



TEXAS FORENSIC SCIENCE COMMISSION

1700 North Congress Ave., Suite 445
Austin, Texas 78701

Texas Forensic Science Commission Quarterly Meeting Minutes

The Texas Forensic Science Commission (Commission) met in person and by video conference on April 26, 2024, at the Barbara Jordan State Office Building at 1601 Congress Avenue, Room 2.034, Austin, Texas 78701.

Members Present: Jeffrey Barnard, M.D., Presiding Officer

Patrick Buzzini, Ph.D.
Michael Coble, Ph.D.
Mark Daniel, J.D.
Nancy Downing, Ph.D.
Jasmine Drake, Ph.D.
Sarah Kerrigan, Ph.D.
Jarvis Parsons, J.D.
Erika Ziemak, M.S.

The following members attended the meeting via Zoom video conference: Nancy Downing, Dr. Sarah Kerrigan, Jasmine Drake, and Jarvis Parsons.

Members Absent: None

Staff Present: Lynn Garcia, General Counsel
Leigh Tomlin, Associate General Counsel
Robert Smith, Senior Staff Attorney
Veena Mohan, Assistant General Counsel
Steve Miller, Multimedia Producer
Maggie Sowatzka, Program Specialist

During this meeting, the 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 9:00 a.m. Commissioners were present as indicated above.

2. Review and adopt minutes from the January 26, 2024, quarterly commission meeting and amended minutes from the April 14, 2023, quarterly commission meeting.

MOTION AND VOTE: *Daniel moved to adopt the January 26, 2024, meeting minutes draft. Coble seconded the motion. The Commission unanimously adopted the motion.*

MOTION AND VOTE: *Drake moved to amend the minutes from the April 14, 2023, meeting. Buzzini seconded the motion. The Commission unanimously adopted the motion.*

3. Office administrative update (FY2024 third quarter budget status report; update on status of launch of database functions, including complaint and disclosure portal and quality incident portal). (General Counsel Garcia/Associate General Counsel Tomlin)

Garcia shared an update on the FY2024 budget status report. The Commission is on track to expend all allotted funds by the end of the fiscal year.

Brett Watkins, Applications Enterprise Architect from the Office of Court Administration, shared an update regarding the database project. All six sections of the database are expected to be released into production by June 30, 2024. Commission staff will provide a further update at the July 26, 2024, quarterly meeting.

4. Discuss and consider complaints and laboratory self-disclosures pending from the January 26, 2024, quarterly commission meeting and new complaints and laboratory self-disclosures received through April 5, 2024, as detailed below. (Commissioner Daniel)

Self-disclosure pending from January 26, 2024:

1. No. 23.40; Houston Forensic Science Center (Forensic Biology/DNA)

A self-disclosure by the Houston Forensic Science Center reporting an issue in the laboratory's forensic biology/DNA section where the laboratory became aware that in cases involving certain rare alleles, the lower bound highest posterior density likelihood ratio (HPD LR) and the point estimate likelihood ratio values calculated as part of the STRmix report may support different propositions, affecting six previously reported cases identified by the laboratory to date.

MOTION AND VOTE: *Daniel moved to take no further action given the root cause analysis and corrective action taken by the laboratory. Buzzini seconded the motion. The Commission unanimously adopted the motion.*

Ziemak recused from discussion and voting on this item.

Self-disclosures received as of April 5, 2024:

2. No. 23.65; Signature Science (Forensic Biology Screening)

A self-disclosure by Signature Science reporting several instances of semen screening discrepancies found in the casework of a biology screening analyst. The

laboratory re-examined several cases, determined the possible root cause(s) of the errors and took corrective action accordingly.

MOTION AND VOTE: *Daniel moved to take no further action given the root cause analysis and corrective action taken by the laboratory. Drake seconded the motion. The Commission unanimously adopted the motion.*

3. No. 23.66; Sorenson Forensics (Forensic Biology/DNA)

A self-disclosure by Sorenson Forensics reporting an incident where the laboratory discovered a forensic biologist performing unauthorized bone extractions, and the amplification, data analysis and interpretation in one case using the Fusion 6C STR kit without the proper authorization because his father (the former Sorenson Forensics Chief Executive Officer) was the main person authorizing his work.

