

1 **Final - Minutes**
2 **Microscopic Hair Comparison Case Review Subcommittee of the**
3 **Forensic Science Board**
4 **November 19, 2018**
5 **Department of Forensic Science, Central Laboratory, Classroom 1**
6

7 **Subcommittee Members Present**

8 Vince S. Donoghue, Essex Commonwealth's Attorney (Designee of Senator Mark D. Obenshain,
9 Chair of the Senate Courts of Justice Committee) – Subcommittee Chair

10 David Lett, Esq., Petersburg Public Defender

11 Lieutenant Colonel Tracy Russillo, Deputy Superintendent, Virginia State Police (Designee of
12 Colonel Gary T. Settle, Superintendent, Virginia State Police)

13
14 **Staff Members Present**

15 Amy M. Curtis, Department Counsel

16 Carisa M. Studer, Legal Assistant

17 Jennifer L. Taylor, Administrative Assistant

18
19 **Call to Order by Subcommittee Chair Vince Donoghue**

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21 Mr. Donoghue called the meeting of the Microscopic Hair Comparison Case Review
22 Subcommittee ("Subcommittee") to order at 1:30 p.m.

23
24 **Adoption of Agenda**

25
26 The Chair asked if there were any additions or changes to the draft agenda for the meeting. Being
27 none, Lt. Col. Russillo made a motion to adopt the agenda, which was seconded by Mr. Lett and
28 adopted by unanimous vote of the Subcommittee.

29
30 **Approval of Draft Minutes of the August 27, 2018 Meeting**

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32 The Chair asked if there were any changes or corrections to the draft minutes from the August 27,
33 2018 meeting. Being none, Lt. Col. Russillo made a motion to adopt the minutes, which was
34 seconded by Mr. Lett and adopted by unanimous vote of the Subcommittee.

35
36 **Discussion**

37 Amy Curtis, Department Counsel, presented the Subcommittee with the notice distributed by the
38 Department of Corrections ("DOC") to inmates for identifying cases for the Microscopic Hair
39 comparison Case Review project. Ms. Curtis met with David Robinson, Chief of Correctional
40 Operations for DOC, to discuss the Microscopic Hair Comparison Case Review project. Mr.
41 Robinson indicated that the notice would be posted in every DOC housing facility and sent as a
42 secure message to inmates on their tablets.

43
44 Ms. Curtis discussed with the Subcommittee the Department's anticipated procedure upon receipt
45 of an inmate's letter. DFS will identify if a microscopic hair examination was conducted in the
46 inmate's case, and if that examination had a positive probative result. If so, the Department will

47 move forward with researching conviction information and transcript availability for that inmate's
48 case. The DOC has offered to assist in copying the examiner's testimony from the transcript if the
49 inmate is in possession of a copy. DFS did not include any deadline for receiving requests from
50 inmates.

51
52 Ms. Curtis reviewed with the Subcommittee the two draft response letters from DFS for inmates
53 whose cases are not eligible for review. The first letter will be a response advising that the inmate's
54 case is not eligible for the case review because there was no microscopic hair comparison
55 examination conducted by DFS or there was no positive probative association made as part of the
56 hair examination conducted by DFS. The second letter will be a response advising that the
57 inmate's case is not eligible for the case review because there was no testimony provided by an
58 examiner at trial. If the inmate's case meets the criteria for the review, and it can be determined
59 that the hair examiner testified at trial, the Department will notify the inmate that it is seeking a
60 copy of the trial transcript to provide the Review Team.

61
62 Ms. Curtis led the Subcommittee's discussion on locating individuals whose cases qualify for
63 notifications and when due diligence has been met. The Virginia State Crime Commission
64 ("VSCC") and DOC have both assisted in conducting Accurant searches to find individuals and
65 next of kin. Both were unsuccessful in locating next of kin for four defendants that are believed
66 to be deceased. DOC has offered to pull the individuals files from archives to search for any
67 information that would assist in identifying next of kin.

68
69 The Subcommittee discussed various ideas for locating individuals. The Subcommittee suggested
70 notifying the law enforcement agency and Commonwealth's Attorney's offices to check for leads
71 in their case files.

72
73 Ms. Curtis reviewed the current status of the Microscopic Hair Comparison Case Review project.
74 DFS is currently working on contacting individual court clerk's offices to identify cases with
75 convictions and any possible transcripts for newly identified positive probative associations. The
76 Department has gathered transcripts in five qualifying cases and will set a Review Team meeting
77 once eight to ten transcripts have been obtained. The Department's historical case file project
78 continues to identify hair examination cases with positive probative results.

79
80 **Public Comment**

81 There was no public comment.

82
83 **Next Meeting**

84 The next Subcommittee meeting will be set after the Review Team meets again.

85
86 **Adjournment**

87 The Chair moved that the meeting of the Subcommittee be adjourned, which was seconded by Mr.
88 Lett, and passed by unanimous vote.

89
90 The meeting adjourned at 2:01 p.m.