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Forensic Science Oversight Board (FSOB) Meeting
Friday, September 20, 2024
Via Microsoft Teams

I. Roll Call

Forensic Science Oversight Board - Attendance		
Name	Present	Absent
Undersecretary Kerry Collins, Chair	X	
Sabra Jones, PhD	X	
Dr. Robin Cotton	X	
Richard Lempert, PhD	X	
Gina Papagiorgakis		X
Dr. Ann Marie Mires	X	
Clifford Goodband	X	
Professor Timothy Palmbach	X	
Lucy Davis		X
Adrienne Lynch, Esq.	X	
AAG Gabriel Thornton	X	
Ira Gant	X	
Lisa Kavanaugh, Esq.	X	
Justice Nancy Gertner		X

II. Meeting Minutes

Amy Putvinskas is going to recirculate the minutes from June with edits. Tim Palmbach had an edit to the minutes regarding that there is “no lack of scientific validity”.

III. Undersecretary Updates

Kathleen Mullen will be taking the role of EOPSS FSOB Staff. EOPSS is looking at the possibility of livestreaming the meeting to YouTube as a means of meeting minutes as well. Undersecretary Collins will be speaking at the NAFSB in Albany, NY this November.

IV. Subsection Updates

1. Springfield Audit – EOPSS will recirculate the document for any finals comments and compile all comments that have been made.
2. Gabe, Tim, Ira, Lisa team for the legislative piece: This item will be placed on the agenda for the next meeting. The working group met with Sarah Chu to further understand the legislative needs. The board has no dedicated budget at this time. The board looks to the Texas Forensic Science Commission as to how they are able to effectively conduct investigations. The Texas Commission has full time employees, budget, and legal aid that allows them the opportunity to do so. If the board agrees that there is a need for legislative changes and the board seeks legislative support the next step may be to have Lynn Garcia and Sarah Chu present to the board and the legislators on how Texas grew. The board may want to advocate for a fulltime staff position that is hired solely to support the work of the board. This may be less controversial than trying to obtain subpoena power. Budget would allow for the board to hire a fulltime staffer as well as access materials that are behind subscriptions and hire experts when needed. This would better allow the board to respond to complaints effectively and efficiently. The board could use experts to identify and understand the applicable science and the board could then focus on writing the report. This relates to Subsection F. Robin Cotton offers to the board her sources to gain access to material that may require a subscription. Anne Goldbach would like to work with the board to identify what is needed to prepare for the presentation at the Social Law Library.
3. Adrienne Lynch and Lisa Kavanaugh described subcommittee work on the YSTR (Essex Case). They will follow up with a summary for the board to review. In addition, they reported having a meeting with the MSPCL to discuss proposed amendments to G.L. c. 22E, and indicated they hope to share proposed amendments at the October FSOB meeting. Ann Marie reported that, on the legislative front, the bill relative to amending G.L. c. 22E never left committee, but she will reach out for an update.
4. Bristol DNA Database
 - a. There is a new point person at the ACLU and has taken over for Jessica Lewis. Lisa will connect with the new individual to see if there have been any new public record requests but also to see if the Attorney General had any interest in an investigation as it may be in violation with the database law. The second piece is the 22E reform. An individual reached out to Gabe and is not sure if the Civil Rights Division of the Attorney General's Office is aware that the AGO's office did receive a complaint generally that the Bristol District Attorney's office does have a database that is housing information that they potentially should not.

V. Complaint Submitted by Ms. Roy

The working group reviewed the documents and determined that, rather than commenting on matters that are the subject of a case in active litigation, they intend to review the overarching scientific reliability of testimony on TPPR (Transfer, Persistence, Prevalence and Recovery), similar to what the Texas Commission did.

Adrienne and Lisa provided a brief update on research efforts, noting that it is to identify valid/ reliable resources. The Texas Commission advocates for NIST to undertake this issue. A public university in

Switzerland offers an 18-month online course that is also listed in the Texas report. The working group came across a NIST publication in May 2024 that included recommendations related to testimony on TPPR, including that analysts should not testify about this topic at all until more research has been done. The board discussed that John Butler has an ongoing list of areas of experimental research NIST that would be a good resource. Robin also offered to connect the board with another individual who has provided a very good explanation of the topic. One challenge noted by the working group is the challenge of how to address a complaint arising from testimony given in two different time-frames – at trial, and in a post-conviction proceeding. This may factor into evaluating what was known at that time that testimony is given.

VI. BORIM Complaint

The Board of Registration of Internal Medicine (BORIM) sent a complaint to Amy Putvinskas referring this case to the FSOB. Ira sits on the board that oversees the OCME but will not be voting on any. Sabra reviewed the toxicology results of the case. It was noted that there is sensitive information included in the documents. When the FSOB decides to discuss this information, it is recommended that the board goes into executive session. It was discussed if it's a small group of individuals that work on it as we have done in the past. EOPSS did request more information as the information we have seems incomplete. Lucy Davis asked if the board reviewed the complaint to determine if we have jurisdiction. Arielle Mullaney Poncia will follow up with Sabra in regard to her participation.

