



State of Delaware  
Commission on Forensic Science  
(CFS)

Minutes - 12/14/15

10:00 a.m. - 12:00 p.m.

Division of Forensic Science  
1<sup>st</sup> Floor Conference Room  
200 South Adams Street  
Wilmington, DE 19801

**1. Welcome and Call to Order**

- The meeting was called to order by newly appointed DSHS Cabinet Secretary, James N. Mosley. Secretary Mosley provided a brief welcome and noted that he is “Chair” for today only and then the post will pass to Secretary Landgraf. He thanked everyone for coming this morning and asked those present to please introduce themselves. Attendance was as follows:

**Voting Commission Members**

Secretary James N. Mosley  
Secretary Rita Landgraf  
Major John Evans  
Chief Randall L. Hughes  
Sean Lugg  
Representative John Mitchell  
Lisa Schwind, RN, Esquire  
Anita Symonds, RN  
Clytrice L. Watson, Ph.D.

Department of Safety & Homeland Security - **Chair**  
Department of Health & Social Services - **Co-Chair**  
Delaware State Troopers Association  
Delaware Police Chiefs’ Council  
DE Department of Justice-Deputy Attorney General  
Delaware House of Representatives  
Public Defender’s Office – Forensic Attorney  
Christiana Care  
Associate Dean – Delaware State University

**Non-voting Commission Support**

**Commission’s Legal Support**

DAG Lisa Morris

Department of Justice

## **Council Support**

Patricia McIlvaine

Division of Forensic Science

## **Additional Non-voting Attendees**

Jill Fredel

Rebecca Walker

Michael Wolf

DHSS – Communications Director

Division of Forensic Science-Chief Operating Officer

Division of Forensic Science-Director

## **Absent Voting Commission Members**

Senator Robert Marshall

Delaware State Senate

## **2. Approval of the Minutes**

- Secretary Mosley asked everyone if they had reviewed the minutes of the last meeting and, hearing no objections, asked for a motion to approve the minutes. Secretary Landgraf motioned to approve and Chief Hughes seconded the motion, with voting members in attendance unanimously voting to approve the minutes of the September 21, 2015 meeting.

## **3. Introduction – Appointment of DAG Sean Lugg**

- Secretary Mosley introduced our newest Commission member, Deputy Attorney General Sean Lugg. Delaware's Attorney General, Matt Denn, has appointed DAG Lugg as the Delaware's Department of Justice representative to this Commission, replacing State Prosecutor Kathleen Jennings. Secretary Mosley then proceeded to read the appointment letter from Attorney General Matt Denn for the record.

- “James Mosley, Secretary: Pursuant to the provision for the signed legislation, establishing the Commission on Forensic Science (Title 29, Chapter 47, §4714 of the Delaware Code), this letter serves to confirm that I have appointed Sean Lugg as the designee from the Delaware Department of Justice to the Commission, to serve at my pleasure. Sean serves as a Deputy Attorney General for the Delaware Department of Justice. He can be reached at 302-577-8809, or via e-mail at [sean.lugg@state.de.us](mailto:sean.lugg@state.de.us). Please feel free to contact me if you have any questions. Sincerely, Matthew Denn, Attorney General”.

#### **4. Election of New Vice-Chair**

- Secretary Mosley advised that it is time for the Commission to elect a new Vice-Chair. According to Commission by-laws, the Chair shall be succeeded by the current Vice-Chair (Secretary Landgraf) and the Commission shall elect a new Vice-Chair. Major Evans nominated Chief Hughes for Vice-Chair. Lisa Schwind then questioned whether or not someone in law enforcement should hold this position. DAG Lisa Morris said there is nothing legally prohibiting any Commission member to become Vice-Chair. With that, the voting moved forward with Secretary Landgraf seconding the nomination and with voting members in attendance unanimously electing Chief Hughes to serve as the Commission's Vice-Chair.

#### **5. 2016 Annual Report**

- Secretary Mosley asked about the 2016 Annual Report which will be presented to the General Assembly and the Governor. Director Wolf said he did not have a draft of the DFS report ready for review today because he would like December final numbers in order to represent 2015 data in its entirety. He is working with Peggy Bell, DELJIS, to document violent crime data (from 2012 through 2015) and a report will also be issued showing drug data for that same time period showing places of significant activity throughout the state. In addition, DFS unit leaders will issue analytical reports showing, on a month-to-month basis, case/sample productivity, backlogs, and turn-around times for 2015. Major Evans added that he has a very rough draft of his sub-committee's annual report and he will review it with the Commission today.
- Secretary Mosley then turned the meeting over to Director Wolf for an update on DFS.

#### **6. DFS Update**

- Director Wolf informed the Commission of the following DFS activities:
  - Personnel: Staffing is a continuing problem. We currently have 55 DFS employees on-board. We still have 7 vacancies (2-Pathology; 1-DNA; 2-Forensic Chemistry; 1-Toxicology; 1-Quality Assurance).

