

1 **Final - Minutes**
2 **Forensic Science Board Meeting**
3 **January 4, 2012**

4 **Department of Forensic Science, Central Laboratory, Classroom 1**
5

6 **Board Members Present**
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8 Caroline D. Juran, Chair

9 Steven D. Benjamin

10 Leah Bush, M.D.

11 Tom Cleator (Designee of VSCC Chairman Robert Bell)

12 Jo Ann Given

13 Karl R. Hade

14 Alan Katz (Designee of Attorney General Kenneth Cuccinelli)

15 Sheriff A.A. Lippa, Jr.

16 Senator Henry Marsh

17 Raymond F. Morrogh

18 Colonel Robert Northern (Designee of Colonel W. Steven Flaherty)

19 Garth Wheeler
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21 **Board Members Absent**
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23 Dale Carpenter, Ph.D.

24 Delegate David Albo
25

26 **Legal Counsel for the Forensic Science Board**
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28 Amy Dilworth, Assistant Attorney General - Absent
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30 **Staff Members Present**
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32 Wanda Adkins, Office Manager

33 Jeff Ban, Central Laboratory Director

34 Donna Carter, Finance Manager

35 Sabrina Cillesen, Physical Evidence Program Manager

36 Leslie Ellis, Human Resources Director

37 Linda Jackson, Chemistry Program Manager

38 Gail Jaspen, Chief Deputy Director

39 Brad Jenkins, Forensic Biology Program Manager

40 Pete Marone, Department Director

41 Stephanie Merritt, Department Counsel

42 Lisa Schiermeier-Wood, Section Supervisor, Forensic Biology

43 Steve Siegel, Deputy Director

44 Susan Stanitski, Eastern Laboratory Director

45 Elise Stroble, Grants Administration/Policy Analyst

46 Carisa Studer, Legal Assistant

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Call to Order by Chairman Caroline Juran

Chairman Juran called the meeting of the Forensic Science Board (“Board”) to order at 9:08 a.m.

Adoption of Agenda

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

Approval of Draft Minutes of October 12, 2011 Meeting

Chairman Juran asked if there were any changes or corrections to the draft minutes from the October 12, 2011 meeting. Being none, Dr. Bush moved to adopt the minutes of the October 12, 2011 meeting, which was seconded by Ms. Given and adopted by unanimous vote of the Board.

Chairman’s Report

Chairman Juran welcomed the Board to the Paul B. Ferrara Building. She indicated that the Central Laboratory had a building dedication and naming ceremony since the Board last met. Chairman Juran updated the Board on the Drug Enforcement Agency (DEA) changes to the controlled substances schedule. It is impacting the Board of Pharmacy and she thought the Department may be impacted as well.

DFS Director’s Report

Facilities: Director Pete Marone also indicated that the Central Laboratory had a building dedication ceremony on November 18, 2011. The Central Laboratory is now known as the Paul B. Ferrara Building. Director Marone gave an overview on the expected future of the Biotech Park and how that will possibly affect the Central Laboratory and the Department’s lease of the Biotech 8 building space. There will be planning money in the upcoming Executive budget for the Western Laboratory expansion.

Grants: Director Marone reviewed the grants that have been awarded, grants that will be expiring, and grants not awarded. The Board was provided a handout that summarized these grants.

Director Marone requested the Board’s endorsement of the Chair’s and Vice-Chair’s approval to apply and accept the 2012 Byrne Justice Assistance Grant if awarded. The Department would use the grant funds to configure and implement additional capabilities of the forensic Laboratory Information Management System (LIMS). The funding requested is \$75,000, which includes a 10% match. Mr. Benjamin moved to endorse the approval of the 2012 Byrne Justice Assistance Grant application and accept the grant if awarded, which was seconded by Mr. Morrogh and adopted by unanimous vote of the Board.

92 Regarding the 30-60-90 day workload summary report, Director Marone summarized average
93 days in systems for several different sections and reported on progress being made on old cases.
94 Director Marone noted the backlog in Toxicology cases over 120 days. Due to a reduction in
95 staffing and the effects of the *Melendez-Diaz* decision,, the Toxicology backlog number has
96 increased. More recently, staffing has increased, the effects of *Melendez-Diaz* have held steady,
97 and staff have been fully trained on new equipment, the Department is expected to show that that
98 will reduce the backlog numbers. Dr. Bush inquired how long the Department's "wait and see
99 period" will be. Linda Jackson, Chemistry Program Manager, explained that the Department
100 should have a good idea of what the backlog numbers are going to be in 6 months.

