

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

October 25, 2017

North Carolina Western Crime Laboratory

Edneyville, NC

Board members present: State Crime Laboratory (SCL) Director John Byrd, Chairman Tim Kupferschmid, Adam Becnel, Kermit Channell, Vice Chair Tracey Dawson Cruz, Demi Garvin, David Hinks, Michael Jiroutek, Alka Lohmann, Peter Marone, Christopher Palenik, Bethany Pridgen, Deborah Radisch, Ronald Singer (via telephone)

Not present: Michael Coble

Others in attendance: Ana Baxter, Jacky Coley, Jennifer Councilman, Jonathan Dilday, David Freehling, Ann Hamlin, Josh Hickman, Aaron Joncich, Zach Kallenbach, Karen Morrow, Chris Parker, Elizabeth Patel, Jennifer Remy, Amanda Thompson, Peter Ware, Jody West (State Crime Lab); Stormie Forte (State Crime Lab Ombudsman); Sarah Rackley Olson, NC Indigent Defense Services (via telephone); John Bason, Forensic Science Advisory Board Counsel Lauren Earnhardt, State Crime Lab Counsel William Hart (NC Department of Justice)

Meeting convened at 8:34 AM by Chairman Tim Kupferschmid. Peter Marone moved approval of the minutes from the previous meeting. Seconded by Demi Garvin and passed by the Board.

Sheriff Charles McDonald welcomed members of the Forensic Science Advisory Board to Henderson County and expressed his gratitude for their time and service.

SCL Director John Byrd's report:

SCL held an open forum at the suggestion of Sarah Rackley Olson of NC Indigent Defense Services. It was organized through IDS and the Bar Association, and offered continuing legal education credits for attorneys. Olson: Many questions answered, invaluable opportunity for attorneys to have an open dialogue with SCL. Appreciate SCL putting so many resources into the program. Thanks to analysts, managers, and leadership who participated.

SCL Ombudsman Stormie Forte and SCL Counsel William Hart attended the NC Conference of District Attorneys meeting, discussed sexual assault kit inventory and stop-works.

Annual report to the General Assembly: 11% increase in submissions in FY 2016-17. From 2015 through 2017, 23.2% increase.

SCL underwent ANAB and QAS audits with no significant issues. All staff who can be certified are certified. Some are waiting on the certifying bodies to schedule testing.

59,102 submissions to SCL in fiscal year 2016 -17, including 26,000 in DNA database. 13,000 stop-works in 2015-16, but only 4,900 in 2016-17 in part because SCL is working cases faster.

Spikes in submissions to SCL's Latent Evidence section are due to small labs that have stopped processing latent evidence. SCL was able to reallocate resources to give Latent Evidence two temporary positions, using vacancies. Garvin: When local labs shut down did you have prior knowledge? Karen Morrow: We get information from a group of latent print people that we know through an organization. We're trying to bring the cases in when we aren't already being slammed. Working as best we can but the cases are very large. Very good cases, very good latent prints, just large.

Kermit Channell: Are they submitting lifts? Morrow: Some agencies are submitting lifts. We define lifts as a piece of tape. But sometimes we get 5 lift cards, and that could hold as many as 12 latent lifts. Channell: Are your lift cases under the same scrutiny as your case management guidelines? Morrow: We're looking at changing the submission guidelines for the number of lifts. Might adopt DNA's guidelines: do the first 10 lifts, and they can submit more later if needed. Marone: Suggest you let your funders know this is going to continue. Small shops getting out of the business is a national trend.

Byrd: In Drug Chemistry, because of the Fentanyl and Fentanyl analogues it's taking longer to process cases. Transferred two vacant positions to Drug Chemistry.

Occasionally a month will show a large and unexplained spike in submissions to Drug Chemistry. Volatility could be due to some large agencies and departments located far from Raleigh that deliver less frequently, and one regional laboratory was holding cases because they didn't have anyone who could leave to make the delivery.

Channell: How many drug chemists do you have? Thirty-two positions, plus two managers and three supervisors. Transferring 2 more positions in the coming weeks. Twenty-five positions are filled with working scientists, 6 in training, 1 vacancy. (Note: This answer was provided to members by Director Byrd after the meeting.)

Byrd: Large increase in cases involving Fentanyl or Fentanyl analogues in fiscal year 2016-17. First 6 months, 116 cases. Last 6 months, 300 cases. SCL has added new safety measures to protocols, and now has Narcan onsite due to risk of working with Fentanyl. Staffers aren't allowed to work suspected Fentanyl cases alone. New synthetic opioid U-47700 ("pink") is deadly, has caused several fatalities in North Carolina. Board members also seeing it in their areas. Channell: Arkansas Department of Correction seeing a spike in deaths due to this. Inmates receive a letter sprayed with the drug, then smoke the paper.

