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Final - Minutes
Forensic Science Board Meeting
October 15, 2015
Department of Forensic Science, Central Laboratory, Classroom 1

Board Members Present

Vince Donoghue, Essex Commonwealth's Attorney and Designee of Senator Thomas K. Norment, Jr., and Senator Mark D. Obenshain, Co-Chairs, Senate Courts of Justice Committee (Forensic Science Board Chair)

Lieutenant Colonel Robert B. Northern, Deputy Superintendent, Virginia State Police, and Designee of Colonel W. Steven Flaherty, Superintendent, Virginia State Police

Jo Ann Given, Member, Scientific Advisory Committee

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

Karl R. Hade, Executive Secretary, Supreme Court of Virginia

Kristen J. Howard, Executive Director of the Virginia State Crime Commission and Designee of Senator Thomas K. Norment, Jr., Chair, Virginia State Crime Commission

Sammy Johnson, Deputy Executive Director, Board of Pharmacy, and Designee of Caroline Juran, Executive Director, Board of Pharmacy

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

David A. C. Long, Esq.

Alphonse Poklis, Ph.D., Member, Scientific Advisory Committee

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

Richard C. Vorhis, Esq., Senior Assistant Attorney General and Designee of Attorney General Mark R. Herring

Board Members Absent

Francine C. Ecker, Director, Department of Criminal Justice Services

Richard L. Morris, Delegate and Designee of Delegate David B. Albo, Chair, House Courts of Justice Committee (Tim Mitchell, Legislative Assistant to Delegate Rick Morris, attended the meeting on the Delegate's behalf)

Legal Counsel for the Forensic Science Board

Elizabeth Myers, Esq., Assistant Attorney General

Staff Members Present

Wanda W. Adkins, Office Manager

D. Jeffery Ban, Central Laboratory Director

Amy M. Curtis, Department Counsel

Leslie Ellis, Human Resource Director

Katya N. Herndon, Chief Deputy Director

Linda C. Jackson, Department Director

Bradford C. Jenkins, Forensic Biology Program Manager

Melissa Kennedy, Calibration and Training Program Manager

Alka B. Lohmann, Director of Technical Services

M. Scott Maye, Chemistry Program Manager

Carisa Studer, Legal Assistant

47 **Call to Order**

48 Vince Donoghue, Chair of the Forensic Science Board (“Board”), called the meeting of the
49 Board to order at 9:10 a.m. The Chair welcomed the Board members and the Department of
50 Forensic Science (“Department” or “DFS”) staff. The Chair also welcomed Sammy Johnson,
51 Deputy Executive Director of the Board of Pharmacy, who was attending the meeting as
52 Caroline Juran’s designee, and Tim Mitchell, Legislative Assistant to Delegate Rick Morris, who
53 was attending the meeting on the Delegate’s behalf.

54
55 **Adoption of Agenda**

56 The Chair asked if there were any additions or changes to the draft agenda for the meeting.
57 Being none, Dr. Poklis made a motion to adopt the agenda, which was seconded by Ms. Howard
58 and adopted by unanimous vote of the Board.

59
60 **Approval of Draft Minutes of the August 12, 2015 Meeting**

61 The Chair asked if there were any changes or corrections to the draft minutes from the August
62 12, 2015 meeting. Being none, Mr. Hade made a motion to adopt the minutes, which was
63 seconded by Ms. Howard and approved by unanimous vote of the Board.

64
65 **Chair’s Report**

66 There was no formal report from the Chair.

67
68 **DFS Director’s Report**

69 Director Jackson informed the Board that the Department will be hosting a news conference and
70 reception with Trane[®] and that DFS will receive an award from Trane celebrating its nationally
71 recognized energy efficiency project for the Commonwealth of Virginia. The event will be held
72 on October 29, 2015 at the Central Laboratory.

73
74 Director Jackson advised the Board of the many recent conferences DFS staff has attended and
75 provided training at, including for the Virginia Court Clerk’s Association, the Virginia Sheriffs’
76 Association, the Roanoke Bar Association, the Virginia Association of Commonwealth’s
77 Attorneys Board and the Forensic Science Academy Alumni Retraining. Additionally,
78 Department Counsel Amy Curtis will be speaking at upcoming events for the Virginia
79 Association of Criminal Defense Lawyers and the Richmond Paralegal Association.

80
81 Director Jackson provided information on the number of misdemeanor samples submitted to the
82 DNA Data Bank as a result of the law that went into effect July 1, 2015 that requires adults
83 convicted of nine additional misdemeanor offenses to provide samples for the DNA Data Bank.
84 The additional offenses include: violation of protective order, stalking, violation of stalking
85 protective order, infected sexual battery, unauthorized use, unlawful entry, indecent exposure,
86 obscene sexual display, and resisting arrest. The Department has seen an increase in submissions
87 to the DNA Databank since the additional misdemeanors offenses were added to the statute.

