

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46

Draft Minutes
Forensic Science Board Meeting
October 12, 2017
Department of Forensic Science, Central Laboratory, Classroom 1

Board Members Present

Colonel Maggie A. DeBoard, Chief of Police, Town of Herndon Police Department
Vince Donoghue, Essex Commonwealth's Attorney (Designee of Senator Mark D. Obenshain,
Chair, Senate Courts of Justice Committee)
Francine C. Ecker, Director, Department of Criminal Justice – *Chair*
Leslie E. Edinboro, Ph.D., Scientific Advisory Committee Member
James F. Entas, Assistant Attorney General (Designee of Attorney General Mark R. Herring)
William T. Gormley, M.D., Chief Medical Examiner
Kristen J. Howard (Designee of Delegate Robert B. Bell, Chair, Virginia State Crime
Commission)
Caroline D. Juran, Executive Director, Board of Pharmacy
David R. Lett, Petersburg Public Defender
Edward M. Macon (Designee of Karl R. Hade, Executive Secretary, Supreme Court of Virginia)
Lt. Colonel Tracy S. Russillo (Designee of Colonel W. Steven Flaherty, Superintendent,
Virginia State Police)
Richard P. Meyers, Scientific Advisory Committee Member
Denise M. Toney, Ph.D., Director, Division of Consolidated Laboratory Services

Board Members Absent

Colette W. McEachin, Deputy Commonwealth's Attorney, City of Richmond – *Vice-Chair*
Richard L. Morris, Delegate (Designee of Delegate David B. Albo, Chair, House Courts of
Justice Committee)

Legal Counsel for the Forensic Science Board

Elizabeth Myer, Assistant Attorney General

Staff Members Present

Wanda W. Adkins, Office Manager
Jeffrey D. Ban, Central Laboratory Director
David A. Barron, Ph.D., Deputy Director
Donna Carter, Finance Director
Sabrina S. Cillesen, Physical Evidence Program Manager
Amy M. Curtis, Department Counsel
Leslie H. Ellis, Human Resources Director
Katya N. Herndon, Chief Deputy Director
James Hutchings, Ph.D., Toxicology Program Manager
Linda C. Jackson, Director
Bradford C. Jenkins, Forensic Biology Program Manager
Alka B. Lohmann, Technical Services Director
M. Scott Maye, Chemistry Program Manager
Carisa M. Studer, Legal Assistant

47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92

Call to Order

Fran Ecker, Chair of the Forensic Science Board (“Board” or “FSB”), called the meeting to order at 9:32 a.m. Ms. Ecker welcomed the Board members and Department of Forensic Science (“Department” or “DFS”) staff.

Introductions were made of Board members and Department of Forensic Science (“DFS” or “Department”) staff members who were present.

Adoption of Agenda

The Chair asked if there were any additions or changes to the draft agenda for the meeting. Being none, Mr. Entas made a motion to adopt the agenda, which was seconded by Mr. Macon and adopted by unanimous vote of the Board.

Approval of Draft Minutes of the August 9, 2017 Meeting

The Chair asked if there were any changes or corrections to the draft minutes from the August 9, 2017 meeting. Being none, Mr. Macon made a motion to adopt the minutes, which was seconded by Mr. Lett and approved by unanimous vote of the Board.

Chair’s Report

The Chair shared with the Board that the Department of Criminal Justice Services, in cooperation with other state agencies, applied for and received two grants from the Bureau of Justice Assistance that will be used to assist with the Commonwealth’s response to the heroin and opioid crisis. Both are two year grants that will involve collaboration between Public Safety and Health & Human Resources agencies. One will involve the development of a statewide heroin/opioid abuse reduction plan, and the other focuses on data sharing between agencies.

