
D.C. Forensics Lab Fails to Achieve Independence

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A report by the Office of the District of Columbia Auditor



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Executive Summary

Why ODCA Did This Audit

ODCA conducted this discretionary audit of the Department of Forensic Sciences (DFS) to examine the intent and provisions of the legislation that authorized an independent forensic laboratory and to assess compliance with the law.

What ODCA Found

The D.C. Council created the Science Advisory Board (SAB) to provide oversight of DFS and support the laboratory's independence. However, ODCA found that the D.C. Council:

- Did not require resources and staff commensurate with overseeing a fully independent laboratory.
- Approved regulations that contradicted the intent of the authorizing statute.
- ODCA found that the Stakeholder Council, chaired by the Deputy Mayor for Public Safety and Justice, did not operate as envisioned by law. Stakeholder Council meeting requirements were not met and issues affecting DFS delivery of forensic science services were not discussed and resolved.
- Key DFS customers on the Stakeholder Council—the United States Attorney for the District of Columbia and the Attorney General for the District of Columbia—bypassed DFS processes and conducted unilateral investigations to address their issues without regard for the process established in District laws and regulations for DFS and SAB to handle the investigation of complaints. These unilateral investigations undermined the independence of the agency.
- DFS did not effectively manage its processes and relationship with customers, or comply with regulations, DFS policies and procedures, and industry standards to promote transparency and public trust in its delivery of forensic evidence.

What ODCA Recommends

ELECTED OFFICIALS SHOULD:

- Amend the code to require the provision of staff support, as well as clear authority for access to laboratory records to enable the SAB to perform its oversight functions.
- Allocate sufficient resources during the annual budget process for the SAB to perform its oversight functions.

THE EXECUTIVE SHOULD:

- Develop policies and procedures for preparing Stakeholder Council agendas and action items.
- Ensure that DFS leadership fosters and maintains agency independence by:
 - » Improving and maintaining communication with its customers.
 - » Monitor and assist DFS in resolving serious disagreements with customers including USAO-DC and OAG.
- The D.C. Council should require DFS to rewrite regulations to conform with D.C. Code and ensure that the SAB receives all allegations of professional negligence, misconduct, or any testing error including internal and external complaints.

DFS SHOULD:

- Provide training for management on effective customer service
- Implement procedures for monitoring and maintaining the email account for receiving complaints.
- Record any allegation of misconduct as a complaint, investigate in accordance with policies and procedures, and immediately report it to the SAB.

Background

The Department of Forensic Sciences (DFS) was the first independent forensic agency created after the 2009 report from the National Research Council of the National Academies of Science, *Strengthening Forensic Science in the US: A Path Forward*. DFS was established by the “Department of Forensic Science Act of 2011” by the District of Columbia Council and became operational as an agency on October 1, 2012. The mission of DFS is to produce high quality, timely, accurate, and reliable forensic science using best practices and best available technology; a focus on unbiased science and transparency; and the goal of enhancing public safety.¹ Prior to the creation of DFS, the D.C. Crime Laboratory operated as part of the Metropolitan Police Department (MPD) and was not considered independent because it was part of law enforcement.

DFS provides science services upon request to District agencies, including MPD, the Office of the Chief Medical Examiner (OCME), the OAG, the Department of Health (DC Health), and the Fire and Emergency Medical Services Department (FEMS), and to the USAO-DC, as well as other law enforcement and investigative agencies. DFS has three divisions which include the Forensic Science Laboratory, Public Health Laboratory, and Crime Scene Sciences. The Forensic Science Laboratory division collects, examines, analyzes, and reports on physical evidence submitted in criminal cases, including DNA, fingerprints, firearms, materials, and digital evidence. The Forensic Science Laboratory is comprised of four units: Forensic Biology, Firearms and Toolmarks Examination, Fingerprint Analysis, and Digital Evidence. DFS also provides expert witness testimony in defense of their analytical reports in District courts of law.

Pursuant to the Home Rule Act, the District does not have local control of its criminal and civil courts.² As a result, the USAO is responsible for prosecuting certain local crimes from misdemeanor drug possession cases to felony murders, and federal crimes including child pornography, gangs, financial fraud, and terrorism. The OAG is the chief juvenile prosecutor for the District and also prosecutes certain adult misdemeanors.

In creating DFS as an independent laboratory, the Council established two advisory bodies, the Science Advisory Board and the Stakeholder Council. The legislative intent in creating the two advisory bodies was to review DFS standards and protocols and recommend changes based on scientific advancements, and to assess the responsiveness of the Department.

D.C. Code³ requires DFS to promulgate training manuals and standard operating procedures for its laboratories and be accredited⁴ by a nationally recognized accrediting body. In October 2013, thirteen (13) months after DFS became operational, the DFS Forensics Science Laboratory (FSL) units received

1 DFS Website - <https://dfs.dc.gov/page/about-dfs> (last visited 12/10/21).

2 District of Columbia Home Rule Act, Public Law 93-198, December 24, 1973.

3 D.C. Code § 5-1501.04

4 Accreditation: A process by which an authoritative body gives formal recognition that an entity is competent to carry out specific tasks. [FSL QAM, pg 6/72]

accreditation from the American National Standards Institute (ANSI) and the ANSI National Accreditation Board⁵ (ANAB).

DFS's accreditation has been suspended twice since its initial accreditation in 2013. The first suspension occurred in 2015 when ANAB suspended DNA testing within the DFS's Forensic Biology Unit until all nonconformities were resolved. In the second suspension, which occurred in 2021, ANAB cited what it deemed to be credible evidence of DFS deliberately concealing information from ANAB, violating accreditation requirements, engaging in misrepresentation and fraudulent behavior, and engaging in conduct that brings ANAB into disrepute. Subsequently, in April 2021, ANAB withdrew accreditations of all DFS forensics units.

5 The ANSI National Accreditation Board (ANAB) is a non-governmental organization that provides accreditation services and training to public and private-sector organizations, serving the global marketplace. ANAB is the largest accreditation body in North America and provides services in more than 75 countries. [ANAB website pg 1]

Objectives, Scope, and Methodology

Objectives

The objectives of this audit were to:

- Determine whether the reporting, handling, and resolution of allegations of professional negligence, misconduct, and testing errors at the D.C. Department of Forensic Sciences complied with the requirements of Title 5, Chapter 15 of the D.C. Code and industry standards and the nature and extent of the compliance.
- Determine whether recent actions, investigations, and oversight of DFS complied with the authorizing statute's goal of maintaining an independent forensic laboratory.

Scope

The scope of this report is January 1, 2018, to December 31, 2021. This is a legislative compliance audit and did not attempt to address the science, practices, and broader DFS leadership concerns. We note that these additional issues are addressed in the SNA report,⁶ and USAO court filings.

