

1 **Draft Minutes**
2 **Meeting of the Review Subcommittee**
3 **of the Scientific Advisory Committee**
4 **April 8, 2024, 9:30 a.m.**
5 **Electronic Meeting¹ via Webex**
6

7 **Subcommittee Members Present**

8 Kathleen Corrado, Ph.D., *Subcommittee Chair*

9 Jennifer Breaux

10 Erin Forry

11 George Maha, Ph.D.

12 Peter Vallone, Ph.D., *Subcommittee Vice-Chair*

13
14 **Staff Members Present**

15 David A. Barron, Ph.D., Deputy Director

16 Mason Byrd, Chief Deputy Director

17 Elise Stroble, Grants and Administration Program Manager

18 Linda C. Jackson, Director

19 Amy C. Jenkins, Department Counsel

20 Bradford Jenkins, Forensic Biology Program Manager

21 David Koppenhaver, Eastern Laboratory Director

22 Joshua Kruger, Northern Laboratory Director

23 Alka B. Lohmann, Director of Technical Services

24 Jessica Norton, Senior Legal Assistant

25 Robert Scanlon, Forensic Scientist, Forensic Biology, Retired

26
27 **Call to Order by Subcommittee Chair**

28 Dr. Kathleen Corrado called the meeting of the Review Subcommittee (“Subcommittee”) to order
29 at 9:31 a.m. and had the members of the Subcommittee introduce themselves.
30

31 **Adoption of the Subcommittee Agenda**

32 Dr. Corrado advised that the first order of business would be the adoption of the Subcommittee
33 Agenda and noted that the agenda was previously shared with the Subcommittee. Dr. Vallone
34 made a motion to adopt the agenda, which was seconded and subsequently passed by unanimous
35 vote.
36

37 **Approval of Minutes from January 9, 2024**

38 Dr. Corrado asked for approval of the draft minutes for the meeting held on January 9, 2024, and
39 if there were any edits. Dr. Corrado noted that there were no amendments to the minutes and
40 asked for a motion to approve the minutes. Dr. Vallone made a motion that the minutes be
41 approved, which was seconded and passed by unanimous vote.
42

43 **Old Business**

44 Department Counsel Amy Jenkins provided an overview of the proposed draft notifications,
45 which were previously sent to the Subcommittee. Ms. Jenkins highlighted the statements

¹ The recording of this meeting may be found at <https://www.youtube.com/watch?v=bD60r66EEpA>.

46 regarding issues with Ms. Burton's work to ensure that the Subcommittee members agreed that
47 they were accurate. DFS will include a list of cases for each jurisdiction with the letters. Based
48 on initial analysis completed by the Virginia State Crime Commission (VSCC), DFS believes
49 that the original number of 10,000 refers to the case numbers rather than distinct case files. Many
50 case files have two case numbers since the agency would assign a regional lab number and a
51 Central Lab case number, when cases were submitted in a regional lab and worked in the Central
52 lab. Ms. Jenkins stated that the Department is working on finalizing the actual number of case
53 files with VSCC.

54

55 Ms. Jenkins notified the Subcommittee that she, Director Jackson, and Kristen Howard, the
56 Executive Director of VSCC, will be speaking with the Commonwealth's Attorneys (CAs) on
57 April 14th to notify them of the status of the review and the notification letters that will be
58 forthcoming. DFS would like to mail these letters, with the approval of the Subcommittee, by
59 the end of April or first part of May. Ms. Jenkins also let the Subcommittee know that she will
60 be speaking with the Virginia Sheriffs' Association on April 25th, along with Ms. Howard. Ms.
61 Howard is working on setting up a meeting to discuss the review with the Virginia Association
62 of the Chiefs of Police and has also reached out to the Virginia Court Clerks' Association.

63

64 Dr. Corrado asked the Subcommittee if they had any suggestions for the CA notification letter.
65 The Subcommittee members proposed one amendment to the CA notification letter. Ms. Jenkins
66 continued with the defendant's notification letter, with one revision made to the draft that had
67 been forwarded to the Subcommittee in advance of the meeting. The Department is working with
68 the UVA Innocence Project (UVAIP) who is helping with creating an attorney coalition to assist
69 with this review. DFS will be focusing on incarcerated individuals and will also send out a
70 notification to the Virginia Department of Corrections, which can forward a notice directly to the
71 inmates. The Subcommittee members proposed a few amendments to the draft defendant
72 notification. Dr. Corrado asked for a motion to adopt the two (2) draft notifications, as amended,
73 and the proposed process to notify affected parties. Dr. Vallone made a motion that notifications,
74 as amended, and the proposed process be approved, which was seconded and passed by
75 unanimous vote.

76

77 Ms. Jenkins provided an overview of the Draft DFS Case Review Plan. Ms. Jenkins stated that
78 the Department and the Crime Commission have been working diligently to identify the cases for
79 the review. A workgroup, developed by VSCC, met on February 15, 2024. Those in attendance
80 included staff from the VSCC, DFS, prosecutors, Commonwealth's Attorneys' Services Counsel,
81 Indigent Defense Commission, Mid-Atlantic Innocence Project (MAIP), private defense
82 attorneys, as well as staff from the Governor's Office and the Secretariat. This group discussed
83 options for the path forward with this review and how best to assist the Department with
84 resources and attorneys.

