

Houston Forensic Science Center, Inc.

VIRTUAL MEETING OF BOARD OF DIRECTORS

MINUTES

June 10, 2020

The undersigned, being the duly appointed secretary of the Houston Forensic Science Center, Inc., (“HFSC” and/or the “Corporation”) hereby certifies the following are true and correct minutes of the June 10, 2020 virtual meeting of the Board of Directors (the “board”) of the Corporation.

- A. In a manner permitted by the Corporation’s Bylaws, the meeting was called by providing all directors with notice of the date, time, (instructions for Microsoft Teams access and call-in options) and purposes of the meeting more than three days before the date of the meeting.
- B. In accordance with Chapter 551, Texas Government Code and Governor Greg Abbott’s March 16, 2020 temporary suspension of certain provisions of the Texas Open Meetings Act, notice of this meeting was duly posted online to www.houstonforensicscience.org on June 5, 2020 along with a free-of-charge videoconference link, dial-in phone number and an electronic copy of the agenda packet, as required.
- C. The virtual meeting on Microsoft Teams was called to order by Board Chairwoman Stacey Mitchell at approximately 1:30 p.m. on Wednesday June 10, 2020. She reminded directors to be mindful of audio delays, to unmute before speaking and to use the “raise hand” function in Microsoft Teams before speaking.
- D. Board Secretary Jordan Benton called the roll. The following directors were present: **Stacey Mitchell** (the chairwoman’s photo was visible in her icon during the meeting,) **Philip Hilder** (“PH,”) **Anna Vasquez** (“AV,”) **Francisco Medina** (“FM,”) **Janet Blancett** (“JB,”) **Robert “Bob” H. McPherson** (“RM,”) **Lois Moore** (“LM,”) **Mary Lentschke** (“ML”) and **Tracy Calabrese** (“TC”)

Vicki Huff was absent from the meeting.

Chairwoman Mitchell declared a quorum.

- E. Chairwoman Mitchell announced that HFSC’s second virtual board meeting was being held in compliance with Governor Greg Abbott’s temporary suspension of certain provisions of the Texas Open Meetings Act in response to the COVID-19 pandemic. She reminded members to mute their microphones during the meeting and to unmute only when speaking. Chairwoman Mitchell asked if any members had an objection to her taking the agenda out of order to first address agenda item seven, the chair’s report. No one objected.
- F. Chairwoman Mitchell presented a chair’s report. She said the recent events surrounding the tragic deaths of George Floyd, Ahmaud Arbery, Breonna Taylor and many others had sparked grief, outrage, fear and a desire for change, especially in the black community. She said HFSC, itself a product of reform, stands against racism and injustice. Chairwoman Mitchell

said that as HFSC continues to adhere to the highest standards of quality, objectivity and ethics, it also stands for fairness, impartiality and transparency, all hallmarks of reform. Director Vasquez thanked the Chairwoman for her comments and said she supports HFSC being a part of the change. Chairwoman Mitchell said that HFSC's first president and CEO, Dr. Daniel Garner, had passed away May 28. She said he served during HFSC's crucial transition to independence. Chairwoman Mitchell also acknowledged the passing on May 14 of Dr. Clifford Spiegelman, a Texas A&M University statistician who served on HFSC's technical advisory group. The chairwoman thanked Director McPherson, whose term ends June 30, for his five years of service. Director McPherson said it had been an honor and privilege to serve on HFSC's board and thanked Dr. Stout for hand crafting a wooden box to memorialize his service.

