



MARY JANE BURTON REVIEW PANEL UPDATE

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BACKGROUND

Mary Jane Burton was a forensic examiner at the Virginia Department of Forensic Science (DFS) from 1973 to 1988. The majority of her work involved forensic serology. Many of her cases involved violent crimes, such as murder and sexual assault, but she also examined evidence on a broad range of other offenses.

In 2023, a podcast raised allegations that Ms. Burton engaged in misconduct during her time at DFS, including discrepancies, errors, and alterations of test results, as well as misleading court testimony.¹⁵¹ As a result of these allegations, legislation was enacted in 2025 that directs the Virginia State Crime Commission (“Crime Commission”) to designate a review panel to examine cases where Ms. Burton served as the forensic examiner and the case resulted in the conviction of a person who is currently incarcerated, was executed, or was exonerated, as well as any cases where Ms. Burton testified, regardless of the final disposition.¹⁵² The purpose of the review panel is to determine, if possible, whether Ms. Burton engaged in a pattern of misconduct in her testing, analysis, or testimony. The review panel is not tasked with determining actual innocence in any individual case. The Crime Commission will provide staff support to the review panel until the completion of its work.

CASES FOR REVIEW

As of June 15, 2026, staff has identified 325 cases for review by the panel, including:¹⁵³

- 124 cases where an individual is currently incarcerated;
- 10 cases where an individual was executed;
- 11 cases where an individual was exonerated; and,
- 199 cases where Ms. Burton testified.

The 2025 legislation directs the review panel to prioritize the cases of individuals who are currently incarcerated.¹⁵⁴ It should be noted that not all individuals classified as “currently incarcerated” are serving a sentence for an offense where Ms. Burton was the forensic examiner. For example, some of these individuals were originally convicted of an offense where Ms. Burton was the forensic examiner, served a term of incarceration, and completed post-release supervision, but were later convicted and incarcerated for an offense that did not involve any analysis or testimony by Ms. Burton. In addition,

¹⁵¹ NPR (n.d.). Podcast Directory. *Admissible: Shreds of evidence*. <https://www.npr.org/podcasts/1164809981/admissible-shreds-of-evidence>. [Accessed 12 June 2026]. See also VPM. (n.d.). *Admissible: Shreds of evidence*. <https://admissible.vpm.org/>. [Accessed 12 June 2026].

¹⁵² 2025 Va. Acts ch. 421 and 430. House Bill 2730, 2025 Regular Session of the General Assembly (Del. Patrick A. Hope). <https://lis.virginia.gov/bill-details/20251/HB2730>. Senate Bill 1465, 2025 Regular Session of the General Assembly (Sen. Scott A. Surovell). <https://lis.virginia.gov/bill-details/20251/SB1465>. See also Virginia State Crime Commission. (2025). *2024 annual report: Mary Jane Burton case review*. <https://vscc.virginia.gov/Annual%20Reports/2024%20VSCC%20Annual%20Report%20-Mary%20Jane%20Burton%20Case%20Review.pdf>.

¹⁵³ Note that 19 of these cases overlap. Additional cases may be identified as the review continues.

¹⁵⁴ *Supra* note 150.

some of these individuals were originally convicted of an offense where Ms. Burton was the forensic examiner, released on parole, and subsequently convicted of a new offense that resulted in the revocation of their parole. As a result, these individuals are currently incarcerated on both the new offense and the remaining portion of the sentence on the original conviction.

While the review panel will prioritize cases of individuals who are currently incarcerated, additional steps have been taken to assist these individuals. DFS provided written notification to each of these individuals regarding the allegations against Ms. Burton.¹⁵⁵ In addition, the Innocence Project at the University of Virginia School of Law (UVAIP) was provided with their names and corresponding DFS lab files. UVAIP distributed questionnaires to these individuals and assigned pro bono legal counsel to those who completed the questionnaire.

