



COMMONWEALTH of VIRGINIA

FORENSIC SCIENCE BOARD

Jackson Miller, Chair

October 30, 2024

The Honorable Luke E. Torian
Chair, House Committee on Appropriations
4222 Fortuna Plaza
Dumfries, Virginia 22025

The Honorable L. Louise Lucas
Chair, Senate Committee on Finance and Appropriations
P.O. Box 700
Portsmouth, Virginia 23705

The Honorable Charniele L. Herring
Chair, Virginia State Crime Commission
P.O. Box 11779
Alexandria, Virginia 22312

Re: 2024 Annual Forensic Science Board Report

Dear Delegate Torian, Senator Lucas, and Delegate Herring:

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;
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 2024 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,



Chair, Forensic Science Board

Enclosure

cc: The Honorable Terrance C. Cole, Secretary of Public Safety and Homeland Security
Lisa Walbert, Deputy Secretary of Public Safety and Homeland Security
Josh Humphries, Deputy 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

2024 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:

Contents

1. NEW MAJOR PROGRAMS AND PLANS FOR THE ACTIVITIES OF DFS AND ELIMINATION OF PROGRAMS NO LONGER NEEDED.....	2
DFS Accreditation Through ANSI National Accreditation Board (ANAB).....	2
Central Laboratory Facility Project.....	3
Service Area Activities.....	4
Historical (Archived) Case File Review Project.....	5
Microscopic Hair Comparison Case Review	6
2. POLICY AND PRIORITIES IN RESPONSE TO AGENCY NEEDS	6
Improving Timeliness.....	6
Caseload Data.....	6
Breath Alcohol Tests Administered	9
Factors Affecting DFS Workloads and Backlogs.....	10
3. GENERAL FISCAL YEAR OPERATIONAL BUDGET AND ANY MAJOR CHANGES IN APPROPRIATED FUNDS	13
Budget Overview	13
Grant Awards.....	13
4. ACTIONS TO FOSTER AND PROMOTE COORDINATION AND COOPERATION BETWEEN DFS AND THE USER PROGRAMS WHICH ARE SERVED.....	15
Notices Sent to DFS User Agencies.....	15
Enhancing External Communication	16
Compounds Scheduled Through Board of Pharmacy Regulations	16
Report of Drug Cases Submitted to the Virginia Department of Forensic Science	17
Training.....	17

Legal Resources Provided on DFS Website.....	18
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).....	18
Regulations	18
6. ANY RECOMMENDATIONS SUBMITTED TO THE FORENSIC SCIENCE BOARD OR THE DIRECTOR BY THE SCIENTIFIC ADVISORY COMMITTEE.....	19
Scientific Advisory Committee Recommendations/Actions	19
Mary Jane Burton Reviews and SAC Review Subcommittee	19
7. INFORMATION ABOUT USE OF THE PHYSICAL EVIDENCE RECOVERY KIT (PERK) TRACKING SYSTEM.....	22
PERK Tracking System Overview	22
PERK Tracking System Training	22
Kits in the PERK Tracking System	23
Actions Performed on Kits in the PERK Tracking System.....	24
Designated Statutory Reasons for Non-Submission.....	26
PERK Legislation Compliance	27
Interagency Support and Collaboration	28
Attachment A – FORENSIC SCIENCE BOARD MEMBERS.....	29
Attachment B – SCIENTIFIC ADVISORY COMMITTEE MEMBERS	30

The Forensic Science Board held meetings on January 3, 2024 (all virtual), April 10, 2024 (in person), July 10, 2024 (all virtual) and October 9, 2024 (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. Accreditation is an independent, third-party assessment of DFS 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.

In May 2024, an onsite Surveillance Assessment was conducted by a team of six, which evaluated conformance to a subset of criteria specifically for Controlled Substances, Trace Evidence, and the overall Quality Management System. On September 16, 2024, DFS was notified by ANAB 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: <http://www.dfs.virginia.gov/about-dfs/accreditation/accreditation-documentation/>

Central Laboratory Facility Project

Construction activities of a new Central Laboratory Facility in Hanover County began in early 2023 and have remained on schedule for completion in Q4 2025. In March 2024, the steel superstructure of the facility was completed, and to date, significant progress has been made in the installation of the roof and mechanical/electrical/plumbing infrastructure of the facility. Interior wall framing is nearing completion and sheetrock installation has commenced in some areas. The black metal panels that largely sheath the exterior of the facility have arrived from the manufacturer and their installation should be complete by January 2025. The connection to permanent electrical power should be completed by December 2024. The 2-gigawatt generator arrived on site in July, and the surrounding equipment yard wall is nearing completion. A recent photograph (September 5, 2024) of the construction site is shown below:



Service Area Activities

New Forensic Biology Methods and Software

Initial acceptance testing of a new robotic workstation has been successfully completed in the Central Laboratory and additional workstations have been purchased for deployment to the other regional laboratories. Validation, development of the section protocols, and staff training on the new platform will continue. The work toward implementing the new thermal cyclers continues with the data generated being very similar to the data generated on our existing thermal cyclers. This is promising in that it will limit the downstream changes to current instrumentation settings. The validation of the next version of the STRmix software will begin once the new thermal cyclers are online.