Methodology

To conduct this audit, ODCA interviewed current and former DFS officials, current and former SAB members, representatives of the agencies that are members of the Stakeholder Council, including USAO, OAG, Public Defender Service for the District of Columbia (DCPDS), and former MPD Chief Peter Newsham (former Stakeholder Council member). We also interviewed community leaders consulted in drafting the legislation, including former representatives of the Council for Court Excellence and Federal City Council, and representatives from the Innocence Project, a former Director of the Virginia Department of Forensic Science, and current President and CEO of the Houston Forensic Science Center for their perspectives on the issues of laboratory independence.

To understand the authorizing statute creating DFS as an independent forensics agency and its intent, we reviewed D.C. Code and examined the report on the legislation by the D.C. Council's Committee on the Judiciary and Public Safety. We also reviewed the District of Columbia Municipal Regulation (DCMR) and examined the report on the regulation by the D.C. Council's Committee on the Judiciary and Public Safety to understand the regulations written to implement the statute authorizing DFS.

To get a perspective on the creation of DFS as an independent laboratory, we reviewed the 2009 report from the National Research Council of the National Academies of Science, *Strengthening Forensic Science in the United States: A Path Forward*.

We reviewed DFS processes, policies, and procedures. Specifically, we analyzed the process for handling complaints containing allegations of negligence, misconduct, or misidentification or other testing errors. We obtained and analyzed all complaints received during the scope of the audit for compliance with policies and

6 SNA International audit: DC Department of Forensic Sciences Laboratory Assessment Report (December 8, 2021), <https://dfs.dc.gov/sites/default/files/dc/sites/dfs/publication/attachments/DFS%20Forensic%20Laboratory%20Assessment%20Report.pdf>

procedures. To determine the operating effectiveness of the SAB and Stakeholder Council, we obtained and reviewed meeting records, including meeting schedules, attendance logs, and meeting minutes.

We researched four⁷ independent forensic laboratories in other jurisdictions to understand how their oversight boards are resourced. We interviewed Dr. Peter Stout, CEO and President of the Houston Forensic Science Center (HFSC) to understand how HFSC works with its board, including the level of access to laboratory records and resources dedicated to the board. We also obtained information from Virginia, Texas, and Delaware to understand the relationship between those laboratories and their oversight boards.

We reviewed the National Institute of Justice's Forensic Technology Center of Excellence (FTCoE) report for a survey on funding forensic laboratory oversight bodies.

This report was drafted, reviewed, and approved in accordance with the standards outlined in ODCA's Policies and Procedures.

7 Houston Forensic Science Center, Virginia Forensic Science laboratory, Texas Forensic laboratory and Delaware Forensic laboratory.

Audit Results

The authorizing statute creating an independent forensics agency failed to require resources and staff support commensurate with the role expected to be played by the Science Advisory Board (SAB). As a result, the SAB failed to provide the intended oversight of DFS.

Pursuant to D.C. Code,⁸ the D.C. Council established the SAB, which is comprised of nine voting members appointed by the Mayor with Council approval. The SAB was established to ensure scientific peer review including making sure that DFS adheres to strict scientific protocols, follows best practices, and incorporates new technologies.⁹ The SAB is responsible for ensuring accountability¹⁰ of DFS by reviewing all reports of allegations of professional negligence, misconduct, or misidentification or other testing error that occurred in the provision of forensic science services or public health laboratory services at DFS; making recommendations to the director on ways to promote quality assurance of agency procedures and protocols, and advising the director or the Mayor and Council, when it considers appropriate, on matters relating to the Department, forensic sciences services, or public health laboratory services.¹¹

Per D.C. Code¹² the SAB is required to hold four meeting per year and prepare minutes from each meeting. We found that the SAB complied with meeting requirements. From 2018 to 2021 the SAB held four meetings per year and minutes of each meeting were recorded as required by law.

However, the District’s elected officials—Mayor and D.C. Council—did not require resources and staff support commensurate with the functions of the SAB. Adequate resources including staff support is necessary for the SAB, which is made up entirely of volunteers, to provide effective oversight of DFS.

In the National Institute of Justice’s Forensic Technology Center of Excellence (FTCoE) report - Forensic Science State Commissions and Oversight Bodies—A 2022 Update,¹³ published in June 2022, the authors¹⁴ noted that:

Everyone working with a state commission who was interviewed for this report believes that a dedicated budget and staff are necessary for the commission to examine forensic services statewide and ensure the level of effectiveness and efficiency required by our criminal justice system. At times, the commission must be able to respond appropriately and quickly to investigate issues. This may also mean hiring discipline-specific experts to assist in investigations or series of case reviews.

8 D.C. Code § 5-1501.11.

9 Council of the District of Columbia Committee on the Judiciary Report, March 29, 2011, Report on Bill 19-5, “Department of Forensic Sciences Establishment Act of 2011” Page 4/161

10 *Id*

11 D.C. Code § 5-1501.12

12 D.C. Code § 5-1501.11

13 <https://www.ojp.gov/library/publications/forensic-science-state-commissions-and-oversight-bodies-2022-update>

14 [Ropero-Miller, J.D., and N. Jones. Forensic Science State Commissions and Oversight Bodies—A 2022 Update. Washington, DC: Forensic Technology Center of Excellence. U.S. Department of Justice, National Institute of Justice, Office of Investigative and Forensic Sciences, June 2022 .](#)

Staff will be needed to develop and disseminate commission documents, support meetings, and manage a commission web presence. Commission members may incur costs for meetings, inquiries, and other commission business. Although these expenses may not be formally captured under the commission budget, the resource expenditures are real and should be anticipated.

We researched how independent¹⁵ forensic laboratories in other jurisdictions with oversight boards deal with resources. Our research showed that three of four independent laboratories surveyed (Houston, Virginia, and Texas) provided their boards with resources to assist them in their oversight functions. For example, the Houston Forensic Science Center (HFSC) has approximately 1.3 full-time equivalents (FTEs) to assist its oversight board. Houston's board also has access to the lab's records independent of laboratory management.

In comparison to HFSC Board, the SAB had no dedicated staff nor direct access to DFS's records independent of DFS management. Current and former members of the SAB shared that DFS did not always provide critical information and documentation on serious allegations to the board on a timely basis.

