

Sexual Assault Forensic Evidence (SAFE) Board
State of Oklahoma
MEETING MINUTES

prepared by Sara Wray

Special Meeting

Thursday, November 14, 2024

1:33 p.m.–2:51 p.m.

Office of the Oklahoma Attorney General

313 NE 21st, Oklahoma City, OK 73105

BOARD

VOTING MEMBERS

Standing Member [S]	Designee [D]	Alternate Designee(s) [AD]
Gentner Drummond (OAG)	Danielle Tudor (Special Designee with vote)	Karen Cunningham Susan Laib Sara Wray
Aungela Spurlock (OSBI)	Mistie Burris	Jenny Virden
Ron Bacy (OCPD)	Bill Weaver	N/A
Dennis Larsen (TPD)	Darin Ehrenrich	N/A
Kathryn Brewer (DAC)	Ryan Stephenson	N/A
Shelley Miller (NAAV)	Sonya Spray	N/A
Darry Stacy (CLEET)	Jason Potter	Marcus Williams

Appointees [AP]

Linda Terrell (Survivor)
Mikela Rhodes (Advocate – YWCA OKC)
VACANT (Public Defender – OIDS)
Billy Parker (Police Chief – Woodward)
Kyle Keller (County Sheriff – Canadian County)
Kasey Magness (SANE - TPD)

NON-VOTING MEMBERS [N]

Carrie Hicks (Senate)
Julie Daniels (Senate)

Meeting Time Start: 1:33 p.m.

1. Call to Order: Meeting called to order by AG Gentner Drummond.

a. Roll Call for Voting Members

i. Present

1. Danielle Tudor [D]
2. Jenny Virden [AD] (Mistie Burris [D] later arrived at 1:37 p.m.)

3. Bill Weaver [D]
4. Darin Ehrenrich [D]
5. Sonya Spray [D]
6. Jason Potter [D]
7. Linda Terrell [AP]
8. Mikela Rhodes [AP]
9. Billy Parker [AP]
10. Kyle Keller [AP]

ii. Absent

1. Ryan Stephenson [D]
2. Kasey Magness [AP]

iii. Note: Non-voting members absent : Julie Daniels [N].

b. Establishment of Quorum: Thomas Schneider confirmed quorum established.

i. Required: 7 Voting Members.

ii. Met: 10 Voting Members Present.

c. Assurance of Compliance with Open Meeting Act: Thomas Schneider confirmed OMA compliance.

- i.** Agenda posted with the Secretary of State in timely manner, and agenda publicly posted at 9:00 a.m., 11/13/2024.

d. Introductions

i. Board Members and attendees introduced name and organization:

1. Thomas Schneider (OAG)
2. Stacy Morey (OAG)
3. Jenny Virden (OSBI)
4. Bill Weaver (OCPD)
5. Darin Ehrenrich (TPD)
6. Danielle Tudor (Survivor/OAG Special Designee)
7. Gary Tudor (Attendee)
8. Sonya Spray (NAAV)
9. Billy Parker (Woodward Police Chief)
10. Kyle Keller (Oklahoma Sheriffs' Assoc.)
11. Mikela Rhodes (YWCA OKC)
12. Macey Whitehouse (OAG)
13. Carolyn Thompson (OAG)
14. Jason Potter (CLEET)
15. Linda Terrell (Survivor)
16. Susan Laib (OAG)
17. Sara Wray (OAG)
18. Karen Cunningham (OAG)
19. Amber Alphin (OAG)
20. Gentner Drummond (OAG)

ii. Note: Note all attendees introduced.

