

1 **Draft- Minutes**  
2 **Forensic Science Board Meeting**  
3 **April 30, 2014**

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

6 **Board Members Present**  
7

8 John G. Colligan, Jr., Designee of Francine C. Ecker, Director, Department of Criminal Justice  
9 Services

10 W. Steven Flaherty, Colonel, Virginia State Police Superintendent

11 Jo Ann Given, Forensic Science Board Chair and Member, Scientific Advisory Committee

12 William T. Gormley, M.D., Chief Medical Examiner

13 Karl R. Hade, Executive Secretary of the Supreme Court

14 Kristen J. Howard, Designee of Senator Thomas K. Norment, Jr., Chair, Virginia State Crime  
15 Commission

16 Caroline D. Juran, Executive Director, Board of Pharmacy

17 Alan Katz, Designee of Attorney General Mark R. Herring

18 Anthony A. Lippa, Jr., Sheriff, Caroline County

19 David A. C. Long, Esq.

20 Henry L. Marsh, III, Senator and Chair, Senate Courts of Justice Committee

21 Jami J. St. Clair, Member, Scientific Advisory Committee

22 Claiborne H. Stokes, Jr., Commonwealth's Attorney, Goochland County  
23

24 **Board Members Absent**  
25

26 Delegate Richard L. Morris (Designee of Delegate David B. Albo, Chair, House Courts  
27 Committee)  
28

29 **Legal Counsel for the Forensic Science Board**  
30

31 K. Michelle Welch, Assistant Attorney General  
32

33 **Staff Members Present**  
34

35 Wanda W. Adkins, Office Manager

36 D. Jeffrey Ban, Central Laboratory Director

37 Sabrina S. Cillesen, Physical Evidence Program Manager

38 Jenny P. Duffy, Breath Alcohol Section Supervisor

39 Leslie H. Ellis, Human Resources Manager

40 Linda C. Jackson, Department Director

41 Bradford C. Jenkins, Forensic Biology Program Manager

42 Alka B. Lohmann, Director of Technical Services

43 M. Scott Maye, Chemistry Program Manager

44 Stephanie E. Merritt, Department Counsel

45 John Przybylski, Controlled Substances Section Supervisor

46 Carisa M. Studer, Legal Assistant

47 **Call to Order**

48  
49 Jo Ann Given, the Forensic Science Board (“Board”) Chair, called the meeting of the Board to  
50 order at 9:00 a.m.

51  
52 **Adoption of Agenda**

53  
54 The Chair asked if there were any additions or changes to the draft agenda for the meeting.  
55 Being none, Ms. Juran made a motion to adopt the agenda, which was seconded by Ms. St. Clair  
56 and adopted by unanimous vote of the Board.

57  
58 **Approval of Draft Minutes of the January 6, 2014 Meeting**

59  
60 The Chair asked if there were any changes or corrections to the draft minutes from the January 6,  
61 2014 meeting. Being none, Mr. Hade made a motion to adopt the minutes of the January 6, 2014  
62 meeting, which was seconded by Mr. Long and adopted by unanimous vote of the Board.

63  
64 **Chair’s Report**

65  
66 There was no formal report from the Chair; instead, she welcomed the Board and thanked the  
67 members for their attendance.

68  
69 **Scientific Advisory Committee Chair’s Report**

70  
71 Jami St. Clair, Chair of the Scientific Advisory Committee (“SAC”), reported to the Board that  
72 the SAC met on April 29, 2014. Ms. St. Clair advised that the Latent Prints Subcommittee  
73 completed its review of the Latent Prints Procedures Manual and that the Trace Evidence  
74 Subcommittee completed its review of the Trace Evidence Procedures Manual. A Toxicology  
75 Subcommittee was appointed to review the Toxicology Procedures Manual. Dr. Teresa Gray,  
76 Central Laboratory Toxicology Section Supervisor, gave a presentation to the SAC that provided  
77 an overview of the Toxicology Section’s procedures. The Forensic Biology (DNA)  
78 Subcommittee will be reviewing the validation for the new instrumentation in the DNA Data  
79 Bank.

80  
81 Ms. St. Clair announced the results of the annual elections for the Chair and Vice-Chair of the  
82 SAC. Richard Meyers was elected as Chair, and Jo Ann Given was re-elected as Vice-Chair.  
83 Mr. Meyers appointed Ms. Given and Dr. Robin Cotton to serve as the SAC representatives on  
84 the Board for the coming year.