As introduced, the legislation to establish DFS as an independent forensics laboratory would have given the SAB not only scientific oversight over the laboratory, but also authority to review and comments on DFS's program, fiscal, and budget matters.¹⁶ The D.C. Council later reduced¹⁷ the scope of the SAB's authority in the final version of the bill after key stakeholders testified against giving SAB authority over DFS's operations and budget. Specifically, Paul Quander, former Deputy Mayor for Public Safety and Justice, who testified for then-Mayor Vincent Gray's administration before the Committee, stated that "[t]he proposed Forensic Science Advisory Board may help to support the scientific vision and long-term planning of the lab. However, we do not agree that their mission should extend to operational, fiscal, or budget matters."¹⁸

In addition, the USAO-DC, a major DFS customer, noted their objection to the creation of an oversight board in any form stating that:

The proposed legislation contains a provision for the creation of an oversight board. The need for such oversight by a board, in addition to an independent accrediting agency, is not apparent. Most laboratories throughout the country, whether independent or under the management of law enforcement, do not have advisory boards. The goal here should be to erect an accredited, full-service laboratory capable of producing a high quality product from each of its forensic components. Providing for oversight before the creation of the laboratory and before any issue has arisen that would suggest the need for an advisory board seems premature.

¹⁵ Independent from police and prosecutors.

¹⁶ See Bill 19-5, Department of Forensic Sciences Act of 2011, introduced version, section 11.

¹⁷ Funding information for the SAB with broad authority as initially proposed by the Council was not available, but the CFO's fiscal impact statement included in the bill's committee report showed that a quarter of an FTE (.25) was needed to assist the oversight function.

¹⁸ Council of the District of Columbia Committee on the Judiciary Committee Report, March 29, 2011, Report on Bill 19-5, "Department of Forensic Sciences Science Establishment Act of 2011". (Page 107/161)

USAO concluded its testimony by stating that “the creation of an oversight board will be redundant, costly, and create unnecessary bureaucracy.”¹⁹

Without adequate resources and direct access to laboratory information, the SAB cannot provide effective oversight of DFS as envisioned in the legislation which includes promoting the quality assurance and ensuring accountability of DFS. For example, the SAB did not provide meaningful oversight that could have prevented the quality control issues in DFS’s firearms examinations unit and uncovered management’s inability to handle allegations of misconduct and testing errors in a competent and transparent manner. The failure to provide oversight contributed to the loss of accreditation in May 2021, which prevents DFS from processing forensics evidence. Since that time, the District has been sending its evidence to other laboratories for processing, not only creating delays in prosecuting crimes in the city, but it is also a significant cost to taxpayers.

Recommendations

1. The D.C. Council should amend the Code to require the provision of resources and staff support, as well as clear authority for access to laboratory records to enable the SAB to perform its oversight functions.
2. The D.C. Council and the Mayor, as part of the annual budget process, should allocate sufficient administrative and financial resources for the SAB to perform its oversight functions.

The Stakeholder Council, chaired by the Deputy Mayor for Public Safety and Justice, was not effective because it did not identify and help resolve issues affecting DFS’s delivery of forensic science services.

Pursuant to D.C. Code,²⁰ D.C. Council established a Stakeholder Council comprised of: (1) The Deputy Mayor for Public Safety and Justice; (2) The Chief of MPD; (3) The Chief Medical Examiner; (4) The Attorney General; (5) The United States Attorney for the District of Columbia; (6) The Director of the Public Defender Service for the District of Columbia; (7) The Federal Public Defender for the District of Columbia; (8) The Director of the Department of Health; (9) The Chief of the Fire and Emergency Medical Services Department; (10) The Director of DFS; and (11) The head of any other government agency that regularly utilizes the forensic science services of the Department. The chairperson of the Committee on the Judiciary and Public Safety²¹ of the Council of the District of Columbia is also included as an ex officio, non-voting member of the Stakeholder Council.

¹⁹ *Id* at Page 102/161

²⁰ D.C. Code § 5.1501.13

²¹ Formerly Chairperson of the Judiciary Committee.

The Stakeholder Council was established to identify issues or concerns regarding DFS's delivery of forensic science services to agencies, including the timeliness of service; the general effectiveness of the Department in the furtherance of its agency mission; and to advise the Mayor and the Council, as it considers necessary, on matters relating to the Department, forensic sciences services, or public health laboratory services.²² The law also requires that the Stakeholder Council "meet no fewer than 2 times per year"²³ and that members "shall not be represented by a designee."²⁴

We found that the Stakeholder Council did not discuss issues and concerns regarding DFS's delivery of forensic science services to agencies at the meetings. Although D.C. Code did not specifically require meeting minutes to be created for the Stakeholder Council as is the case for the SAB meetings,²⁵ the Stakeholder Council did not create agendas and minutes for its meetings. Instead, the Stakeholder Council relied on presentations created by DFS which highlighted laboratory accomplishments and general updates.

The USAO, Public Defender Service for the District of Columbia (DCPDS) and OAG told us during interviews that these meetings were unproductive. USAO officials stated that sharing their concerns and issues in this forum could impact and jeopardize their legal strategy because the DCPDS attends these meetings. USAO further pointed to the adversarial relationship between the prosecutor and defender offices to explain their reluctance to discuss issues of substance relating to evidence at the Stakeholder Council meetings.

The OAG referred to laboratory customers not being forthcoming at these meetings. The DCPDS described the meetings as "a dog and pony show" because the meetings focused on DFS presentations rather than stakeholder concerns.

Our research of forensic laboratories in other jurisdictions indicate that New York State has created a Customer Working Group (CWG), discussed in a U.S. Department of Justice article,²⁶ that consists of forensic laboratory officials, prosecutors and police with the goal of enhancing coordination between the scientists and the non-scientists.

According to the article, *Triage of Forensic Evidence Testing*:

A CWG should consist of senior policymakers from the public forensic laboratory, along with senior representatives from the police and prosecutors who submit or request forensic evidence from that laboratory. Such a group will provide an opportunity for these parties to learn from one another, to enhance coordination and exchange information on scientific progress and important policy matters affecting forensic evidence testing.

22 D.C. Code § 5-1501.14

23 See D.C. Code § 5-1501.13.(e)

24 See D.C. Code § 5-1501.13.(c)

25 See D.C. Code § 5-1501.11 3(g)

26 Bureau of Justice Assistance, U.S. Department of Justice: *Triage of Forensic Evidence Testing: A Guide for Prosecutors*

The article concluded the description of the CWG stating that:

Forensic laboratories are a key part of the criminal justice system. Victims, suspects and the community as a whole deserve a properly functioning laboratory. To successfully use forensic evidence, the police and prosecutors must understand the science and work toward obtaining timely and reliable results. Laboratories do not exist in a vacuum and cannot work alone without feedback from decision makers in the agencies with whom they work. A CWG is a cost-effective and productive method of enhancing communication, improving laboratory services, reducing backlogs and creating reliable evidence needed for criminal cases.

The Stakeholder Council did not identify and help resolve issues affecting DFS’s delivery of forensic science services because it lacked policies and procedures for preparing meeting agendas, discussions, and action items. Designees attended the Stakeholder Council meetings because Stakeholder Council members are often directors of large agencies that have competing priorities and whose schedules can quickly change preventing them from attending the meetings. Having a designee attend the Stakeholder Council meetings could allow the members to be represented and informed on issues discussed at the meetings.

