



COMMONWEALTH of VIRGINIA

FORENSIC SCIENCE BOARD

S. RANDOLPH SENDEL
Chair

DEPARTMENT OF FORENSIC SCIENCE
A Nationally Accredited Laboratory

To: The Honorable Kenneth W. Stolle,
Chair, Virginia Crime Commission
The Honorable John H. Chichester,
Chair, Senate Committee on Finance
The Honorable Vincent F. Callahan, Jr.,
Chair, House Committee on Appropriations

From: S. Randolph Sendel,
Chair, Forensic Science Board

A handwritten signature in blue ink, appearing to read "S. Randolph Sendel".

Date: October 25, 2006

Re: Forensic Science Board Report

Pursuant to the provisions of Virginia Code Section 9.1-1110 (B), the Forensic Science Board is directed to report by November 1 of each year on the following matters:

1. New major programs and plans for the activities of the Department and elimination of programs no longer needed;
2. Policy and priorities in response to agency needs;
3. General fiscal year operational budget and any major changes in appropriated funds;
4. Actions to foster and promote coordination and cooperation between the Department and the user programs which are served;
5. Rules and regulations necessary to carry out the purposes and intent of this chapter; and
6. Any recommendations submitted to the Board or the Director by the Scientific Advisory Committee.

The report for 2006 is attached.

FORENSIC SCIENCE BOARD REPORT
November 1, 2006

1. New major programs and plans for the activities of the Department and elimination of programs no longer needed

- Breath Alcohol replacement instruments
 - Instruments from four manufacturers were received and have been evaluated. The Department is in the process of developing bid specifications based on the best features/capabilities of the various instruments. The final specifications will be completed and ready for bid solicitations before the end of calendar 2006.
- Mitochondrial DNA program status
 - The renovation of space in the Central Laboratory for the mitochondrial laboratory was completed in July, 2006. Recruitment efforts for a Technical Leader position and two examiners have been unsuccessful. Several sets of interviews have been conducted with no qualified candidates being identified or qualified candidates withdrawing or not accepting offers.
- Forensic Science Academy – addition of 3rd session
 - The additional Academy session, consisting of 12 students, began on May 15, 2006 and was completed on July 17, 2006. This additional session has significantly reduced the number of need-based special requests from agencies. Future “additional” sessions will not only address the special needs requests, but also reduce the waiting list.
- Eastern Laboratory expansion
 - The NIJ grant funded expansion of the 4th floor DNA laboratory has been designed, laboratory casework ordered and construction contract award pending. The estimated completion is October, 2006. Concept design for the 5th floor construction has been completed and detail design is in progress. The lease negotiation with the City of Norfolk is in progress and construction is projected to be completed in May, 2007.
- Northern Laboratory project
 - The General Assembly provided \$63.5 million for the PPEA project to provide a new forensic laboratory/medical examiner’s office in Prince William County on DFS owned land. The developer, Scheer Partners Inc, is working with DFS and DGS to develop the PPEA comprehensive agreement and design work is in progress. The projected completion date is November, 2008.
- Central Laboratory expansion
 - The General Assembly provided funding for leased office space for Department administrative functions in the Virginia Biotechnology Research Park, Bio-Tech 8 building. The building is planned for occupancy during the second quarter of FY2008 and will provide space for administration, training and breath alcohol functions across 5th Street

from the current location. This relocation will provide more space in the current Central Laboratory building for laboratory related functions.

- Serology Case Review
 - In December 2005, following announcement of the results of a random review of old serology case files, former Governor Warner ordered a complete review of all serology cases completed during the 1973-1988 period. In the past nine months, 329,515 case files have been searched. From these, 2,970 cases have some form of physical evidence retained in the file. Of these, 1850 have named suspects referenced. The Department of State Police has completed their investigation as to the final disposition of this first list of suspects. The Department has contracted with the Bode Technology Group, Inc. who is ready to receive the first cases. This process is expected to continue over the current biennium with results being reported continuously to appropriate officials throughout this period.

