



COMMONWEALTH of VIRGINIA

FORENSIC SCIENCE BOARD

Maggie A. DeBoard, Chair

October 31, 2023

The Honorable Barry D. Knight
Chair, House Committee on Appropriations
1852 Mill Landing Road
Virginia Beach, Virginia 23457

The Honorable Janet D. Howell
Co-Chair, Senate Committee on Finance and Appropriations
P.O. Box 2608
Reston, Virginia 20195-0608

The Honorable George L. Barker
Co-Chair, Senate Committee on Finance and Appropriations
P.O. Box 10527
Alexandria, Virginia 22310

The Honorable John S. Edwards
Chair, Virginia State Crime Commission
P.O. Box 1179
Roanoke, Virginia 24006-1179

Re: 2023 Annual Forensic Science Board Report

Dear Delegate Knight, Senator Howell, Senator Barker and Senator Edwards:

Pursuant to the provisions of Subsection B of § 9.1-1110 of the *Code of Virginia*, the Forensic Science Board shall, by November 1 of each year, review and make recommendations concerning items 1 through 6 below. *Chapter 473 of the 2019 Virginia Acts of Assembly* requires that information about use of the Physical Evidence Recovery Kit Tracking System be included in the Forensic Science Board's annual report. Accordingly, this report is broken out into the following sections:

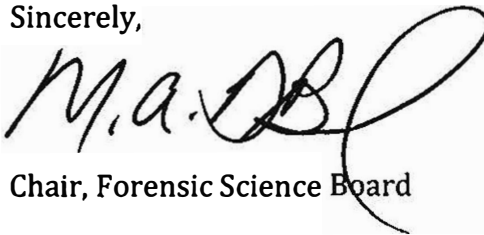
1. New major programs and plans for activities of the Department of Forensic Science and elimination of programs no longer needed;

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 of Forensic Science 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; and
7. Information about use of the Physical Evidence Recovery Kit Tracking System.

The 2023 Report of the Forensic Science Board concerning these matters is attached.

Please do not hesitate to contact me through the Department of Forensic Science Director's Office if you have any questions or would like additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "M. A. O. B.", is written over a light gray rectangular background.

Chair, Forensic Science Board

Enclosure

cc: The Honorable Terrance Cole, Secretary of Public Safety and Homeland Security
Lisa Walbert, Deputy Secretary of Public Safety and Homeland Security
Sonny Daniels, Assistant Secretary of Public Safety and Homeland Security
Members, Forensic Science Board
Linda C. Jackson, Director, Department of Forensic Science
Division of Legislative Automated Systems

FORENSIC SCIENCE BOARD 2023 ANNUAL REPORT

Virginia Code § 9.1-1110(B) requires the Forensic Science Board (FSB) to review and make recommendations by November 1 of each year concerning items 1 through 6 below. Chapter 473 of the 2019 Acts of Assembly requires that information about use of the Physical Evidence Recovery Kit (PERK) Tracking System also be included in the Forensic Science Board's Annual Report. Accordingly, this Report is broken out into the following seven sections:

1. New major programs and plans for the activities of the Department of Forensic Science ("DFS" or "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 DFS and the user programs which are served;
5. Rules and regulations necessary to carry out the purposes and intent of Chapter 11 of Title 9.1 of the Code of Virginia;
6. Any recommendations submitted to the Board or the Director by the Scientific Advisory Committee; and
7. Use of the Physical Evidence Recovery Kit Tracking System.

The Forensic Science Board held meetings on January 4, 2023 (all virtual), April 10, 2023 (in person), July 19, 2023 (in person) and October 12, 2023 (in person). The in-person meetings were held at the DFS Central Laboratory in Richmond. A list of members of the Board is included as Attachment A.

Pursuant to Va. Code § 9.1-1110(B) and Chapter 473 of the 2019 Acts of Assembly, the Board makes this report.

1. NEW MAJOR PROGRAMS AND PLANS FOR THE ACTIVITIES OF DFS AND ELIMINATION OF PROGRAMS NO LONGER NEEDED

DFS Accreditation Through ANSI National Accreditation Board (ANAB)

The Department is currently accredited by the ANSI National Accreditation Board (ANAB). DFS was initially accredited in 1989 through the American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB), which merged with ANAB in 2016.

Each DFS regional laboratory is accredited through ANAB as a testing laboratory, and the Breath Alcohol Section is accredited as a calibration laboratory.

DFS is on a four-year accreditation cycle and was reassessed by ANAB in 2022. This is part of a process of continued oversight and examines conformance to hundreds of criteria specified in the International Standard ISO/IEC 17025 (General requirements for the competence of testing and calibration laboratories), ANAB's Accreditation Requirements for Forensic Testing and Calibration, the FBI Quality Assurance Standards for Forensic DNA Testing Laboratories, and the FBI Quality Assurance Standards for DNA Databasing Laboratories.

During the month of May 2003, a remote Surveillance Document Review was completed, and ANAB notified DFS on July 7, 2023 of its continuation of accreditation.

Additional information about the Department's accreditation, including Accreditation Certificates and Scope documents, can be found on the DFS website at: <https://dfs.virginia.gov/about-dfs/accreditation/accreditation-documentation/>

Central Laboratory Facility Project

In 2014, the Department was authorized to begin space programming and schematic design work for the renovation and expansion of the Central Laboratory facility (the Biotech 2 building) for DFS and the Office of the Chief Medical Examiner (OCME), which is co-located in the Central Laboratory with the Department. Currently, the agencies together lease approximately 25,000 square feet of additional space in the Biotech 8 Building, which is across the street from the Central Laboratory.

In 2018, after it was determined that the current location in downtown Richmond would not meet current needs or allow for future expansion, the General Assembly amended the budget language to change the scope of work for the project to permit DFS to explore building a new facility at another location. In December 2019, DFS acquired 24 acres of land in Hanover County for the Central Laboratory project.

The Conceptual, Schematic and Preliminary designs for the new facility were sequentially completed and approved through April 2021. Because the project transitioned from a renovation/expansion of the existing Central Laboratory to construction of an entirely new facility, the budget for the project needed to be re-evaluated once the preliminary drawings were approved. DFS received a funding recommendation from the Department of General Services' Division of Engineering & Buildings in April 2021 and subsequent to the completion of Construction (working) drawings, the project received a construction permit in June 2022. Final funding for the project with escalation costs was

approved in October 2022 through the capital construction project pool process. Following final review by the Office of the Attorney General, the construction management contract was executed and the Notice to Proceed was issued in January 2023.

Construction mobilization was initiated in January 2023 and site clearing began in February 2023. On March 2, 2023, a groundbreaking ceremony was held and featured speakers including Secretary of Public Safety and Homeland Security Robert Mosier, Secretary of Administration Margaret “Lyn” McDermid, and Secretary of Health and Human Resources John Littel.

Construction progress to date includes the installation of significant underground mechanical, electrical and plumbing conduits/utilities as well as extensive stormwater management infrastructure. Slab on grade concrete pads for a large portion of first floor of the approximately 291,000 sf structure have been completed and structural steel installation has commenced. The construction process is projected to take approximately three years to complete and currently remains on schedule for completion in Q4 2025. A recent photograph (September 22, 2023) of the construction site is shown below:



Service Area Activities

New Forensic Biology Methods and Software

Through a DNA research grant, DFS has continued work on a project to increase the efficiency of spermatozoa DNA extractions through automation employing robotic platforms commonly used in forensic laboratories. This type of DNA extraction is used routinely in analyzing sexual assault cases and includes a number of manual steps, which, when automated, will lead to an increase in efficiency in testing these types of cases. This process is being implemented on our current robotic workstations.