- Accreditation: The ASCLD audit will be conducted the week of February 8, 2016. We will have 5 auditors on site for 5 days. Director Wolf reported that our Quality Assurance Manager resigned about a month ago and our Toxicology Laboratory Manager accepted the role in an interim capacity.
- Technology Transition: DFS employees are now completely transferred from DHSS to DSHS and FLIMS has been uploaded with only a few minor glitches. DTI is installing computer program updates on all computers and completion is expected by 12/18. As for the instrumentation integration, we expect completion by February, 2016.
- Statewide Bar Coding: A meeting was held in Dover last week and although we had thought we could “piggy back” on the 911 system and would save a great deal of money, this may not be the case. The vendor, New World, is uncertain if this can be accomplished. Additionally, the cost estimate has increased from ~\$400,000 to >\$660,000 and we have learned that the funding would not be recurring annually. We will require additional information from the vendor and need to, at least, formulate a fallback plan.
- DFS Units:
  - a. Medical Examiner: As stated previously, with Dr. McDonough’s retirement at year’s end, we will be down one pathologist. We may fill this position with a casual-seasonal employee. We are currently looking at hiring a Board-certified doctor who is completing a fellowship in Boston on child neurology.
  - b. Toxicology: Continues to address cases on a timely basis. They also continue to be very productive and the backlog of cases is still down.
  - c. DNA: Productivity is fairly consistent and they are addressing priorities with the DOJ. They are currently operating with only 3 of 6 employees on staff; one employee is on FMLA leave and returns in January; and 2 employees are new, with one scheduled to qualify in February and the other in March.

- d. Forensic Chemistry/Fire Debris: Challenges continue. Full staffing for this unit would be 8 chemists; however, only 3 are active. We recently had one chemist resign; one chemist is on extended medical leave and two are new, still in training. The two newly hired forensic evidence specialists have completed their 3-month training program. We have reviewed 62 applications for chemist positions and will seek to hire 2 or 3. We still need to review applications for the vacant Laboratory Manager I position.

There is a daily monitoring of case production. We currently have 454 cases in backlog. All police departments are submitting their cases to DFS for processing except for New Castle County. In addition, we are starting to receive misdemeanor drug cases from the Common Pleas Court (CCP). This will require shorter turnaround times for CCP cases. We are also looking to test the Raman® spectroscopy device to accelerate the analytical, and hopefully, the legal process for these types of cases. We plan on submitting a “test case” to Judge Smalls in the near future. Anita Symonds asked about the validity of the Raman® device. Director Wolf replied that this instrument has been used in over 1000 cases and is not just a field test. Lisa Schwind asked about availability of research-based material published on this device. Director Wolf said he would forward all the information he has regarding the device to both Ms. Symonds and Ms. Schwind.

- Rebecca Walker and Dr. Gary Collins attended a CDC reverse site visit last month, as Delaware is one of 13 states included in a child death initiative. We will be collecting biological samples for this study. In addition, both Ms. Walker and Dr. Collins attended a conference in Dover regarding the creation of a “Forensic Ebola State Policy”.
- Secretary Mosley then moved the meeting to Dr. Clytrice Watson for a report from the Standards & Certifications Advisory Committee.

## **7. Standards & Certifications Advisory Committee**

- Dr. Watson stated there are no new updates from the sub-committee. She said, however, she would like to commend Dr. Collins for his participation in the Dean’s Distinguished Lecturers Series at Delaware State University last month.

Dr. Watson said that Dr. Collins did a great job. Chief Hughes concurred and said he was told by someone who attended the seminar that Dr. Collins was a wonderful speaker and that he was well received. Major Evans added that Dr. Collins' presentation, "From Crime Scene to the Courtroom", got very positive feedback. Dr. Watson said that Dr. Collins' participation in this program is in line with the sub-committee's Community Outreach platform.

- Dr. Watson stated that she is in the process of adding new members to her committee and will provide an update at our next meeting.
- The Secretary then moved the meeting forward to Major Evans for an update on the Strategic Planning Advisory Committee.

## **8. Strategic Planning Advisory Committee**

- Major Evans reported that since our last meeting, the sub-committee made a site visit to the Armed Forces DNA Identification Laboratory and Armed Forces Medical Examiner System at Dover Air Force Base. He said the Armed Forces Medical Examiner System and Forensic Sciences Laboratories at the Dover Air Force Base share one location. This common location for both the medical examiner and forensic science laboratories sectors is the model currently used by DFS and is the model moving forward in terms of effectiveness and efficiency. We were very impressed by their facilities and the staff were very accommodating and openly shared their processes and procedures at length.
- Major Evans then distributed draft copies of the sub-committee's annual report to the Commission along with two anonymous building surveys – one sent to the Wilmington facility and the other to the Georgetown facility – which focused on working conditions/environment, building efficiency and building security. The survey was open for two weeks (sent out on September 22, 2015 and closed on October 6, 2015). There were no surprises revealed by the surveys. Some of the concerns/issues at the DFS Wilmington location were: roof leaks, which could compromise evidence sample and instrumentation integrity, the inability of the

HVAC system to properly control building temperature and humidity, inadequate ventilation, inadequate laboratory space, inadequate parking and various security concerns. In addition, it was noted that the current building location cannot support future growth. The DFS office in Georgetown is a smaller and much newer facility (2006). Employees there were satisfied with the overall building conditions.

