

1 **Final - Minutes**
2 **Microscopic Hair Comparison Case Review Subcommittee of the**
3 **Forensic Science Board**
4 **November 15, 2016**
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 A. C. Long, Esq.

11 Lieutenant Colonel Tracy Russillo, Deputy Superintendent, Virginia State Police (Designee of
12 Colonel W. Steven Flaherty, Superintendent, Virginia State Police)

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14 **Legal Counsel for the Forensic Science Board**

15 Michelle Welch, Esq., Assistant Attorney General
16

17 **Staff Members Present**

18 Amy M. Curtis, Department Counsel

19 Katya N. Herndon, Chief Deputy Director

20 Alka B. Lohmann, Director of Technical Services

21 Robert W. Scanlon, Principal Forensic Scientist

22 Carisa M. Studer, Legal Assistant
23

24 **Call to Order by Subcommittee Chair Vince Donoghue**
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26 Mr. Donoghue called the meeting of the Microscopic Hair Comparison Case Review
27 Subcommittee ("Subcommittee") to order at 1:30 p.m.
28

29 **Adoption of Agenda**
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31 The Chair asked if there were any additions or changes to the draft agenda for the meeting. Being
32 none, the Chair made a motion to adopt the agenda, which was seconded by Lt. Colonel Russillo
33 and adopted by unanimous vote of the Subcommittee.
34

35 **Approval of Draft Minutes of the October 13, 2016 Meeting**
36

37 The Chair asked if there were any changes or corrections to the draft minutes from the October 13,
38 2016 meeting. Being none, Lt. Col. Russillo made a motion to adopt the minutes, which was
39 seconded by Mr. Long and approved by unanimous vote of the Subcommittee.
40

41 **Discussion**
42

43 Amy Curtis, Department Counsel, presented for the Subcommittee's consideration the results of
44 the Review Team's results from their October 27, 2016 meeting. Mr. Long moved that the
45 Subcommittee move into a closed session per §2.2-3711 (A)(36), because the Subcommittee will
46 be discussing specific information from criminal investigative files as part of the Review Team's

47 results, the Subcommittee will only be discussing the criminal investigative files that were subject
48 of the Review Team's meeting, which was seconded by the Chair and approved by unanimous
49 vote of the Subcommittee.

50
51 The Subcommittee met in closed session.

52
53 The Subcommittee concluded the closed session and reconvened to an open meeting at 2:10 p.m.

54
55 A roll call vote was taken of each Subcommittee member to certify that to the best of each
56 member's knowledge only exempt information was discussed, and only matters identified in the
57 motion were heard, considered and discussed. The Chair, Mr. Long, and Lt. Colonel Russillo each
58 certified that only exempt information was discussed, and only matters identified in the motion
59 were heard, considered and discussed.

60
61 The Subcommittee continued to the next item on the agenda.

62
63 Ms. Curtis presented revisions made to the case review initial screening that were found to be
64 helpful after the first review team meeting. The Review team is also considering revisions to the
65 transcript review guidance document that would be more efficient for future review team meetings.

66
67 Mr. Long moved to adopt the revisions to the case review initial screening form, which was
68 seconded by the Chair and approved by unanimous vote of the Subcommittee.

69
70 Ms. Curtis presented the draft notification letter that the Subcommittee directed DFS staff to write
71 at the previous Subcommittee meeting. The Subcommittee discussed the draft notification letter.
72 They discussed sending the notification letter to the law enforcement agency/the Commonwealth
73 Attorney, the defendant, and the defendant's attorney. The notification letter will be sent to law
74 enforcement even if contact information for the defendant cannot be located. Qualifying language
75 will be added to the law enforcement letter that attempts will be made to locate and notify the
76 defendant. The Subcommittee directed DFS staff to add contact information for a pro-bono
77 attorney to the defendant's notification letter. The Subcommittee directed DFS staff to keep all
78 three version of the notification letter substantively the same.

79
80 The Subcommittee discussed including copies of the Certificates of Analysis with the notification
81 letter if the results of the report are not definitive.

82
83 The Subcommittee discussed notifying next of kin on any cases that the defendant is deceased.
84 They agreed not to hold notification to law enforcement and the Commonwealth's attorney while
85 next of kin contact information is being located.

86
87 The Subcommittee discussed and agreed to send notification letters regardless if there was a guilty
88 plea in a case.

89
90 The Subcommittee discussed that the notification letters will be printed on the Forensic Science
91 Board ("Board") letterhead and signed by the Board's Chair. The Subcommittee will present the
92 notification letter discussion at the January 4, 2016 Board meeting.

93
94 Ms. Curtis went over the Department's plan of pulling case files in microscopic hair comparison
95 cases with positive probative associations. Ms. Curtis and Robert Scanlon will be speaking with
96 the law students from the University of Richmond on November 21 about the Microscopic Hair
97 Comparison Case Review project. The students will begin their research in January to find
98 convictions and transcripts for the review team.

99
100 The Subcommittee directed DFS staff to move forward sending notification letters for the five
101 cases agreed upon during the closed session.

102
103 **Public Comment**

104 There was no public comment.

105
106 **Next Meeting**

107 No future meeting was set.

108
109 **Adjournment**

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111 Mr. Long moved that the meeting of the Subcommittee be adjourned, which was seconded by Mr.
112 Donoghue and passed by unanimous vote.

113
114 The meeting adjourned at 2:45 p.m.