

Minutes for the State of North Carolina Forensic Science Advisory Board Meeting

November 3rd, 2016
North Carolina State Crime Laboratory
Raleigh, NC

Board members present: State Crime Laboratory (SCL) Director John Byrd, Kermit Channell (Chair), Adam Becnel, Michael Coble, Tracey Dawson Cruz, Demi Garvin, Mike Jiroutek, Peter Marone, Christopher Palenik, Bethany Pridgen, Deborah Radisch, Ronald Singer (via telephone)

Not present: David Hinks, Tim Kupferschmid, Alka Lohmann

Others in attendance: Anna Baxter, Jennifer Councilman, Ann Hamlin, Aaron Joncich, Zach Kallenbach, Karen Morrow, Jessica Pappas, Elizabeth Patel, Jennifer Remy, Timothy Suggs, Amanda Thompson, Pete Ware, Jennifer West, Jody West (SCL); Stormie Forte (SCL Ombudsman); Sarah Rackley Olson (NC Indigent Defense Services); John Bason, outgoing FSAB Counsel Mathew Boyatt, incoming FSAB Counsel Lauren Earnhardt, SCL Counsel William Hart, Tiesha Pope (NC DOJ)

Meeting was called to order at 8:43 AM.

Chairman Channell: Thanks for participating in working groups yesterday, those conversations with lab analysts and other employees are important. In addition to reviewing Policies and Procedures, board can also make recommendations to both the lab and the legislature; wants the lab to use the board to its full potential.

Director Byrd: FSAB Counsel Mathew Boyatt is leaving DOJ; Lauren Earnhardt will be taking his place. Board thanked Boyatt for his service. Minutes from the previous FSAB meeting will be voted on at the board's next meeting.

In keeping with the Gratitude Campaign initiated by the lab's Retention Committee, director presented a certificate to Sarah Rackley Olson of NC Indigent Defense Services in recognition of her efforts in "creating and sustaining open dialogue with the board and the state crime lab." Certificates were also presented to outgoing FSAB Counsel Boyatt, DOJ auditor Tiesha Pope, and each board member. Byrd noted that Pope's audit, which has been completed, found no significant issues in Evidence Control. He is currently drafting the lab's response to the audit.

Director's Report: Lab objectives are reset annually, and lab has reached many of its goals before their deadlines. Trying to get below 10,000 cases by January and hopes they will beat that deadline too. Lab-wide, nearing a 180-day turnaround for evidence.

Retired SBI agent has been hired to research grant opportunities from the Governor's Crime Commission and other entities for 5 areas of the lab. SCL is working with the accrediting bodies, taking advantage of training opportunities, and have already identified research topics. Retention Committee is setting up community service opportunities for staff at Shepherd's House and Habitat for Humanity.

Unfunded mandates (including the board itself) present a challenge; cost for two-day meeting is about \$37,000. When FSAB meets in Asheville to visit new western Lab, tab will be about \$50,000. Hopes FSAB can assist in getting funding for some of the legislative mandates.

Good relationship with NC Conference of DAs; DAs are helping with Stop-Works and outsourcing, and Director is drafting an article for their newsletter. Relationship with NC Sheriffs Association is improving. After attending their

conference as a vendor for 2 years, SCL was invited to address the members this year. Director will present numbers showing the SCL's reduction in turnaround time and overall cases.

UNC School of Government /SCL working group's Memorandum of Understanding led to hoped-for decreases in testimony wait time for lab analysts starting in 2013. More recently, total testimony time has increased; analysts are testifying a lot because they are working a lot of cases. However wait time is also increasing. SCL senses less awareness of the issue. Director will re-emphasize need for short wait times when speaking to DAs, Sheriffs, etc. When Western Lab's DNA analysts can testify in cases they worked, should help cut down on overall travel time.

Changes and improvements occur frequently in DNA. SCL is preparing to educate DAs, defense attorneys and judicial partners to help them understand some upcoming changes. SCL's DNA reports will be different than before.

Under new evidence submission procedures, agencies must use Forensic Advantage software to pre-log evidence prior to its delivery to the lab. Required as of January 1st but SCL has already seen an increase in pre-logging. New procedures also require evidence to be hand-delivered to the lab when possible. Small/distant agencies can use the state's courier service which is secure and has a special rate for these deliveries, or use USPS registered mail.

