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Minutes
Forensic Science Board Meeting
January 5, 2022
Department of Forensic Science, Central Laboratory, Classrooms 1 and 2

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Board Members Present

Megan L. Clark, Commonwealth's Attorney, Prince Edward County (participated remotely pursuant to Virginia Code § 2.2-3708.2)
Chief Maggie A. DeBoard, Chief of Police, Herndon Police Department (participated remotely pursuant to Virginia Code § 2.2-3708.2)
Shannon Dion, Director of the Department of Criminal Justice Services, *Chair*
William T. Gormley, M.D., Chief Medical Examiner
Karl R. Hade, Executive Secretary, Supreme Court of Virginia (participated remotely pursuant to Virginia Code § 2.2-3708.2)
Kristen J. Howard (Designee of the Chair of Virginia State Crime Commission, Senator John S. Edwards)
Michael HuYoung, Esq.
Michael A. Jagels (Designee of Attorney General Mark R. Herring)
George C. Maha, Ph.D., Scientific Advisory Committee Member
Richard P. Meyers, Scientific Advisory Committee Member
Beth O'Halloran (Designee of the Executive Director, Board of Pharmacy, Caroline Juran)
Lieutenant Colonel Tracy S. Russillo (Designee of Colonel Gary T. Settle, Superintendent, Virginia State Police)
Denise M. Toney, Ph.D., Director of the Division of Consolidated Laboratory Services

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Board Members Absent

Senator John S. Edwards, Chair, Senate Courts of Justice Committee
Delegate Charniele L. Herring, Chair, House Courts of Justice Committee

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Legal Counsel for the Forensic Science Board

Michelle Welch, Assistant Attorney General (attended remotely)

Staff Members Present

David A. Barron, Ph.D., Deputy Director
Nancy L. Batterson, Forensic Administrative Specialist III, *Board Secretary*
Sabrina S. Cillessen, Physical Evidence Program Manager
Katya N. Herndon, Chief Deputy Director
James W. Hutchings, Ph.D., Toxicology Program Manager
Linda C. Jackson, Director
Amy C. Jenkins, Department Counsel
Alka B. Lohmann, Director of Technical Services
Jessica B. Norton, Legal Assistant
Elizabeth Stroble, Grants and Administration Program Manager
Robyn Weimer, Chemistry Program Manager

47 **Call to Order**

48

49 Shannon Dion, Chair of the Forensic Scientific Board (“Board” or “FSB”), called the meeting to
50 order at 9:32 a.m. Ms. Batterson advised that a majority of FSB members were present, and Ms.
51 Dion confirmed there is a quorum present.

52

53 Ms. Dion called on Katya Herndon to address the remote participation of three FSB members. Ms.
54 Herndon advised that Megan Clark, Chief Maggie DeBoard, and Karl Hade would be participating
55 remotely pursuant to the FSB’s Policy on Participation of Forensic Science Board Members in
56 Meetings by Electronic Means Pursuant to Virginia Code §2.2-3708.2. Ms. Herndon noted that
57 Megan Clark would be participating by telephone from Farmville, Virginia, due to weather and
58 travel conditions, that Chief DeBoard would be participating by telephone from Herndon, Virginia,
59 also due to weather and travel conditions, and that Karl Hade would be participating by telephone
60 from Richmond, Virginia, due to a potential COVID exposure. Ms. Herndon also advised that
61 Michelle Welch, Counsel to the Board, would be unable to attend the meeting in person due to
62 illness and also would be attending via phone.

63

64 Ms. Dion welcomed a new member to the Board, George Maha, Ph.D., who is a Scientific
65 Advisory Committee (SAC) member appointed by the SAC Chair to serve on the FSB.
66 Subsequently, all of the Board members introduced themselves.

67

68 **Adoption of Agenda**

69

70 Ms. Dion advised that the first order of business was the adoption of the draft agenda for the
71 meeting, which was previously shared with the Board members. She asked if there were any
72 changes to the draft agenda. Being none, she asked for a motion to approve the draft agenda. Mr.
73 HuYoung made a motion to adopt the agenda, which was seconded by Mr. Meyers and adopted by
74 unanimous vote of the Board.

