



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 July 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: Patrick Buzzini, Nancy Downing, Jasmine Drake, Dr. Sarah Kerrigan, 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 9:01 a.m. Commissioners were present as indicated above.

2. Review and adopt minutes from the April 26, 2024, quarterly commission meeting.

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

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

Garcia gave an update on the status of the fourth quarter budget. The Commission is on track to expend all funding remaining in its budget through the end of the fiscal year. Staff is awaiting instructions from the Legislative Budget Board for the Commission's next Legislative Appropriation Request (LAR), which will be submitted as part of the Office of Court Administration's LAR.

The database team at the Office of Course Administration launched all six components of the database. Staff is currently populating each section in the database with as much information as possible. The process will take some time because each laboratory will need to independently input their data into the database. Staff expects the complaint and disclosure section of the database to be fully populated by the Commission's next meeting in October 2024.

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

Self-Disclosures Received as of July 5, 2024:

1. No. 24.11; Jefferson County Regional Crime Laboratory (Seized Drugs)

A self-disclosure by Jefferson County Regional Crime Laboratory reporting an incident in its seized drugs section where, after analysis, two items of evidence were returned to the incorrect submitting agency.

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.*

2. No. 24.12; Austin Forensic Science Department (Evidence Handling)

A self-disclosure by City of Austin Forensic Science Department reporting an incident in the laboratory where evidence control specialists performing an inspection in the evidence warehouse noted (7) seven cases with varying levels of surface soil, mold, and/or water stain damage and (4) four cases that appeared to have pressurized cans of liquid that leaked and dried within their sealed packaging.

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. 24.13; Signature Science (Forensic Biology/DNA)

A self-disclosure by Signature Science reporting an incident where, after internal re-review of a forensic biology/DNA case, the laboratory concluded neither the analyst, nor the technical reviewer noted the wide highest posterior density (HPD) interval during interpretation, reporting, or technical review of supplement 1 of the case resulting in the reporting of an unintuitive exclusionary statistic.

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.*

4. No. 24.14; Corpus Christi Police Department Crime Laboratory (Crime Scene Investigation)

A self-disclosure by the Corpus Christi Police Department Crime Laboratory (CCPDCL) reporting an incident in the laboratory's crime scene investigation section where the laboratory believes an employee falsified information in a crime scene investigation.

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.*

5. No. 24.15; Sorenson Forensics (Forensic Biology/DNA)

A self-disclosure by Sorenson Forensics reporting an incident where the laboratory discovered it did not validate a bone processing protocol prior to use in casework.

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.*

6. No. 24.17; Department of Public Safety – Austin (Toxicology)

A self-disclosure by the Department of Public Safety – Austin reporting an incident in its toxicology section where an analyst failed to dilute a submitted blood specimen prior to sampling for both alcohol/volatiles and drug analysis as required by laboratory policy.

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.*

7. No. 24.23; Southwestern Institute of Forensic Science (Toxicology)

A self-disclosure by the Southwestern Institute of Forensic Sciences reporting an incident in its toxicology section where a refrigerator in the evidence registration unit housing Dallas Police Department Driving While Intoxicated (DWI) blood evidence tubes pertaining to cases from 2020-2021 experienced a loss of power due to a tripped circuit breaker on February 24, 2024.

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.*

*Barnard recused on this agenda item.

8. No. 24.24; Plano Police Department Crime Laboratory (Friction Ridge)

A self-disclosure by Plano Police Department Crime Laboratory reporting an incident in its latent print section where quality concerns raised by the laboratory's newly promoted quality assurance coordinator triggered a necessary audit of cases analyzed by the laboratory's latent print section. Of 40 total cases reviewed, 10 cases had administrative errors and 13 had technical errors.

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.*

9. No. 24.25; Bexar County Criminal Investigation Laboratory (Seized Drugs)

A self-disclosure by Bexar County Criminal Investigation Laboratory reporting an incident in its seized drugs section where the laboratory discovered, during the post submission process of a tetrahydrocannabinol quantitation proficiency test, that an analyst accidentally switched two samples, leading to incorrect results.