Channell: Do agencies select the lab services they want? Byrd: Yes, online form has drop-down menus. When evidence arrives, new system makes it easier to verify that everything was received. System is faster, smoother.

AD Amanda Thompson speaking on **Administrative Operations** noted that in addition to retired agent working on grants, a retired female agent is also working as a temp in HR to assist in background checks on applicants.

Employing Lean Six Sigma techniques with all sections, disciplines and satellite labs RE supplies. They are cleaning out, purging unneeded items, conducting inventories, and checking purchase orders to estimate their rates of consumption. Lab is moving toward just-in-time ordering of supplies so when they reach a certain level, it triggers the process for ordering to begin. Currently getting buy-in from sections.

Of 19 current vacancies, 12 are scientist positions. Of those, one is a pending retirement and three are receipt-funded positions that currently can't be filled due to lack of funding. Lab was recently awarded a Hero/ICAC Grant, providing \$86,000 to the Digital Evidence section for much-needed analyst training, software, and equipment to help that section keep up with developments in its rapidly changing field.

Long-awaited renovations of Administrative offices on the 1st floor of lab begin with a pre-construction meeting next week. There will be new paint and carpet for a portion of the 1st floor as well as in the Digital Evidence section.

SCL is working on implementation of a drug testing policy. Employees have been notified. DOJ's HR office is working with SCL to explore existing state contracts for testing.

Approximately \$583,000 of the \$640,000 in non-recurring funds appropriated by the legislature has now been spent or encumbered for equipment purchases for Raleigh and Triad labs. 2015 Coverdell Grant has now been expended, with purchases including cameras and digital towers for the Digital Evidence section.

Drug Chemistry and Toxicology sections need renovation similar to what DNA Database and Forensic Biology received. Proposal for renovation has been submitted to DOJ, waiting to hear if funding is available.

Director Byrd presented photos of construction at Western lab, noting that it is nearly on schedule. Architect is watching and requires fixes when he sees something he doesn't like. AD Thompson attends monthly on-site construction meetings. Cost-savings have allowed for inclusion of items not originally planned, including hardwired nitrogen generators. Currently researching to see if the building can have automated HVAC controls.

New building will have a strong security system; SCL may be able to upgrade outdated security systems at Raleigh and Triad labs, using the new building as the “base” unit. In final stages of purchasing for new facility; quotes on new furniture have been received, and quotes from moving companies are being gathered. Employees are now being given tours of the site to give them a sense of ownership and help reduce potential attrition.

AD Pete Ware, speaking on **Technical Operations**, presented figures on overall case trends. Currently at 12,168, down 54% from 1 year ago and 77% down since 1/3/2014. Currently at 6 months for all Drug Chemistry testing, with significant decreases in other disciplines too. Forensic Biology is working cases submitted in February and March.

Working to split out sub-disciplines so they can be tracked. Starting to track Trace Evidence, Arson and Gunshot Residue individually for their turnaround times. In Toxicology, Blood Alcohol, Blood Drug, and Combination cases were split out previously. Splitting helps to determine where to pinpoint resources.

Fire Debris and Arson are currently under a 60 day turnaround, should be under 30 days by end of November. Gunshot Residue is currently about 90 days, trying to get it below 60. By this time next year the overall lab should be in great shape.

Channell: Are you seeing an increase in drug chemistry submissions, and an overall increase in submissions to the lab? Ware: There has been an overall increase in submissions, and in Drug Chemistry. Fortunately that section is fully staffed, everyone is trained and working, so they're continuing to bring the numbers down.

Channell: Lots of talk about heroin in my state, but we're not seeing a big increase in our lab. Here?

Ann Hamlin: We're seeing a significant increase in heroin and fentanyl. Working those cases every day. Raleigh lab averages about 40 or 50 heroin cases/week.

Channell: What about Narcan? Is SCL using it, is there a policy in place? Hamlin: Working on the policy now. Planning to equip all offices and spaces. May be able to get it free. Also ordering respirators and particle filters. We use gloves whenever we suspect heroin or fentanyl.

Byrd: Ware is working with managers and getting the turnaround numbers down to a science. Two years ago the numbers were too high to determine turnaround time for individual sections. Now, they are subdividing disciplines. All goes back to Lean Six Sigma, and AD Thompson is getting people hired, trained, and working cases faster.