Furthermore, the Mid-Atlantic Innocence Project (MAIP) conducted an independent review of the cases where an individual was executed for an offense in which Ms. Burton was the forensic examiner. Based on that review, the Executive Director of MAIP concluded that Ms. Burton's work and/or testimony did not result in the execution of an innocent person in these specific cases.¹⁵⁶

MJB REVIEW PANEL SUBCOMMITTEE

The Chair of the Crime Commission, Delegate Charniele Herring, appointed Delegate Patrick Hope and Senator Mark Peake to serve on the MJB Review Panel Subcommittee. The purpose of the Subcommittee is to provide guidance to Crime Commission staff on the logistics of the review panel and to make recommendations on review panel membership to the full Crime Commission.

The Subcommittee provided guidance to staff on an application process and funding for the review panel. Staff was directed to develop an electronic application for review panel membership, work with stakeholders to disseminate the application, and draft a budget amendment for review panel funding. Staff was also instructed to collect the review panel applications and supplemental material and to provide that information to the Subcommittee for consideration.

REVIEW PANEL MEMBERSHIP AND APPLICATION PROCESS

The review panel is required to include a Commonwealth's Attorney; a public defender; a practicing attorney who is qualified to serve as court-appointed counsel in felony cases pursuant to Virginia Code § 19.2-163.03; a judge of a circuit court who is retired under the Judicial Retirement System (Virginia

¹⁵⁵ A copy of the notification letter, as approved by the DFS Review Subcommittee of the Scientific Advisory Committee on April 8, 2024, is available at <https://dfs.virginia.gov/wp-content/uploads/Defendant-Notification-Approved-Draft.pdf>.

¹⁵⁶ Mid-Atlantic Innocence Project, personal communication, December 17, 2025. See also Mid-Atlantic Innocence Project, public testimony at Virginia State Crime Commission meeting, December 16, 2024. Archived video of this meeting can be accessed at <https://virginiageneralassembly.gov/house/chamber/chamberstream.php>

Code § 51.1-300 *et seq.*); a representative from the Office of the Attorney General; the Executive Director of MAIP; and, an independent serologist.¹⁵⁷

Those interested in being on the review panel were asked to complete an online application and submit a resume. The application process was open from the end of January 2026 through the end of February 2026. Staff reached out to various entities, such as the Virginia Association of Commonwealth's Attorneys, Virginia Indigent Defense Commission, Office of the Executive Secretary of the Supreme Court of Virginia, DFS, and other experts in the legal and scientific field for assistance with notifying eligible individuals of the application process.

The MJB Review Panel Subcommittee is reviewing application materials and will interview eligible applicants in the summer of 2026. After the interviews are completed, the Subcommittee will make recommendations on review panel membership to the full Crime Commission.

RECORD COLLECTION AND SHARING WITH UVA INNOCENCE PROJECT

In preparation for the work of the review panel, staff began gathering records from courts, law enforcement agencies, and Commonwealth's Attorneys for cases of individuals who are currently incarcerated. A secure file transfer protocol (SFTP) was established to provide an electronic option for these entities to submit records to the Crime Commission. Staff sent an electronic request for records in December 2025 and issued a follow-up request in April 2026. However, due to the age of these cases, some entities have reported that the requested records cannot be located or are no longer available. All records received are being shared with the UVAIP so that such records can be provided to the pro bono legal counsel assigned to the currently incarcerated individuals.

In addition, staff requested and reviewed archived records of DFS at the Library of Virginia in an attempt to identify any documents relevant to Ms. Burton's employment or the allegations about the accuracy of her forensic examinations or testimony.¹⁵⁸ This review included numerous boxes of documents from the 1970's through the early 2000's. Aside from copies of pleadings in the 1977 federal lawsuit filed by Regina Demas against DFS and Ms. Burton, no relevant documents were located.

FUNDING

Budget amendments were introduced in both the House and Senate during the 2026 Regular Session of the General Assembly to provide \$25,000 from the general fund in each year of the FY2026-2028

¹⁵⁷ *Supra* note 150.

