



**Commission on
Forensic Science**

April 12, 2017

***80 South Swan Street – DCJS 1st Floor, Albany, NY
9:00 AM – 11:40 AM***

DRAFT MEETING MINUTES

Commission Members in Attendance (Albany, NY):

Michael Green, Esq., Chair
Pasquale Buffolino, Ph.D
Lydia de Castro
Hon. William Fitzpatrick
Brian Gestring
Hon. Scott McNamara
Scott O'Neill, Ph.D.
Ann Willey, Ph.D., J.D.

Commission Members in Attendance (New York, NY):

Hon. Angela Mazzarelli
Marvin Schechter, Esq.

DCJS Staff in Attendance:

Gregory Anastasio
Gina Bianchi, Esq.
Mathew Boll
Anastasia Brown
Bonnie Eden
Colleen Falcone
Sarah Farrell
Janet Hoin
Janine Kava
Bharat Lakhkar
Cathryn Levine
Gerald Mollen
Shelley Palmer
Jackalynne Vimislik
Cathy White
Aimee Zagorski

Other Attendees:

Robert Adamo – Westchester County Division of Forensic Services
 Nathaniel Brooks – New York Times
 Daniel Burhans – Suffolk County Crime Laboratory
 Dominick Chiumento – New York State Police Crime Laboratory
 Sarah Chu – Innocence Project
 Gail Cooper- NYC OCME Forensic Toxicology Laboratory
 Elizabeth Cronin – Office of Victim Services
 Constance Dinkle – Suffolk County Crime Laboratory
 Karen Dooling – Nassua County Office of the Medical Examiner Division of Forensic Services
 Robert Genna – Suffolk County Crime Laboratory
 Russell Gettig – New York State Police Crime Laboratory
 James Harrison – Westchester County DPS Crime Laboratory
 Susan Horan – Kings County District Attorney’s Office
 Rebecca Johannesen – New York City Office of the Chief Medical Examiner
 Timothy Kupferschmid – New York City Office of the Chief Medical Examiner
 Margaret LaFond – New York State Police Crime Laboratory
 Tom Leach – New York State Police Crime Laboratory
 Allison Lewis – Legal Aid Society
 Colleen Lockhart – Yonkers Police Laboratory
 Molly Newman – Daily News
 John Simich – Erie County Central Police Services
 David Pulikowski – New York State Police Crime Laboratory
 Deanna Schneider – NYS Senate
 Rachel Singer – Kings County District Attorney’s Office
 Richard Torres – Legal Aid Society
 Raymond Valerio – Bronx District Attorney’s Office
 Richard Van Der Meulen – Westchester County DPS Crime Laboratory
 Louis Vargas – New York City Office of the Chief Medical Examiner
 Ray Wickenheiser – New York State Police Crime Laboratory

*Approximate
video times*

Chairman Green opened the meeting and noted there was a quorum with 10 members present. Chairman Green requested a motion to approve the April 12, 2017 meeting agenda. The motion was made by Mr. Fitzpatrick, seconded by Mr. McNamara, and approved unanimously.

00:00:00 –
00:00:45

The Chair then requested a motion to approve the minutes of the December 9, 2016 meeting. A motion to accept the minutes was made by Mr. McNamara, seconded by Dr. O’Neill, and approved unanimously. The minutes from the February 10, 2017 Special Meeting of the Commission on Forensic Science and the DNA Subcommittee were then reviewed. A motion to accept the minutes was made by Dr. Willey, seconded by Dr. Buffolino, and approved unanimously.

00:00:45 –
00:01:55

The Commission members reviewed and discussed the draft familial search policy, regulations and implementation plan as they were proposed by DNA Subcommittee at its March 27, 2017 meeting.

00:01:55 –
01:23:40

The Chair requested a motion to recommend to the DNA Subcommittee that three amendments consistent with the Commissions discussions be made to the familial search policy, regulations and implementation plan. The first amendment proposed by Mr. Schechter will add “nothing in this section shall preclude an investigating police agency and appropriate District Attorney from requesting a familial search for a defendant already convicted of a crime” to section 1(b)(ii). The second amendment, proposed by Dr. Willey, will add “prior to the release of each search result” to section 5(b). Finally, Mr. Fitzpatrick proposed an amendment to section 3 (c)(i), which would require the notification, that a search will not be conducted, to include a qualification of the case/sample deficiency. The motion was made by Mr. McNamara, seconded by Ms. de Castro and approved unanimously.

01:23:40 –
01:49:00

Dr. Willey then suggested that consideration of a recertification be made in regards to re-searching the database. A recommendation was made to consider discussions taken place during this meeting and consider revising section 5(c)(ii)(1) and 5(c)(ii)(2) to include wording that requires an application for re-searching the database no sooner than six months from the initial search, unless exigent circumstances present themselves. Commission members also suggested that the revision state that the mechanism be a simple form or process, making note that the whole application process should not be required. A motion was made by Mr. McNamara, seconded by Mr. Fitzpatrick and approved unanimously.

01:49:00 –
02:59:00

Mr. Schechter made a motion that the DNA Subcommittee consider more specific language to define the terms public safety threat, reasonable investigative efforts and exigent circumstances as they exist in sections 1(a)(iv), 1(b)(i) and 1(b)(ii). The motion was seconded by Dr. Willey and approved unanimously.

01:59:00 –
02:10:00

The Chair then made a motion to send the entire policy, regulations and implementation plan back to the DNA Subcommittee for consideration of the recommendations voted upon and in light of the overall conversations had during the meeting. The Chair further requested that the DNA Subcommittee send back to the Commission a binding recommendation with regard to the issue of Familial Search; specifically the policy, regulations and implementation plan. An amendment was made by Mr. Fitzpatrick noting that the DNA Subcommittee should adopt the amendments voted on during the meeting and that the DNA Subcommittee consider the recommendations concerning the other matters on the record. A motion was made by Mr. Fitzpatrick, seconded by Mr. McNamara and approved unanimously.

02:10:00 –
02:12:00

A verbal update on the Comparison of Accreditation was given by Mr. Gestring.

02:12:00 –
02:14:00

*Approximate
video times*

Laboratory accreditation items and updates from the Nassau County Division of Forensic Services, New York City Police Department Police Laboratory, New York State Police Crime Laboratory and the Niagara County Sheriff's Office were reviewed.

02:14:00-
02:17:29

The Chair then moved to Laboratory Disclosures, and the Commission reviewed laboratory disclosures from the DCJS Latent Print Laboratory, Erie County Department of Central Police Services, New York City OCME Department of Forensic Toxicology, New York State Police Crime Laboratory, Suffolk County Crime Laboratory, Suffolk County Office of the Chief Medical Examiner Toxicology Laboratory and the Westchester County Division of Forensic Sciences. Representatives of the laboratories were available in-person and via telephone.

02:17:30 –
02:39:19

A motion to adjourn was made by Mr. McNamara, seconded by Ms. de Castro and approved unanimously.

02:39:20 –
02:39:58