Director’s Report

Facilities:

Director Jackson gave an update on the Central Laboratory building renovation and expansion project. There are several project obstacles that have been identified that will prevent the Department from being able to complete the project within the currently allocated budget. Accordingly, DFS is in discussion with the Department of General Services/Bureau of Capital Outlay Management to change the scope of the project. Director Jackson will update the Board on the project plans at the next FSB meeting.

Agency Updates:

Director Jackson gave an update on the Department’s accreditation. She reminded the Board that ASCLD/LAB has merged with ANAB, which issued new accreditation requirements for both testing and calibration laboratories. All currently accredited laboratories must be in conformance with the new requirements by December 31, 2018. DFS has elected to be in conformance as it renews its accreditation. The Department’s current accreditation expires on September 2, 2018. DFS will submit its application for renewed accreditation by December 1, 2017 and anticipates the onsite visit to be held in May 2018.

93 Director Jackson reported to the Board that, on July 25, 2017, a presentation was given at the
94 2017 International Forensic Science Error Management Symposium hosted by NIST regarding
95 errors in the NIST database used for statistics. On July 28, 2017, DFS sent out a notification to
96 all user agencies that statistics could be potentially affected in cases from May to July 2017.
97 The revised database has been uploaded to DFS instruments, and the Department is currently
98 identifying affected cases and issuing amended reports. It is anticipated that amended reports
99 will be issued for fewer than 30 cases.

100
101 Director Jackson updated the Board on the progress of the Archived Case File Project. She
102 reminded the Board that there are approximately 1 million case files stored at the State Records
103 Center that will need to be scanned as part of the project. The Department has hired five part-
104 time staff members to scan the certificates of analysis and request for laboratory examinations
105 (RFLE) forms, and enter case file information into a database. To date, approximately 94,000
106 cases have been scanned and uploaded to the database. DFS staff has already been able to use
107 the new database to identify case files for the Serology Review.

108
109 Director Jackson provided an update on the latest upgrade to the Laboratory Management
110 Information System (LIMS). The latest LIMS update will add new language that will be
111 included on Certificates of Analysis in toxicology cases. The method used for each toxicology
112 case will be included on the reports. The website link to the procedures used in each case will
113 also be included on the reports. The Department is moving towards adding this language on all
114 reports for each of the disciplines.

115
116 Director Jackson reported that a two-day supervisors' training was held on October 3 – 4, 2017.
117 Supervisors from all four regional laboratories were in attendance. Training topics included:
118 employment law, dealing with difficult people, emotional intelligence, and building trust. The
119 training was well received by all.

120
121 Grants:

122 Director Jackson presented a summary of DFS grants to the Board. Current grants include:
123 FY15, FY16 and FY17 DNA Capacity Enhancement and Backlog Reduction Grants; the FY16
124 Paul Coverdell Forensic Science Improvement Grant; the NIJ Research and Development for
125 Publicly-Funded Forensic Science Laboratories (Toxicology) Grant; the FY16 Research and
126 Evaluation for the Testing and Interpretation of Physical Evidence in Publicly Funded Forensic
127 Laboratories (Latent Print) Grant; FY18 Highway Safety Project Grant (DMV) TREDS (Traffic
128 Records Electronic Data System) Program; FY18 Highway Safety Grant Program (DMV) – DFS
129 Breath Alcohol Training Program; Opioid Joint Project – pass through funds from the OCME;
130 and the FY18 Byrne Justice Assistance Grant (JAG) Continuation Funding.

131
132 Director Jackson noted that the Department is using the Opioid Joint Project funds for an
133 additional research scientist and an additional forensic laboratory specialist position in the
134 Toxicology Section. The Byrne JAG Grant will continue to be used to fund an additional
135 Forensic Training Section instructor, which will allow the Section to offer a third Forensic
136 Science Academy Session next year, as well as other short courses.

