

1 **Minutes**
2 **Forensic Science Board Meeting**
3 **October 19, 2022**

4 **Department of Forensic Science, Central Laboratory, Classrooms 1 and 2**

5
6 **Board Members Present**

7 Chief Maggie A. DeBoard, Chief of Police, Herndon Police Department, *Chair*

8 Delegate Wren Williams, Designee of Delegate Robert Bell, Chair of the House Committee for
9 Courts of Justice (participated remotely pursuant to Virginia Code § 2.2.-3708.3)

10 Megan L. Clark, Commonwealth's Attorney, Prince Edward County (participated remotely
11 pursuant to Virginia Code § 2.2.-3708.3)

12 William T. Gormley, M.D., Chief Medical Examiner

13 Kristen J. Howard, Designee of the Chair of the Virginia Crime Commission, Senator John S.
14 Edwards

15 Michael HuYoung, Esquire, Criminal Defense Attorney

16 Caroline D. Juran, Executive Director, Board of Pharmacy, *Vice Chair*

17 George C. Maha, Ph.D., Scientific Advisory Committee Member

18 Richard P. Meyers, Scientific Advisory Committee Member

19 Jackson Miller, Director, Department of Criminal Justice Services

20 Lt. Colonel Timothy Lyon, Designee of Colonel Gary T. Settle, Superintendent, Virginia State
21 Police

22 Denise M. Toney, Ph.D., Director of the Division of Consolidated Laboratory Services

23 Phillip Figura, Designee of Attorney General Jason S. Miyares

24
25 **Board Members Absent**

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

27 Senator John S. Edwards, Chairman of the Senate Committee for Courts of Justice

28
29 **Legal Counsel for the Forensic Science Board**

30 Michelle Welch, Senior Assistant Attorney General

31
32 **Staff Members Present**

33 David A. Barron, Ph.D., Deputy Director

34 Madison Boden, PERK Tracking Coordinator

35 Mason Byrd, Chief Deputy Director

36 Sabrina S. Cillessen, Physical Evidence Program Manager

37 James W. Hutchings, Ph.D., Toxicology Program Manager

38 Linda C. Jackson, Director

39 Amy C. Jenkins, Department Counsel

40 Brad Jenkins, Forensic Biology Program Manager

41 Alka B. Lohmann, Director of Technical Services

42 Scott Maye, Central Laboratory Director

43 Jessica B. Norton, Sr. Legal Assistant

44 Elise Stroble, Grants and Administration Program Manager/Board Secretary

45 Robyn Weimer, Chemistry Program Manager

46

47 **Call to Order**

48 Chief Maggie DeBoard, Vice-Chair of the Forensic Scientific Board (“Board” or “FSB”) called
49 the meeting to order at 9:32 a.m. Mason Byrd advised Chief DeBoard that a majority of the FSB
50 members were present, and Chief DeBoard confirmed there was a quorum present.

51
52 Chief DeBoard called on Mr. Byrd to address the remote participation of Delegate Williams and
53 Megan Clark. Mr. Byrd advised that Delegate Williams and Ms. Clark would be participating
54 remotely pursuant to the FSB’s Policy on Participation of Forensic Science Board Members in
55 Meetings by Electronic Means Pursuant to Virginia Code § 2.2-3708.3. Mr. Byrd also advised
56 that Sen. Edwards could not attend but intended to monitor the meeting by electronic means, would
57 not be counted present, and would not be able to make motions or vote. Chief DeBoard asked that
58 the members of the Board and DFS staff introduce themselves.

59
60 **Adoption of Agenda**

61 Chief DeBoard advised that the first order of business was the adoption of the draft agenda for the
62 meeting, which was previously shared with the Board members. She asked if there were any
63 changes to the draft agenda. Being none, she asked for a motion to approve the draft agenda. Mr.
64 Figura made a motion to adopt the agenda, which was seconded by Mr. HuYoung and adopted by
65 unanimous vote of the Board.

