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MEMORANDUM

TO: Dr. Paul Ferrara, Director
Department of Forensic Science

FROM: James O. Towey
Assistant Attorney General

DATE: May 25, 2006

SUBJECT: Authority to develop public participation guidelines.

In response to a request from the Department of Forensic Science (Department), I have reviewed the proposed public participation guidelines of the Department and am of the opinion that the Department has the requisite authority to develop such guidelines in order to facilitate participation by the public in the formulation of regulations that are promulgated to carry out the legislative mandates of the Departments.

Virginia Code § 2.2-4007(D) requires that each agency shall develop, adopt, and utilize public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations. The guidelines must set out methods for the identification and notification of interested parties, means of seeking input from interested parties, and a general policy for the use of standing or ad hoc advisory panels and consultation with groups and individuals registering interest in working for the agency. Upon review of the proposed guidelines, I am of the opinion that the Department has the authority to develop the same pursuant to Virginia Code § 2.2-4007(D).

Please note that this memorandum is intended to provide legal interpretations and legal advice, not policy advice. To the extent that this communication may advise you that certain action is lawful, the decision whether to take such action remains a policy decision within the discretion of your agency and this communication should not be construed as a comment for or against the merits of such action.

