

Draft Minutes
Meeting of the Review Subcommittee
of the Scientific Advisory Committee
January 9, 2024, 10:00 a.m.
Virginia Department of Forensic Science, Classrooms 1 & 2

Subcommittee Members Present

Kathleen Corrado, Ph.D., *Subcommittee Chair*
Jennifer Breaux
Erin Forry
George Maha, Ph.D.
Peter Vallone, Ph.D., *Subcommittee Vice-Chair*

Staff Members Present

David A. Barron, Ph.D., Deputy Director
Mason Byrd, Chief Deputy Director
Deea Chakraborty, Legal Assistant
Linda C. Jackson, Director
Amy C. Jenkins, Department Counsel
Bradford Jenkins, Forensic Biology Program Manager
Joshua Kruger, Northern Laboratory Director
Alka B. Lohmann, Director of Technical Services
M. Scott Maye, Central Laboratory Director
Jessica Norton, Senior Legal Assistant
Robert Scanlon, Forensic Scientist, Forensic Biology, Retired
Kelly Shelton, Forensic Administrative Specialist
Robyn Weimer, Chemistry Program Manager

Call to Order by Subcommittee Chair

Dr. Kathleen Corrado called the meeting of the Review Subcommittee ("Subcommittee") to order at 10:00 a.m. and had the members of the Subcommittee introduce themselves.

Adoption of the Subcommittee Agenda

Dr. Corrado advised that the first order of business would be the adoption of the Subcommittee Agenda and noted that the agenda was previously shared with the Subcommittee. Dr. Maha made a motion to adopt the agenda, which was seconded and subsequently passed by unanimous vote.

Approval of Minutes from October 10, 2023

Dr. Corrado asked for approval of the draft minutes for the October 10, 2023, meeting and if there were any changes. Dr. Corrado noted that there was one amendment to the minutes, which was a grammatical error at lines 51 and 52. Dr. Corrado asked for a motion to accept the amendment. Dr. Vallone made a motion to accept the amendment, which was seconded and passed by unanimous vote. Dr. Corrado asked for a motion to accept the minutes as amended, which Dr. Vallone made a motion, which was seconded, and passed by unanimous vote.

48 **Old Business**

49 Department Counsel Amy Jenkins provided an overview of the five (5) cases provided to the
50 Department by VPM. In advance of the meeting, the members of the Subcommittee were
51 provided copies of the materials outlining the allegations made by VPM.

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53 Ms. Jenkins first discussed the “Cat” case. There was a newspaper article alleging that Ms.
54 Burton tested samples from the cat. Ms. Jenkins made a request of Hanover Circuit Court
55 inquiring if there were any court reporter notes from the trial of the third codefendant and if
56 those documents could be provided. The court provided those notes, but there was no indication
57 of the content of Ms. Burton’s trial testimony and nothing in the Department’s file to indicate
58 there was testing on samples from the cat. Dr. Corrado asked Ms. Jenkins what the outcomes of
59 the trials for the cases were. Ms. Jenkins indicated that there had been no convictions for the
60 listed suspects.

61
62 Dr. Corrado noted that it was difficult to look at the way things were done in the 1970s, and
63 mentioned that in looking at these case files, that today’s standards should not be used to
64 compare to how things were examined in the past. She also noted that there were documentation
65 issues with notes being on worksheets and notes that did not make it into the report, but nothing
66 stood out that seemed nefarious in this case.

67
68 Dr. Vallone asked Mr. Scanlon about standard operating procedures for serology. Mr. Scanlon
69 noted there were no written procedures manuals at that time. Dr. Vallone inquired if there was a
70 technical review at the time. Mr. Scanlon responded that Ms. Burton was the only serologist at
71 the Bureau during this time so there was no one qualified to review her reports.

72
73 Dr. Corrado asked Mr. Scanlon about the information documented on different worksheets and
74 paperwork and inquired if that was the common way of notetaking. Mr. Scanlon noted that there
75 was no specified way to note their work and the notes at the time were only for the examiner to
76 recall for their report writing.

