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Minutes
Forensic Science Board
All-Virtual Meeting

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January 3, 2024

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Board Members Present

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Megan L. Clark, Commonwealth's Attorney, Prince Edward County
Maggie A. DeBoard, Chief of Police, Herndon Police Department, *Chair*
Senator John S. Edwards, Chair of the Senate Committee on the Judiciary
Jackson Miller, Director, Department of Criminal Justice Service
William T. Gormley, M.D., Chief Medical Examiner
Karl R. Hade, Executive Secretary, Supreme Court of Virginia
Kristen Howard, Designee of the Chair of the Virginia State Crime Commission
Michael HuYoung, Esquire, Criminal Defense Attorney
Caroline D. Juran, R.Ph., Executive Director, Board of Pharmacy, *Vice Chair*
George C. Maha, Ph.D., Scientific Advisory Committee Member
Richard P. Meyers, Scientific Advisory Committee Member
Colonel Gary Settle, Superintendent of State Police
Denise Toney, Ph.D., Director of the Division of Consolidated Laboratory Services
Delegate Wren Williams, Designee for Delegate Leslie R. Adams, Chair of the House
Committee for Courts of Justice
Brandon Wrobleski, Special Assistant to the Attorney General, Designee of Attorney General
Jason S. Miyares

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Legal Counsel for the Forensic Science Board

Michelle Welch, Counsel to the Board

Staff Members Present

David A. Barron, Ph.D., Deputy Director
Mason Byrd, Chief Deputy Director
Donna Carter, Fiscal Officer
Deea Chakraborty, Legal Assistant
James W. Hutchings, Ph.D., Toxicology Program Manager
Linda C. Jackson, Director
Amy Jenkins, Department Counsel
Brad Jenkins, Forensic Biology Program Manager
David Koppenhaver, Eastern Laboratory Director
Alka B. Lohmann, Director of Technical Services
Scott Maye, Central Laboratory Director
Jessica B. Norton, Sr. Legal Assistant
Kevin Patrick, Western Laboratory Director
Elise Stroble, Grants & Administration Program Manager/FSB Secretary
Robyn Weimer, Chemistry Program Manager

Call to Order

47 Chief Maggie DeBoard, Chair of the Forensic Scientific Board (“Board” or “FSB”), called the
48 meeting to order at 9:31 a.m. She asked Elise Stroble, Board Secretary, to conduct a roll call. Ms.
49 Stroble asked members to introduce themselves and to state the seat that they fill on the Board as
50 their names were called. Ms. Stroble also provided a phone number for Board members and the
51 public to use to alert DFS staff in case of technical issues during the meeting. After the roll call,
52 she indicated that a quorum was present, which was stated for the record by the Chair.

53

54 **Adoption of Agenda**

55 The draft agenda, previously provided to the Board, was adopted on motion by Dr. Maha. The
56 motion was seconded and passed with the unanimous approval of the Board.

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58 **Approval of Draft Minutes of the October 12, 2023 Board Meeting**

59 Chief DeBoard asked if there were any proposed changes to the Draft Minutes of the October 12,
60 2023 meeting. Ms. Stroble alerted the Board that there was a typographical error on line 58 that
61 needed correction: *Mr.* Maha should be changed to *Dr.* Maha. Chief DeBoard asked for a motion
62 to approve the change and to approve the minutes as amended. Senator Edwards made the motion,
63 which was seconded and passed by unanimous vote of the Board.

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65 **FSB Chair’s Report**

66 Chief DeBoard advised the Board that she did not have a report at this time.

67

68 **DFS Director’s Report**

69 Director Jackson provided her presentation related to various new and ongoing activities of the
70 Department. Some highlights of the presentation are as follows:

71

- 72 • Central Laboratory Capital Project – This project is on schedule and on budget.
- 73 • Scientific Advisory Committee Review Subcommittee – They are reviewing allegations
74 discussed in the podcast entitled *Admissible: Shreds of Evidence* related to the work of
75 Mary Jane Burton, former DFS serologist. The next meeting of the SAC Review
76 Subcommittee will be held in-person on Tuesday, January 9, 2024. Links to the materials
77 and recording of the first meeting are available on the Department’s website.
- 78 • Restructuring of the Evidence Receiving Section – A Forensic Evidence Program Manager
79 position was created, and several part-time positions are in the process of being converted
80 to full-time positions in an effort to increase quality assurance in the Section.
- 81 • Sexual Assault Kit/Physical Evidence Recovery Kit (PERK) Processing Unit Progress –
82 There are currently three positions in the Unit, with two additional positions in the
83 Governor’s introduced budget, that will be trained on kit screening and DNA processing.
84 Report writing will be divided between staff based on the complexity of the results.
- 85 • Launch of the Dashboards for Case Statistics on the DFS website – Director Jackson
86 provided a brief demonstration of the dashboard capabilities that include various case
87 statistics by scientific discipline and by time period. There are currently 10 years of
88 statistics available.
- 89 • Governor’s Introduced Budget – Director Jackson provided a summary of items included
90 for DFS in the Governor’s introduced FY25/FY26 budget.

