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**Final - Minutes**  
**Forensic Science Board Meeting**  
**August 7, 2013**  
**Department of Forensic Science, Central Laboratory, Classroom 1**

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**Board Members Present**

22 Jo Ann Given, Forensic Science Board Chair  
23 Dr. William Gormley  
24 Kristen Howard (Designee of Del. Robert Bell, Chair, Virginia State Crime Commission)  
25 Caroline D. Juran  
26 Alan Katz (Designee of Attorney General Kenneth Cuccinelli)  
27 Sheriff A.A. Lipa, Jr.  
28 David A. C. Long  
29 Raymond F. Morrogh  
30 Lt. Col. Robert Northern (Designee of Colonel W. Steven Flaherty, Virginia State Police)  
31 Jami St. Clair  
32 Claiborne Stokes

33  
34

**Board Members Absent**

35 Karl R. Hade  
36 Senator Ryan McDougle (Designee of Sen. Thomas Norment, Chair, Senate Courts Committee)  
37 Delegate Richard Morris (Designee of Del. David Albo, Chair, House Courts Committee)  
38 Garth Wheeler

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40

**Legal Counsel for the Forensic Science Board**

41 Joshua Lief, Senior Assistant Attorney General

42  
43

**Staff Members Present**

44 Wanda Adkins, Office Manager  
45 Jeff Ban, Central Laboratory Director  
46 Dave Barron, Deputy Director  
47 Leslie Ellis, Human Resources Director  
48 Linda Jackson, Department Director  
49 Gail Jaspen, Chief Deputy Director  
50 Melissa Kennedy, Section Supervisor, Breath Alcohol  
51 Alka Lohmann, Director of Technical Services  
52 Scott Maye, Chemistry Program Manager  
53 Stephanie Merritt, Department Counsel  
54 Lisa Schiermeier-Wood, Section Supervisor, Forensic Biology  
55 Susan Stanitski, Eastern Laboratory Director  
56 Carisa Studer, Legal Assistant

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58

**Call to Order by Board Chair Jo Ann Given**

47 Ms. Given called the meeting of the Forensic Science Board (“Board”) to order at 9:03 a.m. She  
48 welcomed and introduced newly appointed Board Members, David Long and Claiborne Stokes,  
49 to the Board. David Long is a defense attorney from Richmond and Claiborne Stokes is the  
50 Commonwealth’s Attorney for Goochland County. Board Members and DFS staff introduced  
51 themselves to the newest members.

52

53 **Adoption of Agenda**

54

55 Ms. Given asked if there were any additions or changes to the draft agenda for the meeting.  
56 Being none, Ms. St. Clair moved to adopt the agenda, which was seconded by Mr. Katz and  
57 adopted by unanimous vote of the Board.

58

59 **Approval of Draft Minutes of May 15, 2013 Meeting**

60

61 Ms. Given asked if there were any changes or corrections to the draft minutes from the May 15,  
62 2013 meeting. Being none, Sheriff Lipka moved to adopt the minutes of the May 15, 2013  
63 meeting, which was seconded by Ms. St. Clair and adopted by unanimous vote of the Board.

64

65 **Chair’s Report**

66

67 Ms. Given welcomed the Board, and thanked the members for their attendance. Ms. Given had  
68 no Chair’s Report to present to the Board.

69

70 **DFS Director’s Report**

71

72 2013 Governor’s Award: Director Jackson reported to the Board that the DFS Post-Conviction  
73 DNA Testing Program “team” was the recipient of the 2013 Governor’s Teamwork Award for  
74 Excellence in Public Service. DFS staff members were invited to the Governor’s Award  
75 reception and were presented with a plaque to display at the Department.

76

77 Facilities: Director Jackson described the laboratory space renovations in each of the  
78 Department’s regional laboratories. The Western Laboratory expansion project has been  
79 designated a contractor at risk. Once the findings report is complete, the project will move  
80 forward to the detailed planning stage. The Eastern Laboratory expansion and renovation project  
81 is coming to a close. Casework and new signage currently is being installed. A formal needs  
82 assessment and feasibility study has been completed for the Central Laboratory and submitted to  
83 the Department of Planning and Budget (DPB). The report includes the needs for both DFS and  
84 Office of the Chief Medical Examiner.