77
78 Ms. Jenkins discussed the second case, the hunting incident. Ms. Jenkins notified the
79 Subcommittee of an additional document that was not provided earlier. Ms. Jenkins checked
80 with the Amelia County Sheriff’s Office, who did not have a file. She then checked with the
81 Virginia State Police, who allowed her to review the file, but would not release a copy of their
82 file. Ms. Jenkins was able to confirm for the Subcommittee that the VSP investigator resubmitted
83 the towel, at Ms. Burton’s request, for the species testing. Ms. Burton had requested the towel be
84 resubmitted because species testing had not been requested or performed on the initial
85 submission.

86
87 Dr. Corrado noted that there were a lot of notes but none in the file for when the towel was
88 resubmitted to demonstrate testing for deer blood. Ms. Jenkins had Mr. Scanlon explain what
89 “ruminant” is. Dr. Corrado noted that there could be additional documentation issues with the
90 case file, or possibly documentation missing.

91
92 Dr. Vallone noted that it appears that a result was added without the supporting notes.
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Ms. Forry asked Mr. Scanlon if it was common practice to have technical notes or have someone write a report without documentation. Mr. Scanlon noted that at a minimum, there should be some documentation describing the evidence. Mr. Scanlon stated that Ms. Burton typically had very minimal documentation in her case notes.

Dr. Corrado noted that the initial results of the towel were said to be human, but then later on, the blood on the towel was reported as deer. It is not clear if they are different stains.

Ms. Jenkins discussed the 3rd case (Inmate Felony Assault). She noted that she did not have any additional information to add. She did note that there was no conviction or court record that could be located for the suspect, so this was not part of the Post-Conviction DNA Testing Program and Notification Project ("PC Project"). Ms. Jenkins noted that Ms. Dabbs did some of the analysis in this case.

Dr. Corrado noted this case was confusing; the blood typing was not consistent with either victim or suspect.

Ms. Forry noted that it is challenging to review the work in Ms. Burton's cases, and without the documentation, they cannot answer "the why."

Ms. Jenkins continued on to the Fairfax Homicide Case. She noted that there was nothing new to report with this case. Ms. Jenkins referred to a note on page 60 of the *Review of VPM Podcast Provided Documentation*, about the victim being in the hospital for surgery and receiving blood transfusions. Mr. Scanlon indicated that this could explain anomalies in the testing.

Dr. Corrado commented that it appears for this case that all stains that were typed were consistent with a single donor. Dr. Corrado asked Mr. Scanlon about transfusions affecting results in blood typing. Dr. Maha noted that, from a clinical perspective, even to this day, 90 days post-transfusion, they will not do a blood typing testing. It is a known error. Dr. Vallone asked about "no such type" on page 59 of the document. Mr. Scanlon indicated that this documentation would be a mixture.

Ms. Jenkins moved on to the final case in the review, the rape case, and an alleged change to item #33. Ms. Burton was subpoenaed to testify but was released. The charges were reduced, and it was not considered eligible for the PC Project. The Virginia State Crime Commission (VSCC) tried to locate the suspects to let them know additional testing was available, however one was deceased, and the other was not found.

Ms. Jenkins noted in her report to the Subcommittee the numerous allegations. A Corrected Certificate of Analysis was issued, which removed enzyme testing and only reported ABO testing.

Dr. Corrado expressed concerns with a number of irregularities for this file. Dr. Corrado noted that a main issue was that there were changes, but no one knows who had the record book, or who made the changes or why those changes were made. In addition, the changes that were made do not make sense. Dr. Corrado noted several issues, namely whether a mistake was made,

whether samples were loaded incorrectly, or whether someone intentionally changed the results. It is unclear if the results were changed “in one direction or another.” Dr. Vallone acknowledged that Dr. Corrado summarized the issues with this case. Ms. Forry noted that under today’s standards, we would have the answers to why things were re-tested, with information being added to the notes. Records were not as thorough then as they are in today’s practices.

