

1 **Final Minutes**
2 **Forensic Science Board Meeting**
3 **May 8, 2019**
4 **Department of Forensic Science, Central Laboratory, Classroom 1**
5

6 **Board Members Present**

7 Vince Donoghue, Essex Commonwealth's Attorney (Designee of Senator Mark D. Obenshain,
8 Chair, Senate Courts of Justice Committee)
9 Leslie E. Edinboro, Ph.D., Scientific Advisory Committee Member
10 James F. Entas, Assistant Attorney General (Designee of Attorney General Mark R. Herring)
11 William T. Gormley, M.D., Chief Medical Examiner
12 Kristen J. Howard (Designee of Senator Mark D. Obenshain, Chair, Virginia State Crime
13 Commission)
14 Caroline D. Juran, Executive Director, Board of Pharmacy
15 David R. Lett, Petersburg Public Defender, Vice-Chair/Acting Chair
16 Richard P. Meyers, Scientific Advisory Committee Member
17 Megan Peterson (Designee of Shannon Dion, Director, Department of Criminal Justice Services)
18 Colonel Gary T. Settle, Superintendent, Virginia State Police
19 Denise M. Toney, Ph.D., Director, Division of Consolidated Laboratory Services
20

21 **Board Members Absent**

22 Emily M. Brewer, Delegate (Designee of Delegate Robert B. Bell, Chair, House Courts of Justice
23 Committee)
24 Colonel Maggie A. DeBoard, Chief of Police, Town of Herndon Police Department Karl
25 R. Hade, Executive Secretary, Supreme Court of Virginia
26 Colette W. McEachin, Deputy Commonwealth's Attorney, City of Richmond, Chair
27

28 **Legal Counsel for the Forensic Science Board**

29 Michelle Welch, Assistant Attorney General
30

31 **Staff Members Present**

32 Wanda W. Adkins, Office Manager
33 Jeffrey D. Ban, Central Laboratory Director
34 David A. Barron, Ph.D., Deputy Director
35 Sabrina S. Cillesen, Physical Evidence Program Manager
36 Amy M. Curtis, Department Counsel
37 Leslie H. Ellis, Human Resources Director
38 Katya N. Herndon, Chief Deputy Director
39 James W. Hutchings, Ph.D., Toxicology Program Manager
40 Linda C. Jackson, Director
41 Bradford C. Jenkins, Biology Program Manager
42 Alka B. Lohmann, Director of Technical Services
43 M. Scott Maye, Chemistry Program Manager

44 Carisa M. Studer, Legal Assistant
45
46
47

48 **Call to Order**

49 David Lett, Vice-Chair, called the meeting to order at 9:36 a.m. He welcomed the Board members
50 and Department of Forensic Science (“Department” or “DFS”) staff, and thanked everyone for
51 their attendance. As Vice-Chair, Mr. Lett served as Acting Chair in the absence of Chair Colette
52 McEachin.
53

54 **Adoption of Agenda**

55 Mr. Lett asked if there were any additions or changes to the draft agenda for the meeting. Being
56 none, Dr. Edinboro made a motion to adopt the agenda, which was seconded by Mr. Donoghue
57 and adopted by unanimous vote of the Board.
58

59 **Approval of Draft Minutes of the January 3, 2019 Board Meeting**

60 Mr. Lett asked if there were any changes or corrections to the draft minutes from the January 3,
61 2019 meeting. Dr. Edinboro made a motion to approve the January 3, 2019 minutes, which was
62 seconded by Mr. Donoghue and passed by unanimous vote of the Board.
63

64 **Chair’s Report** None.
65

66 **Director’s Report**
67

68 Director Jackson announced to the Board that Alka Lohmann, Director of Technical Services,
69 received the Dr. Kurt M. Dubowski Award at the International Association for Chemical Testing
70 (IACT) Conference. Randall Beaty presented the award to Ms. Lohmann at a banquet held on
71 April 2, 2019 in conjunction with 2019 IACT Annual Conference.
72

