

1 **Minutes**
2 **Meeting of the Review Subcommittee**
3 **of the Scientific Advisory Committee**
4 **January 9, 2024, 10:00 a.m.**
5 **Virginia Department of Forensic Science, Classrooms 1 & 2**
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 Deea Chakraborty, Legal Assistant

18 Linda C. Jackson, Director

19 Amy C. Jenkins, Department Counsel

20 Bradford Jenkins, Forensic Biology Program Manager

21 Joshua Kruger, Northern Laboratory Director

22 Alka B. Lohmann, Director of Technical Services

23 M. Scott Maye, Central Laboratory Director

24 Jessica Norton, Senior Legal Assistant

25 Robert Scanlon, Forensic Scientist, Forensic Biology, Retired

26 Kelly Shelton, Forensic Administrative Specialist

27 Robyn Weimer, Chemistry Program Manager

28
29 **Call to Order by Subcommittee Chair**

30 Dr. Kathleen Corrado called the meeting of the Review Subcommittee (“Subcommittee”) to order
31 at 10:00 a.m. and had the members of the Subcommittee introduce themselves.

32
33 **Adoption of the Subcommittee Agenda**

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

38
39 **Approval of Minutes from October 10, 2023**

40 Dr. Corrado asked for approval of the draft minutes for the October 10, 2023, meeting and if
41 there were any changes. Dr. Corrado noted that there was one amendment to the minutes, which
42 was a grammatical error at lines 51 and 52. Dr. Corrado asked for a motion to accept the
43 amendment. Dr. Vallone made a motion to accept the amendment, which was seconded and
44 passed by unanimous vote. Dr. Corrado asked for a motion to accept the minutes as amended,
45 which Dr. Vallone made a motion, which was seconded, and passed by unanimous vote.

46 **Old Business**

47 Department Counsel Amy Jenkins provided an overview of the five (5) cases provided to the
48 Department by VPM. In advance of the meeting, the members of the Subcommittee were
49 provided copies of the materials outlining the allegations made by VPM.
50

51 Ms. Jenkins first discussed the “Cat” case. There was a newspaper article alleging that Ms.
52 Burton tested samples from the cat. Ms. Jenkins made a request of Hanover Circuit Court
53 inquiring if there were any court reporter notes from the trial of the third codefendant and if
54 those documents could be provided. The court provided those notes, but there was no indication
55 of the content of Ms. Burton’s trial testimony and nothing in the Department’s file to indicate
56 there was testing on samples from the cat. Dr. Corrado asked Ms. Jenkins what the outcomes of
57 the trials for the cases were. Ms. Jenkins indicated that there had been no convictions for the
58 listed suspects.
59

60 Dr. Corrado noted that it was difficult to look at the way things were done in the 1970s, and
61 mentioned that in looking at these case files, that today’s standards should not be used to
62 compare to how things were examined in the past. She also noted that there were documentation
63 issues with notes being on worksheets and notes that did not make it into the report, but nothing
64 stood out that seemed nefarious in this case.
65

66 Dr. Vallone asked Mr. Scanlon about standard operating procedures for serology. Mr. Scanlon
67 noted there were no written procedures manuals at that time. Dr. Vallone inquired if there was a
68 technical review at the time. Mr. Scanlon responded that Ms. Burton was the only serologist at
69 the Bureau during this time so there was no one qualified to review her reports.
70

71 Dr. Corrado asked Mr. Scanlon about the information documented on different worksheets and
72 paperwork and inquired if that was the common way of notetaking. Mr. Scanlon noted that there
73 was no specified way to note their work and the notes at the time were only for the examiner to
74 recall for their report writing.
75

76 Ms. Jenkins discussed the second case, the hunting incident. Ms. Jenkins notified the
77 Subcommittee of an additional document that was not provided earlier. Ms. Jenkins checked
78 with the Amelia County Sheriff’s Office, who did not have a file. She then checked with the
79 Virginia State Police, who allowed her to review the file, but would not release a copy of their
80 file. Ms. Jenkins was able to confirm for the Subcommittee that the VSP investigator resubmitted
81 the towel, at Ms. Burton’s request, for the species testing. Ms. Burton had requested the towel be
82 resubmitted because species testing had not been requested or performed on the initial
83 submission.
84