85

86 The Department believes there are 108 incarcerated individuals with cases that were handled by
87 Ms. Burton. DFS is working to ascertain if the incarceration of those individuals is related to a
88 case that was worked by Ms. Burton or another case. With the assistance of VSCC staff, the
89 Department is also working through the full case list to determine who was convicted. Although
90 the Department has some conviction information through the Post-Conviction (PC) Project, it
91 will need to make a determination on the cases that were not part of the PC Project as to whether

92 those individuals were charged or convicted, as well as locate contact information. The
93 Department also has some cases with no conviction or suspect and will take no action on those.
94 The exonerations were discussed at the January meeting. Shawn Armbrust with MAIP agreed to
95 assist with exonerations and executions. Ms. Jenkins continued that the Department has done a
96 preliminary review of the executions, utilizing Supreme Court opinions, testimony, and
97 transcripts and that there are 8 cases where Ms. Burton conducted serology. The UVA
98 Innocence Project (UVAIP) has agreed to provide assistance with the convicted and incarcerated.
99 UVAIP has talked with a number of private attorneys to assist with this review/project. The new
100 language in the proposed 2025 – 2026 biennial budget should allow the Department to release
101 the case file documentation to the assisting attorneys. The Department will provide an updated
102 overview at the October SAC meeting.

103
104 Dr. Maha asked about the overlap of cases with the PC Project. Ms. Jenkins clarified that not all
105 those cases are Ms. Burton cases, and the Crime Commission has all that data and will determine
106 the overlapping cases in their analysis.

107
108 Dr. Corrado asked for a motion to approve the proposed review plan. Dr. Maha made a motion
109 that the proposed review plan and process be approved, which was seconded and passed by
110 unanimous vote.

111
112 **New Business**

113 Dr. Corrado next called upon Kristen Howard, the Executive Director of the VSCC, to discuss
114 the proposed budget language and the coordination with VSCC for this review project. Ms.
115 Howard provided an overview of the Crime Commission. Ms. Howard reviewed the proposed
116 budget language, suggested by Senator Surovell, that had previously been provided to the
117 Subcommittee. The budget language requires the staff of the Crime Commission to determine
118 the scope of the cases worked by Ms. Burton and report back to the General Assembly at the end
119 of the year.

120
121 Christina Barnes Arrington, Ph.D., Senior Methodologist for VSCC, provided an overview of the
122 number breakdown of Mary Jane Burton case files. Dr. Arrington stated that the numbers were
123 skewed since some of the laboratory numbers are duplicative, and the number of unique cases
124 would be significantly lower. Dr. Arrington emphasized that this was a preliminary review of
125 the numbers, and these numbers would change as the review continues.

126
127 Dr. Corrado commended the Crime Commission and the Department on the amount of effort that
128 has been put into this cause.

129
130 **Subcommittee Discussion**

131 Dr. Corrado led the Subcommittee in a discussion of the review. Dr Vallone said it was a
132 positive that the Department is working with other stakeholders to assist with this project.

133
134 **Public Comment**

135 Dr. Corrado noted that there were no members of the public that requested to speak prior to the
136 Subcommittee meeting.

137

138 Peter Neufeld proposed additional amendments to the notification letters. Mr. Neufeld suggested
139 that the Department notify all defendants for cases that were worked by Ms. Burton, not just
140 those cases involving serology.

141
142 Dr. Corrado next called upon Meghan Shapiro, criminal defense attorney and a part-time
143 employee of Indigent Defense Commission. Ms. Shapiro commented that one of the main
144 challenges with a review like this, is how the agencies distribute their case files and may charge
145 fees and redact at their discretion. She suggested that the Department request the agencies to
146 provide their full files without redactions and charges.

147
148 Sarah Chu provided one comment on the defendants' notification, suggesting that an addition be
149 made to indicate that the analyst was a former employee. She stated that this could provide some
150 clarity to the retroactive aspect of this review. She commended the SAC and Crime Commission
151 for the work that has been done with this review.

152
153 Dr. Corrado asked the Subcommittee to discuss the comments from the public regarding the
154 suggested changes to the notification letters. Dr. Corrado asked for a motion to accept the two (2)
155 notification letters as amended with the suggested changes mentioned during public comment.
156 Dr. Maha made a motion to accept the letters as amended, which was seconded and passed by
157 unanimous vote.

158
159 Dr. Corrado noted that public comment was closed.

160 161 **Future Meeting Date**

162 Dr. Corrado discussed with the Subcommittee the options moving forward. She suggested that
163 there be a motion to move the oversight and reporting of the review to the full Scientific
164 Advisory Committee, and to disband the Subcommittee until it may be needed for further review.
165 A motion was made by Ms. Forry, which was seconded and passed by unanimous decision.

166 167 **Adjournment**

168 Dr. Corrado asked for a motion to adjourn the meeting. Dr. Vallone made a motion to adjourn
169 the meeting, which was seconded and passed by unanimous vote of the Subcommittee. The
170 meeting adjourned at 11:13 a.m.