66
67 **Approval of Draft Minutes of the July 13, 2022 Board Meeting**

68 Chief DeBoard asked if there were any proposed changes to the draft minutes from the July 13,
69 2022 meeting. Being none, she asked for a motion to approve the draft minutes. Ms. Howard
70 made a motion to approve the July 13, 2022 meeting minutes, which was seconded by Ms. Juran,
71 and passed by unanimous vote of the Board, with Mr. Figura abstaining.

72
73 **FSB Chair’s Report**

74 Chief DeBoard stated she did not have a report.

75
76 **DFS Director’s Report**

77 Chief DeBoard called on Director Jackson to provide her report to the Board.

78
79 **Department Updates**

80 Director Jackson advised the Board that this week is Forensic Science Week in Virginia. DFS
81 requested that the Governor declare this week Forensic Science Week to coincide with the
82 Department’s 50th Anniversary. This is off-cycle from the National Forensic Science Week,
83 which occurred earlier in September. She provided a copy of the Governor’s proclamation in her
84 slides and gave a brief history of the Department, starting with the establishment of the Bureau of
85 Forensic Science within the Division of Consolidated Laboratory Services in 1972 through the
86 elevation to Department in 2005. She stated that DFS would be celebrating the anniversary at the
87 upcoming Service Awards ceremony on Thursday, October 20, 2022.

88
89 **Central Laboratory Project**

90 Regarding the Central Laboratory capital project, Director Jackson indicated that the construction
91 permit has been issued by the Division of Engineering and Buildings (DEB). A request for
92 additional funding, due to price escalation, is in the approval process. After approval, pre-

93 construction activities may begin as early as November 1, with the project completion anticipated
94 for late 2024 or early 2025. Director Jackson also shared conceptual drawings of the planned
95 project and indicated where the various offices/sections would be housed, including the OCME.

96 97 Accreditation

98 Director Jackson announced the Department's full reaccreditation for another four year cycle that
99 was effective on August 24, 2022 and will expire on September 30, 2026. She noted that the
100 updated Certificates and Scopes are available on the DFS website. In particular, trigger pull
101 examinations are once again within DFS' scope of accreditation. She stated that DFS currently
102 does not do testing that is not part of the program. She also added that the planned Office of the
103 State Inspector General (OIG) Performance Audit of the Controlled Substances Quality Assurance
104 Sections was closed out after the planning phase with the advice of a subject matter expert, given
105 the recent accreditation process and the fact that there are plenty of controls in place.

106 107 Forensic Training

108 Director Jackson advised the Committee that the 107th session of the Forensic Training Academy
109 began in September. This nine week course is being taught by the Forensic Training Manager and
110 one part-time Forensic Trainer. The Section has conducted interviews for two full-time Forensic
111 Trainer Senior positions. In addition, a new Forensic Administrative Specialist is expected to
112 begin on October 25, filling the position that was vacated earlier in the year.

113 114 Outreach

115 Director Jackson reminded the Board that the Department has been working on a refresh of its
116 website. The goals of the refresh include updates to current standards for accessibility, increased
117 flexibility for viewing on mobile devices, and an integration of the Qualtrax internal document
118 control system so that procedure manuals can be automatically updated on the website when
119 published. She also briefly discussed recent and future presentations by Department staff to
120 various stakeholders.

121 122 Training for Attorneys and Judges

123 Director Jackson stated that, during the pandemic, a webinar training for attorneys on seized drugs
124 had been provided and that there are now plans to provide in-person sessions at all four DFS labs
125 in the spring of 2023 on the same topic.

126 127 Board of Pharmacy Expedited Scheduling

128 Director Jackson briefly discussed the five new compounds that were recommended to the Board
129 in October 2022. They included one synthetic opioid, one cannabimimetic agent, two
130 hallucinogenic agents, and one depressant. These will be considered at the next meeting of the
131 Board on December 6th.

132
133 There was some discussion around nitazenes, particularly protonitazene, including their
134 regionality and their origin, potency, etc. Richard Meyers stated that the DEA has been seeing
135 these across the country for about a year.

136 137 Cannabis Update

138 Director Jackson provided an update on the nearly complete semi-quantitative method expansion
139 for plant material, oils, and extracts to include other tetrahydrocannabinols (THCs): Δ 8-THC, Δ 10-
140 THC, and Δ 6a,10a-THC. The quantity present of these isomers will not be used to determine
141 whether the material is classified as marijuana or industrial hemp unless the definition is changed
142 in the Code of Virginia. Additionally, a secondary method expansion is anticipated that will
143 include cis Δ 9-THC and Δ 7-THC.

