

TEXAS FORENSIC SCIENCE COMMISSION

Justice Through Science

THIRD ANNUAL REPORT
November 2013–November 2014



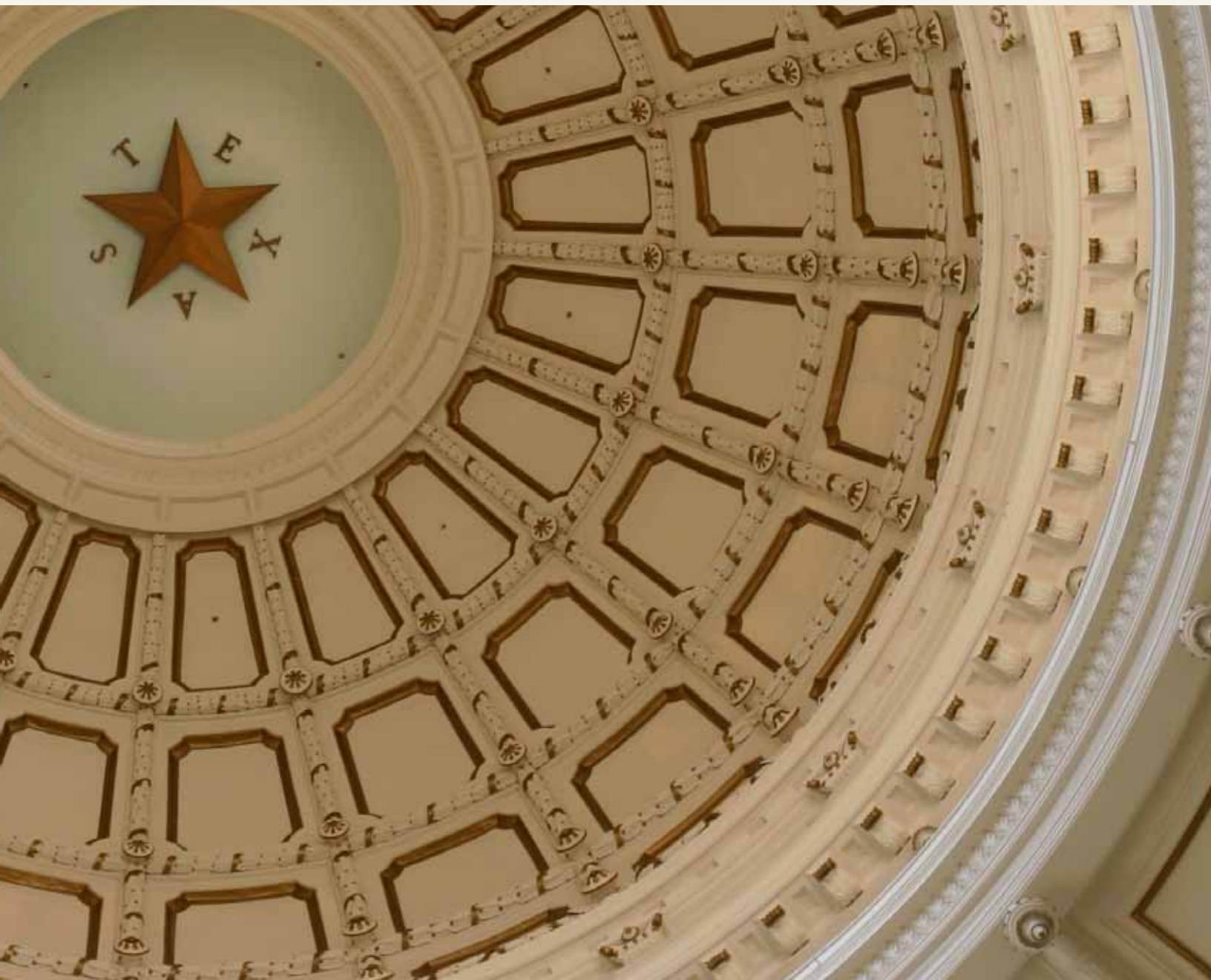
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EXHIBIT LIST

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|------------------|--|
| Exhibit A | Copy of Tex. Code Crim. Proc. art 38.01 |
| Exhibit B | FY2015 Budget Plan |
| Exhibit C | Complaint Status Spreadsheet |



Executive Summary

This annual report covers the activities of the Texas Forensic Science Commission from November 2, 2013 through December 1, 2014. In sum, the Commission has received 118 total complaints and laboratory self-disclosures alleging negligence and/or misconduct in forensic science. Of the total group, the Commission received and reviewed 25 cases from November 2, 2013 to December 1, 2014. As of December 1, 2014, the Commission had four active investigations. Two investigations concern the firearm/toolmark discipline, one concerns blood alcohol analysis and one is in the area of digital evidence. Two of these investigations are the result of laboratory self-disclosures, and two are in response to complaints filed by members of the public.

The Commission's annual budget is \$500,000. Funds are dedicated to the following priorities during FY2015: (1) funding of staff salary and related overhead; (2) investigative activities including contracting with subject matter experts per the Commission's enabling statute; (3) statewide hair-microscopy review; (4) web-based training projects in collaboration with Sam Houston State University and the New York Division of Criminal Justice, Office of Forensic Services; (6) support for laboratories participating in the Foresight project; (8) collaborative training projects with the Texas Criminal Justice Integrity Unit; (9) other state and national forensic development initiatives; and (10) office administrative expenses including technology, supplies and other necessary expenses.

In January 2014, Texas became the first state in the nation to conduct its own review of hair microscopy cases following on the heels of a similar review at the FBI and a recommendation for local review by the American Society of Crime Laboratory Directors/Laboratory Accreditation Board. The Commission opted for a sub-sampling approach to assess whether the concerns highlighted in the FBI review may also be present in Texas cases. The Commission has assembled a team of attorneys, advocates, and subject matter experts to review the cases and advise the Commission. More detail regarding the review scope and process is provided below as well as on the Commission's website.

With respect to forensic training activities, the Commission has sponsored leadership academies for forensic management as well as an assessor training for 24 analysts selected through the Texas Association of Crime Laboratory Directors. The Commission also works in partnership with Sam Houston State University to develop excellent online training options for forensic examiners. The Commission also continues to work collaboratively with the Texas Criminal Justice Integrity Unit on training initiatives for lawyers, judges and forensic scientists. For example, the Commission and the Unit will soon co-sponsor training on the significance of *Brady v. Maryland* and related federal and state laws for forensic scientists.

Finally, many subject matter experts in Texas have been selected to assist with national efforts to develop standards and guidelines for the forensic science community to improve the quality and consistency of forensic science. Additional information regarding these initiatives is provided below.

I. Introduction

Welcome to the third annual report of the Texas Forensic Science Commission (“TFSC” or “Commission”). The first annual report provided a historical assessment of the Commission’s work since the agency was created in 2005, covering Commission decisions through the April 2012 meeting. The second report covered Commission activities from May 1, 2012 through November 1, 2013. This report covers Commission activities from November 2, 2013 through December 1, 2014. The Commission is required to publish an annual report each year by December 1st in accordance with its statute. (See **Exhibit A**, Tex. Code Crim. Proc. art 38.01, Sec. 8.)

Texas continues to be a leader among states seeking to advance the integrity and reliability of forensic science in criminal courts. This report focuses on the following key developments in the Commission’s work:

1. The Commission’s legal duties and investigative scope;
2. Complaints and laboratory self-disclosures filed and their status;
3. Pending investigations;
4. Statewide hair microscopy review;
5. Forensic development activities; and
6. A description of developments in forensic reform at the national level, including Texas appointments to the National Commission on Forensic Science and the Organization of Scientific Area Committees.

II. Texas Forensic Science Commission Legal Duties and Investigative Scope

A. Historical Perspective

For a complete historical perspective on the creation and evolution of the Texas Forensic Science Commission, please see Section II of our first annual report, which may be obtained on the Commission’s website, or by emailing Commission staff at info@fsc.texas.gov.

B. Investigative Jurisdiction

The Commission is responsible for implementing a system through which crime laboratories may report professional negligence or professional misconduct. The Commission must require crime laboratories that conduct forensic analyses to report professional negligence or professional misconduct to the Commission. The Commission achieves this goal through a self-disclosure program, which has increased in volume as laboratories become familiar with the self-disclosure process.