85

86 Budget Outlook: Director Jackson provided an overview of the Department’s budget. She  
87 indicated the general fund, federal fund, and total fund amounts in this year’s budget. Director  
88 Jackson reported that DFS is authorized for a total of 310 staff positions. The average number of  
89 staff during 2013 has been 268.

90

91 Staffing: The two open Program Manager positions have been filled. Scott Maye is the new  
92 Chemistry Program Manager, and Melissa Kennedy is the new Program Manager for Calibration

93 and Training. Newly created Toxicology positions have been filled and had start dates in August  
94 2013 in the Northern Laboratory. Adding new Toxicology positions was necessary to meet  
95 demands of court obligations. The Department is assessing the need to fill positions currently  
96 held open in the Controlled Substances Section.

97  
98 Workload/Backlog: Director Jackson explained the difference in how DFS reports its “backlog”  
99 as compared to other Laboratory Systems. DFS includes every case in its “backlog” beginning  
100 on the date the case is received at the laboratory, whereas other laboratory systems include cases  
101 in their backlogs only after a set amount of days in their laboratory. Regarding the 30-60-90-120  
102 day workload summary report, Director Jackson summarized average days in the lab system for  
103 cases in several different sections. The increase of submissions in the Controlled Substance  
104 Section is the reason for requesting two new positions. Another reason is the additional time  
105 Examiners are spending going to Court and the increase in Synthetic Cannabinoids/Clandestine  
106 Lab submissions. The number of specimens for Synthetic Cannabinoids showed a significant  
107 increase from March 2013 to June 2013. Research Chemicals have showed the same increase  
108 during that time frame due to the addition of new substances added to Schedule 1 in the Code.

109  
110 Ms. Howard commented that the addition of Research Chemicals to Schedule 1 illegal  
111 substances is an issue the Virginia State Crime Commission (VSCC) has worked on in the past.  
112 Currently the VSCC is not doing a study on the issue. Ms. Howard inquired if the Department  
113 would have anything to present to the VSCC in order to work on legislation.

114  
115 Ms. Juran commented that the Board of Pharmacy is working possible legislation and has been in  
116 contact with the Department for input.

117  
118 Ms. Howard commented that there will be a meeting of the VSCC on November 14, 2013, and  
119 that possible legislation could be put on the agenda.

120  
121 Director Jackson continued with an overview of the statistics for Clandestine Methamphetamine  
122 Laboratories (clan labs). The Eastern Laboratory has received an increase in submissions of  
123 clan lab cases, and clan labs cases across the entire state have resulted in a steady increase in  
124 submissions. In fact, there has been a steady increase in these cases since 2008. Subpoenas for  
125 the Controlled Substances section increased from the 2012 to 2013. For the second quarter of  
126 2013, there were 2310 Subpoenas received; Examiners made 183 appearances, and there were 62  
127 testimonies.

128  
129 Strategic Priorities: Director Jackson reported that the Department developed new customer  
130 satisfaction surveys using online technology rather than paper survey forms that were sent via the  
131 mail in the past. On May 29, 2013, survey invitations were sent via email to DFS customers.  
132 The Department received 471 responses in a matter of several weeks. Department management  
133 will review all responses and discuss any apparent trends. Regional Laboratory Directors were  
134 given results so that they could follow up directly with local agencies if needed. Director  
135 Jackson explained that it is an accreditation requirement to survey our customers. DFS will  
136 continue to do online surveys on an annual basis.

138 The Department's website is currently under construction. Cap Tech, which is a website design  
139 firm under state contract, is developing the new website. Cap Tech did a study of DFS users to  
140 identify improved, user-friendly revisions needed for the new website.

141  
142 Grants: Director Jackson briefly updated the Board on all of the Department's awarded grants  
143 and pending grants that the Board voted on at the May 15 meeting. Director Jackson presented  
144 one new grant to the Board that needed approval. The Department would like to apply for a  
145 grant through the Office of the Attorney General for funding under the Abbott Settlement  
146 Forfeiture Funds. The amount requested would be approximately \$3 million which would be  
147 used to purchase new instrumentation for the Controlled Substances, Toxicology and Trace  
148 Evidence Sections.