85 Dr. Corrado noted that there were a lot of notes but none in the file for when the towel was
86 resubmitted to demonstrate testing for deer blood. Ms. Jenkins had Mr. Scanlon explain what
87 “ruminant” is. Dr. Corrado noted that there could be additional documentation issues with the
88 case file, or possibly documentation missing.
89

90 Dr. Vallone noted that it appears that a result was added without the supporting notes.
91

92 Ms. Forry asked Mr. Scanlon if it was common practice to have technical notes or have someone
93 write a report without documentation. Mr. Scanlon noted that at a minimum, there should be
94 some documentation describing the evidence. Mr. Scanlon stated that Ms. Burton typically had
95 very minimal documentation in her case notes.

96
97 Dr. Corrado noted that the initial results of the towel were said to be human, but then later on, the
98 blood on the towel was reported as deer. It is not clear if they are different stains.

99
100 Ms. Jenkins discussed the 3rd case (Inmate Felony Assault). She noted that she did not have any
101 additional information to add. She did note that there was no conviction or court record that
102 could be located for the suspect, so this was not part of the Post-Conviction DNA Testing
103 Program and Notification Project (“PC Project”). Ms. Jenkins noted that Ms. Dabbs did some of
104 the analysis in this case.

105
106 Dr. Corrado noted this case was confusing; the blood typing was not consistent with either victim
107 or suspect.

108
109 Ms. Forry noted that it is challenging to review the work in Ms. Burton’s cases, and without the
110 documentation, they cannot answer “the why.”

111
112 Ms. Jenkins continued on to the Fairfax Homicide Case. She noted that there was nothing new to
113 report with this case. Ms. Jenkins referred to a note on page 60 of the *Review of VPM Podcast*
114 *Provided Documentation*, about the victim being in the hospital for surgery and receiving blood
115 transfusions. Mr. Scanlon indicated that this could explain anomalies in the testing.

116
117 Dr. Corrado commented that it appears for this case that all stains that were typed were
118 consistent with a single donor. Dr. Corrado asked Mr. Scanlon about transfusions affecting
119 results in blood typing. Dr. Maha noted that, from a clinical perspective, even to this day, 90
120 days post-transfusion, they will not do a blood typing testing. It is a known error. Dr. Vallone
121 asked about “no such type” on page 59 of the document. Mr. Scanlon indicated that this
122 documentation would be a mixture.

123
124 Ms. Jenkins moved on to the final case in the review, the rape case, and an alleged change to
125 item #33. Ms. Burton was subpoenaed to testify but was released. The charges were reduced,
126 and it was not considered eligible for the PC Project. The Virginia State Crime Commission
127 (VSCC) tried to locate the suspects to let them know additional testing was available, however
128 one was deceased, and the other was not found.

129
130 Ms. Jenkins noted in her report to the Subcommittee the numerous allegations. A Corrected
131 Certificate of Analysis was issued, which removed enzyme testing and only reported ABO
132 testing.

133
134 Dr. Corrado expressed concerns with a number of irregularities for this file. Dr. Corrado noted
135 that a main issue was that there were changes, but no one knows who had the record book, or
136 who made the changes or why those changes were made. In addition, the changes that were made
137 do not make sense. Dr. Corrado noted several issues, namely whether a mistake was made,

138 whether samples were loaded incorrectly, or whether someone intentionally changed the results.
139 It is unclear if the results were changed “in one direction or another.” Dr. Vallone acknowledged
140 that Dr. Corrado summarized the issues with this case. Ms. Forry noted that under today’s
141 standards, we would have the answers to why things were re-tested, with information being
142 added to the notes. Records were not as thorough then as they are in today’s practices.
143

144 Ms. Breaux noted that the main issue is the changes to the logbook and then having a final report
145 with only the ABO results were reported, but there was really no way to know. Dr. Corrado
146 noted that this case had more issues that were concerning than the others.
147

