report are underway.

**10. Update regarding complaint #21.27 University of Colorado, National Innocence Project on behalf of Nanon Williams (Houston PD/Houston Forensic Science Center; Firearms/Toolmarks).**

Staff is still waiting for the National Institute of Standards and Technology to issue its foundational scientific literature review on firearms before it can release its final investigative report in this matter. Staff should have a case update at the April 14, 2023 quarterly meeting.

**11. Update from investigative panel for self-disclosure #21.72 Brazoria County Crime Laboratory (Toxicology).**

Garcia provided a brief background on the case—In November 2021, the laboratory director identified concerns regarding the laboratory's approach to blood alcohol calibration and related data interpretation. At the time, the laboratory director had recently assumed his position upon retirement of the former director, who had served in that capacity for decades. Upon recognizing the laboratory's scientifically unsupportable practices in blood alcohol analysis, the current lab director took proactive measures to disclose and correct the issues identified.

During the investigative process, Garcia noted that ANAB assessors did not discover the issues identified by the new laboratory director during any assessment activity. ANAB is aware of and researching the issue. The Commission makes no findings of professional misconduct or professional negligence in its final investigative report.

**MOTION AND VOTE:** *Drake moved to accept the final investigative report draft for the self-disclosure. Coble seconded the motion. The Commission unanimously voted in favor of the motion.*

**12. Update from investigative panel for complaint #22.16 Webster, Joseph (Ron Smith & Associates; Latent Prints).**

Smith explained staff and experts are working with the Commission's expert consultant on issues related to the quality of images in the original case and subsequent reviews. Staff will provide an update at the April 14, 2023 meeting.

**13. Update from investigative panel for self-disclosure #22.39 Bode Technology (Forensic Biology/DNA).**

Smith explained facts leading to the self-disclosure which concern an unauthorized signature by an analyst on serology reports. The lab is investigating some other possible incidents and hopes to conclude its internal investigation soon. Staff hopes to have an update by the Commission's April 14, 2023 quarterly meeting.

**14. Discuss current forensic development training and education projects, including:**

- a. February 2-3, 2023 meeting with DNA laboratories at the University of North Texas Health Science Center/Center for Human Identification to discuss suitability determinations for DNA mixture profile interpretation;
- b. DNA training for lawyers and judges in collaboration with Court of Criminal Appeals Judge Barbara Hervey;
- c. Training presentation on Colone report adopted at October 2022 quarterly meeting;
- d. February 13, 2023 presentation to Texas Center for the Judiciary Criminal Justice Conference;
- e. OSAC implementation initiatives including National Institute of Standards and Technology (NIST)/American Academy of Forensic Sciences (AAFS) grant progress; and
- f. Sponsorship of laboratory manager class at National Forensic Leadership Academy.

Garcia provided an overview of the various training programs in process.

**15. Update regarding 88<sup>th</sup> Legislative Session.**

Staff will provide an update regarding any bills and funding impacting the Commission at the April meeting.

**16. Update from the Texas Association of Crime Laboratory Directors.**

Peter Stout, President of the Texas Association of Crime Laboratory Directors ("TACLD"), is currently tracking about 70 bills this legislative session. There are bills that, if passed, may further complicate testing for types and content of cannabinoids. TACLD is now a non-profit corporation and their website (tacl.org) is now live.

**17. Consider proposed agenda items for next meeting.**

There were no items for this agenda item other than the standing items on the agenda.

**18. Schedule and location of future panel and quarterly meetings, including the April 14, 2023 and July 21, 2023 quarterly meetings.**

The Commission will convene its next meetings on April 14, 2023 and July 21, 2023.

**19. Hear public comment.**

There was no public comment.

**20. Adjourn.**

**MOTION AND VOTE:** *Drake moved to adjourn the meeting at 11:16 a.m. Parsons seconded the motion. The Commission unanimously voted in favor of the motion.*