- G. Chairwoman Mitchell requested the board vote to appoint a vice chair. Chairwoman Mitchell made a motion to reappoint Mary Lentschke. Director Medina seconded the motion. Secretary Benton called the roll, and the following directors were in favor: Stacey Mitchell, Mary Lentschke, Anna Vasquez, Philip Hilder, Francisco Medina, Janet Blancett, Robert McPherson, Lois Moore. With none opposed, the motion passed unanimously.
- H. Chairwoman Mitchell requested the board vote to reappoint HFSC's corporate officers as follows: Peter Stout as president, Amy Castillo as vice president, David Leach as treasurer and Jordan Benton as secretary. Director Hilder made a motion to approve the reappointments. Director McPherson seconded the motion. Secretary Benton called the roll. The following directors were in favor: Stacey Mitchell, Mary Lentschke, Anna Vasquez, Philip Hilder, Francisco Medina, Janet Blancett, Robert McPherson, Lois Moore. With none opposed, the motion passed unanimously.
- I. Chairwoman Mitchell said the board agenda included an email address and phone number for members of the public to use to address the board. The Chairwoman asked Secretary Benton if any members of the public wished to address the board. Ms. Benton said no one had requested to address the board. The chairwoman opened the floor to members of the public. No one addressed the board. Chairwoman Mitchell said she would leave the public comment period open until after the next agenda topic.
- J. Chairwoman Mitchell asked if any changes were needed for the May 8, 2020 board meeting minutes. No directors had changes. Director Moore made a motion to approve the minutes. Director Blancett seconded the motion. The motion passed unanimously.
- K. Dr. Stout gave the president's report. Dr. Stout thanked Director McPherson for his years of support and service. In reviewing HFSC's overall turnaround time and requests for May 2020, Dr. Stout said the forensic biology and latent print sections have been completing backlogged cases. This is beneficial but causes the overall turnaround time to increase since the clock starts ticking when a request is made and does not stop until a report is issued. Dr. Stout said a few more analysts in the toxicology section are authorized to complete blood alcohol requests allowing the section to increase their production. In a staffing update, Dr. Stout said two biology/DNA analyst positions have been filled and that Robin Guidry, the section's former technical leader, is working part-time until that position is permanently filled. In the meantime, Courtney Head, HFSC's forensic biology/DNA manager, is the acting technical leader. Director Blancett asked if any active vacancies could be worked remotely. Dr. Stout

said some positions, such as research and development, could work from home, but others, such as the DNA technical leader position and the multimedia posts, could only do some work offsite. Crime scene investigators cannot do any of their work from home, he said. Dr. Stout said due to the pandemic, more outreach is virtual and he pre-recorded a presentation for the Texas Criminal Defense Lawyers Association's Rusty Duncan Conference. He also presented virtually to the Bay Area Council on Drugs and Alcohol about COVID-19's impact on drug trafficking and crime. Dr. Stout gave an overview of HFSC's long-term planning for the COVID-19 pandemic and reminded the board that teams had been looking at four main areas: supply challenges, off-and on stay at home orders, release of restrictions and IT resources. Dr Stout said a sub-group identified IT resources needed so staff can work from home effectively, such as computer monitors, webcams and headsets, and that the items would be purchased later this summer after the new fiscal year begins. Dr. Stout said another group identified resources for staff to better manage working from home and that a webpage dedicated to this would launch on HFSC's Intranet in late June. Director Blancett asked about network security and Dr. Stout said the lab plans to do more stress testing with more people working remotely. Other groups are working on creating training videos to teach staff about virtual tools available to them, hanging COVID-19 informational posters around the HFSC office space, arranging for more cleaning of common areas and bathrooms and deep cleaning in the event of positive cases of the virus. Dr. Stout said HFSC issued a memo to stakeholders about the willingness and readiness of analysts to offer video testimony when the courts resume jury trials, which the Texas Supreme Court recommends occur starting August 1. Dr. Stout said longer-term items that are still being worked out include paperless workflows that require procedural, policy and possible some network changes to make them more robust. Dr. Stout said scheduling is another long-term item that will be monitored. Dr. Stout said supplies are also being monitored and the lab has about six months' worth of the supplies that pose the biggest threat to operations. He said large sized gloves are difficult to find now. Dr. Stout gave an overview of plans to renovate the vehicle examination building (VEB.) He said an Interlocal Agreement (ILA) between the City of Houston and the lab should be on the June 17 city council agenda. Dr. Stout said a cost estimate for the VEB's air conditioning should be received by the end of the week and will likely eat up most of the \$152,000 overall budget. He said the project must be completed by the end of December to meet the guidelines of the federal grant. Dr. Stout said a new fan motor will be installed to resolve the venting issue in the firing range in the basement of 500 Jefferson and should resolve the ongoing problem in the next few weeks.