The Commission may also investigate complaints received from outside parties, or initiate an investigation on its own depending on the circumstances. The statute divides the Commission's investigative responsibilities into the following three categories:

- a) **Investigations Initiated by the Commission:** The Commission may *initiate an investigation* of a forensic analysis *for educational purposes without receiving a complaint* if the Commission *determines by majority vote* that the investigation *would advance the integrity and reliability of forensic science* in Texas. A current example in this category is the Commission's statewide review of hair microscopy cases further described below.
- b) **Complaints Involving Unaccredited Labs or Unaccredited Forensic Fields:** The Commission may *investigate a complaint involving a crime laboratory* that is not accredited by DPS, or *conduct an investigation in response to an allegation involving a forensic method or methodology that is not an accredited field of forensic science.*
- c) **Complaints Involving Accredited Labs and Accredited Forensic Disciplines:** As with the current version of the statute, the Commission is also charged with investigating allegations of professional negligence or misconduct against *accredited crime laboratories* involving *accredited forensic disciplines.*

For the first two investigative categories set forth above, Commission reports *may not contain a finding of negligence or misconduct*, and the reports must be limited to: (1) observations regarding the integrity and reliability of the forensic analysis conducted; (2) best practices identified during the course of the investigation; and (3) other relevant recommendations, as determined by the Commission.

However, under the third category of investigations involving accredited crime laboratories and accredited forensic disciplines, Commission reports must be more extensive. They must include: (1) a description of the alleged negligence or misconduct; (2) whether negligence or misconduct occurred; (3) any corrective action required of the laboratory; (4) observations regarding the integrity and reliability of the forensic analysis conducted; (5) best practices identified during the course of the investigation; (6) other relevant recommendations, as determined by the Commission; and (7) the methods and procedures used by the Commission to identify the items listed above.

In addition, Commission reports under the third category may include: (1) retrospective reexamination of other forensic analyses conducted by the laboratory that may involve the same kind of negligence or misconduct; and (2) follow-up evaluations of the laboratory to review: (a) implementation of any corrective action required; or (b) conclusion of any retrospective reexamination.

The Commission may require that a laboratory pay costs incurred to ensure compliance with an investigation conducted under the statute. The Commission is also permitted to delegate its investigative duties to subject matter experts where appropriate.

The Commission may not issue a finding relating to the guilt or innocence of any party in a civil or criminal trial involving conduct investigated by the Commission. Commission reports are not admissible in a civil or criminal action. Information filed or obtained as part of complaint or laboratory self-disclosure is not subject to release under the PIA until the conclusion of a Commission investigation.¹

¹ See Tex. Att’y Gen. OR2014-16371.

III. Texas Forensic Science Commission Members and Budget

A. Appointments to Date

To date, the TFSC has had 25 different Commissioners, 2 full-time staff members, and 1 summer intern. For each Commissioner currently serving, following is a table providing appointment and expiration dates as well as the basis for appointment.

Current Members	Original Appointment	Basis for Appointment	Expiration Date
Alpert, Richard	10/31/2011	TDCAA--Prosecutor (Tarrant County) Article 38.01, Section 3(a)(2)	09/01/2015
Barnard, Jeffrey	10/31/2011	UT Faculty—Forensic Pathologist (Dallas) Article 38.01, Section 3(a)(4)	09/01/2015
Di Maio, Vincent J. <i>Presiding Officer</i>	10/31/2011	Forensic Pathologist (San Antonio) Article 38.01, Section 3(a)(1)	09/01/2015
Eisenberg, Arthur J.	10/30/2006	UNTHSC Director—Missing Persons DNA Database (Fort Worth) Article 38.01, Section 3(a)(7)	09/01/2016
Lerma, Richard "Bobby"	10/31/2011	TCDLA—Defense Counsel (Brownsville) Article 38.01, Section 3(a)(3)	09/01/2015
Peerwani, Nizam	9/1/2009	Chief Medical Examiner (Tarrant, Parker, Johnson, & Denton counties) Article 38.01, Section 3(a)(1)	09/01/2015
Kessler, Harvey	3/27/2014	Texas A&M Faculty—Oral Pathology (Dallas) Article 38.01, Section 3(a)(5)	09/1/2016
Mozayani, Ashraf	3/27/2014	TSU Faculty—Forensic Toxicology (Houston) Article 38.01, Section 3(a)(6)	09/1/2016
Hughes-Stamm, Sheree R.	10/27/2014	SHSU Faculty—DNA & Forensic Anthropology (Huntsville) Article 38.01, Section 3(a)(8)	09/1/2016

B. Annual Budget

The TFSC's budget was increased during the 83rd Legislative Session to \$500,000 per year. A copy of the TFSC's projected budget for FY2015 is attached as **Exhibit B**. The Commission will dedicate funds to the following critical priorities during FY2015: (1) funding of staff salary and overhead; (2) investigative activities; (3) statewide hair-microscopy review; (4) web-based training projects in collaboration with Sam Houston State University, including a scenario-based forensic ethics course, discipline-specific training and other initiatives; (6) support of Foresight project for participating laboratories; (8) collaborative training projects with the Texas Criminal Justice Integrity Unit ("TCJIU") including a program regarding the impact of criminal discovery on the crime laboratory; (9) other state and national forensic development initiatives; and (10) administrative expenses including office supplies, phone service, copier service, mail and shipping, etc. **Exhibit B** provides a breakdown of projected costs in major categories.

IV. Summary of Complaints and Disclosures

Commission staff receives complaints from a range of sources, including but not limited to current inmates, friends and family of inmates, national advocacy groups, former laboratory employees, other laboratories and interested members of the public. The Commission relies upon accredited crime laboratories and interested members of the public to bring issues of concern to the Commission's attention. The intent of this section is to provide the reader with a summary of the number and type of complaints the Commission has received since November 1, 2013. A complete spreadsheet detailing the disposition and status of each complaint is provided at **Exhibit C**.

A. Complaint/Disclosure Tally

To date, the Commission has received a total of 106 complaints, including 8 laboratory self-disclosures, and has disposed of 85 complaints or disclosures, either through dismissal, investigation, and/or referral to another agency. Of the 114 total complaints and self-disclosures received, 25 were received from November 2013 to November 2014. The Commission has 3 complaints/self-disclosures currently pending for consideration and 4 active pending investigations.

The following table summarizes complaints received from November 2013 — November 2014 for which the Commission could determine the nature of the complaint. Note that some complaints fall into more than one forensic discipline.

B. Subject Matter Summary

Discipline	Name of Laboratory of Other Entity
Forensic pathology (autopsy)	Lubbock General Hospital UMC Health Science Center
Firearms/toolmarks	Integrated Forensic Laboratories (self-disclosure) Southwestern Institute of Forensic Science
Controlled substance analysis	DPS–Abilene Crime Lab Southwestern Institute of Forensic Science DPS–Tyler Crime Lab (self-disclosure) DPS–El Paso Crime Lab (self-disclosure)
Forensic Biology/DNA Analysis (this category includes requests for testing or complaints about lack of remaining evidence for testing)	Bexar County Medical Examiner’s Office Baylor Department of Molecular and Human Genetics, DPS–Lubbock Crime Lab DPS–Garland Crime Lab (self-disclosure) Houston Police Department Crime Lab (self-disclosure) Cameron County District Attorney’s Office
Trace evidence (hair microscopy)	Southwestern Institute of Forensic Science —folded into statewide hair microscopy review
Toxicology (includes blood alcohol)	Tarrant County Medical Examiner’s Office DPS–Austin Crime Lab (self-disclosure) Integrated Forensic Laboratories (self-disclosure) Houston Forensic Science Center (self-disclosure) NMS Laboratories (Pennsylvania)
Digital and Multimedia Evidence	Bell County Sheriff’s Office
Breath Alcohol	DPS Office of the Scientific Director, Texas Breath Alcohol Program (self-disclosure)

C. Complaint/Disclosure Screening Process

Pursuant to Section 3 of the Commission's Policies and Procedures, the Commission's Complaint and Disclosure Screening Committee conducts an initial review of complaints and disclosures before each meeting. Though entities subject to the Open Meetings Act like the TFSC are typically not required to hold committee meetings in public, Commissioners believe members of the public may have a special interest in the discussions that occur at the Complaint and Disclosure Screening Committee. As a result, all Complaint and Disclosure Screening Committee meetings are posted as public meetings and are open to the public. They generally occur either the afternoon or morning before each quarterly TFSC meeting. After discussion, the Committee makes a recommendation on what further action (if any) is merited for each complaint or self-disclosure received. The Committee's opinion is presented to the full Commission for consideration and deliberation during the quarterly meeting.

