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**DRAFT - Minutes**  
**Scientific Advisory Committee Meeting**  
**May 12, 2015**  
**Department of Forensic Science, Central Laboratory, Classroom 1**

**Committee Members Present**

Randall E. Beaty  
Maureen C. Bottrell  
Leslie E. Edinboro, Ph.D.  
Jo Ann Given  
Linda C. Jackson  
Alphonse Poklis, Ph.D.  
Richard P. Meyers, Chair  
Carl A. Sobieralski, Ph.D.  
Travis Y. Spinder  
Jami J. St. Clair  
Kenneth B. Zercie

**Committee Members Absent**

Robin W. Cotton, Ph.D.  
John V. Planz, Ph.D.

**Staff Members Present**

Wanda W. Adkins, Office Manager  
D. Jeffrey Ban, Central Laboratory Director  
David A. Barron, Ph.D., Deputy Director  
Sabrina Cillesen, Physical Evidence Program Manager  
Amy M. Curtis, Department Counsel  
Katya N. Herndon, Chief Deputy Director  
Bradford C. Jenkins, Biology Program Manager  
Melissa S. Kennedy, Calibration and Training Program Manager  
Alka B. Lohmann, Technical Services Director  
M. Scott Maye, Chemistry Program Manager  
Carisa M. Studer, Legal Assistant

**Call to Order**

Richard P. Meyers, the Chair of the Scientific Advisory Committee (“Committee”), called the meeting of the Committee to order at 10:00 a.m.

**Adoption of Agenda**

46 The Chair asked if there were any additions or changes to the draft agenda for the meeting. Being  
47 none, Ms. Given moved to adopt the agenda, which was seconded by Ms. St. Clair, and adopted  
48 by unanimous vote of the Committee.  
49

### 50 **Adoption of Minutes**

51  
52 The Chair asked if there were any changes or corrections to the draft minutes from the October  
53 14, 2014 meeting. Being none, Ms. Given moved to adopt the minutes from the October 14,  
54 2014 meeting, which was seconded by Mr. Zercie, and adopted by unanimous vote of the  
55 Committee.  
56

### 57 **Chair's Report**

58  
59 The Chair welcomed the Committee and thanked them for their attendance. The Chair did not  
60 have a report for the Committee for this meeting.  
61

### 62 **DFS Director's Report**

63  
64 Agency Events: Director Jackson advised the Committee of a media event held on April 13,  
65 2015 for the 10,000<sup>th</sup> DNA Data Bank Hit. Governor McAuliffe made the announcement at the  
66 press conference held at the Central Laboratory. Senator Mark Warner and Secretary Brian  
67 Moran also attended the event. Governor McAuliffe and Senator Warner toured the Forensic  
68 Biology Section of the Central Laboratory prior to the announcement.  
69

70 Facilities: Director Jackson updated the Committee on the Western Laboratory expansion and  
71 renovation project, which is on schedule. The project will double the square footage of the  
72 existing laboratory. The anticipated completion date for the new construction is December 2015,  
73 and the renovations to the existing laboratory are scheduled to begin in January 2016 with an  
74 expected completion date of August 2016.  
75

76 The Department was awarded detailed planning money in the budget for the expansion of the  
77 Central Laboratory. This project would allow the DFS operations currently housed across the  
78 street in Biotech 8 to be moved back into the expanded Central Laboratory. On May 7, DFS  
79 began conducting interviews to select an architect and engineering firm for the Central  
80 Laboratory project.  
81

82 Budget Outlook: Director Jackson updated the Committee on the Department's FY15 staffing  
83 adjustments. Due to revenue shortfalls, all agencies were asked to identify savings strategies to  
84 equal 5% of their FY15 budget and 7% of their FY16 budget. Director Jackson gave an  
85 overview of the Department's expenses and the budget reductions accepted to the DFS budget.  
86 The FY15 budget reductions were implemented on December 2014 and included the elimination  
87 of nine positions. Four individuals retired, and the other five individuals were placed in valid  
88 vacancies. The FY16 budget reductions will include the elimination of four administrative  
89 positions effective at the end of June 2015. During the Session, the General Assembly restored,  
90 for FY16, funding for eight scientist positions that had been either eliminated or held open in  
91 FY15.