73 **Facilities:**

74 Director Jackson updated the Board on facilities projects with the Central and Western
75 Laboratories. The General Assembly passed HB2057, which removes the requirement that the
76 central office and facilities of the Office of the Chief Medical Examiner (OCME) be located in the
77 City of Richmond. This legislative change was needed so that land outside the City of Richmond
78 could be considered for the Central Laboratory project. The roof on the original Western
79 Laboratory facility was replaced. This project was funded by the Department’s maintenance
80 reserve.
81

82 **Agency Update:**

83 Director Jackson reminded the Board that the Department’s current accreditation expires on
84 September 30, 2022. DFS will begin its transition to ISO/IEC 17025:2017 and AR 3125 on June
85 1, 2019. The offsite surveillance is currently in process. She also noted that the Footwear and Tire

86 Impressions discipline was added to the Western Laboratory’s Scope of Accreditation on April 18,
87 2019.

88

89 Agency Initiatives:

90 Director Jackson informed the Board that, over the next year, the Department will be providing
91 Arbinger Institute training (“Developing and Implementing an Outward Mindset”) for all staff.

92

93 Director Jackson updated the Board on the Department’s training for attorneys and judges. The
94 Department provided a one-day DNA Training for attorneys and judges last year in all four
95 regional laboratories. A stakeholder meeting was held on May 2, 2019 to review the results of a
96 survey of attendees from the 2018 DNA Training, seek input on potential changes to the DNA
97 Training, and discuss subjects for the 2019 trainings. DFS plans to offer the DNA Training again
98 in 2019. A four-hour training on breath alcohol and toxicology for drivers will also be offered at
99 each DFS laboratory in 2019.

100

101 Director Jackson reported to the Board that in April 2019 the Potomac Regional DNA Symposium
102 was held in Richmond. The Symposium is a mandatory training for Forensic Biology examiners.
103 Also in April, Amy Curtis, Department Counsel, organized a Forensic Laboratory Counsel
104 Training at the Central Laboratory. Approximately 25 attorneys who represent forensic
105 laboratories from across the country attended the training. The training was an opportunity for
106 laboratory counsel to come together to discuss numerous contemporary issues confronting
107 laboratories. Director Jackson announced that the 45th anniversary of the Forensic Science
108 Academy will be in December 2019 and that the 100th Academy class will graduate in April 2020.

109

110 Director Jackson shared a Notice Regarding Controlled Substances Submissions that was
111 disseminated to DFS user agencies on March 11, 2019, which provided an update on efforts by
112 DFS to address the increased backlog and turnaround times confronting the Controlled Substances
113 Section. Director Jackson reviewed the measures being taken in the Controlled Substances Section
114 to address the workload, including a Notice sent to customers in April 2019, which explained the
115 outsourcing process. Director Jackson also provided the Board with a sample controlled
116 substances report from the private laboratory.

117

118 Director Jackson gave an overview on staffing in the Controlled Substances Section, and concluded
119 with an update on the Lean Six Sigma project to increase efficiencies for the Controlled Substances
120 Section. A Request for Proposals for the project will be issued in the near future. She also noted
121 that the Department will continue to evaluate submission policy changes with customer input.

122

123 Director Jackson gave an overview to the Board of the industrial hemp laws passed during the
124 2019 General Assembly Session in response to the federal Farm Bill enacted in 2018, as well as
125 the potential issues created for the Department in determining whether an item is marijuana or
126 industrial hemp. Director Jackson explained that the current Duquenois-Levine field tests cannot
127 differentiate between marijuana and industrial hemp. The Department is currently working with
128 the Drug Enforcement Administration (DEA) to validate a field test kit that will evaluate the ratio

129 of tetrahydrocannabinol (THC) and cannabidiol (CBD) concentrations to assist law enforcement
130 in determining if plant material is marijuana or industrial hemp. There was significant discussion
131 among the members of the Board regarding industrial hemp and the issues involved for the
132 Department in analysis and reporting.

133
134 Director Jackson provided an update on the use of the Board of Pharmacy (BoP) expedited
135 regulatory process since the last meeting. The six compounds approved by the BoP in October
136 2018 became scheduled in April 2019. DFS recommended three additional compounds in January
137 2019, which the BoP approved in March 2019. These compounds are awaiting publication in the
138 Register of Regulations.