We also found that the Stakeholder Council did not comply with meeting requirements. Specifically, the Stakeholder Council did not hold at least two meetings per year. The Stakeholders Council held only one meeting in 2018 and 2020, respectively, and did not hold any meeting in 2021, as shown in Figure 1.

Figure 1: Stakeholder Council Meeting Attendees January 1, 2018—December 31, 2021

Year	# of Meetings	Meeting Dates	Agencies Represented	Agencies Not Represented	Members in Attendance	Designees in Attendance
2018	1	5/10/2018	8	2	5	3
2019	2	6/25/2019	6	4	0	6
		12/16/2019	7	3	7	0
2020	1	10/2/2020	10	0	7	3
2021	None	N/A	N/A	N/A	N/A	N/A

Sources: Analysis of Stakeholder Council Meetings and Attendees

In addition, Stakeholder Council members did not always attend meetings and often sent staff members of their agencies to attend the meetings, contrary to D.C. Code, as shown in Figure 2.

Figure 2: Analysis of Stakeholder Council Members' Meeting Attendance

Stakeholder Council Members	Meeting Dates and Attendance				Members Present
	5/10/2018	6/25/2019	12/16/2019	10/2/2020	
Deputy Mayor for Public Safety and Justice (Chairperson)	Yes	No*	No	Yes	2/4
Chief of MPD	No*	No*	Yes	No*	1/4
Chief Medical Examiner	No*	No*	Yes	No	1/4
Attorney General (Alternate Chairperson)	Yes	No*	Yes	Yes	3/4
United States Attorney for D.C.	Yes	No*	Yes	No*	2/4
Director of the Public Defender Service for D.C.	No*	No*	No	Yes	1/4
Federal Public Defender for D.C.	No	No	Yes	Yes	2/4
Director of the Department of Health	Yes	No	Yes	Yes	3/4
Chief of the FEMS	No	No	Yes	Yes	2/4
Director of DFS	Yes	No	No	Yes	2/4
Chairperson of the D.C. Committee on the Judiciary and Public Safety (Ex-Officio, non-voting member)	Yes	No	No	No	1/4

*Stakeholder Council Member represented by designee.

Sources: DFS's records of Stakeholder Council Meeting Attendees

The Office of the Deputy Mayor for Public Safety and Justice (DMPSJ) stated that the Stakeholder Council did not meet twice per year due to the pandemic and DFS's leadership transition. They further stated that the DMPSJ allowed agency principles to send agency staff members to attend the Stakeholder Council meetings when the members were unable to attend because it was better to have the agencies represented and informed on the actions of the Stakeholder Council than to miss the meetings altogether.

The failure of the Stakeholder Council to use the meetings as a forum where those parties most affected by the functioning of DFS could communicate, raise issues, and inform each other of new and evolving issues in the field of forensic science created a void in which the USAO and OAG took unilateral actions to investigate and audit DFS. USAO's actions also included direct communication with ANAB to provide the results of its unilateral audits and written argument against DFS's appeal of the ANAB withdrawal of accreditation.

Recommendations

3. The Executive should develop policies and procedures for preparing Stakeholder Council meeting agendas, discussions, and action items.
4. To facilitate representation by stakeholder agencies, the D.C. Council should amend the legislation to allow Stakeholder Council members to be represented in the meetings by designees when they are unable to attend.

Regulations written to implement the statute authorizing the Department of Forensic Science as an independent forensics agency violated the intent and the letter of the authorizing statute.

D.C. Code requires “[a]ny allegation of professional negligence, misconduct, or misidentification or other testing error that occurs in the provision of forensic science services at the Department shall be” reported immediately to the Science Advisory Board.²⁷ The regulations written to implement the law, however, stipulate that DFS has five (5) business days to complete an investigation of a complaint and determine whether further action is necessary.²⁸ If the complaint requires further action and the complaint results in a Quality Corrective Action Report (QCAR),²⁹ then DFS is required to notify the SAB.³⁰ DFS is not required to send to the Board a complaint that does not result in a QCAR³¹ according to the regulations.

We found that the regulations undermined the intended independence of DFS because it gave DFS management the discretion to determine which complaints or inquiries are disclosed to the SAB, DFS’s oversight body. Specifically, DFS did not immediately report all allegations of professional negligence, misconduct, or misidentification or other testing errors that occurred in its laboratory to the SAB for review and input. The stated purpose of the regulations was to “define the roles and responsibilities of the SAB and establish the reporting requirements and complaint process”³² for DFS. Instead, the DCMR final rule provided for a protracted and discretionary process led by the agency leadership. The effect, however, is that the change eliminated the ability of SAB members to decide for themselves what was serious and warranted their attention. We also noted that the term “immediately” is not defined in the legislation, but the regulations allow DFS at least ten (10) business days to report a complaint that results in a QCAR to the SAB, and not report a complaint that does not result in a QCAR.

The former DFS General Counsel who authored the regulations stated that they were drafted with the intent of limiting reporting insignificant or minor issues to the SAB and ensure only significant allegations are reported. The Code specifies that proposed rules be submitted to the Council for review.³³ On

27 DC Code § 5-1501.10 (a)

28 28 DCMR § 4002.3(c)

29 28 DCMR § 4002.3(d)

30 28 DCMR § 4002.3 (e)(1))

31 28 DCMR § 4002.3 (e)(2) 28 DCMR 4002.3 e.(2)

32 Committee on the Judiciary and Public Safety’s November 29, 2018, Public Roundtable on PR22-1002, the “Department of Forensic Sciences Science Advisory Board Rulemaking Approval Resolution of 2018”.

33 D.C. Code § 5-1501.15(b).

September 18, 2018, the proposed rules were introduced in the Council, and a roundtable was held by the D.C. Council Committee on Judiciary and Public Safety to discuss the proposed rules. At that roundtable, DFS's then-Director, Dr. Jenifer Smith, asked the Council to approve the regulation which she said would preserve "the SAB's valuable resources for only those complaints bearing on the science of DFS's work."³⁴

The D.C. Council passively approved³⁵ the regulations despite roundtable testimony from three witnesses that the provisions of the regulations would weaken the independence of the laboratory by weakening the SAB's oversight. A witness representing the Innocence Project testified against the rules and specifically stated that the regulations would nullify the SAB's oversight function and prevent public access to information.

The regulations weakened the SAB's ability to review and advise DFS on critical issues, including allegations of professional negligence, misconduct, or misidentification or other testing errors that occurred in the provision of forensic science services at the Department. The regulations should have supported the D.C. Code provisions and the effectiveness of the SAB, instead of undermining it.

