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Minutes
Forensic Science Board Meeting
April 10, 2023

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Board Members Present

Megan L. Clark, Commonwealth's Attorney, Prince Edward County
Colin Drabert, Designee of the Chair of the Virginia State Crime Commission, Senator John S. Edwards
William T. Gormley, M.D., Chief Medical Examiner
Karl R. Hade, Executive Secretary, Supreme Court of Virginia
Michael HuYoung, Esquire, Criminal Defense Attorney
Caroline D. Juran, Executive Director, Board of Pharmacy, *Vice Chair*
Lt. Colonel Timothy Lyon, Designee of Colonel Gary T. Settle, Superintendent, Virginia State Police
George C. Maha, Ph.D., Scientific Advisory Committee Member
Richard P. Meyers, Scientific Advisory Committee Member
Jackson Miller, Director, Department of Criminal Justice Services
Denise M. Toney, Ph.D., Director of the Division of Consolidated Laboratory Services
Robert Tracci, Designee of Attorney General Jason S. Miyares
Delegate Wren Williams, Designee of Delegate Robert Bell, Chair of the House Committee for Courts of Justice

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Board Members Absent

Chief Maggie A. DeBoard, Chief of Police, Herndon Police Department, *Chair*
Senator John S. Edwards, Chair of the Senate Committee on the Judiciary

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Legal Counsel for the Forensic Science Board

Michelle Welch, Senior Assistant Attorney General

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Staff Members Present

David A. Barron, Ph.D., Deputy Director
Mason Byrd, Chief Deputy Director
Deea Chakraborty, Legal Assistant
Sabrina S. Cillessen, Physical Evidence Program Manager
James W. Hutchings, Ph.D., Toxicology Program Manager
Linda C. Jackson, Director
Brad Jenkins, Forensic Biology Program Manager
Alka B. Lohmann, Director of Technical Services
Scott Maye, Central Laboratory Director
Jessica B. Norton, Sr. Legal Assistant
Kelly Shelton, Administrative Assistant
Elise Stroble, Grants and Administration Program Manager/Board Secretary
Robyn Weimer, Chemistry Program Manager

Call to Order

46 Ms. Caroline Juran, Vice Chair of the Forensic Scientific Board (“Board” or “FSB”), called the
47 meeting to order at 9:34 a.m.

48
49 **Adoption of Agenda**

50 Ms. Juran advised that the first order of business was the adoption of the draft agenda for the
51 meeting, which was previously shared with the Board members. She asked if there were any
52 changes to the draft agenda. Being none, she asked for a motion to approve the draft agenda. Dr.
53 Maha made a motion to adopt the agenda, which was seconded by Ms. Clark. A vote was taken,
54 and the agenda was adopted by unanimous vote.

55
56 **Approval of Draft Minutes of the January 4, 2023 Board Meeting**

57 Ms. Juran asked if there were any proposed changes to the draft minutes from the January 4, 2023
58 meeting. Being none, she asked for a motion to approve the draft minutes. Ms. Clark made a
59 motion to approve the January 4, 2023 meeting minutes, which was seconded by Mr. Hade. A
60 vote was taken, and the agenda was adopted unanimously.

61
62 **FSB Chair’s Report**

63 Ms. Juran stated she did not have a report.

64
65 **Scientific Advisory Committee Report**

66 Ms. Juran called on Mr. Meyers to give the Scientific Advisory Committee report. Mr. Meyers
67 stated that he did not have a report, as the meeting would occur the following day.

68
69 **DFS Director’s Report**

70 Ms. Juran called on Director Jackson to provide her report to the Board.

71
72 **Department Updates**

73 Director Jackson provided updates on various areas of DFS operations, starting with the Central
74 Laboratory capital project. Director Jackson announced that the groundbreaking occurred on
75 March 2, 2023 and thanked the Board members that were able to attend. She also informed the
76 Board that several guests provided remarks, including Secretary of Public Safety and Homeland
77 Security Robert Mosier, as well as Secretaries McDermid and Littel. Project completion is
78 anticipated in late 2025 and move-in is expected to be sometime in early 2026.

