

1 **Minutes**
2 **Forensic Science Board Meeting**
3 **April 21, 2021**
4 **Department of Forensic Science, Held Electronically**

5 **Board Members Present**

6 Colonel Maggie A. DeBoard, Chief of Police, Town of Herndon Police Department
7 Leslie E. Edinboro, Ph.D., Scientific Advisory Committee Member
8 Senator John S. Edwards, Chair, Senate Courts of Justice Committee
9 William T. Gormley, M.D., Chief Medical Examiner
10 Karl R. Hade, Executive Secretary, Supreme Court of Virginia
11 Delegate Charniele L. Herring, Chair, House Courts of Justice Committee
12 Kristen J. Howard (Designee of Chair of Virginia State Crime Commission, Delegate Charniele
13 L. Herring)
14 Caroline D. Juran, Executive Director, Board of Pharmacy
15 David R. Lett, Petersburg Public Defender, *Chair*
16 Colette W. McEachin, Commonwealth's Attorney, City of Richmond
17 Richard P. Meyers, Scientific Advisory Committee Member
18 Megan Peterson, (Designee of Shannon Dion, Director, Department of Criminal Justice Services)
19 Lieutenant Colonel Tracy Russillo (Designee of Colonel Gary T. Settle, Superintendent, Virginia
20 State Police)
21 Denise M. Toney, Ph.D., Director, Division of Consolidated Laboratory Services
22 Holli Wood (Designee of Attorney General Mark R. Herring)

23 **Legal Counsel for the Forensic Science Board**

24 Michelle Welch, Assistant Attorney General
25

26 **Staff Members Present**

27 Jeffrey D. Ban, Central Laboratory Director
28 Nancy L. Batterson, Forensic Administrative Specialist III, *Board Secretary*
29 Sabrina S. Cillessen, Physical Evidence Program Manager
30 Leslie H. Ellis, Human Resources Director
31 Katya N. Herndon, Chief Deputy Director
32 James W. Hutchings, Ph.D., Toxicology Program Manager
33 Linda C. Jackson, Director
34 Amy C. Jenkins, Department Counsel
35 Bradford C. Jenkins, Forensic Biology Section Program Manager
36 Alka B. Lohmann, Director of Technical Services
37 Jessica B. Norton, Legal Assistant
38 Elizabeth Stroble, Grants and Administration Program Manager
39 Jennifer L. Taylor, Procurement Specialist I
40 Robyn B. Weimer, Chemistry Program Manager
41

42 **Call to Order**

43 As a result of the state of emergency declared by Governor Northam due to COVID-19, the
44 Forensic Science Board conducted the meeting by electronic communication means using the
45 Google Meet platform. The public was permitted to attend and participate via video or audio
46 conference. Directions for public participation were provided on the meeting agenda and posted
47 on Virginia's Town Hall.

48 David Lett, Chair of the Board, called the meeting to order at 9:31 a.m. Mr. Lett requested Ms.
49 Batterson to call the roll to ensure that a quorum was present. Ms. Batterson called the roll as
50 follows:

51 Maggie DeBoard – Present
52 Les Edinboro – Present
53 Senator John Edwards – Present
54 William Gormley – Present
55 Karl Hade – Present
56 Delegate Charniele Herring – Present
57 Kristen Howard – Present
58 Caroline Juran - Present
59 David Lett – Present
60 Colette. McEachin – Not present at time of roll-call, but subsequently joined via phone;
61 did not participate in any voting
62 Rich Meyers – Present
63 Megan Peterson – Present
64 Tracy Russillo – Present
65 Denise Toney – Present
66 Holli Wood – Present
67

68 Ms. Batterson advised Chairman Lett that a majority of the FSB members were present.
69 Chairman Lett declared that a quorum was present.
70

71 **Adoption of Agenda**

72 Chairman Lett advised that the first order of business was the adoption of the draft agenda for the
73 meeting, which was previously shared with the members. Dr. Edinboro made a motion to adopt
74 the agenda, which was seconded by Mr. Hade. A roll-call vote was taken, and the agenda was
75 adopted. The members voted as follows:

76
77 Colonel DeBoard – Yes
78 Dr. Edinboro – Yes
79 Senator Edwards – Yes
80 Dr. Gormley – Yes
81 Mr. Hade – Yes
82 Delegate Herring – Yes
83 Ms. Howard – Yes
84 Ms. Juran – Yes
85 Mr. Lett – Yes