Additional validation projects underway in the Forensic Biology Section include the testing of a new DNA quantitation system and implementing new thermal cyclers statewide which will replace the current systems in use after examiners have completed additional training on these changes. The Section is also evaluating new Y-STR testing chemistries to replace the current ones being used. This system will examine more areas of Y chromosome which will provide increased discrimination between male donors. Bids have been received for a new robotic workstation. One of these instruments will be purchased in the Fall of 2023 and acceptance testing will be started. Once the instrument is determined to be suitable with our testing procedures, additional instruments will be purchased for statewide distribution. The final procedures are being drafted to implement the new procedure for DNA extractions from known reference samples (referenced in the 2022 Annual Report). This will increase the efficiency in which these samples are processed.

New Toxicology Methods

In 2023, the Chemistry Research Section validated several methods for implementation in the Toxicology Section including a novel approach to cannabinoids that separates various isomers of concern for tetrahydrocannabinol. Toxicology staff in the Western Laboratory validated the addition of xylazine to the qualitative screening methodology allowing for the detection of this compound in biological samples.

As of January 1, 2023, the Toxicology Section has implemented a new impaired driving case testing workflow that includes screening for cannabinoids on all impaired driving cases with blood alcohol concentrations at or above 0.100% by weight by volume. Cases below 0.100% by weight by volume blood alcohol continue to be screened for the full panel of immunoassay targets.

New Controlled Substance Methods

To coincide with legislation affecting marijuana/hemp distinction, the Department expanded testing to include the consideration of the most-commonly seen isomers of delta-9-tetrahydrocannabinol. While the Department can identify whether cannabinoids are present in an edible product, it cannot quantify the amount. To meet the need for testing of edibles, the Department announced the ability to outsource these cases when quantitation is necessary.

Pursuant to 6VAC40-30, the Department completed the re-evaluation of chemical field tests and published the revised list of tests approved for the detection of drugs in January 2023. Shortly thereafter, in March 2023, the Department completed the evaluation and approval of the first presumptive mobile instrument intended to determine whether a substance is a controlled substance or an imitation controlled substance, as defined in Va. Code § 18.2-247, or marijuana as defined in Va. Code §§ 4.1-600 and 18.2-247.

Changes to Trace Evidence Methods

The Trace Evidence Section is working to put the recently purchased micro X-ray fluorescence (μ XRF) spectrometer into service. This instrument will initially be used for glass comparisons following the ASTM E2926 standard test method and has the ability to increase the forensic significance of reported associations. The instrument verification will coincide with the rebuilding of capacity of qualified glass examiners in the Central Laboratory.

Following an unrepairable instrument failure, the Trace Evidence Section's laser induced breakdown spectrometer (LIBS) is no longer in service. As a result, the section is no longer able to identify lithium, which is one of many chemicals listed in article Va. Code § 18.2-248(J) and relevant to the manufacturing of methamphetamine. The impact to service is minimal given the decrease in clandestine laboratories producing methamphetamine as well as our analytical capabilities with regards to the other chemicals listed in subsection (J) of the statute.

Historical (Archived) Case File Review Project

The Department began its Historical or Archived Case File Review Project after obtaining funding in FY16. Through the project, an electronic database of archived case file information is being created that includes scanned copies of all Certificates of Analysis and available case information (e.g., the jurisdiction of the offense, the investigating agency, victim and suspect names, date evidence received, type of examination, and examiner names). The database of archived case files will include cases from 1973 through 1994.

DFS implemented a Laboratory Information Management System (LIMS) in 1995 so DFS is already able to electronically search cases from 1995 forward using its LIMS.

The Department has six to seven wage positions at any given time assigned to the project, each eligible to work up to 29 hours per week. As of September 30, 2023, over 310,400 of the estimated 1,000,000 archived case files covering the relevant period have been entered into the database. This searchable database of case information and scanned documentation ultimately will be integrated with the Department's LIMS.

Microscopic Hair Comparison Case Review

In 2016, the Board created a Microscopic Hair Comparison Case Review Subcommittee, which developed a process for the initial screening of DFS's microscopic hair comparison cases and for the review of transcripts in cases with convictions. A Review Team, consisting of two attorneys (i.e., one defense attorney and one prosecutor) and one DFS scientist with experience as a hair examiner, conducts reviews of the transcripts and makes recommendations to the Subcommittee regarding whether notification to the parties is appropriate in each case.

The Department has continued its work identifying microscopic hair examination cases as part of its Historical Case File Review. For cases determined to include positive, probative hair associations, the Department confirms conviction information for the cases and seeks out transcripts or transcript substitutes, where appropriate, for review.

In July 2023, the Microscopic Hair Comparison Case Review Subcommittee met to review recommendations made by the Review Team regarding seven transcripts. Notifications were made by the Department in two of those cases as indicated by the Subcommittee. Additional meetings of the Review Team and Subcommittee are scheduled before the end of 2023 to consider additional transcripts that have been identified for review.

2. POLICY AND PRIORITIES IN RESPONSE TO AGENCY NEEDS

Improving Timeliness

Caseload Data

The caseload data reported in the table below reflects, for FY22 and FY23, the total number of case submissions statewide for each DFS testing section, the ending backlog (total number of cases on hand) in each section as of the end of the respective fiscal years, and the average case turnaround time (number of days from receipt of evidence in a case

by DFS to the release of the Certificate of Analysis) for each section. The table also specifies the percentage change for each category, by section, between the two fiscal years.

Section	Case Submissions			Backlog			Average Turnaround Time for Cases Completed (days)		
	FY22	FY23	% Change	As of 6/30/22	As of 6/30/23	% Change	FY22	FY23	% Change
Controlled Substances	23,997	27,217	13%	1,986	2,103	6%	26	33	27%
Digital & Multimedia Evidence	212	254	20%	46	108	135%	122	84	-31%
Firearms & Toolmarks	6,314	6,450	2%	1,798	1,573	-13%	132	101	-23%
Forensic Biology (DNA)	6,450	6,891	7%	2,252	2,861	27%	131	189	44%
Latent Prints & Impressions	2,143	2,355	10%	365	408	12%	77	65	-16%
Toxicology*	9,883	10,642	8%	1,300	1,694	30%	51	53	4%
Trace Evidence	702	725	3%	159	223	40%	83	82	-1%

* This does not include the cases the OCME outsourced directly to a private laboratory. See page 9.

The table below presents, for each testing discipline, the ending backlog as of September 30, 2023, and the average turnaround time for cases completed in September 2023.

Discipline/Section	Ending Backlog As of 9/30/2023	Average TAT (in days) September 2023
Controlled Substances	1,847	26
Digital & Multimedia Evidence	113	111
Firearms & Toolmarks	1,707	100
Forensic Biology (DNA)	3,046	185
Latent Prints & Impressions	425	67
Toxicology	1,633	51
Trace Evidence	264	84

Submissions to the Controlled Substances Section rose in FY23 after several years of reduced case submissions during and after the pandemic. Although average case

turnaround times remain low, DFS has begun filling scientist positions that had been held open after being vacated through regular attrition so that the Department will be poised to respond to additional cases resulting from increasing drug enforcement activities.