- L. Chairwoman Mitchell asked Secretary Benton if any members of the public had joined the meeting to address the board. Secretary Benton said no one had joined the meeting. Chairwoman Mitchell closed the public comment period. She thanked Mr. Darrell Davis, a technical advisory group member, for joining the meeting.
- M. Dr. Amy Castillo, vice president and COO, presented the operations report. Dr. Castillo gave an overview of turnaround times and backlogs. Dr. Castillo said the seized drugs section had returned to a normal operating schedule on June 1 after requests reached pre-pandemic levels. She said the section was maintaining a 14-day turnaround time. Dr. Castillo said Dr. Stout had built and installed plexiglass partitions in the seized drugs laboratory to provide staff an added layer of protection. She said curtains had also been purchased for cubicles to further encourage social distancing. Dr. Castillo said the toxicology section was still operating on a rotating schedule but had eliminated 260 blood alcohol requests from their backlog due to additional staffing. Dr. Castillo said the NIBIN, or National Integrated Ballistics Information Network,

team had received 100 more requests in May compared to the same time last year but had still maintained a 48-hour turnaround time. Dr. Castillo said HFSC has a backlog of 587 sexual assault kits as the forensic biology section continues to train analysts to use the new probabilistic genotyping software online. She said it remains unclear how quickly the section can get cases completed in the long term. She said five forensic biology/DNA analysts are working exclusively on sexual assault kits and had completed 45 cases in May. Dr. Castillo said another team is focused on reviewing cases that had been completed by a private laboratory to determine if there are DNA profiles eligible for upload into the national DNA database. Dr. Castillo said two additional analysts had been authorized to use probabilistic genotyping in casework. She said two analysts remain in training. Dr. Castillo a request for proposals had been issued to seek vendors that can complete DNA work in the hopes of sending sexual assault kits to a commercial laboratory in July.

- N. Mr. David Leach, CFO and treasurer, requested board approval to reallocate funds in the current fiscal year budget. Mr. Leach said the overall dollar amount had not changed. He said adjustments needed to be made between specific budget line items, such as grant expenses and building costs. Director McPherson made a motion to approve the budget reallocations. Director Medina seconded the motion. Secretary Benton called the roll, and the following directors were in favor: Stacey Mitchell, Mary Lentschke, Anna Vasquez, Philip Hilder, Francisco Medina, Janet Blancett, Robert McPherson, Lois Moore. The motion passed unanimously.
- O. Mr. Jerry Pena, director of the crime scene unit (CSU) and multimedia section, thanked Director McPherson for his service. He said CSU has operated normally throughout the pandemic and would not veer from their three-shift schedule unless forced to do so. Mr. Pena said a few CSIs had shown COVID-19 symptoms but tested negative for the virus. Mr. Pena said CSU's evening and night shifts relocated to the Houston Police Department's (HPD) Southwest Substation the day of the large George Floyd rally downtown to ensure their scene response would not be impacted. Mr. Pena said CSU is also preparing for the 2020 hurricane season and will activate an emergency schedule in the event of a storm. HFSC will provide lodging, supplies, equipment and food for staff working through a natural disaster and CSU will deploy to HPD substations during a storm since downtown Houston is prone to flooding. Mr. Pena said the 50 percent rise in crime has led to a 20 percent increase in requests for multimedia analysis and a 24 percent increase in callouts. The section has completed 43 percent more cases, however, despite the increase. Mr. Pena said the multimedia section is also seeing success with a new software, the Universal Forensic Extraction Device, used to extract data from iPhones and Android devices. He said the \$150,000 per year software has been used on 44 phones, 32 of them iPhones and 12 Androids. Mr. Pena said HPD is beginning to submit more requests now that HFSC has the UFED software. Director Blancett asked if HFSC would be able to do work for other agencies who do not have the UFED software. Mr. Pena said it's too soon to tell since the section only implemented the software in April, but it is a possibility.
- P. Chairwoman Mitchell told the board she had unintentionally taken the agenda out of order, and asked Mr. Leach to present his treasurer's report. Mr. Leach said the fiscal year 2020 budget is on track, and that 11 of the 12 months are complete. Mr. Leach said the lab will have no money left after the July 17 payroll, but HFSC should receive fiscal year 2021 funds from the city right around the same time if all goes as planned. He said HFSC has seven active grants totaling \$3.7 million dollars and has \$2.2 million left for fiscal year 2020.