New Toxicology Methods

In 2024, the Chemistry Research Section validated several methods for implementation in the Toxicology Section including additions to the novel approach to cannabinoids that separates various isomers of concern for tetrahydrocannabinol. With the newly implemented cannabinoids methodology, the percent of inconclusive reporting for cannabinoids dropped from ~18% to ~10%. The Chemistry Research Section also validated a method to quantify xylazine and dexmedetomidine in response to increased incidence of these compounds being found in fentanyl-related seized drug cases, which often portends identification in driving under the influence cases and investigations by the Office of the Chief Medical Examiner.

New Controlled Substance Methods

To further respond to legislation affecting marijuana/hemp distinction, the Department has worked to expand current testing to include the consideration of two additional isomers of delta-9-tetrahydrocannabinol.

Pursuant to 6VAC40-30, the Department has received two requests for presumptive mobile instrument evaluations. These mobile instruments would be used to determine whether a material 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. Under Va. Code § 19.2-188.1, the Department approves field tests for use by law enforcement officers pursuant to regulations adopted in accordance with the Administrative Process Act (Va. Code § 2.2-4000 et seq.). The Department received instruments and training for one of the evaluations in early October 2024, and the evaluation will be completed within 120 days of receipt. Materials (to include payment of fees) have not been received for the other requested evaluation.

Procedures have been updated in the Controlled Substances Section which removed microcrystalline tests as an analytical option. Testing has developed such that the microcrystalline tests are no longer needed or used. Derivatization is used in lieu of a microcrystalline test for differentiation of a controlled from a non-controlled enantiomer.

Changes to Trace Evidence Methods

Following the grant funded research which proposed a statistically supported, standardized interpretation method for gasoline, the Trace Evidence Section incorporated analytical steps to demonstrate data sufficiency. Subsequently, the Department was awarded another grant which continues that research for the expansion to medium range ignitable liquids, the most identified range of ignitable liquid in fire debris samples following gasoline.

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, 2024, over 326,700 of the estimated 1,000,000 archived case files covering the relevant period have been entered into the database. In FY24, DFS integrated the currently available database of case information and scanned documentation with the Department's LIMS for increased searchability. Moving forward, the two databases will be regularly integrated.

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 and seeks out transcripts or transcript substitutes, where appropriate, for review. As of September 2024, 1,789 positive, probative associations have been identified and conviction and transcript inquiries have been sent to the appropriate Circuit Court Clerks' offices.

The Microscopic Hair Comparison Case Review Subcommittee has met three times this year (April 10, 2024, June 7, 2024, and August 19, 2024) to review recommendations made by the Review Team regarding twenty transcripts. Notifications were made by the Department in seven of those cases as indicated by the Subcommittee.

2. POLICY AND PRIORITIES IN RESPONSE TO AGENCY NEEDS

Improving Timeliness

Caseload Data

The caseload data reported in the table below reflects, for FY23 and FY24, 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)		
	FY23	FY24	% Change	As of 6/30/23	As of 6/30/24	% Change	FY23	FY24	% Change
Controlled Substances	27,217	28,403	4%	2,103	2,327	11%	33	30	-9%
Digital & Multimedia Evidence	254	176	-31%	108	138	28%	84	149	77%
Firearms & Toolmarks	6,450	5,341	-17%	1,573	1,684	7%	101	104	3%
Forensic Biology (DNA)	6,891	6,616	-4%	2,861	3,416	19%	189	178	-6%
Latent Prints & Impressions	2,355	2,083	-12%	408	370	-9%	65	77	18%
Toxicology*	10,642	10,196	-4%	1,694	1,402	-17%	53	55	4%
Trace Evidence	725	692	-5%	223	324	45%	82	134	63%

*This does not include the cases the OCME outsourced directly to a private laboratory until March 2024.

The table below presents, for each testing discipline, the ending backlog as of September 30, 2024, and the average turnaround time for cases completed in September 2024.

Section	Ending Backlog As of 9/30/2024	Average TAT (in days) September 2024
Controlled Substances	2,338	33
Digital & Multimedia Evidence	120	283
Firearms & Toolmarks	1,800	138
Forensic Biology (DNA)	3,670	238
Latent Prints & Impressions	516	83
Toxicology*	1,544	49
Trace Evidence	339	187

Submissions to the Controlled Substances Section rose in FY23 and FY24 after several years of reduced case submissions during and after the pandemic. Although average case turnaround times remain low, DFS has filled certain scientific positions that had been held open after being vacated through regular attrition, so the Department is poised to respond to meet increasing demands.