144
145 Although current methods can identify cannabinoids present, DFS methods cannot quantify the
146 THC concentration in edibles. DFS is in the process of seeking outsourcing of testing for these
147 cases and will evaluate caseload to determine if an internal method should be developed.

148 Field Test Regulation Update

149 Director Jackson provided a brief update on 6 VAC 40-30 – Regulations for the Approval of Field
150 Tests for Detection of Drugs. DFS is currently evaluating the first mobile instrument field test and
151 is reevaluating those chemical field tests of current manufacturers who want to remain on the list.

152 Department Section Updates

153 For the Forensic Biology Section, Director Jackson reported that additional validation is being
154 performed for STRmix and TrueAllele, two types of probabilistic genotyping software (PGS), to
155 allow DFS to implement in the future a new version of STRmix, use the PGS on four-person
156 mixtures, and deconvolute mixtures to enable Data Bank searches on the individual profiles. She
157 also discussed the new Y-STR kit evaluation, which will be more discriminatory than the previous
158 kits.

159
160 Additionally, Director Jackson spoke about a direct amplification method, previously used by the
161 DNA Data Bank Section, which is being validated for casework reference samples. This new
162 method will allow for several steps to be removed from the analytical process for reference
163 samples, thus saving time and money. In addition, by moving reference samples into a new
164 workflow, additional case samples will be able to be run on the robotics.

165
166 Director Jackson also discussed the current SAKI (Sexual Assault Kits Initiative) grant program.
167 The Office of the Attorney General is organizing the testing of ~600 pre-CODIS and terminated
168 kits at a private laboratory. As a sub-recipient of the grant, DFS staff will conduct the reviews of
169 data from the contract laboratory and will issue Certificates of Analysis in cases where the DNA
170 data is suitable to be uploaded into databases and searched by DFS.

171
172 For the Firearms and Toolmarks Section, Director Jackson shared that there has been a reduction
173 in submissions of NIBIN cases, as law enforcement agencies (LEAs) have increasingly begun to
174 have their own NIBIN capabilities. She shared that the ATF is supportive of LEAs conducting
175 NIBIN entries that are reviewed at the ATF correlation center. The Ballistics IQ is a portable
176 device used by law enforcement for scanning cartridge cases and has been implemented in a few
177 jurisdictions, including Danville. These devices generate a report that groups cartridge cases and
178 provides the number of possible firearms involved. If implemented, DFS Firearms and Toolmarks
179 supervisors can assist LEAs to submit the best evidence for NIBIN entry.

180

181 In the Digital & Multimedia Evidence Section, there have been recent advancements in Digital &
182 Multimedia Evidence analyses that have assisted investigators in several unusual cases involving
183 a dive computer, a memory chip from an infotainment center after a car crash, and a mobile device
184 that had been run over by a vehicle.

185
186 For the Toxicology Section, Director Jackson reported that DFS had notified LEAs in September
187 of a shortage of blood specimen collection tubes, advising them to use the DUI/DUID kits they
188 had in their inventory that had not expired. DFS has since received a shipment of DUI/DUID kits
189 that can be sent to LEAs as needed and sent an updated notice on October 17, 2022. Additionally,
190 she reminded the Board that, effective January 1, 2023, DUI/DUID cases with a blood alcohol
191 content (BAC) of greater than or equal to 0.100% will also be screened for tetrahydrocannabinol
192 (THC) metabolite. Screening for THC and additional drugs will be performed on samples with a
193 BAC of less than 0.100%.

194 For the Breath Alcohol Section, Director Jackson informed the Board that the Section is in the
195 process of developing an Invitation for Bids for new evidential breath test instruments. These new
196 instruments are anticipated to provide for high speed communication and will allow for the use of
197 laser printers. Chief DeBoard asked if the current licensed breath test instrument operators would
198 need to be retrained. Director Jackson and Alka Lohmann both spoke to this question and stated
199 that all current officers will need to be retrained once a new instrument is selected, tested and
200 validated. It was stated that it will take approximately six months for the instruments to be
201 received. Director Jackson also briefly discussed a shortage of colored paper and how it is being
202 addressed.