Case submissions to the Toxicology Section in FY22 had decreased 13% from FY21 due, in part, to the Office of the Chief Medical Examiner (OCME) outsourcing cases directly to a private laboratory. The OCME's cases have increased due to increased drug overdose deaths. In FY23, the OCME began submitting a proportion of their cases back to DFS as the testing capacity has increased in the Toxicology Section.

After several years of case submission increases to the Firearms & Toolmarks Section, submissions remained lower in FY23. The Firearms Section saw a significant decrease in submissions in FY22 (-23%) and remained flat in FY23. The biggest driver in the overall reduction of firearms case submissions is the number of state and local law enforcement agencies with the capability of examining cartridge casing evidence and seized crime guns for National Integrated Ballistic Information Network (NIBIN) searching. Due to the lower rate of submissions, the Section was able to reduce its backlog for the second straight year. Case turnaround times remain high, since the remaining comparison cases are more time consuming than NIBIN cases. DFS has hired one Forensic Scientist and four Forensic Scientist Trainees to build examination capacity. However, the training period for new firearms examiners is 18 – 24 months so there will be a lag before the Section's testing capacity is increased.

Breath Alcohol Tests Administered

Based on data downloaded from evidential breath test instruments statewide, the number of breath tests performed dropped significantly beginning in March 2020 as a result of the pandemic. The table below shows the number of tests performed by month comparing recent years, as well as the percentage change for each month for FY22 to FY23. The overall number of breath tests per year continues to be below pre-pandemic levels (-17.4% FY19-FY23). However, the comparison of FY22 to FY23 demonstrates a slight increase in the number of evidential breath alcohol tests conducted.

Tests by Month	FY19	FY20	FY21	FY22	FY23	% Change FY22 - 23
July	1,977	1,999	1,538	1,478	1,661	+12.4%
August	2,011	2,141	1,647	1,553	1,582	+1.9%
September	2,088	1,988	1,604	1,569	1,665	+6.1%
October	1,912	1,899	1,667	1,362	1,685	+23.7%
November	1,920	2,207	1,624	1,318	1,489	+13.0%
December	2,237	2,073	1,369	1,353	1,671	+23.5%
January	1,781	1,863	1,432	1,388	1,694	+22.0%
February	1,868	2,026	1,362	1,530	1,608	+5.1%
March	2,309	1,630	1,732	1,750	1,815	+3.7%
April	1,841	903	1,362	1,711	1,655	-3.3%
May	2,144	1,449	1,693	1,675	1,778	+6.1%
June	2,094	1,394	1,478	1,374	1,617	+17.7%
Overall	24,102	21,572	18,508	18,061	19,920	+10.3%

Factors Affecting DFS Workloads and Backlogs

Outsourced Testing of OCME Toxicology Cases

The Office of the Chief Medical Examiner (OCME) maintains accreditation through the National Association of Medical Examiners (NAME). NAME requires that 90% of all toxicology testing be completed within 90 days. Further, the OCME is finding it difficult to meet the NAME requirement of completing 90% of autopsy cases within 90 days due, in part, to the DFS Toxicology Section's insufficient testing capacity.

In light of increased turnaround times in the Toxicology Section, DFS entered into a memorandum of understanding with the OCME in January 2021 to allow the OCME to outsource cases to a private laboratory as DFS works to increase capacity. During FY23, DFS paid for approximately 1,300 outsourced cases originating from the Eastern and Western laboratories. As DFS Toxicology staffing improves, DFS expects the number of outsourced cases to decrease.

New Toxicology Positions for FY23

The Department received eight new positions for the Toxicology Section for FY23: four Forensic Scientists and four Toxicologists. Most of these positions have been filled and are in training. Two of the Toxicologist positions are still in recruit. Other positions within the Toxicology Section are in recruit or training due to employees leaving the Department. As well as addressing the continued high volume of OCME cases, these positions were

necessary due to changes DFS made in general analytical protocols for Driving Under the Influence of Alcohol or Drug cases (DUI/DUID) that took effect on January 1, 2023.

The updated DUI/DUID protocols are designed to identify alcohol and drugs that can impair driving using two levels of testing for alcohol and impairing drugs. Some exceptions to the testing protocol may be necessary due to customer requests for additional testing. The first step of testing is a blood alcohol concentration (BAC) determination. If the BAC is equal to or greater than 0.100 % by weight by volume (%w/v), the sample will be screened for cannabis-related compounds using an immunoassay. If the BAC is less than 0.100 % by weight by volume, a broader immunoassay screen is completed to determine if any drug is potentially present and further analysis as appropriate is conducted. From January through September 2023, approximately 23 % of cases with a blood alcohol concentration equal to or greater than 0.100 %w/v had a quantifiable tetrahydrocannabinol concentration.

Total Number of Impaired Driving Cases CY2023 (Through Sept 30)		
	Cases with BAC ≥0.100% w/v	Cases with BAC <0.100% w/v
Number of Cases	1,387	1,817
Number of Cases with THC	320	686

THC Concentration CY2023 (Through Sept 30)		
	Cases with BAC ≥0.100% w/v	Cases with BAC <0.100% w/v
Average THC Concentration	0.0053 mg/L	0.0086 mg/L
Median THC Concentration	0.0035 mg/L	0.0045 mg/L

DNA Case Redistribution

The Department identified inequivalent DNA caseloads and associated turnaround times among its four regional laboratories. In April 2022, the Western Laboratory averaged a 220-day turnaround time while the Eastern Laboratory experienced a 47-day average. In order to normalize the DNA turnaround times, DFS began redistributing portions of its DNA case backlog from its Northern and Western laboratories to the Central

and Eastern laboratories. It is anticipated that these transfers will occur for the remainder of 2023.

PERK Triage Unit

National best practices for Forensic Biology case processing recommend separating the processes of evidence screening from DNA analysis in order to standardize workflow and increase the predictability of case output. To that end, DFS will create a **PERK Triage Unit** and utilize a recently created scientist position in the section termed a “Forensic Scientist – Biologist.” These individuals can screen evidence for body fluids, take samples from stains for further downstream screening (such as male DNA screening) or DNA analysis. Basic reports involving no body fluids detected, no male DNA detected, or simple DNA analyses can be authored by the Biologist.

Biologists will spend most of their time screening cases that involve a wide variety of evidence (e.g., swabs from a victim’s body, bags full of bedding). This wide variety, coupled with the various types of biological evidence and screening that may be probative in a particular case, for example blood screening in a homicide case versus screening a rape kit for seminal fluid, introduces multiple factors into the workflow which are labor intensive and time consuming. With these activities being conducted by the Biologist staff, the full DNA Forensic Scientist staff have a more predictable and efficient workflow concentrating on the more complex DNA analyses and data interpretation.

This team approach maintains a high-quality work product that is more efficient than one scientist processing the case from the beginning, at evidence submission, through the issuing of the final case report. In addition, efficiencies are gained since Biologist positions require a shorter training period than for a Forensic Scientist because they do not need the time-consuming training in complex DNA mixture interpretations. Two Forensic Scientist – Biologist positions were authorized in the FY24 Amended Budget, but more will be needed to allow for enough staff to triage the approximately 1,700 PERKs submitted each year.

Subpoenas and Court Appearances

When examiners are out of the laboratory for court appearances, they have fewer hours available to perform forensic analyses. Controlled Substances and Toxicology are the two sections that receive the largest volume of subpoenas, and Toxicology makes the most court appearances. As a result of the COVID pandemic, the Department saw a reduction in both the number of subpoenas received and associated court appearances, which provided examiners with additional time in the laboratory.