After several years of case submission increases to the Firearms & Toolmarks Section, submissions significantly decreased (-17%) in FY24. The biggest driver in the overall reduction of firearms case submissions is the increasing number of state and local law enforcement agencies with the capability of entering cartridge casing evidence and those from seized crime guns for National Integrated Ballistic Information Network (NIBIN) searching. Due to changes in staffing, the Section's backlog has increased. Case turnaround times remain high, since the remaining comparison cases are more time consuming than NIBIN cases, and cases are being transferred around the state for examination and verification as one lab currently has only one qualified comparison examiner. DFS is recruiting for one Forensic Scientist and three Forensic Scientist -NIBIN positions. Additionally, there are four Forensic Scientist Trainees currently midway through the 18-24 month training period for new firearms examiners, and another recently started the training program.

Statewide the submissions of Forensic Biology cases are down slightly in FY24, but the backlog of cases has increased. Since 2019, overall case submissions have increased for DNA testing 10%, with the largest increases occurring in the Western Laboratory. For the past two years, DFS has transferred cases out of the Western Laboratory to be redistributed to the other DFS laboratories to normalize case backlogs in each laboratory and decrease turnaround times (addressed later in this report). Staffing to help address the additional workload includes an examiner that is in training in the Western Laboratory with an expected completion date in late 2024 and two examiner positions in recruitment. In the Northern Laboratory two examiners have completed training in 2024, and currently an additional examiner position is in recruitment. To further address workloads, a Physical Evidence Recovery Kit (PERK) Processing unit has been established in the Central Laboratory and is addressed later in this report.

While the Latent Prints & Impressions Section saw decreases in both case submissions (-12%) and backlog (-9%) from FY23 to FY24, staffing changes, technological issues, and the size and complexity of cases received, both in items to be examined and number of latent prints to be compared, have resulted in an increase in the turnaround time for cases completed (18%). The upgrade to AFIS continues to undergo troubleshooting and research, resulting in casework taking longer to complete as issues are reported and investigated.

The Digital & Multimedia Evidence (DME) Section saw a reduction in cases from FY23 to FY24 (-31%) and while now fully staffed, including adding a new Forensic Laboratory Specialist (FLS) position to assist in the initial triage of cases and evidence, the backlog and turnaround time increased (28% and 77% respectively). These increases are due in part to the time allocated to completing training of the two newest Forensic Scientists in their sub-discipline areas and training of the new FLS. Additionally, there has been an increase in submissions involving broken or damaged items that require repair prior to examination and locating and replacing necessary parts adds to the case completion time.

The Department continues to rebuild capacity in the Trace Evidence Section following a promotion and retirement of examiners in 2023. Two positions were filled in the fall of 2023, and both examiners have now completed training in their first Trace Evidence sub-disciplines. Additionally, to assist in the rebuilding, DFS is currently in recruitment for one Forensic Scientist position intended for Gunshot Primer Residue analysis initially.

Breath Alcohol Tests Administered

Based on data downloaded from evidential breath test instruments statewide, the number of breath alcohol 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 FY23 to FY24. The overall number of breath tests per year continues to be below pre-pandemic levels. There were 24,102 breath tests initiated in FY19 compared to 19,715 in FY24.

Tests by Month	FY21	FY22	FY23	FY24	% Change FY23 - 24
July	1,538	1,478	1,661	1,606	-3.3%
August	1,647	1,553	1,582	1,609	+1.7%
September	1,604	1,569	1,665	1,720	+3.3%
October	1,667	1,362	1,685	1,775	+5.3%
November	1,624	1,318	1,489	1,599	+7.4%
December	1,369	1,353	1,671	1,728	+3.4%
January	1,432	1,388	1,694	1,482	-12.5%
February	1,362	1,530	1,608	1,636	-2.6%
March	1,732	1,750	1,815	1,766	-2.7%

April	1,362	1,711	1,655	1,578	-4.7%
May	1,693	1,675	1,778	1,628	-8.4%
June	1,478	1,374	1,617	1,588	-1.8%
Overall	18,508	18,061	19,920	19,715	-1.4%

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 has found it difficult to meet the NAME requirement of completing 90% of autopsy cases within 90 days due, in part, to situations where DFS Toxicology Section had insufficient testing capacity. As DFS Toxicology staffing levels improved in FY24, the outsourcing was discontinued in March 2024 and DFS is analyzing all of the OCME’s cases.

Increased THC Testing in DUI Cases

As of January 1, 2023, DFS made a change to the general analytical protocols for Driving Under the Influence of Alcohol or Drug cases (DUI/DUID). 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. Comparing FY24 to the second half FY23, the percentage of cases with BAC ≥0.100% w/v and quantifiable THC were both approximately 24%.

