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**Final Minutes**  
**Forensic Science Board Meeting**  
**May 16, 2018**  
**Department of Forensic Science, Central Laboratory, Classroom 1**

**Board Members Present**

Colonel Maggie A. DeBoard, Chief of Police, Town of Herndon Police Department  
Emily M. Brewer, Delegate (Designee of Delegate Robert B. Bell, Chair, House Courts of Justice Committee)  
Shannon Dion, Director, Department of Criminal Justice Services  
Vince Donoghue, Essex Commonwealth's Attorney (Designee of Senator Mark D. Obenshain, Chair, Senate Courts of Justice Committee)  
Leslie E. Edinboro, Ph.D., Scientific Advisory Committee Member  
James F. Entas, Assistant Attorney General (Designee of Attorney General Mark R. Herring)  
William T. Gormley, M.D., Chief Medical Examiner  
Kristen J. Howard (Designee of Delegate Robert B. Bell, Chair, Virginia State Crime Commission)  
Caroline Juran, Executive Director, Board of Pharmacy  
David R. Lett, Petersburg Public Defender  
Colette W. McEachin, Deputy Commonwealth's Attorney, City of Richmond – *Vice-Chair/Acting Chair*  
Richard P. Meyers, Scientific Advisory Committee Member  
Lieutenant Colonel Tracy Russillo (Designee of Colonel Gary T. Settle, Superintendent, Virginia State Police)  
Ed Shaw, (Designee of Denise M. Toney, Ph.D., Director, Division of Consolidated Laboratory Services)

**Board Members Absent**

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

**Legal Counsel for the Forensic Science Board**

Elizabeth B. Myers, Assistant Attorney General

**Staff Members Present**

Wanda W. Adkins, Office Manager  
Jeffrey D. Ban, Central Laboratory Director  
David A. Barron, Ph.D., Deputy Director  
Sabrina S. Cillesen, Physical Evidence Program Manager  
Amy M. Curtis, Department Counsel  
Katya N. Herndon, Chief Deputy Director  
Bradford C. Jenkins, Biology Program Manager  
James W. Hutchings, Ph.D., Toxicology Program Manager  
M. Scott Maye, Chemistry Program Manager  
Kevin M. Patrick, Western Laboratory Director  
Carisa M. Studer, Legal Assistant

**Call to Order**

47 Colette McEachin, Vice-Chair/Acting Chair of the Forensic Science Board (“Board” or “FSB”),  
48 called the meeting to order at 9:30 a.m. Ms. McEachin welcomed the Board members and  
49 Department of Forensic Science (“Department” or “DFS”) staff, and thanked everyone for their  
50 attendance.

51  
52 Introductions were made of Board members, designees, and DFS staff members who were present.

53  
54 **Adoption of Agenda**

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

58  
59 **Approval of Draft Minutes of the January 4, 2018 Meeting**  
60 Ms. McEachin asked if there were any changes or corrections to the draft minutes from the January  
61 4, 2018 meeting. Ms. Juran noted one typo on line 13 for correction. Mr. Lett made a motion to  
62 adopt the minutes with the correction to line 13, which was seconded by Dr. Edinboro, and  
63 approved by unanimous vote of the Board.

64  
65 **Chair’s Report**  
66 None.

67  
68 **Director’s Report**  
69 **Facilities:**  
70 Director Jackson gave an update on the Central Laboratory renovation and expansion project. She  
71 explained that there was a budget amendment proposed to change the title and scope of the project  
72 from “expand current Central Forensic Laboratory and Office of the Chief Medical Examiner,” to  
73 “expand current or construct new Central Forensic Laboratory and new Office of the Chief Medical  
74 Examiner.” It is anticipated that the new language will be adopted as part of the budget passed by  
75 the General Assembly by June 30, 2018.

76  
77 **Agency Updates:**  
78 Director Jackson reported to the Board that the Department’s onsite accreditation assessment  
79 occurred May 7 – May 11, 2018. She reminded Board that ASCLD/LAB merged with ANAB.  
80 Twenty-four assessors from ANAB visited all four regional laboratories and the calibration  
81 laboratory. The Department’s current accreditation expires September 2, 2018. Director Jackson  
82 explained that a final report from ANAB would be sent to DFS that will include all assessment  
83 findings. DFS will have 60 days to address any findings.

84  
85 Director Jackson updated the Board on the Forensic Science Training Program for attorneys and  
86 judges that the Department will be implementing. DFS plans to start by offering a DNA training  
87 at each DFS regional laboratory in the fall of 2018. Director Jackson explained that, because the  
88 training will be strictly about the science and will not include a legal component, there would be  
89 no continuing legal education (CLE) credits offered to attorneys. However, there will be no fees  
90 charged to attend the class.

