

1 **Final Minutes**
2 **Forensic Science Board Meeting**
3 **October 15, 2020**
4 **Department of Forensic Science, Held Electronically**

5 **Board Members Present**

6 Colonel Maggie A. DeBoard, Chief of Police, Town of Herndon Police Department
7 Shannon Dion, Director, Department of Criminal Justice Services (DCJS)
8 Leslie E. Edinboro, Ph.D., Scientific Advisory Committee Member
9 Senator John S. Edwards, Chair, Senate Courts of Justice Committee
10 William T. Gormley, M.D., Chief Medical Examiner
11 Karl R. Hade, Executive Secretary, Supreme Court of Virginia
12 Delegate Charniele L. Herring, Chair, Virginia State Crime Commission and House Courts of
13 Justice Committee
14 Caroline D. Juran, Executive Director, Board of Pharmacy
15 David R. Lett, Petersburg Public Defender, *Chair*
16 Colette W. McEachin, Commonwealth's Attorney, City of Richmond
17 Richard P. Meyers, Scientific Advisory Committee Member
18 Lieutenant Colonel Tracy Russillo (Designee of Colonel Gary T. Settle, Superintendent, Virginia
19 State Police)
20 Denise M. Toney, Ph.D., Director, Division of Consolidated Laboratory Services
21 Holli Wood (Designee of Attorney General Mark R. Herring)

22 **Legal Counsel for the Forensic Science Board**

23 Michelle Welch, Assistant Attorney General

24 **Staff Members Present**

25 Jeffrey D. Ban, Central Laboratory Director
26 David A. Barron, Ph.D., Deputy Director
27 Madison Boden, PERK Tracking System Coordinator
28 Sabrina S. Cillessen, Physical Evidence Program Manager
29 Leslie H. Ellis, Human Resources Director
30 Katya N. Herndon, Chief Deputy Director
31 James W. Hutchings, Ph.D., Toxicology Program Manager
32 Linda C. Jackson, Director
33 Amy C. Jenkins, Department Counsel
34 Alka B. Lohmann, Director of Technical Services
35 M. Scott Maye, Northern Laboratory Director
36 Jessica B. Norton, Legal Assistant
37 Susan Stanitski, Eastern Laboratory Director
38 Elizabeth Stroble, Grants and Administration Program Manager
39 Jennifer L. Taylor, Procurement Specialist I, *Board Secretary*
40 Robyn B. Weimer, Chemistry Program Manager

41 **Call to Order**

42 As a result of the state of emergency declared by Governor Northam due to COVID-19, the
43 Forensic Science Board conducted the meeting by electronic communication means using the
44 Google Meet platform. The public was permitted to attend and participate via video or audio
45 conference. Directions for public participation were provided on the meeting agenda and posted
46 on Virginia's Town Hall.

47
48 David Lett, Chair of the Board, called the meeting to order at 9:39 a.m. Mr. Lett requested Ms.
49 Taylor to call the roll to ensure that a quorum was present. Ms. Taylor called the roll as follows:

- 50 Colonel DeBoard – Present
- 51 Director Dion – Present
- 52 Dr. Edinboro – Present
- 53 Senator Edwards – Not present at time of roll-call, but joined subsequently
- 54 Dr. Gormley – Present
- 55 Mr. Hade – Present
- 56 Delegate Herring – Present
- 57 Ms. Juran – Present
- 58 Mr. Lett – Present
- 59 Ms. McEachin – Not present at time of roll-call, but joined subsequently
- 60 Mr. Meyers – Present
- 61 Lieutenant Colonel Russillo – Present
- 62 Dr. Toney – Present
- 63 Ms. Wood – Present

64 Ms. Taylor advised that a quorum was present.

65 **Adoption of Agenda**

66 Mr. Lett advised that the first order of business was the adoption of the draft agenda for the
67 meeting, which was previously shared with the members. Mr. Hade made a motion to adopt the
68 agenda, which was seconded by Ms. Juran. A roll-call vote was taken, and the agenda was adopted.
69 The members voted as follows:

