

Houston Forensic Science Center, Inc.

VIRTUAL MEETING OF BOARD OF DIRECTORS

MINUTES

July 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 July 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](http://www.houstonforensicscience.org) on July 7, 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 8 a.m. on Friday July 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** (“J,”) **Lois Moore** (“LM,”) **Vicki Huff** (“VH,”) **Mary Lentschke** (“ML,”) and **Tracy Calabrese** (“TC”)

Chairwoman Mitchell declared a quorum.

**Ellen Cohen (“EC”) was not present at roll call or for the executive session. Director Cohen joined the meeting at 9 a.m. when the board reconvened into open session.**

- 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 when speaking.
- F. At approximately 8:02 a.m. the board went into executive session in accordance with Sections 551.071(a) and 551.074(a,) consultation with attorney regarding pending or contemplated litigation, and personnel matters to deliberate the president and CEO’s annual performance evaluation. Chairwoman asked Dr. Peter Stout, president and CEO, and Ms. Akilah Mance, HFSC’s general counsel, to remain in executive session with the board. She asked Secretary

Benton to stop recording the meeting.

- G. The meeting reconvened at approximately 9 a.m. Secretary Benton began recording the meeting. The Chairwoman announced Director Cohen had joined the open session at 9 a.m. and declared a quorum was present. Ex-Officio Calabrese rejoined the open session at approximately 9:02 a.m.
- H. The chairwoman asked the board if there were any voting items to address from the executive session. Director Hilder made a motion to give Dr. Stout a three percent merit increase. Director Blancett seconded the motion. Secretary Benton called the roll. The following directors were in favor: Stacey Mitchell, Philip Hilder, Anna Vasquez, Francisco Medina, Janet Blancett, Lois Moore, Vicki Huff, Mary Lentschke and Ellen Cohen. With none opposed, the motion passed unanimously.
- I. Chairwoman Mitchell reminded the board that Dr. Stout is supposed to present in July, as part of his annual evaluation, annual priorities and performance objectives for the new fiscal year. She said Dr. Stout had requested to present those in September this year due to the COVID-19 pandemic. Director Moore made a motion to approve the request. Director Huff seconded the motion. Secretary Benton called the roll. The following directors were in favor: Stacey Mitchell, Philip Hilder, Anna Vasquez, Francisco Medina, Janet Blancett, Lois Moore, Vicki Huff, Mary Lentschke and Ellen Cohen. With none opposed, the motion passed unanimously.
- J. Chairwoman Mitchell said the board agenda included an email address and phone number for 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. With no one present to speak, Chairwoman Mitchell closed the public comment period.
- K. Chairwoman Mitchell asked if any changes were needed for the June 10, 2020 board meeting minutes. No directors had changes. Director Blancett made a motion to approve the minutes. Vice Chair Lentschke seconded the motion. Director Huff and Director Cohen abstained. With none opposed, the motion passed unanimously.
- L. Chairwoman Mitchell presented a chair's report. Chairwoman Mitchell welcomed the Honorable Ellen Cohen to the board of directors and thanked her for her willingness to serve. Chairwoman Mitchell reminded the board to use the Microsoft Teams "hand raise" function to ask questions during staff presentations.
- M. As part of the president's report, Dr. Stout reminded the board that as sections eliminate backlogs and complete older cases overall turnaround times increase because the calculation is from the moment a request is made through the point when a report is issued. At the moment, turnaround times are being impacted by the forensic biology, latent prints and toxicology sections working through their backlogs. The toxicology section, he added, is completing cases at an impressive rate despite reducing onsite staffing numbers due to the pandemic. Dr. Stout said recruitment for open and new positions continues. He said Courtney Head, manager of the forensic biology/DNA section, is temporarily filling the technical leader post until another staff member fulfills all the educational requirements for the role. Dr. Stout said nearly all in-person outreach events have been cancelled because of the pandemic, though Councilmember Tiffany

