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Final Minutes
Forensic Science Board Meeting
January 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
Vince Donoghue, Essex Commonwealth's Attorney (Designee of Senator Mark D. Obenshain,
Chair, Senate Courts of Justice Committee)
James F. Entas, Assistant Attorney General (Designee of Attorney General Mark R. Herring)
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)
Caroline D. Juran, Executive Director, Board of Pharmacy – *Chair Pro Tempore*
Richard P. Meyers, Scientific Advisory Committee Member
Denise M. Toney, Ph.D., Director, Division of Consolidated Laboratory Services

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Board Members Absent

Emily M. Brewer, Delegate (Designee of Delegate Robert B. Bell, Chair, House Courts of Justice
Committee)
Leslie E. Edinboro, Ph.D., Scientific Advisory Committee Member
David R. Lett, Petersburg Public Defender
Colette W. McEachin, Deputy Commonwealth's Attorney, City of Richmond – *Chair*
Colonel Gary T. Settle, Superintendent, Virginia State Police

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
Sabrina S. Cillessen, Physical Evidence Program Manager
Amy M. Curtis, Department Counsel
Leslie Ellis, Human Resources Director
John T. Griffin, Northern Laboratory Director
Katya N. Herndon, Chief Deputy Director
James W. Hutchings, Ph.D., Toxicology Program Manager
Linda C. Jackson, Director
Bradford C. Jenkins, Biology Program Manager
Alka B. Lohmann, Director of Technical Services
M. Scott Maye, Chemistry Program Manager
Carisa M. Studer, Legal Assistant

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Election of the Pro-Tempore Chair

Michelle Welch, Assistant Attorney General, announced to the Forensic Science Board (“Board” or “FSB”) that both the Chair and Vice-Chair were absent from today’s meeting. Ms. Welch advised the Board that the by-laws allow the Board to elect a Chair Pro Tempore who would serve as chair for purposes of this meeting and asked the Board for a nomination. Mr. Hade nominated Caroline Juran to serve as the Chair Pro Tempore, which was seconded by Ms. Howard, and passed by unanimous vote.

Call to Order

Caroline Juran, Chair Pro Tempore, called the meeting to order at 9:31 a.m. She welcomed the Board members and Department of Forensic Science (“Department” or “DFS”) staff, and thanked everyone for their attendance.

Adoption of Agenda

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

Approval of Draft Minutes of the October 17, 2018 Board Meeting

Ms. Juran asked if there were any changes or corrections to the draft minutes from the October 17, 2018. Ms. Howard asked for a correction on line 16, updating the Virginia State Crime Commission Chair to Senator Mark D. Obenshain. Colonel DeBoard made a motion to approve the October 17, 2018 minutes with the correction to line 16, which was seconded by Mr. Entas, and passed by unanimous vote of the Board.

Chair’s Report

None.

Director’s Report

Agency Updates:

Director Jackson updated the Board on the Central Laboratory facility project. The Department of General Services (“DGS”) has received approval to look at the feasibility of alternate locations for building a new Central Laboratory. DGS has issued a Request for Information (RFI) for land within the Richmond metropolitan area with convenient interstate access and has begun to evaluate several alternate locations.

Director Jackson informed the Board that the roof replacement at the Western Laboratory for the original facility is currently underway. The project funding is being funded from the maintenance reserve budget, and it is expected to be completed at the end of January 2019.

Director Jackson reported to the Board on various agency initiatives. In October 2018, the Department held its annual agency management review, which is an accreditation requirement. Also in October, the Department held an Arbinger Institute Leadership Training course for all

93 agency supervisors and leaders. In November 2018, Director Jackson gave her annual Director's
94 Address to staff at all four laboratories. The class of the 96th Session of the Forensic Science
95 Academy graduated in November.

96
97 Director Jackson provided an update to the Board on actions taken by the Department to respond
98 to the growing turnaround times for the Controlled Substances Section. A Request for Proposal
99 ("RFP") was issued to solicit outsourcing services for the analyses of certain controlled substance
100 cases. The contract should be awarded in January 2019. DFS gave a presentation to the
101 Commonwealth's Attorneys' Services Council Executive Program in December to explain the
102 types of controlled substances cases that will be sent for outsourcing and the process involved.
103 The Department held a meeting on November 29, 2018, regarding controlled substance case
104 submissions with stakeholders. Director Jackson reviewed the additional controlled substances
105 staffing positions hired based on projections made by the Department on future submission rates.
106 The six positions funded from the FY19 Budget have all been hired. Six additional positions,
107 funded through a transfer from the Department's FY20 Budget to its FY19 Budget, are in the
108 process of being filled. There are also two additional positions open through attrition that are in
109 the hiring process.

