



Houston Forensic Science Center, Inc.

Board of Directors

Public Meeting

~ Minutes ~

Friday, January 13, 2023

www.hfsctx.gov

1. **CALL TO ORDER:**

At 9 a.m., Board Chairwoman Stacey Mitchell called the meeting to order.

The Houston Forensic Science Center, Inc. (“HFSC” and/or the “corporation”) board of directors (the “board”) convened this in-person meeting on Friday, January 13, 2023, in the City Hall Council Annex Chamber, 900 Bagby St. (public level), Houston, Texas 77002. In a manner permitted by the corporation’s bylaws, the meeting was called by providing all directors with notice of the date, time and purpose of the meeting at least three days before the scheduled date.

In accordance with Chapter 551 of the Texas Government Code (Texas Open Meetings Act) a notice of this meeting was posted on the bulletin board located on the exterior wall of the City Hall building at 901 Bagby St. on January 10, 2023.

2. **ROLL CALL:**

The following board members were present in-person:

Chairwoman Stacey Mitchell
Vice-chairwoman Mary Lentschke
Francisco Medina
Philip Hilder
Vanessa Goodwin
Ellen Cohen
Vicki Huff

The following board members were absent:

Anna Vasquez
Lois Moore
Tracy Calabrese

Chairwoman Mitchell declared a quorum was present.

3. **APPOINTMENT OF INTERIM BOARD SECRETARY:**

Chairwoman Mitchell informed the board of secretary Amanda DeBerry’s departure and wished her well in future endeavors. She asked the board to consider the appointment of Mrs. Ashley Henry as interim secretary of the Corporation, to serve in this capacity until the board is able to consider a candidate to fill the vacant position. The chairwoman reminded the board Mrs. Henry previously filled this role in 2021.

Director Hilder made a motion to appoint Mrs. Henry as interim secretary. Director Goodwin seconded the motion, and the board unanimously approved the motion.

4. **PUBLIC COMMENT:**

Chairwoman Mitchell invited members of the public to address the board and make public comments. No members of the public addressed the board.

5. **REVIEW AND APPROVAL OF MINUTES FROM PRIOR MEETING:**

Following a motion by Director Cohen and seconded by Director Goodwin, the board unanimously approved the November 18, 2022 meeting minutes as presented.

6. **CHAIRWOMAN MITCHELL'S REPORT:**

The chairwoman thanked the Board for their support of the December HFSC holiday staff party. Chairwoman Mitchell also thanked staff for their hard work throughout the year and the volunteers who organized the party, namely the Employee Event Committee and Human Resources ("HR") director Caresse Young. She then reminded members of the upcoming budget process and the need for a quorum at the March meeting to vote on the matter. Lastly, Chairwoman Mitchell noted HFSC will be closed for business on Monday, January 16, 2023, in observance of MLK Day and highlighted the holiday as a national day of service.

7. **STATUS REPORT ON CRIME SCENE UNIT FINDINGS:**

Chairwoman Mitchell reminded members that she previously appointed a working group to look at recommendations related to the Crime Scene Unit ("CSU"). She thanked Vice Chair Lentschke, Director Cohen and Director Goodwin for their leadership and in working with the executive team. Chairwoman Mitchell then yielded the floor to the vice chair for an update.

Vice Chair Lentschke reminded the board that CSU employees reported a few issues in 2021, which were investigated by the City of Houston Office of Inspector General. As a result, the chair appointed this working group to address these issues. After several months of work, and with assistance from the HFSC executive team, the group is now in the last phase of its process. Previously, the board worked with CSU on scheduling and adding more support staff and supervisors. The working group is now looking to improve the reporting process for CSU and all other sections. In addition, the team is identifying HFSC policies to be revised or improved. The review will focus on each policy's relevance, developing increased awareness of those policies within the organization, and better utilization of processes to resolve workplace issues. HFSC's executive team will focus on evaluating these policies and making the necessary improvements, as previously described. Additionally, the executive team intends to continue offering training on communication and leadership to increase professionalism across for all staff. Lastly, the working group will focus on whether the board should be involved in significant personnel issues with potential impact across the organization.

Vice Chair Lentschke stated the working group will present an update when more structure is around those pending items.

8. **PRESIDENT AND CEO DR. PETER STOUT'S REPORT:**

Dr. Stout's presentation included an overview of 2022 operations based on annual data compiled by the organization. He noted several significant challenges and advancements at HFSC during the previous year. HFSC staff published at least four manuscripts in peer-reviewed journals, two in toxicology and two in the quality division. HFSC's assistant general counsel, Yasmeen Belal, hosted the organization's first courthouse tour, which included interactions with judges and ultimately helped to increase familiarity with the criminal justice system.