MOTION AND VOTE: *Daniel moved to take no further action given the root cause analysis, the corrective action taken by the laboratory, and the fact that neither the employee nor the Chief Executive Officer is employed by the laboratory. Buzzini seconded the motion. The Commission unanimously adopted the motion.*

4. No. 24.03; Houston Forensic Science Center (Crime Scene Investigation)

A self-disclosure by the Houston Forensic Science Center reporting an incident in the laboratory's crime scene unit where a trainee destroyed original observation notes from a crime scene and tried to pass off another document as the destroyed training notes.

MOTION AND VOTE: *Daniel moved to take no further action given the root cause analysis and corrective action taken by the laboratory. Coble seconded the motion. The Commission unanimously adopted the motion.*

Ziemak recused from discussion and voting on this item.

5. No. 24.04; Department of Public Safety – Houston (Forensic Biology/DNA)

A self-disclosure by the Department of Public Safety – Houston reporting an incident in its forensic biology section where a sample switch of casework occurred during the normalization/amplification setup process, and as a result, the laboratory released a DNA report with results that pertain to the wrong case.

MOTION AND VOTE: *Daniel moved to take no further action given the root cause analysis and corrective action taken by the laboratory. Drake seconded the motion. The Commission unanimously adopted the motion.*

6. No. 24.05; University of North Texas Health Science Center – Center for Human Identification (Forensic Biology/DNA)

A self-disclosure by the University of North Texas Health Science Center – Center for Human Identification reporting an incident in its forensic biology section, where, while cutting sexual assault kit swabs for DNA extraction, swab cuttings from two different cases were inadvertently placed into the same tube. When the swab cuttings were removed, they were unintentionally discarded.

MOTION AND VOTE: *Daniel moved to take no further action given the root cause analysis and corrective action taken by the laboratory. Buzzini seconded the motion. The Commission unanimously adopted the motion.*

Ziemak and Coble recused from discussion and vote on this item.

7. No. 24.02; Department of Public Safety – Abilene (Seized Drugs)

A self-disclosure by the Department of Public Safety – Abilene reporting an incident in its seized drugs section where an evidence technician could not locate a glass pipe with residue identified as methamphetamine.

MOTION AND VOTE: *Daniel moved to take no further action given the root cause analysis and corrective action taken by the laboratory. Ziemak seconded the motion. The Commission unanimously adopted the motion.*

8. No. 24.10; University of North Texas Health Science Center – Center for Human Identification (Forensic Biology/DNA)

A self-disclosure by the University of North Texas Health Science Center – Center for Human Identification reporting two incidents of lost evidence in its forensic biology section, 1) where a suspect reference sample (buccal swab) to be processed for DNA analysis could not be located; and 2) where an item of evidence from a sexual assault kit (a pair of panties) could not be located in the kit for analysis.

MOTION AND VOTE: *Daniel moved to take no further action given the root cause analysis and corrective action taken by the laboratory. Buzzini seconded the motion. The Commission unanimously adopted the motion.*

Ziemak and Coble recused from discussion and vote on this item.

Complaints received as of April 5, 2024:

9. No. 24.01; Li, Ya (Harris County Institute of Forensic Sciences; Forensic Biology/DNA)

A complaint filed by the spouse of a capital murder suspect regarding complex DNA mixture evidence. The complaint asks the Commission to review whether the Harris County Institute of Forensic Science established the correct thresholds for

determining the number of contributors, the reliability of inclusionary results, and the quality of the DNA profile in the case.