110
111 DFS will be implementing a grant-funded Lean Six-Sigma project to increase the efficiency and
112 quality of the analytical process in the Controlled Substances Section.

113
114 Director Jackson provided the Board with an update on the Forensic Biology program area. She
115 reviewed staffing levels, including examiners in training and positions in recruit. She gave an
116 overview of the validation projects that the Section is currently conducting, which included
117 Casework Direct for male DNA screening, expanding YSTR testing to all four laboratories,
118 implementing the STR MIX software in all four laboratories, and the evaluation of the automated
119 robotic extractions for sexual assault evidence.

120
121 Director Jackson reported that the Combined Probability of Inclusion ("CPI") recalculations are
122 anticipated to be completed by the end of January 2019. She also advised the Board of the new
123 DNA quality assurance standards that will be effective January 1, 2020. There was a discussion
124 on the debate regarding verbal scales for likelihood ratio values being considered by the forensic
125 biology community.

126
127 Director Jackson updated the Board on the 2018 DNA Training for attorneys and judges. One
128 training session was completed in each of the four laboratories. The Department received overall
129 positive reviews from attendees. DFS will potentially offer DNA training sessions again in 2019.
130 A follow up stakeholder meeting to discuss the DNA Training held and possibilities for additional
131 training after the 2019 General Assembly adjourns.

132
133 Director Jackson presented a Toxicology Program Area update. Toxicology has implemented a
134 Novel Psychoactive Substances ("NPS") method. The method covers 43 possible targets that
135 include cannabimimetics, research chemicals, hallucinogens, and benzodiazepine analogs. DFS is
136 in the process of procuring Automated Liquid handling devices utilizing grant funding. The
137 Toxicology Section held a one-day meeting on December 3, 2018 for training.

139 Director Jackson updated the Board on the new online recertification course for Breath Alcohol
140 operators. The Breath Alcohol Section began the online recertification in August 2018. They are
141 using the Commonwealth of Virginia Learning Center as the platform for the program. The Breath
142 Alcohol Section will be deploying an additional Intox EC/IR II at the Franklin Sheriff's
143 Department auxiliary station near Smith Mountain Lake as requested by the Department of Game
144 and Inland Fisheries.

145
146 Director Jackson presented the Governor's Proposed Budget for the Department to the Board. She
147 noted operating budget changes including overall supply costs going up as staff has increased.
148 Nongeneral funds were increased to allow the Department to utilize grant funding.

149
150 Grants:

151 A list of the current grants was provided for the Board's information.

152
153 Director Jackson reminded the Board that the New York County District Attorney's ("DANY")
154 Sexual Assault Kit Backlog Elimination Program grant ended on September 30, 2018. The DANY
155 grant funded the testing of kits collected by law enforcement prior to July 1, 2014, but not
156 submitted to DFS for testing. Under the DANY Grant, 1,805 kits from 99 agencies were submitted
157 to the private laboratory for testing. The Department has received data from all cases. DFS has
158 completed its review of the data in 1,681 cases, with the remaining 124 in process. The Office of
159 the Attorney General ("OAG") agreed to fund the remaining approximate 900 hours of overtime
160 that will be necessary for DFS to complete the project.

161
162 Director Jackson concluded the grants presentation with an update on the National Sexual Assault
163 Kit Initiative ("SAKI") Grant. DFS received funding under the SAKI grant to develop a Physical
164 Evidence Recovery Kit (PERK) tracking system. A beta test version of the software is anticipated
165 to be completed in February 2019. The PERK Tracking Coordinator wage position has been hired.
166 The position has been recently approved to become a full-time position. Of the 1,232 kits
167 identified in the OAG inventory, 482 kits were submitted to the contract laboratory as of December
168 2018, and testing was completed with data sent to DFS in 179 cases as of January 2, 2019.

169
170 Workload/Backlog:

171 Director Jackson provided the Board with an update on statistical trends in each of the scientific
172 disciplines. She gave an overview of the backlog and turnaround times for each discipline.
173 Director Jackson included year-end statistics comparing 2017 to 2018.