A disturbing trend in Toxicology results is two or three unrelated drugs in the sample. Garvin: That's consistent with what is being seen nationally.

In DNA Database, a record year for CODIS hits with 470. In many instances, SCL does not learn what happens after it send notification of the hit. Attorney General wants to know and wants to bring the issue to the attention of criminal justice stakeholders. Discussion ensued on how to find out what happens. It was noted that in Maryland, agencies are required to notify the state about the outcome of the notification.

Of 26,000 DNA Database submissions in FY 2016-17, 5,200 were duplicates. At \$5 per kit, the duplicates cost \$26,000. To address the problem, NC Justice Academy offers online training on whether or not to collect. Also, SCL will soon begin a series of 1-page/1 topic newsletters to law enforcement stakeholders including one on this topic. Marone: Is law enforcement able to see if someone is already in the database, and are they required to check that before submitting a sample? Zach Kallenbach: They have access but

they're not required to check. Some collect just to cover their bases instead of doing the check. Marone: On our collection kit there there's a box "Did you check the database?" They have to check the box or not check the box. Not a requirement, but a reminder. Byrd: Good suggestion, we will take a look at that.

Channell: Are these primarily collected at booking stations through the sheriff's office, jail intake?

Kallenbach: For arrestees, yes. For a convicted offender it will be probation office/diagnostic jail center.

Duplicate submissions are pretty evenly split between the two. Amanda Thompson: When the system was first implemented, officers were given the ability to override if they wanted to collect anyway. Many

override even if they see there's already a sample on file. Adam Becnel: We removed that "override"

ability, because of this. Thompson: Might be time for SCL to remove it.

Byrd: All crime labs including SCL are still dealing with the effects of the Melendez-Diaz ruling requiring lab analysts to testify in person. There were 8,113 fewer stop-works from 2015-16 to 2016-17 but SCL is working with Government Data Analytics Center to develop an automated process to do stop-works. Currently SCL sends DA's a list of cases in the inventory. DA's check the list for cases that are no longer needed and send it back to SCL. Staffers still have to go in and do the stop-works manually. In the new system, DA's will be able to do it from their end. It is in the testing phase, with implementation projected in calendar year 2018.

Wait times for lab analysts to testify in court have increased but overall, still seeing downward trend in wait time. Only about half of DA's adopted the memorandum of agreement (designed to help reduce wait times) but many have implemented it without a formal MOA. SCL is continuing to track it.

Marone: How many actual trips to court? Answer: In fiscal year 2016 – 17 there were 2,650 court appearances. This number includes testimonies, appear and not testify, appear and dismissed, appear and pled, appear and continued. (Note: This answer was provided to members by Director Byrd after the meeting.)

Byrd: Expansion budget. Certified assessment drawings for a renovation have been prepared for the 4th floor (Drug Chemistry and Toxicology), the roof, and HVAC because building has had issues with humidity. Projected cost just under \$4 million.

Christopher Palenik: Will the whole floor shut down for a year? Byrd: Will do it in phases, like Biology and DNA Database renovations. Shut downs will be short. SCL was designed in the 1980's, not set for set up for collaborative/team approach. One recommendation of the original Lean Six Sigma report was to eventually set those disciplines up for the collaborative approach. Six months after the renovated Biology section opened, there was a 600% increase in case production. That was attributable not only to new chemistry processes, but also to increased collaboration following the renovation.

SCL would like to see a statewide inventory tracking and management system for sexual assault kits adopted in NC.

Improvements at SCL since 2013 when FSAB was created are due in part to FSAB's work, and FSAB's letters to the General Assembly to help get resources. Salary increases granted in 2013-2014 started with a letter from the Board.

Thompson, Administration Report: SCL has applied for about \$4.5 million in grants. In HR, there are two disciplines remaining to go through the promotional opportunity. Moving forward with Firearms postings

now, and Latent Evidence will follow. Ten positions would be affected. Overall, SCL currently has 26 vacancies, about 11.8% - 20 scientists, six support staff. Transferred approximately five positions to Latent and Drug Chemistry. Quality is also getting one. Have identified seven Gas Chromatograph Mass Spectrometers and one Gas Chromatograph Headspace that we will be leasing. Working with DOJ Purchasing to begin competitive bidding process for posting to find vendors. Most disciplines except DNA Database and Forensic Biology are getting some type of equipment.