Recommendations

5. The D.C. Council should require DFS to rewrite the regulations to conform with D.C. Code and ensure that the SAB receives all allegations of professional negligence, misconduct, or misidentification or other testing error that occurs in the provision of forensic science services including all internal and external complaints.
6. The D.C. Council should amend the Code to define the term "immediately" with regard to SAB notification.

Two DFS customers—USAO and OAG—bypassed DFS's processes and conducted an independent audit of the lab to address their issues which had the effect of undermining the independence of the forensic laboratory.

As part of its accreditation requirements³⁶ and industry standards, DFS established a complaint process³⁷ for receiving, processing, documenting, reporting, and responding to all applicable complaints and inquiries. Industry standards³⁸ emphasize the value of ongoing communication and cooperation between the laboratory and its customers to clarify customer requests and allow customers to monitor the laboratory's performance. They instruct laboratories to actively seek customer feedback and to

³⁴ *Id.*

³⁵ The Code states that proposed rules be submitted to the Council for 45-day period of review, and if the Council does not act (vote) within that time, the rules are deemed approved. This is known as a passive approval.

³⁶ ISO/IEC 17025:2017 Section 7.9.1 states "[t]he laboratory shall have a documented process to receive, evaluate and make decisions on complaints." Section 7.9.4 states "[t]he laboratory receiving the complaint shall be responsible for gathering and verifying all necessary information to validate the complaint."

³⁷ DOM15 - Policy and Procedures for Complaints and Inquiries

³⁸ ISO/IEC 17025:2017, Sections 7.1.1, 7.10 and 8.6.2

incorporate that feedback in the ongoing improvement of its management and services.³⁹ The standards also require that a laboratory inform its customers of non-conformities in the laboratory and the plans for remediation.

We found that USAO and OAG addressed their issues and concerns with DFS without regard for the process set forth in the D.C. Code, D.C. regulations, and DFS' policies and procedures. Specifically, the two prosecutors' offices bypassed the established processes for handling complaints and allegations and conducted unilateral audits and investigations of the laboratory firearms examination units over testing errors and allegations of misconduct. In public court filings, the USAO disclosed allegations of misconduct by DFS and MPD personnel, including concerns about DFS operations related to the firearms examination and verification procedures and claimed that DFS and MPD officials whitewashed the allegations made by a former DFS employee and concealed them from USAO.⁴⁰

According to USAO and OAG, customers lost trust and confidence in DFS's ability to objectively investigate and resolve customer complaints. For instance, USAO officials stated that they met regularly with DFS, but the relationship was strained; there was an environment of distrust and defensiveness, and that DFS was not forthcoming. In multiple D.C. Superior Court filings, USAO disclosed allegations of misconduct by DFS and MPD personnel including concerns about DFS operations relating to the firearms examination and verification procedures.

We also noted that DFS management:

- Did not prioritize ongoing communication and cooperation between the laboratory and its customers.
- Failed to provide adequate oversight of its processes for investigating and addressing complaints and inquires and did not always follow its own complaint process when investigating and resolving customer complaints.
- Did not always follow its own complaint process when investigating and resolving customer complaints.

DFS's failure to provide adequate oversight of its processes as noted above and address critical issues affecting the laboratory in a transparent and honest manner in compliance with its accreditation requirements contributed to the loss of accreditation. DFS has not directly processed forensic evidence for use in solving crimes and prosecuting criminals in the District since May 2, 2021. Instead, DFS's role has shifted to managing delivery of forensic science services through contracts with private and public forensic labs.

³⁹ Bureau of Justice Assistance, U.S. Department of Justice: Triage of Forensic Evidence Testing: A Guide for Prosecutors

⁴⁰ United States v. Joseph Brown, 2016 CF1 14034, Motion Hearing December 17, 2021, and United States v. Rondell McLeod, 2017 CF1 9869, Motion Hearing: December 17, 2021, and United States v. Alicia McCoy, 2017 CF2 21024 Motion Hearing: December 17, 2021.

Recommendations

7. The Executive should ensure that DFS leadership fosters and maintains agency independence by:
 - Improving and maintaining ongoing communication and cooperation with its customers.
 - Monitoring and assisting DFS in resolving serious disagreements with customers including, specifically USAO and OAG.
8. DFS's Director should provide training for the management team on effective customer service including how to improve DFS's responsiveness to customers' needs and the overall relationship and communications with all customers.

DFS's method for receiving complaints is not efficient.

D.C. Code requires that DFS promulgates training manuals and standard operating procedures, including a "system through which reports of allegations of negligence, misconduct, or misidentification or other testing error are processed."⁴¹

DFS established procedures for internal and external customers to submit complaints or inquiries that include an email address, physical address for mail, and phone and fax numbers as required by law. However, the complaint email account (contactquality.dfs@dc.gov) was not used solely for complaints. The email address is a general email box that receives a high volume of non-complaint-related correspondences, including emails pushed out to all addresses in the District's @dc.gov email domain. Between January 1, 2018, and December 31, 2021, DFS received 10,473 emails through the contactquality.dfs@dc.gov email address of which only 36 emails were related to five complaints.

A lack of procedures for maintaining the complaint email account contributed to this condition. Although DFS current leadership was not sure how the prior leadership operated and managed the email account, the Chief of Staff speculated that the former DFS management may have reviewed the correspondence but may not have used a tracking system within the mailbox nor instituted rules for tracking. The Chief of Staff further stated that DFS has addressed the routing of incoming complaint email traffic, created a new complaint form and established a new email address for complaints, dfs.feedback@dc.gov, which is actively monitored by the Chief of Staff. In addition, an updated formal complaint policy is in the approval process.

Without restricting the email account to non-complaint related emails and periodic maintenance of the account, it would continue to be difficult for DFS personnel to sort through and find emails containing complaints; and increased the risk of DFS overlooking emails containing serious allegations.

Recommendation

9. DFS should develop and implement procedures for monitoring and maintaining the designated email account for receiving complaints.

⁴¹ DC Code § 5-1501.04, (b)(7)

DFS misclassified and mismanaged complaints containing allegations of professional negligence and misconduct.

D.C. Code requires “[a]ny allegation of professional negligence, misconduct, or misidentification or other testing error that occurs in the provision of forensic science services at the Department shall be: (1) Reported immediately to the Board; and (2) Investigated promptly by the Director, in accordance with the Department’s quality assurance program and the requirements of the Department’s accreditation.”⁴²

DFS misclassified two of 14 items recorded in its Complaint and Inquiry Logs as inquiries instead of complaints. One item misclassified as an inquiry was from a concerned juror in a criminal trial regarding DFS’s failure to test a gun which the juror cited as a reason for the case resulting in a hung jury. Although, DFS misclassified the complaint, the agency still investigated the concern and concluded that the crime scene scientist made an error by not testing the weapon because of lack of policy awareness. The second misclassified item was an inquiry from USAO regarding an incident involving a DFS Crime Scene Sciences (CSS) technician and alleged missing drugs. Email documentation showed that the former Director of DFS overrode the decision of her deputy who had recommended classifying and handling the allegation of missing drugs as a complaint.