As previously described, the Commission is limited in its ability to review cases for the purpose of determining whether negligence or misconduct was committed by the laboratory. The Commission may only conduct such a review for those cases involving accredited crime laboratories and accredited forensic disciplines. The Commission receives many complaints falling outside those statutory requirements, and typically will only review cases involving unaccredited disciplines and entities if a majority of the Commission determines the review would be an effective use of public resources and is likely to benefit the criminal justice system in Texas. Many complaints are dismissed because they do not meet these standards. Other complaints are dismissed because they are incoherent, lacked fundamental information or simply failed to state an actual complaint. Finally, the Commission must dismiss any complaint involving the portion of an autopsy conducted by a medical examiner or other forensic pathologist who is a licensed physician. *See* TEX. CODE CRIM. PROC. 38.01, SEC. 2(4).

V. Summary of Pending Investigations

At this time, the following matters are pending release of final reports by the Commission: (1) a complaint by inmate George R. Powell, III regarding the reliability of digital evidence analysis and related expert testimony used in his criminal case; (2) a disclosure by Integrated Forensic Laboratories (“IFL”) regarding an erroneous exclusion made by a firearms examiner; (3) a disclosure by a member of the Houston Forensic Science Center (“HFSC”) toxicology section alleging delays in corrective actions related to mislabeled blood-alcohol evidence, lack of appropriate and timely documentation, and related issues; and (4) a complaint by defense attorney Frank Blazek alleging conflicting conclusions by a firearms analyst at the Southwestern Institute of Forensic Sciences (“SWIFS”).

A. Powell (Digital Evidence)

In November 2009, Mr. Powell was convicted of aggravated robbery of a convenience store and sentenced to 28 years in prison. At trial, the State presented a report from Knox & Associates Forensic Consulting (“Knox Report”) analyzing video from the convenience store robbery. The Knox Report concluded that the suspect shown in the surveillance video was at least 6’1” tall, and Mr. Powell is 6’4” tall. After he was convicted and sentenced, Powell’s girlfriend hired another expert (Dr. Al Yonovitz from Yonovitz & Joe, LLP) to conduct a height determination of the suspect pictured in the original video. He also reviewed video from a separate robbery of a convenience store nearby. The expert concluded that the suspect shown in the original surveillance video was approximately 5’7½” with an approximate ½” margin of error.

Digital evidence is specifically exempt from accreditation in Texas. *See* TEX. CODE CRIM. PROC. 38.35(A)(4)(C). Both Yonovitz and Knox purport to be experts in digital evidence (video analysis in particular) but their approaches and conclusions are remarkably different. At its October 2014 quarterly meeting, the Commission voted to accept the Powell complaint for investigation and to hire Grant

Fredericks, a renowned expert in the particular type of video analysis in question in this case, to assess the digital evidence presented in both expert reports. Because digital evidence is specifically exempt from DPS accreditation and neither of the original experts were from DPS-accredited crime laboratories, the Commission's investigation will not make a negligence or misconduct finding regarding either expert's analysis. *See* TEX. CODE CRIM. PROC. art. 38.35(a)(4)(C). However, the Commission will issue a report containing: (1) observations regarding the integrity and reliability of the analysis conducted; (2) best practices identified during the course of the review; and other relevant recommendations. A copy of the report will be published on the Commission's website.

Because digital and multimedia evidence is an exempt forensic discipline with increasing activity around the country, Commissioners determined a review in this case would be a worthy use of state resources with the ultimate goal of encouraging all digital evidence examiners to follow nationally recognized best practices and standards.

B. Integrated Forensic Laboratories (Firearms/Toolmarks)

On April 10, 2014, IFL disclosed a nonconformance in the laboratory's firearms/tool marks section. An IFL firearms examiner issued a report that excluded a group of cartridge cases as having been fired from a group of five firearms provided for examination by IFL's law enforcement customer. In response to questions raised by the customer, the examiner re-analyzed his work and discovered that he had mistakenly eliminated the cartridge cases by a bunter mark characteristic (bunter marks are produced by a bunter, or head-stamping, tool). Upon re-examination, the examiner confirmed a match to one of the five firearms he had originally excluded.

The Commission unanimously voted to accept the IFL disclosure for investigation at its August 1, 2014 meeting, given the facts and supporting documentation provided. At its October 2014 meeting, Commissioners voted to hire John Murdock, a renowned firearms and toolmarks expert to review the issues in the case. A final investigative report is forthcoming and will be published on the Commission's website.

C. Houston Forensic Science Center (Toxicology)

On June 4, 2014, an analyst in the toxicology section of the HFSC filed a disclosure with the Commission. The disclosure describes a blood alcohol case in which the submitting officer mislabeled the evidence, the analyst mistakenly signed off on a report with the wrong name for technical and administrative review, the section interim manager signed off on both technical and administrative review without noticing the error, and the report was made accessible to the client. Though the client never accessed the report, the analyst raised concerns regarding the lab's subsequent failure to issue a timely amended report and to take appropriate corrective action pursuant to the laboratory's operating procedures and accreditation standards. The analyst also raises concerns about management's decision to remove her from casework as well as a perceived failure by management to provide a performance action plan so the analyst could resume casework. The analyst raises additional concerns regarding case file documentation and communication of the non-conformance to the customer.

At its October 2014 quarterly meeting, the Commission voted to issue a finding of professional negligence against the laboratory for its failure to issue a timely amended report and appropriate corrective action in the incident described in the analyst's disclosure. Commissioners also raised concerns about the culture in the laboratory's toxicology section, and the importance of encouraging continual improvement and transparency regarding non-conformances. Commissioners raised further concerns regarding a perceived lack of scientific leadership in the section, and the potential chilling effect of inequitable disciplinary action on analyst disclosure. A final investigative report is forthcoming and will be published on the Commission's website.

D. Southwestern Institute of Forensic Sciences (Firearms/Toolmarks)

Criminal defense attorney Frank Blazek filed a complaint regarding the firearms analysis performed in a capital murder case in Grimes County, Texas. The victim in the murder was known to carry a .410/.45 caliber pistol, the same type of weapon with which the victim was shot several times. Investigators found no weapon at the crime scene. A few months after the crime, a pistol similar to the one owned by the deceased was recovered on a roadside in a nearby county. The Grimes County District Attorney submitted the recovered weapon to the firearms section at the Southwestern Institute of Forensic Sciences ("SWIFS")

for analysis. The firearms examiner analyzed the recovered weapon as well as the fired plastic shotshell wads and associated lead pellets provided from autopsy. The examiner identified the recovered weapon as having fired the plastic shotshell wads recovered from the victim.

Further police investigation determined that the recovered weapon was not in fact the murder weapon, but rather belonged to a party completely unrelated to the investigation. In September 2012, the Grimes County District Attorney resubmitted the same weapon and bullets to SWIFS along with 3 exemplar weapons of the same make and model. After re-analysis, the analyst reported that she could no longer confirm the recovered weapon was the murder weapon.

The Commission voted to accept the complaint for investigation at its August 2014 meeting. At its October 2014 meeting, the Commission voted to hire firearms expert John Murdock to address the issues raised in the complaint. After Mr. Murdock analyzes the case and the Commission reviews and discusses his findings, a final report will be published on the Commission's website.

VI. Hair Microscopy Review

A. Background

The Federal Bureau of Investigation (FBI) is currently reviewing testimony in criminal cases containing microscopic hair comparisons with positive associations made by its examiners before 1999. The FBI is conducting this review to ensure that testimony at trial properly reflected the bounds of the underlying science.

For several decades, the FBI assisted state and local crime laboratories in training hair examiners, including many examiners in Texas, by providing a one-week course on microscopic hair analysis. The fact that Texas examiners received some of their training from the *FBI does not necessarily mean* they made statements of concern similar to those in the FBI review. Nonetheless, Texas crime laboratory directors determined the most prudent course would be to review a sampling of cases at the state and local level to determine whether the issues identified by the FBI are also present in testimony provided by examiners from Texas laboratories.

B. Texas Review

On April 21, 2013, the American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB) released a memorandum to all accredited crime laboratories describing the FBI review and encouraging (but not requiring) state and local crime laboratories to review microscopic hair comparison reports and associated testimony made by their examiners. ASCLD/LAB noted the forensic science community's ethical obligation to "take appropriate action if there is potential for, or there has been, a miscarriage of justice due to circumstances that have come to light, incompetent practice or malpractice."