85  
86 **DFS Director’s Report**

87  
88 Director Jackson welcomed the Board and introduced Michelle Welch from the Attorney  
89 General’s Office, who will serve as the Board’s new legal counsel. Since the January Board  
90 meeting, former Chief Deputy Director Gail Jaspens retired from the Commonwealth of Virginia.  
91 Director Jackson introduced Katya Herndon, newly appointed Chief Deputy Director, to the

92 Board. Ms. Herndon, who will begin her new position with the Department on May 10, 2014,  
93 will work closely with the Board and SAC.

94  
95 Facilities: Director Jackson gave an update on the renovations in the Eastern and Western  
96 Regional Laboratories. Demolition of the old school house building at the Western Laboratory  
97 has been completed. Construction is scheduled to begin June 2014 with an anticipated  
98 completion date of December 2015. Renovations of the current Western Laboratory building  
99 will begin in January 2015 after the new construction is finished, with an estimated completion  
100 date of August 2016. Ms. Jackson shared a story of a time capsule that the construction crew  
101 found in the old school house that was published a local Roanoke newspaper. The time capsule  
102 had a lot of water damage, but a Bible and three 1939 nickels were salvaged.

103  
104 The Eastern Laboratory expansion and renovation project is complete.

105  
106 As reported at the last Board meeting, there is detailed planning money in the budget for the  
107 expansion of the Central Laboratory. Once the budget is approved by the General Assembly, the  
108 Department will be able to move forward, which would expand the Central Laboratory building  
109 onto the land that is now the parking lot. A parking deck is included as part of the expanded  
110 building. The Office of the Chief Medical Examiner (OCME) and DFS offices that are currently  
111 in the Biotech 8 building will move into the expanded Central Laboratory. Projected completion  
112 is estimated for sometime in 2019.

113  
114 Budget Outlook: Director Jackson provided an overview of the Department's budget. She  
115 reported that, in the Governor's introduced budget for FY15-16, there is funding for four new  
116 Forensic Scientist positions; two for Controlled Substances, one for Toxicology and one for  
117 Forensic Biology. Director Jackson also noted that, in FY14, there was a one time savings  
118 transferred to the general fund from the Department relating to the proceeds from surplus  
119 equipment that was auctioned. Additionally, there was a budget amendment introduced in both  
120 the House and Senate that would create three additional Forensic Biology positions to test  
121 Physical Evidence Recovery Kits (PERKs) submitted to the Department. DFS is waiting on the  
122 budget process to be completed before hiring for these positions.

123  
124 Grants: Director Jackson gave an overview of all current grants. She reported that the Office of  
125 the Attorney General approved the Department's request for *Abbott* Settlement Forfeiture funds.  
126 A memorandum of understanding was signed on April 22, 2014. These funds will be used to  
127 purchase equipment that will increase capacity and decrease turnaround time in the Chemistry  
128 Program Area. The Department must expend the funds within 24 months from the date of  
129 transfer.

130  
131 Director Jackson presented the FY 2014 Paul Coverdell National Forensic Science Improvement  
132 Grant to the Board for approval. This grant was previously approved by the Chair and Vice-  
133 Chair. The Department will use the funding to provide continuing education opportunities for  
134 approximately 140 scientists in the Physical Evidence, Chemistry, and Calibration and Training  
135 Program Areas. Colonel Flaherty made a motion to approve the Department's grant application  
136 for the FY 2014 Paul Coverdell Grant and to approve the Department's acceptance of the grant

137 funds, if awarded, which was seconded by Ms. St. Clair. The motion was adopted by unanimous  
138 vote of the Board.

139  
140 Next, Director Jackson presented the DMV Highway Safety Grant to the Board, which also had  
141 been previously approved by the Chair and Vice-Chair. The DMV grant funds will be used to  
142 pay costs associated with law enforcement personnel attending the class for initial breath alcohol  
143 operator licensure and for Breath Alcohol scientific staff to receive continuing education. In  
144 addition, a portion of the grant funding will be used to create and maintain an online database of  
145 Breath Alcohol records. Dr. Gormley made a motion to approve the Department's grant  
146 application for the DMV Highway Safety Grant and to approve the Department's acceptance of  
147 the grant funds, if awarded, which was seconded by Mr. Long. The motion was adopted by  
148 unanimous vote of the Board.

149  
150 Workload/Backlog: Director Jackson reviewed the 30-60-90-120 day workload summary report,  
151 which reflected average days in the system for cases completed by each Section for the month of  
152 March 2014. She also presented the Department's statistics in quarterly format using graphs  
153 reflecting cases received, cases completed and the caseload for each section.