MOTION AND VOTE: *Daniel moved to table the complaint pending review by Commissioners Coble and Ziemak of extensive documentation provided by the laboratory. Drake seconded the motion. The Commission unanimously adopted the motion.*

10. No. 24.06; Hunt, Kenneth (Department of Public Safety – Houston; Forensic Biology/DNA)

A complaint filed by defendant Kenneth Hunt alleging that his known reference buccal swab does not exist, and that the supplemental laboratory report issued by the laboratory was fabricated.

MOTION AND VOTE: *Daniel moved to dismiss the complaint as the allegations are not supported by the record. Drake seconded the motion. The Commission unanimously adopted the motion.*

Staff Dismissals

MOTION AND VOTE: *Daniel moved to accept staff's complaint dismissal recommendations as presented. Drake seconded the motion. The Commission unanimously adopted the motion.*

5. Discuss status of crime laboratory accreditation program, including:

a. Summary of accreditation activities, communications, and reports received since the January 26, 2024, quarterly commission meeting;

Tomlin explained that there were 10 accreditation related events this quarter. One was a reduction in scope of services by an accredited lab, one was an addition in scope of services; there were seven successful surveillance document reviews and one reported accreditation forensic biology/DNA issue from a lab involving mitochondrial DNA testing.

b. Summary of reported non-consensus proficiency testing results from accredited crime laboratories;

The Commission considered 15 incidents of reported non-consensus results during proficiency testing performance monitoring activities. Three were reported due to methods not used in the lab's casework; four because the answer to the test was outside the laboratory's validated reporting limits; one because of a test provider or manufacturing error; one was a clerical entry or data mistake by the test taker; four were proficiency tests that may require some level of root cause analysis; and two were DNA mixture interpretation issues.

- c. **Discuss and vote on rule changes to clarify the scope of the accreditation exemption for certain testing performed for supervision services subsequently entered into evidence in a criminal action, including but not limited to changes to §§ 651.7 and 651.2;**

Tomlin explained that this rule adoption clarifies the scope of an already existing accreditation exemption for certain types of testing that is performed in the case of supervision services. It expresses more clearly that pre-trial bond hearings and related services are covered by the language.

MOTION AND VOTE: *Daniel moved to adopt amendments to Section 651.7 subject to suggested non-substantive revisions from the Office of the Governor, Texas Register, and Commission staff. Ziemak seconded the motion. The Commission unanimously adopted the motion.*

- d. **Discuss and review American Association of Laboratory Accreditation (A2LA) Specific Requirements for Forensic Science Commission formalized standard documents R221b and C221b – Annex B – Texas Forensic Science Commission Specific Checklist pursuant to ISO/IEC 17011 standard compliance;**

Tomlin explained that A2LA, one of the two accrediting bodies that the Commission recognizes from crime laboratory accreditation, has formalized certain Commission requirements into formal assessment criteria and checklist documents. The requirements state that laboratories must review investigative reports by the Commission, communicate expectations for testimony preparation, have a process for when an employee leaves or returns to testify, and have a policy that builds in flexibility for current employees going back to testify for a previous employer.

- e. **Discuss memorandum to laboratories describing disclosure expectations and timing of disclosures to Commission;**

Tomlin explained the rationale for the memorandum and highlighted its main components with particular focus on the timing of disclosure pursuant to accreditation requirements.

- f. **Update on City of Austin Forensic Science Department Internal Review (Firearms/Toolmarks).**

Smith gave an update on the City of Austin Forensic Science Department's internal review of its firearms program. The laboratory retained a qualified subject matter expert to do a technical review of training records and a random sampling of casework. The subject matter expert will provide final summary reports of both the training record review, the training program, and the case review. The laboratory

will communicate the outcome to the Commission and its accrediting body, ANSI National Accreditation Board (ANAB).

