

CURRENT DFS QUALITY SYSTEM AND THE DUTY TO CORRECT

An Update on the Mary Jane Burton Project

October 22, 2024

Linda C. Jackson, Director





Historical Testing and Records

- Conventional serology testing (1972-1994)
 - Blood, enzyme and secretion typing
- No formal Procedures Manuals
- No Accreditation for forensic labs until 1982 (DFS accredited in 1989)
 - Predates QA documents, external proficiency testing programs, method validation, technical reviews
- Serology testing can not identify an individual to the exclusion of all others

	(14) Item 98	(15) Item 10	(16) 12 Control	(17) 13 Item 11
SENZIDINE TEST	+	+	-	+
PHENOPHTHALEIN TEST	+	+	-	+
PRECIPITIN TEST	+	+	-	+
<i>H_p</i>	2-1	2-1		2-1
A - C	+	+	-	+
B - D	-	-	+	-
H - E	+	+	+	+
M - C			+	+



CERTIFICATE OF ACCREDITATION

The ANSI National Accreditation Board

Hereby attests that

**Virginia Department of Forensic Science
Crime Laboratory System**

Fulfills the requirements of

ISO/IEC 17025:2017

Accreditation Requirements for Forensic Testing and Calibration (2023)

FBI Quality Assurance Standards for Forensic DNA Testing Laboratories:2020


FBI Quality Assurance Standards for DNA Databasing Laboratories:2020

In the field of

Forensic Testing & Calibration

This certificate is valid only when accompanied by a current scope of accreditation document.

The current scopes of accreditation can be verified at www.anab.org.


Pamela L. Sale, Vice President, Forensics



Expiry Date: 30 September 2026

Certificate Numbers:

FT-0051

FT-0052

FT-0053

FT-0054

FC-0004



Accreditation

- Originally accredited by ASCLD/LAB in 1989
- ANAB - ISO/IEC 17025:2017 and AR 3125
- ANAB Accreditation
 - Renewed on August 24, 2022
 - Reaffirmed on September 16, 2024
 - Expires September 30, 2026
- Updated Certificates and Scopes are available on the DFS website: <https://www.dfs.virginia.gov/about-dfs/accreditation/accreditation-documentation/>



Quality Management System

- Statement of Quality Policy
- Document Control
- Personnel and Training
- Service to the Customer
- Evidence Handling
- Records and Case Files
- Reagents, Equipment & Supplies
- Reporting
- Technical & Administrative Review
- Nonconforming Work & Corrective Actions
- Complaints
- Continuous Improvement - Risk Management
- Audits & Management Review
- Testimony Monitoring
- Facilities, Security & Safety
- Proficiency Testing



DFS Quality System Documents

- Quality Manual
- Section Technical Procedures Manuals
- Section Training Manuals
- Code of Professional Responsibility and Ethics
- Safety Manual
- Administrative Policies and Procedures (General, IT, HR, Fiscal/Procurement, Regional Operating Procedures)
- Forms and Worksheets

<https://dfs.virginia.gov/documentation-publications/manuals/>



Records and Case Files

- Examination documentation must contain sufficient detail to allow another examiner, in the absence of the initial examiner, to evaluate the data and interpret the data that was the basis for the conclusion.
- Examination Documentation includes:
 - tests conducted
 - standards and controls used
 - diagrams, printouts, and photographs
 - spectra or chromatograms
 - observations
 - handwritten notes
 - other material used by the examiner to reach a conclusion



Records and Case Files

- Notes shall be made contemporaneously of a permanent nature (e.g., ink)
- When handwritten corrections are necessary, the text shall be crossed out, not erased, made illegible or obliterated
- Changes, alterations and additional notations, including interlineations shall be initialed by the person making the change
- Some disciplines utilize electronic notes

Evidence Description	Insert "S pkging c/" or "S pkging w/c"
Cont. # / Item #	
1/1	one sealed plastic bag c/one zip bag c/one paper packet c/tan
the Rlw	crystalline mat



Complaints

- Quality Manual (QM), Section 9 - Complaint procedure
- Nature of the Complaint
 1. Quality Inquiry
 - Employees encouraged to bring to the attention of appropriate individual as soon as practicable
 2. Case examination nonconformity
 - Corrective Action Process (QM, Section 10)
 3. Ethical violation, professional negligence, or professional misconduct
 - Director will review and make determination; may assign an internal team to investigate, refer to SAC, FSB, OSIG, VSP, or take other appropriate action
 - Notifications made as appropriate

Scientific Advisory Committee (SAC) Referral



- July 2023 – Received documents from podcasters
- August 18, 2023 – Referred review to SAC
- SAC Chair created a Review Subcommittee
- SAC Review Subcommittee met on October 10, 2023, January 9, 2024, and April 8, 2024
- Based on the information reviewed and additional information provided by DFS, the Subcommittee directed DFS to make notifications
- DFS agreed that the appropriate action was to notify and offer testing as part of our laboratory's duty to correct.



Information Source Meetings

- VSCC and DFS meetings with information sources:
 - Commonwealth's Attorneys' Services Council (CASC)—4/14
 - Virginia Sheriffs' Association (VSA)—4/25
 - Virginia Association of Chiefs of Police (VACP)—5/28
 - Virginia Court Clerks Association (VCCA)—5/30
- Follow ups were provided by DFS at the CASC Summer Conference (8/3) and VACP conference (8/27). It was also on the agenda for DFS' Forensic Science Academy Alumni Association Annual Retraining Seminar (9/4).