Marone: You're getting \$1.7 million one-time, what happens in years 2, 3, 4 and five? Byrd: They will carry it forward each year until the lease ends. Bethany Pridgen: Are you allowed to bundle training as part of the lease process? Thompson: Yes.

Thompson: Scanning project, trying to get all of our older files scanned and uploaded, is still at state DIT for evaluation. Jonathan Dilday: RFID project is reposting, had a problem with a couple of the bids and need more information. Thompson: Functionality of the security system here at Western Lab is very good. Trying to tie the Raleigh lab into the system, still waiting for state approval.

Going through the necessary channels to establish contracts for reinstatement of polygraph for new hires and random drug testing for employees. Tracey Dawson Cruz: What was the impetus? Thompson: SCL stopped polygraphing when it lost the individual who was providing that service on contract but the need has always been there. Want to make sure that what we are seeing in black-and-white on the application and when we conduct background is truthful. It's another tool in our bucket when we're doing background before hiring.

Pete Ware, Technical Operations. RE: caseload, just over 10,000 cases in inventory, a slight increase. Was expected, with the move to the Western Lab and the other labs pitching into help getting the instruments back online, etc. SCL seeing increases in submissions, the largest ones in Latent and Drug Chemistry. Drug Chemistry is 60% of total submissions. Small increases there cause the overall numbers to pop up. Another factor: New toxicologists and chemists have now built up enough leave time that they are taking vacations. More annual leave was used this summer.

Expect Drug Chemistry and Toxicology production to go back up. Overall, still working more cases than are coming through the door. Lead time and turnaround times continue to drop, although first and second quarter times spiked because SCL concentrated on getting all of the older cases out of the laboratory system. Overall turnaround time for SCL (results submitted and evidence returned) is 43 days.

[Discussion of lead time, turnaround time and cycle time. It was noted that different agencies and organizations (NIJ, Foresight) use different terms, which contributes to confusion.]

Ware: SCL is down under 200 days, want that number to keep that dropping. A lot of disciplines and sub disciplines are less than 30 days. If the entire lab can get to 90 days I think most customers would be happy.

Kupferschmid: Do you have a state law to deal with tracking of sexual assault kits or are you trying to be proactive? Byrd: Recent legislation requires all local agencies to inventory and report their findings to SCL by 1/1/18, and SCL must report to General Assembly by 3/1/18. A 1-time inventory, not ongoing and the legislation did not address processing of the kits. Ultimately, agencies will send information for SCL to screen. SCL will screen and determine if the kit should be sent to a vendor for processing.

Channell: Is it just a law enforcement inventory, or does it include other collection facilities? Byrd: Just local law-enforcement. Channell: Children's Hospital in Little Rock found 300 kits over which no one had claimed ownership after they were collected. That happens for a lot of different reasons. With anonymous kits, there's no guidance from the federal government RE: how to how long to keep them, etc. It's up to each state and each collection facility, and that has caused some aggravation in my state.

Byrd: People have asked when the Western Lab will begin processing DNA. FSAB members know it's a very complex process with validations, etc. Goal is to be operational in the first quarter but it depends on scheduling of an accreditation visit.

Director Byrd's report ended and the FSAB took a brief recess, reconvening at 10:19 AM.

Kupferschmid: Reports from the two active Protocol Review committees.

Garvin (Drugs and Toxicology): We finished our review and we've been over all of the comments with staff on the phone and in person. We have submitted the template for Board review. Kupferschmid: We'll submit a draft to SCL. They'll get back to us, ask questions and then we'll submit the formal report.

Dawson Cruz (DNA & Biology): Finally making good progress and I think it's come to a close. Were able to review some things yesterday and got answers from Jody West on some quick questions we had. I'll be compiling comments, and then we will schedule a conference call with management and the section to review the preliminary draft, hopefully in the next two or three weeks.

Kupferschmid: Creating a new committee to review the Quality Documents. Members will be Radisch and Lohmann, with Becnel and Garvin as Co-Chairs. Byrd: Timothy Suggs will get the SOPs for the committee to review and serve as their staff contact.

Ribbon-cutting ceremony for Western Lab tentatively scheduled for December 4. Next FSAB meeting will be a teleconference on Thursday, February 1st 2018 at 1:00 PM Eastern standard time, as decided at the previous meeting. FSAB selected May of 2018 for the following meeting, with the 14th as a travel day and the official meeting taking place at 11:00 AM on May 15th. SCL will arrange overnight stays for any Board members who can't get a late flight out on the 15th.

Lohmann moved to adjourn, seconded by Becnel. Meeting adjourned at 10:32 AM.