148 Ms. Jenkins noted that VPM provided the additional records as requested, which had been
149 forwarded to the Subcommittee. Ms. Jenkins requested the lawsuit documents from the United
150 States District Court (USDC) for the Eastern District of Virginia. The USDC indicated that the
151 files were in their archives in Philadelphia. Ms. Jenkins stated that the Philadelphia Records
152 Center did not have the records and that the files were never received. Ms. Jenkins noted that the
153 “Chronology of Whistleblowing Efforts” document appeared to have been prepared as Answers
154 to Interrogatories as part of the litigation. Ms. Jenkins discussed the letter to Warren Johnson,
155 which was featured prominently on the VPM podcast website, but does not reference Ms.
156 Burton. Ms. Jenkins also spoke of the resignation letter, noting that it provided no details
157 notifying Dr. Ferrara of any issues with Ms. Burton. Ms. Jenkins noted the electrophoresis
158 worksheets provided by VPM were available on the Department’s website, as they were too
159 numerous to print. Ms. Jenkins stated that there were no additional allegations in those
160 documents.
161

162 **New Business**

163 Ms. Jenkins was asked by the Subcommittee to address the audits and reviews conducted in 2005
164 after the exoneration of Earl Washington. Ms. Jenkins stated that the first audit was internal and
165 conducted by two (2) DFS supervisors. The information from that audit was provided to
166 ASCLD/LAB, the Department’s accrediting body at the time, when they conducted their audit.
167 ASCLD/LAB issued a report on April 9, 2005, with a number of recommendations. Governor
168 Warner appointed a special master, Judge Robert J. Humphreys, from the Virginia Court of
169 Appeals, to oversee an independent scientific team to make sure the recommendations of the
170 ASCLD/LAB report were carried out. ASCLD/LAB issued a new report in October 2005 stating
171 they were satisfied with the corrective actions carried out by the Lab.
172

173 Ms. Jenkins provided an overview of the case of Earl Washington. Mr. Washington was
174 convicted of capital murder in 1984 and granted an absolute pardon in 2000. In 2002, Mr.
175 Washington filed a federal civil suit against numerous Virginia authorities. Independent DNA
176 testing called into question the prior DFS DNA results in this matter. In April 2004, counsel for
177 Mr. Washington called upon Governor Warner to appoint an independent auditor and that is
178 when the Humphrey’s commission was established. Ms. Jenkins spoke on the allegations made
179 by VPM concerning Deanne Dabbs changing her transferrin CD results to inconclusive after a
180 meeting with law enforcement about the case. On November 10, 2003, Ms. Dabbs was deposed,
181 and she indicated that she changed her results based on an article she had read “that a transferrin
182 Type C upon degradation could appear to be a transferrin Type CD.” DFS located a
183 Memorandum for Record (MFR) in the Washington case file, which supported Ms. Dabbs’

184 comments as to why she changed the transferrin results. Several articles from that time period
185 were attached to the memorandum. The MFR and attached articles were provided to the
186 Subcommittee as well as members of the public. Mr. Washington prevailed in his lawsuit against
187 the Commonwealth in 2006.

188

189 **Review of Serology Cases**

190 Brad Jenkins, Forensic Biology Program Manager, provided an overview of the Serology case
191 review that was performed during 2016 – 2020. The review was initiated after it was discovered,
192 in an exoneration case, that ABO blood typing results that would have eliminated the suspect had
193 not been reported on the 1983 Certificate of Analysis from the Eastern Laboratory nor was this
194 disclosed during the trial. The conviction in this case also was based largely upon bite mark
195 evidence, and in 2016, DNA evidence eliminated the suspect.

196

197 Mr. Jenkins provided an overview of serology testing performed at the Department. Serology
198 testing was conducted from 1972 to 1994, being replaced with DNA testing in 1994. Mr.
199 Jenkins discussed the “taped-down” evidence found in the files. He indicated that the taped-
200 down evidence was part of the PC Project.

201

202 The separate Serology Review was conducted on approximately 200 Eastern and Northern
203 Laboratory cases, which were authored by 18 different forensic scientists employed by DFS. Mr.
204 Jenkins spoke about the review committee structure and the use of an external reviewer. He
205 explained some of the general observations that were observed during the review. Nine cases
206 were identified for further discussion and possible notifications.