2. Policy and priorities in response to agency needs

- Revisions to DNA and Drug submission protocols
 - The Forensic Science Board initiated a project to revise submission policies to most effectively utilize the limited resources available in the Controlled Substances and DNA Sections and establish a consistent methodology for prioritization of these cases. The proposed revisions were drafted following extensive consultation with DFS scientists, and were circulated for extensive public comment by law enforcement, prosecutors, and defense attorneys. Based on these comments, these proposals were modified and redistributed for additional public review by DFS user agencies. The Board is scheduled to review these proposals at its November 2006 meeting.
- Equipment acquisition and replacement
 - The Appropriation Act provides in each year of the 2006-2008 biennium \$225,000 of the requested \$1.2 million for laboratory instrumentation. Scientific instrumentation has a projected replacement cycle of 3 to 8 years, dependent on the type of equipment.
- Grants
 - During FY2006 grant funding was available to the Department from the National Institute of Justice to support DNA Capacity Enhancement and Forensic Casework Backlog Reduction Programs. Support for fellowships in the Virginia Institute of Forensic Science and Medicine was continued through the 2004 Virginia Forensic Laboratory Improvement Program funded through a NIJ Earmark Grant. The Department also received funding through a federal Byrne Grant to support overtime payments for forensic scientist who worked to reduce drug case backlogs. Total grant funding available in FY2006 was \$2.7 million.
- Western Laboratory land acquisition

- The Western Laboratory has reached maximum staffing and the current site does not provide space for expansion. DFS has learned that an adjacent property may be for sale in the coming year. Therefore, DFS is exploring purchase of the site which would require a capital appropriation.
- Forensic Scientist Compensation Plan
 - The 2005 General Assembly Appropriation Act charged the Department of Forensic Science in conjunction with the Department of Human Resource Management to develop and implement a compensation plan to address the recruitment and retention of Forensic Scientists. \$1,000,000 was provided to implement that plan in FY2006 and DFS has recruited a number of qualified forensic scientists under that compensation plan. Continued funding for the compensation plan is critical for ongoing recruitment and retention of staff.

3. General fiscal year operational budget and any major changes in appropriated funds

- Increase in budget from FY06 to FY07
 - FY2006 was the first year the Department existed as a separate agency in Virginia State Government. During this year of transition from the Department of Criminal Justice Services, the agency prepared budget requests for the 2006-2008 biennium resulting in additional funding of \$3.2 million in FY2007, when compared to the FY2006 budget. The additional resources were provided to support additional scientific positions, staffing for agency administrative operations, replacement of scientific equipment, increased utility and facility maintenance operating expenses, reduction in drug case backlogs, increased training through the Virginia Forensic Science Academy, and expansion of laboratory space in the Richmond laboratory facility.

4. Actions to foster and promote coordination and cooperation between the Department and the user programs which are served

- Meetings with user agencies; presentations at user agencies' conferences
 - Department representatives have attended regional meetings and statewide conferences of its user agencies to give presentations on relevant forensic science issues and be available for feedback and comment on the services that the Department is providing. This included meetings/conferences for investigators, sheriffs, chiefs of police, commonwealth's attorneys, general district court judges and circuit court judges.
- Backlog reduction initiatives
 - The success of training and recruitments efforts specifically in Latent Prints, Firearms & Toolmarks, Forensic Biology, and Controlled Substances has impacted the case backlogs and turnaround time. Additionally, directed overtime in the Controlled Substances section through a Byrne Grant and specifically allocated general funds has

reduced the number of drug cases backlogged from a high of almost 17,000 in 2005 to 7095 as of October 16th 2006.