At its quarterly meeting on July 12, 2013, the Texas Forensic Science Commission discussed the FBI review and the ASCLD/LAB memorandum. Commission staff then sent a survey to Texas laboratories to identify the number of laboratories that performed microscopic hair analysis and assess what level of resources would be needed to review their cases.

At its November 1, 2013 meeting, the Commission appointed an investigative panel to coordinate a case review. The panel held an initial meeting at the Department of Public Safety Regional Crime Laboratory in Houston on November 22, 2013, during which members sought input on the best way to approach the review from Texas laboratories that have performed microscopic hair analysis.

At its January 10, 2014 meeting, the panel reported to the full Commission regarding the feedback received at the November meeting of crime laboratory directors in Houston. The Commission instructed the panel to bring together subject matter experts and attorneys in the form of a Hair Microscopy Review Team for the purpose of advising the panel and the full Commission on a process and criteria for reviewing cases.

C. The Hair Microscopy Review Team

The Hair Microscopy Review Team consists of subject matter experts nominated by the Texas Association of Crime Laboratory Directors as well as defense attorneys, prosecutors and a representative from the Innocence Project of Texas. The team consists of the following individuals:

1. Phil Aviles (Fort Worth Police Department Crime Laboratory)
2. Baldwin Chin (Harris County District Attorney's Office)
3. Deborah Lind (Pasadena Police Department Crime Laboratory)
4. Michael Martinez (Bexar County Crime Laboratory)
5. Cary Oien (FBI Laboratory, *for general consultation/guidance only*)
6. Jack Roady (Galveston County Criminal District Attorney)
7. Melissa Valadez (Department of Public Safety Crime Laboratory)
8. Nicholas Vilbas (Innocence Project of Texas)
9. Bob Wicoff (Harris County Public Defender's Office)

D. Scope of Review

As previously indicated, the FBI review was undertaken as a result of clearly identified and undeniable overstatements in testimony by at least one hair microscopy analyst in the FBI laboratory. Inadequacies in analysis and testimony by FBI hair examiners are described in detail in the following report:

<http://www.justice.gov/oig/reports/2014/e1404.pdf>

Of note, the Texas review is *not* being undertaken as a result of a similar finding. Rather, it is being undertaken in response to ASCLD/LAB's public statement and *because Texas stakeholders believe it is the right thing to do*. The hair review team consists of current, active participants in the Texas criminal justice system who are focused on identifying and sharing teachable moments as well as ensuring any potential miscarriages of justice are identified. While the team does not have any indication that the problems found in FBI testimony extended to Texas laboratories, the team will not shy away from identifying those issues if they exist. Having the courage to face deficiencies where they are present is critical to ensuring affected defendants are notified and have the opportunity to seek appropriate remedies under Texas law.

The review team's scope of work is to advise the Commission regarding the following areas: (1) review process flow; (2) review criteria; (3) individual case reviews and outcomes; and (4) educational

lessons learned from the review. The review team does not make decisions for or represent the panel or the Commission as a whole. All guidance offered by the review team is subject to deliberation at panel meetings and full Commission meetings that are open to the public.

The review panel will limit its review of cases to those in which an individual was convicted of a crime, there was a positive, probative association made by a hair examiner in a laboratory report, the association was in any way significant to the outcome, and the examiner provided subsequent testimony as an expert witness at trial. The team will ask the following questions regarding the cases it reviews:

1. Did the report or testimony contain a statement of identification?
2. Did the report or testimony assign probability or statistical weight?
3. Did the report or testimony contain any other potentially misleading statements or inferences?

If the answer to any of these questions is affirmative, the Commission will notify interested parties of the review team's specific findings.² The Commission is working collaboratively with the Texas Criminal Justice Integrity Unit under the leadership of Texas Criminal Court of Appeals Judge Barbara Hervey to ensure a robust notification protocol is established for any cases for which the review team identifies potential issues with the laboratory report and/or expert testimony rendered at trial. The notification protocol will ensure, to the extent possible, that all affected parties are notified regarding the review team's findings.

VII. Arson Case Review and Attorney General's Opinion

The Commission continues to receive updates from the Texas State Fire Marshal's Office ("SFMO") on its review of arson cases. The review resulted from 17 recommendations issued by the Commission in April 2011. The review is a collaborative, ongoing process involving stakeholders from the scientific, law enforcement and legal communities.

² *The Commission is not a court of law and therefore will not make any legal determinations regarding the materiality of the reports and/or testimony reviewed to any specific criminal case outcome. To the extent the review raises potential legal issues in individual criminal cases, those issues will be resolved by Texas courts of competent jurisdiction. If the Commission identifies deficiency in the microscopic hair analysis results or testimony provided in a given case, that fact alone should not be interpreted as a commentary on the guilt or innocence of any individual.*

In October 2013, 83rd District Attorney Rod Ponton requested an opinion of the Attorney General on whether the SFMO's Science Advisory Workgroup reviewing the arson cases has the authority to review prior arson investigations. On April 4, 2014, the Attorney General released an opinion stating that the SFMO is within its authority in conducting a Science Advisory Workgroup for reviewing past arson cases. For a copy of the Opinion, please visit our website at <http://www.fsc.texas.gov/blog/2014-04-08/attorney-general-releases-opinion-sfmo-arson-review>. For specific information regarding the status of the arson case review, please contact the Office of the State Fire Marshal.

VIII. Forensic Development Activities

A. Crime Lab Managers' Leadership Academy: February and August 2014

In August 2013, the Commission hosted a three-day crime lab leadership academy with faculty from the West Virginia University crime lab boot camp program. The program was extremely well received by attendees. Topics included: (1) employee recruiting, retention and succession planning; (2) performance management: managing competencies and performance metrics; (3) when things go terribly wrong with personnel; (4) how to effect change as a new leader; (5) project management: the key to successful technology management; (6) process improvement: metrics, measurement and management; (7) developing effective leadership styles; (8) leading high performance teams; and (9) conflict management.

Because attendees responded so positively to the academy last year, the Commission hosted two additional leadership trainings in 2014, one in February in Fort Worth and a second in August in Houston. The Commission was able to reach a broader spectrum of Texas' laboratory managers by offering the two additional training dates and locations. The subsequent programs received overwhelmingly positive feedback from laboratory participants.

B. Web-based Forensic Training

In collaboration with Sam Houston State University's Institute for Forensic Training, Research and Innovation and New York's Division of Criminal Justice, Office of Forensic Services, the Commission is

working to develop a robust online training curriculum free of charge to all Texas forensic examiners. For example, the Commission is developing a scenario-based course entitled “Integrity in the Crime Laboratory: A Scenario-Based Discussion” to provide real-life examples of ethical challenges that may arise in a crime laboratory. The Commission is also working together with the Texas Association of Crime Laboratory Directors to develop additional courses including discipline-specific training, with the goal of providing cost-effective options for continuing education across the state. Additional information will be posted on the Commission’s website as the training programs are developed.

C. ASCLD/LAB Assessor Training

At the request of Texas Association of Crime Laboratory Directors (TACLD) members, the Commission funded tuition for 30 Texas crime lab employees to attend an ASCLD-LAB assessor training, August 4-8, 2014 in Austin. ASCLD/LAB is the main accrediting body for crime laboratories in Texas. ASCLD/LAB performs annual on-site inspections at most Texas crime labs to ensure they meet current accreditation standards. The ASCLD/LAB assessor training helps laboratory employees better understand the accreditation process that occurs during an actual on-site inspection of the laboratory. Laboratory directors and staff who attend the training leave with an in-depth understanding of crime laboratory accreditation and inspection standards and are better able to assist their own laboratory in preparing for an ASCLD/LAB assessment. More information related to the ASCLD/LAB assessor training may be obtained at <http://www.ascl-d-lab.org/international-assessor-course-for-testing-labs/>. The Commission hopes to fund future, similar initiatives aimed at improving the integrity and reliability of Texas crime lab work.

D. Foresight Support for Texas Laboratories

Foresight is a program hosted by West Virginia University’s Business and Economics program that provides criminal forensic science laboratories an opportunity to self-evaluate their performance by comparing data with other laboratories, both in Texas and nationally. Participating laboratories are given metrics to evaluate work processes that link financial information to work tasks and functions. After

inputting appropriate data points, laboratory managers are able to assess items such as resource allocation, efficiency and value of services. The program essentially enables laboratories to measure what works and change methods that do not work. Participation in the program is voluntary and requires some staff time to gather, organize and input appropriate data. This year, the Commission funded staff time for several Texas crime labs to gather and input data for participation in the Foresight program. The Commission continues to encourage other Texas laboratories to participate in the program and plans to assist in funding staff time where necessary. Additional information about the Foresight program for crime labs may be obtained at <http://www.be.wvu.edu/forensic/foresight.htm>.

