



State of Delaware
Commission on Forensic Science
(CFS)

Minutes - 2/15/16

10:00 a.m. - 12:00 p.m.
Division of Forensic Science
1st Floor Conference Room
200 South Adams Street
Wilmington, DE 19801

1. Welcome and Call to Order

- The meeting was called to order by Secretary Rita Landgraf, who is the Commission's successor to the Board's Chair position. Secretary Landgraf welcomed all attendees and said it is an honor to be here with everyone and serve as Chair. Those present were as follows:

Voting Commission Members

Secretary Rita Landgraf	Department of Health & Social Services - Chair
Chief Randall L. Hughes	Delaware Police Chiefs' Council - Co-Chair
Secretary James N. Mosley	Department of Safety & Homeland Security
Major John Evans	Delaware State Troopers Association
DAG Sean Lugg	Department of Justice-Deputy Attorney General
Lisa Schwind, RN, Esquire	Public Defender's Office-Forensic Attorney
Anita Symonds, RN	Christiana Care

Non-voting Commission Support

Commission's Legal Support

DAG Lisa Morris	Department of Justice-Deputy Attorney General
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Additional Non-voting Attendees

Gary L. Collins, M.D.	DFS - Chief Medical Examiner
Jill Fredel	DHSS - Communications Director
Johna Esposito	DFS - Toxicology Lab Manager II
Isabella Kaplan	DTI - Customer Engagement Specialist
Rebecca Walker	DFS - Chief Operating Officer
Michael Wolf	DFS - Director

Council Support

Patricia McIlvaine

Division of Forensic Science

Absent Voting Commission Members

Senator Robert Marshall

Delaware State Senate

Representative John Mitchell

Delaware House of Representatives

Clytrice L. Watson, Ph.D.

Associate Dean – Delaware State University

2. Approval of the Minutes

- Secretary Landgraf said she believes a draft of the 12/14/15 meeting minutes were provided to everyone for review prior to this meeting and she will now entertain a motion for approval. Lisa Schwind advised that she would like a change in Agenda Item 4, Election of New Co-Chair, to read: "... someone in law enforcement '**should**', not 'could', hold this position". Secretary Landgraf said this change would be made to the minutes prior to issue. Hearing no further objections, Secretary Landgraf asked for a motion to approve the minutes. Chief Hughes motioned to approve and Secretary Mosley seconded the motion, with voting members in attendance unanimously voting to approve the minutes of the December 14, 2015 meeting.

3. 2015 Annual Report/DFS Update

- Secretary Landgraf asked Director Wolf for an update on the 2015 Annual Report which will be presented to this Commission, as well as to the Governor. Director Wolf stated that he has a draft of the 2015 Annual Report ready for review and to gather feedback from the Commission today. However, he said, before that review begins, he would like to introduce two DFS employees attending today's meeting.
 - First, said Director Wolf, please welcome Dr. Gary Collins, DFS Chief Medical Examiner, who is here to provide information regarding the protocols, procedures, and training presently in place in the Pathology Unit.
 - Director Wolf then introduced Johna Esposito, DFS Toxicology Lab Manager II. As you will recall, he said, our Quality Assurance Manager moved on in November and with the upcoming accreditation audit, we were left in a dilemma. We needed someone in that role, a difficult one, who would be able to interact with, and to

develop and maintain a positive working relationship with the ASCLD lead assessor. Johna Esposito stepped up to the plate and covered that task as our interim Quality Assurance Manager. She worked productively with the lead assessor, DFS management, and her co-workers to prepare us for the ASCLD accreditation audit, all the while performing her normal responsibilities in Toxicology. In addition, said Director Wolf, she prepared and incorporated the graphs shown in our 2015 Annual Report. He stated that DFS is very fortunate to have her with us. Chief Hughes echoed the Director's sentiment and said that having Johna on our team puts us in a much better place.

- The audit for ASCLD accreditation, said Director Wolf, was conducted by five ASCLD auditors for three days last week (2/9 – 2/11) and they left no stone unturned in their auditing process. In fact, the auditors mentioned that our 3-tiered verification process in the Forensic Chemistry Unit is overkill. However, they recognized that with what occurred previously in the unit, stringent protocols had to be set in place. There were six findings reported in auditor's closing meeting; four of which require remediation prior to certification.
- Director Wolf continued that accreditation is a key component of the quality assurance program at DFS. To be accredited means that the various units within the DFS are routinely inspected by outside organizations who ensure that the policies, procedures, and/or practices within the division adhere to strict national and international standards. Standards followed by DFS already include those set forth by ISO 17025, the National Association of Medical Examiners (NAME), and Quality Assurance Standards (QAS) established by the FBI. We now can also look forward to ASCLD accreditation, which is considered the gold standard in accreditation of forensic labs.
- Director Wolf then moved the meeting to the DFS 2015 Annual Report.
 - He stated that in keeping with the DFS mantra of "Science Serving Justice", during the past year we have significantly enhanced the division's operations and administration. Improvements have been realized in the hiring of additional staff, remediation of some of the buildings' deficiencies, updating IT/LIMS systems, and installing a new security system that improved access and evidence control and

chain of custody management. Director Wolf noted that our forensic scientists, pathologists, and support staff have persevered through dramatic changes during the past year, all the while supporting our customer needs.

