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Final - Minutes
Forensic Science Board Meeting
May 9, 2012

Department of Forensic Science, Central Laboratory, Classroom 1

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Board Members Present

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Caroline D. Juran, Chair
Steven D. Benjamin
Leah Bush, M.D.
Tom Cleator (Designee of VSCC Chairman Robert Bell)
John Colligan (Designee of Garth Wheeler, Director of Department of Criminal Justice Services)
Colonel W. Steven Flaherty
Jo Ann Given
Karl R. Hade
Alan Katz (Designee of Attorney General Kenneth Cuccinelli)
Sheriff A.A. Lipa, Jr.
Senator Ryan McDougle
Raymond F. Morrogh
Colonel Robert Northern (Designee of Colonel W. Steven Flaherty)
Jami St. Clair

Board Members Absent

Delegate Richard Morris

Legal Counsel for the Forensic Science Board

Joshua Lief, Senior Assistant Attorney General

Staff Members Present

Wanda Adkins, Office Manager
Jeff Ban, Central Laboratory Director
Dave Barron, Director of Technical Services
Donna Carter, Finance Manager
Deborah Collard, Laboratory Specialist
Ann Davis, Special Projects Consultant
Leslie Ellis, Human Resources Director
John Griffin, Northern Laboratory Director
Linda Jackson, Chemistry Program Manager
Gail Jaspén, Chief Deputy Director
Brad Jenkins, Forensic Biology Program Manager
Alka Lohmann, Calibration and Training Program Manager
Pete Marone, Department Director
Stephanie Merritt, Department Counsel

47 Lisa Schiermeier-Wood, Section Supervisor, Forensic Biology
48 Steve Siegel, Deputy Director
49 Susan Stanitski, Eastern Laboratory Director
50 Carisa Studer, Legal Assistant

51

52 **Call to Order by Chairman Caroline Juran**

53

54 Chairman Juran called the meeting of the Forensic Science Board (“Board”) to order at 9:05 a.m.

55

56 **Adoption of Agenda**

57

58 Chairman Juran asked if there were any additions or changes to the draft agenda for the meeting.
59 Being none, Ms. Given moved to adopt the agenda, which was seconded by Mr. Morrogh and
60 adopted by unanimous vote of the Board.

61

62 **Approval of Draft Minutes of January 4, 2012 Meeting**

63

64 Chairman Juran asked if there were any changes or corrections to the draft minutes from the
65 January 4, 2012 meeting. Being none, Mr. Morrogh moved to adopt the minutes of the January
66 4, 2012 meeting, which was seconded by Ms. Given and adopted by unanimous vote of the
67 Board.

68

69 **Chairman’s Report**

70

71 Chairman Juran welcomed the Board, and thanked the members for allowing her to serve as
72 Chair. She expressed her appreciation for the dedication and professionalism of each Board
73 member.

74

75 **DFS Director’s Report**

76

77 Facilities: Director Pete Marone briefly updated the Board on the expansion of the Eastern
78 Laboratory facilities. The Administration and Latent Prints sections have moved to the fifth
79 floor of the laboratory building. Construction plans for the remainder of the space have been
80 approved. The Toxicology and Controlled Substances sections will be relocated to make space
81 for Forensic Biology. There is funding in the Biennial Budget for expansion planning for the
82 Western Laboratory. A modular laboratory unit will be placed at the Western Laboratory and
83 will house the Questioned Documents section until the Laboratory building is expanded.
84 Renovations to create expanded use of the Central Laboratory building continue. Office space
85 has been moved to the second floor to provide for expansion of the Firearms section.

86

87 Budget Outlook: Director Marone informed the Board that the Commonwealth is still awaiting
88 approval of the Biennial Budget for 2012-14. Reductions to the Department in the passed
89 Budget include the elimination of one staff member from the Questioned Documents section and
90 one Blood Stain Pattern position. The Questioned Documents section in the Central Laboratory
91 will be relocating to the Western Laboratory, where statewide QD services will be consolidated.

92

93 Workload/Backlog: Regarding the 30-60-90 day workload summary report, Director Marone
94 summarized average days in systems for several different sections and reported on progress
95 being made on old cases. Director Marone noted that all Forensic Biology cases are included in
96 the overall backlog number. It includes special project cases, such as Post-Conviction Program
97 cases, the Familial DNA cases, and mitochondrial cases. The majority of cases in Forensic
98 Biology are submissions from 2012. Director Marone also discussed continued efforts by the
99 Toxicology section to reduce the number of cases in the backlog. Mr. Marone noted the
100 increase in Meth Lab cases in the western region and the Department's actions to create a Meth
101 Lab Team to perform Meth Lab specific case work. He then addressed the Department's plan to
102 decentralize the DUID case work process. Each regional lab will be conducting DUID
103 examinations for assigned jurisdictions.