Thomas and her staff did tour the lab. Virtual outreach activities are increasing, and Dr. Stout presented to the Texas Criminal Defense Lawyers Association's Rusty Duncan Conference and to a Jewish Federation women's professional group. Dr. Stout said the pandemic is impacting operations and 10 HFSC staff have tested positive for the coronavirus. Of those, five had since returned to work onsite. Dr. Stout said the multimedia unit has recovered after it was unable to respond to audio/video call outs due to staff being out either with the coronavirus or as a result of exposure. Several other staff remain self-quarantined due to exposure. Dr. Stout said the 27-member crime scene unit continues to feel strained by the increased number of call outs and limited staffing. CSU has implemented an on-call schedule and may resort to emergency 12-hour shifts if needed. Dr. Stout said seized drugs and client services and case management returned to alternating shifts on July 6 to reduce the number of staff onsite. He said the pandemic is causing issues across the justice system, noting the Harris County courts have a backlog of 80,000 criminal cases. Chairwoman Mitchell said HFSC is following Centers for Disease Control (CDC) guidelines and combining in policy guidelines for first responders and health care providers. She added that HFSC is taking aggressive steps to protect staff. In response to Chairwoman Mitchell's question regarding whether the lab has enough personal protective equipment (PPE.) Dr. Stout said the lab has about a 12-month supply. Director Blancett asked if the lab uses the same reagents as those used in COVID-19 testing and whether it is being impacted by a shortage of those chemicals. Dr. Stout said the lab has not experienced reagent shortages but continues to monitor the He said at crime scenes CSU is now double gloving, wearing eye protection and using N95 masks instead of surgical masks. Dr. Stout said it appears all COVID-19 positive cases on staff have either been from household exposure or from outside of work. He said visits to the lab are restricted and all visitors must have their temperature checked before entering and wear a mask. Staff are also wearing masks . In addition, curtains have been hung to separate cubicles and chairs have been removed from common areas and conference rooms. HFSC has also contracted with Bode Technology to perform weekly COVID-19 testing, which began July 6. Bode has promised a 48- to 72-hour turnaround time on results, allowing HFSC to more quickly identify staff who are positive. HFSC will provide the testing every Monday in July. Director Blancett asked if staff confirmed positive for the virus can get tested at HFSC. Dr. Stout said that if a staff member that has tested positive meets CDC clinical guidelines for recovery from the virus, they can come at the end of the day to get tested again. Staff who are symptomatic must get tested elsewhere, he added. Chairwoman Mitchell asked if COVID-19 testing has impacted Bode's ability to complete analysis on rape kits. Dr. Stout said the virus testing is a separate function, though HFSC is closely monitoring whether Bode will maintain the promised turnaround time on COVID tests. In response to a question from Director Blancett about whether there is any local or federal funding available to pay for the COVID-19 testing, Dr. Stout said it is possible, but everyone is currently struggling to find funding mechanisms. Chairwoman Mitchell asked how staff felt about having tests available to them. Dr. Stout said the response from staff has been overwhelmingly positive. Dr. Stout said the pandemic also delayed plans for creating annual goals for next year and they will be discussed in September. Dr. Stout said that also by September, the forensic biology section will have a better idea of the impacts the new probabilistic genotyping software, or STRMix, will have on the section's capacity for their annual goals since complex data from the software increases case review time. He said other labs have had their productivity cut in half the first year of implementing the software. In a mid-year review of 2020 goals, Dr. Stout said HFSC had accomplished its biggest annual goal and moved to the new facility. HFSC has also completed goals relating to one-on-one meetings, semi-annual reviews and voluntary turnover. The lab is struggling to meet its goal of

having an overall turnaround time of 45 days. As backlogs are eliminated, turnaround times go up in a contradictory manner making the goal challenging if not impossible to accomplish, Dr. Stout explained. The goal will not be changed mid-year, but the impact to staff will be minimal, though a failure to meet this goal will impact him and Dr. Castillo. Dr. Stout said the lab set a goal to have no more than a 15 percent backlog for received requests in a year, which will also not be achieved. Dr. Stout said the 2021 goals presented in September will better consider how to create a production goal that is both possible to meet and reflects stakeholder needs.