Ms. Breaux noted that the main issue is the changes to the logbook and then having a final report with only the ABO results were reported, but there was really no way to know. Dr. Corrado noted that this case had more issues that were concerning than the others.

Ms. Jenkins noted that VPM provided the additional records as requested, which had been forwarded to the Subcommittee. Ms. Jenkins requested the lawsuit documents from the United States District Court (USDC) for the Eastern District of Virginia. The USDC indicated that the files were in their archives in Philadelphia. Ms. Jenkins stated that the Philadelphia Records Center did not have the records and that the files were never received. Ms. Jenkins noted that the “Chronology of Whistleblowing Efforts” document appeared to have been prepared as Answers to Interrogatories as part of the litigation. Ms. Jenkins discussed the letter to Warren Johnson, which was featured prominently on the VPM podcast website, but does not reference Ms. Burton. Ms. Jenkins also spoke of the resignation letter, noting that it provided no details notifying Dr. Ferrara of any issues with Ms. Burton. Ms. Jenkins noted the electrophoresis worksheets provided by VPM were available on the Department’s website, as they were too numerous to print. Ms. Jenkins stated that there were no additional allegations in those documents.

New Business

Ms. Jenkins was asked by the Subcommittee to address the audits and reviews conducted in 2005 after the exoneration of Earl Washington. Ms. Jenkins stated that the first audit was internal and conducted by two (2) DFS supervisors. The information from that audit was provided to ASCLD/LAB, the Department’s accrediting body at the time, when they conducted their audit. ASCLD/LAB issued a report on April 9, 2005, with a number of recommendations. Governor Warner appointed a special master, Judge Robert J. Humphreys, from the Virginia Court of Appeals, to oversee an independent scientific team to make sure the recommendations of the ASCLD/LAB report were carried out. ASCLD/LAB issued a new report in October 2005 stating they were satisfied with the corrective actions carried out by the Lab.

Ms. Jenkins provided an overview of the case of Earl Washington. Mr. Washington was convicted of capital murder in 1984 and granted an absolute pardon in 2000. In 2002, Mr. Washington filed a federal civil suit against numerous Virginia authorities. Independent DNA testing called into question the prior DFS DNA results in this matter. In April 2004, counsel for Mr. Washington called upon Governor Warner to appoint an independent auditor and that is when the Humphrey’s commission was established. Ms. Jenkins spoke on the allegations made by VPM concerning Deanne Dabbs changing her transferrin CD results to inconclusive after a meeting with law enforcement about the case. On November 10, 2003, Ms. Dabbs was deposed, and she indicated that she changed her results based on an article she had read “that a transferrin Type C upon degradation could appear to be a transferrin Type CD.” DFS located a Memorandum for Record (MFR) in the Washington case file, which supported Ms. Dabbs’

comments as to why she changed the transferrin results. Several articles from that time period were attached to the memorandum. The MFR and attached articles were provided to the Subcommittee as well as members of the public. Mr. Washington prevailed in his lawsuit against the Commonwealth in 2006.

Review of Serology Cases

Brad Jenkins, Forensic Biology Program Manager, provided an overview of the Serology case review that was performed during 2016 – 2020. The review was initiated after it was discovered, in an exoneration case, that ABO blood typing results that would have eliminated the suspect had not been reported on the 1983 Certificate of Analysis from the Eastern Laboratory nor was this disclosed during the trial. The conviction in this case also was based largely upon bite mark evidence, and in 2016, DNA evidence eliminated the suspect.

Mr. Jenkins provided an overview of serology testing performed at the Department. Serology testing was conducted from 1972 to 1994, being replaced with DNA testing in 1994. Mr. Jenkins discussed the “taped-down” evidence found in the files. He indicated that the taped-down evidence was part of the PC Project.

The separate Serology Review was conducted on approximately 200 Eastern and Northern Laboratory cases, which were authored by 18 different forensic scientists employed by DFS. Mr. Jenkins spoke about the review committee structure and the use of an external reviewer. He explained some of the general observations that were observed during the review. Nine cases were identified for further discussion and possible notifications.