VII. Boston City Council Complaint

Undersecretary Collins received a letter from Counselor Ed Flynn in June regarding the Boston Police Department Crime Lab (BPDCL). BPDCL and Kevin Larade are aware of the letter and the BPDCL management team is interviewing individuals for the vacant analytical positions that is letter is refers to. The laboratory has changed their workflow to comply with the mandated turnaround time for sexual assault kits. The letter is asking for the FSOB to review the practices of the laboratory. Lucy Davis stated that a lot of the concerns that the Counselor has have already been addressed in the BPDCL Audit report published April 27, 2023. EOPSS will make sure that Counselor Flynn has a copy of that report. Tim Palmbach adds that we should review the laboratory's current status to see if the situation has changed. Robin Cotton noted a problem in the letter, specifically, the Lab director has been on leave for two years. Rick Lempert agrees that the letter outlines issues that the FSOB has already addressed in the Audit. Adrienne Lynch addressed Robins concerns about laboratory director – we may be able to ask if this is tied to any litigation. The BPDCL Audit Team can look at this matter and we can also look at the Track Kit Report. We can place this on the agenda for November as we will also be able to provide the Track Kit audit report or at least details. Undersecretary Collins suggested to have Ann Marie, Lucy and Timothy work on a budget that can be presented to EOPSS for review, possibly to be discussed at the board's February meeting.

VIII. Social Law Library

Presenting on our future needs. There have been discussions about including a video from Lynn Garcia. Undersecretary Collins will work with Anne Goldbach to develop an internal agenda. Familial DNA and Bristol dove tail our past accomplishments into what the board is working on currently. Can the board

do webinars that the FSOB would sponsor? This is also an opportunity to find out what trainings the attendees would want to see

IX. Future Meeting Dates (October and November)

If members have not responded to the scheduling for October and November please do so. EOPSS will be posting the meeting dates with advanced notice.

X. Topics Not Reasonably Anticipated Within 48 Hours

Not applicable as nothing was raised by the board.

XI. Public Comment

Tiffany Roy: Thanked the board for looking into the concerns that she raised. Adds that she is a resource for the board as well.

XII. Addendum to Minutes

Adrienne Lynch reported on the activities of the members investigating the Y-STR surname search conducted by a forensic genetic genealogist in connection with an Essex murder case. The members reviewed information in connection with the on-going case involving this issue in order to frame the general scope of the investigation. Materials reviewed included a transcript of the testimony of a forensic genealogist and materials provided by her in connection with the investigation, affidavits and supporting materials provided by two defense experts involved in that case who also testified at trial, and met via Zoom with the defense experts— Dr. Carl Ladd and Dr. Frederick Bieber, to understand the issue from their perspective. The members also reviewed additional information obtained from the trial prosecutor concerning the trial testimony related to the Y-STR surname search in order to identify what information the jury had concerning the limitations of such a surname database search.

Additionally, the members reached out by email to individuals in the field who might be willing to provide subject matter expertise to the Massachusetts FSOB on the Y-STR surname database uses and limitations in the criminal investigative and forensic context. Those individuals include Dr. Miguel G. Vilar, Assistant Professor of Anthropology at the University of Maryland and previously was Senior Program Officer for the National Geographic Society (NGS) and Lead Scientist for NGS' Geographic Project; Dr. Ray Wickenheiser, chairperson of the National Technology Validation and Implementation Collaborative (NTVIC) Policy and Procedures Committee for Forensic Investigative Genetic Genealogy (FIGG) and retired director of the New York State Police Crime Laboratory; Dr. Ugo A. Perego of the University of New Haven and University of Perugia, a PhD in genetics and biomolecular sciences and a senior researcher at the Sorenson Molecular Genealogy Foundation (SMGF) and a scientific consultant for GeneTree, in Salt Lake City; Dr. Yaniv Erlich, formally the chief science officer of My Heritage and associate professor at Columbia University; and Dr. Michael Coble, assistant professor at the University of North Texas Health Science Center with a Ph.D. in genetics. Two of these subject matter experts responded to our email invitation to meet with the members. Those experts were Dr. Viler and Dr. Wickenheiser. Zoom meetings with the members were held. Sidney Collins, of the MSP Crime Laboratory, was invited to attend these meetings.

Dr. Claire Glynn, a professor and research coordinator who serves as the director of the graduate certificate in Forensic Genetic Genealogy at the University of New Haven, Henry C. Lee College of Criminal Justice and Forensic Science, was also a helpful resource to the members. The members learned about a presentation given by member of the Quebec Laboratoires de Sciences Judiciaires et Medicine Legal concerning their successful use of a similar methodology in solving two unsolved homicides in Canada, presented at the recent International Homicide Investigators Association meeting. Efforts are underway to try to speak to those presenters.