139
140 Director Jackson provided the Board with an update on the Forensic Biology program area. She
141 reviewed staffing levels, including examiners in training and positions in recruit. She gave an
142 overview of the validation projects that the Section is currently conducting, which include
143 Casework Direct for male DNA screening, Y-STR analysis, STR MIX software, and automated
144 robotic extractions for sexual assault evidence. Director Jackson advised the Committee of new
145 buccal sample collectors that will be used for the DNA Data Bank. The new collectors will allow
146 the Department to store more samples in one space. The Department's current instrumentation
147 supports the new collectors.

148
149 Director Jackson gave an update on the Physical Evidence program area, including two DFS Policy
150 Notices disseminated to DFS user agencies on March 11, 2019; a Firearms & Toolmarks Section
151 Notice on NIBIN Potential Association Notifications and a Digital & Multimedia (DME) Notice
152 addressing Automated Results for DME Examinations.

153
154 Director Jackson provided a Toxicology program area update, which focused on the Breath
155 Alcohol Section. She advised that the online recertification course for Breath Alcohol operators
156 has been well received and, to date, has been used by approximately thirty percent of officers being
157 recertified. She also shared information on the Breath Alcohol instrument enhancement.

158
159 Budget:
160 Director Jackson presented the DFS FY20 Budget for the Department to the Board. She noted the
161 \$1,660,000 in emergency funding the Governor approved for the Department for FY19 to provide
162 additional resources in response to the backlog of the Controlled Substances Section.

163
164 Meeting Break
165 Mr. Lett called for a 5-minute break at 11:00 a.m. He called the meeting back to order at 11:05
166 a.m.

167
168 Grants:
169 Direct Jackson shared a list of current grants with the Board.

170

171 Director Jackson described the CDC Opioid Joint Project Grant, which required the Board's
172 approval. The grant is a continuation of funds for a full-time examiner, part-time forensic
173 laboratory specialist, and supplies to support efforts at DFS to improve both the timeliness and
174 comprehensiveness of toxicological studies in death that are suspicious for opioid overdose.

175
176 Dr. Edinboro made a motion to authorize the Department to apply for and accept funds for the
177 CDC Opioid Joint Project Grant, if awarded. The motion was seconded by Mr. Donoghue and
178 approved by unanimous vote of the Board.

179
180 Director Jackson presented the NIJ Research and Evaluation for the Testing and Interpretation of
181 Physical Evidence in Publicly Funded Laboratories Grant for the Board's approval. The grant
182 will fund research in the Forensic Biology Section.

183
184 Dr. Gormley made a motion to authorize the Department to apply for and accept funds for the NIJ
185 Research and Evaluation for the Testing and Interpretation of Physical Evidence in Publicly
186 Funded Laboratories Grant, if awarded. The motion was seconded by Mr. Donoghue, and
187 approved by unanimous vote of the Board.

188
189 Director Jackson presented the DNA Capacity Enhancement and Backlog Reduction Grant and the
190 Paul Coverdell Forensic Science Improvement Grant for the Board's approval. Both grants are
191 continuation grants.

192
193 Ms. Juran made a motion to authorize the Department to apply for accept funds for both the DNA
194 Capacity Enhancement and Backlog Reduction Grant and the Paul Coverdell Forensic Science
195 Improvement Grant, if awarded. The motion was seconded by Mr. Donoghue, and approved for
196 unanimous vote of the Board.

197
198 Director Jackson provided an update on the New York County District Attorney's (DANY) Sexual
199 Assault Kit Backlog Elimination Program Grant, which funded the testing of kits collected, but
200 not submitted for analysis, prior to July 1, 2014. Ninety-nine law enforcement agencies submitted
201 1,805 kits to the private laboratory for testing. The private laboratory completed the testing and
202 submitted the data to DFS for review. The Department reviewed the private laboratory's results,
203 uploaded eligible profiles into the Data Bank for searching, and issued any resulting hit reports.
204 There were 519 profiles searched, and 209 hits obtained as of January 2, 2019.

