



COMMONWEALTH of VIRGINIA
Office of the Attorney General
Richmond 23219

Kenneth T. Cuccinelli II
Attorney General

900 East Main Street
Richmond, Virginia 23219
804-786-2071

804-371-8947 TDD

MEMORANDUM

TO: Peter M. Marone, Director
Department of Forensic Science

FROM: Charles A. Quagliato
Assistant Attorney General

DATE: February 15, 2011

SUBJECT: Regulations for Obtaining Information from the Virginia DNA Data Bank and Procedures for Verifying the Identity and Authority of Persons Requesting Information from the Virginia DNA Data Bank – 6 VAC 40-60 *et seq.*

In response to a request from the Department of Forensic Science and Forensic Science Board, I have reviewed the proposed regulations, 6 VAC 40-60 *et seq.*, relating to obtaining information from the Virginia DNA data bank and procedures for verifying the identity and authority of persons requesting information from the Virginia DNA data bank. Virginia Code § 19.2-310.5 requires the Department to adopt regulations governing the methods of obtaining information from the data bank and adopt regulations governing the procedures for verification of the identity and authority of the requestor. Virginia Code § 9.1-1110(A)(1) requires the Forensic Science Board to adopt regulations, pursuant to the Administrative Process Act (§ 2.2-4000 *et seq.*), for the administration of Virginia Code § 19.2-310.5. Upon review of the aforesaid regulations, I find the proposed regulation to be constitutional, consistent with the statutory authority granted by Virginia Code § 19.2-310.5 of the Code of Virginia, and in conformity with existing statutory provisions.

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 a 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.