- 207 • Case #1 was a rape case that was also part of the PC Project. Winston Scott was one of
208 the PC project’s 13 exonerations. The ABO results were changed in this case and the
209 examiner was Mary Jane Burton.
- 210 • Cases #2 and #3 both had inconclusive results.
- 211 • Case #4 dealt with control swabs where some of the control swabs had tested positive for
212 blood.
- 213 • Case #5 contained a stain on a sheet which should have been reported inconclusive for
214 saliva.
- 215 • Case #6 included an unreported evidence result due to the lack of a victim sample.
- 216 • Case #7 appeared to include a typo in this case report.
- 217 • Case #8 included some ABO results that were not reported on a pair of pants.
- 218 • Case #9 included an oddly worded conclusion, but this case had more notes in the file to
219 support the conclusion.

220

221 Out of the nine cases, five cases were recommended for notification, which was approved by the
222 SAC in 2020. Only one of the 9 cases, the Scott case, was subjected to post-conviction DNA
223 testing. Mr. Jenkins also noted that the Scott case was the only case out of those that were
224 reviewed that had a changed typing results by Ms. Burton.

225

226 Ms. Breaux asked of Mr. Jenkins what percentage of the serology review were Ms. Burton’s
227 cases. He stated that very few were hers, as Northern and Eastern cases were chosen for this
228 review, where as Ms. Burton worked in the Central Laboratory. Ms. Breaux asked whether more

229 of Ms. Burton's cases were reviewed after seeing her work in the Scott case. Mr. Jenkins stated
230 that it was the first time the Department had seen those issues. He indicated that the PC Project's
231 exoneration cases that were Ms. Burton's cases were included in the serology review.

232
233 Mr. Jenkins provided an overview of the 13 exonerations after PC testing was conducted and
234 why the exonerations were awarded. Mr. Jenkins noted that the information provided to the
235 Subcommittee was from the Innocence Project and the National Registry of Exonerations.

236
237 Dr. Corrado asked about the number of cases Ms. Burton worked in totality. Mr. Jenkins noted
238 that of the 860 cases, the majority of those cases were Ms. Burton's, but noted that other analysts
239 taped down evidence as well. Ms. Jenkins provided an estimate of Ms. Burton's cases worked,
240 stating it was close to 10,000 cases (hair or serology). Ms. Jenkins stated that there is no
241 mechanism of knowing whether a suspect was charged or convicted in the cases without going to
242 the courts to inquire. The VSCC and the Department reviewed approximately 3,000 cases with
243 taped-down biological evidence as part of the PC Project. Ms. Breaux asked Mr. Jenkins how
244 many of the 3,000 cases reviewed were Ms. Burton's serology cases. Mr. Jenkins stated that the
245 serology results were not reviewed for that information, as they just moved directly to DNA
246 testing in those cases.

247
248 The Subcommittee took a 10-minute break at 11:25 a.m., resuming the meeting at 11:35 a.m.

249
250 Once the meeting resumed, Ms. Jenkins provided an overview of the report from the VSCC
251 regarding the PC Project and stated that this full report was posted on their website.

252
253 **Review of Quality System**

254 Dr. Corrado called upon Alka Lohmann, Director of Technical Services, to discuss the
255 Department's Quality System. Ms. Lohmann stated that the Department has been accredited
256 since 1989. Ms. Lohmann stated that the Department's Quality Manual and discipline specific
257 manuals are posted on the Department's website. She also discussed the Department's Code of
258 Professional Responsibilities and Ethics in addition to the various quality assurance and quality
259 control measures the Department utilizes including, but not limited to technical and
260 administrative review of all issued reports, proficiency testing and other monitory activities to
261 encompass testimony, and continuing education.

262
263 Dr. Maha asked Ms. Lohmann what the Department does to minimize outside influence and
264 pressure. Ms. Lohmann responded that it would depend on the nature and origination of the
265 inquiry. Communication is documented and she stated there are processes in place to
266 communicate with supervisors, directors, and the legal department or the Quality Manager.
267 These options are delineated in the Quality Manual.

268
269 **Review of Marvin Grimm Writ of Actual Innocence**

270 Ms. Jenkins provided the Subcommittee with an overview of Marvin Grimm's Writ of Actual
271 Innocence. She had not provided the Subcommittee with the case file documents, as the case is
272 in active litigation. The Office of the Attorney General (OAG) filed a brief in mid-December
273 that supports Mr. Grimm's petition for a Writ of Actual Innocence. The brief raises numerous
274 concerns about Ms. Burton's work in the original case.

