

1 **Forensic Science Board**

2
3 **Meeting of the DNA Notification Subcommittee**

4
5 June 4, 2008, 3:00 p.m.
6 Third Floor East Conference Room
7 General Assembly Building
8

9 Subcommittee Members Present:

10 Mr. Steven Benjamin
11 Dr. Leah Bush
12 Lt. Col. Robert B. Northern
13 Mr. James Towey
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16 I. Call to Order / Introduction of Subcommittee Members

17 Mr. James Towey called the meeting to order at 3:00 p.m. Mr. Towey stated that this
18 was a small subcommittee due to the fact that they have a limited, non-discretionary task
19 to perform. Mr. Towey stated that at the May 7, 2008, meeting of the Forensic Science
20 Board the Chair, Mr. Joseph Bono, asked that he form and chair a subcommittee to
21 implement the requirements of Budget Item 408(B).
22

23 II. Requirements of Budget Item 408(B) & Mission Statement

24 The mission statement was reviewed and approved. Mr. Towey stated that August 6,
25 2008, is the next Forensic Science Board meeting and they will be required to report
26 everything that has transpired since May 7, 2008.
27

28 Mr. Towey explained why each member of the subcommittee was selected. The Crime
29 Commission has resources to assist in this endeavor and Christina Barnes, the Senior
30 Staff Methodologist, will be very instrumental in helping the Crime Commission to
31 organize the data. The Crime Commission is responsible for printing the notifications to
32 be sent to convicted defendants. Lt. Colonel Robert B. Northern, Virginia Department of
33 State Police, was selected because the State Police is an agency that has the capabilities to
34 aid in locating and/or identifying convicted defendants. Dr. Leah Bush, Office of the
35 Chief Medical Examiner, could also offer helpful resources as far as individuals who may
36 be deceased. Mr. Steve Benjamin was selected because of his close ties and excellent
37 working relationship with the Virginia State Bar. Mr. Towey stated that help will be
38 needed to identify individuals who cannot be located through other means. The primary
39 function of the subcommittee is to identify, locate, and then notify the convicted
40 defendants. After that, the subcommittee task ends and the job is complete.
41

42 III. Discussion of the Procedure for the Identification & Location of Persons to be
43 Notified

44 Mr. Towey stated that he wanted to lay out a plan for how to complete the task at hand. It
45 is his understanding that the Department of Forensic Science has maintained a database
46 with the information that they have received and that they have been working with the

47 Department of Corrections (DOC) to obtain additional information. Mr. Towey requested
48 an update on the progress of the data collection. A representative from DOC stated that
49 they searched for 941 individuals. Of those individuals, there were 564 matches in the
50 system, but 60 of those did not have addresses. There were 330 non-matches in the
51 system and 47 matches that were listed as deceased. Those statistics were given to the
52 DFS and DOC is currently doing a review of the paper records.

53

54 Mr. Towey asked for clarification on the number of records. A representative from DOC
55 stated that there were 2,166 individuals for whom evidence was contained in their files.
56 But of this number, DFS had verified convictions for 941. The DOC representative stated
57 that some of the individuals had multiple addresses because they had emergency contact
58 information listed, such as family members, and a lot of the information was very dated.

59

60 Mr. Pete Marone, Director of Department of Forensic Science, stated that he believes the
61 subcommittee will only need to notify about 1,000 individuals. Mr. Towey asked for a
62 timeline for the completion of the assignment. The DOC representative stated that the
63 initial assignment had been completed on May 28, 2008 and within 2-3 weeks they
64 should complete the paper review.

65

66 Mr. Towey stated that there wasn't any point in transferring data until they had reached a
67 good stopping point. The stopping point would be when all the information had been
68 received by DOC and incorporated into the already existing database. Mr. Towey was in
69 the process of scheduling a meeting within the next week or so with VITA to make sure
70 they are proceeding within the regulations of the Virginia Information Technology Act.

71

72 The representative from DOC stated that making VCIN checks need to be done by the
73 Virginia State Police and OCME. Mr. Towey mentioned that after he has met with VITA,
74 the DFS database will be transferred to the VSP for them to run names through their
75 system and see if they have any additional information.