92  
93 Director Jackson advised the Committee of other areas where the Department will be making  
94 reductions. DFS will reduce the frequency of replacing its scientific instrumentation.  
95 Additionally, DFS began discontinuing the analysis of marijuana plant material in simple  
96 possession cases in November 2014. Under current Virginia law, law enforcement officers are  
97 permitted to testify in court to the results of field tests regarding whether plant material is  
98 marijuana. DFS will conduct analysis on suspected marijuana plant material if there is a court  
99 order for the testing, which the law allows the defendant to request, or if the results of the field  
100 test are inconclusive. DFS will continue to purchase and distribute the marijuana field test kits to  
101 law enforcement agencies at no cost. The Department has seen a reduction in marijuana  
102 submissions since this submission policy went into effect in November 2014. Other reduction  
103 strategies include eliminating general fund support for discretionary training and delaying filling  
104 positions.

105  
106 Director Jackson gave an overview of the staffing impact and service reductions by discipline.  
107 She noted that two Digital Multimedia Evidence (DME) Section scientist positions were  
108 eliminated in the FY15 budget reductions. As a result, the DME Section eliminated video  
109 enhancements, audio enhancements and image comparisons. The funding for the two scientist  
110 positions has been restored for the FY16 budget, which will allow for the reinstatement of video  
111 enhancements.

112  
113 Three Trace Evidence Section scientist positions were eliminated due to the FY15 budget  
114 reductions. The Trace Evidence Section reduced a number of services as a result, including  
115 limiting primer residue analysis to cases where there is a shooting victim, and reducing services  
116 in fiber, hair, explosives, and general chemical analysis. All three positions were restored in the  
117 FY16 budget.

118  
119 Discussion ensued about DFS staffing and services. The Department has posted on its website  
120 the Policy Notices that delineate the reduction in services.

121  
122 Director Jackson informed the Committee that the FY15 and FY16 Budgets included funding to  
123 review archived case files and create a database of the historical files. Funding covers the cost of  
124 personnel, equipment, and data storage. Other budget items include funding for retesting of  
125 Post-Conviction DNA cases with “inconclusive” results, and funding for the expansion of the  
126 DNA Data Bank to include additional convicted misdemeanants. Additional DNA testing kits  
127 and laboratory supplies will be required to process the DNA samples from the adults who have  
128 been convicted of these additional misdemeanor offenses.

129  
130 Grants: Director Jackson gave a brief overview of all current grants. There are six current grants;  
131 the FY13 and FY14 DNA Capacity Enhancement and Backlog Reduction Program grants, the  
132 FY13 and FY14 Paul Coverdell grants, the *Abbott* Settlement Forfeiture grant, and the FY15  
133 Highway Safety grant.

134  
135 The Department continues to use the Paul Coverdell grants to provide continuing education and  
136 training to DFS staff. As a cost-effective way of training staff, DFS has elected to provide  
137 training to entire Sections by bringing outside speakers into the laboratory.

138  
139 The *Abbott* Settlement Forfeiture funds must be used within two years. These funds will be used  
140 to purchase equipment that will increase capacity and decrease turnaround times in the  
141 Chemistry Program Area. The FY15 Highway Safety Grant will be used to pay for costs  
142 associated with law enforcement personnel attending the initial breath alcohol operator licensure  
143 class and Breath Alcohol Section scientific staff receiving continuing education training. In  
144 addition, a portion of the funding for the Highway Safety Grant will be used to create and  
145 maintain a searchable online database of Breath Alcohol records, instrument certification  
146 information and statistical reports.

147  
148 The Department has one pending grant, which is the “Research and Development of Publicly  
149 Funded Forensic Science Laboratories to Assess the Testing and Processing of Physical  
150 Evidence.” If awarded, the funds will be used to develop, validate and disseminate two  
151 quantitative LC/MS/MS methods for the analysis of whole blood in accordance with the  
152 SWGTOX method validation guidelines.

