

1 **Draft Minutes**
2 **Forensic Science Board Meeting**
3 **Department of Forensic Science, Classrooms 1 & 2**
4 **October 12, 2023**

5
6 **Board Members Present**

7 Tracy Banks, Designee for Jackson Miller, Director, Department of Criminal Justice Service
8 Major Richard Boyd, Designee for Colonel Gary Settle
9 Maggie A. DeBoard, Chief of Police, Herndon Police Department, *Chair*
10 Kristen Howard, Designee of the Chair of the Virginia State Crime Commission, Senator John
11 S. Edwards
12 Caroline D. Juran, R.Ph., Executive Director, Board of Pharmacy, *Vice Chair*
13 George C. Maha, Ph.D., Scientific Advisory Committee Member
14 Richard P. Meyers, Scientific Advisory Committee Member
15 Jill Ryan, Designee for Karl R. Hade, Executive Secretary, Supreme Court of Virginia
16 Erik Smith, Assistant Attorney General, Designee of Attorney General Jason S. Miyares

17
18 **Board Members Attending Virtually**

19 Delegate Wren Williams, Designee for Delegate Leslie R. Adams, Chair of the House
20 Committee for Courts of Justice

21
22 **Board Members Absent**

23 Megan L. Clark, Commonwealth's Attorney, Prince Edward County
24 Senator John S. Edwards, Chair of the Senate Committee on the Judiciary
25 William T. Gormley, M.D., Chief Medical Examiner
26 Michael HuYoung, Esquire, Criminal Defense Attorney
27 Denise Toney, Ph.D., Director of the Division of Consolidated Laboratory Services

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

30 Kelci Block, Assistant Attorney General, Designee of Michelle Welch, Counsel to the Board

31
32 **Staff Members Present**

33 David A. Barron, Ph.D., Deputy Director
34 Mason Byrd, Chief Deputy Director
35 Deea Chakraborty, Legal Assistant
36 Sabrina S. Cillessen, Physical Evidence Program Manager
37 James W. Hutchings, Ph.D., Toxicology Program Manager
38 Linda C. Jackson, Director
39 Amy Jenkins, Department Counsel
40 Brad Jenkins, Forensic Biology Program Manager
41 Robyn Larson, Quality Assurance Section Supervisor
42 Alka B. Lohmann, Director of Technical Services
43 Scott Maye, Central Laboratory Director
44 Jessica B. Norton, Sr. Legal Assistant
45 Kelly Shelton, Administrative Assistant
46 Elise Stroble, Grants and Administration Program Manager/FSB Secretary

47 Robyn Weimer, Chemistry Program Manager

48

49 **Call to Order**

50 Chief Maggie DeBoard, Chair of the Forensic Scientific Board (“Board” or “FSB”), called the
51 meeting to order at 9:38 a.m. and asked for introductions.

52

53 Chief Deputy Director Byrd indicated that Delegate Williams was participating remotely in Stuart,
54 Virginia, pursuant to the FSB Policy and Virginia Code § 2.2-3708.3 because his principal
55 residence is more than sixty (60) miles from the meeting location.

56

57 **Adoption of Agenda**

58 The draft agenda, previously provided to the Board, was adopted on motion by Mr. Maha. The
59 motion was seconded and passed with the unanimous approval of the Board. Mr. Meyers
60 subsequently moved that the agenda be amended to reflect that he was a Scientific Advisory
61 Committee Representative, and not the Chair. A motion to amend the agenda was made by Mr.
62 Meyers which was seconded and passed by unanimous vote of the Board.

63

64 **Approval of Draft Minutes of the July 19, 2023 Board Meeting**

65 Chief Maggie DeBoard asked if there were any proposed changes to the Draft Minutes of the July
66 19, 2023 meeting. Being none, Chief DeBoard asked for a Motion to Approve the Draft Minutes
67 as presented. Ms. Howard made the motion, which was seconded and passed by unanimous vote
68 of the Board.

69

70 **Approval of Draft Minutes of the April 10, 2023 Public Hearing on Approved Amendments**
71 **to Regulations for the 6 Approval of Marijuana Field Tests for Detection of Marijuana Plant**
72 **7 Material (6 VAC 40-50)**

73 The approval of the draft minutes of the April 10, 2023 Public Hearing was not on the agenda for
74 the July 19, 2023 meeting, but members should have recently received a link to the draft minutes
75 from Mrs. Stroble. Chief DeBoard asked if there were any proposed changes to the draft minutes.
76 Being none, Chief DeBoard asked for a motion to approve the draft minutes as presented. Ms.
77 Juran motioned, which was seconded and passed by unanimous vote of the Board.

