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Secretary

**Forensic Science Oversight Board (FSOB)**  
Meeting Minutes

**Scheduled:** September 24, 2021 10:00am-2:00pm, Microsoft Teams

**Members in Attendance:**

Chairwoman 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)  
Judge Nancy Gertner (New England Innocence Project)  
Anne Goldbach, Esq. (Committee for Public Counsel Services)  
Clifford Goodband (Expertise in Statistics 2)  
Lisa Kavanaugh, Esq. (MA Association of Criminal Defense Lawyers)  
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)  
Nancy Rothstein (Nominee from Attorney General's Office)

**Members Not in Attendance:**

Vacant seat (Cognitive Bias Expertise)

The chair called the meeting to order at 10:00 AM. A quorum was present.

**1. Minutes Approval**

- a. Approved.

**2. Subsection Updates**

- a. Subsection (d) Report (draft document available)
  - i. The FSOB discussed changes to the report including:
    1. Nomenclature suggestions and removing or spelling out acronyms.
    2. An introduction and executive summary were added to summarize the report's findings.
    3. Language added to distinguish confirmed information versus information that is inferred
      - a. N. Rothstein stated that anything guessing as to what could have been included in the grand jury subpoena should be removed because the FSOB's predictions are inaccurate. N. Gertner did not agree because it shows how much the FSOB has to infer and L. Kavanaugh noted that they inferred the information from the information received by the Massachusetts State Police Crime Lab (MSPCL).
    4. N. Rothstein discussed the recommendation that states that the *Attorney General should initiate a civil lawsuit under G.L. c. 66A to enjoin the Bristol District Attorney (DA) from unlawfully disseminating personal data* and the conclusion that the *Bristol DA's request*

*to procure and retain Y-STR reports for a purpose beyond that for which they were lawfully obtained in the first place, if not a Fourth Amendment or Art. 14 violation, could at least constitute FIPA and Privacy Act violations.* N. Rothstein expressed that Fair Information Practices Act (FIPA) is unclear as far as defining “personal data” and the exceptions to personal data are Criminal Offender Record Information (CORI) information and intelligence information. It is unclear if DNA data is considered CORI or intelligence information.

- a. The language was revised to reflect ambiguity. N. Rothstein expressed the need to take the report back to AGO.
5. L. Kavanaugh shared proposed amendments to the current 22e section 10 to include language to allow the MSPCL to set parameters around the release of data. Proposed changes would be under 10a to provide the MSPCL the power to limit the use of DNA data and prohibit the creation of an unregulated DNA database. The language will be included in the subsection (d) report.
  - a. The amendment in Bill S1595 does not propose to replace the current section 10 with a new one, it instead created a new subsection.
  - b. L. Kavanaugh expressed the need to communicate to the legislature this amendment. The FSOB is hoping that the legislature considers additional amendments to Bill S1595 to include the changes to 10a. A. Mires informed the board that the bill will go to a hearing and will receive recommendations.
6. L. Davis, A. Mires, N. Rothstein expressed a desire to remove the recommendation for the AGO to initiate a civil lawsuit.
  - a. N. Gertner suggested adding language to encourage the AGO to take action because the FSOB has no enforcement power and this is the only way to make the subsection (d) report credible.
7. C. Goodband expressed that the report’s recommendation amending the FSOB’s enabling statute to address the FSOB’s authority clouds the investigation and should be removed.
  - a. A. Goldbach suggested rewording the recommendation to task the FSOB with researching how to address the board’s enforcement power.
  - b. The recommendation was removed from the report.
8. The Use and Dissemination Agreement that was circulated to the FSOB in January 2021 was added to the exhibits.
9. A. Lynch and N. Rothstein asked for a bifurcated vote, one on the report and one on the conclusions/recommendations.
  - a. T. Palmbach motioned for a bifurcated vote, A. Mires seconded, the motion carried.
- ii. The report will be voted on in October.
- b. Subsection (c) (draft document available)
  - i. T. Palmbach gave a general overview of the supplemental report for the Springfield Police Department audit that was drafted and circulated.
    1. He expressed that the Springfield Police Department has improved many of its processes and is pleased with the way they are operating even though the department is understaffed and is lacking resources. He highlighted the changes that were evident in the second visit.
    2. T. Palmbach informed the FSOB that the department enlists the MSPCL’s help often. R. Cotton added that they have the philosophy, “if in doubt, call”.
    3. The working group will be going back in 6 months to review the changes that the department is expecting to adopt. The Springfield Police Department indicated they will be implementing new policies and procedures.
      - a. T. Palmbach and R. Cotton to draft a letter to Springfield Police Department to inform them of the follow-up visit.
      - b. The working group will consider the potential effects of Police Reform in the follow-up visit.

4. The FSOB commended the receptiveness of the Springfield Police Department and expressed the need to continue encouraging their progress.
    - ii. The FSOB discussed how the Springfield Police Department may be an indicator of how other unaccredited forensic units are operating.
      1. EOPSS to start documenting how to move forward with unaccredited police departments.
    - iii. T. Palmbach indicated the need to audit Worcester Police Department, an accredited mid-level laboratory, in the future.
    - iv. Boston Police Department audit will be discussed in October.
    - v. EOPSS to purchase the 17020 and 17025 ISO/IEC standards.
  - c. Subsections (i) and (e) groups will provide updates in October.
- 3. Missing Persons**
- a. A. Mires provided a Familial DNA Bill (S1595) update
    - i. Bill S1595 is currently with the Public Safety Committee. At the moment the hearing has not been scheduled.
    - ii. Legislative representative Lucas McDiarmid is working with A. Mires who is representing the FSOB and other stakeholders like Heather Bish.
    - iii. She shared a document with notes regarding the questions she asked Lucas McDiarmid and his responses.
  - b. A. Mires informed the FSOB that she was advised to appeal to the committee with constituents in their area that would be impacted by the bill (i.e. missing persons)
  - c. A. Mires provided an update on Missing Children's Day.
    - i. The Molly Bish center does an annual census using NamUs and Nation Center for Missing and Exploited Children (NCMEC) data for Missing Children's Day.
    - ii. She discussed the proposals that were discussed during the event such as the role of familial DNA in solving missing persons cases and the funding for a missing persons database.
    - iii. A. Mires asked if EOPSS could secure funding for a missing persons census while the FSOB advises the use of the funds under subsection (f) of the FSOB statute.
      1. She informed the FSOB that she reached out to Angela Davis, chair of the Missing Persons Task Force, on the next steps.
- 4. Topics Not Reasonably Anticipated Within 48 Hours of the Meeting**
- a. The next meeting is on October 22<sup>nd</sup>.
- 5. Public Comments**

Meeting adjourned at 1:50 PM.