- Major Evans said that the Strategic Planning Advisory Committee had identified 7 key objectives which all require an extensive amount of work. Therefore, the sub-committee members decided it would best serve the Commission for them to focus on two of those key objectives for our 2016 annual report:
  - (1) the efficiency of the current Wilmington building, and
  - (2) the feasibility of consolidating forensic disciplines to one location in the state.
- A lengthy discussion ensued about where an acceptable location could be found that would provide adequate space for now and in the future, a facility that could address mass fatality incidents, a facility that could house needed technology and security, whether to purchase and modify an existing building, or build a new facility, etc.; all which would be necessary in order to consolidate forensic services at one location.
- Major Evans stated that we know this will not happen overnight. This entire process will likely take years to come about, but we must start today in the planning and feasibility stages. The sites that we visited all had a similar story – that it took a long time, a lot of planning, and a lot of money to bring them where they are today. Lisa Schwind noted that the consolidation of the sciences under one roof would make the criminal defense people happy.
- In conclusion, said Major Evans, the State of Delaware must make an investment in forensic science by moving DFS from where it is today and into the future by providing a state-of-the-art forensic science building. This process can be started by the funding of a feasibility and architectural study.

## 9. Commission Member Responsibility According to Title 29 - § 4714

- Anita Symonds stated that she wanted to review whether or not Commission members are performing the tasks outlined in the following section of Title 29:

“Title 29 - § 4714 Commission on Forensic Science .... Section d) ... Commission is responsible for:

- (1) Evaluate and monitor the needs of the Division to ensure that it is able to provide accurate, timely and responsive forensic science services to all member of the criminal justice community;
- (2) Evaluate and monitor the needs of the Division as may help preserve the independence of judgment and the integrity of all scientific undertakings by the Division and its personnel;
- (3) Evaluate and monitor the human resource needs and the personnel and hiring practices of the Division;
- (4) Receive and consider input from all stakeholders in the criminal justice community, including, without limitation, prosecutors, defense attorneys, the courts, law enforcement, victims' advocates, the Domestic Violence Coordinating Council, the Child Death, Near Death and Stillborn Commission, and other interested persons or parties;
- (5) Evaluate and monitor the quality assurance structure and processes, including chain of custody practices for drug evidence;
- (6) Evaluate and monitor professional competency and accreditation requirements and staff management policies;
- (7) Review and comment upon all rules and regulations promulgated pursuant to §4702 of this title; and
- (8) Suggest and support the implementation of improvements to the operations of the Division or its communications and cooperation with other agencies of state and local government.”



- At our last meeting, Ms. Symonds said, we spoke about our concern with DFS reporting their Corrective Action Reports (CARs) to Commission members and she is still not comfortable with the way CARs are reported. Ms. Symonds thinks the Commission cannot monitor DFS just by them telling us the monitoring is being done. She suggested that one or two members set up meetings on a regular basis with Director Wolf and Chief Operating Officer Rebecca Walker. In this way, we can see exactly what CARs are occurring in a timely manner and by doing this, we could monitor CARs directly and see if patterns are developing, etc. Lisa Schwind said she agrees with Ms. Symonds and that if DFS is concerned with confidentiality, a black pen could certainly be used for redacting names. DAG Lisa Morris said she will see if redacting is a possibility. Chief Hughes said that after DAG Lisa Morris gets back to us, we could then look at what path we take going forward. Secretary Landgraf would like to know what parameters are followed concerning personnel and suggested that the review could be more or less a root cause analysis to look at whether the causes are systemic. Director Wolf added that our laboratories and professional competency are monitored by ASCLD and ISO supplemental requirements.
- Ms. Symonds then asked about evaluating and monitoring the Medical Examiner Unit. We are not aware of what procedures and policies are being followed. Ms. Symonds recalled that the Division's downfall included the fact that Dr. Gallery had complete autonomy. Chief Hughes suggested that Dr. Collins be asked to our next meeting. Lisa Schwind said we should be made aware of what training is required and that it is being kept up. Director Wolf noted that although the ME Unit does not fall under ASCLD/ISO, it does have NAME accreditation and follows their protocols.

## **10. Commission Members Open Discussion**

- Secretary Mosley asked if anyone had any other questions/concerns. Lisa Schwind asked about the viability of having the Commission meetings taped so that there is a more accurate reporting of the minutes. DAG Lisa Morris said she will look into it.

## 11. Adjourn

- Major Evans made a motion to adjourn the meeting and DAG Sean Lugg seconded the motion, which was unanimously approved by voting members of the Commission present.
- The meeting adjourned at 11:49 a.m.

**Next Meeting: Monday, February 15, 2016**

10:00 am – 12:00 am

Location: DFS, 200 South Adams Street, Wilmington, DE

1<sup>st</sup> Floor Conference Room