154  
155 Director Jackson brought to the Board's attention the Controlled Substances Section's statistics.  
156 The Department continues to receive more cases than are completed each month. The Section  
157 has had a 10 percent increase in cases received since 2011. Additionally, examiners are  
158 spending more time in court which keeps them from doing casework in the laboratory, and some  
159 of the drugs being received are more complex, requiring more time for examinations. Director  
160 Jackson noted that, once the budget is approved, DFS can move forward with hiring two more  
161 Controlled Substances examiners.

162  
163 The Board discussed the time table of having Controlled Substances reports complete and how it  
164 may be affecting the Courts. The Department is not aware of any specific cases that have been  
165 dismissed due to a Controlled Substances report not being available. The addition of two more  
166 Controlled Substances examiners is expected to decrease the turn-around time for Controlled  
167 Substances cases.

168  
169 Reaccreditation: Director Jackson reminded the Board of the Department's upcoming  
170 ASCLD/LAB *International* Accreditation assessment. The Department's current accreditation  
171 expires on September 11, 2014. DFS submitted its reaccreditation application on October 4,  
172 2013, and ASCLD/LAB acknowledged receipt. Two lead assessors have been assigned to  
173 manage the assessment for the Department's four regional laboratories and its calibration  
174 laboratory. A total of 26 or 27 assessors are scheduled for onsite visits starting May 12, 2014.

## 175 176 **Old Business**

177  
178 Post-Conviction DNA Testing Program and Notification Project: Kristen Howard, Chair of the  
179 Notification Subcommittee, provided the Board with an update on the notification project since  
180 the last Board meeting. The Virginia State Crime Commission Staff (VSCC) has received  
181 assistance from volunteers with the Indigent Defense Commission. They have been working  
182 diligently on finding address information and preparing notification mailings for suspects. These

183 recent notification mailings began in February 2014. A number of suspect confirmations have  
184 been made. Ms. Howard indicated that she believed the notification project is nearing  
185 completion and that the Subcommittee has exercised due diligence in locating suspects from the  
186 Post-Conviction DNA Testing Program. Further, she reported that resources used to find  
187 addresses for suspects have been exhausted. Ms. Howard gave a brief description of the process  
188 the volunteers have used to locate correct addresses for suspects. Letters have been mailed to  
189 multiple addresses for many suspects.

190  
191 The Board discussed the best way to conclude the notification portion of the Program. Senator  
192 Marsh suggested that the Board continue until all suspects have received notification. Ms.  
193 Howard asked the Board for suggestions on other ways notification can be made besides mailing.  
194 Ms. Howard suggested that a notice with a point of contact be posted on the Department's  
195 website. Director Jackson agreed to assist if the Board decided they would like a notice posted  
196 on the DFS website. Ms. Howard also suggested reaching out to the media as a way of notifying  
197 suspects.

198  
199 There was discussion on how this media outreach should be made and what information should  
200 be posted. The Board noted posting suspect names would be problematic, particularly with  
201 respect to privacy issues. Also, the Board noted there may be suspects who no longer live in the  
202 Commonwealth of Virginia. It was suggested that the Board publish a press release that may be  
203 picked up by the national media.

204  
205 Ms. Welch advised that the Board should be cautious about publishing any names or addresses if  
206 the Board decided to do any media outreach.

207  
208 Ms. Howard suggested that, before the Board sends out a press release, the Board should reach  
209 out to the Office of the Attorney General (OAG) and the Secretary of Public Safety (Secretary).  
210 The OAG and Secretary's office position should be taken into consideration and there could be a  
211 partnership on a final press release. Ms. Howard noted that a press release may receive more  
212 coverage if there was a partnership with the OAG and Secretary's office.

213  
214 Ms. Given concluded that the Board seemed to express interest in pursuing a press release.

215

## 216 **New Business**

217  
218 2014 General Assembly Review: Stephanie Merritt, Department Counsel, provided the Board  
219 with an overview of DFS agency bills and other bills of interest to the Department from the 2014  
220 General Assembly Session. HB 518, patroned by Delegate Morris, allows for the admissibility  
221 of electronic signatures on Certificates of Analysis. This bill will help move the Department  
222 toward its goal of becoming paperless. Currently, Certificates of Analysis must be hand-signed.  
223 The bill also includes language to allow the Certificates of Blood Withdrawal to be scanned and  
224 electronically submitted with the Certificates of Analysis.

225  
226 HB 395, patroned by Delegate O'Bannon, adds the Department to the definition of "public safety  
227 agency" in Code § 32.1-45.2, which allows the Department to obtain a court order for source  
228 HIV/Hepatitis testing when an employee has had an exposure incident in the workplace.