104
105 Synthetic Cannabinoids/Bath Salts/Clandestine Meth Labs: Linda Jackson, Chemistry Program
106 Manager, updated the Board on Synthetic Cannabinoids, Bath Salts, and Clandestine Meth
107 Laboratories. The Department continues to see a steady increase in Synthetic Cannabinoids
108 cases. The Synthetic Cannabinoids compounds identified are being tracked for trends so that the
109 Department can purchase standards for testing. Ms. Jackson gave an overview of the legislation
110 that will go into effect on July 1, 2012. Legislation was amended to add more compounds to the
111 Synthetic Cannabinoids and Bath Salts statutes. Ms. Jackson noted the problematic rate at which
112 new bath salt compounds are being created.

113
114 To date, the Department has received approximately the same number of Clandestine Meth Labs
115 cases as in 2011. The majority of the cases are in the western of the region of the state, and the
116 Department has created a Clandestine Meth Lab team to handle the work load created by these
117 cases that will be based in the Western Laboratory.

118
119 Dr. Bush inquired about the reason for the increase of Clandestine Meth Lab cases. She asked if
120 it is because the number of these labs is growing or if law enforcement agencies are getting
121 better at finding them. Colonel Flaherty and Ms. Jackson mentioned the increasing use of new
122 methods that individuals are using to manufacture methamphetamines, e.g., mobile labs and "one
123 pot" cooks.

124
125 Melendez-Diaz, Bullcoming: Director Marone presented statistics to the Board on subpoenas
126 that Department employees have received monthly as compared to the number of employee court
127 appearances and employee testimony. The large number of subpoenas results in many hours of
128 examiner time drawn away from working cases. The Department has tried working with
129 Commonwealth's Attorney's offices throughout the state to help reduce the number of
130 unnecessary appearances. Dr. Bush explained to the Board that the Medical Examiner's Office
131 faces the same issue. The Board discussed ideas to help meet the needs of both the Court system
132 and the Department. Director Marone reiterated measures being taken to try to address work
133 load issues, including the Meth Lab Team, the regional labs performing blood DUI
134 examinations, and added positions.

135
136 Grants: Director Marone reviewed grants that DFS has been awarded, grants that will be
137 expiring, and grant applications pending. All grants are listed in the Director's Report slide
138 presentation. Director Marone requested the Board's endorsement of the Chair's and Vice-

139 Chair's prior approval to apply and accept the FY 12 Backlog Reduction Grant and the FY 12
140 Paul Coverdell Forensic Science Improvement Program Grant. Dr. Bush moved that the Board
141 endorse the approval to apply for and, if awarded, to accept both grants, which was seconded by
142 Mr. Morrogh and adopted by unanimous vote of the Board.

143
144 Director Marone requested the Board's approval to apply for and, if awarded, to accept the FY
145 12 Solving Cold Cases with DNA grant and the FY 12 Using DNA Technology to Identify the
146 Missing grant. Dr. Bush moved that the Board approve application for and acceptance of both
147 grants, which was seconded by Mr. Morrogh and adopted by unanimous vote of the Board.

148
149 Dr. Bush commented on the success that the Department and the Office of the Chief Medical
150 Examiner have had in identifying remains from cases going back to the 1980s and the 1990s.

151
152 2012 General Assembly Update: Chief Deputy Director Gail Jaspen provided an overview of the
153 2012 General Assembly session. The Department made no requests for legislation. The
154 Department provided technical assistance on the Synthetic Cannabinoids and "Bath Salts"
155 legislation. The legislation expanding the lists of synthetics cannabinoids and Schedule I
156 compounds in the Code of Virginia was passed unanimously by the General Assembly. Ms.
157 Jaspen added that there was also language in the Budget Bill on which the Department provided
158 comments to legislators. Ms. Jaspen explained that the language, as originally proposed,
159 required the Department to provide all records pertaining to the Post-Conviction DNA Testing
160 and Notification Program (Program) pursuant to a Freedom of Information Act (FOIA) request.
161 The language was modified to require DFS to provide a Program Certificate of Analysis
162 indicating an elimination of a convicted person, provided that victim information is redacted
163 from the report and the relevant Commonwealth's Attorney does not object, in accordance with
164 the Budget language, to release of the report.

165
166 Dr. Bush inquired if this Budget Amendment would create the need for more staffing. Ms.
167 Jaspen answered that at this time the Department should be able to handle the FOIA responses
168 needed.

169
170 Ms. Jaspen informed the Board that there was legislation introduced for the Secretary's Office
171 that was part of the Governor's reform initiative that affected four Public Safety boards.
172 Provisions of the bill were intended to conform each Board's responsibilities more closely to
173 those expected of a policy board within the executive branch of government. The provisions
174 relating to the Forensic Science Board were deleted from the bill during the General Assembly's
175 deliberations.

176 177 **Scientific Advisory Committee (SAC) Report**

178
179 The SAC met on Tuesday, May 8, 2012. Ms. Given announced the results of the annual SAC
180 Chair and Vice-Chair elections. The new Chair will be Ms. Jami St. Clair, and the new Vice-
181 Chair will be Mr. Price. Ms. Given reported that the SAC received the same briefing from
182 Director Marone on the state of the Department, with additional detail regarding the Controlled
183 Substances and Toxicology Sections.