Status of Backlogs as of October 1, 2006

Section	Ending Backlog	Average Turn Around Time	Cases Over 30 Days
Controlled Substances	7422	78	4425
Firearms	1680	157	1387
Forensic Biology	1600	163	1299
Latent Prints	812	76	532

- FACE (laboratory information management system) upgrade
 - An enhanced function of the DFS Laboratory Information Management System, Forensic Advantage Case and Evidence (FACE) that will provide for the remote entry of Request for Laboratory Examination documentation is nearing completion. This system will allow agencies to key this information into an electronic form and submit it over the internet, thus eliminating the need for DFS staff to key this information upon the receipt of evidence. The enhancement has been provided to DFS staff for end user testing and we expect the system to be available to pilot with a police agency during the first quarter of 2007.
- Online kit ordering system for law enforcement agencies
 - DFS began distribution of marijuana field test kits after orders were placed online through a new online system that was put into production on July 17, 2006. The system was developed to provide an efficient means for law enforcement agencies throughout the Commonwealth to order the kits electronically. Through October 1st DFS had received and processed 203 orders and shipped 17960 field test kits. DFS plans to expand the use of this system over the next year to allow online ordering of other kits currently supplied by DFS.

5. Rules and regulations necessary to carry out the purposes and intent of this chapter

- The following sets of regulations were in place prior to the Division becoming the Department of Forensic Science in July 2005. At the November 30, 2005 meeting of the Forensic Science Board, amendments to these regulations reflecting the agency’s new status as a Department were approved.
 - Regulations for Breath Alcohol Testing (6 VAC 40-20)

- This regulation describes the process for approval of breath test devices, general methods of conducting breath tests, training and licensing procedures for operators, required forms and records, and the use of preliminary breath test devices.
 - Regulations for the Approval of Field Tests for Detection of Drugs (6 VAC 40-30)
 - This regulation establishes the process of approval, approval authority, criteria for approval, notification methods, fee assessment, and publication procedures associated with drug field tests or drug field test kits submitted by manufacturers to the Department.
 - Regulations for Implementation of the Law Permitting DNA Analysis upon Arrest for All Violent Felonies and Certain Burglaries (6 VAC 40-40)
 - This regulation provides guidance to agencies responsible for collecting DNA samples from persons arrested for any violent felony and for certain burglaries by describing when a sample is required, who is responsible for collecting the sample, how the sample is to be collected and labeled, and how to transport the sample to the laboratory for analysis.
- The following two regulations are new regulations:
 - Regulations for the Approval of Marijuana Field Tests for Detection of Marijuana Plant Material (6 VAC 40-50)
 - This new regulation, which has been in place as an Emergency Regulation since July 1, 2006, is also currently being promulgated as a permanent regulation. It establishes the process of approval, approval authority, criteria for approval, notification methods, fee assessment, and publication procedures associated with marijuana field tests or marijuana field test kits submitted by manufacturers to the Department.
 - Public Participation Guidelines (6 VAC 40-10)
 - This new regulation, currently being promulgated under the Fast Track Process, was developed in order to facilitate participation by the public in the formation of regulations that are being promulgated to carry out the legislative mandates of the Department of Forensic Science, as required by the General Assembly in §2.2-4007(D) of the Code of Virginia.

6. Recommendations Submitted to the Forensic Science Board or the Director by the Scientific Advisory Committee

- The Scientific Advisory Committee made the following recommendations:
 - Approval of the Department's response to the American Society of Crime Laboratory Directors/Laboratory Accreditation Board's (ASCLD/LAB) eight recommendations, which found that the Department met or exceeded national and federal standards

- Approval of the continued investigation into Micro-fabricated capillary array electrophoresis for DNA testing and Direct Analysis in Real Time (DART) instruments to supplement current technology used in the chemistry sections.
- Approval and implementation of the revised Drug Sampling Procedures
- Concurrence with the Department's decision to discontinue the use of random samples in DNA cases as of January 2005
- The Forensic Science Board took the following actions:
 - Creation of a subcommittee by the chair to review suggested changes to submission protocols for Drugs and DNA, with input from user agencies statewide
 - This review is still in process
 - Approved the revised Drug Sampling Procedures recommended by the Scientific Advisory Committee
 - Adopted a policy on how to handle specific requests for case review
 - Denied a request for a referral of the Leon Winston case to the Scientific Advisory Committee for review
 - Requested the Scientific Advisory Committee review, study, and report back on alternative DNA platforms comparing the advantages/disadvantages of the different platforms