In FY22, there was a 15% increase in the number of court appearances compared to FY21. While the overall number of court appearances fell by approximately 9% from FY22 to FY23, the total time away from the laboratory for examiners slightly increased. DFS staff continue to work with stakeholders to increase the use of video testimony and/or implement specialty dockets to reduce examiner time away from laboratories.

Appearance Year	Days Away	# of subpoenas	# of appearances
FY19	1,294	17,855	4,090
FY20	887	15,917	3,130
FY21	1,226	14,678	4,198
FY22	874	17,124	4,844
FY23	891	15,697	4,438

Ability to Hire and Train Qualified Examiners

The demand for trained, experienced examiners has exceeded the supply for many years. In order to fill positions with limited qualified applicants, DFS hires and trains individuals with the necessary educational credentials, but without the practical experience. The table below reflects the average length of the training for new scientists hired as trainees in each discipline. The length of training for scientists who come to DFS as previously “qualified” in another laboratory system should be reduced.

Section	Average Examiner Training Period
Breath Alcohol	12 months
Controlled Substances	10 months
Digital & Multimedia Evidence	12 months
Firearms & Toolmarks	6 months (NIBIN Forensic Scientists) 24 months (Firearms & Toolmarks Forensic Scientists)
Forensic Biology (DNA)	12 months
Latent Prints & Impressions	12 months (Latent Prints Forensic Scientists) 12 months (Impressions Forensic Scientists)
Toxicology	12 months (Forensic Scientists) 18 months (Toxicologists)
Trace Evidence	12 months

Current examiners conduct the training for new hires and must dedicate significant time to working with the trainees, which results in decreased case output for the examiners conducting the training.

3. GENERAL FISCAL YEAR OPERATIONAL BUDGET AND ANY MAJOR CHANGES IN APPROPRIATED FUNDS

Budget Overview

The Department's annual budget for FY24 is:

General Fund Base Budget	\$53,325,654
Technical Adjustments to Base Budget	\$838,076
Additions to Base Budget	\$ 1,724,295
<u>Non-General Funds</u>	<u>\$2,680,488</u>
TOTAL OPERATING BUDGET	\$58,568,513

The "Additions to Base Budget" include \$641,200 for four Toxicologists, \$728,500 for five Forensic Scientists and associated supply costs for the Toxicology Section, \$106,560 for one additional Trainer to teach the Department's Forensic Science Academy, and \$248,035 to cover costs beginning January 1, 2024, to: switch one part-time Evidence Specialist to full-time, switch the PERK Tracking Coordinator from Federal Funds to General Funds, and add two Forensic Biologists and one Forensic Laboratory Specialist.

Grant Awards

During the period of October 1, 2022, through September 30, 2023, funding was awarded to DFS under the following grant programs:

FY22-23 Paul Coverdell Forensic Science Improvement Program – \$527,396 was awarded by the Bureau of Justice Assistance (BJA) to the Virginia Department of Criminal Justice Services (DCJS) as the State Administering Agency. DCJS provided the funds equally to DFS and the Office of the Chief Medical Examiner (OCME) via subawards. The DFS portion (\$263,698) is for training and continuing education of scientific staff in the Chemistry, Physical Evidence, and Toxicology program areas, as well as equipment for the Toxicology Section. In addition, funding will support a part-time LIMS Customer Coordinator position that will be responsible for system testing, preparation of training materials, provision of customer training, customer password management, and support for other LIMS projects focused on reduction of paper records. The grant period for the DFS subaward is May 15, 2023 – September 30, 2024.

FY22 DNA Capacity Enhancement and Backlog Reduction Grant – \$1,890,845 was awarded by BJA to enhance capacity in the Forensic Biology Section. The funds are to be used to support personnel, training, and supplies. The grant period is October 1, 2022 –September 30, 2024.

FY22 NIJ Research & Development for Publicly Funded Forensic Laboratories – DFS received \$141,921 from the National Institute of Justice (NIJ) for research in the area of Fire Debris Analysis. The goal of this research is to develop and validate a data interpretation method for medium petroleum products that is transparent and can be applied to normalize interpretation and strengthen the science of fire debris analysis. The award period is January 1, 2023 – December 31, 2024.

CDC Overdose Data to Action in States (OD2A-S) Program – DFS received funds through the Virginia OCME, under a grant awarded to the Department of Health, to support additional personnel in the DFS Toxicology Section, as well as equipment and supplies, to improve both the timeliness and comprehensiveness of toxicological studies in deaths suspected as overdoses. This project will be funded for a five-year period, with DFS receiving funds in the amount of \$376,050 each year for a total of \$1,880,250. The award period is September 1, 2023 – August 31, 2028.

2023 Highway Safety Grant Program – \$267,513 in federal funds awarded by DMV for the DFS Breath Alcohol Section. Funding is provided for reimbursement of travel costs for law enforcement officers, supplies needed for breath alcohol classes, continuing education for DFS Breath Alcohol personnel, and the retention of the grant-funded Breath Alcohol Forensic Scientist position. The award requires an in-kind match of \$69,514. The grant period was October 1, 2022 – September 30, 2023.

2023 Highway Safety Grant Program (TREDS Project) – \$428,160 was awarded to DFS under its TREDS (Traffic Records Electronic Data System) Program. The project goal is to decrease the turnaround time of data from the OCME to DMV in cases involving motor vehicle accident fatalities. DFS received funds to retain two part-time FLS II positions and hire six full-time FLS III positions to assist in the Toxicology Sections statewide to increase capacity. The grant period was October 1, 2022– September 30, 2023.

4. ACTIONS TO FOSTER AND PROMOTE COORDINATION AND COOPERATION BETWEEN DFS AND THE USER PROGRAMS WHICH ARE SERVED

Notices Sent to DFS User Agencies

Policy Notices

Revised List of Field Tests Approved for the Detection of Drugs Under 6 VAC 40-30

On January 30, 2023, the Department sent notice to its user agencies that it had issued a revised list of field tests approved for the detection of drugs.

Approval of the First Presumptive Mobile Instrument for the Detection of Drugs

On March 16, 2023, the Department sent notice to its user agencies that it had approved the first mobile instrument for the detection of drugs with the approval of a handheld instrument using a Raman spectrometer for preliminary screening of suspected controlled substances.

Notification of New Regional Laboratory Directors

On June 1, 2023, the Department sent notice to its user agencies that it had selected new directors for its Eastern and Northern Laboratories.

Next Generation Identification (NGI) Palm Print Database Search Results

On June 12, 2023, the Department sent notice to its user agencies that due to a technical issue with the Federal Bureau of Investigation's NGI software, some latent palm prints searched between 2014 and 2022 were not being searched against new exemplars added to the database. DFS advised that it had a list of the cases impacted by the issue and would reenter the palm prints to search against all new exemplars added after the initial search.

Updated Submission Policy for Marijuana, Including Food Products

On June 29, 2023, the Department sent notice to its user agencies that the Department now has the capability to differentiate marijuana and hemp for plant material, oils, extracts, and vape cartridges when the concentration of total THC, including isomers other than delta-9-THC, is greater than approximately 1% by weight.

