



Jurisprudence Section - 2016

F9 Transferring Management of Forensic Operations From Police Department to Independent Non-Profit Corporation: Houston's Experience

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After attending this presentation, attendees will understand options to address challenges resulting from the transfer of forensic operations from a police department to an independent, semi-autonomous, non-profit corporation.

This presentation will impact the forensic science community by detailing many of the challenges inherent in the transfer of forensic operations from a police department to an independent non-profit corporation, to prepare a transfer plan, and to address the concerns of stakeholders regarding the transition.

During much of the early 2000s, the Houston Police Department's (HPD's) Crime Laboratory was the subject of multiple investigations, employee terminations, civil lawsuits against the City of Houston, and, most importantly, exonerations of wrongfully convicted persons. Two HPD Chiefs of Police called for a halt to executions in cases related to DNA analyzed by the HPD Lab, and the *New York Times* speculated that the HPD Lab was the worst in the nation.

With the support of then-Mayor Bill White and the Houston City Council, the HPD ordered many changes that resulted in significant improvements in the Lab's operations; however, HPD executive management understood that true reform required a complete rethinking of the city's forensic operations. A series of confidential white papers pointed to what now appears to have been the only solution: HPD should not control what historically had been "its" crime lab. Instead, the Lab should be controlled by a separate organization, sponsored by — but still independent from — the City of Houston.

In 2011, Mayor Annise Parker instructed the city's legal department to investigate options for separating the HPD Crime Lab from the police department. The project brought together legal department attorneys, HPD police officers and civilians, and the Lab's new supervisors to work together (usually in agreement, but not always) to invent a non-profit entity to manage the city's forensic operations. In June 2012, the Houston City Council approved the creation of Houston Forensic Science Center, Inc. (HFSC), a local government corporation independently governed by a nine-member Board of Directors. Council's resolution also approved the corporation's certificate of formation, which includes a provision not typical of city-sponsored entities: although the corporation's Directors are appointed by the Mayor and confirmed by Council, no Director may be removed from office in the absence of a serious impropriety, as defined by the Texas Business Organizations Code.

In April 2014, pursuant to a closely negotiated interlocal agreement between the city and the corporation, HFSC assumed "responsibility for and control of" substantially all of the city's forensic operations, including the former HPD Crime Lab.

The transition from police department to independent, civilian management has presented multiple challenges. Examples include: (1) preparing organizational documents and subsequent agreements with the city that state obligations clearly but allow flexibility to respond to unanticipated circumstances; (2) ensuring genuine management reform while minimizing disruption of ongoing forensic operations; (3) enabling corporate management to direct day-to-day activities of all forensic personnel while allowing city employees to remain in the city's employ and to continue to participate in the city's retirement system; (4) enabling corporate (civilian) management to direct day-to-day activities of police officers; (5) melding a professional workforce consisting of non-unionized employees and members of two unions, often with different job titles, compensation, and benefits; (6) responding promptly to rapid changes in legal standards governing the use of scientific evidence in criminal proceedings; (7) developing and implementing a business model that will sustain the corporation without reliance on direct public funding; and, (8) responding to resistance to the concept of independent, civilian management of a forensic laboratory, including resistance from unexpected sources, such as the Federal Bureau of Investigation (FBI).

A thorough explanation of Houston's experience to date will assist public authorities and forensic professionals undertaking similar transitions.

Laboratory, Transfer From Police Control, Public Corporation