79
80 **Training for Attorneys and Judges**

81 Director Jackson reminded the Board of the agency’s plans to provide training sessions at all four
82 DFS laboratories for attorneys and judges to better understand the underlying science, how the
83 testing works, and to better understand DFS’ reports and the implications behind the test results.
84 The first will be half-day sessions on Controlled Substances in May 2023. In addition, full-day
85 DNA training sessions are planned for the fall of 2023. Information for these courses is posted on
86 the DFS website, and notices have been sent to stakeholders.

87
88 **Customer Working Group**

89 Director Jackson updated the Board on the Customer Working Group, which was established prior
90 to the pandemic to seek customer service feedback. The first meeting will be held virtually on
91 May 8, 2023. Two items on the agenda for the upcoming meeting are potential changes in Latent
92 Prints Section reporting and DNA Section changes in reporting DNA allele tables in Certificates
93 of Analysis.

94

95 Accreditation

96 Director Jackson let the Board know that DFS recently underwent its internal audit process, which
97 occurred February 21 – March 23, 2023. In addition, DFS is planning to begin its external
98 surveillance document review, which will begin the first week of May. Next year, there will be
99 an on-site review, which occurs every other year.

100

101 Forensic Training

102 Director Jackson noted that the 108th Session of the Forensic Training Academy graduated on
103 March 31st. The two newly hired Forensic Trainers were able to assist with the training, as their
104 employment began prior to the start of the session.

105

106 Field Test Regulation Update

107 Director Jackson reminded the Board that the first public hearing about the marijuana field tests
108 was held earlier that morning. She also provided a brief update on 6VAC40-30 – Regulations for
109 the Approval of Field Tests for Detection of Drugs. Approved field tests are for use in preliminary
110 hearings, but not at trial. She provided a brief history of the regulatory process that has occurred
111 surrounding the approval of these kits. The links to the current published lists can be found on the
112 DFS website and are included in the Director’s report presentation.

113

114 Director Jackson informed the Board that the approval for the first presumptive mobile instrument
115 for the detection of drugs has been published and that an agency notice was sent to stakeholders.
116 Director Jackson discussed the technology involved in these mobile devices, Raman spectroscopy,
117 which allows users to scan directly through clear packaging to minimize the risk of exposure but
118 warned that users should still use caution when handling suspected drugs. She clarified that Raman
119 spectrometry is useful for indicating the presence of substances in high concentrations within a
120 mixture, but is not ideal for indicating the presence of substances in a low concentration.

121

122 Staff Training

123 Director Jackson reminded the Board that DFS is providing training for forensic scientists that will
124 offer tools for managing stress and vicarious trauma that are inherent in the type of work that they
125 do. The training is being conducted by MindGen, LLC and consists of four 45-minute sessions.
126 Two of the four sessions have been completed and the remaining sessions are scheduled to end in
127 May 2023.

128

129 Director Jackson also informed the Board that a three-hour *Supervisor Civility Training* was
130 provided to agency supervisors by Karen Michael, PLC. The training covered federal and state
131 statutes relating to handling difficult situations in the workplace.

132

133 Director Jackson let the Board know that DFS has put forward a new agency goal for staff training
134 and that the number of hours of required training for scientific staff was increased from eight to
135 sixteen hours per year. This new goal is in line with the recommendations of *E2917 Practice for*
136 *Forensic Science Practitioner Training, Continuing Education, and Professional Development*
137 *Programs*. Other staff within the agency have training goals with varying numbers of hours per
138 year.

139 Post-Conviction Project

141 Director Jackson advised the Board that case files identified for review as part of the post-
142 conviction project will be returned to the State Records Center. The Certificates of Analysis and
143 case information have been entered into the historical case file database as part of the agency's
144 historical case file project. Evidence identified in the case files and dried sample extracts will be
145 returned to the submitting agencies to be maintained as they would any other evidence. The
146 transfers will be done in batches, and a notification will be sent to law enforcement agencies in
147 advance.