Dr. Stout then discussed employment issues over the past year. HFSC's volunteer turnover rate in 2022 was 12.2%, which meant 24 people departed the organization, resulting in a \$12 million

dollar replacement cost HFSC will absorb over the next two to three years. Dr. Stout acknowledged the 2022 trend was problematic and needed further investigation. He also highlighted current macro trends in the job market, which are difficult to manage. Dr. Stout suggested that more attention be placed on the pipeline for employee training.

Dr. Stout continued the staffing update by announcing the corporation's quality director, Erika Ziemak, is taking a job opportunity at the University of North Texas. Upon her departure, Jackeline Moral will serve as the interim director.

Chairwoman Mitchell asked if HFSC conducts exit interviews and surveys when employees leave and if any noticeable trends could be addressed. HFSC's HR director Caresse Young addressed the board to answer the chair's questions. Mrs. Young explained HFSC does voluntary exit interviews, and most people participate. She also highlighted a salary issue in multimedia, due to the federal government recently increasing its salaries for the same positions, to an amount HFSC cannot match. However, overall compensation is one issue among the various reasons people leave HFSC, noting some employees leave due to the stress of the work. Mrs. Young explained HFSC has addressed employee stress by creating a peer support group and hiring a counselor to talk with employees on-site. HFSC is also working with managers to improve their communication. Mrs. Young assured the Board that 12.2% turnover rate is not a bad number compared to national trends, but acknowledged it is not a number HFSC likes to see. She noted HFSC is not having issues with recruitment for recent college graduates, however HFSC has had difficulty in finding experienced candidates. Dr. Stout added the average employee tenure is about 4.5 years and approximately half the current staff have been with HFSC 5 years or more.

Dr. Stout continued by stating the number of subpoenas HFSC receives has increased by 84% since pre-pandemic, largely due to catastrophic court backlogs, which has increased the demand on staff. The Harris County District Attorney's Office (HCDAO) is also struggling to recruit and retain employees and the inexperience of prosecutors directly impacts HFSC. Dr. Stout predicts Harris County will struggle with this backlog for years.

Other operational highlights include the decrease in HFSC's total backlog by 20%. The bulk of this decrease came from the latent prints and CSU sections, in addition to progress on the drug toxicology backlog. Latent print backlog reduced by 58%, CSU backlog decreased by 92%, drug toxicology was down by 29%, and the total homicide rate in 2022 was down by 10%.

Director Cohen asked if the backlog decrease included sexual assault kits (SAKs). Dr. Stout indicated the backlog has remained about the same due to significant staffing issues that have devastated the Forensic Biology (FBIO) section, including the termination and departure of five FBIO employees. HFSC has approximately 300 SAKs that have a turnaround time of over 30 days. HFSC is working through this issue with Dr. Amy Castillo, HFSC's chief operating officer and vice president, on how to sustainably manage FBIO given the section's size, high visibility, high impact, and high stress.

Another impact of HFSC's disclosure to TFSC (Texas Forensic Science Commission) regarding the *Colone* case is the need to disclose more case records, and as a result, requests for HFSC records have increased significantly. Prosecutors are requesting everything, which means the complexity of records requests and what must be provided is growing rapidly. HFSC needs to figure out how to move case records into a system that is more accessible to outside stakeholders.

Regarding turnover rates in the sections, seized drugs' recent turnover rate and subsequent promotions led to an increase in their 2022 backlog. However, the recent increase in collaboration

with HCDAO and judges has helped to remove dismissed cases from their caseload, especially marihuana cases. At the beginning of 2022, multimedia saw a big increase in turnover resulting in losing half their staff. The section was able to quickly replace staff and made significant improvements in the backlog, which is now down by 40%.

Chairwoman Mitchell acknowledged HFSC's work on backlogs has been tremendous and congratulated the sections for their hard work. Director Medina then asked Dr. Stout about the status of issues with hemp. Dr. Stout stated no solution had been reached, mainly due to the complexity with delta-8 THC and the grey area of its legality. In Texas, the Controlled Substance Act and the Health and Safety Code are inherently inconsistent on the issue of hemp. Dr. Stout noted the uncertainty of Texas law makes it difficult for HFSC to justify the investments needed to test at a larger scale. As a result, backlogs will remain in marihuana testing.

