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Final Minutes
Forensic Science Board Meeting
October 3, 2019
Department of Forensic Science, Central Laboratory, Classroom 1

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Board Members Present

Colonel Maggie A. DeBoard, Chief of Police, Town of Herndon Police Department
Shannon Dion, Director, Department of Criminal Justice Services
William T. Gormley, M.D., Chief Medical Examiner
Karl R. Hade, Executive Secretary, Supreme Court of Virginia
Kristen J. Howard (Designee of Senator Mark D. Obenshain, Chair, Virginia State Crime Commission)
Sammy Johnson (Designee of Caroline D. Juran, Executive Director, Board of Pharmacy)
David R. Lett, Petersburg Public Defender, Chair
Colette W. McEachin, Deputy Commonwealth's Attorney, City of Richmond
Richard P. Meyers, Scientific Advisory Committee Member
Lieutenant Colonel Tracy Russillo (Designee of Colonel Gary T. Settle, Superintendent, Virginia State Police)
Denise M. Toney, Ph.D., Director, Division of Consolidated Laboratory Services
Holli Wood (Designee of Attorney General Mark R. Herring)

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Board Members Absent

Emily M. Brewer, Delegate (Designee of Delegate Robert B. Bell, Chair, House Courts of Justice Committee)
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

Legal Counsel for the Forensic Science Board

Michelle Welch, Assistant Attorney General

Staff Members Present

Wanda W. Adkins, Office Manager
Jeffrey D. Ban, Central Laboratory Director
David A. Barron, Ph.D., Deputy Director
Donna Carter, Finance Manager
Sabrina S. Cillessen, Physical Evidence Program Manager
Amy M. Curtis, Department Counsel
Katya N. Herndon, Chief Deputy Director
James W. Hutchings, Ph.D., Toxicology Program Manager
Linda C. Jackson, Director
Bradford C. Jenkins, Biology Program Manager
Robyn Weimer, Chemistry Program Manager

44 Shayla Riggs, PERK Tracking System Coordinator
45 Robert Scanlon, DNA Databank Principal Forensic Scientist
46 Elizabeth Stroble, Grants Administrator
47 Jennifer L. Taylor, Forensic Administrative Specialist
48

49 **Call to Order**

50 David Lett, Chair, called the meeting to order at 9:33 a.m. He welcomed the Board members,
51 Department of Forensic Science (“Department” or “DFS”) staff, and the public and thanked
52 everyone for their attendance.
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, Ms. McEachin made a motion to adopt the agenda, which was seconded by Ms. Dion and
57 adopted by unanimous vote of the Board.
58

59 **Approval of Draft Minutes of the July 31, 2019 Board Meeting**

60 Mr. Lett asked if there were any changes or corrections to the draft minutes from the July 31, 2019
61 meeting. Colette McEachin made a motion to approve the July 31, 2019 minutes, which was
62 seconded by Colonel DeBoard and passed by unanimous vote of the Board.
63

64 **Chair’s Report**

65 The Chair did not have a report.
66

67 **Director’s Report**

68 Facilities:

69 Director Jackson reviewed with the Board a timeline of what has occurred to date for the Central
70 Laboratory facility project. She shared the purchasing process of the land for the site in Hanover
71 County selected for the new Central Laboratory facility.
72
73

74 Accreditation:

75 Director Jackson reminded the Board that the Department’s offsite surveillance assessment of all
76 of the four regional laboratories has been completed. The on-site surveillance assessment will be
77 completed in May of 2020.
78

79 Agency Initiatives:

80 Director Jackson updated the Committee on the Department’s training for attorneys and judges.
81 The Department provided a one-day DNA Training for attorneys and judges last year in all four
82 regional laboratories. A stakeholder meeting was held on May 2, 2019 to review the results of a
83 survey of attendees from the 2018 DNA Training, seek input on potential changes to the DNA
84 Training, and discuss subjects for the 2019 trainings. The Department provided the first one-day
85 DNA Training in the Northern Laboratory and a four-hour training for DUI/DUID in the Central
86 Laboratory on September 27, 2019. Both trainings will be provided in the other laboratories until

87 November 15, 2019. The Department plans to continue with the trainings and add additional
88 disciplines.

89
90 Director Jackson shared with the Board about the Virginia Cybercrime Initiative. The Initiative is
91 sponsored by the Commonwealth's Attorneys' Services Council and the conference is planned
92 for March of 2020.

93
94 Director Jackson informed the Board of the status of the Controlled Substance backlog and case
95 submissions, as well as measures the Department has taken to address the Controlled Substances
96 workload, including hiring new staff, purchasing additional equipment, implementing mandatory
97 overtime, outsourcing cases, and the Request for Proposals for the lean six sigma project. Due to
98 time constraints with the grant period, the lean six sigma project will be reinitiated at a later time.
99 As of September 26, 2019, 1,945 simple possession cases have been outsourced to NMS
100 Laboratories in Pennsylvania. The averaged turnaround time for the outsourced cases is 20 days.
101 She gave an update on the training status of the 15 Controlled Substances scientists hired in the
102 past year; two recently completed their training, nine additional scientists are scheduled to
103 complete their training by November of 2019, and four additional should complete their training
104 in the spring of 2020.

