

1 **Final - Minutes**
2 **Microscopic Hair Comparison Case Review Subcommittee of the**
3 **Forensic Science Board**
4 **June 16, 2016**
5 **Department of Forensic Science, Central Laboratory, Classroom 1**
6

7 **Subcommittee Members Present**
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9 Vince S. Donoghue, Essex Commonwealth's Attorney (Designee of Senator Mark D. Obenshain,
10 Chair of the Senate Courts of Justice Committee) - Subcommittee Chair
11 David A. C. Long, Esq.
12 Lieutenant Colonel Robert B. Northern, Deputy Superintendent, Virginia State Police,
13 (Designee of Colonel W. Steven Flaherty, Superintendent, Virginia State Police)
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15 **Legal Counsel for the Forensic Science Board**

16 Michelle Welch, Esq., Assistant Attorney General
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18 **Staff Members Present**
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20 David A. Barron, Ph.D., Deputy Director
21 Amy M. Curtis, Department Counsel
22 Katya N. Herndon, Chief Deputy Director
23 Linda C. Jackson, Department Director
24 Bradford C. Jenkins, Forensic Biology Program Manager
25 Alka B. Lohmann, Director of Technical Services
26 Robert W. Scanlon, Principal Forensic Scientist
27 Carisa M. Studer, Legal Assistant
28

29 **Invited Guests Present**
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31 Shawn Armbrust, Executive Director, Mid-Atlantic Innocence Project
32 Holly Berry, Virginia State Crime Commission
33 Parisa Dehghani-Tafti, Mid-Atlantic Innocence Project
34 Matthew Dullaghan, Senior Assistant Attorney General
35 Brandon Garrett, the Justice Thurgood Marshall Distinguished Professor of Law at the
36 University of Virginia School of Law
37 Jenny Givens, University of Virginia Innocence Project
38 Maria Jankowski, Virginia Indigent Defense Commission
39 Tess Sewell, University of Virginia Innocence Project
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41 **Call to Order by Subcommittee Chair Vince Donoghue**
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43 Mr. Donoghue called the meeting of the Microscopic Hair Comparison Case Review
44 Subcommittee ("Subcommittee") to order at 1:31 p.m. He welcomed the Subcommittee
45 members, the invited guests and Department of Forensic Science ("DFS or the Department")
46 Staff.

47 **Adoption of Agenda**

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49 The Chair asked if there were any additions or changes to the draft agenda for the meeting.
50 Being none, Mr. Long made a motion to adopt the agenda, which was seconded by Lt. Col.
51 Northern and adopted by unanimous vote of the Subcommittee.

52
53 **Approval of Draft Minutes of the April 19, 2016 Meeting**

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55 The Chair asked if there were any changes or corrections to the draft minutes from the April 19,
56 2016 meeting. Being none, Mr. Long made a motion to adopt the minutes, which was seconded
57 by Lt. Col. Northern and approved by unanimous vote of the Subcommittee.

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59 **Discussion**

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61 Department Counsel Amy Curtis led a review of twelve transcripts that included testimony from
62 DFS hair microscopy examiners. Ms. Curtis explained that the transcripts were identified
63 through various means, including searching the Department's Laboratory Information
64 Management System for hair comparison cases from 1995 to the present, using legal research
65 search engines, and requesting transcripts from the Innocence Project and other attorneys. The
66 twelve transcripts contain testimony from six DFS examiners. In eleven of the transcripts, the
67 DFS examiners were testifying for the Commonwealth, and in one, the examiner was testifying
68 for the defense. The earliest transcript was from 1975, and the most recent was from 2001. DFS
69 redacted the names of the defendants, victims, and attorneys from the transcripts.

70
71 Ms. Curtis reviewed the details of each transcript with the Subcommittee. The Subcommittee
72 members, DFS staff and the invited guests discussed each transcript and identified testimony of
73 concern in nine of the twelve transcripts. DFS staff will compile the flagged testimony from the
74 nine transcripts as examples to assist the review team during its transcript reviews. The
75 Subcommittee also requested that DFS include examples of proper testimony in the document
76 being prepared for the review team.

77
78 Katya Herndon, Chief Deputy Director, made the Subcommittee aware that Holly Berry from the
79 Virginia State Crime Commission was wrapping up her work on the Post-Conviction Testing
80 Project and had expressed a willingness to assist with the Microscopic Hair Comparison Case
81 Review, including assisting with the initial screening of cases. However, in order for Ms. Berry
82 to assist with the review, Senator Norment, the Chair of the Crime Commission, would need to
83 authorize her work on the project. The Subcommittee agreed to send a request letter from Mr.
84 Donoghue to Senator Norment seeking Ms. Berry's assistance with this project.

85
86 **Next Meeting**

87
88 The Hair Microscopy Subcommittee will meet next on July 18, 2016 at 1:30 p.m.

89
90 **Adjournment**

91

92 Mr. Long moved that the meeting of the Subcommittee be adjourned, which was seconded by Lt.
93 Col. Northern and passed by unanimous vote.
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95 The meeting adjourned at 3:30 p.m.