RE: **Outsourcing**, Byrd reports that the General Assembly provided \$2.1 million but SCL is rapidly catching up in this area and will propose 1/31/17 as end date for outsourcing. SCL has hired a program manager to help project how much money will be needed to finish outsourcing and how to keep it past the end of the fiscal year, because there's a 15 month window from testing to courtroom testimony. One possibility for leftover outsourcing funds would be testing of sexual assault kits currently stored by individual police agencies across the state. SCL is drafting an RFP for that and is also hoping to use a small amount of the money for replacement of equipment in Toxicology.

Pete Marone: How much flexibility do you have in spending the outsourcing money? Byrd: Can only be spent on Toxicology and DNA outsourcing. Marone: How could you get equipment? Byrd: After Toxicology is completely caught up, make request to the chairs of the Joint Legislative Oversight Committee for Justice and Public Safety.

Garvin: Have you surveyed local law enforcement agencies to find out how many rape kits are out there? Byrd: Yes, last summer. Some responses were surprising, others were not, and some didn't respond but based on those results we got permission from DOJ to work on the RFP. Garvin: Do you recall the number, or the response rate? Byrd: Not off the top of my head, but 2 agencies have 800 kits between them and there are 600 agencies across the state.

Some kits are being outsourced by the agencies. Need to get these kits off the shelf and worked. Channell: Currently no legislative mandate to do this? Byrd: Correct, but we expect movement in that direction.

Garvin: For best response rate, suggest sending the survey straight to the local agency's Evidence Control unit, CC'ing the agency head. In our experience agency heads don't always know what's going on and many fail to pass the survey down to their staff.

Forensic Biology Manager Jody West: Survey was placed on the Forensic Advantage website so people pre-logging their evidence could see it. Most responses came from Evidence Control staffers in local agencies. When multiple responses were received from an agency, answers didn't always match.

Byrd: RE: **Training**, 69 employees have completed their training since July of 2014, with nine still in training (7 in Biology, 2 in Toxicology). Moot courts have been held to help new analysts prepare for eventual testimony.

Noel, Digital Evidence's new **therapy dog**, was introduced to the board. Employees in that section must review large amounts of child pornography which is very stressful, and the dog provides a comforting and calming presence. The 1 year old Black Lab is restricted to the first floor and enters/exits through a side door. Digital analyst Robert Price is her handler and has done all the training with her; she has completed all but one training class.

The meeting recessed at 9:55, and resumed at 10:23.

Marone: Are you anticipating retirements? Byrd: Yes, we have two projected for next year. When lab split from SBI, some career agents joined the lab and we had a rash of retirements when they hit 30 years, but that is declining now. Of our 213 positions, 46 are currently held by staff who are sworn law enforcement. Most managers are among the sworn group. Most sworn employees will probably stay on, in order to earn law enforcement retirement. Another cluster of employees have 10 to 15 years' experience. Majority of the lab's workforce (other than the 46 sworn staffers) has less than 5 years. Nationally, lab attrition rate is 16%. Overall State Employee attrition rate in NC is 11%. SCL's rate is currently 10.5%; don't anticipate it increasing.

Marone: Lab employees are marketable after being trained and then working 3-5 years. Retaining them is the key but NC's personnel system limits how much they can move up. Byrd: Not everyone wants to be a Supervisor. Challenge is creating upward mobility for Forensic Scientist 1's so they can become Forensic Scientist 2's and 3's, and stay. Discussions are underway with DOJ's HR on a process to help retain scientists in their mid-grade years.

Marone: I had a policy of not bringing a new employee in at a higher rate than someone already doing the same job. My regional managers wanted a warm body and didn't appreciate the impact a higher salary would have on other people. Radish: People say "This is your opportunity to get that position at a higher rate." But you have to be loyal to those who stay with you. Byrd: HR is complex, goes beyond hiring and retaining. AD Thompson set up an all-day HR training program for all managers so they'll have a better understanding of the system and what is/isn't possible. We're also going to bring in Financial Services for a day, so managers can learn when money can/can't be moved around, etc. Trying to educate staff, prepare them for leadership roles.