MOTION AND VOTE: *Daniel moved to approve the City of Austin Forensic Science Department's plan for enlisting an independent consultant for technical review of firearms/toolmarks training records and casework. Ziemak seconded the motion. The Commission unanimously adopted the motion.*

6. Discuss updates from licensing advisory committee, including:

a. Report on licenses issued and renewed;

There are currently 1,304 total licensees. Since the program's inception, the Commission has licensed over 1,500 analysts and technicians.

b. Report from April 25, 2024, Licensing Advisory Committee meeting action items;

Tomlin gave an update on the Committee meeting that took place the previous day. The Committee approved two rule proposals for discussion and vote by commissioners. Tomlin also reported that licensing advisory committee members voted to direct staff to develop an outline establishing base guidelines for intra and inter-agency proficiency monitoring programs, particularly in the area of voluntary licensure programs. Staff will collaborate with key licensing advisory committee members to develop the outline and provide it to the Commission.

c. Discuss and vote on rule changes that further develop the Commission's voluntary licensure program including, but not limited to, changes and additions to §§ 651.202 and 651.222;

Tomlin presented a rulemaking proposal on voluntary licensure that modifies the requirements for document examiners by increasing the education requirement to a bachelor's degree or higher. The rulemaking also better defines the scope of activities covered by the document examination license. The rule includes the modifications as directed from the previous meeting. Voluntary licenses for crime scene and latent print processing are established by the rulemaking as well.

MOTION AND VOTE: *Daniel moved to withdraw the Commission's January 26, 2024, action to adopt amendments to Sections 651.202 and 651.222 and propose amended rules to Sections 651.202 and 651.222 subject to suggested non-substantive revisions from the Office of the Governor, Texas Register, and commission staff. Buzzini seconded the motion. The Commission unanimously adopted the motion.*

- d. Discuss and vote on rule changes related to the Commission’s rules on license expiration dates including, but not limited to, changes to §§ 651.207 and 651.208;**

Tomlin explained that this rulemaking proposal addresses the applicability of birth month licensing expiration dates, so that birth month expiration dates and the prorated fees and continuing education requirements apply only to licensees who were licensed prior to January 1, 2024, and are renewing before December 31, 2026. This change is being made because the dilemma of the scale of renewals occurring in the latter half of even numbered years is not affected by people who are applying for an initial license. The change prevents staff and applicants from having to calculate prorated fees and continuing education requirements for people applying for a license for the first time.

MOTION AND VOTE: *Daniel moved to propose rule amendments to §§ 651.207 and 651.208 subject to suggested non-substantive revisions from the Office of the Governor, Texas Register, and commission staff. Ziemak seconded the motion. The Commission unanimously adopted the motion.*

- e. Discuss and vote on licensing advisory committee’s recommendation on statistics course options for licensees; and**

The Committee discussed different options for statistics for law enforcement personnel that will apply for crime scene or latent print processing licenses. Celestina Rossi, Bloodstain Pattern Analyst and Technical Leader from Montgomery County Sheriff’s Office Crime Laboratory volunteered to collaborate with Lone Star College in developing an appropriate statistics course. Rossi is working with leaders at the College on the course development. The professor will be a Texas Commission on Law Enforcement retired certified peace officer who currently teaches statistics at the College. Staff expects to have a syllabus for the Commission to review at the next quarterly meeting.

- f. Discuss and vote on any updates to published, required quality standards for employing laboratories of voluntary licensees.**

Garcia gave an explanation about the required quality standards for laboratories. Since voluntary licensees do not have to be employed by an accredited laboratory, the Commission has established certain quality standard requirements to address any potential gaps. At the next quarterly meeting, the Commission plans to address quality standards for forensic anthropology forensic science service providers.

- 7. Discuss and vote on rule change to renumber § 651.402 to § 651.401, Notice and Hearing Request.**

Tomlin explained that this rule change is a repeal and re-proposal of the Notice and Hearing Request section of the Commission's administrative rules. The proposed changes renumber the rule because it was incorrectly numbered in the Texas Register.

MOTION AND VOTE: *Daniel moved to repeal Section 651.402 and propose new rule 651.401 subject to suggested non-substantive revisions from the Office of the Governor, Texas Register, and commission staff. Ziemak seconded the motion. The Commission unanimously adopted the motion.*

8. Discuss and vote on four-year rule review: Texas Administrative Code, Title 37, Chapter 651, Subchapters A, B, C, and D.