148
149 Director Jackson also made the Board aware of a podcast entitled *Admissible: Shreds of Evidence*
150 that was produced by VPM, the local public radio station, which focused on the work of Serologist
151 Mary Jane Burton during the period of 1973 to 1988. Director Jackson and Brad Jenkins, Biology
152 Program Manager, were interviewed by VPM in early 2022 during which the reporter alleged that
153 they were in possession of documentation showing that Ms. Burton changed serology results in
154 logbooks. After the interview, DFS requested in writing a copy of such documentation, but the
155 request was denied by VPM. Director Jackson noted that it seemed premature to discuss the
156 podcast in depth since only 10 out of 12 episodes have been released and DFS has not been given
157 the opportunity to review any documents possessed by VPM.

158 Toxicology Updates

159 Director Jackson advised that DFS is working to hire Toxicology staff, as positions were given to
160 the agency in the most recent budget for this purpose, and she noted that quite a few have already
161 been hired. In addition, beginning January 1, DFS began testing all DUI/DUID samples for a THC
162 (tetrahydrocannabinol) metabolite and for alcohol. Data is now being gathered and will be shared
163 in the future.

164
165
166 A Toxicology Section staffing update was provided in which Director Jackson discussed the
167 various positions that are currently in recruitment or are in training. DFS is working to ensure that
168 the agency meets the requirement that 90% of OCME cases be completed within 90 days. DFS is
169 well above the 90% completion rate in all four of its laboratories and is now over 70% for the
170 percentage of cases completed within 60 days. These percentages do not take into account the
171 cases that are currently being outsourced.

172 Case Statistics

173 Director Jackson shared the March workload statistics. She made note of the fact that turnaround
174 time for Forensic Biology (DNA) and that the number of cases has increased significantly. The
175 Section does not currently have the staff necessary, but there are four positions in the Governor's
176 proposed budget and are in the House and Senate budgets. DFS is awaiting the finalization of the
177 budget process to find out if those positions will be granted.
178

179
180 Director Jackson shared quarterly case submission/completion comparisons beginning with the
181 final quarter of 2021 and ending with the first quarter of 2023. Controlled Substances submissions
182 rose significantly this past quarter, with 2800 cases submitted in March, 1000 of which were to the
183 Western Laboratory. Director Jackson asked Lt. Col. Lyon about what has been happening in the
184 field, to which he replied that the task force offices have seen a lot of methamphetamine in the
185 Western district as well as fentanyl. Director Jackson stated that DFS has positions open in
186 anticipation of an increase in submissions post-pandemic.

187
188 In the Digital & Multimedia Evidence Section, there are two examiner positions that were recently
189 vacated, and the positions have been posted. In the Firearms & Toolmarks Section, DFS continues
190 to see a decrease in NIBIN case submissions. In Latent Prints & Impressions, the Section is doing
191 well. For Toxicology, the turnaround time has increased somewhat, but the Section has been
192 working to complete some of the older cases that were in backlog. The Trace Evidence Section
193 has been able to maintain its turnaround time.

194
195 Budget and Resources
196 Director Jackson shared information on the Department's FY23/FY24 Biennial budget,
197 highlighting the introduced non-technical budget changes for 2024. One of the items involves
198 converting a part-time Evidence Receiving Specialist position in the Western Laboratory to full-
199 time to improve efficiency. Other pending items will be discussed in Chief Deputy Director Byrd's
200 legislative update.

201
202 Grants
203 Director Jackson presented several grant applications that required the Board's approval.

- 204
- 205 • Two DMV Highway Safety grant projects, one for the Breath Alcohol Section and one for
206 Toxicology – DFS applied for these in February with the permission of the Board Chair
207 and Vice Chair.
 - 208 ○ Ms. Juran asked for a motion from the Board to approve the Department to apply for
209 and receive funds under the FY 2023 DMV Highway Safety Grant Program, which
210 includes the two separate applications for the Breath Alcohol Training Project and the
211 TRENDS Data Project, if awarded. A motion was made by Lt. Col. Lyon and seconded
212 by Dr. Gormley. The motion was passed by unanimous vote.
 - 213 • Bureau of Justice Assistance FY 2023 DNA Capacity Enhancement and Backlog
214 Reduction (CEBR) Program for the Forensic Biology Section – DFS will apply for this
215 funding in April.
 - 216 ○ Ms. Juran asked for a motion to approve the Department to apply for and receive these
217 funds, if awarded. A motion was made by Mr. Miller and seconded by Dr. Gormley.
218 The motion was passed by unanimous vote.
 - 219 • FY 2023 Paul Coverdell Forensic Science Improvement Grant – DFS will apply for
220 funding through the Department of Criminal Justice Services in May. Director Jackson
221 advised the Board that DFS and the OCME typically split this funding evenly and that DFS
222 mainly uses these funds for continuing education of non-DNA staff, as the CEBR grant
223 allows for continuing education of DNA staff.