86 Mr. Meyers – Yes
87 Ms. Peterson - Yes
88 Lieutenant Colonel Russillo - Yes
89 Dr. Toney – Yes
90 Ms. Wood – Yes

91

92 **Approval of Draft Minutes of the January 6, 2021 Board Meeting**

93 Chairman Lett asked if there were any proposed changes to the draft minutes from the January 6,
94 2021 meeting. Being none, Chief DeBoard made a motion to approve the January 6, 2021
95 minutes, which was seconded by Delegate Herring. A roll-call vote was taken, and the minutes
96 were approved. The members voted as follows:

97

98 Colonel DeBoard – Yes
99 Dr. Edinboro – Yes
100 Senator Edwards - Yes
101 Dr. Gormley – Yes
102 Mr. Hade – Yes
103 Delegate Herring – Yes
104 Ms. Howard – Yes
105 Ms. Juran - Yes
106 Mr. Lett – Yes
107 Mr. Meyers – Yes
108 Ms. Peterson - Yes
109 Lieutenant Colonel Russillo - Yes
110 Dr. Toney – Yes
111 Ms. Wood – Yes

112

113 **DFS Director's Report**

114 Agency Updates

115 Director Jackson updated the Board on the actions the Department has taken in response to
116 COVID-19, including the development of internal disinfection capability, continuing to encourage
117 alternate work schedules and teleworking when possible, and offering the COVID-19 vaccine to
118 staff. The Department has been able to maintain examination capabilities in all laboratories,
119 although there have been sections or areas in the laboratories closed temporarily for cleanings.

120 Director Jackson advised the Board the Department is preparing for an off-site surveillance visit
121 scheduled for May. Materials for this document surveillance have been submitted. She noted that
122 the Department's Certificates and Scopes of Accreditation are posted on the DFS website. The
123 scopes list what kinds of testing are covered by the accreditation. Trigger pull for firearms is the
124 one test performed by DFS that is outside of the Department's Scope of Accreditation. DFS is in
125 the process of evaluating its uncertainty of measurement for trigger pull; once that is completed,
126 DFS anticipates requesting a scope expansion to add trigger pull.

127

128 Director Jackson provided an update on the Forensic Science Academy, noting that the 102nd
129 Forensic Science Academy (FSA) class, which graduated on April 1st, was made up of mostly

130 students from the session that was cancelled last summer. The 103rd FSA is scheduled to begin on
131 April 26th, and the 104th FSA on September 13th.

132 Director Jackson advised the Board that DFS recommended six compounds in January to the Board
133 of Pharmacy (BoP) for scheduling via the regulatory process. The compounds were considered at
134 the BoP's March meeting and are pending final approval.

135 Director Jackson reminded the Board that the legalization of industrial hemp created a challenge
136 in that both marijuana and hemp are part of the cannabis plant, and that DFS was not, at the time,
137 able to differentiate the two. She noted that the semi-quantitative method for cannabis plant
138 material was implemented in January 2020, and shared statistics on cannabis cases analyzed in
139 calendar year 2020. The semi-quantitative method was updated in December 2020, which included
140 expanding the method for use on cannabis extracts and changing the administrative threshold to
141 allow for analysis and reporting at a lower THC level. Validation of a full quantitation method for
142 THC in plant material is still in progress.

143 Workload Statistics:

144 Director Jackson shared statistics for the Breath Alcohol Section, which showed a marked
145 reduction in breath tests administered beginning in March 2020. The statistics revealed that the
146 reduced volume of tests being administered has persisted.

147 Director Jackson provided statistics on case submissions and the backlog for each of the other
148 scientific disciplines, comparing the first quarter of calendar year 2020 to the same quarter in 2021.
149 She noted that overall submissions were down since the COVID-19 pandemic began, but pointed
150 out that the most drastic change has been in the Controlled Substances Section. For three years
151 prior to the pandemic, the Controlled Substances Section had seen increased submissions, but there
152 has been a significant drop in submissions since the pandemic. The drop in Controlled Substances
153 case submissions, combined with the fact that the Section had finally become fully staffed, allowed
154 the Section to reduce its backlog by 85% between March 2020 and March 2021. The Department
155 has been using Controlled Substances staff in other disciplines and has been holding open positions
156 that were vacated through attrition while it is assessing how best to staff the Section moving
157 forward.

158 There are other Sections, however, where submissions have increased. The Toxicology and
159 Firearms Sections have seen an increase in submissions over the past year, which has resulted in
160 growing backlogs in both sections, as well as higher turnaround times.

161 Director Jackson also shared turnaround times for March 2021 and statistical trends, including
162 quarterly data on backlog and turnaround times, for each of the scientific disciplines.

