

Turning Back Time...Challenges Faced with Virginia's Groundbreaking DNA Post Conviction Project

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The Virginia Department of Forensic Science (DFS) discovered that many cases worked from 1973 to 1988 contained original evidence cuttings, swabs and threads taped to results worksheets in the case file. Section § 19.2-327.1, of the Code of Virginia states, in part, that a convicted felon may apply for a new scientific investigation of any human biological evidence related to the case that resulted in the felony conviction if the evidence was not previously subjected to testing because the testing procedure was not available at the Department of Forensic Science at the time. DFS recommended, and Governor Mark Warner, supported the testing of this evidence without application, and thus, the Virginia DNA Post Conviction Project was born.

Here we describe the creation of the process for securing the case files as evidence and the subsequent path taken to analyze these samples. Additionally, we illustrate the various challenges that come with the analysis of this type of evidence including sample substrate viability, partial profile interpretation, and lack of known samples for comparison, as well as the challenges faced while trying to interpret case notes in order to determine the probative nature of the DNA profiles obtained. As with any forensic case, old or new, court considerations must also be a focus. This presentation will examine the complexity involved when trying to prepare a post conviction case for trial.