Total Number of Impaired Driving Cases FY2023 (January through June only)		
	Cases with BAC ≥0.100% w/v	Cases with BAC <0.100% w/v
Number of Cases	816	1,177
Number of Cases with THC	201	459

Total Number of Impaired Driving Cases FY2024 (complete year)		
	Cases with BAC \geq 0.100% w/v	Cases with BAC <0.100% w/v
Number of Cases	2,207	2,411
Number of Cases with THC	533	861

THC Concentration FY2023 (January through June only)		
	Cases with BAC \geq 0.100% w/v	Cases with BAC <0.100% w/v
Average THC Concentration	0.0050 mg/L	0.0085 mg/L
Median THC Concentration	0.0033 mg/L	0.0047 mg/L
THC Concentration FY2024 (complete year)		
	Cases with BAC \geq 0.100% w/v	Cases with BAC <0.100% w/v
Average THC Concentration	0.0059 mg/L	0.0078 mg/L
Median THC Concentration	0.0036 mg/L	0.0047 mg/L

DNA Case Redistribution

The Department continues to monitor DNA caseloads and associated statewide turnaround times among its four regional laboratories with focused attention on the Western Laboratory. Western is the smallest DFS laboratory in regard to the number of DNA staff, and in August 2024 averaged a 224-day turnaround time (TAT) while the Northern Laboratory experienced the shortest with a TAT of 140 days. To that end, the Department continues to transfer cases out of the Western Laboratory to normalize DNA turnaround times. Additional transfers out of the remaining laboratories may be warranted as the monitoring of statewide caseloads continues.

PERK Processing Unit

The five biologist positions for the new PERK Processing unit have been hired and are in place in the Central Laboratory. Once in operation, sexual assault kits submitted statewide will be transferred to this unit for initial processing of these cases. One of the

biologists has completed training and the remaining four are making good progress on their training with completion slated for early 2025. A supervisor position was created for this unit, which will help ensure consistency within the group and will function as a statewide resource for testing of PERKs. A separate robotic workstation has been purchased and installed for the group to minimize impact to the current Forensic Biology scientists working in the Central Laboratory.

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. In FY24, the number of staff court appearances dropped as did the total time away from the laboratory. 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	# times testified
FY22	874	17,124	4,844	776
FY23	891	15,697	4,438	927
FY24	742	14,264	3,668	807

Ability to Hire and Train Qualified Examiners

The demand for trained, experienced examiners has exceeded the supply for many years. 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 may be reduced. 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.

Section(s)	Average Examiner Training Period
Firearms & Toolmarks - NIBIN	6 months
Forensic Scientists in Breath Alcohol, Controlled Substances, DME, Forensic Biology (DNA), Latent Prints, Impressions, Toxicology, Trace Evidence	12 months
Toxicology - Toxicologists	18 months
Firearms & Toolmarks – Forensic Scientists	24 months

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	\$55,639,990
Technical Adjustments to Base Budget	\$0
Additions to Base Budget	\$ 248,035
Non-General Funds	\$2,680,488
TOTAL OPERATING BUDGET	\$ 58,568,513

The “Additions to Base Budget” include \$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.

The Department’s annual budgets for FY25 and FY26 are:

	FY25	FY26
General Fund Base Budget	\$61,295,876	\$61,373,834
Non-General Funds	\$2,780,056	\$2,780,056
TOTAL OPERATING BUDGET	\$64,075,932	\$64,153,890

The FY25/FY26 biennial budget included new funding and positions for additional staffing in Forensic Biology (3 positions for backlog reduction and 1 position for HB2150(2023)), Evidence Receiving (3 positions), and Toxicology (1 position in Technical Services) to screen high alcohol DUI cases for drugs. In addition, funding was provided for tools to unlock mobile cellular devices in the DME Section.

Grant Awards

During the period of October 1, 2023, through September 30, 2024, funding was awarded to DFS under the following grant programs:

FY24 Paul Coverdell Forensic Science Improvement Program – \$ 544,074 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 (**\$272,037**) 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 April 1, 2024 – September 30, 2025.

FY23 DNA Capacity Enhancement and Backlog Reduction Grant – \$1,856,364 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, 2023 – September 30, 2025.

2024 Highway Safety Grant Program – \$245,084 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 a match of 25%. The grant period was October 1, 2023 – September 30, 2024.

2024 Highway Safety Grant Program (TREDS Project) – \$469,753 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 award requires a match of 25%. The grant period was October 1, 2023 – September 30, 2024.

FY23 NIJ Research & Development for Publicly Funded Forensic Laboratories – DFS received funding from the National Institute of Justice (NIJ) for research in the area of Toxicology. Two projects were awarded, as follows:

1. Psilocybin Project - **\$441,886** was awarded to 1) develop and validate an analytical workflow for psychedelic compounds in biological specimens including psilocybin/psilocin, DMT, and associated metabolites using high-resolution mass spectrometry for identification and LC-MS/MS for confirmation and quantitation; 2) investigate the stability of psychedelic compounds under long term storage conditions, during sample preparation, and as post sample preparation extracts; 3) investigate prevalence of psychedelic compounds utilizing the validated analytical workflow. The grant period is January 1, 2024 – December 31, 2026.