DFS current leadership said they could not speak to why the former leadership did not classify the allegations as complaints. Although DFS did not maintain comprehensive files for the complaints, including the complaints forms, investigation notes, and reports, the two items appeared to meet the criteria for negligence and misconduct and should have been classified and handled as complaints.

As a result of the misclassifications, the two complaints were not fully investigated in accordance with DCMR and DFS’s policies and procedures for investigating complaints. Given the severity of these misclassified complaints, they both should have resulted in a QCAR and reported to the SAB. Per DFS’s policies and procedures, a QCAR is issued to correct a non-conformity.⁴³ Because the SAB was not notified of the misclassified complaints, the SAB did not get the opportunity to review the underlying allegations and the implications for DFS’s delivery of forensic science. Without proper handling, resolution and reporting of complaints containing allegations to the SAB, DFS cannot demonstrate to its customers and the public that the agency is committed to quality and capable of providing transparent and trusted forensic evidence.

Recommendation

- 10.** DFS should record any allegation of misconduct as a complaint, investigate the complaint in accordance with its policies and procedures and immediately report it to the SAB.

⁴² DC Code § 5-1501.10(a)

⁴³ A nonconformity is any action or event not conforming to the policies and/or procedures of the Department of Forensic Sciences (DFS) or the quality standards required by our accrediting bodies. Quality corrective action shall be implemented when nonconforming work or departures from the policies and procedures in the management system or technical operations have been identified and evaluated for frequency and impact.

DFS did not consistently follow the District of Columbia Municipal Regulations and its own policies and procedures for handling complaints.

DFS did not always handle complaint in accordance with DCMR and DFS's policies and procedures. ODCA reviewed all three complaints recorded as complaints from January 1, 2018, to December 31, 2021, and noted that:

- One of the three complaints was not acknowledged within two business days as required by DCMR.⁴⁴ The complaint was acknowledged after 15 business days of receipt.
- Two of the three complaints did not have Complaint Forms completed within one business day as required by DFS's policies and procedures.⁴⁵ The forms were completed after 13 and 18 business days of receipt.
- Two of the three complaints were not reported to the SAB within five business days of QCAR issuance as required by DCMR.⁴⁶ The two complaints were reported to the SAB after seven business days of QCAR issuance.
- One of the three complaints did not have evidence of an initial assessment and report.⁴⁷ An initial assessment is required by DCMR⁴⁸ and DFS's policies and procedures within five business days.⁴⁹ The interim report and final report are required to be completed within 60 business days⁵⁰ and 90 business days⁵¹ in accordance with DFS's policies and procedures.

We also noted that DFS did not maintain comprehensive files for each of the complaints reviewed, including complaint forms, investigation notes, and reports generated as required by its policies and procedures.⁵²

DFS current leadership said they could not speak to how the former leadership handled the complaints. However, DFS current General Counsel stated that “[g]iven the passage of time and the departure of key employees over the years in question, the current administration cannot accurately answer the question on the previous management’s thought process. I can say that the current DFS team is committed to timely, accurate responses to all complaints and inquiries.”

DFS’s inconsistency in handling complaints and allegations has undermined customer and public trust and confidence in the agency’s ability to provide unbiased forensic science services. Without proper handling, resolution, and reporting of complaints containing allegations to the SAB, DFS cannot assure its customers and the public that the agency can provide transparent and trusted forensic evidence.

44 28 DCMR § 4002.3(b) The regs require notification if contact information is provided for the complainant.

45 DOM15 5.1.2.

46 28 DCMR 4002.3(e)(1)

47 The reports are (1) letter to complainant of decision to investigate within 30 business days; report to complainant of investigative findings and recommendations within 60 business days; and report to complainant of investigative findings, actions taken and soliciting feedback t within 90 business days.

48 *Id*

49 DOM15 5.3.3

50 DOM15 5.3.7

51 DOM15 5.3.10

52 DOM15 5.4.2.2

Recommendations

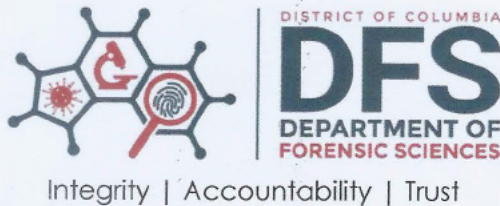
11. DFS should provide training to the entire staff on DFS's processes, policies, and procedures including the complaint process to ensure adherence to established laboratory protocols.
12. DFS should create and maintain case files for all complaints.

Conclusion

The D.C. Council established a forensic agency, independent of law enforcement, with protections including scientific oversight, public scrutiny, and a mechanism for the reporting and investigation of misconduct and review of potential errors. Unfortunately, the legislation as enacted did not require allocation of resources commensurate with the goal of independence. We found gaps in the regulations implementing the authorizing legislation and an inadequately resourced oversight function. We also found deficiencies including failure to effectively manage operations and maintain good relationships with customers; lack of compliance with laws, regulations, policies, and procedures, and quality standards; and failure of the executive leadership to utilize the Stakeholder Council as an effective forum for identifying and addressing customers' dissatisfaction with DFS. These gaps and deficiencies reflect a need for major changes and improvements at DFS. Improvement in these areas could help ensure effective oversight, strengthen the relationship with customers and stakeholders, ensure compliance with quality standards, laws, rules, and regulations, secure and maintain DFS's accreditation to keep the laboratory operational, and sustain the independence of the forensics laboratory.

Agency Comments

On November 8, 2022, we sent a draft copy of this report to the Department of Forensic Sciences (DFS) and the Office of City Administrator for review and written comment. DFS responded with comments on November 22, 2022, with regard to recommendations directed to the agency. The City Administrator emailed comments on November 30, 2022, and both sets of comments are included here in their entirety.



November 22, 2022

Kathleen Patterson
District of Columbia Auditor
717 4th Street, N.W., Ste. 900
Washington, DC 20005

Re: ODCA Audit Recommendations – DFS Responses

Dear Auditor Patterson:

The Department of Forensic Sciences (DFS) is in receipt of the draft audit report, dated November 8, 2022, that examined the intent and provisions of the agency's enabling statute and the law's application between January 1, 2018, and December 31, 2021. Our responses to your recommendations are below:

1. The D.C. Council and the Mayor, as part of the annual budget process, should allocate sufficient administrative and financial resources for the SAB to perform its oversight functions.