184

185 The DNA Subcommittee will review the new validation materials and present a report at the next
186 SAC on October 9, 2012. The Firearms Subcommittee has almost completed its review of
187 procedures. A Trace Evidence Subcommittee was also appointed to review Standard Operating
188 Procedures (SOPs). The SAC has almost completed its review of all of the Department's SOPs.

189

190 **Old Business**

191

192 Ms. Merritt provided an update on Regulations for Obtaining Information from the DNA Data
193 Bank and Procedures for Verification and Authorization of Persons Requesting Information from
194 the DNA Data Bank, 6 VAC 40-60. Ms. Merritt informed the Board that the regulations are in
195 the final phase of review for approval. The amendments from the January 4, 2012 were
196 approved by the Attorney General's Office.

197

198 **Post-Conviction DNA Testing Program and Notification Project**

199 Christina Arrington, from the Virginia State Crime Commission (VSCC), gave a presentation to
200 the Board on the notification project. One pro bono attorney has successfully notified 22 out of
201 29 suspects assigned to him. There have been a total of 27 successful notifications using pro
202 bonos. The VSCC has also made it a top priority to research conviction information. The VSCC
203 has been successful on finding conviction information in a number of cases and will continue
204 with their efforts.

205

206 Ms. Jaspen updated the Board on developments since the January 4, 2012 Board meeting.
207 Testing in cases in which the Department had conviction confirmation that indicating a suspect
208 was convicted of a state violent felony crime have been completed. Ms. Jaspen reviewed the
209 eliminations and the notification process pertaining to suspects in those cases. There have been
210 44 additional cases added to the program based on newly obtained conviction information. Of
211 the new cases, 2 have been completed, 10 are almost completed, and 32 are awaiting testing.
212 These cases will be reported as "additional cases" to the Board in the future.

213

214 Among the suspects convicted of state violent felony offenses for whom testing has been
215 completed, there are 134 convicted suspects for whom known samples are needed. Ms. Jaspen
216 discussed with the Board the possibility of making a special effort to notify those 134, so they
217 can have the opportunity to submit their known samples if needed. Mr. Benjamin recommended
218 endorsing the Department's effort to notify the 134 suspects for whom known samples are
219 needed. There was discussion among the Board about whether suspects among the 134 who
220 have been previously notified should be notified again. The Board discussed strategies of
221 completing this project. Mr. Benjamin moved that the Department provide information to pro
222 bono attorneys about the 134 suspects for whom need known samples are needed, advise the
223 attorneys that additional known samples are needed, and indicate to attorneys the response that
224 the Department had already received. The attorneys should notify the 134 that the Department
225 needs a reference sample, but they may use discretion when notifying. Ms. Juran seconded the
226 motion. The motion was defeated.

227

228 Ms. Given moved that the Department continue its process of notifying the 134 suspects that
229 their known samples are needed, but not notify those who have previously indicated they do not
230 want future notifications from the Department, and allow the Department to uses its discretion

231 for the deceased. Mr. Benjamin seconded the motion. The Board discussed the motion on the
232 table. Senator McDougle made a motion to table Ms. Given's motion to the next Board meeting
233 in August. Ms. Given seconded the motion to table the motion until the August 2012 meeting.
234 The motion carried.

235
236 Ms. Jaspen assured the Board that the Department will continue to test newly identified cases
237 and that those suspects will be notified if and when their addresses are determined. The
238 Department is committed to using pro bonos and will continue to partner with the VSCC and the
239 Mid-Atlantic Innocence Project.

240
241 Mr. Benjamin inquired about the Urban Institute's report on the Post-Conviction program. Mr.
242 Jenkins replied that he had received a confidential draft of the report for his review. Mr. Marone
243 explained that the Department had received a draft to check for accuracy and was asked to keep
244 it confidential until it was officially published.

245
246 Mr. Benjamin asked if the Board would call a special meeting about the Urban Institute's report
247 when it is released in June. Mr. Marone answered that the Department would be able to release a
248 copy of the report to the Board once it was no longer confidential.

249
250 Mr. Benjamin made a motion to call a special meeting of the Board shortly after June 12.

251
252 Mr. Marone and Ms. Juran agreed that a special meeting could be called without a vote if
253 needed.

254
255 **New Business**

256
257 Chair Juran reminded the Board of the Conflict of Interest training which needs to be completed
258 every two years.

259
260 **Annual Election of Board Chair and Vice Chair**

261
262 Chair Juran asked if there were any nominations for Board Chair. Mr. Benjamin nominated Ms.
263 Juran; the nomination was seconded by Colonel Flaherty and passed by unanimous vote of the
264 Board. Chair Juran asked for nominations for Vice Chair. Mr. Benjamin nominated Mr.
265 Morrogh for Vice Chair; the nomination was seconded Sheriff Lipka and passed by unanimous
266 vote of the Board.

267
268 **Public Comment**

269
270 None

271
272 **Next Meeting**

273
274 The Forensic Science Board will meet on Wednesday, August 8, 2012 at 9 a.m.

275
276 **Adjournment**

277

278 Sheriff Lipa moved that the meeting of the Board be adjourned, which was seconded by Dr.
279 Bush and passed by unanimous vote.

280

281 The meeting adjourned at 11:15 a.m.