2. Ethanol Project - **\$371,593** was awarded to 1) develop two analytical methods, one using hydrogen and the other using nitrogen as the carrier gas, for the identification and quantitation of ethanol and other volatile compounds optimizing critical performance parameters; 2) validate the optimized analytical methods to meet the requirements set forth in ANSI/ASB Standard 036; 3) compare the two validated analytical methods with existing helium carrier gas methodologies using authentic biological specimens. The grant period is January 1, 2024 – December 31, 2025.

FY25-26 State General Funds – Commonwealth Justice Assistance Grant – DFS was awarded funding in the amount of **\$107,730** under this program to continue funding a part-time Forensic Trainer position to provide targeted training to law enforcement personnel across the Commonwealth focusing on the proper gathering, handling, and submission of crime scene evidence. The award period is July 1, 2024 – June 30, 2026.

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

- ***Presumptive Field Tests in Virginia*** - On February 27, 2024, the Department sent notice to its user agencies concerning a report from the Quattrone Center for the Fair Administration of Justice at the University of Pennsylvania Carey Law School regarding presumptive drug field tests.
- ***New DFS Process for DFS DNA Data Bank Profile Inquiries*** - On June 5, 2024, the Department sent notice to law enforcement agencies about a new process implemented to allow law enforcement officers to obtain information regarding whether an individual's DNA profile is in Virginia's DNA Data Bank by submitting a web request form.
- ***Department of Forensic Science Honorarium Policy*** - On June 28, 2024, the Department sent notice to criminal attorneys announcing the establishment of an honorarium policy for its former employees to facilitate their testimony in cases worked while previously employed with the agency.
- ***Removal of Typing Tables from Department of Forensic Science Certificates of Analysis*** - On July 1, 2024, the Department sent notice to its user agencies concerning a change to certain DFS reports. Historically, Certificates of Analysis for forensic biology (DNA) cases had included a Table of Typing Results as an appendix if the forensic scientist's examination of the evidence resulted in a positive probative association (i.e., non-elimination). DFS discontinued the inclusion of such tables on Certificates of Analysis effective July 1, 2024, consistent with changes to the Code of Virginia.

- ***Utilization of Private Laboratories for DNA Cases*** - On August 1, 2024, the Department sent notice to its user agencies concerning Virginia law enforcement agencies utilizing private laboratories for DNA analysis of evidence, which most often occurs when law enforcement agencies wish to utilize emerging technology that is not yet offered by the Department. The notice provided information concerning potential issues when using private vendors.

Enhancing External Communication

The DFS website has been updated to include a public-facing Case Statistics Dashboard. The dashboard provides information on case submissions, case completions, average case turnaround times, and caseloads/backlogs. A user may select metrics for specific months or years concerning information from different sections, including Drugs (Controlled Substances), Forensic Biology (DNA), Firearms (includes Toolmarks), Trace Evidence, Toxicology, Digital Multimedia Evidence (DME), and Latent Prints (includes Impressions). Dashboard data is updated monthly.

DFS has re-convened 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 April 22, 2024, and provided input on changes to Controlled Substances policies regarding dosage unit counting and weights.

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, 2023, and September 30, 2024, DFS consulted with the Board of Pharmacy on 12 compounds. These included: eight compounds expected to have hallucinogenic properties (Schedule I), one compound expected to have depressant properties (Schedule I), and three cannabimimetic agents (Schedule I). Ten of the 12 compounds have been placed into Schedule I via Board of Pharmacy regulation, and two 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. On June 27, 2024, the Department released the report of *Drug Cases Submitted to the Virginia Department of Forensic Science CY2023*, which is accessible at: <https://dfs.virginia.gov/documentation-publications/>.

In order to make this seized drug data available more frequently, DFS has been working with the Office of Data Governance and Analytics (ODGA) and DCJS to create a public-facing dashboard that will be updated monthly. The dashboard is anticipated to be completed by the end of 2024 and will be available on the DFS website.

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 110th FSA Session graduated November 17, 2023, the 111th FSA Session graduated March 29, 2024, and the 112th FSA Session graduated June 28, 2024. The 113th FSA Session began in September 2024.

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. The Virginia Forensic Science Academy Alumni Association Annual Retraining Seminar was conducted on September 4 - 6, 2024 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.

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 July 1, 2023 through June 30, 2024, the Breath Alcohol Section conducted 41 initial breath alcohol instrument operator (three-day) classes and licensed 749 new operators. Initial breath alcohol instrument operator classes have space for 20 students per class allowing for up to 820 new operators to be trained per year. During this period, the Section continued to utilize the online recertification course, and had offered 17 of these courses, relicensing 1213 operators online during FY24. In addition, the Section conducted 75 in-person recertification (four-hour) sessions and subsequently relicensed 1,324 operators in person. There are 6,090 licensed operators statewide.