Law Enforcement Notifications

- 6/4—DFS emailed Law Enforcement (LE) through VACP, VSA and CASC regarding the mailing of the LE Notifications.
- 6/12—DFS mailed notification letters to 174 law enforcement agencies and 125 localities. The notifications included:
 - a list of affected cases for each agency/locality, and
 - copies of the Certificates of Analysis prepared by MJB.
- Cases were highlighted where DFS received information from VSCC that the individual may potentially be incarcerated on an MJB case.





Responses to LE Notifications

- Information regarding convictions is being returned from law enforcement agencies, Commonwealth's Attorneys and Clerks of Court (not included but some CAs are working in conjunction with them).
- Responses have been received from 31 jurisdictions, either from the Commonwealth's Attorney or the law enforcement agency, or both. Some provided information immediately on potentially incarcerated individuals, and I anticipate a follow up response for the rest of the cases.
- DFS will do a follow up email through CASC, VACP, and VSA to remind the agencies about the need for responses even if it is to tell us that there are no records found or the individuals are deceased.



Additional PC Testing

- Three files have been identified that should have been included in the original PC Project.
- Currently being examined and results will be disseminated, as they were in the original PC Project, as soon as they are available.

	(17) stem 2	(18) stem 3	(19) stem 4	(20) stem 5	(21) stem 7	(22) stem 8	(23) stem 9	(24) stem 10	<i>Red 15 Lab</i>	
BENZIDINE TEST	+	+	+	+	+	+	+	+		
PHENOPHTHALEIN TEST	+	+	+	+	+	+	+	+		
PRECIPITIN TEST	+	+	+	+	+	+	+	+		
A - C	-	-	-	+	+	+	-	+	+	
B - D	+	+	+	+	+	+	+	+	+	
H - E	+	+	+	+	+	+	+	+	+	
H - c			+	+	+	+	+	+	+	
H - e			+	+	+	+	+	+	+	
CONCLUSIONS FROM ABOVE	Swabs and cuttings									
A - C										
B - D										
H - E										
H - c										
H - e										

Handwritten notes on the right side of the table:
AK-6L
DATE 6-22-74
73-
[Redacted]



Inmate Notifications

- On 8/2, VSCC shared with DFS the final spreadsheet of “potentially incarcerated” individuals for purpose of sending out notifications.
- DFS staff worked along with VSCC to verify convictions before sending notifications to potentially affected individuals.
- Sixteen (16) cases have been removed from the spreadsheet because the individual was not convicted of that offense, or we have been notified that they are deceased.
- DFS has been able to verify convictions, with the assistance of CAs’ Offices and VSCC, in 76 cases (66 individuals).



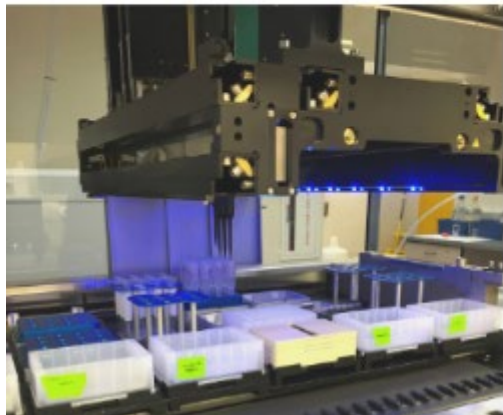
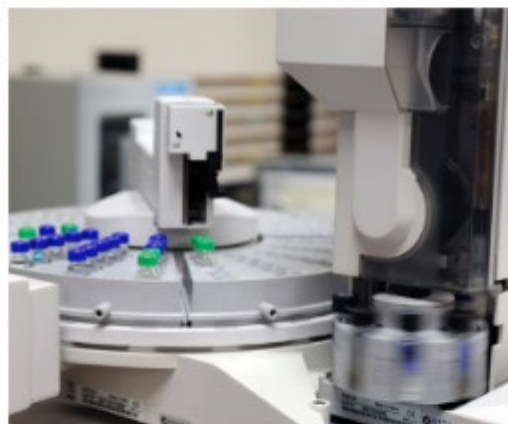
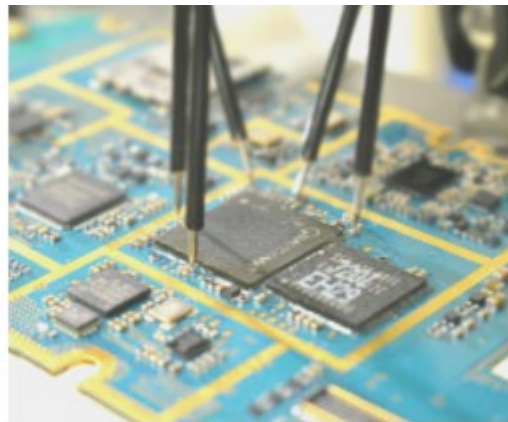
Inmate Notifications

- DFS sent out a notification regarding the review through the inmates' tablets by the Department of Corrections (sent on 8/23/24).
- So far, DFS has received letters from 28 inmates. Six individuals have been added to the review based on their inquiries. DFS has determined that 20 inmates who made inquiries actually do not qualify. The remaining 2 inmates require some additional research.
- DFS anticipates receiving more inquiries.



Next Steps

- As DFS continues to identify those that have been convicted, we will begin the process of locating that individual and sending a notification letter.
- The DFS letter will be similar to the letter sent to incarcerated individuals with the noted exception that, should the individual desire further legal advice, they should contact an attorney of their choosing.
- DFS remains committed to offering DNA testing for affected individuals if agreed to by the parties or ordered by the courts.
- MAIP has indicated that they will review exonerated and executed individuals.



Thank you!