IX. Forensic Reform at the National Level

A. National Commission on Forensic Science

In February 2013, the U.S. Department of Justice (“DOJ”) and the U.S. Department of Commerce’s National Institute of Standards and Technology (“NIST”) announced the establishment of a National Commission on Forensic Science (“NCFS”). The NCFS is composed of approximately 30 members, including practitioners, researchers, prosecutors, defense attorneys, judges and other members of the criminal justice community. The NCFS is responsible for providing guidance concerning the intersection between forensic science and the courtroom, as well as developing key policy recommendations. In January this year, the NCFS announced its 30 members. Two representatives from Texas were appointed to the NCFS, The Honorable Judge Barbara Hervey from the Texas Court of Criminal Appeals, and Dr. Vincent J. Di Maio, former Chief Medical Examiner of Bexar County and Presiding Officer of the Texas Forensic Science Commission. For a full list of members and more information about the NCFS’s work, please visit <http://www.justice.gov/ncfs>.

B. Organization of Scientific Area Committees

In February 2014, the National Institute for Standards and Technology and the U.S. Department of Justice announced the formation of the Organization of Scientific Area Committees (“OSAC”) to

strengthen forensic science standards in the United States. The OSAC is a collaborative body of 500 forensic science practitioners and other stakeholders tasked with supporting the development and promulgation of forensic science standards and guidelines, and to ensure a sufficient scientific basis exists for each forensic discipline. In June, NIST and DOJ named 17 academic researchers and forensic science experts to the Forensic Science Standards Board, the main governing body for the OSAC. Among those named was former Texas Forensic Science Commission member, Dr. Sarah Kerrigan, who is the Forensic Science Department Chair at Sam Houston State University. For more information related to the FSSB, please visit the organization's website at <http://www.nist.gov/forensics/osac/fssb.cfm>.

Following the NCFS and FSSB appointments, in July 2014 NIST announced membership selections for the resource committees of the OSACs. The Commission's General Counsel, Ms. Lynn Garcia, was selected as a member of the Legal Resource Committee. The Legal Resource Committee will provide guidance to OSAC related to the legal ramifications of forensic standards developed and provide input on how those standards play out in the legal system. More detailed information related to OSAC resource committees may be obtained at <http://www.nist.gov/forensics/osac/resource-coms.cfm>. In fact, many representatives from Texas have been selected for OSAC subcommittees. For a full list of members and more detailed information related to the roles of the different OSACs click the following link <http://www.nist.gov/forensics/osacroles.cfm>.

X. Collaboration with Texas Criminal Justice Integrity Unit

The Commission continues to work collaboratively with the Texas Criminal Justice Integrity Unit chaired by Court of Criminal Appeals Judge Barbara Hervey. For example, the two entities are currently working on a collaborative program to address issues in criminal discovery, with a specific focus on the impact of discovery on crime laboratories in Texas. The goal is to bring stakeholders together to educate people on relevant laws such as the Michael Morton Act and Brady v. Maryland, as well as to address potential challenges, shortcomings and impact on various constituencies. Additional information will be posted on the Commission's website as the program is developed.

XI. American Academy of Forensic Science Annual Meeting and Presentations

In February 2014, the AAFS held its annual meeting in Seattle. Three Commission-related abstracts were presented at the conference, including 1) Improving Forensic Science Through State Oversight: The Texas Model; 2) Strategies for Defendant Notification in the Wake of a Major Nonconformance in a High-Volume Forensic Discipline; and 3) Certification of Forensic Examiners in Texas. Several members of the Commission and staff attended and presented at the annual conference. The AAFS's next annual meeting will be held in February in Orlando, Florida.

XII. Additional Items Required in Annual Report by Statute

There are two items in the Commission's statute for which the Commission does not have any recommendations at this time. The first is "a description of any specific forensic method or methodology the commission recommends to the public safety director of the Department of Public Safety for validation or approval under Section 411.0205(b-1)(2), Government Code as part of the accreditation process . . ." The second involves recommendations for "best practices concerning the definition of 'forensic analysis' provided by statute or by rule of the Department of Public Safety . . ." The Commission has not identified any disciplines, methods or methodology that should be recommended for accreditation that are not already covered by DPS in its accreditation program. Similarly, the Commission has not identified any recommendations regarding the definition of "forensic analysis" used by DPS. However, it is possible that the Commission will have new recommendations after the conclusion of the digital and multimedia evidence case described earlier in this report. The Commission reserves the right to amend its position on these issues as necessary to ensure the advancement of forensic science in Texas.

XIII. Meeting Broadcasts and Public Information Act Requests

The Commission began live-streaming its meetings in July 2013. Members of the public may now watch quarterly meetings online at www.fsc.texas.gov/meetings. Though live-streaming of meetings is not required under Texas law, the Commission plans to offer this service for as many meetings as possible to encourage public participation and transparency. Note that previously recorded Commission meetings may also be accessed on the Commission's website.

Pursuant to the Public Information Act, Texas Government Code, Chapter 552, the Texas Forensic Science Commission accepts public information requests for information currently existing in its records. The Commission accepts requests via email at info@fsc.texas.gov, via facsimile at 1(888) 305-2432, or via regular U.S. mail. You may access the public information request form on the Commission's website at <http://www.fsc.texas.gov/pia-requests>.

If you have any questions about meeting broadcasts or how to submit a public information request to the Commission, please feel free to contact our office.

Contact Information:

For additional information regarding this paper, the Texas Forensic Science Commission and/or the Texas Criminal Justice Integrity Unit, please contact the following individuals:

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512.936.0770

or

The Honorable Barbara Hervey
Texas Court of Criminal Appeals Supreme Court Building
P.O. Box 12308
Austin, TX 78711
512.463.1551

To download an electronic copy of this white paper or follow the activities of the TFSC and TCJIU, please refer to the following websites: <http://www.fsc.state.tx.us> or www.fsc.texas.gov <http://www.cca.courts.state.tx.us/tcju/tcjuhome.asp>

TEXAS FORENSIC SCIENCE COMMISSION

Justice Through Science



EXHIBIT
A



[Tex. Code Crim. Proc. art. 38.01](#)

This document is current through the 2013 3rd Called Session

[Texas Statutes and Codes](#) > [CODE OF CRIMINAL PROCEDURE](#) > [TITLE 1. CODE OF CRIMINAL PROCEDURE OF 1965](#) > [TRIAL AND ITS INCIDENTS](#) > [CHAPTER 38. EVIDENCE IN CRIMINAL ACTIONS](#)

Art. 38.01. Texas Forensic Science Commission

Sec. 1. Creation. -- The Texas Forensic Science Commission is created.

Sec. 2. Definitions. -- In this article:

- (1) "Accredited field of forensic science" means a specific forensic method or methodology validated or approved by the public safety director of the Department of Public Safety under [Section 411.0205\(b-1\)\(2\), Government Code](#), as part of the accreditation process for crime laboratories established by rule under Section 411.0205(b) of that code.
- (2) "Commission" means the Texas Forensic Science Commission.
- (3) "Crime laboratory" has the meaning assigned by [Article](#) 38.35.
- (4) "Forensic analysis" means a medical, chemical, toxicologic, ballistic, or other expert examination or test performed on physical evidence, including DNA evidence, for the purpose of determining the connection of the evidence to a criminal action, except that the term does not include the portion of an autopsy conducted by a medical examiner or other forensic pathologist who is a licensed physician.

Sec. 3. Composition.

- (a) The commission is composed of nine members appointed by the governor as follows:
 - (1) two members who must have expertise in the field of forensic science;
 - (2) one member who must be a prosecuting attorney that the governor selects from a list of 10 names submitted by the Texas District and County Attorneys Association;
 - (3) one member who must be a defense attorney that the governor selects from a list of 10 names submitted by the Texas Criminal Defense Lawyers Association;
 - (4) one member who must be a faculty member or staff member of The University of Texas who specializes in clinical laboratory medicine that the governor selects from a list of 10 names submitted by the chancellor of The University of Texas System;
 - (5) one member who must be a faculty member or staff member of Texas A&M University who specializes in clinical laboratory medicine that the governor selects from a list of 10 names submitted by the chancellor of The Texas A&M University System;
 - (6) one member who must be a faculty member or staff member of Texas Southern University that the governor selects from a list of 10 names submitted by the chancellor of Texas Southern University;
 - (7) one member who must be a director or division head of the University of North Texas Health Science Center at Fort Worth Missing Persons DNA Database; and
 - (8) one member who must be a faculty or staff member of the Sam Houston State University College of Criminal Justice and have expertise in the field of forensic science or statistical analyses that the governor selects from a list of 10 names submitted by the chancellor of the Texas State University System.
- (b) Each member of the commission serves a two-year term. The terms expire on September 1 of:
 - (1) each odd-numbered year, for a member appointed under Subsection (a)(1), (2), (3), or (4); and
 - (2) each even-numbered year, for a member appointed under Subsection (a)(5), (6), (7), or (8).
- (c) The governor shall designate a member of the commission to serve as the presiding officer.