75

76 **Approval of Draft Minutes of the October 14, 2021 Board Meeting**

77

78 Ms. Dion asked if there were any proposed changes to the draft minutes from the October 14, 2021
79 meeting. Being none, she asked for a motion to approve the draft minutes. Ms. Clark made a
80 motion to approve the October 14, 2021 meeting minutes, which was seconded by Dr. Toney, and
81 passed by unanimous vote of the Board.

82

83 **FSB Chair’s Report**

84

85 Ms. Dion did not have a report.

86

87 **DFS Director’s Report**

88

89 **Strategic Planning**

90

91 Director Jackson stated that the Department had been engaged in Strategic Planning for the past
92 couple of months and shared the Department’s Mission, Vision and Values with the Board. The

93 agency's Mission, which did not change, is to promote public safety by providing laboratory
94 services in criminal matters in the Commonwealth of Virginia, supporting the criminal justice
95 system with quality and timely services, and advancing the understanding of forensic science. The
96 agency has been working to ensure that its objectives and goals, as well as current projects, align
97 with its Mission and take into account the stated Values and Vision for the agency. For many
98 years, the stated Values for the agency have been Quality, Integrity, and Impartiality. Director
99 Jackson noted that, unlike many forensic laboratories across the country, DFS is an independent
100 agency, which assists in achieving the value of impartiality. Two additional Values were added
101 this year, Diversity and Resilience. Director Jackson noted that one of the agency's challenges
102 over the years is being able to respond quickly when there are changes to the volume or type of
103 work. Resilience seemed an important value to add and take into account when moving forward,
104 given the many changes that occurred as a result of COVID. The Agency's Vision is achieved by
105 meeting its Mission in a manner directed by its Values. The Department's Vision is to provide
106 unbiased support of the criminal justice system by leading in the field of forensic science.

107

108 Staffing Updates

109

110 Director Jackson shared that Chief Deputy Director Herndon is retiring at the end of this
111 administration and thanked her for her service to the agency. Director Jackson pointed out that
112 the Chief Deputy Director is a gubernatorial appointed position and that a replacement has not
113 been appointed yet.

114

115 Director Jackson advised that Jeff Ban, who had been the Central Laboratory Director, retired at
116 the end of the year. Scott Maye, who was the Northern Laboratory Director, is transferring back
117 and becoming the Central Laboratory Director. He will continue to serve as the Northern
118 Laboratory Director until that position is filled.

119

120 Director Jackson also advised that she met with Governor-Elect Glenn Youngkin and has been
121 reappointed to fulfill the remainder of her six-year term, which ends in December 2023. She
122 indicated that she is excited to be able to continue leading the agency.

123

124 Central Laboratory Capital Project

125

126 Director Jackson updated the Board on the Central Laboratory capital project. Construction
127 funding for the project has been approved, and construction/working drawings have been
128 submitted to the Division of Engineering & Buildings for approval. The Construction Manager,
129 Skanska, is gathering information to support submission of their Guaranteed Maximum Price, a
130 required step in the construction process for State buildings. Groundbreaking is still anticipated to
131 occur late in the first quarter or early in the second quarter of 2022. With an anticipated three-year
132 construction process, project completion is expected to occur in 2024/2025.

133

134 Accreditation

135

136 DFS awarded a new accreditation services contract on December 20, 2021, to ANSI National
137 Accreditation Board (ANAB). The Department's current accreditation expires on September 30,
138 2022. Reaccreditation requires a full on-site assessment of the laboratories to confirm conformance

139 with the standards of the accreditation program. DFS anticipates a team will be onsite in late May
140 or early June to begin the assessment process.

141

142 Audits and Reviews

143

144 Director Jackson noted that the Office of the State Inspector General is conducting a performance
145 audit of DFS to identify areas of potential improvement to effectiveness, efficiency, and economy
146 of operations. The focus is mainly on quality assurance and Controlled Substances, due to the
147 additional funding DFS received for twelve additional positions in that section.

148

149 Enhance External Communication

150

151 The DFS website, which was last redesigned in 2013, will be updated. Changes would include
152 updates to address accessibility standards and increased flexibility for viewing on mobile devices.
153 Director Jackson encouraged the Board to provide any input on the website's usability.

