



Commission on Forensic Science

September 12, 2018

DCJS CrimeStat Room 118, 80 South Swan Street, Albany, NY

9:05 AM – 12:50 PM

DRAFT MEETING MINUTES

Commission Members in Attendance:

Michael Green, Esq., Chair

George Beach II, Superintendent

Pasquale Buffolino, Ph.D.

Lydia de Castro

Hon. William Fitzpatrick

David Loftis, Esq.

Hon. Scott McNamara

Jerry Mollen, Esq.

Scott O'Neill, Ph.D.

Benjamin Ostrer, Esq.

Anne Walsh, Ph.D., M.D.

Ann Willey, Ph.D., J.D.

DCJS Staff in Attendance:

Gregory Anastasio

Janine Kava

Brett Knowles

Cathryn Levine

Justin Mason

Shelley Palmer

Jackalynne Vimislik

Catherine White

Aimee Zagorski

Other Attendees:

Christina Atrouni – Monroe County Crime Laboratory

Julia Becker – NYSP Forensic Investigation Center

Lori-Ana Bromberg – NYSP Forensic Investigation Center

John Clark – Monroe County Crime Laboratory

Jill Dooley – NYS DCJS Latent Print Laboratory

Colleen Falcone – NYS DCJS Latent Print Laboratory
 Russell Gettig – NYSP Forensic Investigation Center
 James Harrison – Westchester County DPS Crime Laboratory
 Janet Hoin – NYS DCJS Latent Print Laboratory
 Michael Jankowiak – NYSP Forensic Investigation Center
 Thomas Leach – NYSP Forensic Investigation Center
 Jennifer Limoges – NYSP Forensic Investigation Center
 Ryan O'Malley – New York State Police
 James Palanzo – Westchester County DPS Crime Laboratory
 Julie Pizziketti – NYSP Forensic Investigation Center
 David Pulikowski – NYSP Forensic Investigation Center
 Ray Wickenheiser – NYSP Forensic Investigation Center

Chairman Green opened the meeting with a quorum of 11 members present, and specifically welcomed members David Loftis from the Legal Aid Society, and NYSP Superintendent George Beach II to their first Commission meeting. Chairman Green requested a motion to approve the September 12, 2018 meeting agenda. The motion was made by Mr. McNamara, seconded by Dr. Willey, and approved unanimously (Mr. Ostrer was not present for the vote).

*Approximate
video times*

00:00:00 –
00:01:43

The Chair then requested a motion to approve the minutes of the June 15, 2018, Commission meeting. A motion to accept the minutes was made by Mr. McNamara, seconded by Dr. Walsh, and approved with nine votes for, none against, and two abstentions (Supt. Beach, Mr. Loftis).

00:01:43 –
00:02:21

Laboratory accreditation items and updates were then considered for Monroe County Crime Laboratory, Erie County Central Police Services, New York City OCME Department of Forensic Biology, New York City OCME Department of Forensic Toxicology, New York City Police Department Police Laboratory, Westchester County Division of Forensic Toxicology, Westchester County Department of Public Safety Crime Laboratory, and Yonkers Police Department Forensic Science Laboratory. Representatives from the laboratories were present or available via phone to respond to members' questions. Mr. Ostrer joined the meeting at the beginning of this section of the agenda.

00:02:21 –
00:45:50

Chairman Green requested a motion to grant NYS accreditation to the Monroe County Crime Laboratory for the period of June 13, 2018 through August 31, 2022, which is concurrent with their ANSI-ASQ National Accreditation Board (ANAB) accreditation. Supt. Beach made the motion which was seconded by Mr. Fitzpatrick. The motion passed with ten votes for, none against, and two abstentions (Mr. Loftis, Mr. Ostrer).

00:02:21 –
00:07:22

Chairman Green requested a motion to grant NYS accreditation to the Westchester County Department of Public Safety Crime Laboratory for the period of August 27, 2018 through October 31, 2022, which is concurrent with their ANAB accreditation. Mr. McNamara made the motion which was seconded by Supt. Beach. The motion passed with eleven votes for, none against, and one abstention (Mr. Loftis).