Councilmember Charles Allen has introduced legislation to amend the enabling statute governing DFS and his Committee marked up the bill today. In addition to making DFS an independent agency not under mayoral control, the bill also includes provisions to provide the Science Advisory Board (SAB) with staff and other financial resources to perform its duties. While DFS concurs with this recommendation, if the bill is enacted, it would be up to the independent agency to request the additional SAB funding resources needed to implement this recommendation.

2. The Executive should develop policies and procedures for preparing Stakeholder Council meeting agendas, discussions, and action items.

DFS will work with the Stakeholder Council during the current fiscal year to develop appropriate policies and procedures governing preparation for Stakeholder Council meetings.

3. The D.C. Council should require DFS to rewrite the regulations to conform with D.C. Code and ensure that the SAB receives all allegations of professional negligence, misconduct, or misidentification or other testing error that occurs in the provision of forensic science services including all internal and external complaints.

DFS does not believe legislation is necessary; instead, the agency will update its regulations to address the Auditor's concerns.

4. The Executive should ensure that DFS leadership fosters and maintains agency independence by:
 - Improving and maintaining ongoing communication and cooperation with its customers.

The agency has already taken key steps towards fostering open communication with stakeholders. Consistent with the recommendation made by SNA International, DFS regularly surveys the entire Stakeholder Council on the services it is provided and the individual

member's level of satisfaction. DFS informally engages with stakeholders on a near daily basis. In addition, the agency formally meets with the United States Attorney's Office (USAO) and the Office of the Attorney (OAG) twice a month to discuss agency operations and customer needs. Further, between June and October 2022, DFS hosted an attorney liaison from USAO on site twice a month to discuss any issues and identify collaborative solutions. The agency will continue its efforts to improve and maintain the relationships with stakeholders on an ongoing basis.

- Monitoring and assisting DFS in resolving serious disagreements with customers including, specifically, USAO and OAG.

This recommendation has and will continue to be addressed. The Deputy Mayor for Public Safety and Justice and/or the City Administrator have been meeting regularly with the USAO for that purpose for over a year.

It is important to note, however, that the pending Council legislation would make DFS an independent agency not under mayoral control and, if the bill is enacted, it would be up to the independent agency to implement these recommendations.

5. DFS's Director should provide training for the management team on effective customer service including how to improve DFS's responsiveness to customers' needs and the overall relationship and communications with all customers.

DFS has implemented this recommendation. All members of DFS management have completed the George Washington University Center for Excellence in Public Leadership's comprehensive Management Development Program. In addition, DFS management completed a course on Workplace Conflict Resolution. The trainings were held between July 12–September 12, 2022. The agency's training unit will continue to schedule trainings of this nature in the current fiscal year.

6. DFS should develop and implement procedures for monitoring and maintaining the designated email account for receiving complaints.

As stated on Page 17 of the audit report, "DFS has addressed the routing of incoming complaint email traffic, created a new complaint form, and established a new email address for complaints, dfs.feedback@dc.gov, which is actively monitored by the Chief of Staff. In addition, an updated formal complaint policy is in the approval process".

Consistent with that statement, DFS is drafting and formalizing a policy regarding maintenance and use of the account. The agency expects to have the new policy in place this fiscal year.

7. DFS should record any allegation of misconduct as a complaint, investigate the complaint in accordance with its policies and procedures and immediately report it to the SAB.

DFS requires any allegation of misconduct received to be logged and investigated as a complaint and reported to the SAB. The agency expects all employees to adhere to policies and procedures, to include those governing the complaint process. DFS is currently working to refine its quality practices under the guidance of a quality assurance consultant and his team. As the complaint process is part of the agency's quality assurance program, and is referenced in its Quality Assurance Manual, DFS will work with the consultant to ensure that this recommendation is incorporated into the appropriate policies and the manual.

8. DFS should provide training to the entire staff on DFS's processes, policies, and procedures including the complaint process to ensure adherence to established laboratory protocols.

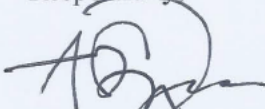
DFS employees train regularly on laboratory policy and procedures. Moreover, in many of the units, adherence is monitored using external audits which are a requirement of accreditation and/or certification by accrediting bodies or federal partners. However, to further improve DFS operations, and to work to address the types of issues raised in the Auditor's draft report, the agency has also retained the services of a quality assurance consultant who is assisting with revising the procedures governing the agency's quality system, to include complaints. An initial training on conducting internal reviews, which is a requirement of accreditation, was held on November 14 & 15, 2022. In addition, the agency has contracted with ANAB, the accrediting body, to provide auditor training to FSL staff in February 2023.

9. DFS should create and maintain case files for all complaints.

DFS currently has a requirement to create and maintain case files for all complaints received. To facilitate full compliance with this requirement, the agency has assigned an attorney to assist with oversight of the complaint process.

Thank you for the opportunity to provide responses on behalf of the agency and for the professional way your staff conducted the audit process. If you have any questions or concerns regarding these responses, please do not hesitate to contact me directly.

Respectfully,



Anthony Crispino
Interim Director

cc: Kevin Donahue, City Administrator
Eugene Adams, Mayor's Office of Legal Counsel
Vanessa Natale, Mayor's Office of Legal Counsel



November 30, 2022

Kathleen Patterson
District of Columbia Auditor
717 4th Street NW, Suite 900
Washington, DC 20005

Dear Auditor Patterson:

This letter provides the Executive's response to your office's draft report entitled "D.C. Forensics Lab Fails to Achieve Independence," received November 8, 2022. Specifically, it addresses recommendations 2, 3 and 7 which are addressed to the Mayor and the Executive.

ODCA Recommendation 2: The D.C. Council and the Mayor, as part of the annual budget process, should allocate sufficient administrative and financial resources for the Scientific Advisory Board (SAB) to perform its oversight functions.

Executive Response: It is vital to the administration of justice that the District's forensic science services are high-quality, reliable, unbiased, and independent of influence from parties with an interest in a specific outcome from scientific analyses. To this end, the SAB performs an important oversight function in providing expert scientific advice to the Department of Forensic Science (DFS), as well as to the Mayor and the Council; reviewing complaints or allegations regarding DFS's scientific services; and recommending policies and practices that promote quality assurance in DFS's scientific operations. Consistent with the recommendations in previous external reports and the present draft audit report, the Executive is committed to strengthening and supporting the SAB. This specific recommendation to ensure the SAB has sufficient resources to carry out its functions will be considered as part of the Mayor's Fiscal Year 2024 budget process, which is currently underway.

ODCA Recommendation 3: The Executive should develop policies and procedures for preparing Stakeholder Council meeting agendas, discussions, and action items.

Executive Response: The Office of the Deputy Mayor for Public Safety and Justice (DMPSJ) will oversee and participate in the development of these policies and procedures.