¹⁵⁸ See Virginia Department of Forensic Science. *About DFS: History*. Last visited June 17, 2026. <https://dfs.virginia.gov/about-dfs/>. Ms. Burton did not work at the DFS as it currently exists, as the state laboratory was housed in multiple agencies before becoming an independent laboratory in 2005.

budget to support the work of the Mary Jane Burton Review Panel.¹⁵⁹ Funding of \$25,000 for each year of the budget was included in the conference report and approved in the final budget.¹⁶⁰

REPORTING

The 2025 legislation requires the review panel to annually report to the Crime Commission by the first day of each Regular Session of the General Assembly until the review is complete.¹⁶¹ Staff presented updates on the status of the review panel to the Crime Commission in December 2025,¹⁶² the DFS Forensic Science Board in January¹⁶³ and April 2026,¹⁶⁴ and the DFS Scientific Advisory Committee in April 2026.¹⁶⁵

CONCLUSION

Pursuant to 2025 legislation, the Crime Commission is required to designate a review panel to conduct an in-depth examination of more than 300 cases where Ms. Burton was the forensic examiner to evaluate the accuracy of Ms. Burton's work and testimony and determine, if possible, whether she engaged in a pattern of misconduct. The Crime Commission will provide staff support to the review panel until the completion of its work.

The process of designating the review panel is currently underway. The MJB Review Panel Subcommittee of the Crime Commission is overseeing the application process and providing guidance on logistics. Applications for membership on the review panel have been received and interviews with prospective panel members will be conducted during the summer. After interviews are completed, the Subcommittee will make recommendations regarding review panel membership for consideration by the full Crime Commission.

As the process designating the review panel proceeds, staff will continue to collect relevant records from courts, law enforcement agencies, and Commonwealth's Attorneys. Staff will organize these records for the review panel and provide copies to the UVAIP for use by its coalition of pro bono legal counsel for currently incarcerated individuals. In addition, staff will continue to consult with DFS,

¹⁵⁹ House Budget Amendment Item 22 #2h, 2026 Regular Session of the General Assembly (Del. Patrick A. Hope).

<https://budget.lis.virginia.gov/amendment/2026/1/HB30/Introduced/MR/22/2h/>. Senate Budget Amendment Item 22 #1s, 2026 Regular Session of the General Assembly (Sen. Mark J. Peake). <https://budget.lis.virginia.gov/amendment/2026/1/SB30/Introduced/MR/22/1s/>

¹⁶⁰ Budget Conference Report Item 22 #1C, 2026 Special Session I of the General Assembly.

<https://budget.lis.virginia.gov/amendment/2026/2/HB30/Introduced/CR/22/1c/>.

¹⁶¹ *Supra* note 150.

¹⁶² Arrington, C. B. (2025, December 2). *Mary Jane Burton: Case file review and review panel*. Presentation at the December 2, 2025 Crime Commission Meeting (Richmond, VA), <https://vscc.virginia.gov/2025/Dec2VSCCMtg/VSCC%2012.2.2025%20MJB%20Reviews.pdf>.

¹⁶³ Roe, T. M. (2026, January 7). *Mary Jane Burton Review Panel. Update to the Forensic Science Board*. Presentation at the January 7, 2026 Forensic Science Board Meeting (Virtual), <https://dfs.virginia.gov/wp-content/uploads/VSCC-1.7.2026-MJB-Review-Panel-FINAL.pdf>.

¹⁶⁴ Arrington, C. B. (2026, April 20). *Mary Jane Burton: Case file review and review panel. Update to the Forensic Science Board*. Presentation at the April 20, 2026 Forensic Science Board Meeting (Hanover, VA), https://dfs.virginia.gov/wp-content/uploads/FSB-Meeting_VSCC-04.20.2026-MJB-Reviews-FINAL-FOR-DFS-002.pdf.

¹⁶⁵ Arrington, C. B. (2026, April 21). *Mary Jane Burton: Case file review and review panel update to the Scientific Advisory Committee*. Presentation at the April 21, 2026 Science Advisory Committee Meeting (Hanover, VA), https://dfs.virginia.gov/wp-content/uploads/SAC-Meeting_VSCC-04.20.2026-MJB-Reviews-FINAL-for-DFS.pdf.

UVAIP, MAIP, and other interested stakeholders regarding matters related to the review panel and its work. As required by the legislation, a further update on the status of the review panel and its activities will be provided prior to the start of the 2027 Regular Session of the General Assembly.