101
102 Population Statistical Calculations: Brad Jenkins, Forensic Biology Program Manager, updated
103 the Board on developments since the October Board meeting. Mr. Jenkins informed the Board
104 of the Department's two-pronged approach. The first was to contract with a private lab,
105 Cybergenetics, which was sent 60 cases to perform the statistical calculations and provide Court
106 testimony. The second was for the Department to purchase software and train staff to take over
107 the population statistical calculations. The contract for the software and training is complete.
108 Training began, today, January 4, 2012 with the private consultant. The Department is on track
109 with providing validation testing to the Scientific Advisory Committee (SAC) for review before
110 the SAC meeting.

111
112 Synthetic Cannabinoids: Linda Jackson, Chemistry Program Manager, updated the Board on
113 Synthetic Cannabinoids, Bath Salts, and Clandestine Meth Laboratories. The number of
114 Synthetic Cannabinoids cases has decreased since legislation. Ms. Jackson went on to explain
115 the difference in controlled and not controlled compounds. She has provided information to the
116 Division of Legislative Services in connection with future legislation on additional chemical
117 compounds, and additional possible control mechanisms. The Department is also providing
118 additional Bath Salts chemical compounds for legislation. Ms. Jackson gave an overview of the
119 increase in cases due to clandestine labs. There was a large spike in 2011. Each case takes 3 to
120 4 days to complete because they are more time-consuming than other controlled substance
121 examinations. The Western Laboratory is the most affected of all DFS labs, and they now have a
122 clandestine lab team. Ms. Given inquired what kind of drugs the Department was getting from
123 the clandestine labs. Ms. Jackson answered that it was Methamphetamine.

124
125 Ms. Jackson also gave a brief summary to the Board of a research project the Controlled
126 Substances section conducted with grant money. The project was to develop a method for
127 separating molecules into a mirror image. The Department will be publishing its results.

128
129 Resources and Budget Outlook: Director Marone gave a brief overview of the Department's
130 budget proposal. The Governor's office asked each agency to come up with 2%, 4%, and 6%
131 savings plan.. Those were submitted to the Governor's office. The upcoming budget will include
132 a 1 - 2% budget reduction for the Department. This reduction includes 9 position layoffs. The
133 Department currently has a meeting scheduled with the Senate Finance Committee on February
134 10, 2012.

135
136 Dr. Bush inquired whether the 9 positions included any toxicology positions. Director Marone
137 explained that it did not include toxicology positions, and that additional funding had been added

138 to handle the increase of controlled substance cases due to “Spice.” Sheriff Lipa then asked if
139 Director Marone could inform the Board which positions were affected. Director Marone
140 answered that the nine proposed for elimination are 1 administrative, 1 blood stain, 2 questioned
141 documents, and 5 photo processing positions..

142
143 2012 General Assembly Outlook: Gail Jaspen, Chief Deputy Director, gave an overview of
144 legislation on which the Department as been asked to provide guidance. There is expected to be
145 Synthetic Cannabinoid legislation for which the Department provided recommended compounds
146 for inclusion in the Code. The Department also advised that consideration be given to adding
147 classes of synthetic cannabinoids to the Code, which id the approach taken in pending federal
148 legislation. Chairman Juran asked if legislation also included Bath Salts, and Ms. Jaspen
149 explained new legislation would include additional compounds for Bath Salts.

150
151 Chairman Juran added that there will be legislation for monitoring Ephedrine sales, which is a
152 precursor for methamphetamines, and which could possibly have an effect on cases that the
153 Department receives.

154
155 Ms. Jaspen informed the Board that there is expected to be government reform legislation that
156 modifies powers and duties of certain Virginia state agency boards. This legislation is expected
157 to include modifications to the Forensic Science Board statutes.