ODCA Recommendation 7: The Executive should ensure that DFS leadership fosters and maintains agency independence by:

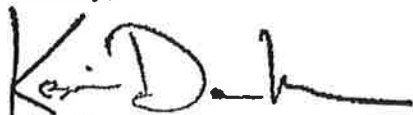
- *Improving and maintaining ongoing communication and cooperation with its customers.*

- *Monitoring and assisting DFS in resolving serious disagreements with customers including, specifically USAO and OAG.*

Executive Response: In addition to DMPSJ's role in facilitating the Stakeholder Council, it also has its own established lines of communication with DFS's customer agencies, as does my office. OCA and DMPSJ will continue to support both formal and informal communication and cooperation between DFS and its stakeholders, given the importance of clear procedures, roles and responsibilities across the entire spectrum of forensic services, from evidence collection and testing to proper legal discovery processes and the provision of in-court testimony. The system as a whole must cooperatively support the critical goals of upholding quality standards while also protecting the independence of scientific processes from stakeholder influence. We fully agree with the goal of achieving an effective shared process, rather than a unilateral one carried out by individual parties, that follows the structure set out in District law to address complaints and allegations concerning DFS.

The Executive's highest priority regarding DFS is to support its ability to produce independent scientific results. In our view, given that DFS is one piece of a much larger justice system with diverse actors and interests, the agency's *scientific* independence is actually undermined by proposals to make it a *structurally* independent agency. The District's justice system is particularly complex as its operations are carried out by both Federal and local agencies. Accordingly, it is the Executive's view that a forensic laboratory reporting to the Mayor and overseen by the Council and the Scientific Advisory Board offers the strongest version of protection from external influence. We are committed to strengthening relationships and processes that will enable DFS, the SAB, and the Stakeholder Council to function as originally envisioned in the authorizing statute, and to appropriately balance responsiveness to agency customers with maintaining full independence over scientific results.

Sincerely,



Kevin Donahue

City Administrator and Interim Deputy Mayor for Public Safety and Justice

ODCA Response to Agency Comments

ODCA appreciates the Bowser Administration's attention to our report and very positive responses to the recommendations. We are pleased that DFS stated in its response that the agency has either implemented or will be implementing six of the 12 recommendations (#5, and #8 -12) in our draft report that are within the agency's control. These recommendations speak largely to development and implementation of policies and procedures, and comprehensive training for all DFS staff to help ensure professional performance as well as strong collaboration with partner agencies.

Further, we are pleased to have a written response from City Administrator Kevin Donahue that is in agreement with Recommendations 2, 3 and 7. Recommendation 2 calls for resources adequate for the Science Advisory Board to provide effective oversight of DFS operations. The City Administrator notes, "the Executive is committed to strengthening and supporting the SAB." In addition: "This specific recommendation to ensure the SAB has sufficient resources to carry out its functions will be considered as part of the Mayor's Fiscal Year 2024 budget process."

Recommendation 3 calls for the Executive to develop policies and procedures for preparing Stakeholder Council meeting agendas, discussions, and action items. The City Administrator notes that the "Office of the Deputy Mayor for Public Safety and Justice will oversee and participate in the development of these policies and procedures"

With regard to Recommendation 7, the City Administrator states that the Bowser Administration is committed to promoting and sustaining effective and independent forensics science. He writes, "It is the Executive's view that a forensic laboratory reporting to the Mayor and overseen by the Council and the Scientific Advisory Board offers the strongest version of protection from external influence. We are committed to strengthening relationships and processes that will enable DFS, the SAB, and the Stakeholder Council to function as originally envisioned in the authorizing statute, and to appropriately balance responsiveness to agency customers with maintaining full independence over scientific results."

In addition to comments from the Executive, the Council Committee on the Judiciary and Public Safety has addressed Recommendations 1 and 6, at least in part, in pending legislation, B24-0838, *Restoring Trust and Credibility to Forensic Sciences Amendment Act of 2022*. Recommendation 4 requires further action by the D.C. Council.

ODCA greatly appreciates the support and collaboration of the DFS and OCA leadership during the audit.

Summary of Report Recommendations

Our audit identified 12 recommendations that could help ensure effective oversight of DFS, strengthen its relationship with customers and stakeholders, and compliance with quality standards, laws, rules, and regulations.

Findings	Recommendations
The authorizing statute creating an independent forensics agency failed to require resources and staff support commensurate with the role expected to be played by the Science Advisory Board (SAB). As a result, the SAB failed to provide the intended oversight of DFS.	1. The D.C. Council should amend the legislation to require the provision of resources and staff support, as well as clear authority for access to laboratory records to enable the SAB to perform its oversight functions. 2. The D.C. Council and the Mayor, as part of the annual budget process, should allocate sufficient administrative and financial resources for the SAB to perform its oversight functions.
The Stakeholder Council, chaired by the Deputy Mayor for Public Safety and Justice, was not effective because it did not identify and help resolve issues affecting DFS's delivery of forensic science services.	3. The Executive should develop policies and procedures for preparing Stakeholder Council meeting agendas, discussions, and action items. 4. To facilitate representation by stakeholder agencies, the D.C. Council should amend the legislation to allow Stakeholder Council members to be represented in the meetings by designees when they are unable to attend.
Regulations written to implement the statute authorizing the Department of Forensic Sciences as an independent forensics' agency violated the intent and the letter of the authorizing statute.	5. The D.C. Council should require DFS to rewrite the regulations to conform with D.C. Code and ensure that the SAB receives all allegations of professional negligence, misconduct, or misidentification or other testing error that occurs in the provision of forensic science services including all internal and external complaints. 6. The D.C. Council should amend legislation to define the term "immediately".

Findings	Recommendations
Two DFS customers—USAO and OAG—bypassed DFS’s processes and conducted an independent audit of the lab to address their issues which had the effect of undermining the independence of the forensic laboratory.	7. The Executive should ensure that DFS leadership fosters and maintains agency independence by: ■ Improving and maintaining ongoing communication and cooperation with its customers. ■ Monitoring and assisting DFS in resolving serious disagreements with customers including, specifically, USAO and OAG. 8. DFS’s Director should provide training for the management team on effective customer service including how to improve DFS’s responsiveness to customers’ needs and the overall relationship and communications with all customers.
DFS’s designated email account for receiving complaints is not efficient.	9. DFS should develop and implement procedures for monitoring and maintaining the designated email account for receiving complaints.
DFS misclassified and mismanaged complaints containing allegations of professional negligence and misconduct.	10. DFS should record any allegation of misconduct as a complaint, investigate the complaint in accordance with its policies and procedures and immediately report it to the SAB.
DFS did not consistently follow the District Municipal Regulations and its own policies and procedures for handling Complaints.	11. DFS should provide training to the entire staff on DFS’s processes, policies, and procedures including the complaint process to ensure adherence to established laboratory protocols. 12. DFS should create and maintain case files for all complaints.

About ODCA

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