

The Commonwealth of Massachusetts
Executive Office of Public Safety and Security

One Ashburton Place, Room 2133
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KIMBERLEY DRISCOLL
Lieutenant Governor

TERRENCE M. REIDY
Secretary

Forensic Science Oversight Board Agenda

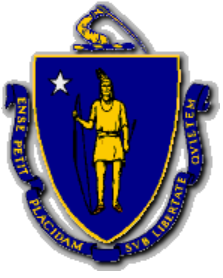
When: January 19, 2024

Time: 10:00am – 1:00pm

Via Microsoft Teams

Members	Present	MM Oct
Kerry Collins, Undersecretary	X	
Dr. Sabra Botch - Jones	X	X
Dr. Robin Cotton	X	X
Professor Timothy Palmbach		
Professor Richard Lempert		
Gina Papagiorgakis	X	X
Cliff Goodband	X	X
Dr. Ann Maire Mires	X	X
Lucy A. Davis	X	X
Adrienne Lynch, Esq	X	X
Assistant AG Gabriel Thornton	X	X
Ira Gant	X	X
Lisa Kavanaugh, Esq	X	X
Judge Nancy Gertner	X	X

1. Minutes Approval
 - a) October Minutes: Adrienne the date in which the Bristol Report was initially approved. With that insert the minutes have been approved.
2. Updates from prior meeting
 - a) Regarding the Update on Kevin Larade an email to the lab has been sent as this is an inquiry from the FSOB. They will hopefully have either a written or oral statement prepared for the next meeting.



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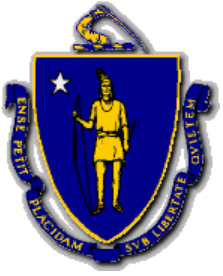
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- b) Arielle Mullaney provided an overview on Public Records Requests. This came about regarding the materials received by Bristol DA. There are exemptions and timelines that we follow. Any public body is subject to a request – if the record is public it is provided. If there is an exemption, then the document may have redactions as they are rarely wholly held back. The Secretary of State oversees – if an individual is not satisfied with the response they can appeal to the Secretary of State. In terms of this board everything is public record unless we are in executive session.
- c) Revisiting the State Police Presentation – State Police will prepare a presentation ready for the February Meeting.
- d) Budgetary: Subsection J – a presentation will be prepared for potentially the March Meeting.

3. Notice of Complaint

- a) This board received a complaint through Amy. There was an affidavit signed by Tiffany Roy, motions for a new trial, and a DNA Report. We are looking at this complaint under subsection D. We did not provide the board with the DNA report. We received a Boston Crime lab report through unsecured email – we reached out to the prosecutor to alert them. The Report also has a complete file and this is an ongoing investigation and a motion for new trial. The motion has been denied. The attorneys are in agreement: ADA and Defense Counsel agree not to provide within a public forum. There is a lot of information to get through and there are concerns whether this is an executive session matter. We also want to provide the board with the opportunity to look at the complaint and the legislation.
 - 1. Adrienne – The decision might be of interest to the board.
 - 2. Lisa Kavanaugh – It seems that we would like to establish a committee in which they make recommendations to the full board. In the context of our work is there a way to approach this in which the defendant is protected. A member of the public doesn't need to review – uphold privacy rights.
 - 1. Adrienne states that a member of the public can retrieve those documents at the court house.
 - 2. The board should have the name of the defendant redacted to uphold privacy rights – redact case specific information.
 - 3. Lucy Davis – The documents that we received already have the defendant's name.
 - 4. Lucy – I did have time to look at the documents – there are documents that would be helpful that we don't have. Cross examination is not



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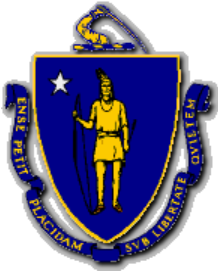
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provided in full. The complaint makes comment about attachments to the documents that are not there. There is a mention of an affidavit from Stephen Lincoln and scientific articles that are also not provided. We need the information regarding the scientific articles to make this complete.