76

77 Dr. Bush stated that a lot of people who were listed with DOC often end up at the
78 medical examiners office because of at-risk behavior. The OCME has electronic records
79 that go back to the late 80's, but prior to that date it is all paper records. She stated that as
80 long as they have a name, birth date, or social security number that they should be able to
81 search their database for the individual. She mentioned that the OCME will not have
82 natural death records, but that she could contact the Vital Records Department to check
83 their death records.

84

85 Lt. Colonel Northern stated that DMV checks may turn up current addresses. He
86 mentioned that once they made sure that they were authorized by the Virginia Code then
87 they could perform DMV checks. There are other databases as well that could aid them in
88 identifying individuals, such as the Employment Commission database.

89

90 Mr. Towey stated that after they make sure that everything is in compliance with VITA
91 regulations, when the information is gathered from DFS and combined with DOC that
92 they can exhaust all options through the VSP, DMV, and the OCME. At that point, they

93 will take their information and have Crime Commission staff analyze it and put it in a
94 format that is easily usable. Eventually, the list of individuals would be broken down into
95 groups according to their jurisdiction and assigned to pro bono attorneys. .
96

97 Mr. Benjamin stated that this is a wonderful example of how to use pro bono work,
98 pointing out that all licensed attorneys in Virginia must take part in pro bono work every
99 year. He stated that the attorneys working with the Mid-Atlantic Innocence Project are
100 more than capable to handle this project. The attorneys would have the responsibility of
101 locating individuals, verifying conviction information and making the required
102 notification. He mentioned that it would be beneficial for the subcommittee to reach out
103 to the major bar associations for pro bono assistance.
104

105 Mr. Marone requested clarification on the volunteer attorneys' tasks. He was concerned
106 about the confidentiality of the sensitive data, such as social security numbers, once it got
107 outside of government control. He wanted to know if the data could be returned back to
108 the Crime Commission and then have staff send out the notification letters.
109

110 Mr. Towey stated that the data would be sent back to the Crime Commission. Mr.
111 Benjamin mentioned that the Crime Commission cannot handle the influx of inquiries
112 that would be received if they were to take over sending out all the notifications. Also,
113 the Crime Commission cannot form an attorney/client relationship. The VSP would make
114 sure that the attorneys are entitled to the information through Virginia Code.
115

116 IV. Notification Letter

117 Mr. Benjamin stated that there was some wording that he wanted to change in the
118 notification letter before it was finalized. Mr. Marone stated that some contact
119 information should be included in the letter, in case any of them ended up in the wrong
120 hands or someone needed clarification. Mr. Benjamin mentioned talking to the volunteer
121 attorneys about their willingness to receive questions.
122

123 It was decided that the volunteer attorneys would report back to the Subcommittee on
124 the status of each person and notification. It was also decided that it would be beneficial
125 to have a master list of the attorneys and the names that were assigned to them in order to
126 be sure that everybody on the list is located and notified.
127

128 Mr. Towey suggested incorporating the wording change and adding the attorney contact
129 information requested by Mr. Benjamin and voted to approve the letter as amended. The
130 notification letter was approved.
131

132 V. Timeline & Completion of Subcommittee Responsibilities

133 Mr. Towey stated that there may be some glitches along the way, as far as performing
134 this task, but that the goal is to get it done as efficiently and accurately as possible. As
135 long as all the individuals are notified or verified to be deceased then the goal would be
136 considered accomplished.
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139 **VI. Approval of Proposed Course of Action**
140 Mr. Towey stated that the course of action would include running the DFS database
141 information through the appropriate agencies and then having the Crime Commission
142 staff organize the information into a format that can be easily used to distribute the case
143 information to the volunteer attorneys in groups of 20. The volunteer attorneys would be
144 responsible for providing the notification letters to the convicted defendants..

145
146 Mr. Benjamin made a motion to approve the course of action, which was approved. The
147 next meeting was set for July 29, 2008, at 3:00 p.m. in the East Conference Room of the
148 General Assembly Building.

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150 **VII. Adjournment**
151 The subcommittee meeting adjourned at 4:00 p.m.

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