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

**Friday, November 15, 2024**

***Via Microsoft Teams***

**I. Roll Call**

Forensic Science Oversight Board - Attendance		
Name	Present	Absent
Undersecretary Kerry Collins, Chair	X	
Sabra Jones, PhD	X**	
Dr. Robin Cotton	X	
Richard Lempert, PhD	X	
Gina Papagiorgakis		X
Dr. Ann Marie Mires	X	
Clifford Goodband	X	
Professor Timothy Palmbach	X****	
Lucy Davis	X*	
Adrienne Lynch, Esq.	X	
AAG Gabriel Thornton	X	
Ira Gant	X	
Lisa Kavanaugh, Esq.	X	
Justice Nancy Gertner	X***	
*Arrived at 11:51am ** Left at 2:30pm ***Left 11:05 returned ****Left at 2:30pm		

**II. Meeting Minutes**

Undersecretary Collins entertained a motion to approve the June meeting minutes. The board approved the minutes unanimously.

<b>June Meeting Minutes - Vote</b>		
<b>Name</b>	<b>Yes</b>	<b>No</b>
Undersecretary Kerry Collins, Chair	<b>N/A</b>	<b>N/A</b>
Sabra Jones, PhD	<b>X</b>	
Dr. Robin Cotton	<b>X</b>	
Richard Lempert, PhD	<b>X</b>	
Gina Papagiorgakis	<b>Absent</b>	<b>Absent</b>
Dr. Ann Marie Mires	<b>X</b>	
Clifford Goodband	<b>X</b>	
Professor Timothy Palmbach	<b>X</b>	
Lucy Davis	<b>X</b>	
Adrienne Lynch, Esq.	<b>X</b>	
AAG Gabriel Thornton	<b>X</b>	
Ira Gant	<b>X</b>	
Lisa Kavanaugh, Esq.	<b>X</b>	
Justice Nancy Gertner	<b>X</b>	

The board noted that the September meeting minutes still has a few items that need to be addressed and will recirculate the draft minutes for a vote at January meeting.

### **III. Springfield Audit**

Undersecretary Collins recognized Professor Palmbach and Dr. Cotton as the Board Members who led the audit of the Springfield Lab. The Undersecretary also acknowledged a minor drafting error on page 7, which Board Counsel will correct.

Professor Palmbach began the overview of the audit report to the board by noting that the Board cannot compare this audit report of the Springfield lab to the Board's previous audits of the Massachusetts State Police Crime Lab (MSPCL) or the Boston Police Department Crime Lab (BPDCL), as both MSPCL and BPDCL are larger, fully accredited labs. Springfield does not have the budget for all the training and certification that the larger labs do. Acknowledging that fact, Professor Palmbach noted that most of the comments in the audit report are positive.

Dr. Cotton concurred with Professor Palmbach's overview of the audit report. Dr. Cotton noted the improvement in quality assurance and further acknowledged that the report does not capture the progress that Springfield has made since the audit period. Dr. Cotton also identified that the lab's crime scene responsibilities are an important factor because staff are required to venture out to actual crime scenes, which has an impact on the lab's turnaround time, especially when there are periods of higher frequency of crimes. Dr. Cotton then acknowledged that staffing levels improved, and the lab has shown progress with staff proficiency tests. The Springfield lab has followed through with recommendations suggested by the Board and the auditors. The lab's budget was discussed further.

Despite the differences between this audit and past reports on larger labs, the Chair suggested that this audit could serve as a model for labs of similar size. The division of operations between local labs and MSPCL was discussed. The Board also discussed the appropriateness of adding additional recommendations and standards to the audit, such as blind verifications. The Board's role as defined in

statute was discussed, specifically as it pertains to the Board following up on a given lab's adoption of the Board's recommendations. The potential consequences of the lab's quality of work on criminal prosecutions was also discussed, along with a desire by some members to evaluate transcripts of testimony from lab employees in criminal trials. The Board discussed balancing the operational responsibilities of the Board to do so while also moving ahead with audits of the approximately 180 law enforcement agencies who informed the Board that they test latent fingerprints.

It was noted that this report is designated as a preliminary report, or "Status Assessment Report", which could serve as the model for future audits of smaller law enforcement agencies, however, the vote to accept the report was tabled until the January meeting to ensure time to discuss open questions, such as the extent to which the Board should recommend or require blind verification.