203
204 Workload Statistics
205 Director Jackson reviewed the current September Workload Statistics with the Board. She shared
206 statistics comparing case submissions for each discipline for the third quarter of fiscal years 2019,
207 2020, 2021 and 2022. The Firearms & Toolmarks Section's average case turnaround times (TATs)
208 have been dropping over time. Forensic Biology TATs have increased mainly in the Western and
209 Northern regions; cases are being transferred to the Central and Eastern Laboratories to ease the
210 caseload in Western and Northern. Toxicology submissions have continued to increase. While
211 the 2022 Toxicology submissions seem to demonstrate a reduction, the submissions are artificially
212 low due to the outsourcing of OCME cases.

213
214 Budget
215 Director Jackson shared information on the Department's FY23/FY24 Biennial budget, showing
216 a breakdown by service area and expense category. Director Jackson shared with the Board that
217 the budget for Toxicology is higher in FY23 than in FY24, due to an anticipated one-time purchase
218 of four LC-MS/MS instruments, which are approximately \$400,000 each, in FY23.

219
220 Grants

221 Director Jackson gave an overview of the four grant awards received that had already been
222 approved by the Forensic Science Board. While DFS applied for two research grants, only one
223 was awarded for fire debris research. DFS has since been made aware of an additional grant award
224 from the OCME, the Opioid Overdose to Action Project, that was not anticipated as the funding
225 was slated to end on September 1, 2022. Chief DeBoard called for a motion for the Board to
226 approve acceptance of the funds from the OCME under the CDC Overdose Data to Action
227 Program. Mr. Meyers made the motion, which was seconded by Ms. Juran and passed by
228 unanimous vote.

229
230 Mr. HuYoung asked Director Jackson why she believes that the DNA research grant will not be
231 approved. Director Jackson explained that DFS has not yet heard from NIJ, and that sometimes
232 there is a delay in notification from NIJ if an agency does not receive an award. We anticipate
233 receiving that notification at some point, along with the reviewers' comments.

234 **Scientific Advisory Committee (SAC) Report**

235
236 Chief DeBoard called on Richard Meyers to provide the SAC report. He informed the Board that
237 the SAC met in person on Tuesday, October 18, 2022. He stated that Erin Forry provided a brief
238 overview of the ISO TC 272 Technical Group, Director Jackson provided her Director's report
239 and Technical Services provided updates on each section. Under New Business: Dr. Hutchings
240 provided an update on the Cannabinoid Method Development Summary and Validation Plan; the
241 Committee adopted a new policy on electronic meetings; and, the Committee agreed to meet on
242 April 11 and October 11 in 2023. Chief DeBoard called for a motion to accept the SAC report.
243 The motion was made by Dr. Maha, seconded by Mr. Figura, and passed by unanimous vote.

244 **Old Business**

245
246 Chief DeBoard called on Amy Jenkins, Department Counsel, to discuss proposed regulatory
247 actions.
248

249 **Proposed Amendments to 6VAC40-50, Regulations for the Approval of Marijuana Field Tests for** 250 **Detection of Marijuana Plant Materials**

251 Ms. Jenkins stated that the Office of the Attorney General has certified the proposed amendments
252 to 6VAC40-50 and the regulatory action is now in the Executive Review process. She stated that
253 DFS will have to prepare and submit the required economic impact document related to these
254 proposed amendments.
255

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

257 Ms. Jenkins advised the Board that the proposed parking regulations had been sent to the
258 Department of Planning and Budget (DPB) and the Virginia Register of Regulations (Register).
259 DPB and Register staff had requested some non-substantive changes to the regulations. Ms.
260 Jenkins provided the Board with a draft of the proposed revisions and reviewed them with the
261 Board members. Even with the proposed changes, the parking regulations had continued in the
262 executive review process and are currently awaiting approval of the Governor's Office. Chief
263 DeBoard called for a motion to approve the amendments to the Parking Regulations. The motion
264
265

266 was made by Ms. Toney, seconded by Mr. HuYoung, and passed by unanimous vote, with Mr.
267 Figura abstaining.