91

92 Director Jackson reported to the Board on the outreach that Department staff has made to its user  
93 agencies. Numerous presentations were given on DFS issues to various user groups, including  
94 law enforcement, prosecutors, defense attorneys, and judges.

95  
96 Director Jackson explained that funding for eight forensic scientist positions (six in Controlled  
97 Substances, one in Digital & Multimedia Evidence, and one research position in Forensic Biology)  
98 was included in every version of the budget (i.e., the Governor's Introduced Budget, the House  
99 Budget and the Senate Budget). All three budgets also included funding to purchase new scientific  
100 instruments through the Master Equipment Leasing Program (MELP).

101  
102 Director Jackson reported that the Caboose Bill for the FY18 budget includes funding for overtime  
103 for Controlled Substances and Forensic Biology examiners. Examiners in those two sections are  
104 each working a minimum of forty hours of overtime through May.

105  
106 Director Jackson shared with the Board that, due to the amount of inquiries DFS has received about  
107 turnaround times, the Department has posted current turnaround times on the DFS website.

108  
109 Director Jackson reported that, in the Firearms Section, NIBIN searches have been expanded as of  
110 March 27, 2018 to include the following databases: all four DFS laboratories, Newport News  
111 Police Department, the DC Department of Forensic Sciences, the Montgomery County Police  
112 Department, the Prince George's County Police Department, and ATF Zone 1.

113  
114 DFS disseminated a Notice of DFS Policy Change for Firearms & Toolmark Evidence to its user  
115 agencies on April 2, 2018. Toolmark evidence will not be accepted without a tool for comparisons  
116 that can be associated with a suspect. The Notice also stated that pre-submission consultations  
117 will be required for distance determination exams.

118  
119 Director Jackson reviewed the staffing levels in the Forensic Biology Section, including examiners  
120 in training and positions in recruit. STRmix software and computers have been purchased, and  
121 will be validated prior to implementation. The examiners received a four-day training course in  
122 April 2018. A statewide meeting also was held in Roanoke in April so that the continuing  
123 education goals for the year were completed.

124  
125 Director Jackson provided an update on the status of the development of the PERK tracking  
126 system. It will be web-based and will be able to track each step for the PERK from when the kit  
127 leaves DFS as an uncollected kit, to its collection at the hospital, its transfer to the law enforcement  
128 agency, to the DFS laboratory, and then back to the law enforcement agency. The system will not  
129 capture any personally identifying information or any testing results. The system is currently in  
130 the alpha phase of testing, and the Department is anticipating beta testing with pilot agencies in  
131 the coming months.

132  
133 Director Jackson reported on the new toxicology methods for identifying fentanyl derivatives,  
134 which went online in early 2018. She presented a list of the most commonly detected derivatives  
135 to date.

136

137 Director Jackson provided an update on the use of the Board of Pharmacy (BoP) expedited  
138 regulatory process since the last meeting. DFS recommended six additional compounds, which  
139 the BoP approved March 29, 2018, and should become scheduled via regulation in June 2018.  
140 Effective July 1, 2018, new legislation permanently adds 28 compounds to Schedule I that  
141 temporarily had been scheduled through the BoP's expedited regulatory process.  
142

143 Director Jackson provided the Board with the 2017 statewide court testimony statistics for the  
144 Controlled Substances Section and the entire Department. In the Controlled Substances Section,  
145 examiners spent approximately 66 days out of the laboratory. For the entire Department,  
146 examiners spent approximately 397 days out of the laboratory for court.  
147

148 Director Jackson updated the Board on the status of the Notice of Intended Regulatory Action  
149 ("NOIRA") to consider amendments to the Regulations for the Approval of Field Tests for  
150 Detection of Drugs. The NOIRA is currently in Governor's Office for review. If approved, the  
151 NOIRA will be published in the Virginia Register of Regulations, and public comments must be  
152 accepted for 30 days. The Board will schedule a public hearing prior to the next Board meeting if  
153 the NOIRA is approved.  
154