153  
154 Finally, Director Jackson briefed the Committee on three grants which require approval by the  
155 Forensic Science Board (FSB). The grants that need approval are the FY15 Paul Coverdell  
156 Grant, the FY15 DNA Capacity Enhancement and Backlog Reduction Program, and the FY16  
157 Highway Safety Grant.

158  
159 Workload/Backlog: Director Jackson presented the Department’s statistics in quarterly format  
160 using graphs reflecting cases received, cases completed, the caseload, and the average number of  
161 days in the system for each section.

162  
163 Director Jackson brought to the Committee’s attention the Controlled Substances Section’s  
164 statistics, which show that, in the last quarter, the Section completed more cases than it received.

165  
166 For the Toxicology Section, improving turnaround times for medical examiner cases has been a  
167 priority for the Department. The Office of the Chief Medical Examiner must have a minimum of  
168 90% of toxicology reports completed within 90 days in order to meet their accreditation  
169 standards. The Western Laboratory is the Department’s only laboratory not currently meeting  
170 this timeline.

171  
172 Director Jackson also explained that the Trace Evidence Section’s quarterly statistics show that  
173 the number of cases received by the Section has decreased as a result of the new policy  
174 addressing the acceptance of cases for primer residue analysis.

175  
176 Senate Bill 658 Physical Evidence Recovery Kits (PERKs): Director Jackson updated the  
177 Committee on the status of SB 658. The Department created an online inventory form for all law  
178 enforcement agencies to use to report the untested PERKs in their custody. To date, 93% of law  
179 enforcement agencies had submitted their inventories. The Department will submit its report on  
180 the inventory to the General Assembly by July 1, 2015.

181  
182 The Committee inquired about the number of untested PERKs that have been reported to date.  
183 Director Jackson explained that approximately 2,300 had been reported statewide and gave an

184 overview of the reasons the agencies provided as to why they had not submitted the PERKs for  
185 testing.

186  
187 Toxicology Subcommittee Report: Dr. Alphonse Poklis reported to the SAC that the Toxicology  
188 Subcommittee met prior to the full committee meeting to discuss the Toxicology Procedures  
189 Manual; in particular, the new HPLC/MS/MS procedures for amphetamines and anti-epileptic  
190 drugs. The Subcommittee provided comments and made suggested changes to DFS staff for  
191 consideration. DFS will review the Subcommittee's suggestions and revise the procedures as  
192 needed.

193  
194 Dr. Poklis moved to recommend closure of the Toxicology Procedures Manual review, which  
195 was seconded by Ms. Given, and passed by unanimous vote of the Committee.

196  
197 **Program Area Updates**

198  
199 Forensic Biology Program Update: Biology Program Manager Brad Jenkins provided the  
200 Committee with an update on the DNA Data Bank's implementation of the new Fusion multiplex  
201 kits, which analyze 24 areas of DNA, an increase from the previous 16 areas. The Department  
202 started using the new kits in the Data Bank in April 2015. The expanded DNA kits will increase  
203 the discrimination ability of DNA Data Bank searches, and will make Virginia's Data Bank  
204 compatible with international databases in Europe and Asia.

205  
206 The Department went online with the 3500 genetic analyzers in the Data Bank. Four additional  
207 instruments were purchased for the regional laboratories. The new software GMIDx 64 is also  
208 online in the Data Bank. The Data Bank validation of the new instruments, software and  
209 chemistries was sent to the SAC DNA Subcommittee, which includes Dr. Cotton, Dr. Planz, and  
210 Dr. Sobieralski. Casework validation of the new instruments, software and chemistries has  
211 begun.

212  
213 Finally, Mr. Jenkins updated the Committee on the Post-Conviction Testing Project. The  
214 Virginia State Crime Commission (VSCC) has requested additional testing be done on cases  
215 with "inconclusive" results. Testing will be done using Y-STRs and/or Mini-STRs. The  
216 inconclusive cases will be individually reviewed and only cases where testing will be probative  
217 of a defendant's guilt or innocence will be sent for additional testing. The Department was  
218 allocated funds in the Budget to outsource the additional testing to a private laboratory.