Return of Evidence Relating to the Post-Conviction DNA Testing Project

On July 17, 2023, the Department sent notice to its user agencies that consistent with its current evidence handling policies, it would be returning previously tested evidence and/or reference samples from historical cases to the originating law

enforcement agency. Some of these cases were the subject of the Post-Conviction (PC) DNA testing that was ordered by Governor Warner in 2005.

Enhancing External Communication

The DFS website, which was last redesigned in 2013, has been updated. Changes include updates to address accessibility standards and increased flexibility for viewing on mobile devices.

DFS has re-established the Customer Working Group (CWG), which seeks feedback from customers on issues such as evidence submission policies and potential report format/wording changes. The CWG met on May 8, 2023, and provided input on changes to reporting language used on latent print and forensic biology reports.

Compounds Scheduled Through Board of Pharmacy Regulations

Pursuant to Va. Code § 54.1-3443(D), in consultation with DFS, the Board of Pharmacy is permitted to temporarily place substances into Schedule I or II via an expedited regulatory process. DFS monitors evidence submissions to its Controlled Substances Section and tracks new compounds that are submitted statewide. DFS recommends compounds to the Board of Pharmacy for this process on a quarterly basis for their consideration under the statute.

Between October 1, 2022, and September 30, 2023, DFS consulted with the Board of Pharmacy on 18 compounds. These included: eight synthetic opioids (Schedule I), four compounds expected to have hallucinogenic properties (Schedule I), three compounds expected to have depressant properties (Schedule I), one compound expected to have central nervous system stimulant properties (Schedule I), and two cannabimimetic agents (Schedule I). Fifteen of the 18 compounds have been placed into Schedule I via Board of Pharmacy regulation, and three are under administrative review.

Report of Drug Cases Submitted to the Virginia Department of Forensic Science

The Department receives tens of thousands of drug samples every year, submitted by law enforcement agencies from across the state. The annual report of *Drug Cases Submitted to the Virginia Department of Forensic Science*, a joint effort by DFS and the Virginia Department of Criminal Justice Services (DCJS), highlights the frequency with which various selected drugs are submitted, broken out by the seven Virginia State Police divisions and 32 Virginia Court Districts. Marijuana is not included in the report because the Code of Virginia allows law enforcement officers to testify to the results of marijuana field tests at trial in underage, simple possession cases.

On May 25, 2023, the Department released the report of *Drug Cases Submitted to the Virginia Department of Forensic Science CY2022*. Overall, drug submissions to DFS dropped in CY2022, but that varied across the different drug categories. Methamphetamine submissions dropped 1%, and methamphetamine continued to be the drug found in more items than any other controlled substance (25% of the total submissions). A notable decrease was seen in heroin (36%) and prescription opioids (16%), but illicit synthetic opioid submissions increased by 8%. Prescription and illicit benzodiazepines both decreased (11% and 61%, respectively), as did cannabimimetic agents (50%), other designer drugs (35%), and hallucinogenic substances (3%). Increases were seen in cocaine (11%) and prescription stimulants (7%).

This CY2022 report, as well as reports from previous years, are accessible at: <https://dfs.virginia.gov/documentation-publications/>

Training

Forensic Training Section

The Department's Forensic Training Section conducts the Forensic Science Academy (FSA), a nine-week school in Crime Scene Technology. Each nine-week FSA session provides in-depth training to twelve select law enforcement personnel in the recognition, documentation, collection, preservation, and handling of physical evidence through classroom instruction by forensic experts, evidence collection demonstrations, and numerous practical exercises in simulated crime scenes. The 108th FSA Session graduated March 31, 2023, and the 109th FSA Session graduated June 23, 2023. The 110th FSA Session began in September 2023.

The Forensic Training Section also presents numerous short courses throughout the year on various crime scene investigation subjects, including Basic Crime Scene Investigation, Basic Digital Crime Scene Photography, and Impression Evidence Documentation and Collection. After receiving positive feedback to the virtual short courses offered as a result of the pandemic, the Training Section has continued offering virtual classes, along with in-person courses.

The Virginia Forensic Science Academy Alumni Association Annual Retraining Seminar was conducted on September 6 - 8, 2023 in Virginia Beach. Over 120 attendees heard presentations regarding topics such as case studies, legal and laboratory updates, and how new technology can assist with crime scene documentation.

Two Forensic Trainer Senior positions were filled this year. One had been vacated and one was newly added to the State budget giving the Forensic Training Section its largest staff since 2005.

Breath Alcohol Instrument Operator Training

The Department's Breath Alcohol Section provides maintenance of the evidential breath alcohol instruments, responses to legal requests for information, testimony, and training for law enforcement personnel. From October 1, 2022 through September 30, 2023, the Breath Alcohol Section conducted 45 initial breath alcohol instrument operator (three-day) classes and licensed 783 new operators. Initial breath alcohol instrument operator classes have space for 20 students per class allowing for up to 900 new operators to be trained per year. During this period, the Section continued to utilize the online recertification course, and, as of September 30, 2023, had offered 15 of these courses, relicensing 950 operators online. In addition, the Section conducted 70 in-person recertification (four-hour) sessions and subsequently relicensed 1,322 operators in person. There are 6,060 licensed operators statewide.

Instructor Recertification was held in September 2023 in Virginia Beach with 25 law enforcement instructors in attendance.

Training for Attorneys and Judges

The Department began offering training for Virginia criminal attorneys and judges in 2018. The courses are designed to help attorneys and judges who use and evaluate testing in their cases to have the background to understand the methods and practices of the discipline.

The first offering, a day-long DNA training, was held in 2018 and again in 2019. A training on the DUI/DUID discipline, which was a half-day training, was held in 2019. In 2021, DFS provided virtual half-day training on Controlled Substances.

In May 2023, a half-day Controlled Substances training was provided in-person at all four regional laboratories. A full-day DNA training was provided in-person at three of the regional laboratories in September and October, with the final session to be held in November.

Legal Resources Provided on DFS Website

The Department provides Legal Resources on its website. Topics include Freedom of Information Act (FOIA) Requests, Subpoenas Duces Tecum (SDTs), Requests for Results

and Orders for Scientific Investigations under Va. Code § 9.1-1104, Long Term Storage Orders under § 19.2-270.4:1, Post-Conviction Testing under § 19.2-327.1, and Witness Subpoenas for Civil Cases. Model Orders are also available. The information can be accessed on the DFS website at: <https://dfs.virginia.gov/about-dfs/legal-resources/>

5. RULES AND REGULATIONS NECESSARY TO CARRY OUT THE PURPOSES AND INTENT OF CHAPTER 11 OF TITLE 9.1 OF THE CODE OF VIRGINIA (DFS)

Regulations

Marijuana Field Tests

The proposed regulatory amendments to 6 VAC 40-50, the Regulations for the Approval of Marijuana Field Tests for Detection of Marijuana Plant Material, was approved by the Governor's office and published in the March 13, 2023 issue of the Virginia Register of Regulations. These amendments would permit the Department to approve non-Duquenois Levine field tests, as well as other technology that may evolve that could distinguish marijuana from industrial hemp. A public comment period ran for 60 days following the publication of the Proposed Stage. No public comments were received. A public hearing was held by the Board on April 10, 2023. No members of the public provided comment. At the Board's July 19, 2023 meeting, the Board unanimously approved the final amendments to 6 VAC 40-50. The amendments are now in the executive approval process.

Parking at DFS Facilities

The Board's fast-track proposed parking regulations (6 VAC 40-15) for Department facilities were withdrawn at its April 10, 2023 meeting.