78

79 **FSB Chair’s Report**

80 Chief DeBoard advised the Board that she did not have anything to report.

81

82 **Scientific Advisory Committee Report**

83 Mr. Meyers provided a report on the October 10, 2023 meeting of the Review Subcommittee of
84 the Scientific Advisory Committee (SAC) regarding the podcast, *Admissible: Shreds of Evidence*,
85 and the allegations contained therein. The next meeting of the Review Subcommittee will be
86 January 9, 2024. Mr. Meyers also reported on the meeting of the Toxicology Subcommittee held
87 on October 11, 2023 at 9:00 a.m., which included the review of several validation proposals and
88 validation summaries, and the meeting of the full SAC later that morning at 10:30 a.m. Following
89 his report, Ms. Howard asked questions regarding whether the Department had received the entire
90 contents of the box referenced in the podcast. Amy Jenkins indicated that the Department had
91 received some of the contents of the box, but not all, as indicated by the podcast reporters. Ms.
92 Howard inquired to the timing of the requests by the Department for the contents of the box and

93 the reporters' responses. Ms. Jenkins indicated that the first inquiry had been sent to VPM in
94 February 2022. The only documents received by VPM had been provided in July 2023. Amy
95 Jenkins provided as much information in response to these questions as possible. With no further
96 questions, Chief DeBoard called for a motion to approve the SAC Report. Major Boyd motioned
97 for the approval, which was seconded and passed by unanimous vote of the Board.

98

99 **DFS Director's Report**

100 Director Jackson updated the Board regarding the ongoing activities of the Department, including
101 the progress of the construction of the new Central Laboratory located in Hanover, Virginia, the
102 accreditation renewal progress, DNA Training for Attorneys and Judges, Forensic Science Week,
103 and the Supervisor Leadership Retreat in Staunton, Virginia. She advised the Board that Alka
104 Lohmann provided Quality System updates at each laboratory during July and August for both
105 supervisors and laboratory staff and shared information about the formation of the new "Quali-
106 Team." She informed the Board that the Forensic Science Academy 110th session began on
107 September 18, 2023, and graduation is scheduled for November 17th. She advised the Board that
108 there is a project in development with the Office of Data Governance and Analytics (OGDA) for
109 an interactive dashboard for case statistics performance. DFS is currently sharing data through
110 DCJS to the Framework for Addiction Analysis and Community Transformation (FAACT)
111 Project, which includes a new "Curb the Crisis" public-facing website. She spoke about the three
112 compounds that were already considered by the Board of Pharmacy for scheduling and they are
113 pending final approval under Virginia Code § 54.1-3443(D). Director Jackson advised the Board
114 that the bid for a new breath alcohol instrument is being handled by the Department of General
115 Services – Division of Purchases and Supply (DGS-DPS). She anticipated to have the new
116 instruments and training in 2024.

117

118 She reported that a contract is now in place with an outsourcing laboratory for the quantitative
119 analysis of cannabis edibles. If it is determined that the evidence is suitable for testing and
120 quantitation is needed, DFS will send the samples to NMS Laboratories for the determination of
121 THC concentration. The FY 2022-2024 biennial budget included one laboratory specialist position
122 to enable the agency to respond to the changing THC legislation. Director Jackson provided
123 information regarding Toxicology staffing and outsourcing updates. She stated that DFS renewed
124 their Memorandum of Understanding with the OCME to allow for continued outsourcing of cases
125 in Eastern and Western districts and plans for reduction once staff are qualified. She spoke about
126 how all DUI/DUID samples are now screened for tetrahydrocannabinol metabolites and alcohol,
127 and the percentage of cases with BACs higher than 0.100% with a quantifiable THC concentration.
128 Ms. Howard asked for additional information regarding the number of DUI cases analyzed by the
129 laboratory and how many cases with a blood alcohol content (BAC) greater than or equal to
130 .0100% and less than 0.100% by weight by volume also included a quantifiable THC
131 concentration. The Board discussed that this information would be helpful for the General
132 Assembly members going forward, and it was agreed that it should be made part of the Annual
133 Report for the Board.