219  
220 Calibration and Training Update: Calibration and Training Program Manager Melissa Kennedy  
221 provided the Committee with an update regarding the Breath Alcohol and the Forensic Training  
222 Sections. The Breath Alcohol Section has been working on a project to provide more public  
223 access to its records. Currently, certain Instrument Records in ".pdf" format are available on the  
224 DFS website dating from 2013 to the present. Grant funding received from the Virginia  
225 Highway Safety Office is being used to make additional records available on the Department's  
226 website in ".pdf" format. These records include additional instrument records, redacted subject  
227 test records, operator license information, and statistical reports. Anticipated completion date is  
228 the summer of 2015.

229

230 The Breath Alcohol Section sent out two online customer satisfaction surveys in April 2015.  
231 One survey was to the legal community, which included 10 questions that focused on expert  
232 witness testimony and the provision of records. To date, 236 responses have been received. The  
233 second survey went to law enforcement agencies and included 12 questions that focused on  
234 Operator training and instrument support. To date, 1,470 responses have been received.  
235 Responses to both surveys has been very positive. An overview of the responses will be  
236 provided at the next SAC meeting.

237  
238 The Training Section is currently updating portions of the Evidence Handling Guide on the  
239 Department's website for easier access on mobile devices. Previously, it was one large  
240 document that was slow to download and view on handheld devices. The Training Section also  
241 has obtained new software to enhance crime scene photography capabilities. The software  
242 allows for panoramas and virtual tours. Three workshops on the new software were offered to  
243 update law enforcement personnel, and it was added to the Forensic Science Academy (FSA)  
244 curriculum starting in the fall of 2014. Beginning in the spring of 2015, the FSA opened up the  
245 Laboratory Capabilities and Update retraining sessions to all law enforcement personnel.  
246 Previous retraining sessions were only open to FSA alumni.

247  
248 Chemistry Program Update: Chemistry Program Manager Scott Maye provided the Committee  
249 with an update on the Department's Chemistry Program area. All Uncertainty of Measurement  
250 budgets and reporting worksheets were updated December 31, 2014. Mr. Maye briefed the  
251 Committee on the 2014 "day of" uncertainty drugs which transitioned to statewide uncertainty  
252 drugs in 2015. Statewide uncertainty values were established for 26 additional drug compounds  
253 whose uncertainty was previously established the "day of" the quantitative measurement. The  
254 Department is developing liquid chromatography (LC) methods to analyze THC-A Oil and  
255 Cannabidiol Oil, and investigating a protocol to analyze crystalline/powdered alcohol. During  
256 the 2015 General Assembly Session, the Code of Virginia was amended to include these  
257 substances so the Department may be required to analyze for them.

258  
259 Mr. Maye gave a brief overview of the cannabimimetic agents and research chemicals that have  
260 been added to the controlled substances analog statute. Mr. Maye explained the statute that  
261 authorizes the Board of Pharmacy to amend its regulations via an expedited regulatory process to  
262 temporarily place substances in Schedule I or Schedule II. Once the Board of Pharmacy has  
263 temporarily placed the substance in Schedule I or Schedule II, the General Assembly has 18  
264 months to take action to enact it into law. The Department provides quarterly information to the  
265 Board of Pharmacy about substances that it may want to consider adding to Schedule I or II  
266 using the expedited regulatory process. The next Board of Pharmacy meeting will be in June  
267 2015, and the Department has provided its recommendations.

268  
269 Mr. Maye updated the Committee on new instrumentation. The AccuTOF-DART instruments  
270 have been delivered and installed in the Controlled Substances Sections in the three regional  
271 laboratories. They are currently undergoing verification. A statewide training was given to DFS  
272 staff on the instruments on April 21, 2015. New LC/MS/MS instruments have been delivered to  
273 the Toxicology Sections in all four DFS laboratories and are currently being installed. A new  
274 XRD has been received, installed, and verified in the Central Laboratory Trace Evidence

275 Section. Funding has been requested to purchase a new SEM-EDS for the Trace Evidence  
276 Section, and the Department is currently researching a new instrument.