2. Nominations and elections for the positions of Chair and Vice Chair of the Board for two-year terms.

- a. **Nomination Call for SAFE Board Chair:** AG Drummond opened call for nominations for Chair.
 - i. **Questions:** Bill Weaver asked about Chair responsibilities. Thomas Schneider provided overview of responsibilities, including governing meetings, potentially serving as POC for reports to legislative committee(s), and assisting with SAFE Board Annual Statistical Report and Annual Report.
 - ii. **Nomination:**
 1. Billy Parker motioned to nominate Kyle Keller to be Chair. Jason Potter seconded the motion.
 - iii. **Discussion:** AG Drummond opened nomination for discussion. Hearing none, closed for vote.
 - iv. **Vote:** Kyle Keller for SAFE Board Chair
 1. **Unanimous** vote in favor by Members present: Danielle Tudor [D], Mistie Burris [D], Bill Weaver [D], Darin Ehrenrich [D], Sonya Spray [D], Jason Potter [D], Linda Terrell [AP], Mikela Rhodes [AP], Billy Parker [AP]
- b. **Nomination Call for SAFE Board Vice-Chair:** AG Drummond opens floor for Vice-Chair nominations.
 - i. **Questions:** Linda Terrell requests clarification on whether better for a state agency member to be in role. AG Drummond states that Board will be supported and staffed by OAG staff and optics do not matter. Linda Terrell wonders if state members, such as AG Drummond, could be Chair. AG Drummond states that what is important is what the Board wishes. AG Drummond states that he designated his vote to Danielle Tudor as a Special Designee, so AG Drummond is not a voting member of Board. He affirms support from AG's Office and AG Drummond's support and advocacy. Linda Terrell states that she is asking to get more information about what might be best for the Board to move with most efficiency. AG Drummond confirms that the first step is to have a Chair and Vice-Chair, wherein at least one of them will be able to attend the meetings. Linda Terrell confirms with Kyle Keller that he will be able to attend all of the meetings. AG Drummond notes Board just voted on Chair and are now taking nominations for Vice-Chair. [Note: Sen. Carrie Hicks arrives at this time, 1:39 p.m.].
 - ii. **Nominations:**
 1. Bill Weaver motions to nominate Linda Terrell as Vice-Chair. Linda Terrell accepts nomination after confirming with Kyle Keller that he will be present most of the time. Seconded by Bill Parker.
 - iii. [Discussion]
 - iv. **Vote:** Linda Terrell for SAFE Board Vice-Chair.
 1. **Unanimous** vote in favor by Members present: Danielle Tudor [D], Mistie Burris [D], Bill Weaver [D], Darin Ehrenrich [D], Sonya Spray [D], Jason Potter [D], Linda Terrell [AP], Mikela Rhodes [AP], Billy Parker [AP], Kyle Keller [AP].
3. **Review, discussion, and possible action to determine the Board's meeting dates for Calendar Year 2025 to be transmitted to the Secretary of State no later than December 15, 2024.**

- a. AG Drummond requested Kyle Keller (Chair) and Linda Terrell (Vice-Chair) to confirm the following proposed meeting dates for 2025, as well as all voting Members to check for conflicts:
 - Thursday, February 20 at 2:00 p.m.
 - Thursday, May 22 at 2:00 p.m.
 - Thursday, August 21 at 2:00 p.m.
 - Thursday, November 20 at 2:00 p.m.
 - b. **Approved:** Bill Weaver moves to approve dates as listed. Seconded by Darin Ehrenrich. **Vote:** Unanimous vote in favor by Members present: Danielle Tudor [D], Mistie Burris [D], Bill Weaver [D], Darin Ehrenrich [D], Sonya Spray [D], Jason Potter [D], Linda Terrell [AP], Mikela Rhodes [AP], Billy Parker [AP], Kyle Keller [AP]. AG Drummond confirms dates will be published on the Secretary of State website.
4. **Review and discussion of the Board's duties, responsibilities, and administration under Senate Bill 1933.**
 - a. At AG Drummond's request, Thomas Schneider provides summation and overview of Board's responsibilities: meeting requirements (at least quarterly), quorum requirements (seven voting Members), review about triggering OMA, state travel reimbursement for necessary travel on behalf of Board (reimbursable out of OAG coffers unless Member representing another state agency that reimburses), and confidentiality of records and privileged information under law. Notes that disclosure of any information that harms or impacts someone can be actionable against the Board under the Torts Claims Act. Maintain confidentiality.
 - i. Executive Session explanation provided. Can examine individual cases but that's the limit for executive session use. OAG staff helping administratively on this Board, so direct questions to Susi, Sara, Karen.
 - ii. Two main responsibilities in addition to making recommendations:
 1. Annual Statistical Reports publication (incidents of forensic exams can include recommendations to LE, etc.).
 2. Annual Report publication (summary of activities). Provided to legislature no later than Feb. 1 of subsequent year.
 - iii. Thomas Schneiders asks if there are any questions.
 1. Mistie Burris asks whether Board required to do report for this coming February (2025) or starting February 2026.
 2. Thomas Schneider notes discussions will be had on that and perhaps Sen. Hicks can help.
 - b. AG Drummond reiterates need to strictly comply with Open Meeting Act and Open Records Act and what violations can look like. If individual Members leak information, personally violating. Emphasizes that this is an important state sanctioned Board.
5. **Possible executive session pursuant to 21 O.S. Supp. 2024, § 143(C) and 25 O.S. Supp. 2024, § 307(C)(16) to review and discuss individual cases of sexual assault evidence collection.**
 - a. N/A—no Executive Session material.
6. **Sexual Assault Kit Initiative Updates:**
 - a. **TulSAKI** Program update by Lt. Darin Ehrenrich, Tulsa PD