- 224 ○ Ms. Juran asked for the Department to the Paul Coverdell Forensic Science
225 Improvement Grant Program and to receive half of those funds, if awarded. A motion
226 was made by Ms. Clark and seconded by Dr. Toney. The motion was passed by
227 unanimous vote.
- 228 ● National Institute of Justice Research and Evaluation for the Testing and Interpretation of
229 Physical Evidence in Publicly Funded Laboratories – DFS will apply for funding in May
230 for three research projects, two in Chemistry and one in Biology. Director Jackson
231 described each project and what they will entail.
- 232 ○ Ms. Juran asked for a motion for the Department to apply to the NIJ FY 2023 Research
233 and Evaluation for the Testing and Interpretation of Physical Evidence in Publicly
234 Funded Laboratories for three grants, the first being the validation of the Biomek i5
235 workstation for the automated processing of sexual assault samples, the second one
236 dealing with the analysis of psychedelics in biological matrices, and the third is to
237 validate two blood ethanol analyses using nitrogen and hydrogen as carrier gases, and,
238 if funding is awarded to authorize the Department to utilize the funding for those
239 purposes. A motion was made by Lt. Col. Lyon and seconded by Dr. Gormley. The
240 motion was passed by unanimous vote.

241

242 **Old Business**

243

244 Ms. Juran called on Mason Byrd, Chief Deputy Director, to provide an update on proposed
245 regulatory actions.

246

247 Proposed Amendments to 6VAC40-50, Regulations for the Approval of Marijuana Field Tests for 248 Detection of Marijuana Plant Material

249

250 Mr. Byrd reminded the Board of the purpose of the proposed amendments, which have been posted
251 on the Virginia Regulatory Town Hall website since March 13, 2023 for public comment. These
252 have been approved by the Secretary’s Office, the Office of Regulatory Management, and the
253 Governor’s Office. There have been no public comments to date, including during the public
254 hearing earlier in the morning. This action will be carried over until the July 2023 meeting.

255

256 6VAC40-15, Parking Regulations – Fast Track Regulatory Action

257 Mr. Byrd reminded that these regulations were previously approved by the Board. He advised that
258 Ms. Jenkins, Department Counsel, was informed by the Office of Regulatory Management that
259 these regulations are not in keeping with the Governor’s goal of regulatory reduction and that cars
260 could be towed pursuant to current statutory authority, with appropriate internal policies. Mr. Byrd
261 requested that the Board withdraw this proposed regulation. Ms. Juran asked for a motion to
262 withdraw the regulatory action previously approved by the Board. A motion was made by Mr.
263 HuYoung and seconded by Ms. Clark. The motion was passed by unanimous vote.

264

265 **New Business**

266

267 Legislative Update

268 Ms. Juran called on Chief Deputy Director Byrd to provide updates on recent legislation. Mr.
269 Byrd provided explanations and updates on several bills that will impact the Department. He

270 reminded the Board that the reconvene session is scheduled for Wednesday and that some of the
271 proposed items have not yet been decided.

272
273 Mr. Byrd discussed HB 2150 at length, which creates “trace evidence collection kits”, known as
274 strangulation kits, to be collected similarly to physical evidence recovery kits (PERKs), but will
275 be used for strangulation in non-sexual assault cases. The bill requires the Division of Consolidated
276 Laboratory Services to store anonymous kits, similar to the way that anonymous PERKs are stored.
277 This bill allows law enforcement entities, in consultation with Commonwealth’s Attorneys, some
278 discretion in determining whether to submit a kit depending on the facts of the case, unlike the
279 requirements surrounding PERKs. The implementation has been delayed until July 1, 2025, to
280 allow for a stakeholder working group to determine the path forward for the creation of these kits.