205
206 Director Jackson gave an update on the National Sexual Assault Kit Initiative (SAKI) Grant, which
207 allows for testing of kits collected between July 1, 2014 and June 30, 2016. The Office of the
208 Attorney General conducted an inventory that identified 1,232 unsubmitted kits from that
209 timeperiod. As of May 1, 2019, 772 of those kits have been submitted to the private laboratory for
210 analysis.

211
212 DFS received funding under the SAKI Grant, as a sub-recipient of the Office of the Attorney
213 General, to develop a PERK Tracking System. Beta testing of this system will begin soon. The

214 Department is requesting the Board’s approval as the Attorney General’s Office is seeking
215 additional SAKI funds, including an additional year of funding for the PERK Tracking System
216 Coordinator grant position.

217
218 Mr. Donoghue made a motion to authorize the Department to accept funds for the National Sexual
219 Assault Kit Initiative (SAKI) Grant, if awarded. The motion was seconded by Mr. Entas, and
220 approved by unanimous vote of the Board.

221
222 Workload/Backlog:
223 Director Jackson provided the Board with an update on statistical trends in each of the scientific
224 disciplines, including quarterly data on backlog and turnaround times.

225
226 **Scientific Advisory Committee Report**
227 Dr. Edinboro, Scientific Advisory Committee (“SAC”) Member, gave a report to the Board of the
228 business of the SAC from its meeting held on May 7, 2019. The SAC heard presentations by DFS
229 Director Linda Jackson and all four Program Managers.

230
231 Dr. Edinboro reported to the Board that the SAC’s Breath Alcohol Subcommittee met on May 6,
232 2019 to consider updates to the Breath Alcohol Procedures Manual and Worksheets. The Breath
233 Alcohol Subcommittee provided comments and made suggestions for DFS to consider, and then
234 closed its review of the Breath Alcohol Procedures Manual and Worksheets.

235
236 Dr. Edinboro also reported to the Board that the SAC’s Toxicology Subcommittee met prior to the
237 SAC meeting. The Toxicology Subcommittee reviewed two validation documents, Qualitative
238 Analysis of Novel Psychoactive Substances using LCMSMS and Validation Summary of Fentanyl
239 Analog Qualitative Analysis by Protein Precipitation using LCMSMS. The Toxicology
240 Subcommittee also reviewed the following methods in development: Confirmation and
241 Quantitation of Fentanyl Derivatives in Biological Samples by Solid Phase Extraction Using
242 LCMSMS; Qualitative Drugs Screening Using High-Resolution Mass Spectrometry; GHB, GBL,
243 and 1, 4-Butanediol Quantitation and Confirmation Method by LCMSMS; and Nonsteroidal
244 AntiInflammatory Drugs Quantitation and Confirmation Method by LCMSMS. The Toxicology
245 Subcommittee provided recommendations to the Department for the validations and methods in
246 development, and then closed its reviews.

247
248 **Old Business**

249
250 Status of the Post-Conviction DNA Testing Program and Notification Project:
251 Kristen Howard provided an update on the case file review that staff from the Virginia State Crime
252 Commission (VSCC) has been conducting of cases from the Post-Conviction DNA Testing
253 Program and Notification Project. The review of the cases previously categorized as ineligible for
254 the Project is complete and will not be a part of the notification project. A final review of

255 “Breaking and Entering” cases is being conducted by DFS. Ms. Howard anticipates that a final
256 presentation will be ready for the July VSCC meeting and that it will be presented at the Board’s
257 next meeting.

258

259 Forensic Biology Case Reviews Update:

260 Brad Jenkins, Forensic Biology Program Manager, gave an update on the Serology Case Review
261 and the combined probability of inclusion (CPI) recalculation project.

262

263 Mr. Jenkins reminded the Board that the Serology Case Review was of a random sample of
264 serology cases including at least 100 reports each from the Eastern and Northern Laboratories. The
265 final reviews of each case have been assigned. Mr. Jenkins gave an overview of observations made
266 during the project.