155 Grants:

156 Director Jackson reviewed with the Board a list of grants with pending applications for approval.  
157

158 Director Jackson presented two DMV grants for approval. The first grant is the 2019 DMV  
159 Highway Safety Grant, which provides funding for Breath Alcohol training for law enforcement  
160 and for one Breath Alcohol staff person. It also provides funding for the utilization of the E-  
161 learning platform for recertification training of law enforcement. The second grant is the 2018  
162 DMV Traffic Records Electronic Data System ("TREDS"). This funding will be used to continue  
163 employment for four wage Forensic Laboratory Specialist positions in the Toxicology Section.  
164 Funding also will be used to continue the project of electronically sending drug information from  
165 traffic fatalities from DFS to the DMV and OCME.  
166

167 Mr. Donoghue made a motion to authorize the Department to apply for and accept funds for the  
168 two DMV grants, if awarded. The motion was seconded by Colonel DeBoard and approved by  
169 unanimous vote of the Board.  
170

171 Director Jackson presented the Center for Disease Control ("CDC") Enhanced State Surveillance  
172 of Opioid-Involved Morbidity and Mortality Grant Joint Project for approval. This is a joint grant  
173 with the OCME. Funding will support two Forensic Laboratory Specialist positions, one in the  
174 Eastern Laboratory to support toxicology testing in medical examiner death cases suspected to be  
175 opioid drug overdoses, and one in the Central Laboratory to assist the Research Analyst in  
176 validating new quantitative methods for fentanyl analogs.  
177

178 Mr. Entas made a motion to authorize the Department to apply for and accept funds for the CDC  
179 grant, if awarded. The motion was seconded by Ms. Juran and approved by majority vote of the  
180 Board. Dr. Gormley abstained.  
181

182 Director Jackson presented the Paul Coverdell Forensic Science Improvement Program grant for  
183 approval. The grant is divided equally with the OCME. Funding will be used for continuing  
184 education for scientific staff in the Chemistry, Physical Evidence, and Toxicology program areas.  
185 DFS also will utilize its portion of the funds to target challenges related to the opioid crisis by  
186 applying principles of Lean Six Sigma (LSS) to the Controlled Substances Section and to provide  
187 opioid specific training to DFS and OCME staff.

188  
189 Director Jackson also presented the DNA Capacity Enhancement and Backlog Reduction Program  
190 for approval. Funding will be used to maintain five grant-funded Forensic Scientists and two  
191 support staff, continuing education for DNA scientific staff, and to purchase equipment and buccal  
192 swab collection kits.

193  
194 Ms. Howard made a motion to authorize the Department to apply for and accept funds for the  
195 Coverdell and DNA grants, if awarded. The motion was seconded by Ms. Juran and approved by  
196 unanimous vote of the Board.

197  
198 Director Jackson concluded by presenting a Research and Evaluation for the Testing and  
199 Interpretation of Physical Evidence in Publicly Funded Forensic Laboratories grant for the Board's  
200 approval. The grant will fund two research projects: a toxicology research and evaluation project  
201 and a fire debris research and evaluation project.

202  
203 Dr. Gormley made a motion to authorize the Department to apply for and accept funds for the  
204 research grant, if awarded. The motion was seconded by Mr. Lett, and approved by unanimous  
205 vote of the Board.

206  
207 Director Jackson presented a summary of current DFS grants, which include:

- 208
- 209 • FY15, FY16 and FY17 DNA Capacity Enhancement and Backlog Reduction Grants;
  - 210 • FY16 Paul Coverdell Forensic Science Improvement Grant;
  - 211 • NIJ Research and Development for Publicly-Funded Forensic Science Laboratories  
212 (Toxicology) Grant;
  - 213 • FY16 Research and Evaluation for the Testing and Interpretation of Physical Evidence in  
214 Publicly Funded Forensic Laboratories (Latent Print) Grant;
  - 215 • FY18 Highway Safety Project Grant (DMV) TREDS (Traffic Records Electronic Data  
216 System) Program;
  - 217 • FY18 Highway Safety Grant Program (DMV) – DFS Breath Alcohol Training Program;
  - 218 • Opioid Joint Project – pass through funds from the OCME;
  - 219 • FY18 Byrne Justice Assistance Grant (JAG) Continuation Funding;
  - 220 • New York District Attorney's Sexual Assault Kit Backlog Elimination Program; and
  - 221 • National Sexual Assault Kit Initiative FY 2016 Competitive Grant.
- 222

223 Workload/Backlog:

224 Director Jackson provided the Board with an update on statistical trends in each of the scientific  
225 disciplines.

226  
227 The Controlled Substances Section currently has five examiners in training, and three are in the  
228 Northern Laboratory. As a result, cases from the Northern Laboratory are being transferred to the  
229 other regional laboratories so that the submitting agencies in the region do not see longer  
230 turnaround times. The Section also continues to see increased submissions. Submissions in April  
231 2018 were significantly higher than April 2017, which equates to the work of approximately 2.5  
232 examiners over a four-month period. DFS has shared the information about these increased  
233 submissions with the Office of the Secretary of Public Safety and Homeland Security.