163 Dr. Gormley noted that the death rate for illicit drugs has dramatically increased during the
164 pandemic.

165 Central Laboratory Capital Project

166 Director Jackson provided an update on the status of the Central Laboratory project. She reminded
167 the Board that the new laboratory will not be in downtown Richmond, but will be built on a parcel
168 of land in nearby Hanover County. She advised that the preliminary design drawings were
169 approved and that the Department received notice of approval of its funding request to build a new
170 facility, which differed from the initial request to expand/renovate the existing Central Laboratory.

171 Although the project is approximately twelve weeks behind schedule, the Department is still
172 hopeful it will be able to break ground for the new facility by the end of calendar year 2021.

173 Director Jackson pointed out two policy notices sent to customers that have been posted on the
174 DFS website. The first notice addressed latent print database search results and new clarifying
175 language appearing on Certificates of Analysis for complex latent prints. The second notice
176 described the impact of the national pipette tip shortage on the Forensic Biology Section.

177 Agency Initiatives

178 Director Jackson discussed the increasing use of testimony review evaluations by attorneys due to
179 COVID-19 restrictions on the number of people allowed in courtrooms. While the Department's
180 preference is to have scientists with the same competencies review the testimony of their
181 colleagues, given the current limitations, DFS developed a new Court Testimony Evaluation Form
182 to assist with the request to have attorneys review the examiners' testimony. Delegate Herring
183 inquired whether the evaluation forms are given to both the defense and prosecution, and Director
184 Jackson confirmed that they are.

185 Budget and Resources

186 Director Jackson reviewed the Department's biennial budget for FY21/FY22, including additional
187 funding the agency received for three additional administrative positions (two IT positions and one
188 finance management position) and for increased maintenance costs of laboratory equipment. The
189 Department also received an additional FTE for a Toxicology research grant position with
190 authorization to spend the non-general funds from the grant.

191 Grants:

192 Director Jackson presented information about two highway safety grants that the Department has
193 applied for, one for the Breath Alcohol Section and another for the Toxicology Section. The grants
194 were previously approved by the Chair and Vice-Chair, but approval from the full Board is
195 required for the Department to accept the funds, if awarded.

196 Ms. Juran made a motion for the Department to accept the funds from the two DMV Highway
197 Safety Grants, if awarded. The motion was seconded by Delegate Herring. A roll-call vote was
198 taken, and the motion was approved. The members voted as follows:

- 199 Colonel DeBoard – Yes
- 200 Dr. Edinboro – Yes
- 201 Senator Edwards - Yes
- 202 Dr. Gormley – Yes
- 203 Mr. Hade – Yes
- 204 Delegate Herring – Yes
- 205 Ms. Howard – Yes
- 206 Ms. Juran - Yes
- 207 Mr. Lett – Yes
- 208 Mr. Meyers – Yes
- 209 Ms. Peterson - Yes
- 210 Lieutenant Colonel Russillo - Yes
- 211 Dr. Toney – Yes
- 212 Ms. Wood – Yes

213

214 **Scientific Advisory Committee (SAC) Report**

215 Mr. Meyers provided a report of the Scientific Advisory Committee’s electronic meeting, which
216 was held on April 20, 2021. Director Jackson provided an agency update, Alka Lohmann presented
217 a Division of Technical Service Update, and the Program Managers provided updates for their
218 respective program areas.

219 In advance of the meeting, the Toxicology Subcommittee members had been provided with a
220 Method Development Summary and a Validation Plan for the Toxicology Section’s method for
221 Barbiturate Quantitation and Confirmation by Liquid-Liquid Extraction Using LCMSMS. The
222 Subcommittee reviewed the materials, but did not request a meeting to discuss them. Accordingly,
223 Dr. Hutchings provided the full Scientific Advisory Committee with an overview of the Method
224 Development Summary and Validation Plan for the barbiturate method, and the Committee closed
225 its review.

226 All of the program areas have methods that are in development and/or undergoing validation. As
227 a result, the Department anticipates that several SAC Subcommittees will meet in October to
228 discuss the documentation for the methods in advance of the next SAC meeting, which is scheduled
229 for October 13, 2021.

230 **Old Business**

231 **Periodic Review of Regulations**

232 Amy Jenkins, Department Counsel, provided an overview of each of the Department’s regulations
233 that are part of the required Periodic Review of Regulations. No comments were received on
234 Virginia’s Regulatory Town Hall regarding the periodic review of 6 VAC 40-20 through 40-
235 60. Ms. Jenkins reviewed each regulation with the Board, noting that, for the majority of the
236 regulations, no changes were recommended. Due to the fact that the recent legislation legalizing
237 marijuana would result in changes to the statutory citations in the regulation, Ms. Jenkins
238 recommended that the Board consider the amendment of 6 VAC 40-50, Regulations for the
239 Approval of Marijuana Field Tests for Detection of Marijuana Plant Material. The Board could
240 also consider amendments to 6 VAC 40-50 that would permit the Department to approve non-
241 Duquenois Levine field tests, as well as other technology that may evolve that could distinguish
242 marijuana from industrial hemp. She requested the FSB make a motion that 6 VAC 40-50 be
243 amended as a result of the Board’s Periodic Review.