134

135 Director Jackson presented the workload statistics for all sections between fiscal years 2022 and
136 2023. She updated the Board that the submission of cases for every section has increased which
137 made a difference in the backlogs, especially for the Forensic Biology Section. Court statistics
138 were provided for FY23 that demonstrated the significant number of subpoenas received for the
139 Controlled Substances and Toxicology Sections. While the Toxicology Section is the most likely
140 Section to be required to appear in Court, the scientists only testify 10% of the time that they
141 appear.

142
143 Director Jackson shared information regarding the Department's FY23 year-end general fund
144 balance and the reason for the balance. She mentioned where the funds were allocated and what
145 funds were left over with a significant balance attributed to turnover and vacancy from positions
146 added in FY23 and not yet filled. She advised the Board on the amended budget for FY24 for DFS,
147 including items that had been included in the Governor's Introduced Budget that were not in the
148 final budget.

149
150 Director Jackson spoke briefly about the Grants that were approved to be applied for and awarded
151 to DFS for hiring additional personnel, training, equipment, reimbursements for travel and
152 training, and for proposed research projects. There was a question regarding the balance of funds
153 in the DFS FY23 year-end general fund budget and whether they would carry over to the next
154 fiscal year. Director Jackson responded that any general funds that are not used are not available
155 to the agency unless there is a specific request made to have those funds carried over.

156
157 **New Business**
158 Chief DeBoard called on Amy Jenkins, Department Counsel, to provide an update on proposed
159 regulations. Ms. Jenkins spoke to the Board about the Regulatory Requirement Reduction Action
160 in response to Executive Order 19 from Governor Youngkin. This Executive Order stated that the
161 Board should reduce the discretionary regulatory requirements for its regulations by 25% by
162 December 15, 2025. Ms. Jenkins stated that we were working towards identifying which
163 discretionary requirements can be alleviated in compliance with the Order. Ms. Jenkins provided
164 the Board with a proposed fast track regulation that would eliminate several discretionary
165 regulatory requirements in 6VAC40-60, the DNA Data Bank Regulation. Ms. Jenkins reviewed
166 the proposed amendments with the Board. Chief DeBoard called for a motion to approve the Fast
167 Track Regulatory Action – DNA Data Bank Regulation. Dr. Maha made the motion, which was
168 seconded and passed by unanimous approval of the Board.

169
170 Chief DeBoard called on Mason Byrd, Chief Deputy Director, to provide an update on the Forensic
171 Science Board Annual Report. Mr. Byrd discussed with the Board the draft Forensic Science Board
172 Report. He mentioned that there were seven categories in the report for 2023. This report is
173 scheduled to be submitted to the General Assembly on November 1st. Mr. Byrd requested that any
174 Board member who has a suggestion to make for additions or corrections to the report to send him
175 an email by October 19. Chief DeBoard called for a motion to approve the Forensic Science Board
176 Report, to approve any updates and suggestions made by the Board, and to submit the report
177 pursuant to Virginia Code § 9.1-1110. Major Boyd made a motion to approve, which was seconded
178 and passed by a unanimous vote of the Board.

179

180 Chief DeBoard called on Mr. Byrd to address the Board regarding the Qualifications for the DFS
181 Director that were previously approved by the Forensic Science Board on August 9, 2006. He
182 mentioned that Director Jackson's term as Director of Department of Forensic Science ends on
183 December 25, 2023s. The Director is appointed by the Governor pursuant to the Virginia Code §
184 9.1-1100 and serves a term of six (6) years. Chief DeBoard called for discussion and then made a
185 motion to reapprove the Qualifications for the Director of the Department of Forensic Science.
186 The motion was seconded and passed by a unanimous re-approval of the Board.

187

188 **Public Comment**

189 None.

190

191 **Selection of 2024 Meeting Dates**

192 Chief DeBoard called on Mrs. Stroble to give the proposed dates for future meetings and to indicate
193 which date(s) would be virtually conducted. Mrs. Stroble provided the following future meeting
194 dates: January 3, 2024, April 10, 2024, July 10, 2024, and October 9, 2024, with the January 3rd
195 meeting being held virtually at 9:30 a.m.

196

197 **Adjournment**

198 Chief DeBoard called for a motion to adjourn the meeting. The motion to adjourn, made by Mr.
199 Smith and seconded, passed unanimously. The meeting was adjourned at 10:59 a.m.