Training for Attorneys and Judges

The Department provides training for Virginia criminal attorneys and judges concerning the services provided in our laboratories. 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.

A full-day DNA training was provided in-person at each of the four regional laboratories between September and November 2023. A half-day training on the Breath Alcohol and Toxicology Sections was held at each of the regional laboratories in May and June 2024.

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. Updated 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, which 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, became final on September 11, 2024.

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 amendments, which became final on May 9, 2024, 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.

DNA Samples for Arrestees Regulations

The Board approved amendments to 6 VAC 40-40-80 and 40-40-90 at its April 10, 2024 meeting. These amendments are part of the Board's efforts to reduce discretionary requirements for law enforcement when submitting DNA buccal samples required for those individuals who are arrested for violent felonies and some breaking and entering offenses under Virginia Code § 19.2-310.2:1. The proposed amendments permit law enforcement to utilize the already existing DNA data bank sample tracking system for the submission of DNA buccal samples rather than having law enforcement officers fill out a preprinted form as part of the buccal sample kit. This fast-track action is currently in the executive review process.

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 19, 2024, and by video conference on October 8, 2024. A list of its members is included as Attachment B.

Scientific Advisory Committee Recommendations/Actions

Mary Jane Burton Reviews and SAC Review Subcommittee

On August 18, 2023, pursuant to Va. Code § 9.1-1113(C), the DFS Director 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 its review. The SAC received a report from the Review Subcommittee Chair at its October 11, 2023 meeting and voted to approve the report. Further, in the 2024 Special Session I, the General Assembly enacted budget

language effective May 13, 2024, requiring the Virginia State Crime Commission to review cases at DFS in consultation with the Scientific Advisory Committee where testing or analysis was performed by Burton and report on the total number of the following: (i) case files that contain at least one named suspect; (ii) cases where scientific testimony was provided; and (iii) named suspects who were convicted of an offense related to such testing, categorized by persons: (a) currently incarcerated, on probation, or on parole; (b) executed; or, (c) deceased. The Crime Commission's review is ongoing.

The Review Subcommittee met on January 9, 2024. The DFS Counsel provided an overview of five cases provided to DFS by the podcast's producers and the Earl Washington exoneration case. The DFS Forensic Biology Program Manager provided an overview of serology testing conducted from 1972 to 1994, which was replaced by DNA testing in 1994. A separate serology review conducted between 2016 and 2020 was explained. The DFS Director of Technical Services discussed the Department's current Quality System, including the Department's accreditation which it has maintained since 1989. The DFS Counsel provided the Subcommittee with an overview of Marvin Grimm's Petition for a Writ of Actual Innocence, that was pending in front of the Virginia Court of Appeals. She summarized the numerous concerns about Ms. Burton's work in the original case that were raised by the Office of the Attorney General (OAG) after its review of the case. As a result, the OAG had supported Mr. Grimm's Petition. After their review of all of the information provided, the Subcommittee recommended that DFS staff draft notification letters to affected parties. Public comment was received.

The Review Subcommittee met on April 8, 2024, and approved two draft notification letters intended for (1) affected individuals, and (2) Commonwealth's Attorneys, Chiefs of Police, and Sheriffs. It also approved a proposed plan to review cases worked by Ms. Burton. The Committee was informed that a workgroup had been developed by the Virginia State Crime Commission (VSCC) that included staff from VSCC, DFS, prosecutors, the Commonwealth's Attorneys' Services Council, the Indigent Defense Commission, the Mid-Atlantic Innocence Project (MAIP), private defense attorneys, as well as the Governor's Office and Secretariat of Public Safety and Homeland Security. The workgroup had met on February 15, 2024, and discussed potential resources to assist with a review. Public comment was received by the Subcommittee, and it voted to move oversight and reporting of the review to the SAC and to disband until it may be needed for further evaluation.

On April 9, 2024, the SAC met and approved the Review Subcommittee's plans. On April 10, 2024, the Forensic Science Board (FSB) met and received a report from the SAC, which included information on the Review Subcommittee.

At the FSB's July 10, 2024 meeting, the DFS Director informed the FSB that DFS staff sent notification letters related to the Burton case review project to 174 law enforcement agencies and 125 localities.

On October 8, 2024, the SAC met and received an update on the Burton Review project from the DFS counsel. The update included information concerning communications between DFS and law enforcement agencies, Commonwealth's Attorneys, and Clerks of Court regarding potentially incarcerated individuals. Further, notification letters have begun being sent to such identified persons. The SAC also received information from Virginia State Crime Commission (VSCC) staff regarding cases in which analysis had been performed by Ms. Burton and their work plan moving forward.

On October 9, 2024, the FSB met and received an update from the October 8, 2024 SAC meeting. VSCC staff provided the FSB with the same information provided at the SAC meeting.

Further detailed information is publicly available for all of the meetings of the Review Subcommittee, Scientific Advisory Committee, and the Forensic Science Board. All meeting minutes and materials are available on the DFS [website](#).