DNA Data Bank Regulations

At its October 12, 2023 meeting, the Board considered amendments to 6 VAC 40-60, the DNA Data Bank Regulations as part of the Board's ongoing review of regulations to comply with Governor Youngkin's regulatory reduction initiative as outlined in Executive Order 19 (2022). The proposed amendments will repeal various requirements in 6 VAC 40-60 that are cumbersome on law enforcement agencies and other authorized agencies to obtain information regarding whether a specific individual is in Virginia's DNA Data Bank or the results of any analysis of DNA evidence conducted by the Department of Forensic Science. With advances in technology, the mechanisms for requesting such information can be streamlined so that the requirements on requestors can be significantly reduced while maintaining the security of DNA Data Bank and DNA analysis information.

6. ANY RECOMMENDATIONS SUBMITTED TO THE FORENSIC SCIENCE BOARD OR THE DIRECTOR BY THE SCIENTIFIC ADVISORY COMMITTEE

The Scientific Advisory Committee (SAC) met in person on April 11, 2023, and by video conference on October 11, 2023. A list of its members is included as Attachment B.

Scientific Advisory Committee Recommendations/Actions

SAC Meeting on April 11, 2023

The Controlled Substances Subcommittee members had individually reviewed the Department's Validation Plan: *Addition of Tetrahydrocannabinol (THC) Isomers to Existing Semi-Quantitative Gas Chromatography-Flame Ionization Detection-Mass Spectrometry (GC-FID/MS) Method* prior to the SAC meeting on April 11, 2023, and determined that no Subcommittee meeting was required. The Subcommittee had no recommendations or questions. The SAC received a presentation on the addition of capabilities concerning three THC isomers of delta-9-THC: delta-8-THC, delta-10-THC, and delta-6a,10a-THC. The review of the validation plan was closed.

A new Trace Evidence Subcommittee was formed.

A new Chair and Vice Chair were elected.

SAC Meeting on October 11, 2023

The Toxicology Subcommittee met prior to the Scientific Advisory Committee. The subcommittee reviewed validation plans and summaries for the following methods:

- Validation Plan - *Addition of Xylazine and Dexmedetomidine to the Opioid, Cocaine, Benzoyllecgonine and Cocaethylene Quantitation and Confirmation by LCMSMS Method*
- Validation Plan - *Addition of Xylazine to the Acid/Base/Neutral Drug Screen and Quantitation by GC and GC-MS using the Liquid-Liquid Extraction Option*
- Validation Plan - *Phencyclidine (PCP), Ketamine, and Dextromethorphan (Dxm) Quantitation and Confirmation by Solid Phase Extraction Using LCMSMS*
- Validation Summary - *Cannabinoids Quantitation and Confirmation by Supported Liquid Extraction Using LCMSMS*
- Validation Summary - *Qualitative Screening and Confirmation of Xylazine by the Acid, Base, and Neutral Drugs Screen*

The Toxicology Subcommittee closed the review of all five validation plans and summaries. The SAC received a report from the Toxicology Subcommittee Chair indicating that some recommendations for consideration were made on the validation summary concerning a method to screen and confirm Xylazine. The SAC voted to approve the report.

On August 18, 2023, pursuant to Va. Code § 9.1-1113(C), Director Jackson requested that the SAC create a subcommittee to review information regarding a podcast entitled *Admissible: Shreds of Evidence*. The SAC Chair created such a subcommittee, which met virtually on October 10, 2023, to begin review of the information. The SAC received a report from the Review Subcommittee Chair at its October 11, 2023 meeting and voted to approve the report.

7. INFORMATION ABOUT USE OF THE PHYSICAL EVIDENCE RECOVERY KIT (PERK) TRACKING SYSTEM

PERK Tracking System Overview

In accordance with Va. Code § 19.2-11.13, DFS maintains a statewide electronic tracking system for physical evidence recovery kits (PERKs). An enactment clause included in the legislation creating Va. Code § 19.2-11.13 requires DFS to include information about use of the PERK Tracking System in this Annual Report. See Chapter 473 of the 2019 Acts of Assembly.

It is important to acknowledge the limitations associated with data derived from the PERK Tracking System. Among other things, not all actions performed on PERKs are ultimately logged in the System, which may lead to the counts of kits presented in this report to be an underestimation of what is actually occurring in the Commonwealth. Additionally, not all agencies with access to the System have been using it consistently and properly.¹ However, the PERK Tracking System does allow for new entries related to a kit to be added despite previously skipped entries so that incomplete information logged by one agency does not affect subsequent entries of other agencies handling the kit.

¹ On a regular basis, DFS performs multiple standardized quality checks to identify anomalies in the data. With these findings, DFS can provide targeted assistance to agencies and their users so that they can adjust information that may have been entered in error or add entries that may have been skipped entirely.

PERK Tracking System Training

Only authorized personnel from collection sites, law enforcement, DCLS, and DFS may access the System.² Users are granted access to the System only after completing PERK Tracking System Training. DFS continues to offer multiple training options in order to accommodate the unique needs and schedules of user agencies. System training includes a discussion concerning the statutes contained in Chapter 1.2 of Title 19.2 of the Code of Virginia relating to submission and retention requirements.

Collection Sites

Virginia Code § 19.2-11.5 defines the term “health care provider” (collection sites) for purposes of the PERK legislation. Collection sites include any hospital, clinic, or other medical facility that provides forensic medical examinations to victims of sexual assault. As of September 30, 2023, DFS identified 27 collection sites that will routinely collect PERKs. This is two more than the previous year.

Law Enforcement

Virginia Code § 19.2-11.5 defines the term “law enforcement agency” for purposes of the PERK legislation. It means the state or local law-enforcement agency with the primary responsibility for investigating an alleged sexual assault offense case. As of September 30, 2023, there are 191 law enforcement agencies that are active system users, which is defined as an agency that has initiated at least one action in the System. This is two more than the previous year.

Victim Advocates

Although victim advocates do not have direct access to the PERK Tracking System, law enforcement agencies with victim advocates on staff (or who work for a Commonwealth’s Attorney’s Office) may provide these victim advocates with viewer-only access to their agency account. However, without access, being knowledgeable about the System will assist the advocates in supporting victims. Accordingly, upon request, DFS provides PERK Tracking System training to victim advocates so they can inform victims of

² Full descriptions of PERK System User Types can be found in the 2020 and 2021 Forensic Science Board Annual Report, which may be accessed online at <https://rga.lis.virginia.gov/Published/2020/RD481> and <https://rga.lis.virginia.gov/Published/2021/RD610> respectively.

their right to access the System, as well as what information is available to them through the Victim Portal.

Kits in the PERK Tracking System

Kit Types

As of October 4, 2023, 14,332 kits have been entered in the PERK Tracking System. Of these kits, the vast majority (95%) are barcoded PERKs³ (including barcoded OCME PERKs), while the remaining kits are composed of non-barcoded legacy PERKs⁴ (4%), and non-Virginia kits⁵ (< 1%).

Anonymous Kits

Once a kit has been collected during a forensic medical examination, the kit will be either an “anonymous kit” or an “offense reported kit.” An anonymous kit is one where the victim elects, at the time of the examination, not to report the sexual assault to law enforcement. As of October 4, 2023, there were 1,497 anonymous kits in the System with a post-collection status.⁶ This figure includes anonymous PERKs currently at DCLS for anonymous storage and anonymous PERKs at collection sites or law enforcement pending transfer to anonymous storage.