- i. **Kits Update:** 2,023 kits submitted for testing. Result: 185 CODIS hits. Of new cases since last meeting: ten hits are outside of statutes of limitations with suspect named at time of original report, three victims did not want to move forward, there are ongoing efforts to contact an additional seven victims, one victim wants to reopen case, one case where CODIS hit linked to suspect in prison without parole for murder, two hits came back to consensual partners, two cases where suspects arrest at time report made, and one case suspect became homicide victim.
 - ii. **Discussion:** Sen. Carrie Hicks confirms whether such victims lose any recourse because of the failure test kits in a timely manner. Lt. Darin Ehrenrich confirms the cases cannot be prosecuted in such cases. AG Drummond notes previous proposal on lengthening statute of limitations for rape. Suggests such proposal may be considered again. Sen. Hicks inquires about civil recourse and statute of limitations. Some discussion on civil law statutes of limitation. AG Drummond notes that statutes of limitations toll when suspect is out-of-state. Encourages further discussion when Board reviews legislative proposals.
- b. **Oklahoma City SAKI Program update by Bill Weaver with Oklahoma City Police Department.**
 - i. **Kits Update:**
 - 1. 142 sexual assault kits submitted to 3rd party vendor. 109 had full profiles. 59 CODIS hits. Three hit on out-of-state cases. 22 pended due to inability to locate victims. 8 were closed because victim did not want to proceed. 6 charges filed and several still under investigation.
 - 2. Process: sexual assault kits screened within 7-14 calendar days. When male-positive DNA present, kits sent for full analysis and reported out in 45-60 days.
 - 3. Sexual assault kits by calendar year:
 - a. 2022: 205
 - b. 2023: 218
 - c. 2024 so far: 186
 - 4. **Discussion:** Carolyn Thompson offered clarification: last year, bill extending SOL passed and went into effect 14 days ago. Limit is now 20 years. This also applies to anyone whose SOL has not already run out. AG Drummond discussed possibility of elevating rape to same level as murder, leaving SOL to last in perpetuity.

Darin Ehrenrich made comments regarding retroactivity, stating that all of the cases run over the last quarter were 2004 and 2005 cases, where the SOL was probably seven years at that time. Cases bound to SOL at original date, with the caveat that if the DNA identifies the offender, they have that three-year window. For the cases Darin Ehrenrich is looking at, the suspect was named at the time (CODIS did not identify offender), and that puts such cases outside of the SOL, as they were old cases.

c. OSBI SAKI Team update by Mistie Burris, OSBI.

i. Kits Update:

1. As of end of Oct.: 2,648 kits fully analyzed, 874 profiles uploaded to CODIS with 423 CODIS hits.
2. Last few months, limited analysis on inventory because awaiting funding on SAKI grant (was supposed to start Sept. 1).
3. Roughly 600 kits left for testing.

ii. Investigative Update by Jenny Virden:

1. Training across state to get consistency with law enforcement regarding sexual assault cases. Linda Terrell collaborating on training.
2. Symposium: April 11 at NSU for SA Awareness Month. Focus: community involvement on SA awareness. One day event. Would love everyone to be there.
3. Trainings: Dec. 4 & 5 in Lawton; Feb. 24 & 25 in Elk City; numerous training requests, including Idabel and Stillwater.
4. Guests came with Jenny Virden from Tulsa and OKC today.
5. Trainings are free. Flyers on OSBI website. Scholarships available for travel, lodging, and per diem. Symposium is awareness event seeking community involvement and outreach event. Jenny Virden will send out dates to Susan Laib so Board can publish dates.

7. Update and Discussion on Statewide SANE Program

a. Updates:

- i. Darin Ehrenrich notes that Kasey Magness' city-issued car broke down on way to Board meeting, which is why she did not make it today.
- ii. Karen Cunningham notes state-wide advisory council for SANE nurses. Janet Chappell in charge under the grant. Working on protocol and soliciting SANE nurses. \$800 exam compensation helping. Karen notes they are working on rural areas, too.
- iii. Mikela Rhodes notes that SANE nurse recruitment is going well. While she does not have numbers state-wide, she states that the YWCA OKC currently has 18 SANE nurses.
- iv. No legislative updates from Macey Whitehouse and Carolyn Thompson at this time.