88
89 Director Jackson also shared with the Board that the Department will be distributing a customer
90 satisfaction survey to its user agencies by early November using SurveyMonkey[®]. The survey
91 will include questions about National Integrated Ballistic Information Network (NIBIN) search
92 needs and Toxicology and Controlled Substances report needs.

93
94 Director Jackson updated the Board on the archived case file project. DFS is in the process of
95 hiring two wage employees to scan the archived case files (1973-1995) not in the laboratory
96 information management system (LIMS). There is funding for up to four wage employees.
97 Portions of the files will be scanned into a database that will be searchable, and the information
98 from the database will be able to be uploaded into the upgraded LIMS. There are approximately
99 one million case files to be scanned. The database is currently undergoing testing.

100

101 Facilities:

102 Director Jackson informed the Board of the status of the Western Laboratory expansion and
103 renovation project. Currently, the project is on budget, but it is about a half month behind
104 schedule. The delay is due to the fact that the manufacturer of the casework or cabinetry for the
105 new laboratory space is behind schedule.

106

107 Director Jackson reminded the Board that the Department was awarded detailed planning money
108 in the budget for the expansion of the Central Laboratory. Negotiations are still underway for
109 the contract with an architectural and engineering firm for the project, which will allow the DFS
110 operations currently housed in Biotech 8 to move back into the expanded Central Laboratory.

111

112 Retesting of Post-Conviction DNA Cases:

113 Director Jackson updated the Board on the retesting of post-conviction DNA cases with
114 “inconclusive” results. The Department is in the procurement process for the private laboratory
115 testing contract. The contract should be in place within the next few weeks. The \$150,000
116 provided in the budget should be sufficient to outsource the retesting of all “inconclusive” cases
117 recommended for additional testing.

118

119 AccuTOF-DART:

120 DFS has purchased three new AccuTOF-DART instruments with *Abbott* Settlement funds. Now
121 each DFS laboratory has one of these instruments. Staff has completed training and competency
122 testing on the instruments. The new instruments screen for synthetic drugs and improve case
123 turnaround times in the Controlled Substances Section.

124

125 Grants:

126 Director Jackson briefly updated the Board on the Department’s current grants which were
127 awarded since the August meeting: the NIJ Research and Development of Publicly Funded
128 Forensic Science Laboratories to Assess the Testing and Processing of Physical Evidence; the
129 2016 Highway Safety Grant; the FY 2015 Paul Coverdell grant; the FY 2015 DNA Capacity
130 Enhancement and Backlog Reduction Program grant; and the New York County District
131 Attorney’s Office Sexual Assault Kit Backlog Elimination Program.

132

133 She also informed the Board that there is one pending grant application.

134

135 Workload/Backlog: Director Jackson presented the Department’s statistics in quarterly format
136 using graphs reflecting cases received, cases completed, the caseload, and the average number of
137 days in the system for each Section. Director Jackson pointed out how the cases received by the

138 Controlled Substances Section have decreased since the implementation of the revised marijuana
139 submission policy.

140
141 The Firearms Section continues to see an increase in submissions due to the Bureau of Alcohol,
142 Tobacco, Firearms, and Explosives (ATF) encouraging law enforcement agencies to submit all
143 guns for entry into the NIBIN system.

144
145 Director Jackson reminded the Board that there has been an increase in the turnaround time for
146 the Forensic Biology Section over the past year due to the new requirements nationally for
147 increased forensic biology statistics. Currently, there are six new Forensic Biology examiners in
148 training.

149
150 Director Jackson noted that, although the Toxicology Section has slightly decreased case
151 turnaround times for the past several quarters, the delays are still impacting the Office of the
152 Chief Medical Examiner and DUI-D cases.

153
154 Director Jackson also reminded the Board that the Trace Evidence Section lost three scientist
155 positions through budget reductions last year that were restored during the General Assembly
156 Session. The Department has filled one position and the newly hired examiner is in training.
157 However, two of the positions are still in the recruitment process.

158
159 **Old Business**

160
161 Status of the Post-Conviction DNA Testing Program and Notification Project
162 Kristen Howard, Chair of the DNA Notification Subcommittee, reminded the Board that, as of
163 the Board's August meeting, the majority of the "inconclusive" case files had been reviewed and
164 recommendations for testing had been made. At that time, there were 10 cases outstanding that
165 still needed be reviewed, and all but one of the ten has now been resolved. There are 34 cases
166 recommended for retesting, and 386 cases where no further testing was recommended.