277  
278 Physical Evidence Program Update: Physical Evidence Program Manager Sabrina Cillessen  
279 updated the Committee on her program area. The Latent Prints Section has changed its analysis  
280 approach from “value for individualization” to “value of comparison”. The type of  
281 documentation associated with exclusions was also changed to implement a more robust and  
282 transparent process. The Latent Prints examiners have undergone training focused on exclusions  
283 and latent print photography. There was a brief discussion by the Committee on the different  
284 exclusion levels.

285  
286 Ms. Cillessen updated the Committee on the DME section. She expanded on Director Jackson’s  
287 earlier explanation of the reduction to the DME Section and the restoration of budget funding for  
288 DME. Services for video analysis examinations will be restored. Two new systems were  
289 purchased for use in video analysis examinations, and DME examiners will receive training on  
290 both systems.

291  
292 Ms. Cillessen gave a brief update on the Firearms and Toolmarks Section. The Firearms and  
293 Toolmarks Section received training in March 2015 to advance and refresh the examiners  
294 knowledge of Sub-Class. The Section’s Uncertainty of Measurement was also updated for 2015.

295  
296 The Questioned Documents section has received a new video spectral comparator. The new  
297 instrument will be used in the analysis of fraudulent documents.

298  
299 **Other Business**

300  
301 Scientific Advisory Committee By-Laws: Chief Deputy Director Katya Herndon reminded the  
302 Committee that amending the SAC By-Laws requires 2/3 vote of members present at a meeting  
303 and that the proposed amendments must have been submitted to the Committee in writing at its  
304 previous meeting. Ms. Herndon had presented the proposed amendments to the Committee at  
305 the October 14, 2014 meeting. Ms. Herndon reviewed each of the proposed amendments at that  
306 meeting, the majority of which were the result of statutory changes that have been made to the  
307 laws impacting the Committee since the By-Laws were initially adopted. Mr. Beatty moved that  
308 the Committee accept the proposed changes to the By-Laws, which was seconded by Mr. Zercie,  
309 and passed by unanimous vote.

310  
311 2015 Legislative Update: Ms. Herndon advised the Committee that the Department had two  
312 agency bills in the 2015 General Assembly Session. The first bill, which was carried by  
313 Delegate Watts, grants the State Police the explicit authority to seek confirmation from the DNA  
314 Data Bank about whether any person required to register with the Sex Offender Registry has  
315 provided a DNA sample to the DNA Data Bank. The bill streamlines the process and allows  
316 DFS to directly notify State Police whether persons in the Sex Offender Registry have provided  
317 DNA samples as required by law. The bill’s language mirrors the language in the juvenile  
318 offender DNA Data Bank statute. The second DFS bill, which was carried by Senator Marsden,  
319 grants law enforcement agencies the authority to donate unclaimed firearms to DFS for use in its  
320 reference collections. Previously, the statute required law enforcement to destroy any unclaimed

321 firearm once it has been in their possession for more than 60 days, provided there were  
322 reasonable attempts made to notify the rightful owner, and the Commonwealth's Attorney had  
323 advised that the firearm is not needed for criminal prosecution. The bill provides law  
324 enforcement with the option of donating an unclaimed firearm to DFS for use in its reference  
325 collections in lieu of destroying the firearm. DFS must agree to the donation of any such  
326 unclaimed firearm.

327  
328 Ms. Herndon also informed the Committee of other legislation related to the Department that  
329 passed the General Assembly. There were three different bills introduced that would have  
330 required sampling of persons convicted of additional specified misdemeanors for the Data Bank.  
331 The bills, as passed, add nine more misdemeanors and apply only to adults who are convicted of  
332 the offenses. It was estimated that an additional 3,265 would be received annually as a result of  
333 nine new offenses being added to statute. The Department anticipates being able to absorb the  
334 additional samples with existing staff; however, there is an estimated \$31 per sample cost to the  
335 Data Bank for testing kits and laboratory supplies. Accordingly, \$101,200 was added to DFS  
336 budget ( $\$31 \times 3,265$ ) to offset these additional costs to DFS. Additionally, as a result of an  
337 increased withdrawal fee for the collection of each sample, the bills resulted in a positive fiscal  
338 impact to the state of nearly \$68,000 annually.