105
106 Director Jackson reviewed the industrial hemp laws passed during the 2019 General Assembly
107 Session in response to the federal Farm Bill enacted in 2018, as well as the potential issues created
108 for the Department in determining whether an item is marijuana or industrial hemp. She explained
109 that the currently approved Duquenois-Levine field tests cannot differentiate between marijuana
110 and industrial hemp. The Department has been working with the Drug Enforcement Administration
111 (DEA) to validate a cannabis typification field test kit that evaluates the ratio of
112 tetrahydrocannabinol (THC) and cannabidiol (CBD) concentrations in cannabis. This field test
113 should be used by law enforcement in cases where the defendant is raising the affirmative defense,
114 or there is an issue as to whether the item is a hemp product, to assist in determining when to
115 submit the item to the laboratory for analysis. The Department purchased around 16,000 kits for
116 distribution to law enforcement with grant funding from the Department of Criminal Justice
117 Services. Director Jackson also reviewed the Department's progress in validating new methods for
118 quantitating THC in marijuana plant material.

119
120 Director Jackson gave an update on the Physical Evidence program area, which focused on site
121 visits that the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) is conducting of the
122 DFS Firearms & Toolmarks Sections in each laboratory. The ATF is assessing compliance with
123 their new Minimum Required Operating Standards (MROS) for the National Integrated Ballistic
124 Information Network (NIBIN). She reported that all site visits are completed and a new
125 Memorandum of Understanding will be sent to the Department.

126
127 Addressing the Forensic Biology program area, Director Jackson reviewed staffing levels,
128 including examiners in training and positions in recruit. She also gave an overview of the
129 validation projects that the Forensic Biology Section is currently conducting, which include

130 Casework Direct for male DNA screening, Y-STR analysis on the AB3500, and STR MIX
131 software.

132
133 Director Jackson provided a Toxicology program area update, which included information on
134 QTOF screening, Hamilton STAR, and method development. She also shared information on the
135 grant-funded Joint Opioid Symposium which will be held on December 4, 2019 at the Northern
136 Laboratory.

137
138 Budget:

139 Director Jackson shared the DFS FY20 Budget with the Board.

140

141 Grants:

142 Director Jackson shared a list of current and pending grants with the Board.

143

144 Director Jackson described a Department of Criminal Justice Services (DCJS) grant, which would
145 provide \$97,500 in funds for the purchase of 16,150 cannabis typification field test kits for use by
146 law enforcement officers. The typification kits can be used to differentiate industrial hemp from
147 marijuana when used in conjunction with the Duquenois-Levine field test. Ms. McEachin made a
148 motion to authorize the Department to apply for and accept funds for the DCJS grant, if awarded.
149 The motion was seconded by Dr. Gormley and approved by unanimous vote of the Board. Ms.
150 Dion abstained from the vote.

151

152 Director Jackson described the Fiscal Year 2020 Byrne Justice Assistance (JAG) grant, which
153 would provide \$46,536 in funds to maintain the increased capacity in the Forensic Training
154 Section. The funds will be used to retain the part-time forensic trainer position and to add several
155 items of equipment that can be used as a replacement when the current equipment is in need of
156 repair. Mr. Meyers made a motion to authorize the Department to apply for and accept funds for
157 the JAG grant, if awarded. The motion was seconded by Dr. Gormley and approved by unanimous
158 vote of the Board. Ms. Dion abstained from the vote.

159

160 Director Jackson gave an update on the National Sexual Assault Kit Initiative (SAKI) grant,
161 including the number of kits submitted to the private laboratory for analysis, the number of kits
162 with testing completed/data received by DFS, and the number of cases where the data reviews have
163 been completed by the Department. DFS also received funding under the SAKI grant, as a sub-
164 recipient of the Office of the Attorney General, to develop the PERK Tracking System.

165

166 Workload/Backlog:

167 Director Jackson provided the Board with an update on statistical trends in each of the scientific
168 disciplines, including quarterly data on backlog and turnaround times.

169

170 Scientific Advisory Committee Report

171 Mr. Meyers, Scientific Advisory Committee (“SAC”) Member, gave a report to the Board of the
172 business of the SAC from its meeting held on October 2, 2019. The SAC heard presentations by
173 DFS Director Linda Jackson and all four Program Managers.

174
175 Mr. Meyers reported to the Board that the SAC updated memberships for the Toxicology
176 Subcommittee and Controlled Substances Subcommittee. Both Subcommittees will meet in
177 advance of the full SAC meeting in April.

178
179 Mr. Meyers reported to the Board that the SAC adopted the amendments for the Policy on
180 Individual Participation in Scientific Advisory Committee Meetings by Electronic Means under
181 Virginia Code § 2.2-3708.1. He also reported that the SAC selected the upcoming meeting dates
182 for 2020.

