

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Office of the Attorney General**

**ATTORNEY GENERAL**  
**KARL A. RACINE**



January 20, 2022

The Honorable Charles Allen  
Chairperson, Committee on Judiciary and Public Safety  
Council of the District of Columbia  
1350 Pennsylvania Avenue, NW  
Washington, DC 20004  
*Via email: [callen@dccouncil.us](mailto:callen@dccouncil.us)*

**Re: FY22 Oversight Hearing for the Department of Forensic Sciences**

Dear Councilmember Allen:

I previously have testified before the Council of the District of Columbia's Committee on Judiciary and Public Safety to share my serious concerns with the reliability of scientific testing and integrity of information provided by the Department of Forensic Sciences (DFS), the District's crime lab. I write to provide an update on this issue, and to recommend steps to ensure adequate reform of DFS. The deficiencies at DFS are unprecedented in their scope and nature and evince failures of leadership both within and above DFS. They implicate public safety in the District of Columbia, the integrity of criminal convictions, and faith in the entire criminal justice system. Rectifying them will take time, commitment, and millions of taxpayer dollars. To ensure these failures are not repeated, the Council should insist on a full recounting of events, accountability for wrongdoers, and the implementation of reforms that are comprehensive and sufficiently independent to rebuild confidence in DFS.

For our justice system to function and to maintain its credibility, all actors in the system must operate with integrity. Evidence presented in court and used to obtain convictions must be trustworthy and accurate. Unfortunately, trust in DFS has been eviscerated. As a result, it is more difficult for the Office of the Attorney General (OAG), United States Attorney's Office (USAO), and defense attorneys to do our jobs. The failures at DFS also have undermined faith in the criminal justice system and may have compromised public safety in the District because DFS failed to identify perpetrators of violent crime.

Our serious concerns about the integrity of DFS began when OAG received information two years ago in January 2020 that the results of scientific testing conducted by the Firearms Examination Unit (FEU) at DFS may not be reliable. To address these concerns, in April 2020, OAG and USAO together hired a team of independent experts to conduct an audit of the FEU. DFS and the

Executive rejected our requests to cooperate with the independent audit. Nevertheless, the audit uncovered information that deepened our concern that scientific testing conducted by the FEU was not reliable and, as troubling, that the lab's leadership may have acted to conceal information about the reliability of its testing, including material, exculpatory information in a homicide case.<sup>1</sup> This undermined our confidence in the reliability of all information coming from DFS. Our ethical duties required us to cease using the lab for any testing and to develop a plan to review the integrity of convictions we already had obtained.

Throughout our months-long efforts to understand the nature and scope of the issues and to collaborate with DFS to resolve our concerns, DFS leadership and the Executive downplayed the nature of the problem. They insisted concerns were politically motivated and pointed repeatedly to DFS's accreditation by ANAB—a national accrediting body—as evidence that there was no problem at the lab. Soon after the report of the independent audit was completed, however, DFS lost its accreditation because ANAB had “received credible evidence that [DFS]...deliberately concealed information from the ANAB assessment team, violated accreditation requirements, engaged in misrepresentations and fraudulent behavior, and engaged in conduct that brings ANAB into disrepute.”<sup>2</sup>

Finally, on May 28, 2021, after DFS lost its accreditation and could no longer legally serve as the District's crime lab, the Executive hired SNA International (SNA) to conduct a complete assessment of the lab. SNA's report, issued on December 8, 2021, was damning. It confirmed the findings of the independent audit and revealed that the deficiencies at the lab were even more extensive than we had feared. It found, for example, that DFS had an ineffective quality management system; that there were significant issues with the competence of firearms and fingerprint examiners; that management had pressured examiners to reach specific scientific results; and that executive leadership was more focused on meeting timelines and production metrics than the accuracy of results.<sup>3</sup> Because of these and other failures, SNA recommended that all firearms and fingerprint examinations dating back to DFS's formation in 2012 be re-examined.

The extent and nature of these catastrophic failures—failures that may have resulted in innocent people being convicted of crimes while guilty parties remain unidentified—will require a conviction integrity review that appears to be unprecedented in scope. We currently are working with the USAO to recommend a process for identifying cases that require reexamination, which we will make public. For this retesting process to have credibility, however, it is critical that the person or entity tasked with managing it be sufficiently independent. That is because, rather than take responsibility for errors, the Executive throughout this crisis has obfuscated, scapegoated prosecutors, and misrepresented facts. OAG will therefore urge that criminal justice stakeholders

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<sup>1</sup> Additional detail is provided in my testimony before the Council at the Public Oversight Roundtable on the Operations of the Department of Forensic Science, Thursday, April 29, 2021 (attached).

<sup>2</sup> Letter from Pamela L. Sale, Vice President of Forensics ANAB, to Dr. Jenifer Smith, April 2, 2021 (attached).

<sup>3</sup> Alarming, SNA uncovered that, when DFS was formed, nine of the 11 fingerprint examiners who were transferred from the Metropolitan Police Department to DFS had failed a skills assessment test, and yet no corrective action was taken by DFS.

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have a role in the selection of the person or entity and in any decision to remove the independent reviewer.

SNA's other recommendations for reform of DFS are extensive, and include changes designed to achieve comprehensive culture change and quality control at the agency. While we agree with many of these recommendations, others do not go far enough or must otherwise be refined. Given that leadership within and above DFS have failed to acknowledge the problems or commit to reform, I urge the Council to ensure that any plan for the lab's rehabilitations is transparent, comprehensive, and acceptable to all stakeholders.

I have repeatedly stated that my goal is to work with the Executive, the Council, and DFS to develop a path forward so that OAG can begin using DFS again. That is the best outcome to support the justice system. A critical component of that, however, is ensuring that OAG, stakeholders, including the statutorily created Stakeholder Council,<sup>4</sup> and the public have confidence that an adequate and independent plan for reform and conviction review is developed and implemented. The cost to the District will be enormous. The cost of continued recalcitrance and inadequate reform measures, however, will be higher—in dollars spent, lives destroyed, and compromised public safety. Indeed, because of the extent of the required retesting, the District already has expended hundreds of millions of dollars on unusable and unreliable testing. I, therefore, urge the Council to ensure that any plan for reforming and rebuilding DFS be adequate and have stakeholder buy-in, and that it is efficiently, effectively, and fully implemented.

Sincerely,



KARL A. RACINE  
Attorney General for the District of Columbia

cc: Councilmember Anita Bonds  
Councilmember Mary Cheh  
Councilmember Vincent Gray  
Chairman Phil Mendelson  
Councilmember Brooke Pinto

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<sup>4</sup> The Stakeholder Council is required to identify issues or concerns regarding DFS's delivery of forensic science services and DFS's effectiveness and to advise the Mayor and the Council on matters relating to DFS and forensic sciences services. D.C. Code §5-1501.14.