Tomlin explained that this rule is an adoption of the Commission's review of its administrative rules. The rule adoption reaffirms that the legal reasons for adopting the rule still exist. Garcia explained the four-year rule review is a statutory requirement for all agencies that have rulemaking authority.

MOTION AND VOTE: *Daniel moved to adopt rule review. Ziemak seconded the motion. The Commission unanimously adopted the motion.*

9. Review and possible adoption of final investigative report for complaint #21.27 University of Colorado, National Innocence Project on behalf of Nanon Williams (Houston PD/Houston Forensic Science Center) (Firearms/Toolmarks).

Garcia shared that staff and the Commission have finished the final investigative report on this matter and received feedback from the Texas Association of Crime Laboratory Directors, several experts from the National Institute of Standards and Technology, as well as subject matter experts from in and outside of Texas. Smith gave a presentation summarizing the case and report findings.

The report recommends the formation of a statewide firearms/toolmarks task group to provide feedback on the benefits and barriers to the method performance and method conformance approach to reporting recommended in the report.

The report includes two accreditation checklist items that will be added to laboratory assessments by a date to be determined by the task group.

The Forensic Science Commission accreditation requirements established by the report are as follows:

- 1) All firearms/toolmarks forensic science service providers shall have a policy that provides some level of blind verification with a clear minimum number of verifications set forth in policy (*see [report](#) for further details*); and

- 2) All firearms/toolmarks forensic science service providers shall have a policy on the documentation of consultations occurring during casework (see [report](#) for further details).

MOTION AND VOTE: *Daniel moved to adopt the draft investigative report subject to non-substantive revisions by staff. Buzzini seconded the motion. The Commission unanimously adopted the motion.*

MOTION AND VOTE: *Daniel moved to instruct staff to establish a firearms/toolmarks working group for purposes of implementing the recommendations in the report. Buzzini seconded the motion. The Commission unanimously adopted the motion.*

10. Review and possible adoption of final investigative report for complaint #23.67 Roy, Tiffany (Timothy Kalafut; Forensic Biology/DNA).

Garcia gave an update on complaint #23.67. Staff is close to finishing a first draft of the final investigative report for circulation. Commissioners plan to review the report at the July 26, 2024, quarterly meeting.

11. Discuss recent and upcoming forensic development training and education projects.

Garcia, Coble, and Ziemak will have a report on DNA training at the Commission's next quarterly meeting. The Institute for Forensic Research, Training, and Innovation at Sam Houston State University, directed by commissioner Dr. Sarah Kerrigan, will soon post access to the entire DNA for lawyers and judges training that took place at the Capitol November 2-3, 2023.

12. Update from the Texas Association of Crime Laboratory Directors.

Celestina Rossi provided an update on behalf of the Texas Association of Crime Laboratory Directors (TACLD) President Peter Stout to report that the organization has paid its taxes and will give a more in-depth update from the group at the Commission's July 26, 2024, meeting. The TACLD plans to meet again on July 25, 2024.

13. Consider possible agenda items for next quarterly meeting.

Staff will include all discussed items on the next quarterly meeting agenda and circulate the proposed agenda for additions.

14. Schedule and location of future panel and quarterly commission meetings including, but not limited to, the July 26, 2024, October 25, 2024, and January 31, 2025, quarterly commission meetings.

The next Commission meeting will be held on July 26, 2024. The following meetings will take place October 25, 2024, and January 31, 2025.

MOTION AND VOTE: *Daniel moved to instruct staff to schedule the July, October, and January meetings. Ziemak seconded the motion. The Commission unanimously adopted the motion.*

15. Public comment.

Staff noted no public comment other than that noted throughout the agenda.

16. Adjourn.

MOTION AND VOTE: *Daniel moved to adjourn the meeting at 10:42 a.m. Buzzini seconded the motion. The Commission unanimously voted to adjourn the meeting.*