



***June 16, 2017***

***ESDC, 633 3<sup>rd</sup> Avenue, New York, NY  
9:01 AM – 12:41 PM***

## **DRAFT MEETING MINUTES**

### **Commission Members in Attendance (All in NYC):**

Michael Green, Esq., Chair  
Pasquale Buffolino, Ph.D  
Lydia de Castro  
Hon. William Fitzpatrick  
Brian Gestring  
Hon. Angela Mazzairelli  
Hon. Scott McNamara  
Scott O'Neill, Ph.D.  
Marvin Schechter, Esq.  
Anne Walsh, Ph.D., M.D.  
Ann Willey, Ph.D., J.D.

### **DCJS Staff in Attendance:**

Gregory Anastasio  
Gina Bianchi  
Janine Kava  
Eric Knapp  
Cathryn Levine  
Gerald Mollen  
Shelley Palmer  
Jackalynne Vimislik  
Cathy White  
Aimee Zagorski

### **Other Attendees:**

Kunjlata Ashar- Westchester County Department of Laboratories and Research  
Joseph Avella – Nassau County Office of the Medical Examiner Toxicology Laboratory  
Kristie Barba – Onondaga County Medical Examiner's Office Forensic Toxicology Laboratory  
Allison Bock – Kings County District Attorney's Office  
Daniel Burhans – Suffolk County Crime Laboratory  
Dave Carlin – CBS2  
Dominick Chiumento – New York State Police Crime Laboratory  
Sarah Chu – Innocence Project

Gail Cooper- NYC OCME Forensic Toxicology Laboratory  
 Constance Dinkle – Suffolk County Crime Laboratory  
 Mark Ditoro – New York City Police Department  
 Karen Dooling – Nassau County Medical Examiner Office Division of Forensic Services  
 Morgan Eldridge –DCJS Latent Print Laboratory  
 Colleen Falcone - DCJS Latent Print Laboratory  
 Victor Ferrante - New York City Police Department  
 Russell Gettig – New York State Police Crime Laboratory  
 Mark Gil- Nassau County Medical Examiners Office Division of Forensic Services  
 Timothy Hahn – Nassau County Office of the Medical Examiner Toxicology Laboratory  
 James Harrison – Westchester County Department of Public Safety Crime Laboratory  
 Janet Hoin - DCJS Latent Print Laboratory  
 Susan Horan – Kings County District Attorney’s Office  
 Florence Hutner – New York City Office of the Chief Medical Examiner  
 Fred James – New York State ITS  
 Rebecca Johannesen – New York City Office of the Chief Medical Examiner  
 Emanuel Katranakis – New York City Police Department  
 Peter Kennedy – Bronx County District Attorney’s Office  
 Jennifer Lady – New York City Police Department Police Laboratory  
 Margaret Lafond – New York State Police Crime Laboratory  
 Bharat Lakhkar - DCJS Latent Print Laboratory  
 Thomas Leach – New York State Police Crime Laboratory  
 Michael Lehrer – Suffolk County Medical Examiner’s Office Toxicology Laboratory  
 Allison Lewis – Legal Aid Society  
 Colleen Lockhart – Yonkers Police Laboratory  
 Gabrielle R. Mazero – Office of the Queens County District Attorney  
 Urfan Mukhtar – New York State Police Crime Laboratory  
 Daniel Myers – New York State Police Crime Laboratory  
 James Palanzo – Westchester County Department of Public Safety Crime Laboratory  
 David Pulikowski – New York State Police Crime Laboratory  
 Agueda Rodriguez – New York City Police Department  
 Eric Rosenbaum – Queens County District Attorney  
 Meredith Rosenberg – New York City OCME Department of Forensic Biology  
 Kerri Sage – New York State Police Crime Laboratory  
 Pam Sale – ANAB  
 Elizabeth Spratt – Westchester County Department of Laboratories and Research Forensic  
 Toxicology  
 Richard Torres – The Legal Aid Society  
 Louis Vargas – New York City Office of the Chief Medical Examiner  
 Ray Wickenheiser – New York State Police Crime Laboratory

*Approximate  
video times*

Chairman Green opened the meeting and noted there was a quorum with 11 members presents [Buffolino, de Castro, Fitzpatrick, Gestring, Green, Mazzarelli, McNamara, O’Neill, Schechter, Walsh, Willey]. Chairman Green requested a motion to

00:00.00 –  
00:01:04

approve the June 16, 2017 meeting agenda. The motion was made by Mr. Fitzpatrick, seconded by Mr. McNamara and approved unanimously.