- 70 Colonel DeBoard – Yes
- 71 Director Dion – Yes
- 72 Dr. Edinboro – Yes
- 73 Senator Edwards – Not present at time of vote
- 74 Dr. Gormley – Yes
- 75 Mr. Hade – Yes
- 76 Delegate Herring – Yes
- 77 Ms. Juran – Yes
- 78 Mr. Lett – Yes
- 79 Ms. McEachin – Not present at time of vote
- 80 Mr. Meyers – Yes
- 81 Lieutenant Colonel Russillo – Yes
- 82 Dr. Toney – Yes

83 Ms. Wood – Yes

84 **Approval of Draft Minutes of the July 15, 2020 Board Meeting**

85 Mr. Lett asked if there were any proposed changes to the draft minutes from the July 15, 2020
86 meeting. Being none, Mr. Hade made a motion to approve the July 15, 2020 minutes, which was
87 seconded by Dr. Gormley. A roll-call vote was taken, and the minutes were approved. The
88 members voted as follows:

89 Colonel DeBoard – Yes
90 Director Dion – Yes
91 Dr. Edinboro – Yes
92 Senator Edwards – Not present at time of vote
93 Dr. Gormley – Yes
94 Mr. Hade – Yes
95 Delegate Herring – Yes
96 Ms. Juran – Yes
97 Mr. Lett – Yes
98 Ms. McEachin – Not present at time of vote
99 Mr. Meyers – Yes
100 Lieutenant Colonel Russillo – Yes
101 Dr. Toney – Yes
102 Ms. Wood – Yes

103 **DFS Director’s Report**

104 Agency Updates

105 Director Jackson referenced the emergency temporary regulations for workplace safety adopted
106 by the Department of Labor and Industry (DOLI) due to COVID-19 and explained that DFS has
107 developed and implemented all required policies, procedures, plans and trainings in accordance
108 with the DOLI standard.

109 Director Jackson shared statistics on the reduction in the volume of breath tests being administered
110 across the state since March as compared to 2019. Since late June, the Breath Alcohol Section has
111 resumed in-person initial operator classes with smaller class sizes to allow for social distancing.
112 Director Jackson reminded the Board that the Forensic Training Section had cancelled a summer
113 session of the Forensic Science Academy and noted that the 101st Session began in mid-September.
114 DFS anticipates resuming three Academy Sessions in 2021, due to funding from DCJS, which
115 supports the part-time forensic trainer position.

116 The forensic training for attorneys and judges, which DFS had been offering in recent years, was
117 cancelled for 2020 in light of the pandemic, but DFS hopes to be able to resume offering these
118 trainings in 2021.

119 Facilities

120 Director Jackson provided an update on the Central Laboratory facility project. The schematic
121 design phase was completed in September 2020, and the preliminary design phase is in progress

122 with preliminary drawings scheduled to be submitted to the Department of General Services'
123 Division of Engineering and Buildings by January 1, 2021. Because the project transitioned from
124 a renovation/expansion of the existing Central Laboratory to construction of an entirely new
125 facility, the budget for the project will be re-evaluated once the preliminary drawings have been
126 approved.

127 Agency Initiatives

128 Director Jackson reminded the Board of the surveillance assessment DFS underwent in May
129 2020. DFS received notification on September 25, 2020 of its successful completion of the
130 ISO/IEC 17025 surveillance assessment for Testing and Calibration.

131 Director Jackson informed the Board that the Performance Audit of DFS by the Office of the
132 State Inspector General (OSIG) had been suspended. The Department was notified on August 14,
133 2020 that the audit would be suspended until OSIG can contract for resources better suited to
134 analyze the technical, scientific processes used by DFS.

135 Director Jackson advised that the amendments to the Department's Regulations for the Approval
136 of Field Tests for Detection of Drugs went into effect on October 1, 2020. The amendments
137 expanded the definition of field test to include presumptive mobile instruments and set up a
138 process for the approval of presumptive mobile instruments.

139 Director Jackson shared with the Board a list of the 13 compounds DFS recommended to the
140 Board of Pharmacy to consider scheduling through the expedited regulatory process. The
141 compounds were considered by the Board at its September 9, 2020 meeting.