138 Director Jackson continued with an update of the two Physical Evidence Recovery Kits (PERK)
139 grants. The New York County District Attorney's (DANY) Sexual Assault Kit Backlog
140 Elimination Program Grant has been used to pay for the analysis of untested kits collected prior
141 to July 1, 2014 and included in the PERK inventory conducted by DFS. To date, five agencies
142 have submitted their kits to the private contract laboratory for testing. The private laboratory has
143 sent data from 653 cases to DFS for review. The DANY grant has been extended to 2018 due to
144 the case load of the private contract laboratory.

145
146 The National Sexual Assault Kit Initiative (SAKI) FY 2016 Competitive Grant is being utilized
147 to outsource the analysis of untested PERKs collected from July 1, 2014 through June 30, 2016.
148 The Request for Proposal (RFP) process for the private contract laboratory is underway. The
149 PERK tracking system software is in development. The software will integrate with the
150 Department's current Laboratory Information Management System (LIMS) and be web-based.

151
152 Director Jackson informed the Board that the Department has three pending grant applications
153 that the Board previously approved.

154
155 Director Jackson informed the Board that the Department had received an offer for an IT
156 services donation by means of a grant awarded by Microsoft to pay for services to be provided
157 by The Computer Solution Company (TCSC). TCSC is the vendor for the Department's LIMS.
158 The purpose of the grant is to provide funding for TCSC to develop a plan and cost estimate for
159 the Department to utilize Microsoft Azure. Dr. Gormley made a motion that the Department
160 accept the IT grant donation by TCSC, which was seconded by Mr. Entas. After discussion
161 about the matter, Mr. Entas withdrew his second to the motion, and Dr. Gormley withdrew the
162 motion. The Board requested that the Department obtain more information about the grant and
163 on the Virginia Information Technology Agency's cloud technology policies. Ms. Meyers,
164 Assistant Attorney General, will research any potential procurement issues regarding the matter
165 in advance of the next Board meeting.

166
167 Workload/Backlog:
168 Director Jackson provided the Board with an update on workload/backlog trends in each of the
169 program areas.

170
171 The Controlled Substances Section has seen a 36% increase in submissions from 2015 to 2017.
172 Other complicating factors include the implementation of additional safety precautions in light of
173 the growing lethality of the compounds encountered and the increasing complexity of the
174 compounds submitted. In light of these factors, the backlog has increased each quarter. DFS has
175 implemented a number of agency initiatives in response to the backlog, which include a notice to
176 customers explaining the ongoing challenges and the implementation of mandatory overtime for
177 Controlled Substances examiners and support staff. Director Jackson discussed the staffing
178 situation for the Controlled Substances Section for each laboratory.

179
180 Director Jackson reminded the Board of the discussion at the previous Board meeting about
181 eliminating net weights in certain cases. On September 18, 2017, as recommended by the Board,
182 DFS hosted a Stakeholder Meeting of Commonwealth's Attorneys and narcotics investigators.
183 Topics discussed included improved safety for staff and recommended measures to increase the

184 efficiency of analyses, including the net weight issue. The Board discussed the outcome of the
185 Stakeholders Meeting.

186
187 The Digital and Multimedia Evidence (DME) Section's quarterly statistics are no longer
188 included with Latent Prints. The current turnaround time for DME cases is over a year. One of
189 the five positions in the Section is currently in recruit. However, DFS is looking for additional
190 resources and mechanisms to improve the turnaround time.

191
192 The Firearms Section has been completing more cases than it has been receiving due to the new
193 National Integrated Ballistic Information Network (NIBIN) Forensic Scientist positions. The
194 NIBIN Forensic Scientists are working on the NIBIN-only submissions, which should result in a
195 significant decrease to the backlog.

196
197 The Forensic Biology Section has seen its backlog consistently rising because of increased
198 submissions as a result of the 2016 PERK legislation and the increased time needed for data
199 interpretation with the implementation of the new PowerPlex Fusion kits. Director Jackson gave
200 an overview of the staffing in the Forensic Biology Section, including examiners in training and
201 positions in recruit for each regional laboratory. Once all the examiners are fully trained, the
202 turnaround time is expected to improve.