- Director Wolf recalled that in early 2014, the Andrews International firm conducted an assessment of the then-OCME organization. As a result of that assessment, 94 deficiencies were identified with recommendations cited for improvement. Following a time period for remediation, Andrews International conducted a follow-up assessment of the new DFS in January 2015. All but eight of the findings and recommendations were remediated, as additional funding, time and resources were required for resolution. As an update for our 2015 report, two findings remain outstanding: one that would require OMB approval should a comparative study support an increase in salaries to enable employees to be competitive with contemporaries in other laboratories; and the second is a simple technical capability that will be implemented when the temperature monitoring system is installed in the facility in the near future.
- Director Wolf reviewed the analytical charts in the report depicting crimes and death trends. He said that crime trends from 2014 to 2015 for homicides, rape and sex assaults, firearms offenses, and heroin cases increased while property crimes and overall drug cases declined. The number of drug-related deaths, specifically those involving fentanyl, has risen over the last four year period, as well as those attributed to cocaine, over the last two years. He said the dramatic increase in heroin-related deaths has plagued communities nationally, as well as those states surrounding Delaware.
- In 2013 and 2014, said Director Wolf, Delaware's rise in heroin-related deaths was consistent with national and local trends. While there was an 8% decrease in deaths strictly attributed to heroin in 2015, when considering other opioid-related deaths, specifically those attributed to fentanyl along with heroin, Delaware's rates also rose along with other jurisdictions.
- Director Wolf further explained that during 2015, the DNA laboratory received 49% more cases than in 2014. The cases were completed in 35% less time with 28% less staff. However, the turnaround time (TAT) was an undesirable

120 calendar days. To achieve a TAT of 60 calendar days for completed processing of cases, as expressed by the courts and prosecutors, would require an additional four DNA analysts.

- During 2015, said Director Wolf, homicides, rape and sexual assaults, firearms offenses and heroin drug cases increased, along with autopsies, cremations and cases processed by the Medical Examiner. Drug-related deaths also increased each year since 2012, specifically those involving fentanyl. As crime and death cases have risen, so has the demand for DFS services.
- Director Wolf reported that shortages of personnel and resources have directly hampered timely delivery of drug results, and to a lesser extent, DNA analytical services. We have a critical need for additional chemists to process drug cases and a corresponding instrumentation enhancement for analysis. The judges and prosecutors have repeatedly expressed dissatisfaction with our drug unit delays in testing drug evidence, in particular, cases where incarcerated defendants are awaiting trial. The court has continued and dismissed cases that were backlogged. The rise in case submissions, accelerated timeframes for processing CCP cases, and the newly implemented 60-day turnaround time policy for drug cases; have further exacerbated the unit's understaffing issue. We have had to outsource testing which cost the State \$2 million dollars in 2015, and we have recently been approved an additional \$500,000 for outsourcing in 2016, of which \$150,000 has already been expended.
- Secretary Landgraf asked what cases are now being tested at DFS. Director Wolf replied that last March, testing started with the Wilmington PD, followed by the DSP in May and now include all other police departments in the state, except New Castle County. In summary, said Director Wolf, in order to meet the demands of the justice community and needs of the courts, minimally five (5) additional chemists will be required to allow DFS to process all drug cases within acceptable timeframes. Chief Hughes asked how many chemists are currently in the drug unit. Director Wolf said that while we have six (6) full-time and one (1) casual-seasonal appropriated for drug cases, there are only four (4) presently on-board testing cases. The consequence of not having the needed personnel

and resources will be that backlogs will continue to mount, testing will be delayed, and cases will, in all likelihood, be continued and/or dismissed. Lisa Schwind inquired that even if DFS were able to hire these additional people, where would you put them. Chief Hughes suggested that we think outside the box and perhaps, in the short-term, look at scheduling people to work maybe in shifts (i.e., 3x11; 4x12). Director Wolf agreed that we need to be creative both in making it attractive for people to want to work here, and also find the best way to utilize the laboratory space we have.