00:41:05 –
00:45:00

The Chair then moved to Old Business. The members reviewed a draft of modifications to the NYCRR removing language referencing the American Society of Crime Laboratory Directors / Laboratory Accreditation Board (ASCLD/LAB) and referencing ANAB its place. Dr. Willey requested a clarification be submitted to the American Association for Laboratory Accreditation (A2LA) regarding the changes to the NYCRR in respect to the continued inclusion of the American Board of Forensic Toxicology (ABFT) in the NYCRR. The chair requested a motion to accept the modifications to NYCRR, which was made by Mr. McNamara. The motion was seconded by Mr. Fitzpatrick. The motion passed unanimously.

00:45:50 –
00:53:51

Mr. Mollen provided a verbal update regarding the status of the familial search program. A discussion clarifying the process and recent press on the topic ensued. Dr. Walsh informed the Commission on the status of the Department of Health permitting of out-of-state forensic identification laboratories. The Chair requested an update from Dr. Walsh to be added to the agenda of the next meeting of the Commission.

00:53:51 –
01:26:50
(53:51 –
86:50)

A verbal update was provided by Mr. Knowles regarding a joint letter sent by the Legal Aid Society and the Federal Defenders of New York dated September 1, 2017 to the NYS Inspector General regarding the NYC Office of the Chief Medical Examiner. The NYS Inspector General has advised DCJS that they will not be opening an investigation into the complaint.

01:26:50 –
01:29:05
(86:50 –
89:05)

The Commission then took a short recess.

01:29:05 –
01:29:21
(89:05 –
89:21)

The Chair then moved to New Business. Mr. Mollen gave a verbal update regarding an inquiry by the DNA Subcommittee as to the status of advancing new DNA technologies in New York State. NYCLAC and the NYS Biology Technical Working Group will be providing an update at the November 2, 2018 DNA Subcommittee meeting. The Chair asked Dr. Walsh to also provide the Subcommittee with an update regarding the Department of Health permitting program.

01:29:21 –
01:39:21
(89:21 –
99:21)

The Commission members then discussed the complaints process. It was determined that all complaints received by DCJS will go to the Commission. Upon receipt, complaints will be reviewed by the Chair for additional referrals, including but not limited to the NYS Inspector General. The complaints will then be reviewed in Executive Session at the next scheduled meeting. A motion was made by Mr. Fitzpatrick to adopt this procedure for complaints. The motion was seconded by Supt. Beach, and passed unanimously.

01:39:21 –
01:52:07
(99:21 –
112:07)

Lastly under new business, a letter from the Nassau County Division of Forensic Services detailing an agreement with the ATF regarding the establishment of a NIBIN satellite was presented. The Chair requested an update at the next Commission meeting.

01:52:07 –
02:14:22
(112:07 –
134:22)

The Chair then moved to Laboratory Disclosures, and the Commission reviewed laboratory disclosures from Monroe County Office of the Medical Examiner Toxicology Laboratory, Nassau County Division of Forensic Services, New York City OCME Department of Forensic Toxicology, New York City Police Department Police Laboratory, New York State Police Crime Laboratory, Niagara County Sheriff's Office Forensic

02:14:22 –
02:34:20
(134:22 –
154:20)

Laboratory, Suffolk County Crime Laboratory, and Westchester Department of Laboratories and Research. Representatives from the laboratories were present or available via phone to respond to members' questions.

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. Dr. O'Neill made the motion, which was seconded by Mr. McNamara, and approved unanimously.

02:34:20 –
02:34:50
(154:20 –
154:50)

The Commission returned to open session and the Chair indicated that the Commission did not take any formal action during Executive Session. Dr. Buffolino left the meeting during Executive Session.

02:35:10 –
02:35:26
(155:10 –
155:26)

Ms. de Castro spoke for a moment in remembrance of the tragedies of 9/11 and their effect on the victims, families, and criminal justice communities. The next meeting is scheduled for December 7, 2018 with the primary meeting site in New York City. A motion to adjourn was made by Dr. O'Neill, seconded by Mr. Loftis, and approved unanimously.

02:35:26 –
02:37:39
(155:26 –
157:39)

Note:

Video of the meeting is available upon request.

Approximate video times in parenthesis reflect the streaming video. Times not in parenthesis reflect the video file played using software such as Windows Media Player.