The Chair then requested a motion to approve the minutes of the April 12, 2017 meeting. A motion to accept the minutes was made by Mr. McNamara seconded by Dr. Willey, and approved with 10 votes for and one abstention [Walsh].

00:01:04 –  
00:01:30

The Commission members reviewed and discussed the binding recommendation from the DNA Subcommittee regarding the final draft of the Familial Search Policy and corresponding amendments to the regulations and Implementation Plan as proposed by the DNA Subcommittee at its May 19, 2017 meeting. Dr. Walsh indicated that the language on page 16 of the meeting materials did not coincide with the language on page 11 of the meeting materials (and in the Implementation Plan). Ms. Bianchi stated that this language change was indeed requested by the DNA Subcommittee; it was indicated that OFS would make all conforming changes. It was noted that the conforming technical change would be made to the final document before the regulations are sent for promulgation in order to coincide with the language approved by the Subcommittee in the Policy and the Implementation Plan, as reflected in the meeting materials.

00:01:30 –  
00:20:51

Thereafter, Mr. Schechter made a motion to change the wording in 1.b.i of the familial search policy on page 8 of the meeting materials to eliminate the language requiring that “reasonable investigative efforts have been taken in the case” and replace it with the eavesdropping language that was read by Mr. Fitzpatrick. The motion was seconded by Dr. Willey and failed with two votes for [Schechter, Willey] and nine votes against.

00:20:51 –  
00:43:01

After a lengthy discussion on various aspects of the Policy, the Chair requested a motion to approve the final draft of the Familial Search Policy, and related amendments to the regulations and Implementation Plan. The motion was made by Mr. Fitzpatrick, seconded by Dr. Buffolino and approved with nine votes for and two votes against [Schechter, Willey].

00:43:01-  
01:28:01  
(43:01 –  
88:01 )

The Commission took a brief break.

Next, the Commission considered the binding recommendation from the DNA Subcommittee to approve the use of the Denver Software for Familial Searching with the established kinship threshold of Log Likelihood Ratio (LR) = 3.7 (LR of 5,000) for Profiler Plus/Cofiler and a Log Likelihood Ratio = 4.0 (LR of 10,000) for Identifiler. The Subcommittee reviewed the New York State Police Validation of the software at their May 19, 2017 meeting. New York State Police staff were in attendance to answer questions. The Chair then called for a motion to approve the binding recommendation of the Denver Software. A motion was made by Mr. Gestring, seconded by Ms. de Castro and approved with nine votes for and two against [Schechter, Willey].

01:28:14-  
01:37:30  
(88:14–  
97:30)

Four toxicology laboratories had just completed their American Board of Forensic Toxicology (ABFT) Inspections, and required renewal of their New York State Accreditation. The Commission first considered the Nassau County Medical Examiner's Toxicology Laboratory. Mr. Fitzpatrick made a motion to extend the NYS accreditation of the Nassau County Medical Examiner's in the discipline of Forensic Toxicology for the dates of July 1, 2017 to June 30, 2019. The motion was seconded by Mr. McNamara and approved unanimously.

01:37:30-  
01:38:26  
(97:30--  
98:26)

The New York City Office of the Chief Medical Examiner Toxicology Laboratory was then discussed. Mr. McNamara made a motion to renew NYS accreditation of the New York City Office of the Chief Medical Examiner Toxicology Laboratory in the discipline of Forensic Toxicology for the dates of July 1, 2017 to June 30, 2019. The motion was seconded Dr. O'Neill and approved with 10 votes for and one abstention [de Castro].

