

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
DEPARTMENT OF FORENSIC SCIENCES**



**Public Roundtable on PR22-1002, the “Department of Forensic Sciences  
Science Advisory Board Rulemaking Approval Resolution of 2018”**

Testimony of  
Dr. Jenifer Smith  
Director

Before the  
Committee on the Judiciary & Public Safety  
Council of the District of Columbia  
The Honorable Charles Allen, Chairperson

John A. Wilson Building  
Room 123  
1350 Pennsylvania Avenue, NW  
Washington, DC 20004  
November 29, 2018  
12:00 p.m.

Good afternoon, Chairperson Allen, members of the Committee, and Committee staff. I am Dr. Jenifer Smith, the Director of the Department of Forensic Sciences (“DFS”). I greatly appreciate being given the opportunity to testify before you today regarding PR22-1002, the “Department of Forensic Sciences Science Advisory Board Rulemaking Approval Resolution of 2018.” The measure would approve the DFS promulgation of rulemaking related to the Science Advisory Board (“SAB”).

On October 6, 2017, DFS issued a notice of proposed rulemaking intended to clearly define the roles and responsibilities of the SAB, as well as the reporting requirements and complaint process for DFS.<sup>1</sup> First discussed in the SAB June 2015 meeting, and discussed with the SAB in 9 separate meetings thereafter,<sup>2</sup> these proposed regulations are the culmination of more than three years’ cooperation among the SAB, DFS, and its stakeholders.<sup>3</sup> In brief summary, the regulations:

- Describe the DFS mission statement and the role of the SAB therein;
- Provide greater detail regarding the public dissemination of DFS’s Annual Report;
- Provide term limits for SAB chairpersons; and
- Put forth a system through which complaints, including allegations of professional negligence, misconduct, misidentification, or other testing errors, are processed.

Presented to the SAB in detail on January 13, 2017, the single largest component of the proposed regulations concerns DFS’s processing of any complaints we might receive from outside the agency. These include complaints brought forward by stakeholder agencies, members of the bar,

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<sup>1</sup> This authority was delegated to DFS Director Dr. Jenifer Smith on May 25, 2017, by way of Mayor’s Order 2017-132.

<sup>2</sup> These proposed regulations were discussed at the following SAB meetings: June 2015, January 2016, April 2016, July 2016, October 2016, January 2017, April 2017, July 2017, October 2017, and October 2018.

<sup>3</sup> The DFS General Counsel personally invited select stakeholders (The Office of the Attorney General for the District of Columbia, the United States Attorney’s Office for the District of Columbia and the Public Defender Service for the District of Columbia) to attend these SAB meetings on: January 3, 2017, April 14, 2017, June 22, 2017, October 6, 2017, December 18, 2017, April 26, 2018, and October 3, 2018.



non-governmental organizations with an interest in the administration of the criminal justice system, and our ultimate stakeholder - the public at large.

The Department of Forensic Sciences Establishment Act places *quality* first in its recitation of DFS’s responsibilities to its stakeholders,<sup>4</sup> and it is with this focus in mind that we receive and process outside complaints. At DFS, we require all external complaints to be documented in a standard form available to the public on the agency’s website; we require all complaints to be immediately reviewed and investigated by the DFS General Counsel and the Deputy Director; and we require all investigations to be reported to the SAB.

Complaints warranting more substantial cooperation with the SAB - specifically, those complaints which contain allegations of professional negligence, misconduct, misidentification, or other testing errors - generate a Quality Corrective Action Report (“QCAR”) and are immediately forwarded to the SAB along with a written description of the investigation and a copy of the QCAR intended to resolve the underlying issue. The SAB then responds to the QCAR with any relevant recommendations or advice for the agency. Upon receipt of those recommendations, DFS is given 90 days to determine whether to adopt or reject each recommendation, or to investigate the complaint further, and DFS must report this determination to the SAB at its next quarterly meeting.

The procedure has functioned well in practice, allowing DFS quickly and efficiently to identify complaints within the scope of the SAB’s expertise, to gather and compile any relevant evidence and information, and to deliver a complete complaint package for SAB review. This procedure preserves the SAB’s valuable resources for only those complaints bearing on the

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<sup>4</sup> DC Official Code § 5-1501.02(b).



science of DFS’s work and ensures that every such complaint is properly documented, reviewed, and responded to in a way that maximizes the quality, timeliness, accuracy, and reliability of the forensic science services we provide.

To be clear, all of these functions are already in place and operational at DFS. However, Mayor Bowser and DFS are committed to full transparency with regard to agency processes and practices. The Executive promulgated this rulemaking in order to ensure that the public understood the SAB functions and had an opportunity to provide input. During the public comment period, we received only one comment, which was technical in nature and related to correcting a District of Columbia Municipal Regulations (“DCMR”) citation error.

In closing, I would like to thank all DFS employees for their support in ensuring the agency maintains a *quality* culture, reliably adheres to the current best practices in each of our various scientific disciplines, and remains at all times receptive to any questions or concerns from the community we serve. I would like to thank the SAB members for their tireless commitment to serving the people of the District of Columbia and sharing their valuable professional, technical, and scientific expertise in this volunteer capacity. Finally, I would like to thank the Council, the Committee on the Judiciary & Public Safety, and you, Chairperson Allen, for your partnership to support the agency’s exemplary performance.

Thank you for the opportunity to testify today. I look forward to answering any questions you may have at this time.

