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Secretary

Meeting Minutes
Forensic Science Oversight Board

Date: September 12, 2019 10am-4pm

Place: The McCormack Building
One Ashburton Place, 21st floor
Conference Room 2
Boston, MA 02108

Members in Attendance:

Chairwoman Kerry Collins (Undersecretary for Forensic Science)
Dr. Robin Cotton (Forensic Laboratory Management 1)
Lucy A. Davis (Clinical Quality Management Expertise)
Dr. Itiel Dror (Cognitive Bias Expertise) – remote attendance
Judge Nancy Gertner (New England Innocence Project)
Anne Goldbach, Esq. (Committee for Public Counsel Services)
Clifford Goodband (Expertise in Statistics 2)
Lisa Kavanaugh, Esq. (MA Association of Criminal Defense Lawyers)
Gina Kwon (Nominee from Attorney General's Office)
Adrienne Lynch, Esq. (MA District Attorneys Association)
Dr. Ann Marie Mires (Academia, Research Involving Forensic Science)
Gina Papagiorgakis (Expertise in Statistics 1)

Members Not in Attendance:

Sabra Botch-Jones (Forensic Science Expertise)
Professor Timothy Palmbach (Forensic Laboratory Management 2)

The chair called the meeting to order at 10:00AM. A quorum was present

1. Minutes approval

Three corrections were made. Minutes were approved unanimously.

2. New York Commission on Forensic Science presentation (Michael Green and Jill Dooley)

- a. Michael Green and Jill Dooley discussed the structure of the NY Commission and answered the Board's questions. The Commission is made up primarily of practitioners such as defense attorneys and prosecutors as well as a judge and scientists while the DNA subcommittee is all scientists. There is an accreditation requirement for labs in New York (latent fingerprint comparison is exempt). Labs are required to be accredited by the ANSI National Accreditation Board (ANAB) or if the lab is strictly conducting toxicology analysis, they can choose the American Board of Forensic Toxicology (ABFT). Michael Green explained that Digital Forensics was beyond the scope of the accreditation of the Forensic Science Commission but there would likely be a need to review that in the future.
- b. The Commission members explained that the Commission's jurisdiction is limited to state and local governments. They explained that private labs are subject to licensing from the Department of Health in New York, but they do not fall under the jurisdiction of the Forensic Science Commission. They stated that there are currently 20 public and accredited labs under the Commission's jurisdiction.
- c. Michael Green stated that his Commission has never been charged with auditing a lab but believes that they have a thorough understanding of what is happening at each lab because the lab directors are usually present at the Commission's meetings.
 - i. The Commission takes presentations from the labs on non-conformities.
 - ii. The Commission also reviews and makes recommendations on new methods and technologies.
- d. Michael Green explained that the Commission has dealt with issues like bias, but mainly in addressing non-conformities and root cause analysis and added that the Commission had asked the accrediting bodies to add the criteria themselves.

3. Texas Forensic Science Commission presentation (Lynn Garcia) (PowerPoint attached)

- a. Lynn Garcia, General Counsel from the Texas Forensic Science Commission, explained that the jurisdiction of the Texas Commission covers all forensic labs in the state including private labs, and including accreditation for the labs outside of the state which do work for Texas cases.

- b. Lynn Garcia explained the Michael Morton Act which requires proactive self-disclosure from labs and lab staff. A Disclosure Form is attached to every case file with the lab technicians and analysts and any corrective actions. The attorneys can then take these corrective actions to the judge and argue materiality if they see fit.
- c. Lynn Garcia explained that the Texas Forensic Science Commission statute exempts latent fingerprints from the jurisdiction of the Commission. In lieu of a legislative change, the Commission is looking to start licensing these practitioners and would have the power to take the license away if the practitioners did not meet the ISO standards.

4. Audit discussion

- a. The Board reviewed Dr. Cotton's proposed motions:
 - i. *Motion to accept, as applicable, that all laboratories processing forensic evidence in the State of Massachusetts, must demonstrate compliance with the current versions of international standards ISO/IEC 17025 "General requirements for the competence of testing and calibration laboratories" or ISO/IEC 17020 "Conformity assessment – Requirements for the operation of various types of bodies performing inspection" as applicable to services they provide and all supplemental requirements their accreditation body defines related to forensic accreditation. Laboratories processing forensic DNA evidence must also demonstrate compliance with the current versions of the "FBI Quality Assurance Standards for Forensic DNA Testing Laboratories" or "FBI Quality Assurance Standards for DNA Databasing Laboratories" as applicable to services they provide.*
 - ii. *Motion to accept, that the Massachusetts Forensic Science Oversight Board (FSOB) obtain and review all standards published on the Organization of Scientific Area Committees for Forensic Science Registry and forensic applicable standards published by accredited Standards Development Organizations (SDO) to include the Academy Standards Board (ASB), ASTM, American Dental Association (ADA), and National Fire Protection Association (NFPA). Subsequently the FSOB should consider which of these additional standards should be required for laboratories processing forensic evidence in the State of Massachusetts.*
- a. The Board discussed and reviewed the statute. The Board identified the areas of the mandate that may be addressed with an accrediting body's

audit but indicated that many parts of the mandate are not consistent with what an audit is and are decisions about the administration and management of the lab instead of an audit of the lab. The Board discussed the language of the statute and the statutory mandate deadline of six months. The FSOB's report is due in November.

- b. A motion (Lisa Kavanaugh) was made to request that the *MSP lab provide the FSOB with a summary of their own assessment of the issues addressed in section (c) items (i) & (ii) of the G.L. audit. Lab's response (in writing and at an oral presentation at the next meeting) should include: (1) annual management review document (most recent); (2) equipment list (most recent); (3) budget request submitted to General Headquarters; and (4) a synthesis/summary of the key issues and concerns from the lab's perspective arising out of these documents. The response and supplemental documents should be submitted to the Board on or before October 11, 2019.* The motion was seconded (Nancy Gertner) and approved unanimously.

5. Public comment

No public comment. A motion (Lucy Davis) to adjourn was made, seconded (Lisa Kavanaugh) and approved unanimously.

6. Action Items

- a. The Massachusetts State Police Crime Lab will be providing documents to the Board on October 11th.
- b. The Massachusetts State Police Crime Lab will be hosting the October 25th meeting and will be presenting to the Board.
- c. The Board will finalize how they want to report out the findings from the audit in accordance with the statute and mandate at the next meeting.
- d. The Board will discuss and decide the forming of subcommittees in future meetings.