01:38:26 –  
01:39:10  
(98:36 –  
99:10)

The Onondaga County Health Department Medical Examiner's Office Forensic Toxicology Laboratory was discussed. Mr. McNamara made a motion to renew NYS accreditation of the Onondaga County Health Department Medical Examiner's Office Forensic Toxicology Laboratory in the discipline of Forensic Toxicology for the dates of July 1, 2017 to June 30, 2019. The motion was seconded by Ms. de Castro and approved unanimously.

01:39:10 –  
01:39:56  
(99:10 –  
99:56)

Lastly, the Westchester County Department of Laboratories and Research Division of Forensic Toxicology was discussed. Following a discussion regarding the anticipated timeline for completion of inspection findings, a motion was made by Chairman Green to extend the NYS accreditation of the Westchester County Department of Laboratories and Research Division on Forensic Toxicology in the discipline of Forensic Toxicology for a period until the next meeting of the CFS. The motion was seconded by Dr. Willey and approved unanimously.

01:39:56 –  
01:44:55  
(99:56 –  
104:55)

Laboratory accreditation items and updates from the DCJS Latent Print Laboratory, Erie County Central Police Services, Erie County Medical Examiner's Toxicology Laboratory, Niagara county Sheriff's Office Forensic Laboratory, and Westchester County Division of Forensic Services were reviewed. The Commission also reviewed the 2016 Annual Laboratory Summary.

01:44:55 –  
01:51:50  
(104:55 –  
111:50)

The Chair then moved to Old Business. Pam Sale from ANSI-ASQ National Accreditation Board (ANAB) was present to answer questions regarding the merger of ANAB and ASCLD/LAB and the new accreditation requirements. The Chair then made note that A2LA and ABFT will be invited to future CFS meetings in order to answer questions regarding their accreditation programs in an attempt to better understand the various accreditation programs available for use in New York State laboratories.

1:51:50 –  
03:04:13  
(111:50 –  
184.13)

A motion was made by the Chair for the Commission to recognize that ANAB has assumed all the rights and liabilities of ASCLD/LAB and that any reference in the regulations that refer to the ASCLD/LAB program shall be deemed to reflect that understanding. The Commission will make any permanent change to the appropriate

03:04:13 –  
03:06:05  
(184.13 –  
186:05)

sections of the regulations at the December meeting. Mr. Schechter seconded the motion and it was approved unanimously.

The Commission returned to the laboratory accreditation update of the Monroe County Office of the Medical Examiner Forensic Toxicology Laboratory.

03:06:05 –  
03:10:50  
(186:05 –  
190:50)

The Chair then moved to Laboratory Disclosures, and the Commission reviewed laboratory disclosures from the Erie County Department of Central Police Services, Monroe County Office of the Medical Examiner Forensic Toxicology Laboratory, Nassau County Office of the Medical Examiner Division of Forensic Science, New York City OCME Department of Forensic Biology, New York City Police Department Police Laboratory, New York State Police Crime Laboratory, Suffolk County Office of the Chief Medical Examiner Toxicology Laboratory and the Westchester County Division of Forensic Toxicology. Representatives of the laboratories were available in-person and via telephone.

03:10:50 –  
03:15:04  
(190:50 –  
195:04)

The Chair then requested a motion to enter Executive Session to discuss matters relating to a current investigation or matters that may lead to the appointment, promotion, demotion, discipline, or suspension of a particular person. The motion was made by Mr. Schechter, seconded by Mr. McNamara, and approved unanimously.

03:15:04 –  
03:15:11  
(195:04 –  
195:11)

The Commission returned to open session and the Chair indicated that the Commission did not take any formal action during Executive Session. A motion to adjourn was made by Mr. Fitzpatrick, seconded by Dr. Wiley and approved unanimously.

03:15:11 –  
03:16:27  
(195:45 –  
196:27)

**Note:**

***Video of the meeting is available upon request.***