Adam Becnel: Don't overlook dual career ladder, like a technical leader or a floor position, for those not interested in supervisory roles. But also don't overlook the people in the positions above them. Because of compaction, there will be very little salary difference. We learned this the hard way. Byrd: Yes. We had compaction and fortunately we were able to address it with the Salary Adjust Fund but it took a lot of money. Going forward we are working to avoid more compaction. DOJ's HR is sensitive to this issue.

Chairman Channell: Co-Chairs of the **Quality Document Review** groups, lets discuss yesterday's working groups and get an update on your status.

Garvin: I chaired the Toxicology group (Becnel, Marone, Pridgen and Radish). We looked at quality documents, technical records, and forms; did not evaluate the training documents. Good discussion, valuable interaction with Toxicology personnel who were present. Got a real sense of what the section is doing and revisions are being made to policies. Working group identified some topics, will make recommendations that will be posted to SharePoint.

Channell: RE: the process of the working groups, should we do anything different next time? Garvin: Consider a thought-collecting/organizational meeting of the working group prior to meeting with staff. Also consider breaking working groups down into smaller increments devoted to a particular document or topic.

Tracey Dawson Cruz: I co-chaired the working group on the DNA Database section. (Becnel, Coble, Hinks, Jiroutek, Kupferschmid, Palenik and Singer) Section has 15 or 16 protocols on technical issues, administrative info, and safety. Great discussion with section manager, technical leader, and others RE: FSAB member's recommendations. Helpful to go over our thoughts with staff before submitting final recommendations. Finalized some of our comments on the protocols, and removed those deemed irrelevant after discussions with staff. Recommendations are finished, reviewed, and have already been added to Sharepoint.

Channell: Meetings with staff help us learn about situations that are "issues" for them, and what kinds of things bog them down. Process efficiencies were mentioned. Board can make recommendations to address these. One was Expungement Requests and we saw how they affect the lab. William Hart is looking into internal processes that can be revised, without legislative changes, to streamline work of this section of the lab. Under the Good Faith clause of the database legislation, looking at possibly of shifting some of the expungement burden onto the individual who wants a sample expunged. FSAB should draft recommendations and submit them to the General Counsel, the General Assembly, or Director Byrd.

Also need to look at the "discovery packets" statute because board may be able to make significant efficiency recommendations there too. Examine what the lab is currently doing to create packets, and discuss with prosecutors and defense attorneys. Those stakeholders and the lab may both be unnecessarily burdened by the current system. This is not backtracking on transparency, just making sure staff isn't doing unnecessary work.

Byrd: We create a large volume of instrument data that actually can't be read or understood without the program language from the instrument. Rather than including all of that with each packet as has always been done, we could state that it is available upon request. Only a few will request it, and we can send it out as an additional packet.

Currently when we do large batches the DNA database analysts have to go in afterwards and separate them to put into each case record, which is very labor intensive. Our high production flow in the database slows down because of this. We could do it just for the ones that request it in discovery. We would go back into the batch, redact information from the other cases, and send the information requested for that one case instead of doing it for every single case whether it's requested or not. But we can't figure out how to execute this concept in a vacuum, need to explain it to our stakeholders and get their feedback before making a decision on whether to proceed with it and if so, how.

Channell: My intent is to go back to the original DNA team in the database to help formulate a document from the board with regard to all the issues that were brought to our attention that they would like assistance with.

Cruz: Discussions revealed that many of the logistical issues with processing and batching that we see in the Database Unit are similar to some of the logistical issues in Toxicology. Maybe those two section managers should meet and talk to see if some of the solutions could be uniform, at least with those two sections. If so, that might help in getting buy-in from stakeholders. Channell: Good point.

Garvin: Toxicology does the batching process as well. Then in the review process they have to go back and make sure they are pulling the correct quality control packets and certain things are brought from the right batch into that batch and brought into their discovery packet. Over 90% of the time that information won't be requested, but it takes a lot of time to prepare. I think the review process, not the analysis, is where the slowdown has been traditionally in Toxicology, with managers having to go back and make sure the analyst pulled it properly and put the right packet together. But how often is that packet ever even needed or looked at? From what we gathered it sounded very similar to the Database situation.

