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Secretary

**Meeting Minutes**  
**Forensic Science Oversight Board**

**Location:** The McCormack Building  
One Ashburton Place, 2<sup>nd</sup> floor  
Somerset Conference Room  
Boston, MA 02108

**Date:** Thursday, June 6, 2019 from 10:00AM-2:00PM

**Members in Attendance:**

U/S Kerry Collins (Undersecretary for Forensic Science)  
Sabra Botch-Jones (Forensic Science Expertise)  
Dr. Robin Cotton (Forensic Laboratory Management 1)  
Lucy A. Davis (Clinical Quality Management Expertise)  
Dr. Itiel Dror (Cognitive Bias Expertise) – remote attendance  
Judge Nancy Gertner (New England Innocence Project)  
Anne Goldbach, Esq. (Committee for Public Counsel Services)  
Clifford Goodband (Expertise in Statistics 2)  
Gina Kwon (Nominee from Attorney General's Office)  
Adrienne Lynch, Esq. (MA District Attorneys Association)  
Dr. Ann Marie Mires (Academia, Research Involving Forensic Science)  
Professor Timothy Palmbach (Forensic Laboratory Management 2)  
Gina Papagiorgakis (Expertise in Statistics 1)

**Members Not in Attendance:**

Lisa Kavanaugh, Esq. (MA Association of Criminal Defense Lawyers)

The chair called the meeting to order at 10:01AM. A quorum was present.

**1. Minutes Approval**

No corrections.

**2. Audit**

**a. Accreditation Presentation (Lucy Davis)- PowerPoint provided**

**i. Additional Information:**

1. Onsite remediation is okay for small issues such as an inconsistent org chart. Onsite remediation will not be part of the official report but it will be noted.
2. Accrediting Body (AB) can make unscheduled onsite visits if necessary

- a. If the lead assessor goes into an accredited lab and sees something that causes grave concern, the lead assessor has the option of suspending accreditation onsite
3. On-site surveillance visits may occur when full re-assessments are not performed which only review a percentage of disciplines on the agency's scope.
4. Only ISO/IEC standards are copyrighted
5. On average it can take 12 months for forensic DNA analysts to complete training, much longer than the minimum 6 months because other staff have to be pulled from their work in order to train new analysts. The trainers cannot train full-time.

**ii. Discussion:**

1. Anne Goldbach asked if labs notify the AB if they suspend testing due to a major quality issue. They do and if they didn't the AB would find out anyhow. Additionally the AB will want to know details before suspension is lifted. AB is already constantly in communication with the lab.
2. Nancy Gertner asked about the relationship between Abs findings and a court case. If there is a finding of deficiency, are materials available to litigation? AB is an external body and is independent from the lab. Due to the strict confidentiality agreement that is signed, AB can't testify to certain questions unless the lab gives them permission to do so and can only step in and participate in a court case if the lab asks them to. Additionally, AB has a legal team that can answer legal questions.
3. Nancy Gertner also brought up that there are dual concerns because AB wants to make sure the lab is complying but what if the AB finds something bad that affects pending cases. If AB finds something wrong with a pending case, AB cannot speak to them directly but requires the lab to notify the parties involved in the case.
4. Nancy Gertner mentioned that NIST was trying to come up with more than just standards of calibration and wanted to get into issues of admissibility and validity. Lucy Davis clarified that NIST cannot issue standards because it is against their mandate, OSAC makes their standards and OSAC is housed by NIST. Nancy Gertner referenced an article that echoes her question, Lucy Davis clarified that NIST's research team were looking to research (not create standards) regarding admissibility issues. Robin Cotton added that the report isn't going to weigh in on admissibility issues, it will just summarize current status of what we know versus what we don't know. Nancy Gertner added that the "what we don't know" part bears on admissibility issues.
5. Itiel Dror stated that the board needs to decide what the criteria is before going to the lab. Lucy Davis supplemented that the board needs to determine if they accept the audit that the lab goes through and see if or what they can add. Adrienne Lynch added that it would not make sense to redo an audit of something that is accredited and audited. Anne Goldbach stated that the board can look at accreditation as one set of many factors and the board can supplement any other factors listed in the statute. She additionally added that the board has to do the MSP crime lab because it is a statutory requirement
6. Nancy Gertner suggested that the board decide if they are satisfied with the accreditation at the *end* of the audit. Dr. Dror stated that accreditation by itself is not sufficient and that the board should agree with what the board should do and what they would like to see regarding the audit – agree with how the envision a lab should be and then see what is covered by accreditation. Professor Timothy Palmbach disagreed and expressed that the board is not better equipped to audit in the way that ANAB does- ANAB is internationally accepted as a set of standards
7. Nancy Gertner clarified that Dr. Dror may not be suggesting to recreate the wheel. Dr. Dror agreed and stated that in terms of impartiality and bias,

ISO/IEC is not the best because it is too general and he expressed that he would like to present five things that needs to be looked at, at the lab. Nancy Gertner echoed his thoughts and added that the standards are at a level of generality and would like to see Dr. Dror's perspective. Lucy Davis agrees that the standards are limited when it comes to human factors

- b. **Statute specifically references the state crime lab, for this reason the board may consider starting with the MSP crime lab**
  - i. Itiel Dror stated that he understands and accepts starting with the MSP crime lab but he wants to make it clear that the board may be missing something major by focusing on only one segment. There are labs that are submitting analysis results to courts who may be unreliable and biased
  - ii. Anne Goldbach stated that the board should start with MSP crime lab and look at other labs later
- c. Anne Goldbach would like legal advice regarding the statutory construction, to question if the statute's 6 month limit means that the audit needs to be initiated within 6 months or if it needs to be completed within 6 months

### **3. Topics not Reasonably Anticipated within 48 Hours of the Meeting**

- a. The MSP crime lab has made their audit results available to the board. EOPSS also has the standards available. Both items may be unavailable to the public because they are copyrighted. If this is the case, the board may have to vote to go into executive session at the next meeting.
  - i. Sabra Botch Jones asked if the documents the lab made available to the board include nonconformities and they do.
  - ii. Robin Cotton asked if the documents the state crime lab submitted to ANAB with their application. It is unclear if that is included with the documents they provided.
  - iii. Robin Cotton stated that the board will benefit from looking at the crime lab documents and be in a better position to determine how to move forward the audit. She agreed with Timothy Palmbach regarding accreditation. Lucy Davis added that it will be beneficial if the lab provided the board with the quality manual and procedure manual (which is not copyrighted).
  - iv. The chair stated that EOPSS has not received word yet from ANAB regarding which documents are copyrighted and whether the board will have to go into executive session. EOPSS will keep the board posted.

### **4. Public Comment**

No public comment. A motion (Ann Marie Mires) to adjourn was made, seconded by (Sabra Botch Jones) and approved unanimously.