234  
235 The Digital and Multimedia Evidence (DME) Section's current turnaround time is approximately  
236 160 days. There are currently three examiners, one position is in the hiring process, and one  
237 position is in recruit. As of April, the DME Section has the GrayKey system, which can be used  
238 to bypass security measures on Apple devices.

239  
240 The Firearms Section continues to complete more cases than it has been receiving due to the new  
241 National Integrated Ballistic Information Network (NIBIN) Forensic Scientist positions.

242  
243 The Forensic Biology Section continues to work on the turnaround times and decreasing the  
244 caseload. At the end of March 2018, more cases were completed than received for the month.

245  
246 The Latent Prints Section saw an increase in submissions in the third quarter or 2017, but this  
247 increase did not continue for the final quarter of 2017 and into 2018.

248  
249 The Toxicology Section has continued to prioritize OCME cases and has been meeting the  
250 OCME's accreditation requirements. Director Jackson reported that DUI/D case turnaround times  
251 have also decreased.

252  
253 The Trace Evidence Section has two examiners training in a second sub-discipline; one in fiber  
254 analysis and one in paint analysis.

255  
256 The Board and DFS staff discussed the Department's caseload and turnaround times. Director  
257 Jackson explained to the Board that the Department was looking into a Lean Six Sigma training  
258 for the Controlled Substances Section.

259

### 260 **Scientific Advisory Committee Report**

261 Dr. Edinboro, Scientific Advisory Committee ("SAC") Member, gave a report to the Board of the  
262 business of the SAC from its meeting held on May 15, 2018. The SAC heard presentations by  
263 DFS Director Linda Jackson and all four Program Managers.

264  
265 Dr. Edinboro reported to the Board that the SAC's Forensic Biology Subcommittee  
266 ("Subcommittee") met prior to the SAC meeting to consider a packet of information sent to the  
267 Department's Director from staff at the Virginia Parole Board. The information packet from the  
268 Parole Board contained information related to a specific DFS case file. Director Jackson, with the  
269 concurrence of the Chair of the Scientific Advisory Committee, requested that the Subcommittee  
270 review the information packet from the Parole Board and the Department's case file, and present  
271 their findings to the Scientific Advisory Committee.

272  
273 Dr. Edinboro explained to the Board that the Subcommittee and the SAC both went into closed  
274 session to discuss the matter because they would be reviewing case specific information, which  
275 would be excluded from the requirements of the Freedom of Information Act under Virginia Code  
276 § 2.2-3706(A)(2)(a).

277  
278 Dr. Edinboro reported to the Board that the Committee approved the Subcommittee’s report and  
279 recommendation for Amy Curtis to write the response on the Subcommittee’s behalf and send the  
280 response to the Subcommittee for approval. Once the Subcommittee approves the response, Ms.  
281 Curtis was tasked by the Committee with sending the final response to the Parole Board.

282  
283 Dr. Edinboro reported that the SAC received an update on both the Serology and Microscopic Hair  
284 Comparison Case review projects. The SAC concluded the meeting with the election of Dr.  
285 Kathleen as Chair, and the re-election of Carl Sobieralski as Vice-Chair.

286  
287 **Old Business**

288  
289 Status of the Post-Conviction DNA Testing Program and Notification Project:  
290 Kristen Howard provided a brief update on the case file review that staff members from the  
291 Virginia State Crime Commission (VSCC) are conducting of cases from the Post-Conviction DNA  
292 Testing Program and Notification Project. The VSCC staff has completed their review of  
293 approximately 480 inconclusive legal files, as well as the corresponding case files. The Indigent  
294 Defense Commission (“IDC”) will assist in researching information for the remaining un-notified  
295 “inconclusive,” “need known,” and “eliminated” cases one last time to either locate the individual  
296 or determine if they are deceased. Based on the IDC’s research findings, VSCC staff will update  
297 records with any additional information and will send notification letters to these individuals.

298  
299 Ms. Howard reported that the VSCC staff has begun to determine whether “due diligence” has  
300 been met for each eligible defendant requiring notification by the project. DFS staff and VSCC  
301 staff have been working together to verify agreement in the outcome of each case for the laboratory  
302 report, notification status, and whether due diligence has been met.

303  
304 Ms. Howard anticipates presenting a final report on the outcome of the project to Board at its  
305 October 17, 2018 meeting and then to the VSCC at meeting scheduled for December 3, 2018.