Sec. 4. Duties.

- (a) The commission shall:
- (1) develop and implement a reporting system through which a crime laboratory may report professional negligence or professional misconduct;
 - (2) require a crime laboratory that conducts forensic analyses to report professional negligence or professional misconduct to the commission; and
 - (3) investigate, in a timely manner, any allegation of professional negligence or professional misconduct that would substantially affect the integrity of the results of a forensic analysis conducted by a crime laboratory.
- (a-1) The commission may initiate for educational purposes an investigation of a forensic analysis without receiving a complaint, submitted through the reporting system implemented under Subsection (a)(1), that contains an allegation of professional negligence or professional misconduct involving the forensic analysis conducted if the commission determines by a majority vote of a quorum of the members of the commission that an investigation of the forensic analysis would advance the integrity and reliability of forensic science in this state.
- (b) If the commission conducts an investigation under Subsection (a)(3) of a crime laboratory that is accredited by the Department of Public Safety under [Section 411.0205, Government Code](#), pursuant to an allegation of professional negligence or professional misconduct involving an accredited field of forensic science, the investigation:
- (1) must include the preparation of a written report that identifies and also describes the methods and procedures used to identify:
 - (A) the alleged negligence or misconduct;
 - (B) whether negligence or misconduct occurred;
 - (C) any corrective action required of the laboratory, facility, or entity;
 - (D) observations of the commission regarding the integrity and reliability of the forensic analysis conducted;
 - (E) best practices identified by the commission during the course of the investigation; and
 - (F) other recommendations that are relevant, as determined by the commission; and
 - (2) may include one or more:
 - (A) retrospective reexaminations of other forensic analyses conducted by the laboratory, facility, or entity that may involve the same kind of negligence or misconduct; and
 - (B) follow-up evaluations of the laboratory, facility, or entity to review:
 - (i) the implementation of any corrective action required under Subdivision (1)(C); or
 - (ii) the conclusion of any retrospective reexamination under Paragraph (A).
- (b-1) If the commission conducts an investigation under Subsection (a)(3) of a crime laboratory that is not accredited by the Department of Public Safety under [Section 411.0205, Government Code](#), or the investigation is conducted pursuant to an allegation involving a forensic method or methodology that is not an accredited field of forensic science, the investigation may include the preparation of a written report that contains:
- (1) observations of the commission regarding the integrity and reliability of the forensic analysis conducted;
 - (2) best practices identified by the commission during the course of the investigation; or
 - (3) other recommendations that are relevant, as determined by the commission.
- (b-2) If the commission conducts an investigation of a forensic analysis under Subsection (a-1), the investigation

must include the preparation of a written report that contains:

- (1) observations of the commission regarding the integrity and reliability of the forensic analysis conducted;
 - (2) best practices identified by the commission during the course of the investigation; and
 - (3) other recommendations that are relevant, as determined by the commission.
- (c) The commission by contract may delegate the duties described by Subsections (a)(1) and (3) to any person the commission determines to be qualified to assume those duties.
- (d) The commission may require that a crime laboratory investigated under this section pay any costs incurred to ensure compliance with Subsection (b), (b-1), or (b-2).
- (e) The commission shall make all investigation reports completed under Subsection (b), (b-1), or (b-2) available to the public. A report completed under Subsection (b), (b-1), or (b-2), in a subsequent civil or criminal proceeding, is not prima facie evidence of the information or findings contained in the report.
- (f) The commission may not make a determination of whether professional negligence or professional misconduct occurred or issue a finding on that question in an investigation initiated under Subsection (a-1) or for which an investigation report may be prepared under Subsection (b-1).
- (g) The commission may not issue a finding related to the guilt or innocence of a party in an underlying civil or criminal trial involving conduct investigated by the commission under this article.

Sec. 5. *Reimbursement.* -- A member of the commission may not receive compensation but is entitled to reimbursement for the member's travel expenses as provided by Chapter 660, Government Code, and the General Appropriations Act.

Sec. 6. *Assistance.* -- The Texas Legislative Council, the Legislative Budget Board, and The University of Texas at Austin shall assist the commission in performing the commission's duties.

Sec. 7. *Submission.* -- The commission shall submit any report received under Section 4(a)(2) and any report prepared under Section 4(b)(1) to the governor, the lieutenant governor, and the speaker of the house of representatives not later than December 1 of each even-numbered year.

Sec. 8. *Annual Report.* -- Not later than December 1 of each year, the commission shall prepare and publish a report that includes:

- (1) a description of each complaint filed with the commission during the preceding 12- month period, the disposition of each complaint, and the status of any complaint still pending on December 31;
- (2) a description of any specific forensic method or methodology the commission recommends to the public safety director of the Department of Public Safety for validation or approval under [Section 411.0205\(b-1\)\(2\), Government Code](#), as part of the accreditation process for crime laboratories established by rule under Section 411.0205(b) of that code;
- (3) recommendations for best practices concerning the definition of "forensic analysis" provided by statute or by rule of the Department of Public Safety;
- (4) developments in forensic science made or used in other state or federal investigations and the activities of the commission, if any, with respect to those developments; and
- (5) other information that is relevant to investigations involving forensic science, as determined by the presiding officer of the commission.

Sec. 9. (a) *Administrative Attachment to Sam Houston State University.* --The commission is administratively attached to Sam Houston State University.

- (b) The Board of Regents of the Texas State University System shall provide administrative support to the commission as necessary to carry out the purposes of this article.
- (c) Only the commission may exercise the duties of the commission under this article. Except as provided by

Subsection (b), neither the Board of Regents of the Texas State University System nor Sam Houston State University has any authority or responsibility with respect to the duties of the commission under this *article*.

Sec. 10. *Open Records Limitation.* -- Information that is filed as part of an allegation of professional misconduct or professional negligence or that is obtained during an investigation of an allegation of professional misconduct or professional negligence is not subject to release under Chapter 552, Government Code, until the conclusion of an investigation by the commission under Section 4.

Sec. 11. *Report Inadmissible As Evidence.* -- A written report prepared by the commission under this *article* is not admissible in a civil or criminal action.

History

[Acts 2005, 79th Leg., ch. 1224 \(H.B. 1068\)](#), § 1, effective September 1, 2005; am. [Acts 2013, 83rd Leg., ch. 782 \(S.B. 1238\)](#), §§ 1--4, effective June 14, 2013.

Annotations

Notes

Editor's Notes. --

A former art. [38.01](#), Rules of Common Law, as added by Acts 1965, 59th Leg., ch. 722 (S.B. 107), § 1 was repealed by the Texas Court of Criminal Appeals pursuant to Acts 1985, 69th Leg., ch. 685 (H.B. 13), § 9.

[Acts 2013, 83rd Leg., ch. 782 \(S.B. 1238\)](#), § 7 provides: "The term of a person appointed under former Subdivision (3), Subsection (a), Section 3, [Article 38.01, Code of Criminal Procedure](#), as that law existed immediately before the effective date of this Act [September 1, 2013], expires September 1, 2014, and the governor shall appoint a person to fill each vacancy on that date in accordance with Subdivisions (7) and (8), Subsection (a), Section 3, [Article 38.01, Code of Criminal Procedure](#), as amended by this Act. On the expiration of a term under former Subdivision (1) or (2), Subsection (a), Section 3, [Article 38.01, Code of Criminal Procedure](#), as that law existed immediately before the effective date of this Act, the governor shall appoint a person to fill each vacancy in accordance with Subdivision (1), (2), (3), (4), (5), or (6), Subsection (a), Section 3, [Article 38.01, Code of Criminal Procedure](#), as amended by this Act, as applicable."

[Acts 2013, 83rd Leg., ch. 782 \(S.B. 1238\)](#), § 8 provides: "Not later than December 1, 2014, the Texas Forensic Science Commission shall submit the first annual report required by Section 8, [Article 38.01, Code of Criminal Procedure](#), as added by this Act."