- A lengthy discussion ensued about the pathology charts depicting death trends and type and number of drug-related deaths. Secretary Landgraf said the report contains excellent information and asked if DHSS might be permitted to use these statistics. Director Wolf replied that this report is still at the draft stage, but when in final approved form, the needed information could be pulled from it.
- DAG Sean Lugg suggested that the report's "summary" at the end be moved to the beginning for immediate impact. Chief Hughes agreed that we should state upfront what DFS requires and why; and the JFC should hear this. Director Wolf said that opportunity has already come and gone. Secretary Landgraf said that we do not make that call. Secretary Mosley noted the report needs to be finalized first and presented for final review. Yes, said Secretary Landgraf, and then she and Secretary Mosley can have a briefing with the Governor and Chief of Staff. Chief Hughes added that the Commission presentation should express a sense of urgency.
- Major Evans stated that the Strategic Planning Advisory committee's report should be included with the DFS Annual Report. Although it is independent of them, it is the result of the Commission assigning several key long-term objectives to the sub-committee. This report, said Major Evans, focused on two of the 8 key objectives: (1) the efficiency of the current Wilmington building, and (2) the feasibility of consolidating forensic disciplines at one location in the state. DAG Lisa Morris agreed and said the DFS Annual Report reflects the short-term needs and the Commission's sub-committee annual report involves the long-term needs for DFS. She said they should be read together.

- Statewide Bar Coding: Director Wolf said we still do not have a definitive answer – yes or no – from New World concerning whether we could piggy-back the system already in place and there is no firm price. There is another meeting scheduled next week to formulate plans going forward.

4. Policies and Procedures – DFS Pathology Unit

- DAG Lisa Morris stated that this Commission is charged with the oversight of the Division of Forensic Science and recalled that some questions have been raised by Commission members as to the policies and procedures followed in the Pathology Unit of DFS. She then turned the meeting over to Dr. Collins who is the Chief Medical Examiner and manages the Pathology Unit.
- Dr. Collins said that we in the unit practice medicine and currently operate under the policies and procedures of N.A.M.E. (National Association of Medical Examiners). We successfully attained full accreditation in January 2014, which will continue until January 2019. The accreditation process consists of a rigorous inspection of the physical facility and review of the office practices, including the implementation of policies and procedures. Dr. Collins related that at the rate the Delaware death cases have risen and the condition of this building, he was told by a N.A.M.E. auditor that accreditation would not be renewed if we were still operating at this facility in 2019. Anita Symonds asked if they put that in writing and Dr. Collins replied, no. Major Evans noted that even if we were able to proceed with the feasibility study, it is not likely that we would be in a new facility by the re-accreditation date. Lisa Schwind asked if losing N.A.M.E. accreditation would affect the ability to hire. Dr. Collins said that not being N.A.M.E. accredited is not a deal-breaker to hiring pathologists. He noted that having board certified pathologists is a requirement for N.A.M.E. accreditation. However, he continued, having board-certified pathologists also has its challenges and expenses. Recently, certified pathologists are required to participate in maintenance of certification, which is an expensive process that requires documentation of specialty specific educational activities and annual reporting.
- Dr. Collins continued that we accept all notifications of deaths occurring in the State of Delaware for the purpose of establishing whether or not it is a medical examiner's case.

The decision to accept or decline a reported case is based on meeting the established criteria and policy for medical-legal death investigations (i.e., if the person died from say, an osteosarcoma or some other clearly established natural disease, we would not get involved; on the other hand, should drugs be suspected, or suicide, any unnatural death, it would become a medical examiner case). Dr. Collins said the medical examiner is responsible for issuing those death certificates.

- Dr. Collins further explained that all examinations and autopsies are performed per standard operating procedures which meet the long checklist of items required by N.A.M.E. He explained that the definition of an autopsy is the inspection and dissection of a body after death to determine the cause and manner of death.
- Lisa Schwind said it is a fine line where medical ends and law enforcement begins with evidence collection and asked Dr. Collins if there were protocols. Dr. Collins said that depends on the case and what is reported to us. He said the medical examiner oftentimes has only one chance to get the medical death investigation done right. So if we get a case in which there is possibility of sexual assault, then we would do the necessary detailed examination and collect genital swabs. Dr. Collins explained that the degree of the examination that is undertaken depends on the case and the suspected cause and manner of death. If, for example, a woman was beaten and found with panties tied around her neck, we preserve the underwear and do a sexual assault work up. In some cases, the cause of death is obvious. But, he continued, our role would then include evidence collection that we would turn over to law enforcement and what the police do with that information is up to them. Anita Symonds asked if the physician does the evidence collection and Dr. Collins said, yes. Ms. Symonds then asked if victims are assessed as found. Dr. Collins explained that if the decedent is at the scene, the forensic investigator would make an evaluation at the scene and take necessary photographs. Further evaluation and evidence recovery will take place in the morgue. Minimal manipulation is done to the decedent at the scene. If the information is not clear or the police are not sure, then additional swabs are taken as added DNA/evidence. Ms. Symonds said this open communication from Dr. Collins is helpful and that it needs to come out (i.e., this is what we have done); we (the Commission) need to know.