174
175 Old Business

176
177 Status of the Post-Conviction DNA Testing Program and Notification Project:

178 Kristen Howard provided an update on the case file review that staff from the Virginia State Crime
179 Commission (VSCC) has been conducting of cases from the Post-Conviction DNA Testing
180 Program and Notification Project. Ms. Howard reported that VSCC staff, along with DFS staff,
181 are nearing completion of the due diligence review of the Project. A team of VSCC and DFS staff
182 met to look at specific cases to agree on due diligence. During the review, staff identified cases
183 previously categorized as ineligible for the Project and decided to include those cases as part of

184 the final review of the Project. Ms. Howard anticipates that a final presentation will be ready for
185 the spring VSCC meeting and that it will be presented at the Board's next meeting.

186
187 Serology Case Review Update:
188 Brad Jenkins, Forensic Biology Program Manager, gave an update on the status of the Serology
189 Review project. There are 101 Eastern Laboratory case files containing 110 reports, and 70
190 Northern Laboratory case files containing 101 reports. To date, 98 percent of the Eastern reports
191 and 92 percent of the Northern reports have been reviewed. The next phase of the review will be
192 to look at approximately 10 to 15 post-conviction case files.

193
194 Microscopic Hair Comparison Case Review Update:
195 Amy Curtis, Department Counsel, reported to the Board that the Microscopic Hair Comparison
196 Case Subcommittee ("Subcommittee") met on November 19, 2018. The Subcommittee discussed
197 the notice to inmates that the Department of Corrections has agreed to post. The notice outlines
198 what criteria must be met for a case to qualify for the Hair Comparison Case Review and what
199 information the inmate should include in his or her letter to DFS. The Subcommittee approved
200 two response letters to send back to inmates. To date, the Department has received approximately
201 twenty-five letters from inmates. One letter came with a copy of the transcript from the case.
202 Another three to four inmate responses could be qualifying cases if transcripts are able to be
203 located. The Subcommittee discussed due diligence for locating the next of kin in cases for which
204 notification is required and the individual is deceased.

205
206 Ms. Curtis is working on scheduling a time for the Review Team to meet and go over more
207 transcripts in March 2019. After the Review Team has met, Ms. Curtis will schedule the next
208 meeting for the Subcommittee.

209
210 Proposed Regulatory Amendments:
211 Ms. Curtis reported to the Board that the agency statement on the Proposed Amendments to
212 6VAC40-30, Regulations for the Approval of Field Tests for Detection of Drugs, was submitted
213 on November 3, 2018. The proposed amendments are currently in the OAG's office for review.
214 The next stage will be for the Department of Planning and Budget to review the proposed
215 amendments. Ms. Curtis will update the Board at the next meeting.

216
217 **New Business**

218
219 Outlook for 2018 Legislation:
220 Katya Herndon, Chief Deputy Director, advised the Board that the Department has three agency
221 bills for the 2019 General Assembly Session. The first bill would allow DFS employees to possess
222 or transfer unlawful items while engaged in the performance of their official duties. The second
223 bill mandates the use of the PERK tracking system and has a delayed effective date of January 1,
224 2020. The third bill removes "ASCLD/LAB" from several statutes, replacing it with broader
225 language to include other accrediting bodies since ASCLD/LAB has merged with another entity.
226 Ms. Herndon also noted bills of interest to DFS that had been introduced, including several
227 industrial hemp bills.

228
229 Approval of Funding:

230 Ms. Herndon advised the Board that the OAG has offered funding to DFS for two projects. The
231 OAG agreed to provide funding for the additional overtime for reviews not funded under the
232 DANY Grant, which is approximately 900 hours of overtime costing approximately \$39,600. The
233 OAG has also agreed to support a Forensic Laboratory Counsel Training that will be held at the
234 Central Laboratory in April 2019, by providing approximately \$8,200 in funding for the lodging,
235 travel, and per diem expenses for speakers. Mr. Donoghue made a motion to accept the funding
236 from the Office of the Attorney General's Office for the overtime costs not paid for by the DANY
237 Grant and for funding for the Forensic Laboratory Counsel Training, which was seconded by Ms.
238 Dion, and passed by unanimous vote.

239

240 **Public Comment**

241 None.

242

243 **Future Meeting Dates**

244 The Forensic Science Board will meet on Wednesday, May 8, 2019, Wednesday, July 31, 2019,
245 and Thursday, October 3, 2019. All meetings are scheduled to begin at 9:30 a.m.

246

247 **Adjournment**

248 The meeting adjourned at 10:39 a.m.