275
276 Ms. Jenkins provided a brief summary of the Grimm case. Mr. Grimm pled guilty in 1976 but
277 maintained his innocence. Ms. Burton did not testify at the plea hearing, but her report
278 corroborated Mr. Grimm's confession and was introduced by the Commonwealth. Since 2002,
279 additional testing had been conducted, both by the Department and private laboratories. Ms.
280 Jenkins spoke of the evidence, oral smears and swabs from the pharynx and esophagus and noted
281 in the report that spermatozoa were identified from those smears. Ms. Burton's report stated that
282 the smears indicated a type O secretor. There was a towel from Mr. Grimm's vehicle that she
283 reported had a possible presence of seminal fluid. Ms. Burton reported on eight hairs recovered
284 from Grimm's car and a peacoat from his home, all being consistent with the victim. Ms. Jenkins
285 noted that, on the report, Ms. Burton indicated that the victim was a type O secretor and Mr.
286 Grimm was a type A secretor. The Department conducted additional testing in 2002 and
287 excluded Mr. Grimm with DNA testing. Additional mitochondrial testing on the hairs, performed
288 by both DFS and private laboratories, established that the victim was excluded. Ms. Jenkins
289 continued that the OAG brief noted that all serology results were exculpatory at the time Mr.
290 Grimm entered his guilty plea. While Ms. Burton did not provide any testimony at the hearing,
291 Mr. Grimm should have been excluded, as Mr. Grimm was not a type O secretor. Both DFS and
292 the private labs were not able to locate spermatozoa on any item of evidence. The OAG had not
293 been able to locate any additional evidence. The subsequent mitochondrial testing noted that the
294 hairs were not consistent with the victim. In the 2011 report, DFS noted that there were at least
295 four (4) contributors to the hair samples. Ms. Jenkins indicated additional testing conducted by
296 private laboratories have identified at least two additional contributors.

297
298 Since the case is in active litigation, Ms. Jenkins noted the Department would have no additional
299 comment. She noted that there were staff members from the OAG at the meeting, and they were
300 aware that this information was being disseminated to the Subcommittee.

301
302 Dr. Corrado inquired of Ms. Jenkins as to why the Grimm matter was being reviewed. Ms.
303 Jenkins stated Mr. Grimm has always asserted his innocence since the initial confession and had
304 requested PC testing.

305
306 **Subcommittee Discussion**

307 Dr. Corrado opened the floor to the Subcommittee for discussion.

308
309 Dr. Vallone started the discussion with an overview of the information provided in the meeting.
310 He noted that the first step should be reviewing what cases were Ms. Burton's and going from
311 there. He noted that a review similar to that of the serology cases may be warranted with Ms.
312 Burton's cases.

313
314 Ms. Forry continued the discussion around the fact that not having Standard Operating
315 Procedures (SOPs) from the time to audit against made it a challenge to review these case files.
316 She noted that looking at others' notes could show a trend that could be laboratory or system
317 wide, which she also noted that the Department has looked at in its earlier reviews. She stated
318 that, in the cases that she reviewed, there appears to be a lack of documentation in the files. In
319 addition, there were changes and corrections that were made without noting why they were made

320 and reports with no documentation. Ms. Forry also stated that she was left questioning the extent
321 of the problem and whether other examiners documented similarly.

322 Dr. Maha continued the discussion regarding the fact that in the 1970s and 80s there were no
323 SOPs but noted that forensic science has improved dramatically with new quality programs
324 being put in place, accreditation becoming available, and audits done by outside parties to
325 improve forensic science as a whole. He also noted that improvements continue to be made and
326 will continue to be made.

327
328 Ms. Breaux stated that the Scott and Grimm cases caused her more concern than the cases that
329 she reviewed prior to the meeting. She noted that having results being left out or not confirmed
330 was of specific concern. She continued that she believed that more of Ms. Burton's cases should
331 be looked at to determine if trends might be found.

332
333 Dr. Corrado finished the discussion, noting her concerns in the last rape case and the issues with
334 the Scott and Grimm cases. She continued that she had issues with the work done by Ms. Burton
335 and that it did warrant some kind of review.

