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Final Minutes
Forensic Science Board Meeting
October 17, 2018
Department of Forensic Science, Central Laboratory, Classroom 1

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Board Members Present

Emily M. Brewer, Delegate (Designee of Delegate Robert B. Bell, Chair, House Courts of Justice Committee)
Colonel Maggie A. DeBoard, Chief of Police, Town of Herndon Police Department
Leslie E. Edinboro, Ph.D., Scientific Advisory Committee Member
James F. Entas, Assistant Attorney General (Designee of Attorney General Mark R. Herring)
Angela Fritzing, Ph.D. (Designee of Denise M. Toney, Ph.D., Director, Division of Consolidated Laboratory Services)
William T. Gormley, M.D., Chief Medical Examiner
Karl R. Hade, Executive Secretary, Supreme Court of Virginia
Kristen J. Howard (Designee of Senator Mark D. Obenshain, Chair, Virginia State Crime Commission)
David R. Lett, Petersburg Public Defender – *Acting Chair*
Richard P. Meyers, Scientific Advisory Committee Member
Megan Peterson, Chief Deputy Director, Department of Criminal Justice Services (Designee of Shannon Dion, Director, Department of Criminal Justice Services)
Lieutenant Colonel Tracy Russillo (Designee of Colonel Gary T. Settle, Superintendent, Virginia State Police)

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Board Members Absent

Colette W. McEachin, Deputy Commonwealth's Attorney, City of Richmond – *Chair*
Vince Donoghue, Essex Commonwealth's Attorney (Designee of Senator Mark D. Obenshain, Chair, Senate Courts of Justice Committee)
Caroline D. Juran, Executive Director, Board of Pharmacy

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Legal Counsel for the Forensic Science Board

Robert Drewry, Assistant Attorney General

Staff Members Present

Wanda W. Adkins, Office Manager
Jeffrey D. Ban, Central Laboratory Director
David A. Barron, Ph.D., Deputy Director
Sabrina S. Cillessen, Physical Evidence Program Manager
Amy M. Curtis, Department Counsel
John T. Griffin, Northern Laboratory Director
Katya N. Herndon, Chief Deputy Director
James W. Hutchings, Ph.D., Toxicology Program Manager
Linda C. Jackson, Director
Bradford C. Jenkins, Biology Program Manager
Alka B. Lohmann, Director of Technical Services
M. Scott Maye, Chemistry Program Manager

47 Carisa M. Studer, Legal Assistant

48

49 **Call to Order**

50 David Lett, Acting Chair of the Forensic Science Board (“Board” or “FSB”), called the meeting
51 to order at 9:31 a.m. Mr. Lett welcomed the Board members and Department of Forensic Science
52 (“Department” or “DFS”) staff, and thanked everyone for their attendance.

53

54 Introductions were made of Board members, designees, and DFS staff members who were present.

55

56 **Approval of Draft Minutes of the August 22, 2018 Public Hearing and Board Meetings**

57 Mr. Lett asked if there were any changes or corrections to the draft minutes from the August 22,
58 2018 Public Hearing or August 22, 2018 Board meeting. Being none, Mr. Entas made a motion
59 to approve the minutes from the Public Hearing and the Board meeting, which was seconded by
60 Colonel DeBoard, and passed by unanimous vote of the Board.

61

62 **Chair’s Report**

63 None.

64

65 **Director’s Report**

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67 **Agency Updates:**

68 Director Jackson advised the Board that, on August 30, 2018, the Department received official
69 notification that its accreditation was renewed by ANAB and will expire on September 30, 2022.

70

71 Due to the predicted path of Hurricane Florence, the Department had to put its continuity plan into
72 action for the Eastern Laboratory. Governor Northam instituted a mandatory evacuation of Zone
73 A, which is the zone where the Department’s Eastern Laboratory is located. DFS sent out a notice
74 to its customers in advance, advising that the laboratory would be closed. Director Jackson
75 explained how the power to the Eastern Laboratory building was shut down because of the risk of
76 flooding. She also explained the difficulties the Department had in restoring power to the building.

77

78 Governor Northam designated September 16 - 22, 2018 as Forensic Science and Medicine Week
79 in the Commonwealth. On September 20, 2018, the Central Laboratory and Office of the Chief
80 Medical Examiner (OCME) offered tours to state employees.

81

82 The Department participated in the Fifth Anniversary Celebration of the Virginia Public Safety
83 Training Center on September 26, 2018. The Department’s Forensic Training Section shared a
84 display illustrating the hands on training that they have conducted at the Virginia Public Safety
85 Training Center. The Training Center allows for collaboration with other criminal justice agencies.

86

87 Director Jackson reviewed the Notice of DFS Policy Change sent to user agencies on October 15,
88 2018, which explains the administrative sampling plan for National Integrated Ballistic
89 Information Network (NIBIN) searches that DFS is now using. Implementing a sampling plan is
90 a best practice recommended by the Bureau of Alcohol, Tobacco, Firearms, and Explosives.