203
204 The Latent Prints Section saw an increase in submissions in the last quarter. Anecdotally, DFS
205 has heard this is due to the retirement of latent prints examiners that had been working in local
206 law enforcement agencies, resulting in these cases now being submitted to the Department. DFS
207 will continue to monitor these submissions.

208
209 The Toxicology Section turnaround times have continued to improve over the last year. Director
210 Jackson explained how case completion times can vary depending on the complexity of the
211 toxicology cases. The Department has continued to prioritize OCME cases.

212
213 The Trace Evidence Section is now fully staffed, and all examiners have completed their
214 training. The Section's turnaround times continue to decrease. There has been a decrease in
215 submissions, and DFS will be reaching out to user agencies to remind them of the Department's
216 Trace Evidence capabilities.

217 218 **Scientific Advisory Committee Report**

219 Dr. Les Edinboro, Scientific Advisory Committee ("SAC") Chair, gave a report to the Board of
220 the business of the SAC from its meeting held on October 11, 2017. There was a Toxicology
221 Subcommittee meeting held prior to the SAC meeting. The Subcommittee made
222 recommendations and suggestions to DFS staff for the OpiCoc Protein Precipitation Validation
223 method, and the LCMSMS evaluation of Opiate Metabolite Interferences. The Subcommittee
224 closed the reviews of both the OpiCoc Protein Precipitation Validation and the LCMSMS
225 evaluation of Opiate Metabolite Interferences.

226
227 SAC members heard presentations by DFS Director Linda Jackson, Director of Technical
228 Services Alka Lohmann, and all four Program Managers. The SAC also heard updates on both
229 the Serology and Microscopic Hair Comparison Case Reviews.

230
231 The SAC amended its Policy on Individual Participation in SAC Meetings by Electronic Means
232 under Virginia Code § 2.2-3708.1. This Code section was amended in July 2017, and the Policy
233 was updated to reflect those amendments.

234
235 The SAC set its 2018 meeting dates for Wednesday, May 15, 2018, at 9:00 a.m. and Wednesday,
236 October 16, 2018, at 9:00 a.m.

237
238 Mr. Donohue made a motion to accept the SAC Chair's report, which was seconded by Ms.
239 Juran, and approved by unanimous vote of the Board.

240
241 **Old Business**

242
243 **Status of the Post-Conviction DNA Testing Program and Notification Project:**

244 Kristen Howard, Notification Subcommittee Chair, provided a brief update on the case file
245 review that staff members from the Virginia State Crime Commission (VSCC) are conducting of
246 cases from the Post-Conviction DNA Testing Program and Notification Project. The VSCC staff
247 members have identified potential contact information for notification of fifteen un-notified
248 "need known" cases to attempt to either locate the correct individual or determine if he/she is
249 deceased. Ms. Howard anticipates that due diligence will have been met by the end of the
250 calendar year in contacting all eligible defendants. Ms. Howard will provide an update to the
251 VSCC at its meeting in December.

252
253 **Forensic Science Training Program Update:**

254 Katya Herndon, Chief Deputy Director, reported to the Board that a stakeholder meeting was
255 held on August 16, 2017, to discuss the idea of DFS offering a training program to attorneys on
256 the underlying science utilized by the various laboratory disciplines.

257
258 The feedback from the stakeholders meeting was positive, and DFS has developed and
259 disseminated a Needs Assessment Survey to attorneys across the Commonwealth seeking input
260 on the subjects that would be of most interest to attorneys for the training. The survey closes on
261 October 16, 2017, and another stakeholder meeting is scheduled on October 23rd to review the
262 results of the survey. The Department plans to start the program in 2018 by selecting one subject
263 and offering training in that subject in all four DFS regional laboratories.