281
282 Mr. Byrd discussed several other House and Senate bills and their impact on the Department:

- 283
- 284 • HB 2204/SB 1398, requiring the Department of Motor Vehicles to collect a wide range of
- 285 data related to driving under the influence of alcohol, drugs, or a combination thereof
- 286 • Pending Budget Language regarding DUI Toxicology cases beginning January 1, 2024,
- 287 that contains several requirements for the Department
- 288 • HB 2428/SB 1233, concerning advertisements for marijuana, marijuana products, etc. and
- 289 a definition of “tetrahydrocannabinol”
- 290 • HB 2294/SB 903, which contains definition for “tetrahydrocannabinol” that is the same as
- 291 in HB 2428/SB 903, but with some limits of concentrations in products offered for sale
- 292 • HB 2364/SB 894 that permanently placed 15 compounds in Schedule 1 of the Drug Control
- 293 Act that were previously scheduled by the Board of Pharmacy via regulation
- 294

295 Mr. Byrd asked if the Board had any questions regarding any of the legislation. There was some
296 discussion around the various isomers and derivatives of THC (tetrahydrocannabinol). Director
297 Jackson provided an explanation of the differences between isomers and derivatives and how those
298 distinctions can impact the language of a legal definition. She also explained that
299 “tetrahydrocannabinols” as defined in Schedule I of the Federal Drug Control Act is different from
300 how “tetrahydrocannabinols” were defined in Schedule I of the Virginia Drug Control Act.
301 Derivatives of tetrahydrocannabinols are included in the federal law but not in the state law.

302
303 A question was raised about testing on DUI blood samples. Director Jackson explained that
304 toxicology methods are typically behind what can be identified in Controlled Substances, due to
305 limitations of the methodology, but that DFS is close to completing the validation of a new method,
306 which will differentiate between $\Delta 8$ and $\Delta 9$ -THC. The next step will be to expand the method to
307 identify, but not quantitate, some of the other isomers. Mr. Tracci asked if DFS had made a
308 recommendation to the General Assembly to have the Virginia Schedule I language for
309 “tetrahydrocannabinols” resemble the Federal Schedule to encompass tetrahydrocannabinol
310 derivatives. Director Jackson responded that the Department has not made that recommendation,
311 and that SB903 removes “tetrahydrocannabinols” from Schedule I in Virginia. Ms. Juran spoke
312 about how, in Virginia, marijuana is not placed into a Schedule but is defined with associated
313 penalties. This is significantly different than how federal law lists marijuana in Schedule I. Based
314 on the differences between the derivatives, they may or may not be appropriate to schedule.

315 Discussion continued for several minutes around the various isomers, derivatives, and their impact
316 on the body and the complexity of the issue, especially regarding legislation.

317
318 Election of the Chair and Vice Chair

319 Ms. Juran reminded the Board that the terms for Chair and Vice Chair are for a period of one year,
320 and that the current terms are about to expire. She stated that the Board needs to elect a Chair and
321 Vice Chair for the coming year. She called on Ms. Stroble to provide a statement regarding the
322 eligibility of members for these positions. Ms. Stroble stated that, pursuant to the bylaws, Chief
323 DeBoard and Ms. Juran are both eligible to serve another successive term, as their current term
324 began on July 1, 2022.

325
326 Ms. Juran called for nominations for the position of Chair of the Board. Chief DeBoard was
327 nominated by Dr. Gormley for the position of Chair of the Board. Ms. Juran asked Ms. Stroble
328 whether Chief DeBoard had expressed an interest in serving another term if elected. Ms. Stroble
329 advised that Chief DeBoard had made it known that she would be willing to serve another term.
330 There were no other nominations for Chair.

331
332 Dr. Gormley also nominated Ms. Juran as Vice Chair. There were no other nominations for Vice
333 Chair.

334
335 A motion was made by Dr. Gormley to re-elect Chief DeBoard as Chair and Ms. Juran as Vice
336 Chair, which was seconded by Ms. Clark. The motion was passed by unanimous vote.

337
338 Public Comment

339 No public comment was provided.

340
341 Confirm Future Meeting Dates

342 Ms. Juran reminded the Board that the next meeting dates are scheduled for July 19 and October
343 12, 2023.

344
345 Adjournment

346 Ms. Juran adjourned the meeting at 10:48 a.m.