Director Hilder asked Dr. Stout about the main topics impacting HFSC operations during this legislative session. Dr. Stout said he is tracking about 60 bills, including legislation regarding fentanyl test strips and hemp. At this time, Dr. Stout is unsure if hemp bills will help or hinder HFSC operations. He also spoke about record management at the state level, a discussion which started during TFSC's review of the *Colone* case. One of his goals this legislative session is to educate legislators on the need for a statewide system of fellowships for new lab employees to offset annual lab training costs.

9. **CONSIDER APPROVAL OF INTERLOCAL AGREEMENT FOR FLEET SERVICES:**

Dr. Stout introduced the item by stating an interlocal agreement with the City of Houston was now needed to allow the corporation to continue utilizing the City's fleet services, thus ensuring HFSC's vehicles are properly maintained. Chairwoman Mitchell called for a motion to approve the ILA between the City and the corporation relating to fleet services and authorize Dr. Stout to execute the agreement after City Council's approval. Director Hilder made a motion to approve, Director Medina seconded the motion, and the board unanimously approved the motion.

10. **CONSIDER APPROVAL OF A FEDERAL GRANT FUNDED CONTRACT FOR DNA OUTSOURCING SERVICES:**

Dr. Stout briefly introduced the item by explaining the proposed contract will allow HFSC to continue outsourcing in FBIO and now allow the section to also ship non-SAKs to the vendor. Director Cohen made a motion to approve the contract for DNA outsourcing services between the corporation and Signature Science not to exceed \$1,108,934.00. Director Goodwin seconded the motion, and the board unanimously approved the motion.

11. **TREASURER AND CFO DAVID LEACH'S REPORT:**

CFO David Lech began his quarterly presentation by giving a budget refresher and update. Mr. Leach stated he will send a PowerPoint with a voice over to walk through the budget for the March board meeting and welcomed any feedback regarding proposed edits to the presentation.

Mr. Leach then presented his quarterly treasurer's report and noted not much has changed in how HFSC spends money. 70% of the corporation's budget is devoted to people costs, with supplies and services making up the rest. Mr. Leach pointed out that capital expenditures tend to fluctuate slightly year to year. He stated that as HFSC's revenue changes, total employee costs change. In 2021, HFSC saw a budget increase of \$1.6 million for toxicology and in 2022 an increase of \$1.3 million replacing the \$1.3 million loss in revenue from the CARES (Coronavirus Aid, Relief, and Economic Stability) Act. This year, HFSC gained \$3 million in revenue with the approval of ARPA (American Rescue Plan Act) funds and most, if not all, will be spent in FY2023, with some funds left for use in FY2024.

Mr. Leach then broke down the budget costs by department, showing that half of the budget goes to HFSC's largest sections, FBIO and CSU. He presented a comparative statement of activities year-to-date and the prior year. He explained that most categories remained consistent and noted that although the 12% turnover rate is generally not good for business, financially speaking, it provided a cushion. Overall, Mr. Leach reported no other significant changes or unusual activity. Lastly, he highlighted the corporation's spending against \$3.8 million in active grants.

12. **QUALITY DIRECTOR ERIKA ZIEMAK'S REPORT:**

Quality Director Ziemak began by thanking the Board for the time she spent with them over the years and their ongoing support of HFSC's quality team. She stated she anticipates a seamless transition with the new interim director, Jackeline Moral, and HFSC will benefit from a fresh set of eyes in the quality division. Interim Director Moral has risen to the challenge and Ms. Ziemak is extremely confident the Quality team will be in good hands under her new leadership.

Mrs. Ziemak began by discussing the corporation's blind quality control metrics, reporting HFSC met all submission goals for November and December. She discussed the latent prints section's undertaking of a significant process improvement project over the last year and a half, which led to changes in management of casework workflows. As a result, the section has seen tremendous efficiency gains in improved turnaround times and decreased backlogs. Although these changes rendered blind quality control efforts ineffective in this section, it also revealed an opportunity for section management and the quality division to discuss alternative quality control measures and begin the process of determining error rates. The quality division also solicited input and participation from C-SAFE (Center of Statistics and Application of Forensic Evidence) to help design a study to determine section error rates. The study requires HFSC to submit test samples over several years and have participation by all practitioners within the section. The study has not yet commenced and is still in the planning phase, however, the quality division will update the board as the project moves forward.