267

268 Mr. Jenkins reported that the CPI recalculations previously approved by the Forensic Science
269 Board have been completed. Mr. Jenkins reminded the Board of the Scientific Working Group on
270 DNA Analysis Methods (SWGDM) guidelines set in 2010 that began the CPI recalculation
271 project. He reviewed the Department’s plan to apply the SWGDAM guidelines retroactively,
272 which was approved by the FSB, the Secretary of Public Safety and Homeland Security, and the
273 Office of the Attorney General. Mr. Jenkins gave an overview of the number of cases that required
274 CPI calculations for each laboratory and the preliminary statistics on the number of supplemental
275 reports issued by the Department. Mr. Jenkins noted that, to date, the Department is not aware of
276 any case outcomes affected by the CPI recalculations.

277

278 Microscopic Hair Comparison Case Review Update:

279 Amy Curtis, Department Counsel, provided an update on the progress with the Microscopic Hair
280 Comparison Case Review. Ms. Curtis advised that she had received several letters from inmates
281 in response to the notice distributed to inmates by the Department of Corrections about the project
282 in December 2018. DFS is continuing to review positive probative cases from the historical case
283 file review to identify additional cases for the project. The Review Team met on March 11, 2019
284 to review transcripts from eight cases. The Subcommittee will meet on May 13, 2019 to discuss
285 the recommendations for notification made by the Review Team.

286

287 Proposed Regulatory Amendments:

288 Amy Curtis updated the Board on the status of the proposed amendments to the Regulations for
289 the Approval of Field Tests for Detection of Drugs (6VAC40-30.) The Office of the Attorney
290 General provided its certification in March 2019. The Secretary of Public Safety and Homeland
291 Security conducted its review on May 3, 2019, and the proposed amendments are now at the
292 Governor’s office for review. Ms. Curtis reviewed the next steps in the regulatory process once
293 the amendments are approved by the Governor’s Office.

294

295 Ms. Curtis informed the Board that when the Governor’s office submits the proposed amendments
296 to the registrar to be published a public hearing will be set prior to the next Board meeting. To
297 date, no additional public comments or objections have been received.

298

299 Following up on the discussion about the new marijuana field test kits that evaluate the ratio of
300 THC and CBD in plant material, Ms. Curtis indicated she will update the Board if an additional
301 meeting is needed for proposed amendments to the Regulations for the Approval of Marijuana
302 Field Tests for Detection of Marijuana Plant Material.

303

304 **New Business**

305

306 **Review of 2019 Legislation:**

307 Katya Herndon, Chief Deputy Director, gave an overview of DFS related legislation passed during
308 the 2019 General Assembly Session. This included a review of the Department's three agency
309 bills: HB2020 (Watts), which mandates use of the PERK tracking system effective July 1, 2020;
310 HB2118 (Mullin), which removes "ASCLD/LAB" from three statutes that list it as an accrediting
311 body for independent laboratories and replaces it with broader language describing such an
312 accrediting body; and SB1401 (Petersen), which provides immunity for any DFS employee who
313 possesses or transfers an unlawful item while engaged in performance of his/her official duties.

314

315 **Election of Chair and Vice-Chair:**

316 Mr. Lett called for the annual election of the Board Chair and Vice-Chair and asked for
317 nominations. Ms. Juran nominated Mr. Lett for Chair of the Board. The nomination was seconded
318 by Mr. Donoghue, and passed by unanimous vote of the Board. Ms. Howard nominated Ms. Juran
319 for Vice-Chair. The nomination was seconded by Mr. Donoghue and passed by unanimous vote
320 of the Board.

321

322 **Public Comment** None.

323

324 **Future Meeting Dates**

325 The Forensic Science Board will meet on Wednesday, July 31, 2019, and Thursday, October 3,
326 2019. All meetings are scheduled to begin at 9:30 a.m.

327

328 **Adjournment**

329 Mr. Lett called for a motion to adjourn the Board meeting. Mr. Donoghue made a motion that the
330 meeting of the Board be adjourned, which was seconded by Dr. Edinboro, and passed by
331 unanimous vote.

332

333 The meeting adjourned at 12:00 p.m.