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**Draft- Minutes**  
**DNA Notification Subcommittee of the**  
**Forensic Science Board**  
**April 20, 2015**  
**Department of Forensic Science, Central Laboratory, Classroom 1**

**Subcommittee Members Present**

Vince Donoghue, Essex Commonwealth’s Attorney and Designee of Senator Thomas K. Norment, Jr., and Senator Mark D. Obenshain, Co-Chairs, Senate Courts of Justice Committee  
Kristen J. Howard, Chair, Designee of Senator Thomas K. Norment, Jr., Chair, Virginia State Crime Commission  
David A. C. Long, Esq.

**Subcommittee Members Absent**

W. Steven Flaherty, Colonel, Virginia State Police Superintendent

**Staff Members Present**

Donna Carter, Finance Manager  
Amy Curtis, Department Counsel  
Shelley Edler, Forensic Scientist  
Katya Herndon, Chief Deputy Director  
Brad Jenkins, Forensic Biology Program Manager  
Elise Stroble, Grants Administrator  
Carisa Studer, Legal Assistant

**Invited Guests**

Shawn Armbrust, Executive Director of the Mid-Atlantic Innocence Project (MAIP)  
Christina Arrington, Ph.D., Senior Methodologist, VSCC  
Holly Boyle, Policy Analyst, VSCC

**Call to Order by Subcommittee Chair Kristen Howard**

Ms. Howard called the meeting of the DNA Notification Subcommittee (“Subcommittee”) to order at 1:05 p.m. She welcomed the Subcommittee members, the invited guests and Department of Forensic Science (“DFS or the Department”) Staff. Ms. Howard advised that there was no formal agenda to the meeting. The meeting was set as a follow-up from the March 16, 2015 Subcommittee meeting.

**Approval of Draft Minutes of the March 16, 2015 Meeting**

45 The Chair asked if there were any changes or corrections to the draft minutes from the March 16,  
46 2015 meeting. Being none, Mr. Donoghue made a motion to adopt the minutes, which was  
47 seconded by Mr. Long and approved by unanimous vote of the Subcommittee.  
48

49 **Discussion**

50  
51 Ms. Howard updated the Subcommittee that the pilot program for screening the 60  
52 “inconclusive” case files that contain sperm or seminal fluid has been completed. The pilot  
53 program work group included Shawn Armbrust, MAIP, Catherine Mullins, Indigent Defense  
54 Commission (IDC), Christina Arrington, VSCC, and Holly Boyle, VSCC.  
55

56 She also informed the Subcommittee that the VSCC has made the completion of the Post-  
57 Conviction DNA Testing Program (the PC DNA Program) & Notification Project a priority.  
58 Christina Arrington and Holly Boyle will both be working on the conclusion of both the testing  
59 and notification portions of the project as part of their VSCC duties. They will work at the  
60 Central Laboratory approximately 3 days a week completing the project. The Department has  
61 already conducted the required background checks.  
62

63 Christina Arrington, VSCC, provided the Subcommittee with an overview of the results from the  
64 pilot program. The work group met on March 24 and March 25, 2015 at the Central Laboratory.  
65 There were a total of 67 defendants from the 60 case files that were reviewed. A worksheet of  
66 pertinent information was completed for each defendant to determine if further testing would be  
67 probative. The work group recommended that of the 67 defendants, 33 should be considered for  
68 additional testing, 13 require more information to determine if testing should be recommended,  
69 and 20 should not be considered for additional testing.  
70

71 On April 1, 2015, Ms. Arrington and Ms. Boyle met with DFS staff to discuss a strategy for  
72 reviewing the remaining 360 “inconclusive” cases without sperm or seminal fluid. It was  
73 determined that a 10% sample of the 360 would be reviewed. DFS would be able to use the  
74 information from the 10% review to determine if grant funding would be necessary to complete  
75 testing on the recommended cases for testing.  
76

77 On April 8, 2015, the work group met to review the 36 cases pulled. The work group used the  
78 same worksheet on each defendant to make its recommendations. The work group  
79 recommended that 1 case be considered for additional testing, 6 cases require more information  
80 to determine if testing should be recommended, and 29 cases should not be considered for  
81 additional testing.  
82

83 On April 15, 2015, Ms. Arrington and Ms. Mullins met with DFS staff to review the  
84 recommendations for testing. It was determined that 32 of the 33 cases of the “inconclusive”  
85 files that contain sperm or seminal fluid would be sent for additional testing. The 1 case  
86 recommended from the “inconclusive” cases without sperm or seminal fluid would also be sent  
87 for additional testing.  
88

89 Ms. Arrington also shared that for the cases where more information would be required to make  
90 a determination on testing, she has already requested the presentence orders from the Department  
91 of Corrections.

92  
93 Brad Jenkins, Forensic Biology Program Manager, updated the Subcommittee with the latest  
94 quote for testing from a private laboratory. It was slightly higher than expected at \$895 per  
95 sampled and \$295 per reference sample. Mr. Jenkins estimates that it would cost approximately  
96 \$1,400 per case. Mr. Jenkins informed the Subcommittee that DFS would work with the private  
97 laboratory on triaging for efficiency. He concluded that DFS should be able to test  
98 approximately 160 cases within the budget, and therefore no need for a grant at this time.  
99

100 Katya Herndon, Chief Deputy Director, further explained to the Subcommittee that grant funding  
101 was not going to be needed for the case file review now that the VSCC is completing the review  
102 with the work group.  
103

104 Ms. Howard reminded the Subcommittee that they were tasked with making a formal  
105 recommendation to the Board to continue the process of the case file review.  
106

107 Mr. Long made a motion that the Subcommittee recommend to the Forensic Science Board a  
108 plan of action for the review of the approximately 480 cases with “inconclusive results” that  
109 includes: 1) a legal case file review by representatives from the Mid-Atlantic Innocence Project,  
110 the Indigent Defense Commission, and the Virginia State Crime Commission to determine  
111 whether retesting the retained evidence in the case file could be probative of the defendant’s guilt  
112 or innocence; and 2) a scientific review by DFS DNA staff of those files recommended for  
113 testing during the legal review. For any case where the group conducting the legal review  
114 indicates a need for additional information, VSCC staff will contact the Department of  
115 Corrections for the presentence report from the case so that the additional information can be  
116 used for the legal review and a recommendation as to testing can be ascertained. Cases that are  
117 recommended for testing as a result of the legal and scientific review will be sent for the  
118 recommended testing to the private laboratory retained by DFS using the \$150,000 from the  
119 budget amendment. The motion was seconded by Ms. Howard, and passed by unanimous vote.  
120

121 The work group decided on a target date of May 11, 2015 to continue the file review for the 480  
122 cases with “inconclusive results.”  
123

124 Ms. Herndon informed the Subcommittee that a contract laboratory would be chosen through the  
125 Commonwealth’s procurement process. The Department’s goal is to have a contract complete  
126 with a private laboratory by July 1, 2015. Ms. Herndon will update the Subcommittee on the  
127 testing time frame once the private laboratory has been chosen.  
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129 Ms. Howard thanked the Subcommittee members for attending the meeting and will make the  
130 formal recommendation to the Board at the may 13, 2015 meeting.  
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132 **Public Comment**

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134 None.

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**Next Meeting**

There are no future meetings of the DNA Notification Subcommittee at this time.

The Forensic Science Board will meet next on Wednesday, May 13, 2015 at 9:00 a.m.

**Adjournment**

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

The meeting adjourned at 1:30 p.m.