Not all anonymous kits remain anonymous. Victims who, at the time of collection, elect not to report the offense to law enforcement may subsequently decide to report the offense. Within the past year (October 1, 2022 to September 30, 2023), 26 kits in anonymous storage at DCLS became offense reported and were transferred to the investigating law enforcement agency.

³ DFS began distributing the new, barcoded PERKs at the end of 2018. The barcoded kits are manufactured with the unique barcode/PERK ID on the outside of the kit so they can be entered into the System before they are distributed.

⁴ Non-barcoded Virginia PERKs (referred to as “legacy” kits), which preceded the barcoded kits, also have a unique ID number; however, the unique ID number is not placed on the outside of the legacy kits until they are collected. Accordingly, legacy PERKs are being initially entered into the System after collection, and they were not logged into the System by DFS before distribution.

⁵ Non-Virginia kits are kits that are collected at hospitals outside of Virginia but are associated with Virginia cases. These kits have unique ID numbers, and user agencies have been provided information on how to enter those kits into the System.

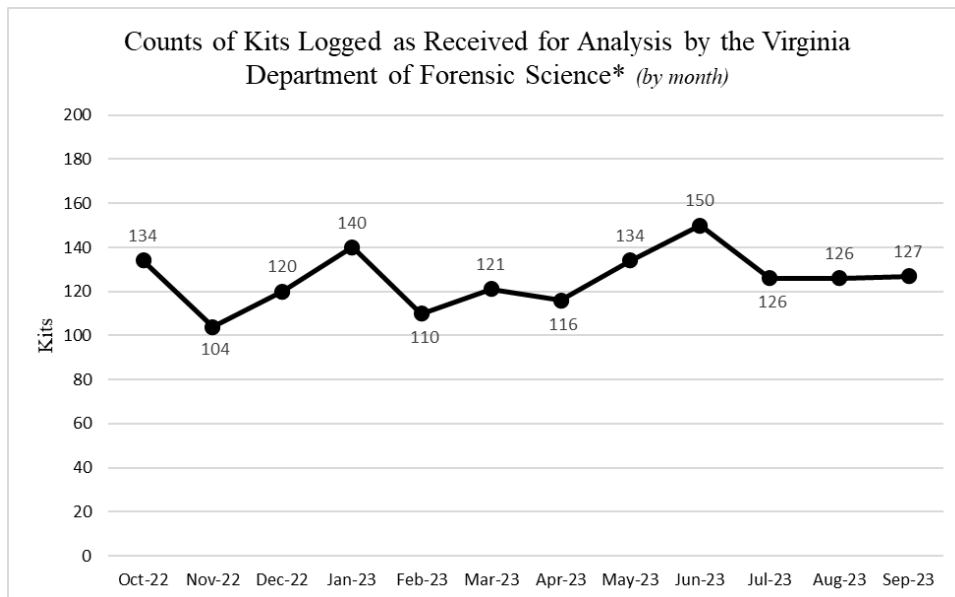
⁶ Post-collection status refers to current kit statuses that reflect that the kit has been collected at some point in time. A collection does not have to be logged for a kit to have a post-collection status (e.g., a collected kit that was never logged as collected by the collection site would have a post-collection status once it is received as a reported offense kit by law enforcement). Accordingly, the total number of kits with a post-collection status will not equal the count of kits logged in the System as collected.

Actions Performed on Kits in the PERK Tracking System

Actions Performed on Kits in the PERK Tracking System (October 1, 2022 to September 30, 2023)	Count of Kits
Kits Collected by Collection Sites	1,545
Virginia (non-OCME) Collection Sites	1,460
OCME	64
Tennessee Collection Sites ⁷	21
Kits Received by DCLS for Anonymous Storage	386
Kits Received by Law Enforcement from Collection Sites or DCLS	1,444
Kits Received by Law Enforcement from Other Law Enforcement Agencies	18
From Virginia Law Enforcement Agencies	16
From Non-Virginia Law Enforcement Agencies	2

Kits Received by DFS for Analysis

From October 1, 2022 to September 30, 2023, DFS has logged the receipt of 1,508 kits from law enforcement for analysis. Since October 2022, DFS has logged the receipt of an average of 124.2 kits per month for analysis.



*Kits logged as received from law enforcement by DFS for analysis; only includes the initial submission of kits that were submitted multiple times. Kits counted in this graph include barcoded PERKs (including OCME PERKs), non-barcoded legacy PERKs, and non-Virginia kits.

⁷ Ballad Health (a large health network that covers hospitals in Virginia and Tennessee) and the Branch House Family Center (Tennessee) receive new kits from DFS and have access to the PERK Tracking System to enter information on kits they collect for Virginia cases.

Kits Destroyed

As of June 30, 2022, 42 kits had been logged as destroyed since the System's inception. Prior to July 1, 2022, law enforcement could choose from one of three "Reasons" when logging the destruction of a kit in the System: "Exempt from Submission – Not Connected to Crime," "Exempt from Submission – Routine Death Investigation," or "Submitted for Analysis – Statutory Requirements for Destruction Met." The most common Reason selected was "Exempt from Submission – Not Connected to Crime" (25 kits, 60%). One kit (<1%) was logged as destroyed because it was connected to a routine death investigation.

Effective July 1, 2022, Va. Code § 19.2-11.8 was amended and now includes mandatory retention periods for PERKs including those that are exempt from submission to DFS for analysis. Previously, mandatory retention periods only applied to PERKs that had been returned to law enforcement upon completion of analysis by DFS. Generally, the minimum retention period for a law enforcement agency is now 10 years.

Since this statutory change, one kit was logged as destroyed by a law enforcement agency in March 2023. The agency logged it as "not connected to a crime" and further that "the ten (10) year minimum retention period [had been] met." The PERK Tracking System indicated, however, that the kit had been collected within the year.

Victim PINs Granted⁸

As of October 4, 2023, 887 Victim PINs have been granted by law enforcement, and 335 of those were granted within the last year. By design, the System does not capture whether these PINs were actually used to access the Victim Portal.

Designated Statutory Reasons for Non-Submission

Pursuant to Va. Code § 19.2-11.8, a law enforcement agency that receives a PERK must submit the kit to DFS for analysis within 60 days unless one of five statutory exceptions applies. If a collected PERK received by a law enforcement agency will not be submitted to DFS for analysis because an exception applies, the statutory reason for non-

⁸ A description of the Victim Portal and the information accessible to each victim in the Portal can be found in the 2020 and 2021 Forensic Science Board Annual Report, which may be accessed online at <https://rga.lis.virginia.gov/Published/2020/RD481> and <https://rga.lis.virginia.gov/Published/2021/RD610> respectively. Additionally, further background information on the System's history is available in prior reports.

submission should be designated in the PERK Tracking System.⁹ These statutory exemptions are:

1. The PERK is anonymous;
2. The PERK is part of a routine death investigation and the medical examiner and law enforcement agree that analysis is not warranted;
3. The PERK is connected to an out-of-state offense;
4. The investigation associated with the PERK is being transferred to another law enforcement agency; and
5. The PERK was determined by the law enforcement agency not to be connected to a criminal offense.