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

10. No. 24.18; Department of Public Safety – Laredo (Seized Drugs)

A self-disclosure by the Department of Public Safety – Laredo reporting an incident in its seized drugs section where the laboratory discovered, during an annual evidence audit, that it could not locate one clear plastic bag containing approximately 200 grams of marihuana.

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

Complaint Pending from April 26, 2024 Meeting:

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

A complaint regarding complex DNA mixture evidence in a pending capital murder case in Harris County, concerning the murder of the defendant’s employer, employer’s wife and two small children, requesting the Commission review and determine whether the Harris County Institute of Forensic Science has established the correct thresholds for determining the number of contributors, the reliability of inclusionary results, and the quality of the DNA profile(s) in the case.

MOTION AND VOTE: *Daniel moved to take no further action based on the explanation provided by the laboratory and extensive review by Commissioners Ziemak and Coble. Parsons seconded the motion. The Commission unanimously adopted the motion.*

Complaints Received as of July 5, 2024:

12. No. 24.20; Smith, Roy (Falls Community Hospital; Forensic Biology/DNA)

A complaint filed by the defendant Roy Smith seeking the “DNA results” related to a case in which he pled guilty and was sentenced to prison. The complaint alleges he has requested the results from the District Attorney’s Office and his requests have been refused. The complaint also requests “the results”, related to the victim, from the Falls Community Hospital.

MOTION AND VOTE: *Daniel moved to approve staff recommendation to dismiss the complaint outside the Commission’s jurisdiction. Buzzini seconded the motion. The Commission unanimously adopted the motion.*

13. No. 24.21; McTier, Justin (Houston Forensic Science Center; Forensic Biology/DNA)

A complaint filed by defendant Justin McTier requesting assistance in obtaining the DNA results in his criminal case out of Harris County. The complaint alleges a Chapter 64 DNA motion was granted in his case and the testing was performed, yet he has been unable to obtain the results despite repeated requests.

MOTION AND VOTE: *Daniel moved to approve staff recommendation to dismiss the complaint outside the Commission's jurisdiction. Downing 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 April 26, 2024 quarterly commission meeting; and

This quarter the Commission received six reported accreditation-related events. Five of them were surveillance document reviews and continuations of accreditation, and one laboratory extended its scope of testing combined with an assessment. There were zero nonconformities cited from laboratory accreditation activities this quarter.

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

The Commission received 17 non-consensus proficiency test results reports this quarter. Three were incidents where the answers to the test were outside of the validated reporting limits of the laboratory. Three were clerical or data entry mistakes. Five required further root cause analysis by the laboratory. Three were incidents where users were not yet authorized for the particular method being tested. Three were forensic DNA interpretation issues vetted by staff and commissioners. Staff is following up on two of the non-consensus proficiency test results that will be addressed again at the Commission's October 25, 2024, quarterly meeting.

6. Discuss updates from licensing advisory committee, including:

a. Report on licenses issued and renewed;

Tomlin updated members and staff on the current total number of licenses issued as of July 8, 2024 (1,305 total), as follows: non-interpreting, 262; provisional, 11; temporary, 3; uncommon 4; and regular analyst and technician licenses, 1,025; in addition to renewals processed to date.

There are a large number of renewals upcoming this fall that staff will be working on in the coming months. This will be the last cycle of this scale, due to the implementation of the birth-month expiration rule that staggers the expiration dates of licenses across even and odd-numbered years, rather than a majority of licensees expiring every Fall of even-numbered years. Staff will be transitioning to a new

licensing platform that is made for applications and hopes to improve its process and experience for applying and renewing Texas forensic analyst or technician license.

b. Report from July 25, 2024 Licensing Advisory Committee meeting;

Tomlin described one of the key action items from the July 25, 2024, Licensing Advisory Committee meeting—the committee formed a task group led by Michelle Paulson (Plano Police Department) to develop guidance aimed at smaller agencies and labs for effective inter and intra agency proficiency monitoring exercises.

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;

The rule change creates licensing categories for latent prints processing technicians and the crime scene discipline. The rulemaking further elevates the education requirement for document examiners from a high school diploma to a bachelor’s degree. The Licensing Advisory Committee recommended that the Commission adopt this rule change.