339  
340 There were two bills related to marijuana. The first bill establishes a licensing program for the  
341 cultivation of industrial hemp. As introduced, the bills would have required DFS to quantitate  
342 all marijuana cases to differentiate marijuana from industrial hemp. DFS estimated it would  
343 require an additional 41 Controlled Substances examiners because of the time consuming nature  
344 of quantitations. The bills were amended to alleviate DFS' concerns and eliminate its fiscal  
345 impact. The second marijuana bill addresses the possession of marijuana for medical purposes.  
346 It creates an affirmative defense to possession of marijuana where Cannabidiol oil or THC-A oil  
347 is possessed pursuant to a valid written certification from a doctor to treat or alleviate the  
348 symptoms of intractable epilepsy.

349  
350 Ms. Herndon also reviewed the bills that add to Schedule I in the Code the three new compounds  
351 added temporarily to Schedule I by the Board of Pharmacy via the expedited regulatory process.  
352 There was also a Board of Pharmacy bill that removes hydrocodone combination products from  
353 Schedule III, and classifies tramadol and two other drugs as Schedule IV controlled substances.  
354 Finally, she advised the Committee of bills that add powdered or crystalline alcohol to the  
355 definition of alcoholic beverages and prohibit containers sold in or shipped into the  
356 Commonwealth from containing such product. The bill make it a class 1 misdemeanor for  
357 anyone to purchase, possess, offer for sale or use, sell or use a powdered or crystalline alcohol  
358 product.

359  
360 Request from ASCLD/LAB:

361 Director Jackson reminded the Committee that the FSB agreed to be designated as an interested  
362 party for ASCLD/LAB. Being aware that there may be instances when it would be advantageous  
363 for the Committee to review and comment on proposed changes from ASCLD/LAB, the FSB  
364 also agreed to disseminate information it received from ASCLD/LAB as an interested party to  
365 the SAC, as applicable, and request that the SAC respond back directly to the Board with its  
366 recommendations.

367  
368 Director Jackson informed the Committee that ASCLD/LAB recently sent a notice to all  
369 interested parties that draft policies and documents are open for comment from the National  
370 Commission on Forensic Science (NCFS). This notice was forwarded directly to the Committee  
371 since the FSB is meeting on May 13, 2015 and comments are due by May 15, 2015. The  
372 Department wanted to give the Committee an opportunity to look at the NCFS documents and  
373 provide any input to the FSB before the May 15, 2015 deadline.  
374

375 Director Jackson provided background information on the NCFS, which is a federal advisory  
376 committee to the U.S. Attorney General. The Committee discussed the NCFS documents open  
377 for comment and whether or not the Committee had a recommendation for the FSB. Given the  
378 limited time available, the consensus of the Committee was that they would each take the time to  
379 review the documents and make any comments directly to the NCFS as individuals.  
380

381 Freedom of Information Act (FOIA) Update: Department Counsel Amy Curtis presented  
382 information to the Committee on FOIA Electronic Meeting rules and requirements. Scheduled  
383 electronic meetings are provided for by Virginia Code § 2.2-3708. A quorum of the body must  
384 be physically assembled at the primary location and remote locations must be open to the public.  
385 Notice must be provided three working days in advance. Members may also participate  
386 electronically under Virginia Code § 2.2-3708.1 for an emergency or personal matter, if the body  
387 has adopted a policy to permit remote participation. Ms. Curtis had drafted and shared with the  
388 SAC a Policy on Individual Participation in SAC Meetings by Electronic Means for an  
389 emergency or personal matter. The draft policy was based on FOIA Council's policy. Mr.  
390 Zercie made a motion to accept the Policy on Individual Participation in SAC Meetings by  
391 Electronic Means under Virginia Code § 2.2-3708.1, which was seconded by Mr. Sobieralski,  
392 and passed by unanimous vote.  
393

394 **Public Comment**

395  
396 None  
397

398 **Next Meeting**

399  
400 The Scientific Advisory Committee will meet Wednesday, October 14, 2015.  
401

402 **Adjournment**

403  
404 The Chair asked if there was a motion to adjourn. Dr. Poklis moved that the meeting of the SAC  
405 be adjourned, which was seconded by Ms. Given, and passed by unanimous vote.  
406

407 The meeting adjourned at 1:00 p.m..