149  
150 Ms. Howard made a motion to approve the Department's grant application to the Office of the  
151 Attorney General for Abbott Settlement Forfeiture Funds and to approve the Department's  
152 acceptance of the grant if awarded, which was seconded by Lt. Colonel Northern. The motion  
153 was adopted by unanimous vote of the Board.

154  
155 Director Jackson reported to the Board that 2013 Byrne Continuation Grant awarded through  
156 DCJS for the support of the IAI certification for the Forensic Academy graduates was denied.

157  
158 Admissibility Hearing: Forensic Scientists from the Forensic Biology Section recently  
159 participated in a admissibility hearing for the "TrueAllele" software in a Capital Murder case in  
160 Colonial Heights. The Scientific Advisory Committee (SAC) did send confirmation to the  
161 Department that they finished their review of "TrueAllele" and accepted the validation. The  
162 approval will be formalized at the next SAC meeting on October 15, 2013.

163  
164 Lisa Schiermeier-Wood, Section Supervisor, Forensic Biology, gave a brief overview of the  
165 "TrueAllele" software for the new Board members. Ms. Schiermeier-Wood also explained to  
166 the Board about the admissibility hearing. The Judge ruled that the use of "TrueAllele" was  
167 allowed.

168  
169 Discussion: Sheriff Lippa inquired about the denied grant that supported the IAI certification,  
170 and asked if there was anything the Board could do to get funding for the program. Director  
171 Jackson explained that after the first year of funding, many Academy graduates took advantage  
172 of the funding and sought the certification. Alka Lohmann, Director of Technical Services,  
173 further elaborated that this is the third time that the Department has applied for this grant. DFS  
174 does have supplies to offer graduates to study for the certification, but DFS will not be able to  
175 assist with the testing fee. Lt. Col. Northern inquired about the testing fee, and Ms. Lohmann  
176 responded that it is \$150. Lt. Col. Northern suggested that the Law Enforcement agencies may  
177 be able to pay the testing fee.

178  
179 **Old Business**

180  
181 Status of Regulatory Periodic Review, 6 VAC 40-60: Stephanie Merritt, Department Counsel,  
182 updated the Board on the Department's periodic review of four regulations. At the January 3,  
183 2013 meeting, the Board voted to adopt amendments to all four of the regulations. The Office of

184 the Attorney General (OAG) has reviewed the regulations, and the periodic review was formally  
185 completed on April 23, 2013.

186  
187 Ms. Merritt reported to the Board that the OAG advised the change made to the DNA regulation  
188 6 VAC 40-40, an updated website address, qualified as an Exempt Regulatory Action. The  
189 proposed amendment became effective June 20, 2013.

190  
191 Ms. Merritt also reported that the Department of Planning and Budget (DPB) has completed its  
192 review of the Board's proposed amendments to the Breath Alcohol Testing regulation, 6 VAC  
193 40-20 for Fast Track Regulatory Action. This action is currently at the Governor's Office for  
194 review.

195  
196 At the May 15, 2013 meeting, the Board approved the adoption of the proposed amendment to 6  
197 VAC 40-60 for Fast Track Regulatory Action. Currently it is in the economic impact analysis  
198 review phase. Ms. Merritt expects the regulations to be in the publication phase by the next  
199 Board meeting.

200  
201 Post-Conviction DNA Testing Program and Notification Project: Gail Jaspen, Chief Deputy  
202 Director, gave a brief overview of the history of the Post-Conviction DNA Testing Program &  
203 Notification Project to the new members of the Board. Ms. Jaspen explained the two aspects of  
204 the project, one being the notification of suspects included in the project and the other being the  
205 testing of the evidence. There have been many challenges in completing the notification portion  
206 of the project. The oldest case in the project is now 40 years old, so finding contact information  
207 for the suspects is extremely difficult. Many convicted suspects are now deceased. The Mid-  
208 Atlantic Innocence Project (MAIP) had offered to provide free legal services to all the suspects  
209 that DFS has notified. Ms. Jaspen went on to explain to the Board that DFS also is still seeking  
210 to confirm conviction information for suspects in a number of additional cases. Testing of the  
211 evidence cannot begin until it has been verified that the case conviction meets the criteria for  
212 testing.