8. Discussion and Possible Action on Proposals for New Legislation

a. Non-report SANE Kit Paperwork:

Mistie Burris states that a SANE hospital not putting paperwork in SANE kits when it is a non-report case because they were informed that their local LE agency was opening kits and putting non-report documentation based on head detective's directive. Considered a potential HIPAA violation. Training for LE will emphasize this cannot be done with non-report cases. Mistie Burris notes that law is that LE will store kit for 50 years. One question is whether there should be new legislation that kits will be stored *unopened* for that period. Hospital will keep survivors' SANE records forever. OSBI sharing this issue but does not have a stake.

AG Drummond suggests that, since only one agency currently known to do this, that agency should be told not to do that instead of seeking legislative change at this time. Mistie Burris asked who has the authority to tell a law enforcement agency that. Board Members suggest maybe law enforcement representation on Board can intervene. AG Drummond requests that Mistie Burris and Billy Parker discuss this matter, so Billy Parker can reach out to the agency about stopping this practice. Mistie Burris would like such language change considered if this issue is addressed legislatively later.

b. CODIS-Hit Notifications to Survivors:

After a case in which a survivor was not notified, Mistie Burris states that Rep. Ford is willing to run legislation so survivors can obtain such information. OSBI cannot release information on hit but can say whether there was a hit.

Darin Ehrenrich opposes automatically contacting survivors in such cases and believes it would be a “terrible idea.” He states that a vast majority of victims do not want to cooperate or reopen that wound. Being required to notify victims about cases that are outside of SOL, in which there is no ability to prosecute, will unnecessarily reopen wounds.

Mistie Burris refers to TX and CA legislation. CA gives survivors the right to know about CODIS hits but does not require LE to contact. There are concerns that some LE agencies would not have manpower to initiate contact; however, Mistie Burris suggests legislative language where survivors could be given right to inquire and be given information, if it does not compromise a case. Mistie Burris suggests that perhaps survivors do not necessarily need to know who it hit to, but that there was a CODIS hit.

Darin Ehrenrich states that two-thirds of victims his agency reaches out to do not want to participate, even in cases where cases could move forward. For those where there is no chance of prosecution, he asks: “Why would we rip open a scar that is a couple of decades old, if there’s no chance of prosecution?” He is interested in Board survivors’ perspectives.

Danielle Tudor states that she believes they are discussing two different timelines: one is backlogs, and one is more recent cases that would be prosecutable. She gives her perspective. She would tend to agree about those not wanting to engage in system that far out. She states that most victims know their abuser. In stranger cases, victims would likely want to know. Would not want to cause a problem for current case for prosecution, but would want to know who the individual is. However, most victims would know to whom it was going to hit. “I would tend to agree, why rip off that bandage?” Victims have every right to say they do not want to participate but does like language that victims have a right to get the information and access without LE being obligated by law to contact victims after hit. Shared own experience of needing now to reach out regarding updates on perpetrator’s parole.

Linda Terrell states that she is not sure how she feels about it. She views it from multiple perspectives. She likens it to a stage-four cancer diagnosis—even if there is nothing to be done, a doctor should still inform patient. It was 28 years until her stranger perpetrator was caught. A time before CODIS hits. She did not think to continually contact and request updates from LE on her case. Victims having opportunity to participate in the process different from information on CODIS-hit information. Spent 28 years looking over shoulder but does not have to anymore because perpetrator is in prison, and she knows that. She expresses that it is totally understandable that some victims would not want to go into it. She states, “But it is my information; I just feel like I should know.” She would like to think about it more.

AG Drummond inquires about current notification protocol. Mistie Burris states that there are as many protocols as there are agencies. Darin Ehrenrich confirms law enforcement will release information on CODIS hit if victim calls. Regarding victim notification best-practices nationwide, “There’s as many protocols as there are agencies out there.” Great advocacy in Tulsa. Has protocol of best practices. Case-by-case basis. Reviews different scenarios. Gave anecdotal example of prosecutable case in 2012. Woman’s home invaded, raped by three men. Victim stated that she did not say “no,” so she did not believe it was rape. Detective accepted that and closed case. Later, agency tried to follow-up. Upset victim. Victim screamed at LE. The pain was very evident. Ehrenrich states that, if there is legislation, it should be a “right to know” not obligation, because it would wound more people than it would heal.