306  
307 Review of 2018 Legislation:  
308 Katya Herndon, Chief Deputy Director, gave an overview of DFS related legislation from the 2018  
309 General Assembly Session. Ms. Herndon reviewed the DFS agency bill, HB303, which creates a  
310 fifth exception to the physical evidence recovery kits (PERK) legislation’s requirement that law  
311 enforcement submit all PERKs to DFS for analysis within 60 days. The new exception allows a  
312 law enforcement agency to transfer a PERK to another agency that has taken over responsibility  
313 for the investigation.

314  
315 Ms. Herndon reviewed the Data Bank expansion bills, HB1249 and SB 565, which add two  
316 additional misdemeanor violations, assault and battery and trespass, to the list of offenses for  
317 which an adult must submit a DNA sample upon conviction. There is a fiscal impact to DFS of

318 \$144,336, but the bills are expected to generate approximately \$104,000 in revenue to the General  
319 Fund through the additional fees anticipated to be collected from individuals who are being  
320 sampled.

321  
322 Ms. Herndon reviewed the Board of Pharmacy's Schedule I bill (HB1194), two cannabidiol and  
323 THC-A oil bills (HB1251 and SB726), and two industrial hemp bills (HB532 and SB247).

324  
325 Ms. Herndon also updated the Board on the Supreme Court of Virginia's decision in In Re:  
326 Sherman Brown, a writ of actual innocence case.

327  
328 Serology Case Review Update:  
329 Mr. Jenkins gave a brief overview of the Serology Case Review for the new members. The project  
330 includes a review of 100 serology cases each from the Eastern and Northern Laboratories. Two  
331 scientists are reviewing each case. The first review of the 100 cases from the Eastern and Northern  
332 Laboratories is complete. A number of the second reviews also have been completed, but the  
333 project is currently on hold due mandatory overtime for the Section.

334  
335 Microscopic Hair Comparison Case Review Update:  
336 Amy Curtis, Department Counsel, gave a brief history of the Microscopic Hair Comparison Case  
337 Review. Ms. Curtis continued with an update on the project since the last Board meeting. Ms.  
338 Curtis reported that there is a new staff person in the Director's Office who has been able to assist  
339 her in reaching out to Circuit Court Clerks' offices on DFS case files with positive probative  
340 associations in order to obtain conviction orders and transcripts. Since February, DFS has received  
341 eight transcripts in positive probative association cases where there was a conviction. Ms. Curtis  
342 will present the findings to the Board and anticipates the Review Team will meet later this summer  
343 on those cases. In the meantime, the Department will continue its research to locate conviction  
344 orders and transcripts in positive probative association cases.

345  
346 There was discussion with the Board on ideas of different databases available for locating  
347 individuals.

348  
349 **New Business**  
350 Amy Curtis presented for the Board's consideration amendments to the Forensic Science Board  
351 Policy on Requests for Review of DFS Analytical Work or Allegations for Serious Negligence or  
352 Misconduct. The original policy had been adopted by the Board in 2009. Ms. Curtis went through  
353 the policy highlighting the amendments and revisions. Changes to the policy were required to  
354 bring the Department into compliance with requirements for the Paul Coverdell grant.

355  
356 Mr. Entas made a motion to accept the amendments and revision to the Forensic Science Board  
357 Policy on Requests for Review of DFS Analytical Work or Allegations for Serious Negligence or  
358 Misconduct. The motion was seconded by Dr. Gormley, and approved by unanimous vote of the  
359 Board.

360  
361 Annual Election of Board Chair and Vice Chair:  
362 Ms. McEachin called for the annual election of the Board Chair and Vice-Chair and asked for  
363 nominations. Mr. Donoghue nominated Ms. McEachin for Chair of the Board. The nomination



364 was seconded by Ms. Howard, and passed by unanimous vote of the Board. Ms. McEachin  
365 nominated Mr. Lett for Vice-Chair. The nomination was seconded by Lt. Col. Russillo and passed  
366 by unanimous vote of the Board.

367

368 **Public Comment**

369 None.

370

371 **Future Meeting Dates**

372 The Forensic Science Board will meet on Wednesday, August 22, 2018, and Wednesday, October  
373 17, 2018, at 9:30 a.m.

374

375 **Adjournment**

376 Mr. Lett made a motion that the meeting of the Board be adjourned, which was seconded by Mr.  
377 Entas, and passed by unanimous vote.

378

379 The meeting adjourned at 11:04 am