229  
230 SB 342, patroned by Senator McDougle, and HB 517, patroned by Delegate Morris, update the  
231 language addressing the Scientific Advisory Committee's membership. The bills require that the  
232 SAC members representing the International Association for Identification (IAI) and the  
233 Association of Firearms and Toolmark Examiners (AFTE) be members of their respective  
234 organizations' Boards at the time of initial appointment to the SAC, clarifying that IAI and  
235 AFTE members are still eligible to be SAC members when their IAI and AFTE Board terms  
236 expire during their membership on the SAC.

237  
238 Although not DFS agency legislation, Ms. Merritt also informed the Board of HB1112 and  
239 SB594, companion omnibus bills relating to synthetic drugs originally drafted by a Public Safety  
240 Working Group that included the Secretary of Public Safety, DFS, the Board of Pharmacy, the  
241 Office of the Attorney General, a Commonwealth's Attorney, and the Virginia State Crime  
242 Commission. The bills, among other things, repeal the synthetic cannabinoid statute enacted in  
243 2011 and move prohibited cannabimimetic agents to Schedule I of the Drug Control Act.

244  
245 Also, SB 658 will require law enforcement agencies to conduct an inventory of untested Physical  
246 Evidence Recovery Kits (PERKs) in their custody and report information on the inventory to  
247 DFS. DFS will establish the form of the inventory as well as the timeline for agencies to  
248 comply. DFS will report the inventory to the General Assembly on or before July 1, 2015. Ms.  
249 Merritt explained that DFS does not have any way to estimate how many untested PERKs law  
250 enforcement may report. She expects the inventory process will require law enforcement  
251 agencies to provide a reason why any untested PERKs may not have been submitted to the  
252 Department for testing. This bill does not become effective unless an appropriation effectuating  
253 its purposes is included in the budget.

254  
255 Regulations for Approval of Field Test Kits for Detection of Drugs; Instrumental Screen  
256 Devices: Ms. Merritt reported to the Board that DFS has been approached by the manufacturers  
257 of spectroscopy devices, which cost approximately \$20,000 per device, requesting the  
258 Department evaluate these screening devices as field test kits. Because these screening devices  
259 use spectroscopy to presumptively indentify controlled substances, DFS may need to change its  
260 regulations to broaden the definition of field tests as well as determine a separate evaluation  
261 process. The Department would consider changing the regulations to include these devices if it  
262 is important to DFS stakeholders. Ms. Merritt noted that only one stakeholder had expressed an  
263 interest in such a screening device to DFS and asked the Board if this is a regulatory action they  
264 would like the Department to consider pursuing.

265  
266 The Board asked several technical questions about the how the new screening devices  
267 functioned. John Przybylski, Central Laboratory Controlled Substances Section Supervisor,  
268 answered the Board's questions regarding the operation of one such device as demonstrated by  
269 the vendor. He also explained the evaluation process that the Department's Controlled  
270 Substances Section would have to complete in order to approve this type of screening device.  
271 He noted it would be costly and time consuming for the Department to take on evaluating the  
272 new screening devices. Mr. Przybylski did not have any information on how many of these new  
273 devices were being used by law enforcement in other states.

274

275 The Board discussed the possibility of law enforcement's interest in using the new screening  
276 devices, noting their cost and maintenance would need to be considered, and concluded there  
277 was no present need to consider changing the Department's regulations for the screening of field  
278 test kits. The Board will reconsider the issue if Virginia law enforcement agencies express an  
279 interest in purchasing and using such devices in the future.

280

281 **Annual Election of Board Chair and Vice Chair**

282

283 Colonel Flaherty nominated Ms. Given for re-election as Board Chair; the nomination was  
284 seconded by Ms. St. Clair and passed by unanimous vote of the Board. Dr. Gormley nominated  
285 Ms. Juran for re-election as Vice-Chair; the nomination was seconded by Ms. St. Clair and  
286 passed by unanimous vote of the Board.

287

288 **Public Comment**

289

290 None.

291

292 **Next Meeting**

293

294 The Forensic Science Board is scheduled to meet next on Wednesday, August 13, 2014, and  
295 October 15, 2014 at 9 a.m. The Board discussed rescheduling the August 13, 2014 meeting. A  
296 survey will be emailed to all Board members to potentially select a new date for the August  
297 meeting.

298

299 **Adjournment**

300

301 Sheriff Lipa moved that the meeting of the Board be adjourned, which was seconded by  
302 Mr. Long and passed by unanimous vote.

303

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

305