- Case #1 was a rape case that was also part of the PC Project. Winston Scott was one of the PC project’s 13 exonerations. The ABO results were changed in this case and the examiner was Mary Jane Burton.
- Cases #2 and #3 both had inconclusive results.
- Case #4 dealt with control swabs where some of the control swabs had tested positive for blood.
- Case #5 contained a stain on a sheet which should have been reported inconclusive for saliva.
- Case #6 included an unreported evidence result due to the lack of a victim sample.
- Case #7 appeared to include a typo in this case report.
- Case #8 included some ABO results that were not reported on a pair of pants.
- Case #9 included an oddly worded conclusion, but this case had more notes in the file to support the conclusion.

Out of the nine cases, five cases were recommended for notification, which was approved by the SAC in 2020. Only one of the 9 cases, the Scott case, was subjected to post-conviction DNA testing. Mr. Jenkins also noted that the Scott case was the only case out of those that were reviewed that had a changed typing results by Ms. Burton.

Ms. Breaux asked of Mr. Jenkins what percentage of the serology review were Ms. Burton’s cases. He stated that very few were hers, as Northern and Eastern cases were chosen for this review, where as Ms. Burton worked in the Central Laboratory. Ms. Breaux asked whether more

of Ms. Burton's cases were reviewed after seeing her work in the Scott case. Mr. Jenkins stated that it was the first time the Department had seen those issues. He indicated that the PC Project's exoneration cases that were Ms. Burton's cases were included in the serology review.

Mr. Jenkins provided an overview of the 13 exonerations after PC testing was conducted and why the exonerations were awarded. Mr. Jenkins noted that the information provided to the Subcommittee was from the Innocence Project and the National Registry of Exonerations.

Dr. Corrado asked about the number of cases Ms. Burton worked in totality. Mr. Jenkins noted that of the 860 cases, the majority of those cases were Ms. Burton's, but noted that other analysts taped down evidence as well. Ms. Jenkins provided an estimate of Ms. Burton's cases worked, stating it was close to 10,000 cases (hair or serology). Ms. Jenkins stated that there is no mechanism of knowing whether a suspect was charged or convicted in the cases without going to the courts to inquire. The VSCC and the Department reviewed approximately 3,000 cases with taped-down biological evidence as part of the PC Project. Ms. Breaux asked Mr. Jenkins how many of the 3,000 cases reviewed were Ms. Burton's serology cases. Mr. Jenkins stated that the serology results were not reviewed for that information, as they just moved directly to DNA testing in those cases.

The Subcommittee took a 10-minute break at 11:25 a.m., resuming the meeting at 11:35 a.m.

Once the meeting resumed, Ms. Jenkins provided an overview of the report from the VSCC regarding the PC Project and stated that this full report was posted on their website.

Review of Quality System

Dr. Corrado called upon Alka Lohmann, Director of Technical Services, to discuss the Department's Quality System. Ms. Lohmann stated that the Department has been accredited since 1989. Ms. Lohmann stated that the Department's Quality Manual and discipline specific manuals are posted on the Department's website. She also discussed the Department's Code of Professional Responsibilities and Ethics in addition to the various quality assurance and quality control measures the Department utilizes including, but not limited to technical and administrative review of all issued reports, proficiency testing and other monitory activities to encompass testimony, and continuing education.

Dr. Maha asked Ms. Lohmann what the Department does to minimize outside influence and pressure. Ms. Lohmann responded that it would depend on the nature and origination of the inquiry. Communication is documented and she stated there are processes in place to communicate with supervisors, directors, and the legal department or the Quality Manager. These options are delineated in the Quality Manual.

Review of Marvin Grimm Writ of Actual Innocence

Ms. Jenkins provided the Subcommittee with an overview of Marvin Grimm's Writ of Actual Innocence. She had not provided the Subcommittee with the case file documents, as the case is in active litigation. The Office of the Attorney General (OAG) filed a brief in mid-December that supports Mr. Grimm's petition for a Writ of Actual Innocence. The brief raises numerous concerns about Ms. Burton's work in the original case.