SAC Meeting on April 9, 2024

At its April 9, 2024 meeting, the SAC received a report of the progress of the Review Subcommittee, which had met on January 9, 2024, and April 8, 2024, and approved the Subcommittee's plans.

A new Breath Alcohol Subcommittee was formed.

A new Chair and Vice Chair were elected.

SAC Meeting on October 8, 2024

At its October 8, 2024 meeting, the SAC received information from the Trace Evidence Subcommittee and the Controlled Substances Subcommittee concerning new methods.

An update concerning the Burton Review project was provided by the DFS counsel, along with an update by Virginia State Crime Commission staff concerning their review of cases worked by Ms. Burton.

A revised Policy on Individual Electronic Participation and All-Virtual Scientific Advisory Committee Meetings was adopted.

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). All health care providers, law enforcement agencies, the Division of Consolidated Laboratory Services (DCLS), and the Office of the Chief Medical Examiner (OCME) are required to update the status and location of each kit in the PERK Tracking System whenever such status or location changes. Kits are tracked by their unique ID number or barcode; no personally identifying information is captured in the system. Information is updated in the System as it is entered and is immediately available to agencies and victims with access. Use of the System became mandatory on July 1, 2020.

It is important to acknowledge the limitations associated with data derived from the PERK Tracking System. The System was designed to track individual PERKs and not for broad data analysis. 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. 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.

On a regular basis, DFS performs multiple standardized quality checks to identify anomalies in the data. With these findings, DFS provides 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. Users are granted access to the System only after completing PERK Tracking System Training provided by DFS. 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, 2024, 38 collection sites have received PERKs from DFS for collection and have staff trained to use the system.

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, 2024, there are 200 law enforcement agencies that are active system users, which is defined as an agency that has initiated at least one action in the System.

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 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

The Department of Forensic Science receives new, bar-coded PERKs from an outside vendor and initiates the kit history in the PERK Tracking System. Kits are then distributed to collection sites throughout the state, and to hospital systems with locations in Tennessee, and to a limited number of law enforcement agencies. Once a kit has been collected during a forensic medical examination, the kit will be designated as 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.

Anonymous Kits

As of September 30, 2024, there were 1,794 kits listed in the System as anonymous. This number is an approximation as there have been limited situations where a collection site has transferred an anonymous PERK to a law enforcement agency which affects the data.

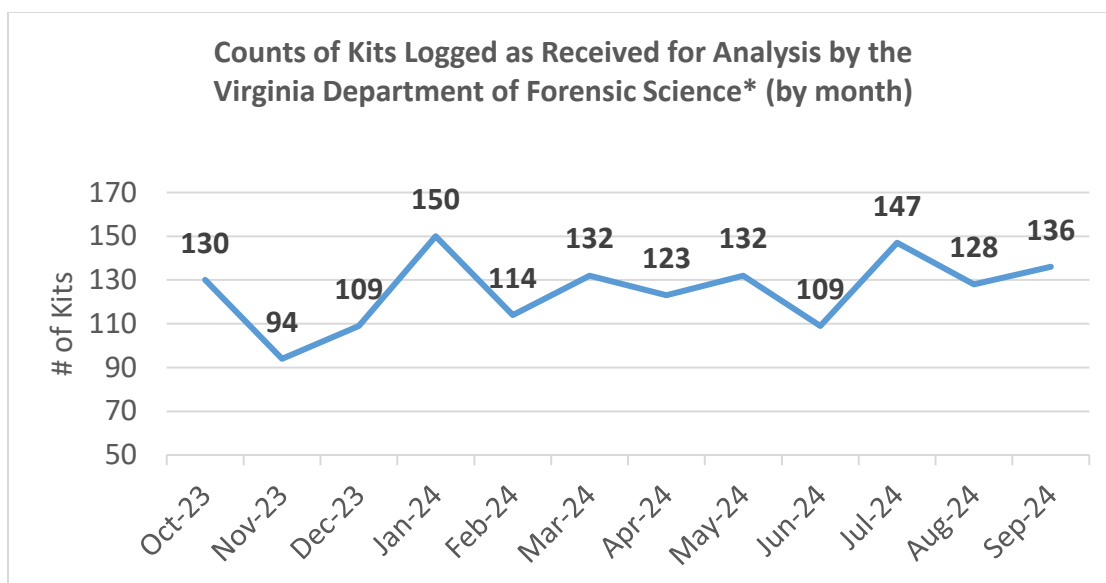
Not all anonymous kits remain anonymous. Victims who, at the time of collection, elect not to report the offense to law enforcement may subsequently decide to report the offense. Within the past year (October 1, 2023 to September 30, 2024), 33 kits in anonymous storage at DCLS became offense reported and were transferred to the investigating law enforcement agency.