158
159 **Old Business**

160
161 Ms. Merritt also provided an update on Regulations for Obtaining Information from the DNA
162 Data Bank and Procedures for Verification and Authorization of Persons Requesting Information
163 from the DNA Data Bank, 6 VAC 40-60. Ms. Merritt explained the regulations process to the
164 Board. The regulation is approaching the end of the proposed stage. The Governor’s office has
165 given approval and the regulations have moved into the public comment phase, which ends
166 January 22, 2012. This Board meeting is the last opportunity for the Board to review the
167 wording of the regulations. The Registrar’s office recently raised an issue and asked the
168 Department to consider wording changes. Three Department forms were mentioned in the
169 wording, and the Registrar’s office advised the Department that every time one of those
170 documents had a change, the regulations would have to be changed as well. Ms. Merritt made
171 suggested changes to the regulations based on the Registrar’s advice. The changes to the
172 regulations include edits on lines 24 & 25, lines 51 & 52, lines 75– 79, and 115 – 118. Mr.
173 Benjamin inquired about lines 81 and 82, and if the same issue would apply to the incorporating
174 code. Ms. Merritt answered that the Registrar’s office did not point out lines 81 and 82 as
175 needing review. There was discussion of the language on line 52 and whether the wording,
176 “electronic transmission,” included both electronic mail and facsimiles. Ms. Merritt suggested
177 that she remove the strike through, so that the wording would be by electronic transmission or
178 facsimile.

179
180 Mr. Morrogh moved that the Board approve the changes made by Ms. Merritt and discussed by
181 the Board, which was seconded by Ms. Given and adopted by unanimous vote of the Board.

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

185 Gail Jaspen updated the Board on the Post-Conviction DNA Project since the last Board
186 meeting. She recapped the discussion of the last Board meeting reminding members of their
187 ideas for wrapping up the project, and any other ideas for notifying suspects.

188
189 It was identified as a priority to locate individuals who have been “eliminated/not indicated”
190 based on testing and who have not received notification. The Mid-Atlantic Innocence Project
191 identified a volunteer attorney who take taken such case assignments and expects to have 90% of
192 notifications completed by the end of January 2012. The information provided by the Office of
193 the Chief Medical Examiner as been incorporated with the Department’s data to help confirm
194 more conviction information.

195
196 The Department is currently in the process of auditing and reviewing the project files, and is in
197 the last stage of the process. After the audit is complete, it may then be appropriate for the Board
198 to send a press release on the project.

199
200 Currently John Hardenbergh of the Mid-Atlantic Innocence Project has law students looking into
201 conviction information at court houses. According to the Notification Subcommittee Chair, there
202 are 124 pro-bono attorneys signed to do research and notifications. There are 74 volunteers’
203 assigned 234 cases, with 80 completed forms, and 32 successful notifications.

204
205 At the October Board meeting, it was reported that there were 54 cases awaiting testing. They
206 have been completed.

207
208 Mr. Benjamin commented to the Board that one condition of the NIJ grant was to cooperate with
209 the Urban Institute. The Urban Institute was to do a study based on the Department’s Post-
210 Conviction DNA testing project. Mr. Benjamin informed the Board that he has received notice
211 that the Urban Institute has completed its study and is making presentations based on their
212 findings. Mr. Benjamin requested that the Board consider inviting the Urban Institute to a Board
213 meeting to give their presentation. The Board discussed viewing the Urban Institutes findings
214 before inviting them to a meeting. Ms. Jaspen assured the Board that they will be provided with
215 a copy of the Urban Institute report once she receives a copy.

216
217 **New Business**

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219 Sheriff Lipa inquired if there was any action the Board could take to express its concerns to the
220 Governor’s Office over the proposed layoffs in the upcoming budget. Sheriff Lipa expressed
221 concerns with the Department eliminating the Photo Processing Section. His concerns included
222 the effects if would have on law enforcement agencies that do not have their own photo
223 processing.

224
225 The Board discussed how it could make its concerns known to the Governor’s Office and the
226 General Assembly.

227
228 Mr. Katz moved to authorize the Board Chair to correspond with the Secretary of Public Safety
229 and a copy to the Director expressing the Boards concerns over potential budget cuts, and in the

230 specific areas of the elimination photo processing section and the impact it will have on the
231 smaller law enforcement agencies of the Commonwealth, which was seconded by Sheriff Lippa
232 and adopted by majority vote of the Board..

233

234 Ms. Juran reminded the Board of the Conflict of Interest training which needs to be completed
235 every two years, and of the Financial Disclosure statement that is due by January 12, 2012 and
236 should be submitted to the Board by January 6, 2012.

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238 **Public Comment**

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240 None

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242 **Next Meeting**

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244 The Forensic Science Board will meet on Wednesday, May 9, 2012 at 9 a.m.

245

246 **Adjournment**

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248 Mr. Morrogh moved that the meeting of the Board be adjourned, which was seconded by Sheriff
249 Lippa and passed by unanimous vote.

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251 The meeting adjourned at 11:10 a.m.

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