1. Ira Gant – agrees that we need the information Lucy outlined. Agrees that the board should redact the defendant's name in public discussions. It's not difficult to redact in these PDF's. We are also going to run against victims' names in statutory law. The complaint is not regarding the defendant so it should be redacted.
 1. Lucy – Agrees that this a complaint regarding the science or scientific matter and the case information is not what we need.
 2. Rick – We do have Victim Rights that we need to uphold.
- b) U/S Collins: Whether this is a complaint that is pursuit to subsection D or negligence and misconduct we will discuss. We will turn it over to Ms. Roy but we ask that you withhold the name of the defendant and case. That we keep this on the scientific realm.
- c) Ms. Roy : Willing to turn over any documents that are needed and the peer reviewed papers. As far as the DNA report is concerned, she does not believe that it needs to be reviewed; all the scientific experts are in agreement. It is not essential to the concerns in this case. She urges the board to review the ruling to see what the judge relayed on how his decision was reached. I did not attach the ruling as I did not receive it until two days later. We do not have to reinvent the wheel; Texas has this process established and she urges the board to reach out to them.
 1. U/S Collins – If you could please sign the document that has the date and then send it back to Amy that would be helpful. The statute does contemplate that no less than 5 members need to be in agreement to move forward with an investigation. We will have a discussion on the complaint and then seek if a possible vote can be taken. Also hold a discussion if this needs to be under subsection D or if its under professional negligence.
- d) Ira Gant – Can we take a vote on the redaction of the defendant's name?
 1. U/S Collins : A vote on redaction of the defendant's name and the victim's name.



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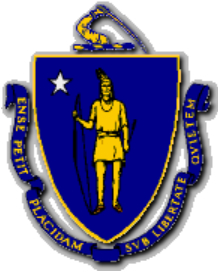
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- e) Robin Cotton: It would be helpful to have the references and the judge's decision then we can read them with the other documents.
 - f) Lucy Davis – I would like to ask Ms. Roy to get those sooner than later.
 - 1. Ms. Roy: If you could provide a list I can get those documents.
 - 1. U/S Collins: All information should be sent through Amy as she is the point of contact and Arielle is Board Counsel. Arielle where are we at for redactions and public records?
 - 1. Arielle: If the board redacts then that is the version that would be shared if there was a public record request.
 - 2. Lisa: I would also suggest that the docket number be redacted.
 - g) Ira Gant motions that the defendants name, victims name and docket number be redacted. Sabra, Robin, Rick, Gina, Cliff, AnnMarie, Lucy, Adrienne, Gabe, Ira vote in favor of the redactions.
 - 1. Motion carries. EOPSS will work on this and keep a master list of what has been redacted.
4. Legislative Process
- a) Tom Ashe who is the EOPSS Legislative director has joined to provide the board a sense of how the process carries out.
 - b) Tom Ashe: The Leg team monitors the legislation could impact all our agencies and serve as a liaison to the public between the secretariat and the agencies. The Board members are interested in the bill process. Here in MA members of the house and senate and any constitutional member can file as well. In addition, the legislator can file a bill on behalf of the member of the public. When can a bill be filed? Throughout the legislative session which is two years. There is also a filing deadline the third Wednesday in January then it is given a public hearing date. The bill is then referred to a subject matter joint subcommittee. After the referral period there is a public testimony period. It will then go for vote – if it sent to be studied further it is essentially "killed" and does not move further. There needs to be one agreed upon bill from both branches for it to move forward. Once the conference committee meets a report is presented for the bill, it can no longer be amended. The branches then vote and it is enacted and sent to the Governor's office. It can be signed and enacted int 90 days or can be vetoed entirely or in part. The Governor does have line-item vetoes and it goes back to the legislative bodies
 - 1. Anne Marie – I have a question about the later part of the process. After the three readings is that happening from February to July. So the first highlight would be from now to February 7th.



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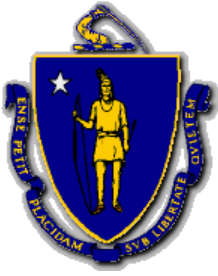
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1. Tom: Yes, before the Feb. 7th date is the time to extend support of a bill.
2. Anne Marie – We did submit written testimony for Familial DNA but there is no lateral bill since Ann stepped away. Are we to assume that it won't get the traction to move out of committee.
 1. Tom – Is it impossible? No, but it is more unlikely.
5. Bristol District Attorney's DNA Database
 - a) We received information from the ACLU and was distributed to the board.
 1. Lisa Kavanaugh – I apologize as I am not prepared to lead the discussion. I can walk folks through the information that we received. The ACLU was seeking requests whether the DA's have signed an MOU and whether any information was provided. Part of the response was so heavily redacted it was unsure what the context was. We know how an unredacted version and we have the content. None of the DA's that have signed the MOU have provided data. What makes sense as next steps and what does a reopened investigation look like. When we met in December, we recognized that there is a change in leadership, and we can revisit our recommendations to the Attorney General's office. We have not had a meeting since to discuss those aspects.
 2. U/S Collins – Does the ACLU want to make any further comment.
 1. Jessica Lewis – Staff Attorney at the ACLU – right now we do not have any information, but we will continue to share as we receive more.
 2. This may be a matter that the working committee meet again and see further what actions the board may want to take.
 3. Lisa – To the extent that the board is able to provide preliminary action we might want to do that today. It does sound like the Familial DNA amendments will not be moving. We did identify in some ways where the CODIS legislation needs to be amendments and the Bristol records response makes clear of that office that the actions do not violate the law. Is there enough agreement that we make explicit legislative reform or are we approaching the AG's office to further explore our initial recommendations.
 4. Robin Cotton – If the Familial bill is not going to move if there was going to be use of genealogy then those can be incorporated in the CODIS law. If the lab can form an opinion on if it is useful. I would like to hear from the Lab whether a YSTR Database useful, do they see a way to do so. And if it was legislatively useful then that is where it would belong.