Actions Performed on Kits in the PERK Tracking System

Actions Performed on Kits in the PERK Tracking System (October 1, 2023 to September 30, 2024)	Count of Kits
Kits Collected by Collection Sites	1,530
Virginia (non-OCME) Collection Sites	1,488
OCME	30
Tennessee Collection Sites	12
Kits Received by DCLS for Anonymous Storage	346
Kits Received by Law Enforcement from Collection Sites or DCLS	1,435
Kits Received by Law Enforcement from Other Law Enforcement Agencies	28
From Virginia Law Enforcement Agencies	24
From Non- Virginia Law Enforcement Agencies	4

Kits Received by DFS for Analysis

From October 1, 2023 to September 30, 2024, DFS has logged the receipt of 1,504 kits from law enforcement for analysis. Since October 2023, DFS has logged the receipt of an average of 125.3 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.

Kits Destroyed

As of June 30, 2022, 44 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” (29 kits, 66%). 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, two (2) kits were logged as destroyed by a law enforcement agency in March 2023 and February 2024, apparently prior to the ten (10) year retention period. DFS works with staff from the Office of the Attorney General to educate System users to prevent such occurrences.

Victim PINs Granted

Victims with anonymous PERKs may access the System through the Victim Portal by entering their unique PERK ID number, which should be provided to them at the time of examination by the health care provider/collection site. Victims who elect to report the offense to law enforcement will be required to enter a PIN, in addition to their kit's unique PERK ID, to access the System. Effective July 1, 2022, Va. Code § 19.2-11.11 requires law enforcement to provide victims, parents, guardians, or next of kin with this PIN plus the PERK ID and information for accessing the Victim Portal as long as doing so will not interfere with the investigation or prosecution of the offense.

As of September 30, 2024, 1,191 Victim PINs have been granted by law enforcement, and 328 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-submission should be designated in the PERK Tracking System. 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 September 30, 2024)	Count of Kits
Not Connected to Crime	773
Routine Death Investigation	92
Transfer of Investigation (to a Virginia Law Enforcement Agency)**	21
Anonymous***	28
Out-of-State Offense	22
TOTAL	936

*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 here.

** 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 since inception of the System in 2020 to September 30, 2024, 11% (773 out of 7,188) have subsequently been logged as exempt from submission to DFS for analysis because they were deemed not to be connected to a criminal offense. Virginia Code § 19.2-11.8 (A)(iv) provides no guidance to law enforcement agencies 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.

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. 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.

DFS sent a recent round of notifications to law enforcement on September 23, 2024. 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 35 kits among the 20 law enforcement agencies.

As of September 20, 2024, 12 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 21 kits with this status among the 12 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 reports generated from the PERK Tracking System to help inform policy decisions and enhance data integrity. 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). Outside of Virginia, DFS has discussed the PERK Tracking System capabilities with states interested in implementing their own tracking system.

Attachment A - FORENSIC SCIENCE BOARD MEMBERS
(as of October 1, 2024)

- **Colonel Gary T. Settle** – Term: period in office or employment Superintendent of the Virginia State Police
- **Jackson Miller** (Chair) – 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** – Term: period in office or employment Executive Director of the Virginia Board of Pharmacy
- **Theo Stamos** – 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
- **Delegate Charniele L. Herring** – Term: period in office or employment Chair of the Virginia State Crime Commission,
- **Denise M. Toney, Ph.D.** – Term: period in office or employment Director of the Division of Consolidated Laboratory Services
- **The Honorable Russett Perry, Senator** – Term: period in office or employment Designee of Senator Scott Surovell, Chair of the Senate Committee for Courts of Justice (Judiciary Committee)
- **The Honorable Vivian E. Watts, Delegate** – Term: period in office or employment Designee of Delegate Patrick Hope, 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** (Vice Chair) – Term: designated by Scientific Advisory Committee Chair Member of the Scientific Advisory Committee
- **Chief Maggie A. DeBoard** – 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 October 1, 2024)

- **Linda C. Jackson** – Term: period in office or employment Director of the Department of Forensic Science
- **Aine Ramirez** – Term: ending 6/30/2027, Governor Appointee – Director of a private or federal forensic laboratory located in the Commonwealth
- **Erin P. Forry** – Term: ending 6/30/2027, 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. (Vice Chair)** – Term: ending 6/30/2025, Governor Appointee – Molecular Biologist
- **George C. Maha, Ph.D.** – Term: ending 6/30/2027, Governor Appointee – Population Geneticist
- **Richard P. Meyers** – Term: ending 6/30/2026, Governor Appointee – Forensic Chemist
- **Jennifer Breaux** – Term: ending 6/30/2027, 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 Toxicology
- **Kenneth B. Zercie** – Term: ending 6/30/2027, 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 Tool Mark Examiners
- **Randall E. Beaty** – Term: ending 6/30/2026, Governor Appointee – Member of the International Association for Chemical Testing
- **Kathleen Corrado, Ph.D. (Chair)** – Term: ending 6/30/2025, Governor Appointee – Member of the American Society of Crime Laboratory Directors