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278 Ms. Jenkins provided a brief summary of the Grimm case. Mr. Grimm pled guilty in 1976 but
279 maintained his innocence. Ms. Burton did not testify at the plea hearing, but her report
280 corroborated Mr. Grimm's confession and was introduced by the Commonwealth. Since 2002,
281 additional testing had been conducted, both by the Department and private laboratories. Ms.
282 Jenkins spoke of the evidence, oral smears and swabs from the pharynx and esophagus and noted
283 in the report that spermatozoa were identified from those smears. Ms. Burton's report stated that
284 the smears indicated a type O secretor. There was a towel from Mr. Grimm's vehicle that she
285 reported had a possible presence of seminal fluid. Ms. Burton reported on eight hairs recovered
286 from Grimm's car and a peacoat from his home, all being consistent with the victim. Ms. Jenkins
287 noted that, on the report, Ms. Burton indicated that the victim was a type O secretor and Mr.
288 Grimm was a type A secretor. The Department conducted additional testing in 2002 and
289 excluded Mr. Grimm with DNA testing. Additional mitochondrial testing on the hairs, performed
290 by both DFS and private laboratories, established that the victim was excluded. Ms. Jenkins
291 continued that the OAG brief noted that all serology results were exculpatory at the time Mr.
292 Grimm entered his guilty plea. While Ms. Burton did not provide any testimony at the hearing,
293 Mr. Grimm should have been excluded, as Mr. Grimm was not a type O secretor. Both DFS and
294 the private labs were not able to locate spermatozoa on any item of evidence. The OAG had not
295 been able to locate any additional evidence. The subsequent mitochondrial testing noted that the
296 hairs were not consistent with the victim. In the 2011 report, DFS noted that there were at least
297 four (4) contributors to the hair samples. Ms. Jenkins indicated additional testing conducted by
298 private laboratories have identified at least two additional contributors.

299
300 Since the case is in active litigation, Ms. Jenkins noted the Department would have no additional
301 comment. She noted that there were staff members from the OAG at the meeting, and they were
302 aware that this information was being disseminated to the Subcommittee.

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304 Dr. Corrado inquired of Ms. Jenkins as to why the Grimm matter was being reviewed. Ms.
305 Jenkins stated Mr. Grimm has always asserted his innocence since the initial confession and had
306 requested PC testing.

307 **Subcommittee Discussion**

308
309 Dr. Corrado opened the floor to the Subcommittee for discussion.

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311 Dr. Vallone started the discussion with an overview of the information provided in the meeting.
312 He noted that the first step should be reviewing what cases were Ms. Burton's and going from
313 there. He noted that a review similar to that of the serology cases may be warranted with Ms.
314 Burton's cases.

315
316 Ms. Forry continued the discussion around the fact that not having Standard Operating
317 Procedures (SOPs) from the time to audit against made it a challenge to review these case files.
318 She noted that looking at others' notes could show a trend that could be laboratory or system
319 wide, which she also noted that the Department has looked at in its earlier reviews. She stated
320 that, in the cases that she reviewed, there appears to be a lack of documentation in the files. In
321 addition, there were changes and corrections that were made without noting why they were made

and reports with no documentation. Ms. Forry also stated that she was left questioning the extent of the problem and whether other examiners documented similarly.

Dr. Maha continued the discussion regarding the fact that in the 1970s and 80s there were no SOPs but noted that forensic science has improved dramatically with new quality programs being put in place, accreditation becoming available, and audits done by outside parties to improve forensic science as a whole. He also noted that improvements continue to be made and will continue to be made.

Ms. Breaux stated that the Scott and Grimm cases caused her more concern than the cases that she reviewed prior to the meeting. She noted that having results being left out or not confirmed was of specific concern. She continued that she believed that more of Ms. Burton's cases should be looked at to determine if trends might be found.