213  
214 Ms. Jaspen gave an overview of the statistics from the Post-Conviction Testing Program. To  
215 date, Certificates of Analysis have been issued in all 838 cases in which qualifying felony  
216 convictions have been confirmed. The remaining challenge for the Program will be to continue  
217 confirming conviction information and locating convicted individuals whose cases are deemed  
218 eligible for DNA testing. She highlighted that there are 140 individuals for whom known  
219 samples are needed to complete testing. There has been one individual to come forward to  
220 voluntarily submit his known sample and he has since been exonerated of the crime for which he  
221 was convicted. The Board might wish to consider options for contacting any of the 140  
222 individuals still living and offering a means to receive advice about their options.

223  
224 Ms. Howard updated the Board on the conviction verification efforts. There are 427 cases  
225 remaining with unconfirmed conviction information. Ms. Howard commented on the enormity  
226 of the project to find conviction information on these old cases. Staff from VSCC is making  
227 progress on searching clerk's offices for conviction verification. As conviction information is  
228 found it is being passed along to DFS to complete testing if it is confirmed as a program-eligible

229 case. Ms. Howard informed the Board that the Notification project is also continuing. VSCC  
230 staff continues to work on researching address to notify suspects whose cases are in the program.  
231

232 Ms. Howard next addressed the need to move forward with the possible search for the 140  
233 individuals for whom known samples are needed to complete testing. The Board may need to  
234 revise the initial notification letter to reflect the need of the individual submitting their DNA  
235 sample. MAIP has volunteered its assistance in reaching out to the individuals for whom known  
236 samples are needed and providing guidance to them. Ms. Howard suggested that the Notification  
237 Subcommittee set a time to meet to further discuss the issue and bring suggestions to the Board.  
238

239 Ms. Given asked which Board members would volunteer to be on the Notification Subcommittee  
240 with Ms. Howard. David Long and Lt. Col. Northern both volunteered to be on the  
241 subcommittee. Ms. Howard will coordinate with the subcommittee members to designate a time  
242 and date to meet.  
243

244 Ms. Howard commented that research into old Court records has shown that in a majority of  
245 cases there are no records. Also, she learned that in many cases the suspects charges were  
246 reduced from a felony to a misdemeanor. They have been keeping records of the information  
247 researched as best as possible.  
248

249 Ms. Jaspén concluded the presentation by commenting on all the steps the Post-Conviction  
250 Notification and Testing Program has involved since its inception. Virginia's effort is  
251 unprecedented in post-conviction cases.  
252

### 253 **New Business**

254  
255 Ms. Jaspén reported to the Board that August 12 – August 26, 2013 is National Forensic Science  
256 week. Forensic Science laboratories across the nation have been encouraged to reach out to the  
257 community and policy makers to educate them on the capabilities of forensic science  
258 laboratories. DFS with the support of the Secretary of Public Safety has sent out invitations for  
259 laboratory tours at all four of the Department's laboratories. Invitations were sent to law  
260 enforcement, the media, state and federal lawmakers.  
261

262 Ms. Jaspén updated the Board on the Substance Abuse Awareness Vital for Virginia Youth  
263 program (SAVVY), the special community drug abuse awareness initiative supported by the  
264 Governor and several Cabinet Secretaries. Ms. Jaspén gave a brief overview of the purpose of  
265 SAVVY to the new Board members. The next SAVVY Expo will be held on September 18,  
266 2013, in Abingdon. It will be the final expo of the year. SAVVY will continue as on-line  
267 resource for the community.  
268

### 269 **Public Comment**

270  
271 None  
272

### 273 **Next Meeting**

274

275 The Forensic Science Board will meet next on Wednesday, October 16, 2013 at 9 a.m.

276

277 **Adjournment**

278 Ms. St. Clair moved that the meeting of the Board be adjourned, which was seconded by  
279 Sheriff Lippa and passed by unanimous vote.

280

281 The meeting adjourned at 10:30 a.m.