154

155 Director Jackson advised that DFS will be re-establishing the Customer Working Group (CWG),
156 which DFS used to seek feedback from customers on issues such as evidence submission policies
157 and potential report format/wording changes. It could also provide an opportunity for DFS to
158 receive information on how people utilize the website and suggestions for changes.

159

160 Policy Initiatives

161

162 Director Jackson provided an update on two administration policy initiatives. First, DFS submitted
163 a revised Diversity, Equity and Inclusion (DEI) Strategic Plan on December 14, 2021. It included
164 a dashboard of timelines, as well as who in the agency is responsible for the items specified in the
165 plan.

166

167 Second, Director Jackson noted that, on December 17, 2021, DFS submitted a revised spreadsheet
168 for Executive Order 77 - Reduction of Solid Waste and Single Use Plastics (EO77) to DEQ
169 (Department of Environmental Quality). It included additional information on single use plastic
170 materials used by DFS labs to establish a baseline for the agency. DFS did utilize the medical
171 exemption for single-use plastics it uses that come into contact with bodily fluids or other
172 biological materials. Director Jackson reminded the Board that many disposable laboratory
173 consumables are used by DFS to ensure there is no cross contamination between samples, and
174 noted that this should be taken into consideration in developing any policy regarding this matter.

175

176 DNA Policy Notice

177

178 Director Jackson informed the Board of the DNA Policy Notice, issued on December 27, 2021,
179 advising DFS customers of its implementation of STRmix, which is an additional probabilistic
180 genotyping software used for the interpretation of complex DNA mixtures. STRmix will be used
181 for two or three contributor mixtures in "non-persons cases" (e.g., larcenies and felons in
182 possession of firearms cases) that meet certain criteria. It has been implemented in all four
183 laboratories, which will cut down on the number of cases that have to come to Richmond to have

184 statistics calculated. The Central Laboratory is still using True Allele, the other probabilistic
185 genotyping software, on “persons cases”, (e.g., homicide and sexual assault).

186
187 Laboratory Information Management System (LIMS) Projects

188
189 Director Jackson discussed the status of various Laboratory Information Management System
190 (LIMS) projects. The DNA Data Bank Sample Tracking System will be the first to go online. The
191 Henrico County Sheriff’s Office will be the initial beta tester. The Virginia State Police and
192 Richmond Probation and Parole will also be beta testing the system.

193
194 Work continues on the Prelog system for evidence submission. Madison Boden, the PERK
195 Tracking Coordinator, will provide training to law enforcement personnel on the use of Prelog.

196
197 Forensic Training for Attorneys and Judges

198
199 Director Jackson reminded the Board that DFS offered two half-day virtual sessions of Controlled
200 Substances Analysis training for attorneys and judges in the fall of 2021. The sessions consisted
201 of pre-recorded presentations and live question and answer periods. There were approximately 120
202 individuals who attended this training. The training was well received; however, there were quite
203 a few who suggested that the training sessions would be more valuable if they were held in-person
204 and could be more interactive. In-person training sessions may be provided in the future, now that
205 training materials have been created.

206
207 Forensic Training

208
209 Director Jackson provided an update on the Forensic Science Academy (FSA). The 104th FSA
210 Session graduated in November 2021. The 105th FSA begins on January 31, 2022 and the 106th
211 FSA is scheduled to begin on April 25, 2022.

212
213 The Homicide Scene seminar, scheduled for January, has been postponed due to difficulties getting
214 police instructors to assist with the training.

215
216 Supervisory Training

217
218 On November 4, 2021, all DFS supervisors and managers attended a three-hour virtual training on
219 *Performance Management* that was provided by Karen Michael, an employment law specialist.

220
221 Board of Pharmacy - Expedited Scheduling

222
223 DFS continues to recommend compounds to the Board of Pharmacy for scheduling via the
224 expedited regulatory process. DFS recommended five compounds to be considered at the Board’s
225 December 2021 meeting, one synthetic opioid, two hallucinogenic type compounds, and two
226 cannabimimetic agents, which are synthetic cannabinoids. The compounds received approval and
227 are going through the process of being put into the regulations as Schedule I drugs.

228
229

230 Breath Alcohol Testing and Operator Training

231
232 Director Jackson shared with the Board that the number of breath tests performed in the field
233 continues to be lower than in 2019. DFS has also trained fewer operators in 2020 and 2021 than
234 in 2018 and 2019. This is due to reduced class size (for social distancing), as well as individuals
235 who are absent due to COVID protocols. DFS does offer the recertification course online for
236 anyone who has performed a breath test in the past year.