Dr. Corrado finished the discussion, noting her concerns in the last rape case and the issues with the Scott and Grimm cases. She continued that she had issues with the work done by Ms. Burton and that it did warrant some kind of review.

Dr. Corrado suggested that Ms. Jenkins propose a review or a notification to the affected parties and what the notifications would entail. Ms. Jenkins indicated that a notification could be drafted and presented at a future meeting. Dr. Corrado confirmed that the Subcommittee was in agreement that some further investigation is necessary but was not sure what that would entail. Ms. Jenkins noted that, with past reviews, the Department had typically notified the parties of any concerns as noted the Subcommittee, and she would be willing to draft a notification to send out to the prosecutors, law enforcement and the defense bar. The notification would detail the concerns regarding Ms. Burton's work and indicating that DFS could review cases and provide DNA testing if evidence was still available. Ms. Jenkins noted that the Department could also provide a list of cases to the prosecutors, and they could advise the Department if there was a charge or a conviction. DFS would also be willing to send the notification to inmates through the Department of Corrections. If the Subcommittee wanted any additional review done, the Department would accommodate that.

Ms. Breaux asked a question about the Winston Scott case and when the changes in Ms. Burton's serology results were disclosed. Ms. Jenkins noted that all of the issues came out at the initial trial and noted that it was clear in the file that Ms. Burton changed her results in the case.

Dr. Corrado stated that the case files were difficult to look through, and without all the documentation, she did not believe it was feasible to review all of Ms. Burton's case files. She continued that if notifications could be made to the parties, the parties could request not just a review, but evidence re-testing. Dr. Vallone agreed it was reasonable to have a blanket notification and taking the reviews from there.

Dr. Corrado asked for a motion for DFS to draft a notification regarding Ms. Burton's work to review at the next Subcommittee meeting, and then for that recommendation to go to the full SAC for approval. Dr. Vallone made a motion to have Ms. Jenkins draft a notification to the individuals who have been impacted by Mary Jane Burton's work. Ms. Forry seconded the motion, and it was passed by unanimous vote.

Dr. Corrado closed the Subcommittee discussion.

Public Comment

Dr. Corrado noted that there were four (4) members of the public who had signed up to speak.

Peter Neufeld, co-founder of the Innocence Project, started by stating that, exactly 30 years ago, the Innocence Project had its first DNA exoneration in Virginia. He noted that, since Director Jackson has taken over the Department, the attention to the internal validation, reliability, quality assurance and quality control, has impressed him. He noted, however, that a critical element of QA/QC is how a laboratory handles misconduct in the past. Mr. Neufeld stated he did not know the details of the podcast cases and would not comment on those. He continued that the issues from the Grimm case would require more remediation than what had been suggested. But the main issue, Mr. Neufeld continued, was the hair issue. Initially there were eight (8) hairs collected from a car, sock, and peacoat. Ms. Burton concluded that the hairs were consistent with one another and indistinguishable from the child abducted and killed. Mitochondrial DNA testing now shows that none of the eight hairs are consistent and concluded that those hairs came from seven different people. He stated that he could understand that an examiner could make a mistake, but he had never in 40 years seen a case where an analyst has looked at hairs from seven different individuals and said they were all indistinguishable. He continued that, because Ms. Burton reported that the eight hairs were indistinguishable, he believes there has to be a review of all of the microscopic hair comparison cases, and that the Microscopic Hair Comparison Case Review that the Department is conducting does not deal with the underlying problem. Mr. Neufeld believed that not only should the Department conduct retesting in her cases, but he had been told that, for a portion of time, she was the only serologist for the Department and that she had trained the new serologists. He believes a selective sample of the trainees' cases should be reviewed to see if their cases have the same errors.

Susan Friedman with the Innocence Project was the next speaker. She stated that she had a brief comment in the Grimm case. She stated that he was not part of the PC Project and that Mr. Grimm and his counsel have been seeking testing for over 20 years in the courts.