91

92 Director Jackson shared with the Board results of the Customer Input Survey sent to Department
93 customers. The survey was open from July 16 – August 31, 2018, and 420 responses were
94 received. Law Enforcement, criminal defense attorneys, Commonwealth’s attorneys, and the
95 OCME were sent the survey.

96
97 Director Jackson updated the Board on the challenges facing the Department’s Controlled
98 Substances Section. Director Jackson explained that, to address these growing increases in the
99 Controlled Substances workload, the Administration has transferred \$1,660,000 from the
100 Department’s FY20 to its FY19 Budget to provide additional resources for the Controlled
101 Substances Section. DFS will use the funding to outsource selected backlogged cases, hire
102 additional staff, and purchase additional equipment. Further, DFS will be implementing a grant-
103 funded Lean Six-Sigma project to increase the efficiency and quality of the analytical process in
104 the Controlled Substances Section and evaluating potential Controlled Substances submission
105 policy changes with customer input.

106
107 Director Jackson provided the Board with an update on the Forensic Biology program area. She
108 reviewed staffing levels, including examiners in training and positions in recruit. She gave an
109 overview of the validation projects that the section is currently conducting, which include the
110 STRmix software in all four laboratories, expanding Y-STR testing to the Eastern and Western
111 Laboratories, the new Real Time PCR instruments, and the evaluation of the automated differential
112 extractions.

113
114 Director Jackson informed the Board that the Department has added Data Bank resources to the
115 DFS website, including instructional information on when a Data Bank sample is required and
116 how to collect Data Bank samples.

117
118 Director Jackson updated the Board on the 2018 DNA Training for attorneys and judges. The first
119 training was conducted at the Western Laboratory on October 12. There are additional DNA
120 Trainings scheduled at each regional laboratory.

121

122 Grants:

123 Director Jackson reviewed the New York County District Attorney’s (DANY) Sexual Assault Kit
124 Backlog Elimination Program grant, which ended on September 30, 2018. The DANY grant
125 funded the testing of kits collected by law enforcement prior to July 1, 2014, but not submitted to
126 DFS for testing; 1,810 kits from 99 agencies were submitted to the private laboratory for testing.
127 Under the grant, DFS was awarded \$123,226 for its DNA scientists to work overtime to conduct
128 reviews of the results from the private laboratory, upload all eligible profiles into CODIS, perform
129 testing needed for hit confirmations, and prepare any necessary reports. As of October 1, 2018,
130 the Department had received data from 1,710 cases. The Office of the Attorney General agreed to
131 fund the remaining approximately 900 hours of overtime that will be necessary for DFS to
132 complete the project.

133
134 Director Jackson updated the Board on the status of the grant applications approved by the Board
135 at its August 22, 2018 meeting. She also presented a summary of current DFS grants. Director
136 Jackson concluded the grants presentation by reviewing the National Sexual Assault Kit Initiative

137 (SAKI) Grant. DFS received funding under the SAKI grant to develop a PERK tracking system.
138 A beta test version of the software is anticipated to be completed in early 2019.

139
140 Workload/Backlog:

141 Director Jackson provided the Board with an update on statistical trends in each of the scientific
142 disciplines.

143
144 The Controlled Substances Section has seen a continued increase in submissions. The average
145 turnaround time for cases completed in the quarter ending September 2018 was 136 days.

146
147 The Digital & Multimedia Evidence Section has seen an increase in submissions during the last
148 quarter. One examiner position is in training, and the new position provided in the Budget is in
149 the hiring process.

150
151 The Firearms & Toolmarks Section continues to decrease its backlog because of the National
152 Integrated Ballistic Information Network (NIBIN) Forensic Scientist positions. The NIBIN cases
153 are now separated from the comparison cases. The Section has been consistently completing more
154 cases than it receives.

155
156 The Forensic Biology Section continues to work on turnaround times and decreasing the backlog.
157 The Section is now completing more cases than it is receiving.

158
159 The Latent Prints & Impressions Section has also been completing more cases than it is receiving.
160 There are currently two examiners cross training in impressions.

161
162 The Toxicology Section continues to improve the average turnaround times for all case types due
163 to the implementation of new methodology and increased staffing.

164
165 The Trace Evidence Section is fully staffed and at the appropriate level for the cases being
166 received.

167
168 **Old Business**

169 Status of the Post-Conviction DNA Testing Program and Notification Project:

170 Kristen Howard provided an update on the case file review that staff from the Virginia State Crime
171 Commission (VSCC) has been conducting of cases from the Post-Conviction DNA Testing
172 Program and Notification Project. VSCC staff has steadily been performing Accurint© searches
173 on defendants who do not yet have a final notification status. As a result of these efforts, an
174 additional eight individuals were identified as being deceased. There were also an additional fifty-
175 six individuals identified as needing to be notified, and addresses were found for each. Notification
176 letters were mailed to those individuals on September 12, 2018. To date, nine of those individuals
177 indicated to DFS that they were the correct person. Certificates of Analysis will be sent to those
178 who indicate they want the testing results. One final Accurint© search will be performed for
179 outstanding individuals requiring notifications with a final round of letters sent out by the end of
180 October 2018.