336
337 Dr. Corrado suggested that Ms. Jenkins propose a review or a notification to the affected parties
338 and what the notifications would entail. Ms. Jenkins indicated that a notification could be
339 drafted and presented at a future meeting. Dr. Corrado confirmed that the Subcommittee was in
340 agreement that some further investigation is necessary but was not sure what that would entail.
341 Ms. Jenkins noted that, with past reviews, the Department had typically notified the parties of
342 any concerns as noted the Subcommittee, and she would be willing to draft a notification to send
343 out to the prosecutors, law enforcement and the defense bar. The notification would detail the
344 concerns regarding Ms. Burton's work and indicating that DFS could review cases and provide
345 DNA testing if evidence was still available. Ms. Jenkins noted that the Department could also
346 provide a list of cases to the prosecutors, and they could advise the Department if there was a
347 charge or a conviction. DFS would also be willing to send the notification to inmates through the
348 Department of Corrections. If the Subcommittee wanted any additional review done, the
349 Department would accommodate that.

350
351 Ms. Breaux asked a question about the Winston Scott case and when the changes in Ms. Burton's
352 serology results were disclosed. Ms. Jenkins noted that all of the issues came out at the initial
353 trial and noted that it was clear in the file that Ms. Burton changed her results in the case.

354
355 Dr. Corrado stated that the case files were difficult to look through, and without all the
356 documentation, she did not believe it was feasible to review all of Ms. Burton's case files. She
357 continued that if notifications could be made to the parties, the parties could request not just a
358 review, but evidence re-testing. Dr. Vallone agreed it was reasonable to have a blanket
359 notification and taking the reviews from there.

360
361 Dr. Corrado asked for a motion for DFS to draft a notification regarding Ms. Burton's work to
362 review at the next Subcommittee meeting, and then for that recommendation to go to the full
363 SAC for approval. Dr. Vallone made a motion to have Ms. Jenkins draft a notification to the
364 individuals who have been impacted by Mary Jane Burton's work. Ms. Forry seconded the
365 motion, and it was passed by unanimous vote.

366
367 Dr. Corrado closed the Subcommittee discussion.

368
369 **Public Comment**

370 Dr. Corrado noted that there were four (4) members of the public who had signed up to speak.

371
372 Peter Neufeld, co-founder of the Innocence Project, started by stating that, exactly 30 years ago,
373 the Innocence Project had its first DNA exoneration in Virginia. He noted that, since Director
374 Jackson has taken over the Department, the attention to the internal validation, reliability, quality
375 assurance and quality control, has impressed him. He noted, however, that a critical element of
376 QA/QC is how a laboratory handles misconduct in the past. Mr. Neufeld stated he did not know
377 the details of the podcast cases and would not comment on those. He continued that the issues
378 from the Grimm case would require more remediation than what had been suggested. But the
379 main issue, Mr. Neufeld continued, was the hair issue. Initially there were eight (8) hairs
380 collected from a car, sock, and peacoat. Ms. Burton concluded that the hairs were consistent
381 with one another and indistinguishable from the child abducted and killed. Mitochondrial DNA
382 testing now shows that none of the eight hairs are consistent and concluded that those hairs came
383 from seven different people. He stated that he could understand that an examiner could make a
384 mistake, but he had never in 40 years seen a case where an analyst has looked at hairs from seven
385 different individuals and said they were all indistinguishable. He continued that, because Ms.
386 Burton reported that the eight hairs were indistinguishable, he believes there has to be a review
387 of all of the microscopic hair comparison cases, and that the Microscopic Hair Comparison Case
388 Review that the Department is conducting does not deal with the underlying problem. Mr.
389 Neufeld believed that not only should the Department conduct retesting in her cases, but he had
390 been told that, for a portion of time, she was the only serologist for the Department and that she
391 had trained the new serologists. He believes a selective sample of the trainees' cases should be
392 reviewed to see if their cases have the same errors.

393
394 Susan Friedman with the Innocence Project was the next speaker. She stated that she had a brief
395 comment in the Grimm case. She stated that he was not part of the PC Project and that Mr.
396 Grimm and his counsel have been seeking testing for over 20 years in the courts.