Shawn Armbrust, with the Mid-Atlantic Innocence Project, was the third to comment. She started by stating that the Lab has come a long way since 2006, and that it was a welcome departure from the way things had been done before. She expressed that she had serious concerns about only notifying in Mary Jane Burton cases. She stated that listening to the VPM podcast and reviewing her old cases from 2010, knowing what is known now, she has been looking at the cases differently. She stated that out of the 800 plus cases that were part of the PC Project, a few hundred of those cases had inconclusive results. She continued that she was part of a group of people who reviewed those inconclusive files and wondered if there should be additional testing in those case files. She assumed that most of those inconclusive cases would be Mary Jane Burton's and that most of those cases were convictions. She asked that the Subcommittee consider a review of the inconclusive cases and conduct any such review in an open, transparent way that would involve partnerships.

413 Tessa Kramer, with VPM, was the next speaker. She stated that although the meeting was about
414 the documentation, the allegations in the podcast against Ms. Burton went beyond the
415 documentation. She stated the podcast did not have documentation about all the issues alleged,
416 such as forged signatures on chain of custody documents. Ms. Kramer continued that, although
417 the documentation may not exist, or these issues may not show up in a review, she believed that
418 the problems did exist and that there should be things done to address them.

419
420 Mr. Neufeld provided an additional comment that the Innocence Project had more exonerations
421 based on faulty hair exams then faulty serology. He believed the reason that notification was not
422 adequate was that the cases are older and some of the defendants would be deceased.

423
424 The final speaker was Sara Chu, Director of Policy and Reform at the Perlmutter Center for
425 Legal Justice at Cardozo Law School. She was interested in listening to how the committee
426 viewed these cases and commended the Subcommittee for the amount of time they had spent on
427 these cases. She noted that it was important that the Subcommittee was able to separate what
428 happened at the time from what the standards currently were for forensic science analysis. She
429 noted that there needed to be a final answer regarding Ms. Burton's work, whether it was
430 misconduct or negligence. She feared that, if that question was not answered, the risk was that as
431 more cases were reviewed, they would generate more questions. She suggested that the State of
432 Virginia think about how it can come up with a way to take a more comprehensive look at these
433 cases that would be sufficient enough to obtain closure that would include bringing all the
434 stakeholders together.

435
436 Dr. Corrado noted that one of the most difficult parts for these cases is finding the evidence. Dr.
437 Vallone stated that he does not have a general awareness of what evidence existed and hearing
438 about the hair evidence was new to the Subcommittee. Ms. Forry asked about their role as a
439 Subcommittee, and asked about the expectations as she focused on serology and alterations in
440 these cases. She did notice that hairs were reported but did not focus on that aspect in her
441 review. Ms. Jenkins provided a brief overview of the Hair Microscopy Examination Case
442 Review. Ms. Jenkins responded to Dr. Vallone about the evidence and noted that a search of the
443 Department's case files for biological evidence was completed when requested by the Governor
444 Warner and stated that evidence was part of the PC Project. The Department has no ability to
445 compel the Courts or the law enforcement agencies to resubmit evidence for testing, and further
446 testing could only be accomplished by agreement of the parties or by Court Order.

447
448 Dr. Corrado asked for a motion that the Department consider the information that was discussed
449 in the public comments about how to move forward with a review of the cases. Dr. Maha made a
450 motion to have the Department move forward with the information provided and discussed and
451 develop options for a review of the cases that would be presented to the Subcommittee in April.
452 The motion was seconded and passed by unanimous vote of the Subcommittee.

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454 Dr. Corrado noted that public comment was closed.

455 **Future Meeting Date**

456 The subcommittee set another review for April 8th, 2024, in the afternoon for an in-person
457 meeting. All members of the Subcommittee agreed to the next date.
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460 **Adjournment**

461 Dr. Corrado asked for a motion to adjourn the meeting. Dr. Vallone made a motion to adjourn the
462 meeting, which was seconded and passed by unanimous vote of the Subcommittee. The meeting
463 adjourned at 12:52 p.m.

DRAFT