142 Director Jackson announced that, on September 29, 2020, DFS completed its reviews of the data
143 from all Physical Evidence Recovery Kits tested by the private laboratory under the Sexual Assault
144 Kit Initiative (SAKI) Grant. A total of 894 kits from 78 Virginia law enforcement agencies were
145 sent for testing under the SAKI Grant, and 337 cases had DNA profiles uploaded for searching in
146 the Data Bank. As of September 30th, DFS had reported 148 Data Bank hits in the SAKI cases.
147 She also reminded the Board of the work of staff to conduct similar reviews of kits tested under
148 the District Attorney's Office of New York (DANY) Grant, and noted that, as of September 30th,
149 there had been 243 hits reported in DANY cases. Director Jackson acknowledged the hard work
150 of the 35 DNA scientists across the state who worked over 2,800 of overtime to complete these
151 two projects and, in particular, Central Forensic Biology Group Supervisor Theresa Francis, who
152 coordinated the projects for DFS.

153 Director Jackson informed the Committee that Toxicology Program Manager Jim Hutchings,
154 Ph.D., is participating, as part of a Virginia team, in the National Governors Association Learning
155 Collaborative on State Strategies to Strengthen and Leverage Data to Address Impaired Driving.
156 Virginia is one of ten states involved in this initiative.

157 Due to travel restrictions as a result of the pandemic, DFS scientists are taking advantage of the
158 additional trainings being offered virtually in order to obtain continuing education.

159 Budget

160 Director Jackson presented an overview of the DFS Budget to the Board. She noted the hiring
161 freeze that was put in place due to COVID-19, but explained that there is a hiring exemption for
162 positions directly related to public safety. Director Jackson reviewed the Department's pledged
163 savings for FY20, COVID-19 funding, new budget items, and the Department budget for
164 FY21/FY22.

165
166 Grants

167 Director Jackson presented a summary of DFS grants, including three grants that DFS was just
168 notified that it had been awarded.

169
170 Workload/Backlog

171 Director Jackson provided an update on statistical trends in each of the scientific disciplines, as
172 well as turnaround times for September. She presented Q3 (July-September) statistics for 2020 as
173 compared to the same period in 2019. Overall, case submissions were down 8%, but that decline
174 was really driven by the 23% decrease for Controlled Substances as that section sees the largest
175 volume of cases. For Q3 2020, the Firearms & Toolmarks, Forensic Biology, and Toxicology
176 Sections all had an increase in submissions over Q3 2019. Director Jackson pointed out that the
177 reduced submissions for Controlled Substances, which have occurred since the beginning of the
178 pandemic, allowed DFS to significantly reduce its drug case backlog. At the end of September
179 2019, the backlog was 12,323 cases, but it was down 65% by the end of September 2020 to 4,263
180 cases. In the Central Laboratory, Controlled Substances examiners are assisting the Toxicology
181 Section with duties that do not require significant additional training.

182 **Scientific Advisory Committee Report**

183 Mr. Meyers gave a report on the Scientific Advisory Committee's ("SAC's") October 14, 2020
184 meeting, which was held electronically. The SAC heard an agency update from Director Jackson,
185 a Technical Services update from Ms. Lohmann, Program Area updates from the Program
186 Managers, and an update on the Microscopic Hair Comparison Case Review from Ms. Jenkins.

187
188 The Toxicology Subcommittee members had been provided validation documentation for two
189 methods in advance of the meeting, but had advised DFS that a meeting to discuss the
190 documentation was not necessary. Instead, during the Toxicology Update, the Subcommittee
191 provided recommendations with respect to validation parameters and potential interferences for
192 the two methods. The SAC approved a motion to close its review of the validations, but asked
193 the Department to report back at the next SAC meeting on the resolution of the recommendations
194 provided.