- Secretary Landgraf asked, regarding standards, are there other certifying bodies and Dr. Collins replied, no.
- DAG Lisa Morris said the FLIMS module software the Pathology Unit was using was laboratory software and it was not designed for medical examiner recordkeeping. A new medical examiner module has been installed and it will track in “real time” and requests from funeral homes, police, and family for case information will be much more accurate because of the “real time” information.
- Secretary Landgraf asked if there was a residency program/fellowship program. Dr. Collins said, yes, residents from the University of Pennsylvania, Department of Pathology, come through here for approximately 4 weeks as part of their pathology training.
- Dr. Collins asked if there were any questions. Lisa Schwind recalled that at our last Commission meeting, there was discussion around the pathologist position downstate being downgraded to a Casual/Seasonal position. COO Rebecca Walker reported that we were looking at a Board-certified pathologist for a Casual/Seasonal position, but in addition to that, we are also looking for a full time pathologist for Wilmington. The Casual/Seasonal position would be for Georgetown as there is not enough work there to justify a full-time position.
- Secretary Landgraf then turned the meeting over to DAG Lisa Morris for an update on the Standards & Certifications Advisory Committee.

5. Standards & Certifications Advisory Committee

- DAG Lisa Morris explained that she has been asked to provide the Committee’s update on behalf of Dr. Watson, who is unable to attend today due to illness.
- Dr. Watson, she said, has provided a current list of Committee members who are: Robyn Quinn, Johna Esposito, Dr. Alice Briones, Lisa Schwind, DAG Lisa Morris (Ad hoc) and that she is waiting for a response to her invitation from David Mangler, Director of the Division of Professional Regulations.

- DAG Morris reported that 2016 Committee goals are: 1) review staff training, certifications and professional development; and 2) devise recommendations for training and professional development.
- Dr. Watson also provided the committee's 2016 meeting schedule as follows: 3/16; 5/18, 7/20, 9/21 and 11/16.
- Secretary Landgraf then turned to Major Evans for an update on the Strategic Planning Advisory Committee.

6. Strategic Planning Advisory Committee

- Major Evans stated that he previously sent Commission members the finalized copy of the committee's report for review. He said it is his understanding from today's discussion that this report will be incorporated with the 2015 DFS Annual Report. Secretary Landgraf said, yes, we all agree to the Strategic Planning Advisory Committee's report becoming a part of the DFS Annual Report. Major Evans said that it can be used as a catalyst to ask for funding in support of a feasibility study.
- Major Evans said that the Strategic Planning Advisory Committee had identified eight key objectives and the first two key objectives - the efficiency of the current Wilmington building and the feasibility of consolidating forensic disciplines to one location in the state – have been addressed. Our committee now plans to focus on the statewide bar coding system. Major Evans noted that there is a meeting scheduled for next week to discuss formulating a plan for statewide barcoding, as Director Wolf stated earlier.

7. Title 29 – State Government, § 4714 Commission on Forensic Science

- DAG Lisa Morris said that at our last meeting Anita Symonds brought up the matter of whether or not Commission members met the eight tasks as outlined in Title 29 - § 4714(d). DAG Morris said the tasks and duties of the Commission are to evaluate and monitor without direct control over the daily work that is being performed. Monitoring can be accomplished through the oversight process and procedures in place to provide information to the Commission.

- DAG Morris also said that there have been no Corrective Action Reports (CARs) since the last Commission meeting to report.
- DAG Morris then gave an update on litigation the Commission may read in the news - the Dollard case, where a husband and wife filed complaint against DSHS, DHSS, and 10 individuals were issued subpoenas, 3 have left this office. DAG Morris said the DOJ will defend that law suit.

8. Commission Members Open Discussion

- Secretary Landgraf asked if anyone had any other questions/concerns.
 - Lisa Schwind asked if DAG Morris had looked into the viability of having the Commission meetings recorded. DAG Morris responded that she found no reason that would prevent recording our meetings. However, she said, we need to set guidelines for records control and retention.
 - Lisa Schwind said, as a follow-up to our discussion at our last meeting concerning the Raman® device, she did receive Director Wolf's literature, however, there were no research-based materials (journals/peer reviews) included. Director Wolf replied that the use of this device is now a moot point as we have decided not to go forward with it.

9. Adjourn

- The meeting adjourned at 12:20 p.m.

Next Meeting: Monday, April 11, 2016

10:00 am – 12:00 am

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

1st Floor Conference Room