Q. Ms. Erika Ziemak, quality division director, said the quality division had met its May goals for submitting blind quality controls. Ms. Ziemak reviewed audits, disclosures, corrective actions, proficiency tests, transcript reviews and testimony data. Ms. Ziemak said a blind quality control submitted to the toxicology section had yielded an unexpected result and a quality division investigation pinpointed the root cause. Ms. Ziemak said the blind quality control should have yielded a negative result, however, the analysis found a blood alcohol level three times the legal limit in Texas. Ms. Ziemak said the investigation found the error occurred in the manufacturer's labeling process. The manufacturer had mislabeled a positive blood sample as negative while preparing the samples for HFSC. Ms. Ziemak said that the manufacturer is accredited to the same standards as HFSC, so their mistake will be noted as a nonconformance and the quality division will work with them to find process fixes, such as bar coding, that could prevent a similar error going forward. Although it is never ideal to have an error, Ms. Ziemak said this incident showcased that the blind quality control program truly tests the entire system, even before a sample enters the lab. Ms. Ziemak said two other blind quality control samples, this time in the forensic biology/DNA section, also yielded unexpected results. One incident is still being investigated, she said, but there are results to share from the second. Ms. Ziemak said an HFSC staff member helped create a blind sample by taking a moistened swab and applying it to the back of her neck. She said the swab was submitted to the forensic biology section and the expected result was a single-source, female DNA profile. However, the lab analysis yielded a two-person mixture, Ms. Ziemak said. The quality division believed there were four potential scenarios that led to the unexpected result: the quality division introduced contamination while preparing the sample, the commercial vendor, where the sample landed, introduced contamination, the forensic biology section introduced contamination when preparing the sample for the commercial lab, or the quality division specialist actually had a second person's DNA on her when she swabbed the back of her neck. The investigation found that the final option was the source of the second DNA profile and that it was a match to the quality division specialist's significant other. Ms. Ziemak said the scenario highlights the sensitivity of DNA testing. Ms. Ziemak said she and Dr. Stout will author an article titled "*The Ups and Downs of a Blind Quality Program: HFSC's Perspective*" about HFSC's blind quality control program and transcript review project. Ms. Ziemak said HFSC disclosed a testimony incident to the Texas Forensic Science Commission (TFSC.) A former HFSC staff member testified outside his area of expertise and the problem was discovered during the transcript review project. Ms. Ziemak explained the crime scene investigator (CSI) had provided testimony on footwear impressions and their source though he is not trained to conduct this work and HFSC is not accredited to perform footwear analysis. Ms. Ziemak said the CSI could have made observations as a layperson, however he should have informed the court he was not an expert. Ms. Ziemak said the Harris County District Attorney's Office was notified but it remains unclear what, if any, impact the testimony had on the case. Ms. Ziemak said two other transcripts for the former employee have been reviewed and no additional issues were found. To avoid similar issues in the future, the quality division created a training video for all staff featuring seasoned testifiers sharing some of their experiences to help educate and advise analysts. Ms. Ziemak said Dr. Stout also walked staff through problematic parts of the CSI's testimony to highlight the importance of testifying only within the limitations of their expertise. Ms. Ziemak said the disclosure will be discussed at the TFSC's July 24 meeting. Ms. Ziemak told the board that the quality division completed its internal audit on June 1. The audit uncovered 13 nonconformances. HFSC's accrediting body, ANAB, will perform a virtual assessment in July, she said.

R. Chairwoman Mitchell requested a motion to adjourn the meeting. Director McPherson made a motion to adjourn. Director Medina second the motion. The meeting ADJOURNED at approximately 3:24 p.m.

By: _____

Jordan Benton Secretary