244 Ms. Wood made a motion to have the Department amend 6 VAC 40-50, the Regulations for the
245 Approval of Marijuana Field Tests for Detection of Marijuana Plant Material. The motion was
246 seconded by Delegate Herring. A roll-call vote was taken, and the motion was approved. The
247 members voted as follows:

- 248 Chief DeBoard – Yes
- 249 Dr. Edinboro – Yes
- 250 Senator Edwards – Yes
- 251 Dr. Gormley – Yes
- 252 Mr. Hade – Yes
- 253 Delegate Herring – Yes
- 254 Ms. Howard – Yes
- 255 Ms. Juran – Yes
- 256 Mr. Lett – Yes

257 Mr. Meyers – Yes
258 Ms. Peterson - Yes
259 Lieutenant Colonel Russillo – Yes
260 Dr. Toney – Yes
261 Ms. Wood – Yes

262 **New Business**

263 **Legislative Update**

264 Katya Herndon, Chief Deputy Director, provided an overview of DFS related legislation that
265 passed during the 2021 General Assembly Session, which included relevant provisions of the
266 marijuana legalization bills and the bill permanently placing 24 compounds in Schedule I that were
267 previously scheduled by the Board of Pharmacy via regulation.

268 **Election of Chair and Vice-Chair**

269 Chairman Lett called for the annual election of the Board Chair and Vice-Chair and asked for
270 nominations. Ms. Howard nominated Shannon Dion to be Chair of the Board, and the nomination
271 was seconded by Delegate Herring. Senator Edwards moved that the nominations be closed. A
272 roll-call vote was taken, and the members voted as follows:

273 Colonel DeBoard – Yes
274 Dr. Edinboro – Yes
275 Senator Edwards - Yes
276 Dr. Gormley – Yes
277 Mr. Hade – Yes
278 Delegate Herring – Yes
279 Ms. Howard – Yes
280 Ms. Juran - Yes
281 Mr. Lett – Yes
282 Mr. Meyers – Yes
283 Ms. Peterson - Yes
284 Lieutenant Colonel Russillo - Yes
285 Dr. Toney – Yes
286 Ms. Wood – Yes

287 The motion carried.

288 Mr. Meyers nominated Colonel DeBoard for Vice-Chair, and Senator Edwards seconded the
289 nomination. Senator Edwards then moved that the nominations be closed. A roll-call vote was
290 taken, and the members voted as follows:

291 Colonel DeBoard – Yes
292 Dr. Edinboro – Yes
293 Senator Edwards - Yes
294 Dr. Gormley – Yes
295 Mr. Hade – Yes
296 Delegate Herring – Yes
297 Ms. Howard – Yes
298 Ms. Juran - Yes

299 Mr. Lett – Yes
300 Mr. Meyers – Yes
301 Ms. Peterson - Yes
302 Lieutenant Colonel Russillo - Yes
303 Dr. Toney – Yes
304 Ms. Wood – Yes

305 The motion carried.

306 **Public Comment**

307 Chairman Lett inquired whether any member of the public would like to provide any comments.
308 No member of the public provided comment.

309 Director Jackson thanked Chairman Lett and Colette McEachin for their time and service to the
310 Department as members of the Forensic Science Board. She noted that both had served as Chair
311 of the Board during their tenure. Their terms on the Board expire on June 30, 2021.

312 **Confirm future meeting dates**

313 The Board is scheduled to meet on the following additional dates in 2021:

- 314 • Wednesday, July 14, 2021
315 • Thursday, October 14, 2021

316 **Adjournment**

317 Chairman Lett called for a motion to adjourn. Senator Edwards made a motion to adjourn the
318 meeting, which was seconded by Dr. Edinboro. A roll-call vote was taken, and the motion was
319 adopted. The members voted as follows:

320 Colonel DeBoard – Yes
321 Dr. Edinboro – Yes
322 Senator Edwards - Yes
323 Dr. Gormley – Yes
324 Mr. Hade – Yes
325 Delegate Herring – Yes
326 Ms. Howard – Yes
327 Ms. Juran - Yes
328 Mr. Lett – Yes
329 Mr. Meyers – Yes
330 Ms. Peterson - Yes
331 Lieutenant Colonel Russillo - Yes
332 Dr. Toney – Yes
333 Ms. Wood – Yes

334 The meeting adjourned at 10:52 a.m.