- N. Dr. Amy Castillo, vice president and COO, said the lab's turnaround time increased because the toxicology section completed nearly 700 backlogged cases last month, impacting the average. Dr. Castillo said the latent print section is also working older cases in the backlog in addition to newer rush requests. The section is averaging a 400- to 500-day turnaround time as it completes the oldest cases in the backlog. Dr. Castillo said as coronavirus cases climb in Houston, the seized drugs and client services and case management sections returned to rotating schedules. The seized drugs section is creating a paperless workflow to allow for more work from home. Dr. Castillo said the five new positions in the toxicology section will help with a backlog in blood alcohol requests. Dr. Castillo shifted focus to the forensic biology/DNA section's rape kit backlog, noting 1,130 sexual assault kits are over 30 days old. Of those, 511 are awaiting a review to determine whether any DNA profiles in the cases are eligible for upload into the DNA database, 296 will be analyzed by a commercial vendor and 323 will be completed by HFSC. Dr. Castillo reminded the board the backlog had grown because it took longer than expected to train analysts to use new probabilistic genotyping software and because vendor laboratories did not have capacity to immediately complete cases as the lab shutdown to move to the new facility. Dr. Castillo said another challenge the section faces is that the five new analysts must have their first 50 cases administratively and technically reviewed by section management. This too is slowing down the process. Dr. Castillo said the section has 10 full-time DNA analysts, four of whom are authorized to conduct administrative and technical reviews. She said one of the four analysts had to quarantine recently due to a potential exposure to a person who was COVID positive, slowing down that part of the process. To help mitigate future bottlenecks in the review process, Dr. Castillo said that new analysts will receive technical review training after they complete the requirement to have 50 cases reviewed by section management. Dr. Castillo said in addition to sexual assault kits, DNA analysts also perform work on other crime types and often receive requests to rush a case. In June, 40 percent of the work completed were urgent requests.
- O. Dr. Castillo told the board HFSC had selected two vendors to do sexual assault kit analysis: Signature Science, LLC in Austin and Bode Cellmark Forensics in Virginia. She said HFSC has worked with both vendors previously. HFSC will use federal grant dollars not exceeding \$648,850 to pay the vendors for the work. Dr. Castillo said cases sent to Signature Science will be completed by October. Cases sent to Bode Cellmark will be completed by March 2021. Dr. Castillo added that analysts from both laboratories are licensed to testify in Houston. Director Cohen asked if the contract is based on a flat fee or on the number of kits HFSC sends to the labs. She also asked whether the contract includes recourse for HFSC if the labs fail to meet the promised turnaround time. Dr. Castillo said HFSC does not have to send a certain number of kits to get the fixed price. She said the contract does not include penalties for delayed turnaround times. Dr. Castillo requested board approval to enter into a contract for DNA services with both Bode Cellmark Forensics and Signature Science, LLC using the FY 2019

DNA Capacity Enhancement and Backlog Reduction federal grant to not exceed \$648,850. Director Moore made a motion to approve. Director Blancett seconded the motion. Secretary Benton called the roll and the following directors were in favor: Stacey Mitchell, Philip Hilder, Anna Vasquez, Francisco Medina, Janet Blancett, Lois Moore, Vicki Huff, Mary Lentschke and Ellen Cohen. With none opposed, the motion passed unanimously.

- P. Mr. David Leach, CFO and treasurer, requested board approval to reallocate funds in the current fiscal year budget. Mr. Leach thanked the City of Houston's finance department for expediting HFSC's funds for the new fiscal year. Mr. Leach said no changes had been made in the total budget but as spending continued money needed to be moved around to better reflect that activity. Director Blancett made a motion to approve the budget reallocations. Director Moore seconded the motion. Secretary Benton called the roll, and the following directors were in favor: Stacey Mitchell, Philip Hilder, Anna Vasquez, Francisco Medina, Janet Blancett, Lois Moore, Vicki Huff, Mary Lentschke and Ellen Cohen. With none opposed, the motion passed unanimously.
- Q. Mr. Leach presented the treasurer's report and provided an overview of HFSC spending, noting that as usual, more than 70 percent of the budget is for personnel. The remainder is for services, supplies, capital and non-capital expenses. Mr. Leach compared the 2019 budget to 2020, noting revenue had remained the same. Grant funding had increased slightly, he said. Mr. Leach said the largest difference between last year's budget and this year's budget is the \$30 million in capital spending for the 500 Jefferson lease and vehicles for the crime scene unit. Mr. Leach showed the board how personnel costs had increased between 2018 and 2019 as staffing grew in the latent print section and crime scene unit. The toxicology section's five new employees will be reflected in next year's budget. Of the forensic disciplines, Mr. Leach said the forensic biology/DNA section costs the most to operate.
- R. Mr. Jerry Pena, director of the crime scene unit (CSU) and multimedia section, said the multimedia section had been particularly hard hit by COVID-19 with three staff members testing positive and another two quarantined due to direct exposure. Two other staff members that had previously tested positive had since recovered and reported back to work. However, the multimedia section had no staff available to respond to audio/video callouts. Those calls were being covered by the crime scene unit. Mr. Pena said one crime scene investigator is also recovering from the virus and another had recovered and reported back to duty. CSU had five staff in June quarantined either due to a positive test result or direct exposure. Those absences impacted the short-staffed, 24/7 unit, especially as the call volume continues to rise. He said the unit began a temporary on-call schedule July 3. Under this schedule, a CSI remains on call for 12 hours after they complete a shift. Mr. Pena said if CSU suffers anymore personnel losses, he will implement an emergency, two-shift, 12-hour schedule to ensure full coverage for HPD. Director Blancett asked what type of PPE CSIs are wearing at scenes and whether it offers sufficient protection. Mr. Pena said CSIs are double gloving and using N95 masks, eye protection and disposable shoe covers at scenes. They also have Tyvek suits if necessary. Chairwoman Mitchell asked Mr. Pena what the worst-case scenario is for CSU if the call volume continues to increase. Mr. Pena said the unit would need to prioritize scenes, with officer-involved shootings getting top billing, followed by murders, sexual assaults and aggravated assaults. The severity of the case will also dictate how many CSIs get deployed to a scene. Typically, HFSC sends at least two CSIs to a scene. But if necessary, the pair will be split up to cover multiple scenes after one is secured. He said if staffing is hit hard, the unit