237
238 Workload Statistics

239
240 Director Jackson presented workload statistics that reflected the ending backlog as of November
241 30, 2021, for each section and the average turnaround time for cases completed in November. She
242 also shared case submission data comparing FY19, FY20 and FY21. Updated workload statistics
243 for the month of December, quarterly trend data and calendar year statistics will be provided to
244 the Board members once the December statistics have been generated.

245
246 The backlog trend for Firearms continues to increase due to increased submissions. Three unfilled
247 positions from Controlled Substances were transferred to Firearms; those positions have been
248 filled and are in training. However, the training for a firearms examiner takes a full eighteen
249 months to complete, which means the training will not be finished until sometime in 2023.

250
251 Cannabis Update

252
253 Director Jackson advised the Board that the agency is working to expand its semi-quantitative
254 method currently being used to determine if there is more than 1% Δ9-THC, in an extract or plant
255 material. Anything over 1% is reported as marijuana without quantitating the amount of hemp
256 present. DFS is looking to expand this method to be able to evaluate three other
257 tetrahydrocannabinoids: Δ8-THC, Δ10-THC, and Δ6a,10a-THC. There is a potential for legislation
258 to include those in the definition of marijuana, and the expansion of the method would allow DFS
259 to be able to do that analysis.

260
261 Supply Shortages

262
263 Director Jackson advised the Board that the most recent supply shortage involves Physical
264 Evidence Recovery Kits (PERKs), which contain swabs that are in high demand for COVID
265 testing. A partial shipment has been received, but we have been limiting the number of kits
266 provided to collections sites.

267
268 Maintenance service on laboratory instruments has also been affected by vendors experiencing
269 difficulties in obtaining supplies, travelling, or having staff available to perform on-site equipment
270 maintenance.

271
272 Toxicology

273
274 Director Jackson explained the Central and Western Toxicology Sections are rebuilding capacity
275 and have a number of examiners in training. A Memorandum of Understanding (MOU) has been

276 entered into with the Office of the Chief Medical Examiner (OCME) in the Central and Western
277 districts to allow the OCME to directly outsource cases for analysis to a private laboratory.

278
279 Director Jackson shared statistics of Toxicology submissions, based on case types, comparing the
280 first six months of 2020 to the first six months of 2021, which reflected increased submissions for
281 most case types.

282
283 Director Jackson briefly explained the difference between Driving Under the Influence of Alcohol
284 (DUI) and Driving Under the Influence of Drugs (DUID) cases, based on the Toxicology Section's
285 analytical scheme. All submitted blood samples are tested for alcohol; however, only those
286 samples with a low BAC (Blood Alcohol Content) of <0.100 are tested for the presence of drugs.

287
288 Budget and Resources

289
290 Director Jackson provided an overview of the Department's FY22 budget, showing a breakdown
291 of the budget by service area and expense category.

292
293 Director Jackson shared with the Board five DFS items in the Governor's Introduced Budget for
294 FY23-FY24, which included:

- 295 ● Funding for five toxicology forensic scientist positions (four new positions and continuing
296 funding for one grant position) and equipment due to the increase in toxicology
297 submissions.
- 298 ● Funding for four additional toxicologist level positions and associated equipment and
299 supplies required for an anticipated caseload increase for DFS to perform testing for
300 tetrahydrocannabinol (THC) in cases where DFS is not currently conducting such testing,
301 all DUID cases with a BAC that is ≥ 0.100 . This will allow DFS to capture data on the
302 presence of THC in blood samples from all impaired drivers.
- 303 ● An increase in non-general fund appropriation and non-general fund maximum
304 employment level to accommodate grants awarded by the federal government.
- 305 ● Funding for a full-time forensic trainer position in the agency's Forensic Training Section.

306
307 Grant Awards

308
309 Director Jackson advised the Board that DFS has been awarded the FY 2021 DNA Capacity
310 Enhancement and Backlog Reduction (CEBR) Grant, which funds six positions within the
311 Forensic Biology Section.