91

92 A question was raised about whether the PERK Processing Unit would also be processing
93 strangulation kits. Director Jackson responded that it would not be likely in the beginning but that
94 it might be possible at a later time, due to the consistency of evidence that will be in the kits.
95

96 **Report from the Microscopic Hair Review Subcommittee**

97 Ms. Jenkins provided a history of the Microscopic Hair Comparison Case Review, from the
98 creation of the Subcommittee by the Board through their efforts to date. She spoke about the
99 reviews conducted by the FBI and the Texas Forensic Science Commission (TFSC) and compared
100 the transcript review criteria between the FBI, the TFSC, and Virginia. She emphasized that there
101 are issues that are specific to Virginia with locating case transcripts and highlighted some of those
102 issues. She completed her report by showing the number of cases reviewed to date by examiner
103 name and what the notifications generally entailed.
104

105 Chief DeBoard asked if there were any questions regarding the report. Being none, she called for
106 a motion for the Board to approve the report from the Microscopic Hair Review Subcommittee. A
107 motion was made by Senator Edwards, which was seconded and passed by unanimous vote.
108

109 **Old Business**

110 Ms. Jenkins provided an update on proposed changes to 6 VAC 40-60 – the DNA Data Bank
111 Regulations. Ms. Jenkins explained that the Office of the Attorney General had certified the action,
112 but the Department of Planning and Budget had expressed concerns in its review about eliminating
113 the entirety of 6 VAC 40-60-30. They recommended that Section B remain, which corresponds to
114 Virginia Code § 9.1-1104. Based on their recommendation, Ms. Jenkins presented the Board with
115 amendments to the previously approved Fast Track regulatory action that would retitle Section 6
116 VAC 40-60-30 and repeal all but Section B.
117

118 Chief DeBoard asked if there were any questions or comments regarding the new changes. Being
119 none, she called for a motion to approve the new amendments to the Fast Track regulatory action.
120 A motion was made by Ms. Clark and was seconded. A roll call vote was conducted, and the
121 motion passed unanimously.
122

123 Mason Byrd, Chief Deputy Director, provided an update on the formation of a National
124 Association of Forensic Science Boards. Mr. Byrd provided information gathered since the
125 previous Board meeting and shared the purpose of the group, which is to “ensure that State-level
126 forensic science boards are best positioned to benefit forensic science.” He discussed the progress
127 of the group to date and noted that they are working to determine the next steps. He indicated that
128 no action was needed at this time by the Board and that staff would continue to monitor this and
129 report back at future meetings.
130

131 **New Business**

132 Brad Jenkins, Forensic Biology Program Manager, provided his report on the DNA Index of
133 Special Concern (DISC) as related to the Rapid DNA system. Mr. Jenkins shared that this DNA
134 index is expected to be implemented in 2024 starting in the Tidewater area then expanding
135 statewide. DNA samples from arrestees will be tested at booking stations with Rapid DNA
136 instruments. DNA profiles are generated in about two hours that can then be searched in the
137 Combined DNA Index System (CODIS) against the DISC unsolved forensic cases. This is

138 currently being used for arrestee samples at several booking stations in Louisiana and at the FBI.
139 Future developments for these systems are geared toward allowing law enforcement agencies to
140 process crime scene samples, which can be reviewed by the crime laboratory and potentially
141 searched in CODIS. The use of the system in Virginia would be in cooperation with law
142 enforcement agencies that agree to abide by specific requirements. He advised that there is a
143 possibility for future funding requests from DFS and Virginia law enforcement agencies for
144 implementation of the system.

145
146 Ms. Jenkins provided an overview of the term *Reasonable Degree of Scientific Certainty*. Ms.
147 Jenkins discussed the use of the term in the courtroom, which began as a “reasonable degree of
148 medical certainty” in certain cases and morphed into use in forensic cases. She advised that the
149 term is not defined for forensic scientists and should not be used in court testimony. She shared
150 the National Commission on Forensic Science’s recommendation that forensic scientists should
151 not be required to use the phrase in their court testimony and the corresponding memorandum from
152 the Office of the Attorney General (U.S) adopting that recommendation. She discussed the
153 continued use of the term in Virginia courts and the efforts by the Department to encourage the
154 discontinuance of this practice.

155
156 There was discussion around the topic noting the difficulty that will likely be encountered
157 surrounding efforts to discontinue the use of the phrase. A question was raised about whether the
158 Department had brought the issue before the Virginia Supreme Court. Ms. Jenkins responded that
159 she had reached out to court staff but only informally.

160
161 Mr. Byrd provided a legislative update and discussed six Virginia statutes for which the
162 Department is seeking minor changes based on scientific/technical advancements and other
163 considerations.

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165 **Public Comment**

166 None.

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168 **Confirm Next Meeting Date**

169 Chief DeBoard stated that the next meeting will be held on April 10, 2024.

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171 **Adjournment**

172 She then called for a motion to adjourn the meeting. The motion to adjourn, made by Mr. HuYoung
173 and seconded, was passed unanimously. The meeting was adjourned at 11:18 a.m.