397
398 Shawn Armbrust, with the Mid-Atlantic Innocence Project, was the third to comment. She
399 started by stating that the Lab has come a long way since 2006, and that it was a welcome
400 departure from the way things had been done before. She expressed that she had serious concerns
401 about only notifying in Mary Jane Burton cases. She stated that listening to the VPM podcast and
402 reviewing her old cases from 2010, knowing what is known now, she has been looking at the
403 cases differently. She stated that out of the 800 plus cases that were part of the PC Project, a few
404 hundred of those cases had inconclusive results. She continued that she was part of a group of
405 people who reviewed those inconclusive files and wondered if there should be additional testing
406 in those case files. She assumed that most of those inconclusive cases would be Mary Jane
407 Burton's and that most of those cases were convictions. She asked that the Subcommittee
408 consider a review of the inconclusive cases and conduct any such review in an open, transparent
409 way that would involve partnerships.

410

411 Tessa Kramer, with VPM, was the next speaker. She stated that although the meeting was about
412 the documentation, the allegations in the podcast against Ms. Burton went beyond the
413 documentation. She stated the podcast did not have documentation about all the issues alleged,
414 such as forged signatures on chain of custody documents. Ms. Kramer continued that, although
415 the documentation may not exist, or these issues may not show up in a review, she believed that
416 the problems did exist and that there should be things done to address them.

417
418 Mr. Neufeld provided an additional comment that the Innocence Project had more exonerations
419 based on faulty hair exams than faulty serology. He believed the reason that notification was not
420 adequate was that the cases are older and some of the defendants would be deceased.

421
422 The final speaker was Sara Chu, Director of Policy and Reform at the Perlmutter Center for
423 Legal Justice at Cardozo Law School. She was interested in listening to how the committee
424 viewed these cases and commended the Subcommittee for the amount of time they had spent on
425 these cases. She noted that it was important that the Subcommittee was able to separate what
426 happened at the time from what the standards currently were for forensic science analysis. She
427 noted that there needed to be a final answer regarding Ms. Burton's work, whether it was
428 misconduct or negligence. She feared that, if that question was not answered, the risk was that as
429 more cases were reviewed, they would generate more questions. She suggested that the State of
430 Virginia think about how it can come up with a way to take a more comprehensive look at these
431 cases that would be sufficient enough to obtain closure that would include bringing all the
432 stakeholders together.

433
434 Dr. Corrado noted that one of the most difficult parts for these cases is finding the evidence. Dr.
435 Vallone stated that he does not have a general awareness of what evidence existed and hearing
436 about the hair evidence was new to the Subcommittee. Ms. Forry asked about their role as a
437 Subcommittee, and asked about the expectations as she focused on serology and alterations in
438 these cases. She did notice that hairs were reported but did not focus on that aspect in her
439 review. Ms. Jenkins provided a brief overview of the Hair Microscopy Examination Case
440 Review. Ms. Jenkins responded to Dr. Vallone about the evidence and noted that a search of the
441 Department's case files for biological evidence was completed when requested by the Governor
442 Warner and stated that evidence was part of the PC Project. The Department has no ability to
443 compel the Courts or the law enforcement agencies to resubmit evidence for testing, and further
444 testing could only be accomplished by agreement of the parties or by Court Order.

445
446 Dr. Corrado asked for a motion that the Department consider the information that was discussed
447 in the public comments about how to move forward with a review of the cases. Dr. Maha made a
448 motion to have the Department move forward with the information provided and discussed and
449 develop options for a review of the cases that would be presented to the Subcommittee in April.
450 The motion was seconded and passed by unanimous vote of the Subcommittee.

451
452 Dr. Corrado noted that public comment was closed.

453
454 **Future Meeting Date**

455 The subcommittee set another review for April 8th, 2024, in the afternoon for an in-person
456 meeting. All members of the Subcommittee agreed to the next date.

457

458 **Adjournment**

459 Dr. Corrado asked for a motion to adjourn the meeting. Dr. Vallone made a motion to adjourn the
460 meeting, which was seconded and passed by unanimous vote of the Subcommittee. The meeting
461 adjourned at 12:52 p.m.