2013 amendment,

rewrote Section 2, which read: "Definition. --In this *article*, 'forensic analysis' has the meaning assigned by [Article 38.35\(a\)](#)."; in Section 3, rewrote (a), pertaining to the composition of member in the commission and rewrote (b), which read: "Each member of the commission serves a two-year term. The term of the members appointed under Subsections (a)(1) and (2) expires on September 1 of each odd-numbered year. The term of the members appointed under Subsection (a)(3) expires on September 1 of each even-numbered year."; in Section 4, substituted "a crime laboratory may" for "accredited laboratories, facilities, or entities" in (a)(1), added "professional" after "negligence or" in (a)(1), (a)(2), and (a)(3), substituted "a crime laboratory" for "all laboratories, facilities, or entities" in (a)(2), substituted "a crime laboratory" for "an accredited laboratory, facility, or entity" in (a)(3), added (a-1), (b)(1)(D), (b)(1)(E), (b)(1)(F), (b-1), (b-2), (f), and (g), in the introductory language of (b), added "If the commission conducts" and "of a crime laboratory that is accredited by the Department of Public Safety under [Section 411.0205, Government Code](#), pursuant to an allegation of professional negligence or professional misconduct involving an accredited field of forensic science, the investigation"; substituted "crime laboratory" for "laboratory, facility, or entity" in (d), and substituted "Subsection (b), (b-1), or (b-2)" for "Subsection (b)(1)" throughout (d) and (e); added Sections 8 through 11; and made related changes.

Case Notes

OPINIONS OF ATTORNEY GENERAL

1. By the plain language of [Tex. Code Crim. Proc. Ann. art. 38.01, § 4\(a\)\(3\)](#), the Texas Forensic Science Commission does not have investigative authority over evidence tested or offered into evidence before September 1, 2005. Tex. Op. Att’y Gen. GA-0866 (2011).
2. The Forensic Science Commission’s investigative authority under [Tex. Code Crim. Proc. Ann. art. 38.01, § 4\(a\)\(3\)](#) is limited to those laboratories, facilities, or entities that were accredited by the Department of Public Safety at the time the forensic analyses took place. Tex. Op. Att’y Gen. GA-0866 (2011).
3. The Forensic Science Commission (“FSC”) may not investigate fields of forensic analysis expressly excluded from the statutory definition of “forensic analysis”; forensic analysis that is neither expressly included nor excluded, but that falls under the generic definition of “forensic analysis” found in [Tex. Code Crim. Proc. Ann. art. 38.35\(a\)\(4\)](#), is generally subject to FSC investigation, assuming all other statutory requirements are satisfied. Tex. Op. Att’y Gen. GA-0866 (2011).

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EXHIBIT
B



FSC FY15 Budget Forecast

16-Jul-14

		Budget	Actual	Variance
FY 15 Budget				
Budget		\$ 500,000.00	\$ 500,000.00	\$ -
	-	-	-	-
Total Budget		\$ 500,000.00	\$ 500,000.00	\$ -
Expenses				
Fixed Costs				
Employee Salaries/Benefits		\$ 240,748.59	\$ -	\$ 240,748.59
General Operating Expenses		14,724.18	-	14,724.18
Total Fixed Costs		\$ 255,472.77	\$ -	\$ 255,472.77
Semi Variable Costs				
Member Travel		\$ 14,400.00	\$ -	\$ 14,400.00
Employee Travel		10,000.00	-	10,000.00
Employee Conference Fees		2,000.00	-	2,000.00
Meeting Space		24,000.00	-	24,000.00
IT Services		7,000.00	-	7,000.00
Website Maintenance		5,000.00	-	5,000.00
Database Management		3,200.00	-	3,200.00
Intern		3,500.00	-	3,500.00
Mailing/FedEx		1,100.00	-	1,100.00
Total Semi Variable Costs		\$ 70,200.00	\$ -	\$ 70,200.00
Highly Variable Costs				
Office Supplies		\$ 10,000.00	\$ -	\$ 10,000.00
Forensic Development		64,000.00	-	64,000.00
External Subject Matter Experts		60,000.00	-	60,000.00
Discipline Specific Reviews		25,000.00	-	25,000.00
Investigative Costs		5,500.00	-	5,500.00
Miscellaneous		5,300.00	-	5,300.00
Consultant Reimbursements		4,500.00	-	4,500.00
Total Highly Variable Costs		\$ 174,300.00	\$ -	\$ 174,300.00
Total Expenses		\$ 499,972.77	\$ -	\$ 499,972.77
Net Income		\$ 27.23	\$ 500,000.00	\$ 499,972.77

EXHIBIT
C



TFSC Complaint Assignment Table

Date	Complaint Name, Agency	Forensic Analysis	Laboratory or Other Entity	Case #	Status (A=Accepted, R=Rejected, P=Pending, NFA= No Further Action)	Investigative Panel Participants (* =Chair)	Final Report Released to public and all interested parties (Y/N), DATE, Notes
8/13/08	Willingham, IP	Arson	State Fire Marshal's Office, City of Corsicana	09-01	A	Kerrigan, Bradley, Peerwani, Evans	Y: 4/15/11, 10/28/11
8/13/08	Moon, IP	Serology	DPS (El Paso)	09-02	A	Eisenberg, Evans, Farley	Y: 9/9/11
10/6/08	Seitz	Serology, Ballistics, Autopsy	SWIFS	09-03	R juris (D)		
10/13/08	Padilla	DNA	SWIFS	09-04	R juris (D)		
9/13/09	Garrett	Serology	Fort Worth PD	09-06	R juris (D)		
9/27/08	Winland	Trace evidence, Firearms	Houston PD Crime Lab	09-08	R juris (D)		
12/12/08	Wilson	Autopsy	Ellis County	09-10	R Juris (Aut)		
2/17/07	Hartless	Autopsy	Lufkin ME	09-11	R Juris (Aut)(D)		
12/9/08	Resendez	Serology, Autopsy	Hidalgo County	09-12	R Juris (D)		
12/18/08	Kingerly	DNA	Houston PD Crime Lab	09-13	R Juris (SM)		
1/27/09	Hughes	Serology	Houston PD Crime Lab	09-14	R Juris (D)		
6/10/09	SWIFS Anon	General allegations re: quality assurance issues	SWIFS	09-15	R Merit		
11/6/09	Propes	Ballistics, Trace evidence	Plano PD	09-18	R Juris (D)		
9/16/09	Pherwani	Toxicology	LabCorp	09-19	R Juris (D)		
10/5/09	Robinson	Autopsy	SWIFS	09-20	R Juris (D)(SM)		
1/20/10	Hurst	Trace Evidence, DNA	DPS (unidentified location)	N/C	R lack of info		
10/11/10	Holleman	Police reporting error	Dallas County DA	N/C	R Juris (D)(SM)		
1/26/10	Cruthird	Autopsy	Unidentified	N/C	No form		
10/29/09	Easley-Moore	Figenerprint, Digital evidence, Autopsy	Austin PD Crime Lab, Travis County ME	N/C	No form		
6/9/09	Yoakum	Controlled substance	Unidentified	N/C	No form		
3/5/10	Young (PA)	Arson	Pennsylvania	N/C	R Juris		
5/5/10	Cupp	Autopsy	Harris County Medical ME	10-21	R Juris (SM)		
1/13/11	Sherrill	Police misconduct	Unidentified	N/C	No form		
6/27/10	Wilcox	DNA	Unidentified	N/C	No form		
7/8/10	APD DNA	General allegations re: quality assurance issues	Austin PD Crime Lab	10-25	A	Kerrigan, Eisenberg, Evans	Y: 4/14/11
6/30/10	Todd	DNA	SWIFS	10-22	R Juris (D)		
7/30/10	Frederick	Ballistics	Orange County Sheriff's Department	10-23	R Juris (D)		
6/28/10	Johnson	Serology	DPS (Lubbock)	N/C	R Juris (D)		
8/26/10	SWIFS - SAO	General allegations re: quality assurance issues	SWIFS	10-24	R: merit		
9/19/10	Holmes	Toxicology, Autopsy	Harris County ME	10-26	R Juris (D)(SM)		
9/28/10	Cacy	GC/MS testing for accelerant	Bexar County ME	10-27	R Juris (D)		
10/8/10	Moreno, Jason	Police misconduct	Unidentified	N/C	R Juris (SM)		
10/8/10	Moreno, Valentin	Ballistics, DNA, Fingerprinting	Unidentified	N/C	No form: D		
9/9/08	Martinez	Police misconduct	Pasadena PD	N/C	No form: SM		
11/3/10	Luera	DNA	Fort Worth PD Crime Lab	10-28	R Juris (SM-request)		
12/23/10	Weeks	DNA	DPS (Austin)	11-03	R Juris (SM-request)		
3/7/11	Whitlock	Trace evidence	SWIFS	11-01	R Juris (D)		
1/10/11	Helm	Trace evidence, Firearms	SWIFS	11-02	R Juris (D)		
3/29/11	Gibson	Arson	Waco Fire Department	11-04	Referred: IPOT		
3/23/11	Mole	Toxicology	Unidentified	N/C	Request for info		
4/19/11	Cockerham	Dog Scent Line-up	Dpty Sheriff Pikett	11-05	R Juris (SM)		
4/13/11	Caraway	Toxicology, Autopsy	Tarrant County ME	11-10	R Juris (D)(SM)		
4/18/11	Stephens - APD	General allegations re: quality assurance/human resources	Austin PD Crime Lab	11-07	R Juris (SM)		
6/27/11	Devening	Toxicology	Forensic DNA & Drug Testing Services, Inc.	11-08	Referred (SM)		
4/11/11	Cooksey	Controlled substance	DPS (Waco)	11-09	R: merit		
9/4/11	El Paso Crime Lab	Controlled substance	EPPDCL	11-11	A	Kerrigan, Eisenberg, Alpert	Y: 7/27/12
10/3/11	Mcdade	Digital Evidence, Handwriting Analysis, Forensic Photography	FBI	11-12	Referred: IPOT		
11/30/11	Garrett (TN)	Arson	TN	N/C	R Juris (SM)		
11/14/11	Arrellano	Arson	Unidentified	N/C	Referred: IPOT		