#### **IV. Social Law Library**

Undersecretary Collins acknowledged the work that Anne Goldbach and her team had done for the Social Law Library. Ms. Goldbach presented the agenda for an upcoming webinar hosted by the Social Law Library, and noted that the panelists are meeting with Senator Brownsberger to discuss forensic science legislation. Undersecretary Collins then put the topic of the Board's mandate and the Board's ability to carry out that mandate before the Board to discuss, using the resources utilized for the Springfield audit as an example. Undersecretary Collins suggested that the Board's responsibility is primarily to educate on best practices in forensic science as opposed to opining on a specific case. The Board discussed the feasibility of transcript reviews like those done by the Texas equivalent of the FSOB, as shown in the report on the Tiffany Roy complaint. Concerns about the implications of doing case reviews such as the Roy example were discussed. This evolved into conversations about certification and the board being proactive as opposed to reactive. The board also reviewed the draft revisions to M.G.L. Chapter 22E which the Board wished to discuss at the Social Law Library webinar. Considerations of the Open Meeting Law if Board members wished to attend that webinar were made by Board Counsel. The Board agreed to set aside the Chapter 22E discussion until the January meeting and for members to submit any suggestions before then.



22E Revisions No  
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#### **V. BORIM Complaint**

The chair moved on to the topic of the complaint referred to the Board by BORIM. Sabra Jones had alerted the Board to the involvement she had with this complaint in an outside capacity. As a Board member, she was allowed to listen in, but she acknowledged that if the Board wished to take up the complaint, she would discuss with the Ethics Board. The FSOB determined that the complaint was not something that it should pursue further because it pertains to the medical determination of cause of death, and the Board does not have anyone with the qualifications of a medical doctor or pathologist. The scientific technique is not in question, and it is not the proper forum for this complaint. The Board discussed how the OCME is not under the FSOB's purview.

#### Public Comment:

Mark Adams rose to provide public comment. He agreed with the Board about the toxicology reports, but believed that the OCME made an erroneous finding and is not being held accountable. He also believed that the OCME and BORIM did not review a 120 page report on the case. He noted that other experts had reviewed the case, including Dr. Wayne Jones and Dr. Barry Logan, as well as Barbara Wolfe, the chairperson that oversees the Boston BORIM office. He believes that the OCME made a mistake. Mark Adams was then muted at the discretion of the Chair. The Chair then explained to the Board and members of the public of the expectations during public comment. Chair Collins then suggested that the Board could vote to initiate an investigation under subsection (d) if they wished, to which one Board member responded by suggesting to discuss further at the next meeting. Lucy Davis joined the call. The Board adjourned for lunch at 12:20.

#### **VI. Break 12:20 – 1:00pm**

#### **VII. Subsection G**

Undersecretary Collins began the meeting again at 1:00pm. She recognized members Lucy Davis and Dr. Mires and explained what subsection (g) entails. Ms. Davis and Dr. Mires presented on what they found regarding licensing, accreditation, and certification. Texas was used as an example of a licensing test. The certification bodies American Board of Criminalistics and International Assistance of Identification (IAI) cover forensic science disciplines, setting requirements for continuing education and the like. Executive Office of Public Safety (EOPSS) staff could possibly track how many forensic laboratory staff in the state are certified. Ms. Davis and Dr. Mires noted how the Board needs to have a full discussion on setting a certification test and the extent to which labs should be supporting staff getting certified. The goal of having full accreditation in the state was recommended. For smaller agencies, the fact that there are certifications limited to fingerprinting was discussed. Professionals from out of state were identified as being outside the scope of the Board's enabling statute. Currently the Board does not have the authority to require certification or licensing. Ms. Davis and Dr. Mires agreed to take the Board's discussion points into consideration when finalizing the draft report on subsection (g) for a vote in January.

#### **VIII. BPDCL Audit Update**

Cliff Goodband discussed the status of the BPDCL audit follow-up, noting that some facts were still being verified with the lab, and that all the issues raised by Councilor Flynn's request for an investigation are outside of the lab's control. The Board suggested inviting Councilor Flynn to the next meeting to discuss any remaining concerns, and to encourage BPDCL to follow-up with him.