167
168 Ms. Howard noted that the retesting for the 34 cases has not begun due to the procurement
169 process. Therefore, she will not be able to give the VSCC an update on any results at the next
170 VSCC meeting.

171
172 There was discussion with Department staff about the award of the bid to a private laboratory
173 and the turnaround times of the testing from that laboratory. DFS expects the bid to be awarded
174 within the next couple of weeks.

175
176 After the next Crime Commission (VSCC) meeting, VSCC staff will be manually reviewing the
177 "eliminated" files from the project to confirm the testing and notification status of each listed
178 suspect in each case and enter the information into a database.

179
180 SB658 PERK Inventory Update:
181 Ms. Herndon updated the Board on the status of the PERK Inventory project. The PERK
182 Inventory Report that was submitted to the General Assembly on July 1, 2015 will be updated
183 and resubmitted as a revised report. Subsequent to submitting its report to the General Assembly

184 on July 1, an agency provided DFS with an updated inventory and pointed out that the
185 instructions for completing the inventory form may have been unclear with regard to which
186 PERKs were required to be counted for the inventory. When DFS staff looked back at the
187 materials, they concluded that, if the instructions for completing the form were read in isolation
188 without any of the other information that was disseminated, they could have been misinterpreted
189 as only seeking PERKs for calendar year 2013.

190
191 In light of the issue regarding the inventory form instructions, DFS staff reviewed all of the
192 inventories and directly contacted every agency that only reported kits for CY2013 to see if they
193 were under the misperception that they were only to count kits for CY2013. DFS also directly
194 contacted a number of the 247 agencies that reported no kits on their inventories to confirm they
195 had no untested kits at all in their custody and were not just reporting they had no kits for
196 CY2013. After identifying several additional agencies that indicated they needed to update their
197 inventories, DFS sent an email out to the agency contacts listed on the inventory for the
198 remaining 383 reporting agencies that had not been directly contacted to advise of the potential
199 confusion with the instructions and ask that they review their inventory, revise it, if needed, and
200 return any updates to DFS by Monday, October 5th. The Department is in the process of
201 reviewing the new data.

202
203 Ms. Herndon also advised the Board that the PERK Work Group had its first meeting on
204 September 17, 2015 at the Central Laboratory. The Secretary of Public Safety and Homeland
205 Security Brian Moran is the Chair of the Work Group. Members include First Lady Dorothy
206 McAuliffe and representatives from victim advocacy groups, Commonwealth's Attorneys, the
207 criminal defense bar, law enforcement and forensic nurses.

208
209 At the initial PERK Work Group meeting, the following presentations were given: Senator
210 Black discussed the history of Senate Bill 658; Ms. Herndon presented an overview of the PERK
211 Inventory, Biology Program Manager Brad Jenkins gave a presentation on testing considerations,
212 and Department Counsel Amy Curtis gave an overview of state laws regarding PERK testing.

213
214 The Work Group created four subcommittees (Hospital/Collections Issues, the Law
215 Enforcement/Submission Issues, Testing/Data Bank Issues, and the Victim Consent and
216 Notification Issues). The Subcommittees will meet and report recommendations back to the full
217 Work Group at its next meeting scheduled for October 23, 2016.

218
219 **New Business**

220
221 **Annual Report of the Board:**

222 Ms. Herndon reminded the Board that Code § 9.1-1110 (B) specifies the six subjects that need to
223 be addressed in the Board's Annual Report that is due to the General Assembly by November 1,
224 2015. Ms. Herndon briefly reviewed the contents of the draft annual report that had been
225 disseminated to the Board. Ms. Herndon noted the portions of the report that will be updated
226 after the Board meeting, prior to the report being submitted. She will finalize the report and send
227 it to the Board for their review before submitting it to the General Assembly. The report will be
228 submitted with a cover letter from the Board signed by the Chair.

229

230 Ms. Howard suggested adding information on the increase of misdemeanor offender samples to
231 the DNA Databank as a result of the nine additional misdemeanors offenses added to the statute
232 on July 1, 2015. Ms. Herndon indicated she would include information on the additional
233 misdemeanor samples received by the Data Bank in the final version of the report she
234 disseminates to the Board for review.

235

236 **Public Comment**

237

238 None.

239

240 **Next Meeting**

241

242 The Forensic Science Board set its 2016 meeting schedule: January 6, 2016, May 11, 2016,
243 August 10, 2016, and October 13, 2016.

244

245 Ms. Studer reminded the Board that their Conflict of Interest Filings would be due by December
246 15, 2015.

247

248 **Adjournment**

249

250 Ms. Given moved that the meeting of the Board be adjourned, which was seconded by
251 Dr. Poklis and passed by unanimous vote.

252

253 The meeting adjourned at 10:20 a.m.