181

182 Ms. Howard indicated to the Board that, once this is complete, there will be categories of
183 individuals for the VSCC and DFS staff to review and determine whether due diligence has been
184 met. VSCC staff will give a presentation on the status of the project at the December 3, 2018
185 Crime Commission meeting. VSCC staff will give a presentation at the Board's January meeting.

186

187 Serology Case Review Update:

188 Mr. Jenkins gave an update on the status of the Serology Review project. A random sample of
189 serology cases (including at least 100 reports each from the Eastern and Northern Laboratories) is
190 being reviewed. Each case is being reviewed separately by two scientists. To date, 98 percent of
191 the Eastern reports have been reviewed, and 60 percent of the Northern reports have been
192 reviewed. There will be one more set of cases sent to the outside independent reviewer.

193

194 Microscopic Hair Comparison Case Review Update:

195 Amy Curtis, Department Counsel, gave an overview of the Microscopic Hair Comparison Case
196 Review project to the Board. Ms. Curtis reminded the Board that the Review Team met on June
197 27, 2018 to review transcripts from six cases. The Review Team did not recommend any
198 notifications for those six cases. The Board's Microscopic Hair Comparison Case Review
199 Subcommittee met on August 27, 2018, to discuss the recommendations made by the Review
200 Team. The Subcommittee decided that notifications should be made in two of the six cases. Of
201 the two cases, one individual is deceased, and the other individual is no longer incarcerated, and
202 DFS staff has been unable to locate an address for him. Director Jackson has asked the Department
203 of Corrections (DOC) for assistance in locating contact information for defendants who have been
204 released from incarceration and for the next of kin for deceased defendants. DOC has agreed to
205 assist in locating this information. The Department is continuing to identify cases and obtain
206 transcripts for this Case Review.

207

208 Ms. Curtis announced that the Subcommittee will meet on November 19, 2018 at 1:30 p.m. Ms.
209 Curtis anticipates that the Review Team will meet again before the end of the calendar year.

210

211 Proposed Regulatory Amendments:

212 Ms. Curtis reported to the Board that it was discovered after the August 22, 2018 public hearing
213 was held that the incorrect date for the public hearing was posted on the Commonwealth's
214 Townhall website. Ms. Curtis explained that, because the incorrect public hearing date was posted,
215 the minutes from the hearing were posted as a general notice on the Townhall website. The public
216 hearing was not a requirement at this stage of the regulatory process, but the Board had decided to
217 hold one to receive any additional input from stakeholders. All stakeholders had been notified of
218 the correct date of the public hearing in advance, so interested parties were aware of the correct
219 date and time.

220

221 Ms. Curtis reviewed the proposed draft amendments to 6VAC40-30 Regulations for the Approval
222 of Field Tests for Detection of Drugs with the Board. She reviewed the regulatory process that is
223 required to approve the amendments to the regulations.

224

225 Mr. Entas made a motion to approve the proposed amendments to 6VAC40-30 Regulations for the
226 Approval of Field Tests for Detection of Drugs, which was seconded by Lt. Colonel Russillo, and
227 approved by unanimous vote of the Board.

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New Business

Draft of the 2018 FSB Annual Report:

Ms. Herndon reminded the Board that Code § 9.1-1110 (B) specifies the six subjects that need to be addressed in the Board’s Annual Report which is due to the General Assembly by November 1, 2018. Ms. Herndon reviewed the contents of the draft annual report that had been disseminated to the Board in advance of the meeting. Ms. Herndon noted the portions of the report that will be updated after the Board meeting, prior to the report being submitted. The report will be submitted with a cover letter signed by the Chair.

Mr. Hade made a motion to approve the draft Forensic Science Board 2018 Annual Report, and to permit Ms. Herndon to update the report following the Board meeting, and then to submit it according to law, which was seconded by Mr. Entas, and passed by unanimous vote of the Board.

Scientific Advisory Committee Report

Dr. Edinboro, Scientific Advisory Committee (“SAC”) Member, gave a report to the Board of the business of the SAC from its meeting held on October 16, 2018. The SAC heard presentations by DFS Director Linda Jackson, DFS Director of Technical Services Alka Lohmann, and all four Program Managers.

Dr. Edinboro reported to the Board that the SAC’s Toxicology Subcommittee and Breath Alcohol Subcommittee will both review new procedures ahead of the May 7, 2019 SAC meeting. Each Subcommittee will meet in advance of the full SAC meeting in May.

Public Comment

None.

Future Meeting Dates

The Forensic Science Board will meet on Thursday, January 3, 2019, Wednesday, May 8, 2019, Wednesday, July 31, 2019, and Thursday, October 3, 2019. All meetings are scheduled to begin at 9:30 a.m.

Adjournment

Mr. Lett asked if there was a motion to adjourn. Delegate Brewer made a motion to adjourn the meeting of the Forensic Science Board, which was seconded by Mr. Entas, and passed by unanimous vote.

The meeting adjourned at 11:01 a.m.