TFSC Complaint Assignment Table

11/10/11	Castillo	Arson	Unidentified	N/C	Referred: IPOT	
12/7/11	Florence	DNA	UNT Health Science Center	11-13	R Juris (SM)	
12/22/11	Castillo	Arson	Edna, Texas Fire Department	11-14	R Juris (SM)	
2/9/12	APD Controlled	Controlled substance	APD Crime Lab	12-01	A	Barnard, Alpert, Hampton Y: 10/5/12
2/23/12	Cruthird	Autopsy	SWIFS	12-02	R Juris (SM) (D)	
3/21/12	Melendez	DNA	McClennan County-Forensic Science Assoc. of California	12-05	R - Juris (D) and California Lab	
4/2/12	Tarrant County Disclosure	Serology	Tarrant County ME	12-03	A	Eisenberg, Lerma, Adams Y: 10/5/12
6/29/12	Houston DPS - Controlled Substance Disclosure	Controlled substance	DPS Houston Crime Lab	12-06	A	Kerrigan, Lerma, Peerwani Y: 4/5/13
4/23/12	Wilson	DNA	DPS - Houston	12-04	R - Juris (D)	
4/23/12	Suarez	N/A	N/A	N/C	N/C	mailed CF 04/24/2012
4/23/12	Johnson, Errick	Autopsy	Harris County ME	N/C	N/C	mailed CF 04/24/2012
6/1/12	Wille	General allegations: police corruption	Illinois	N/C	N/C	forwarded to Di Maio
8/10/12	Trevino	Trace evidence, Firearms	DPS-Corpus Christi	12-07	R Juris (SM)	
8/23/12	Roberts	General Testimony	Texoma Medical Center	12-08	R Juris (SM)	forwarded to Texas Board of Nursing; complaint rejected by TBON
9/18/12	Desormeaux	DNA	DPS - Houston	12-09	R Juris (SM)	
10/1/12	Rodney	DNA	Ector County DA's Office	12-10	R Juris (SM)	
10/16/12	Yoakum	Controlled substance	Tarrant County ?	12-11	R Juris (SM)	
11/12/12	Hines	DNA	DPS - Austin	12-12	R Juris (SM)	
11/30/12	Ketchum, Melba	DNA	DNA Diagnostics, inc.	12-13	R Juris (SM)	
12/7/12	Moreno, Jason	DNA inquiry	None	N/C	N/C	no CF; inquiry
1/17/13	Austin, Rhonda	Toxicology, Autopsy	NMS Lab, PA	13-01	R Juris (SM)	
2/11/13	Nulf	DNA, general allegations	SWIFS	13-02	R Juris (SM)	
4/1/13	Ellis	serology/DNA	Houston PD Crime Lab	13-03	R Juris (SM)	
5/3/13	Starkey	Controlled substance	ExperTox, Inc. Deer Park, TX	13-04	R Juris (SM)	
5/9/13	Williams	Trace evidence, DNA	Lubbock County District Attorney's Office	13-05	R Juris (SM)	
7/8/13	Mireles	DNA, fingerprints	DPS - McAllen	13-06	R Juris (SM)	
7/31/13	Hutchinson	Controlled substance	DPS - Abilene	13-08	R Juris (SM)	
7/15/13	Hawkins	Controlled Substance	DPS - Garland	13-07	R Juris (SM)	
8/15/13	Barganski	Autopsy	Christus Spohn Memorial Hospital - Corpus Christi	13-09	R Juris (SM)	
8/19/13	Eldridge	Hair Microscopy	SWIFS	13-10	R Juris (SM)	complaint included as part of hair microscopy review
8/30/13	Johnson, Cordell	Controlled substance	DPS - Austin	13-11	R Juris (SM)	
10/23/13	Gaines	Ballistics	Fort Worth PD Crime Lab	13-12	R Juris (SM)	
11/8/13	Dean	N/A	N/A	N/C	N/C	mailed CF; inquiry
11/8/13	Roche	Toxicology	Tarrant County ME	13-13	R Juris (SM)	contacted Denton County DA
11/25/13	Ehrke	Controlled substance	DPS - Abilene	N/C	N/C	mailed CF
2/11/14	Powell	Digital Evidence, Video	Bell County	14-1	A	Barnard, Kessler, Lerma
2/11/14	Fuller	DNA	Bexar County ME	14-2	R Juris (SM)	
2/14/14	Padieu	DNA	Baylor Dept of Molecular and Human Genetics	14-3	R Juris (SM)	
2/25/14	Levee	Medical Evidence/Testimony		14-4	R Juris (SM)	Civil-N/C
3/10/14	Sutton	DNA	Bexar County? Robert B. Green Hospital	14-5	R Juris (SM)	
4/1/14	Robinson	Autopsy	Lubbock General Hospital - UMC Health Science Center	14-6	R Juris (SM)	
4/11/14	Watts Disclosure	Firearms/Tool Marks	IFL	14-7	A	Mozayani, Barnard, Lerma
4/24/14	Blazek	Firearms/Tool Marks	SWIFS	14-8	A	Di Maio, Kerrigan, Alpert
5/13/14	Gambles	DNA	DPS - Lubbock	14-9	R Juris (SM)	referred to IPOT
5/20/14	IFL Self-Disclosure	Toxicology-Blood Alcohol	Integrated Forensic Laboratories	14-10	N	
5/20/14	DPS - Austin Disclosure	Toxicology-Blood Alcohol	DPS - Austin	14-11	N	
5/27/14	Scharmen	Breath Alcohol	DPS - Austin	14-12	N	
6/4/14	Houston Forensic Center Disclosure	Toxicology-Blood Alcohol	Houston Forensic Science Center (formerly HPD)	14-13	A	Alpert, Kerrigan, Peerwani

TFSC Complaint Assignment Table

6/18/14	Brake - DPS Garland Disclosure	DNA	DPS - Garland	14-14	N		
6/18/14	SWIFS Disclosure	Controlled substance	SWIFS	14-15	N		
7/31/14	Houston PD Disclosure	DNA	Houston Police Department Crime Lab	14-16	P		
8/25/14	Rivas	DNA	Cameron County DA's Office	14-17	R Juris (SM)		
9/22/14	DPS - Austin Disclosure	Breath Alcohol	DPS - Austin	14-18	NFA		
9/22/14	Maddex	DNA, Autopsy	Bexar County ME	14-19	R Juris (SM)		
9/22/14	DPS Tyler	Controlled substance	DPS - Tyler	14-20	NFA		
9/22/14	DPS El Paso	Controlled substance	DPS - El Paso	14-21	P		
10/8/14	Bowman	Toxicology, Autopsy	NMS Lab, PA	14-22	P		