

1 **Final - Minutes**  
2 **Microscopic Hair Comparison Case Review Subcommittee of the**  
3 **Forensic Science Board**  
4 **August 27, 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.

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 Katya N. Herndon, Chief Deputy Director (participated by telephone)

17 Carisa M. Studer, Legal Assistant

18 Jennifer L. Taylor, Administrative Assistant

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

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

24  
25 **Adoption of Agenda**

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

30  
31 **Approval of Draft Minutes of the November 15, 2016 Meeting**

32  
33 The Chair asked if there were any changes or corrections to the draft minutes from the November  
34 15, 2016 meeting. Being none, Lt. Col. Russillo made a motion to adopt the minutes, which was  
35 seconded by the Chair. Mr. Lett abstained. The November 15, 2016 minutes were approved by  
36 majority vote of the Subcommittee.

37  
38 **Discussion**

39  
40 Amy Curtis, Department Counsel, discussed with the Subcommittee the due diligence parameters  
41 of the Microscopic Hair Comparison Case Review project for the Department of Forensic Science  
42 ("DFS" or "the Department") and Forensic Science Board ("Board").

43  
44 Ms. Curtis explained to the Subcommittee various roadblocks she has encountered while  
45 conducting research for conviction orders and testimony transcripts for the project. The  
46 Department's law student intern, and Jennifer Taylor, Administrative Assistant have sent

47 numerous letter to Circuit Court Clerks' offices inquiring about conviction orders and transcripts.  
48 The responses have been varied.

49  
50 Ms. Curtis and the Subcommittee discussed whether using the Court's online dispositions for not  
51 guilty verdicts and *nolle prosequi* cases is sufficient due diligence in those circumstances rather  
52 than asking court clerks to send copies of those disposition orders. The Subcommittee suggested  
53 calling the clerks' offices to attempt to get a verbal confirmation over the phone, and the attempt  
54 to confirm the disposition telephonically should be noted for those cases.

55  
56 Katya Herndon, Chief Deputy Director, is going to reach out to Karl R. Hade, Executive Secretary  
57 of the Supreme Court of Virginia to ask about accessing the Supreme Court's court management  
58 system for researching disposition information and defense attorney names.

59  
60 Ms. Curtis and the Subcommittee discussed the difficulty in obtaining transcripts from the courts  
61 and court reporters. In many cases, the Clerks' offices have indicated they do not have a copy of  
62 the transcripts and refer DFS to the court reporter. Court reporters have indicated to DFS that they  
63 only keep transcripts for 10 years. The Subcommittee suggested that, with follow up phone calls  
64 to confirm that there are no transcripts, that due diligence has been demonstrated and should be  
65 noted for those cases.

66  
67 Ms. Curtis and the Subcommittee discussed the search for next of kin notifications. Staff from the  
68 Virginia Crime Commission has agreed to assist in researching next of kin for two pending  
69 notifications. The Subcommittee agreed that notifications should be made to next of kin address  
70 in cases where the defendant was executed or is deceased under other circumstances.

71  
72 The Chair agreed that the future notification letters should be signed by the Board Chair.

73  
74 The Subcommittee agreed that notification should be sent through the Department of Corrections  
75 to inmates to seek referrals for cases where microscopic hair comparison examinations were part  
76 of the courtroom testimony. Ms. Curtis explained to Subcommittee that it will take years for the  
77 Department to identify all the cases that included microscopic hair comparison examinations as  
78 part of the historical case file project. Ms. Herndon suggested that another outreach to attorneys  
79 and judges may bring in more cases to review.

80  
81 Ms. Curtis requested that she be permitted to present for the Subcommittee's consideration the  
82 results of the Review Team's June 27, 2018 meeting. Mr. Donoghue moved that the Subcommittee  
83 go into a closed session pursuant to Virginia Code §2.2-3711 (A)(35), because the Subcommittee  
84 would be discussing specific information from criminal investigative files as part of the Review  
85 Team's results, which was seconded by Lt. Col. Russillo and approved by unanimous vote of the  
86 Subcommittee.

87  
88 The Subcommittee met in closed session. Department Counsel Amy Curtis and Board Secretary  
89 Carisa Studer, and Jennifer Taylor, Administrative Assistant, remained in the closed session to  
90 assist the Subcommittee members with its consideration of the Review Team's results.

91  
92 The Subcommittee concluded the closed session and reconvened in an open meeting at 2:23 p.m.

93  
94 A roll call vote was taken of each Subcommittee member to certify that, to the best of each  
95 member's knowledge, only exempt information was discussed, and only matters identified in the  
96 motion were heard, considered and discussed. The Chair, Mr. Lett, and Lt. Col. Russillo each  
97 certified that only exempt information was discussed, and only matters identified in the motion  
98 were heard, considered and discussed.

99

100 **Public Comment**

101 There was no public comment.

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103 **Next Meeting**

104 The next Subcommittee meeting will be held Monday, November 19, 2018 at 1:30 p.m.

105

106 **Adjournment**

107

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

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111 The meeting adjourned at 2:26 p.m.