Byrd: The processes that we went through yesterday are exactly what FSAB was designed and mandated by statute to do. I am happy with what we accomplished and I'm looking forward to what we do with the other disciplines as well. It is worth noting that there is not a problem with the quality of the lab's work. It is the highest quality that can be done by a forensic laboratory. That is because of the staff's attention to detail, and I'm proud of that. What we're talking about now is how to fine-tune, and create efficiencies so that case numbers and turnaround time continue to decline.

Board meeting recessed for lunch at 10:57 AM.

Board meeting resumed at 12:16 PM.

To avoid getting behind schedule, FSAB decided to address multiple disciplines going forward rather than continue doing 2 at a time. The following committees were created: **Drug Chemistry** - Pridgeon (chair), Byrd, Garvin, Lohmann; **Latent Evidence** - Becnel (chair), Kupferschmid, Marone; **Digital Evidence** – Marone (chair), Becnel, Kupferschmid; **Evidence Control** – Channell (chair), Coble, Cruz, Radish; **Trace Evidence** – Palenik (chair), Hinks; **Firearms** – Singer (chair), Jiroutek. Channell: We will use the same format and commenting template.

Physical Evidence Manager Jennifer Remy asked if Trace Evidence and Firearms could be scheduled so as to allow her to participate in both, and noted that Karen Morrow might also want to be able to participate in 2 reviews.

Forensic Biology and lab-wide quality documents are the only 2 areas remaining to be reviewed. A major change is underway in Forensic Biology, and this delay will give them more time to stabilize before their review.

Byrd: Kupferschmid's expertise with Lean 6 Sigma can help in Digital Evidence where cases sometimes come with as much as 2 TB of information. SCL Counsel William Hart will assist in that committee too.

After a discussion regarding future meetings, Director Byrd made a motion to hold the board's next meeting, a teleconference, on Tuesday, February 21st from 1:00 - 3:00 PM EST; and to hold the following meeting, a face-to-face meeting, on May 18th (with the 16th as a travel day and the 17th for meeting with staff and discipline subcommittees.) Seconded by Garvin, and motion carried.

Channell : 50% of all documents should be reviewed by the February meeting. The board will meet at the new western lab at a future date.

FSAB needs to send a letter to lawmakers RE: a Special Revenue Fund for SCL. Byrd: One issue to mention will be Asset Forfeiture Funds SCL received when it was affiliated with SBI, which were used to refresh equipment. Need to make Joint Public Safety Committee aware of that lost revenue, and seek replacement money. Hart will look into whether the lab might still be eligible for those funds since it is tangentially related to law enforcement, and will send info to Byrd who will draft a letter for the board. Goal is to have the letter by January when the session begins. Byrd: Budget request has already been submitted. It included the Special Reserve Fund, 3rd time it has been requested. We're hopeful, but not optimistic.

Channell: FSAB also needs to send lawmakers a letter about lab efficiencies, including streamlining the DNA expungement processes. Currently it is very labor intensive for the CODIS section. Already looking at internal changes but we will suggest revised language for the statute. SCL staff will meet with Sarah Rackley Olson (NC Indigent Defense Services) to show why lab feels this is needed and get her feedback. Also hope to have this letter ready by January. Cruz: This (streamlining) is consistent with trends in other states.

Channell: Let us know if FSAB can do anything to help you educate the new Attorney General to SCL's needs.

Board recessed at 12:48 to gather in new subcommittees.

Board reconvened at 2:56.

Chairman Channell instructed all FSAB members to log into the SharePoint site. In response to a question, SCL staff noted that passwords must be changed every month, and that board members can get locked out because they do not get prompted to update their passwords. If that happens members should call the telephone number in the error message, and the password will be reset.

Channell: DNA Database document is already posted on SharePoint and the Toxicology document will be uploaded soon. Each member needs to look at them and send me an email acknowledging that you are in agreement with the suggested changes. I will give Director Byrd a letter stating that FSAB has examined Toxicology and Forensic Biology policies and procedures and we agree with these recommendations, so he will have that document for the files.

Byrd: Timothy Suggs will post the rest of the protocols on Sharepoint so you can start your reviews on them.

Also I failed to mention earlier when discussing HR issues that managers and supervisors are getting diversity training to insure we have good diversity throughout the lab staff.

Channell: Thanks to the board and the staff, it has been a very productive 2 days.

Marone: Move we adjourn. Seconded by Palenik.

FSAB adjourned at 3:01 PM