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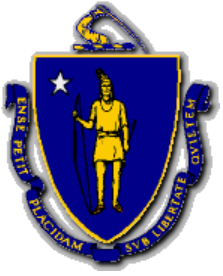
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5. Ann Marie – Separating out the statute requirements. Can we look at amending the policy for the lab as we realized the policy can be manipulated.
 1. U/S Collins: I ask that the subgroup work with Amy and Arielle for contacts at the lab.
6. Ira Gant – I would like their thoughts on doing so if it runs into the FBI's requirements run up against this. In Essex there was DNA pulled from a Y database and has been contested in court. I will discuss this further in topics not Reason.
7. Lisa – I am aware of the Essex Case and should we use this as an element in the discussion of the subcommittee. There are individuals that provided critiques that lead this to the suspect being tried for murder. I would like permission from the board to allow us to use this in the context of what can happen with the Bristol Database.
 1. U/S Collins – For the next meeting we can gather the documents for Essex and discuss it then.
 2. Ira – I do have copies that the Attorney has shared. I will redact and share both the redacted and unredacted versions with Amy and Arielle.
 3. The boards capacity is limited and what a joint committee with the labs would look like. What would the purpose of the joint committee be.
 1. Rick – the way it sets its standards, best practices documents, a joint committee would provide guidance and potentially model legislation.
 1. Kerry – The labs providing their stance on what they can and cannot do. We are looking for this working group to find more information on the YSTR database and familial DNA.
 4. Adrienne: I thought there were three issues. There are separate issues regarding CODIS – there are loopholes in the statute. CODIS, Familial DNA, and Bristol DA Database is three different issues. The corrective language to CODIS we should move forward with that.
 1. Lisa – Agrees and the hope with the reopened investigation can be focused on what are the steps that



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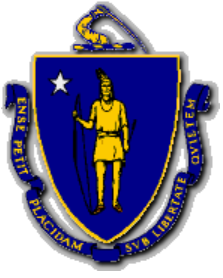
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we can take that will affect the existence of the Bristol DNA. IF we can close the loopholes in the CODIS legislation that is critical and there would be support in context of our report.

2. Possibly present on what this board can do in terms of the CODIS Statute.
5. Judge Gertner – the question of policy instead of legislation hasn't served us well. We need to re-examine the enforcement we have. We must move on both fronts at the same time. A subgroup for an amended statute, using Texas as a model. And a Bristol Committee. We must do better than just policy.
6. U/S Collins – if you are interested in serving on a Legislative subgroup for a legislative fix to our statute. There is nothing stopping members from reaching out to a legislator speaking for yourself as a member. If you are interested, please reach out to Amy. We can extend an invitation to CJ Reform
3. Social Law Library – Has a robust continuing education program but lacking in Forensic Science. We thought the first steps would be to do a class in the fall for the forensic science oversight board. It would be available to the legislators hopefully in the future. We covered a lot of territory in the Forensic Summit
 1. Adrienne – Last year there was a summit for CPCS and was asked to provide an overview of what we do. Not sure if the program the Law Library was looking at is an all-day but I had slides prepared. Talked about some loopholes and limitations of our authority was tested. I know the clerks are interested.
 1. Anne – the presentation would be 1-2 hours and run this short enough where legislators could be involved. Programing for the Court I think would be great to look at for 2025.
 1. U/S Collins – Letting Attorneys know what the board is and that they are available if there are concerns and inform them of how the board can look at complaints.
 2. Anne – We can highlight what we have done and what are going to do. We can also
6. Subsection Updates
7. Topics not reasonably anticipated within 48 hours
 - a) Adjourned 12:22pm



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