264
265 **Serology Case Review Update:**

266 Brad Jenkins, Forensic Biology Program Manager, updated the Board on the Serology Case
267 Review. The review of 100 cases from the Eastern Laboratory is nearing completion, and the
268 review of 100 cases from the Northern Laboratory has begun. Jami St. Clair, a member of the
269 SAC, is the outside reviewer, and there are three DFS staff members conducting reviews. Mr.
270 Jenkins noted that, to date, the reviewers have not identified any files where the typing results in
271 the case notes would have eliminated the defendant and were not reported, which was the issue
272 identified in the case prompting the Serology Case Review.

273
274 **Microscopic Hair Comparison Case Review Update:**

275 Amy Curtis, Department Counsel, gave an update on the Microscopic Hair Comparison Case
276 Review to the Board. She reported that there have been difficulties finding court transcripts for
277 these cases. Students from the University of Richmond School of Law's Actual Innocence clinic
278 researched conviction information for about 98 cases. Law clinic students sent letters to clerks
279 requesting conviction information and transcripts containing hair comparison testimony from
280 DFS examiners. The majority of the clerks responded that they were unwilling to make copies
281 of transcripts free of charge for the students. Only one transcript was obtained by the law
282 students. Ms. Curtis reported that she has had to go to courthouses to seek conviction orders and
283 transcript copies. She was able to obtain three additional transcripts. Ms. Curtis did make
284 inquiries to some court reporters in cases, and they responded that transcripts are routinely
285 destroyed after 10 years. DFS has identified approximately 80 more cases where conviction
286 information is needed. Ms. Curtis is hoping that the Spring law clinic will be able to do the
287 conviction research, and with the help of a law student intern, she will be able to obtain more
288 transcripts so that a Review Team meeting can be scheduled.

289

290 **New Business**

291 Ms. Herndon reminded the Board that Code § 9.1-1110 (B) specifies the six subjects that need to
292 be addressed in the Board's Annual Report that is due to the General Assembly by November 1,
293 2017. Ms. Herndon reviewed the contents of the draft annual report that had been disseminated
294 to the Board in advance of the meeting. Ms. Herndon noted the portions of the report that will be
295 updated after the Board meeting, prior to the report being submitted. The report will be
296 submitted with a cover letter from the Board signed by the Chair.

297

298 Dr. Gormley moved to approve the draft Forensic Science Board 2017 Annual Report, and to
299 permit Ms. Herndon to update the report following the Board meeting, and then to submit it
300 according to law, which was seconded by Mr. Entas, and passed by unanimous vote.

301

302 **Public Comment**

303 None.

304

305 **Future Meeting Dates**

306 The Forensic Science Board will meet on Thursday, January 4, 2018, Wednesday, May 16, 2018,
307 Wednesday, August 22, 2018, and Wednesday, October 17, 2018. All meetings are scheduled to
308 begin at 9:30 a.m.

309

310 **Other Comments**

311 Colonel Maggie DeBoard reported to the Board a recent fentanyl exposure incident causing the
312 overdose of a law enforcement officer. The Board discussed the incident and the Department's
313 current practices for packaging and evidence handling. They discussed outreach measures to law
314 enforcement agencies on proper handling and packaging procedures.

315

316 Caroline Juran, Director of the Board of Pharmacy, advised the Board that, in August 2017, the
317 emergency regulations that allow pharmaceutical processors to manufacture cannabidiol and
318 THC-A oil for the treatment of intractable epilepsy went into effect. Ms. Juran noted that the
319 Board of Pharmacy is looking at identifying the necessary infrastructure to oversee the five

320 facilities that will be authorized to have permits. Accordingly, she anticipates it will be mid-
321 2018 before the first permit is issued.

322

323 **Adjournment**

324

325 Colonel DeBoard moved that the meeting of the Board be adjourned, which was seconded by Dr.
326 Toney, and passed by unanimous vote.

327

328 The meeting adjourned at 11:55 a.m.