Kits Logged as Exempt from Submission by Law Enforcement (as of October 4, 2023)	Count of Kits
Not Connected to Crime	619
Routine Death Investigation	78
Transfer of Investigation (to a Virginia Law Enforcement Agency)*	16
Anonymous**	24
Out-of-State Offense	19
TOTAL	756

* The receiving law enforcement agency will determine whether submission is required by law and update the kit's status accordingly in the System.

** The status of an anonymous kit also changes when received by DCLS or when the victim reports the offense.

The most widely designated statutory reason by law enforcement agencies for not submitting an offense reported kit for analysis to DFS is that the law enforcement agency considers the kit to meet the statutory exemption contained in Va. Code § 19.2-11.8(A)(iv): “the physical evidence recovery kit was determined by the law-enforcement agency not to be connected to a criminal offense.” Recall, as of July 1, 2022, such kits nonetheless must be retained by the law enforcement agency for a minimum retention period of 10 years.

Of all the offense reported kits logged as received by law enforcement agencies from either a Collection Site, DCLS, or another law enforcement agency as of October 4, 2023,

⁹ Not all law enforcement users will explicitly designate that a kit is exempt from submission in the System, but will instead only log a related subsequent action. For example, a law enforcement user may not designate that a kit is exempt from submission because it is associated with an out-of-state offense and may only log the transfer of the kit to an out-of-state agency. Such scenarios are captured in the measures presented in this section.

13% (756 out of 5,683) have subsequently been logged as exempt from submission to DFS for analysis because they were deemed not to be connected to a criminal offense.¹⁰

PERK Legislation Compliance

As indicated above, Va. Code § 19.2-11.8 requires any law enforcement agency receiving a PERK to submit the kit to DFS for analysis within 60 days of receipt unless one of the five statutory reasons applies. Law enforcement users are notified if they have missed this deadline in two ways: 1) through the PERK Tracking System's internal notification system, and 2) through targeted emails sent by DFS at the beginning of every month.¹¹

DFS sent the most recent round of notifications to law enforcement on October 3, 2023. Of the law enforcement agencies that were notified, 20 had logged the receipt of a collected kit more than 60 days ago but had not logged it as transferred to DFS for analysis or as falling under one of the statutory reasons for non-submission. There was a total of 31 kits among the 20 law enforcement agencies.

As of October 3, 2023, 15 agencies had one or more kits logged as transferred to their agency more than 60 days ago, and no further action, including the initial receipt by the law enforcement agency, had been logged in the System with respect to the kit. There were 24 kits with this status among the 15 agencies. DFS has identified that some of the receiving agencies might not have been the appropriate investigating agency to have received the kits and is working with the affected parties for a resolution.

Interagency Support and Collaboration

Through the PERK Tracking System, DFS can provide support to agencies both within and outside of the Commonwealth of Virginia. Within Virginia, DFS has shared

¹⁰ Code § 19.2-11.8 (A)(iv) provides no guidance as to the nature or extent of investigation required, the standard of proof to be considered, or a requirement to consult with another entity (such as the relevant Commonwealth's Attorney's Office). This exemption relates to the requirement that DNA profiles must be linked to the commission of crime prior to being uploaded to CODIS.

¹¹ Law enforcement agencies will receive the email notification if either of two scenarios applies: (1) If they have logged the receipt of a collected kit more than 60 days ago, but they did not log it as transferred to DFS for analysis or as falling under one of the statutory reasons for non-submission, or (2) If another user (i.e., collection site, DCLS or another law enforcement agency) has logged the transfer of a kit to the affected law enforcement agency more than 60 days ago, and no further action has been logged in the System with respect to the kit.

reports generated from the PERK Tracking System to help inform policy decisions and enhance data integrity.¹²

¹² DFS does not share raw kit-level data. All reports shared only include aggregate counts (e.g., the number of kits logged as collected in 2021).

Attachment A

FORENSIC SCIENCE BOARD MEMBERS

(as of October 1, 2023)

- **Colonel Gary T. Settle** – Term: period in office or employment
Superintendent of the Virginia State Police
- **Jackson Miller** – Term: period in office or employment Director of the Department of
Criminal Justice Services
- **William T. Gormley, M.D.** – Term: period in office or employment Chief Medical
Examiner
- **Caroline D. Juran (Vice Chair)**– Term: period in office or employment Executive
Director of the Virginia Board of Pharmacy
- **M. Nicole Wittmann** – Term: period in office or employment Designee of Jason S.
Miyares, Attorney General of Virginia
- **Karl R. Hade** – Term: period in office or employment Executive Secretary of the
Supreme Court of Virginia
- **Kristen J. Howard** – Term: period in office or employment
Designee of the Chair of the Virginia State Crime Commission, Senator John S. Edwards
- **Denise M. Toney, Ph.D.** – Term: period in office or employment Director of the
Division of Consolidated Laboratory Services
- **The Honorable John S. Edwards, Senator** – Term: period in office or employment
Chair of the Senate Committee for Courts of Justice (Judiciary Committee)
- **The Honorable Les R. Adams, Delegate** – Term: period in office or employment
Chair of the House Committee for Courts of Justice
- **George C. Maha, Ph.D.** – Term: designated by Scientific Advisory Committee Chair
Member of the Scientific Advisory Committee
- **Richard P. Meyers** – Term: designated by Scientific Advisory Committee Chair Member
of the Scientific Advisory Committee

- **Chief Maggie A. DeBoard (Chair)** – Term: ending 6/30/2025
Governor Appointee – Member of Law Enforcement
- **The Honorable Megan L. Clark** – Term: ending 6/30/2025
Governor Appointee – Member of the Virginia Commonwealth’s Attorneys Association
- **Michael HuYoung** – Term: ending 6/30/2025
Governor Appointee – Criminal defense attorney with specialized knowledge in the area of forensic sciences

Attachment B

SCIENTIFIC ADVISORY COMMITTEE MEMBERS

(as of June 30, 2023)

- **Linda C. Jackson** – Term: period in office or employment Director of the Department of Forensic Science
- **VACANT**
Governor Appointee – Director of a private or federal forensic laboratory located in the Commonwealth
- **Erin P. Forry** – Term: ending 6/30/2023
Governor Appointee – Scientist or other person with education, training or experience in laboratory standards or quality assurance regulation and monitoring
- **Peter M. Vallone, Ph.D.** – Term: ending 6/30/2025 Governor Appointee – Molecular Biologist
- **George C. Maha, Ph.D.** – Term: ending 6/30/2023 Governor Appointee – Population Geneticist
- **Richard P. Meyers** – Term: ending 6/30/2026 Governor Appointee – Forensic Chemist
- **Kristin Schelling (Chair)** – Term: ending 6/30/2023 Governor Appointee – Forensic Biologist
- **Christopher Bommarito** – Term: ending 6/30/2026 Governor Appointee – Trace Evidence Scientist
- **Marc A. LeBeau, Ph.D.** – Term: ending 6/30/2026
Governor Appointee – Toxicologist certified by the American Board of Forensic Toxicologists
- **Kenneth B. Zercie** – Term: ending 6/30/2023
Governor Appointee – Member of the Board of the International Association for Identification
- **William E. Demuth, II** – Term: ending 6/30/2025
Governor Appointee – Member of the Board of the Association of Firearms and Toolmark Examiners

- **Randall E. Beaty (Vice-Chair)** – Term: ending 6/30/2026
Governor Appointee – Member of the International Association for Chemical Testing
- **Kathleen Corrado, Ph.D.** – Term: ending 6/30/2025
Governor Appointee – Member of the American Society of Crime Laboratory Directors