195 **Old Business**

196 Microscopic Hair Comparison Case Review Update

197 Amy Jenkins, Department Counsel, provided an update on the Microscopic Hair Comparison Case
198 Review. The Forensic Science Board's Microscopic Hair Comparison Case Review Subcommittee
199 met on September 2, 2020 to consider recommendations from the Review Team with the respect

200 to nine transcripts. Ms. Jenkins advised that the Subcommittee approved notifications with respect
201 to four of the nine transcripts. DFS is continuing to review cases for positive, probative hair
202 associations to identify additional cases for the project. Ms. Jenkins thanked Ms. Wood for joining
203 the Hair Comparison Case Review Subcommittee.

204 **New Business**

205 **Draft of the 2020 FSB Annual Report**

206 Katya Herndon, Chief Deputy Director, noted that the draft 2020 Forensic Science Board Annual
207 Report had been disseminated to the Board members in advance of the meeting with a table of
208 contents to facilitate the review and allow the members to direct their attention to any topics of
209 particular interest. She noted the language in the draft report that would need to be updated before
210 the report was submitted, and she provided a date by which members should send comments and
211 edits to her.

212 Ms. Herndon pointed out the one portion of the report that would be reviewed in more detail, the
213 section that addresses Information on Use of the PERK Tracking System, which is new and is
214 required to be included in the report as a result of an enactment clause from the 2019 PERK
215 Tracking legislation. Madison Boden, PERK Tracking System Coordinator, provided an overview
216 of the new section of the report, including information on user types, the training of users, and the
217 types of kits entered in the System, as well as data on actions performed on kits in the System. Ms.
218 Boden reviewed how the System is used to track whether agencies are in compliance with the
219 PERK Tracking legislation (e.g., law enforcement agencies submitting kits to DFS for analysis
220 within 60 days of receiving them) and how DFS notifies agencies on a monthly basis if the System
221 indicates they are not in compliance. She also explained the limitations of the data included in the
222 System and noted that, by next year, DFS anticipates having much more data to analyze.

223
224 Colonel DeBoard offered assistance to DFS in reaching out to law enforcement agencies that still
225 need to be trained on use of the System.

226
227 Colonel DeBoard made a motion to approve the draft 2020 Annual Report, and to permit Ms.
228 Herndon to update the report following the Board meeting, and then to submit it according to law,
229 The motion was seconded by Ms. McEachin. A roll-call vote was taken, and the Annual Report
230 was approved. The members voted as follows:

231 Colonel DeBoard – Yes
232 Director Dion – Not present at time of vote
233 Dr. Edinboro – Not present at time of vote
234 Senator Edwards – Yes
235 Dr. Gormley – Yes
236 Mr. Hade – Yes
237 Delegate Herring – Yes
238 Ms. Juran – Yes
239 Mr. Lett – Yes
240 Ms. McEachin – Yes
241 Mr. Meyers – Yes

242 Lieutenant Colonel Russillo – Yes
243 Dr. Toney – Yes
244 Ms. Wood – Yes

245 **Public Comment**

246 Mr. Lett inquired whether any member of the public would like to provide any comments. No
247 member of the public provided comment.

248 **Future Meeting Dates**

249 The following dates were selected for the Forensic Science Board meetings in 2021:

- 250 • Wednesday, January 6, 2021
- 251 • Wednesday, April 21, 2021
- 252 • Wednesday, July 14, 2021
- 253 • Thursday, October 14, 2021

254 **Adjournment**

255 Mr. Lett called for a motion to adjourn. Dr. Gormley made a motion to adjourn the meeting, which
256 was seconded by Ms. McEachin. A roll-call vote was taken, and the motion was adopted. The
257 members voted as follows:

258 Colonel DeBoard – Yes
259 Director Dion – Not present at time of vote
260 Dr. Edinboro – Yes
261 Senator Edwards – Yes
262 Dr. Gormley – Yes
263 Mr. Hade – Yes
264 Delegate Herring – Yes
265 Ms. Juran – Yes
266 Mr. Lett – Yes
267 Ms. McEachin – Yes
268 Mr. Meyers – Yes
269 Lieutenant Colonel Russillo – Yes
270 Dr. Toney – Yes
271 Ms. Wood – Yes

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