may have to turn down calls. Mr. Pena said in January, CSU received a record high number of 63 or 64 vehicles to process at the vehicle examination bay. He said in June the unit processed 58 vehicles. Mr. Pena said the vehicles received must be processed quickly because the search warrants typically have a time limit. He said except for May the average number of vehicles received each month in 2020 has surpassed the number received in 2019.

- S. Mr. Charles Evans, director of business development, updated the board on the upcoming renovations to the vehicle examination building. The Houston City Council approved the Interlocal Agreement (ILA) with HFSC on June 17 allowing HFSC to use the city's vetted construction companies. Mr. Evans reviewed the scope of the \$152,000 project, noting 75 percent is funded by a federal grant and 25 percent by HFSC. Mr. Evans said the final project details will be decided July 16. The project must be completed by December to accommodate the grant guidelines. Mr. Evans said a larger motor for venting had been installed in the basement firing range as well as additional duct work. The landlord covered the expenses. Mr. Evans said the Houston City Council approved on July 1 a 10-year lease with HFSC for the crime scene house located at 1620 Crockett St. Mr. Evans said the former fire station allows HFSC to host community outreach events and CSU training exercises.
- T. Ms. Erika Ziemak, quality division director, said the division met its June goals for submitting blind quality controls but was encountering new challenges as some disciplines adjust their workflows due to the pandemic. The greatest challenge is currently in the latent print section. The section has two request types: a processing request, which is a submission for physical item of evidence to see if prints can be developed, and comparison requests, when an examiner compares prints after it has been developed. Many comparison requests are automatically made when an officer submits a latent lift card to the Houston Police Department Property Room. But sometimes an officer asks for a case to be prioritized or "rushed." Ms. Ziemak said the latent print section is currently prioritizing older cases and rush cases. As a result, the latent print section is not completing blind cases. Ms. Ziemak said the quality division is also challenged by mixtures of DNA. She reminded the board about two forensic biology blind cases mentioned at the June meeting. Ms. Ziemak noted she had detailed the findings of one of the mixture cases but had not shared information about the second as the investigation was ongoing. That second investigation has since been completed and turned out to be more complex than the first one which uncovered that the staff member who had swabbed the back of her neck to create the blind sample had her spouse's DNA on her body, creating the mixture. In the second instance, however, the staff member, who also swabbed the back of her neck to create a single-source DNA sample, resides with several people. The resulting mixture was low quality, making it difficult to determine whether there were two or three contributors. Two analysts agreed the results pointed to a three-person mixture but suggested running it through the new probabilistic genotyping software. Ms. Ziemak said the software backed the analysts' conclusions that the sample was a three-person mixture, however, was unable to determine profiles for two of the contributors. Ms. Ziemak said the quality division will take additional steps to ensure single-source DNA samples submitted as part of the blind program do in fact have only one person's DNA present. She said the two blind cases speak point to the sensitivity of DNA testing and are an example of the complexity of mixtures submitted to the section from different crime scenes. Director Huff asked if the cause of the mixture is known. Ms. Ziemak said they were unable to determine the DNA profiles of the second and third contributors. Ms. Ziemak said the lab is undergoing a remote virtual assessment that began July 1. She said there is one who will focus on the forensic biology/DNA section. Other

sections may also be asked to provide documentation. The assessor is reviewing documents virtually and using FaceTime to observe staff in the lab. Ms. Ziemak said the FBI's assessment, used to ensure the lab meets the standards necessary to access the national DNA database, is I is scheduled to occur onsite in October, though this could change due to the pandemic. Ms. Ziemak reminded the board that in December 2018 they passed a resolution requiring HFSC to adopt applicable standards on the Organization of Scientific Area Committees registry. She said nine standards had been published and the lab has implemented five of them HFSC is working to implement the remaining four standards. Ms. Ziemak highlighted a multidisciplinary standard that requires analysts to have 16 hours of continuing education annually. HFSC adopted the standard and broadened it to apply to all staff. Ms. Ziemak said staff have not testified since Harris County suspended jury trials in March, which has now been extended through September 1.

- U. Chairwoman Mitchell requested a motion to adjourn the meeting. Director Moore made a motion to adjourn. Director Cohen second the motion. The meeting ADJOURNED at approximately 11:41 a.m.

By: Jordan Benton

Jordan Benton Secretary