183

184 **Old Business**

185

186 Status of the Post-Conviction DNA Testing Program and Notification Project:

187 Ms. Herndon discussed the history and overview of the Post-Conviction DNA Testing Program
188 and Notification Project. Dr. Christina Arrington from the Virginia State Crime Commission
189 provided information to the Board on the background, notification efforts, and DNA testing
190 outcomes the Commission used. She also discussed the convicted defendants that are currently
191 pending notifications. Ms. Herndon discussed the State budget language from 2008 that references
192 the Department in Section B. Ms. Dion made a motion that the Department has exercised all due
193 diligence for completing the Post-Conviction DNA Testing Program and Notification Project. Ms.
194 Herndon made an amendment that misdemeanor defendants have not been notified yet. The motion
195 was seconded by Ms. McEachin and approved by unanimous vote of the Board. Ms. Howard
196 abstained from the vote.

197

198 The Chair called for a break at 10:42 a.m.

199

200 The Chair called the meeting back to order at 10:52 a.m.

201

202 Serology Case Review Update:

203 Brad Jenkins, Forensic Biology Program Manager, gave an update on the Serology Case Review,
204 which included a review of a random sample of serology cases including at least 100 reports each
205 from the Eastern and Northern Laboratories. Each case is being reviewed separately by two
206 scientists. Mr. Jenkins gave an overview of observations made this far during the project.

207

208 Mr. Jenkins shared with the Board information on the letter that the Department sent out to its users
209 in order to identify additional cases for the review. Mr. Jenkins noted a committee is being formed
210 with two Department employees to recommend follow-up on specific cases and to report at the
211 next Scientific Advisory Committee (SAC) meeting in April 2020.

212

213 Microscopic Hair Comparison Case Review Update:

214 Amy Curtis, Department Counsel, provided an update on the Microscopic Hair Comparison Case
215 Review. DFS sent approximately 125 letters to Virginia Circuit Courts seeking transcripts and
216 conviction orders in July. Ms. Curtis advised that the Department has purchased Lexis-Nexis to
217 identify and locate defendants in additional cases.

218
219 The Microscopic Hair Comparison Case Review Subcommittee met on May 13, 2019 and, after
220 meeting in closed session, approved notification in five cases. The Subcommittee Chair signed
221 notification letters for two cases where the inmates are still incarcerated. Ms. Curtis noted that the
222 Subcommittee is planning to meet in the near future to review additional cases.

223
224 Proposed Regulatory Amendments:
225 Amy Curtis updated the Board on the status of the proposed amendments to the Regulations for
226 the Approval of Field Tests for Detection of Drugs (6VAC40-30.) The proposed amendments are
227 now at the Governor’s Office for review. Ms. Curtis reviewed the next steps in the regulatory
228 process that will occur if the amendments are approved by the Governor’s Office.

229
230 Ms. Curtis reminded the Board that the proposed amendments were approved by the Governor’s
231 Office on September 18, 2019. The public hearing is scheduled for October 28, 2019. The public
232 comment is scheduled in advance of the next Board meeting in January.

233
234 New Business

235
236 Overview of PERK Tracking System:
237 Shayla Riggs, PERK Tracking System Coordinator, informed the Board of the PERK Tracking
238 System that the Department created. The PERK Tracking System now places a barcode on PERK
239 kits which allows law enforcement agencies, DFS, and the Division of Consolidated Laboratory
240 Service (DCLS) to track it and also tracks older cases known as Legacy kits. The system has no
241 identifying victim information. Ms. Riggs shared what the PERK Tracking System looks like
242 online and how to access it. Beta testing of the PERK Tracking System began with a handful of
243 agencies in the Richmond area in June. The system will be rolled out statewide over the next year
244 as legislation mandates that all agencies use the system effective July 1, 2020.

245
246 Draft of the 2019 FSB Annual Report:
247 Ms. Herndon reminded the Board that Code § 9.1-1110 (B) specifies the six subjects that need to
248 be addressed in the Board’s Annual Report which is due to the General Assembly by November 1,
249 2019. Ms. Herndon reviewed the contents of the draft annual report that had been disseminated to
250 the Board in advance of the meeting. Ms. Herndon noted the portions of the report that will be
251 updated after the Board meeting, prior to the report being submitted. The report will be submitted
252 with a cover letter signed by the Chair. Mr. Johnson made a motion to approve the draft Forensic
253 Science Board 2019 Annual Report, and to permit Ms. Herndon to update the report following the
254 Board meeting, and then to submit it according to law, which was seconded by Colonel DeBoard,
255 and passed by unanimous vote of the Board.

256
257 Public Comment

258 No member of the public provided comment.

259

260 **Future Meeting Dates**

261 The Forensic Science Board is scheduled to meet on Monday, January 6, 2020 at 9:30 a.m.

262

263 The Board discussed potential meeting dates for its meetings for 2020 and agreed to schedule the
264 next meetings for April 16, 2020, July 15, 2020, and October 15, 2020.

265

266 **Adjournment**

267 Mr. Lett called for a motion to adjourn the Board meeting. Ms. McEachin made a motion to
268 adjourn the meeting, which was seconded by Ms. Howard, and passed by unanimous vote.

269

270 The meeting adjourned at 11:49 a.m.