312
313 DCJS has been notified that the FY 2021 Paul Coverdell Forensic Science Improvement Grant has
314 been awarded; however, the sub-awards for DFS and the OCME have not been announced.

315
316 Director Jackson noted there is one grant that requires action from the Board. The FSB Chair and
317 Vice Chair approved DFS accepting funds, if awarded, under the 2021 NIST Measurement Science
318 and Engineering Research Grant. However, the full Board must vote to approve acceptance of the
319 funding. This is a research grant that is a collaborative effort between Florida International
320 University (FIU), Purdue University Northwest, and DFS to verify the reliability of a field test

321 device to differentiate marijuana and hemp. DFS would be a sub recipient under FIU, with funding
322 used for a part-time scientist position and supplies.

323
324 Ms. Dion called for a motion for the Board to approve acceptance of the funds from the NIST
325 grant, if awarded. Dr. Gormley made the motion, which was seconded by Mr. Jagels and passed
326 by unanimous vote.

327
328 **Old Business**

329
330 **Proposed Regulatory Amendments**

331
332 Amy Jenkins, Department Counsel, provided an update on proposed amendments to the
333 Department’s regulation 6 VAC 40-50, the Regulations for the Approval of Marijuana Field Tests
334 for Detection of Marijuana Plant Material. At its July 14, 2021 meeting, the Board approved
335 amendments to the marijuana field test regulations so the Department can consider the approval of
336 mobile instruments and other non-Duquenois Levine field tests, as well as other technology that
337 may evolve that could distinguish marijuana from industrial hemp. The Notice of Intended
338 Regulatory Action (NOIRA) was approved by the Governor’s office and was published in the
339 January 3, 2022 issue of the Virginia Register of Regulations. A public comment period began on
340 January 3, 2022 and will continue until February 22, 2022. At its April 2022 meeting, the Board
341 will consider any public comments received on the NOIRA and, if desired, move forward with the
342 Proposed Stage at that time.

343
344 **Microscopic Hair Comparison Case Review Update**

345
346 Ms. Jenkins advised the Board that there were five cases reviewed by the Microscopic Hair
347 Comparison Case Review Team, which consists of a prosecutor, an attorney with the Indigent
348 Defense Commission, and a DFS scientist familiar with microscopic hair comparison
349 examinations, at its November 15, 2021 meeting. Those five cases were referred by the Review
350 Team to the FSB Microscopic Hair Comparison Review Subcommittee for consideration for
351 notification. The Subcommittee is scheduled to meet at 11:00 a.m. following this meeting of the
352 FSB. She advised the Board that DFS staff will continue to request transcripts from Circuit Court
353 Clerks’ Offices, and the Review Team and Subcommittee will continue to review available
354 transcripts as they become available.

355
356 **New Business**

357
358 Ms. Herndon advised the Board that DFS has one agency bill for the upcoming Session. The bill
359 would amend the Code to require agencies, prior to collecting a DNA sample from an individual
360 for inclusion in the Data Bank, to check the new DFS DNA Data Bank Sample Tracking System
361 in lieu of the Local Inmate Data System (LIDS), which is maintained by the State Compensation
362 Board. Under current law, agencies have to check LIDS prior to collecting an individual's sample
363 for the Data Bank. LIDS receives weekly updates on individuals included in the Data Bank while
364 the DFS System will capture real time data from the Data Bank. The bill amends the Data Bank
365 sample procedures in the Code to allow for the use of a new pre-log feature, clarifies that
366 samples may be mailed or transported for submission to DFS, and makes a technical amendment

367 to clarify that offenders being supervised in Virginia under the Interstate Compact for the
368 Supervision of Adult Offenders must provide a DNA sample if they are convicted of a qualifying
369 offense under Virginia law.

370

371 **Public Comment**

372

373 No member of the public was present to provide comment.

374

375 **Confirm Future Meeting Dates**

376

377 The Board is scheduled to meet on the following additional dates in 2022:

378

- Thursday, April 21, 2022

379

- Wednesday, July 13, 2022

380

- Wednesday, October 19, 2022

381

382 **Adjournment**

383

384 Ms. Dion called for a motion to adjourn. Ms. Howard made a motion to adjourn the meeting, which
385 was seconded by Mr. HuYoung and passed by unanimous vote of the Board. The meeting
386 adjourned at 10:32 a.m.

387