268
269 6VAC40-40, Regulations for Implementation of the Law Permitting DNA Analysis upon Arrest
270 for All Violent Felonies and Certain Burglaries – Exempt Final Regulatory Action

271 Ms. Jenkins advised the Board that these regulations were published on October 10th in the Virginia
272 Register of Regulations and will become effective on November 9, 2022.

273

274 **New Business**

275

276 6VAC40-11, Public Participation Guidelines - Periodic Review

277 Ms. Jenkins advised the Board that a periodic review of 6VAC40-11, the Public Participation
278 Guidelines, is required by law every four years. This regulation was revised in 2017 to bring it
279 into compliance with the current Code requirements. The periodic review process is initiated by
280 a notice in the Register. A public comment period would follow. Any comments received would
281 be brought before the Board in January and any necessary revisions proposed to the Board for
282 consideration. Ms. Jenkins asked for a motion to initiate the periodic review of the Public
283 Participation Guidelines. A motion was made by Ms. Clark, which was seconded by Mr. Figura,
284 and passed by unanimous vote.

285

286 New Policy Regarding Electronic Meetings

287 Ms. Jenkins gave an overview of a draft policy related to individual members' participation by
288 electronic means and the convening of all-virtual public meetings. She outlined the changes to the
289 statutory requirements and the various limitations involved with electronic participation and all-
290 virtual meetings. She stated that the policy mirrors the draft policy of the FOIA Council. Chief
291 DeBoard asked for a motion to adopt the Policy on Individual Electronic Participation and All-
292 Virtual Forensic Science Board Meetings under § 2.2-3708.3 in its proposed form. The motion
293 was made by Mr. HuYoung, seconded by Mr. Miller, and passed by unanimous vote.

294

295 2022 Forensic Science Board Report

296 Chief DeBoard called on Mason Byrd, Chief Deputy Director, to discuss the draft report.

297

298 Mr. Byrd presented highlights of the draft report and provided a table of contents for convenience.
299 He advised the Board that the report is broken out into seven sections, all of which are required by
300 law. Most of the information is similar from year to year, but there are some sections that change
301 on a yearly basis. He stated that he has already received some comments but provided an
302 opportunity for the Board to provide further comments or suggestions by close of business
303 Monday, October 24, 2022. He then provided a brief overview of each section and explained the
304 process for producing the report, including a review of the previous minutes in addition to
305 requesting any updates from the Program Areas. He stated that the section on the PERK Tracking
306 System is currently the largest section, as it is a new system with great interest and is subject to a
307 lot of change based on user input. He stated that the report would need to be updated with
308 information from this meeting and the SAC meeting the day before, as well as any comments or
309 suggestions by the Board. As there will not be a chance for the Board to meet between now and
310 when the report is submitted, he asked for a motion to approve the draft version of the report and
311 permit the Department to update the report as needed. Chief DeBoard called for a motion to

312 approve the draft version, to allow the Department to update it based on any necessary corrections
313 that come in, and to submit the revised report. Dr. Gormley made the motion, which was seconded
314 by Ms. Juran.

315

316 **Public Comment**

317 No public comment was provided. However, Chief DeBoard asked for a moment to recognize the
318 hard work and dedication of Lt. Col. Tracy Russillo, who served as Col. Settle's designee for many
319 years, and wished her well in her retirement.

320

321 **Confirm Future Meeting Dates**

322 Chief DeBoard called on Elise Stroble to provide the proposed meeting dates for 2023.

323

324 Ms. Stroble proposed the following dates, which were approved by the Board:

325

326 ● Wednesday, January 4, 2023

327 ● Wednesday, April 12, 2023

328 ● Wednesday, July 19, 2023

329 ● Thursday, October 12, 2023

330

331 **Adjournment**

332 Chief DeBoard called for a motion to adjourn. Mr. Figura made a motion to adjourn the meeting,
333 which was seconded by Ms. Juran and passed unanimously by the Board. The meeting was
334 adjourned at 10:50a.m.