#### **IX. Essex Complaint**

Attorney Lynch gave an update on the Board's inquiry into YSTR data use in investigations. Subject matter experts gave her examples of jurisdictions that have implemented YSTR into their forensic investigations and the ethical and methodological considerations involved in doing so. Attorney Lynch will complete a report on the subject for the Board to use in developing recommendations on the topic for the state.

Undersecretary Collins acknowledged a request in the chat to record the meeting. She denied the request, but did note that the Board has discussed the subject before and is continuing to review.

The Board then discussed the merits of opting to speak on the methods used in a particular case as opposed to forensic YSTR investigations generally. The Board discussed the need for guardrails and limits on the use of YSTR searches due to the privacy considerations.

The Board then returned to discussing a particular case, and the legal strategy of calling a law enforcement officer to testify to the YSTR results as opposed to an expert. The limitations of the YSTR searches, such as the fact that it may not be free from error, were also discussed. The Board will put together a report on this subject to report out to the public, which will include guidance on investigations and presentations of that evidence in a criminal trial.

#### **X. T. Roy Complaint**

Attorney Kavanaugh then began the discussion of the Tiffany Roy complaint. The similarities between the Roy complaint filed in Texas and the complaint submitted to the board regarding a multi-day evidentiary hearing in a homicide trial in Suffolk County were acknowledged. The main similarity is that the forensic science question hinged upon the method of DNA transfer, not the accuracy of the identification constructed from the DNA. The Texas equivalent of the FSOB had published a report in July with extensive findings on the subject.

While the Board recognized that they do not have the operational capacity that their Texas equivalent does, the Texas report raised important questions about the transfer of DNA. The Board discussed their ability to provide guidance on the subject. The Board also discussed reaching out to the Texas Commission to share information about their process. The potential for the Board to report out on significant cases like this was floated, and the differences between such a report and a subsection (g) report were identified.

Undersecretary Collins solicited any further comments on the subject, and Ms. Tiffany Roy raised her hand. Ms. Roy was recognized by the Board and offered comments on the details of the Texas case, as she had written the chapter in the Texas Commission report that was being discussed earlier in the meeting. She recommended that the Board be careful in selecting experts to solicit opinions on this subject. Ms. Roy introduced her “hierarchy of propositions” in these cases, which the Board expressed some interest in, and the Chair commented that that chapter would be re-circulated.

The Board further responded to Ms. Roy by informing her that the Board does try to take care in selecting experts that they are reaching out to for education on a subject or particular case, and that when they do so they try to avoid relying on the experts involved in the particular case.

The chair announced that an additional member of the public had expressed an interest in commenting on this issue, Attorney Belcher. Undersecretary Collins further expressed that the Board wishes to be able to provide as much advance notice of upcoming Board meetings as possible, to allow for any member of the public to be able to attend.

#### **XI. Topics not reasonably anticipated within 48 hours**

Undersecretary Collins then solicited any additional comments or topics from the Board which were not reasonably anticipated. Dr. Mires noted that she wanted to put the BORIM complaint on for further discussion in the January meeting. Lisa Kavanaugh also brought the Board's attention to the nomination of Attorney Gant to the Superior Court. The Board congratulated Attorney Gant, who acknowledged that they could no longer serve as CPCS' designee to the Board. Undersecretary Collins shared that she would be attending the National Forensic Science Oversight Board meeting next week in Albany.

#### **XII. Public Comment**

Undersecretary Collins moved the Board on to the final agenda item, public comment. Before opening the floor, Undersecretary Collins suggested to the Board that a public comment period after each presentation may make sense.

The Board also discussed suggestions made to the June minutes; after some conversation the Board asked the members wishing to comment to submit their comments in writing to clear up any confusion.

Ms. Roy then gave her comments, which were regarding conversations that she had with a Boston Globe reporter regarding the Kushneric/Joy case. Ms. Roy claims to be involved with a similar case in Colorado and wished to convey the concerns that the reporter and her shared about the ability of forensic agencies to investigate themselves.

#### **XIII. Adjourn**

Undersecretary Collins entertained a motion to adjourn, which all members present voted in favor of. The meeting adjourned at 2:23.