MOTION AND VOTE: *Kerrigan moved to adopt amendments to Sections 651.202 and 651.222 subject to suggested non-substantive revisions from the Office of the Governor, Texas Register, and Commission staff. Parsons 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;

The Licensing Advisory Committee recommended that the Commission adopt this rule change to remove the birth-month license expiration date because Staff no longer faces the dilemma of most licenses expiring in the fall of even-numbered years. This is to end the prorated license fees and continuing education hours.

MOTION AND VOTE: *Daniel moved to adopt the 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

Staff and the Licensing Advisory Committee recommended the Commission approve a statistics course for law enforcement personnel offered through Lone Star College as an equivalent for the 3-credit hour statistics course required for

licensees. Celestina Rossi of Montgomery County Sheriff's Office worked closely with Lone Star College to develop the course's syllabus. Staff added two new components to it to cover principles including likelihood ratios.

MOTION AND VOTE: *Daniel moved to approve Lone Star College statistics course as equivalent three-semester credit hour college-level statistics course in fulfillment of licensure requirements. Parsons seconded the motion. The Commission unanimously adopted the motion.*

f. Discuss and vote on appointments to fill vacant seats on the Licensing Advisory Committee.

There are three seats expiring (Sandy Parent, Ed Wallace, and Calli Bailey) and one available for reappointment (Angelica Cogliano).

MOTION AND VOTE: *Daniel moved to appoint Angelica Cogliano, Jessica Frazier, Deion Christophe, and Megan Rommel to the Committee. Coble seconded the motion. The Commission unanimously adopted the motion.*

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

This rule change renumbers § 651.402 to § 651.401.

MOTION AND VOTE: *Daniel moved to adopt new rule Section 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. Review and possible adoption of final investigative report for complaint #23.67 Roy, Tiffany (Timothy Kalafut; Forensic Biology/DNA).

Garcia gave an overview of the facts of the case and the observations of the Commission. The case involved the evaluation of DNA evidence given activity level propositions. The Commission received a complaint alleging the expert's testimony departed from "established best practices". In its final investigative report conclusions, the Commission described ten different unresolved issues related to DNA activity level interpretations. The report concludes with a list of recommendations including a review of published literature (data) in the field. The expert that was the subject of the complaint briefly addressed the Commission.

*Kerrigan, Buzzini, and Parsons recused from discussion and vote on this complaint.

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

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

Garcia and Coble have developed a series of combined virtual and in-person trainings on a variety of subjects. The first will address the wide high posterior density interval issue in STRmix that the Commission has seen in several reported self-disclosures from laboratories. The Commission also plans to provide trainings on other topics like activity level testimony and exclusionary decision making.

10. Update from the Texas Association of Crime Laboratory Directors (TACLD).

TACLD met on July 18th. They are nearing 75 members. The treasurer gave an update about accounting for the group. At its meeting, TACLD discussed the outcomes of recent court cases including *Smith v. Arizona* and what they could mean for crime laboratory directors in the State. The group also covered potential upcoming legislative activity affecting crime laboratories.

11. Discuss membership in National Association of Forensic Science Boards.

The National Association of Forensic Science Boards is an organization designed to coordinate among the Commission's counterparts in other states. Most oversight attempts at the federal level have failed, leaving the responsibility and oversight the state level. NAFSB will host an annual meeting in November 2024. The Commission encourages anyone interested in the development and implementation of state level oversight or forensic science stakeholder coordination in general to be a part of the collaborative group.

12. 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.

13. Schedule and location of future panel and quarterly commission meetings including, but not limited to the October 25, 2024, January 31, 2025, and April 11, 2025 quarterly commission meetings.

The next Commission meeting will be held on October 25, 2024. The following meetings will take place on January 31, 2025 and April 11, 2025.

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

14. Public comment.

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

15. Adjourn.

MOTION AND VOTE: *Daniel moved to adjourn the meeting. Ziemak seconded the motion. The Commission unanimously voted to adjourn the meeting.*