Bill Weaver states that he believes there is a difference between confirming a CODIS hit and who the hit is on, which will likely be a victim’s next question. States it is a difficult issue. Mistie Burris states that information would have to come from the investigator, not the lab.

Danielle Tudor reiterates that it comes back to fact that in most cases, the offender is known to the victim. Stranger case is rare. Once work through the backlog, question changes from what to do with 20-year-old cases to how to respond in current cases. Consider adding right to know and inquire about CODIS-hit to victim rights information provided at time.

Mistie Burris notes that the statutory rights are listed in the handout and believes that statute would be the best place to include CODIS-related rights in a legislative change. Danielle Tudor wants to know if that right would include to whom the CODIS hit, as particularly important in stranger rapes. Mistie Burris said it was not the intention to add that part and labs cannot do that. Mistie Burris states that her goal would be allowed to say if there was a hit and then, from the investigative side, if found useful, they can handle the “who” question. Danielle Tudor states that she understands that, if an ongoing

case, understandable if such information withheld. Mistie Burris states that she wanted to get others' opinions, not just her side, since approached about legislation. Billy Parker states that he believes the notification should come from LE, and it should be the victims' choice on seeking that information.

Mikela Rhodes notes that language on CODIS hits could fit within H.B. 2546, the Victims' Rights to Information Act. There is a suggestion to add language that, if victim wants to know identity of a CODIS hit, the reporting agency should be contacted. That would be a case-by-case determination by LE. Mikela Rhodes responds that is the current dynamic in investigative situations. She agrees it should be the victims' choice whether they are contacted about a CODIS hit, as a cold call could be "awfully triggering." Victims should have a choice. AG Drummond acknowledges interest within the Board on pursuing such legislation and suggests Mistie Burris and OAG legislative staff work together on potential language.

c. Statutes of Limitations:

Carri Hicks states that she is working with a very brave constituent on SOL issue, particularly on civil side. Board Members discussed SOL on sexual assault cases on the civil side. Acknowledged civil cases particularly difficult, despite lower burden of proof, including challenges in finding attorneys to take civil cases. Discussion on ways to potentially focus on defendants' assets in civil cases. Discussion on criminal law wherein rape SOL like that of murder. Recent law discussed that, if there is a confession or DNA, no SOL in rape case. Discussed causes of delays in reporting. Discussion regarding view that, even without DNA or confession, there can be very strong cases, particularly when multiple victims come forward.

d. Mandatory Sentencing for Serious Sex Crimes:

After talking with the mother of one of the victims, Danielle Tudor provided an overview of a case involving sex crimes against two young teenage girls. The first trial ended in a hung jury. The second trial resulted in a conviction, and the jury recommended the defendant serve twenty years of prison time for each victim. Instead, the judge ordered probation.

Danielle Tudor asks the Board to consider legislation on mandatory sentencing for serious sex crimes, if nothing is in place in Oklahoma yet. The purpose would be a safeguard so victims do not have to go all the way through the criminal justice process (sometimes multiple times) that results in a conviction, only for a lax judge decides on probation instead of prison time. Such outcomes likely deter victims from participating in justice process. Danielle Tudor requests to invite District Attorney Kunzweiler to discuss similar issues with the Board. Board members discuss similar cases, judicial discretion, suspended sentencing, inconsistent sentencing (where some get probation and others get up to life sentences in similar cases), and minimum sentences. AG Drummond suggests an invitation to DA Kunzweiler be considered for the next Board meeting.

e. Entity Protective Orders

Darin Ehrenrich states that the Tulsa Girls Home (for vulnerable girls) reached out regarding people contacting the minor girls or coming on to the Home's property. Beyond trespassing charges, the request is to consider legislation to permit an organization to petition for a protective order on behalf of juveniles in the organization's care, instead of limiting that option to a guardian (DHS worker, in this case).

Carolyn Thompson indicates that a bill passed that may have addressed this issue. That information was passed on to the Home. Linda Terrell suggests connecting with the Commission on Children and Youth. Carolyn Thompson will share the information she has with Darin Ehrenrich to see if what is currently in place will work for the Home to petition for a protective order on behalf of a juvenile resident.

AG Drummond calls for any additional legislative suggestions for the Board's consideration. Hearing none, AG Drummond invites Members to submit additional legislative suggestions to Susan Laib at any time.

9. Adjournment

- a.** Confidentiality reminder by Thomas Schneider and request to sign confidentiality form (see addendum attached to meeting minutes).
- b.** AG Drummond thanks the Board for robust conversation.
- c.** Meeting adjourned at 2:51 p.m.