Next, Mrs. Ziemak discussed a new disclosure in the seized drugs section that will be presented at the upcoming TFSC meeting. The disclosure involves a report issued in May 2022, where a substance was inadvertently identified as alprazolam (xanax). HFSC now knows the substance is an isomer of alprazolam that has the exact molecular weight of alprazolam but differs in its chemical structure. The first time this isomer was reported was in Australia in June 2022, thus the substance potentially did not exist prior to that date. The disclosure highlights one of the ongoing risks in the seized drugs section, namely, the ongoing engineering of designer drugs. Of note, the isomer is currently not a controlled substance. HFSC has contacted HCDAO, and the lab report has been amended in this disclosure. The seized drugs section did a case review for all 2021 and 2022 cases where alprazolam was reported and confirmed the initial report was the only impacted case. Director Cohen asked how the error was discovered, and Mrs. Ziemak answered that it was communication from another laboratory to HFSC's toxicology manager. Mrs. Ziemak said this highlights the need among disciplines and laboratories to share information as it becomes known. Dr. Stout added this disclosure prompted an evaluation for the isomer in toxicology analysis, and HFSC discovered the isomer appears in toxicology testing in a very specific way. He is confident the toxicology section would be able to identify the isomer if it was present. Dr. Stout indicated this issue has previously occurred with other synthetic compounds, which are often produced internationally. Mrs. Ziemak said the quality division would provide final documentation to TFSC and receive confirmation on whether HFSC resolved the matter appropriately.

Next, a summary of all HFSC disclosures to TFSC during 2022 were presented, as follows:

- Incorrect CODIS (Combined DNA Index System) entries in FBIO.

- Switch of NIBIN (National Integrated Ballistic Information Network) test fires in firearms.
- Inadvertent consumption of evidence in FBIO.
- Accidental upload of three blind quality control profiles into CODIS database in FBIO.
- Professional misconduct and negligence finding regarding former FBIO analysts after review of testimony in a case worked prior to employment with HFSC.
- Concerns regarding an FBIO analyst's explanation of statistics during testimony.

Mrs. Ziemak continued with a 2022 year in review of survey responses from the public and stakeholders. HFSC received a total of 11 responses, 10 of which were identified as "satisfied" / "very satisfied," and one response of "dissatisfied" / "very dissatisfied." The "dissatisfied" / "very dissatisfied" response dealt with the turnaround time for latent prints. The responder was identified as a Houston Police Department sergeant, and the quality division was able to reach out to get more information regarding the survey response. The conversation was important because it offered HFSC an opportunity to more provide insight on the latent print workflow and process.

Mrs. Ziemak then presented a 2022 testimony review. HFSC had 69 analysts testify and 67 of them were monitored. Of the two analysts that were not monitored, one of them proactively requested his transcript, however, the court reporter was not able to produce the transcript by the end of 2022, resulting in a nonconformance for the section. The circumstance revealed the need to review HFSC's testimony monitoring requirements to uphold the "spirit" behind the program. As a result, quality is looking to create more leeway in the quality manual around this requirement. The remaining analyst that was not monitored forgot to log their testimony. This created another opportunity to review the system currently used to track testimony. The system relies on analysts remembering to notify quality of their testimony, which is not ideal.

Lastly, Mrs. Ziemak reported on the quality division's transcript review project, noting a total of 10 transcripts have been reviewed and are in the final stages of the process. Looking at testimony in each section, she reported FBIO, firearms, and CSU staff testify the most in court. In response to Director Medina's question regarding qualifications for monitors, Mrs. Ziemak explained that analysts from the respective section serve as technical experts who observe staff testimony. Monitors not only look to see if witnesses observe standards of professionalism, such as appropriate courtroom attire, but more importantly they monitor whether the analyst's testimony is technically accurate. Additionally, monitors assess if HFSC experts relay the science correctly and the jury appears to understand the testimony as presented.

Chairwoman Mitchell thanked Mrs. Ziemak for her service and stated her leadership and dedication to the quality division has been immeasurable. Vice Chair Lentschke echoed Chairwoman Mitchell's sentiments and Mrs. Ziemak expressed her gratitude for what she described as the most rewarding experience of her professional career. Chairwoman Mitchell concluded by welcoming Interim Director Jackeline Moral into her new role.

13. ADJOURNMENT:

Chairwoman Mitchell requested a motion to adjourn the meeting. Director Medina made a motion to adjourn. Director Hilder seconded the motion. The meeting adjourned at 10:31am.

The undersigned secretary of the board hereby certifies the following are true and correct minutes of the January 13, 2023 public meeting of the board.

By: Ashley Henry Ashley Henry, Interim Secretary