

Virginia State Crime Commission

PROPOSED MARY JANE BURTON (MJB) CASE FILE REVIEW WORK PLAN *Presentation to SAC Subcommittee (4/8/2024)*

Budget Language: “The Virginia State Crime Commission shall review cases at the Virginia Department of Forensic Science (Department), in consultation with the Department's Scientific Advisory Committee, where testing or analysis was performed by Mary Jane Burton and report on the total number of the following: (i) case files that contain at least one named suspect; (ii) cases where scientific testimony was provided; and (iii) named suspects who were convicted of an offense related to such testing, categorized by persons: (a) currently incarcerated, on probation, or on parole; (b) executed; or, (c) deceased...The Virginia State Crime Commission shall have the authority to review additional case files to address related matters as deemed appropriate, in consultation with the House Appropriations and Senate Finance and Appropriations Committees.” [Item 23\(B\)](#).

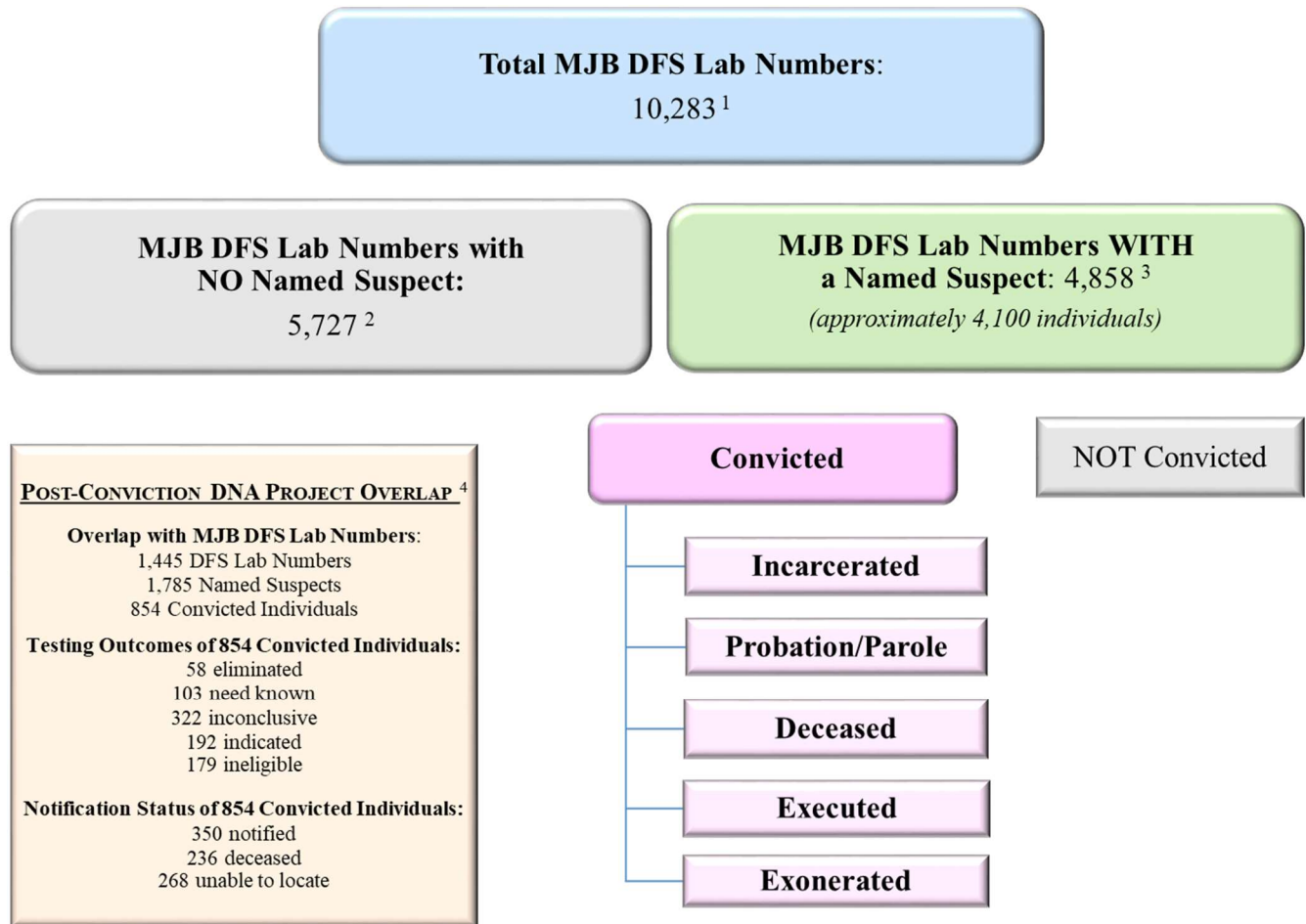
Preliminary Analysis: Crime Commission staff reviewed the Historic Case File spreadsheet provided by the Department of Forensic Science (DFS) and found 10,283 DFS Lab Numbers where MJB was the forensic examiner, of which 4,858 included at least one named suspect and 244 indicated that scientific testimony was provided. The number of unique cases and individual named suspects must still be determined.

Proposed Work Plan: Crime Commission staff proposes the following course of action:

1. Document and verify information (e.g., DOB, SSN, locality) in case files with a named suspect, prioritized as follows:
 - a. Individuals currently incarcerated (20 persons likely and ~96 persons potentially);
 - b. Indication that scientific testimony was provided (244 case files);
 - c. Individuals executed;
 - d. Individuals exonerated;
 - e. Individuals who overlap with the Post-Conviction DNA Notification Project; and,
 - f. Individuals who do not overlap with the Post-Conviction DNA Notification Project.
2. Identify the total number of named suspects who were convicted, which will require assistance from various entities, such as Commonwealth’s Attorneys, law enforcement agencies, Circuit Court Clerks, and other volunteers.
3. Determine the status of convicted individuals, prioritized as follows:
 - a. Incarcerated;
 - b. Probation or Parole;
 - c. Deceased;
 - d. Executed; and,
 - e. Exonerated.

Preliminary Analysis of MJB DFS Lab Numbers

There are more DFS Lab Numbers than unique cases where MJB was the forensic examiner. Per DFS, it was customary practice during this time frame (1973-1988) for two DFS Lab Numbers to be assigned to the same unique case in instances where the Request for Laboratory Examination (RFLE) was submitted to a Lab other than the Central Lab, but where forensic testing was performed at the Central Lab. The following graphic reflects the total number of DFS Lab Numbers; however, the number of unique cases is unknown at this time, but will be significantly less once the process of linking and combining DFS Lab Numbers into unique cases is complete. Finally, the number of individual named suspects will need to be determined (approximately 4,100 identified at this time). These numbers will likely change as the analysis continues.



¹ There are 11,394 certificates of analysis included in these 10,283 DFS Lab Numbers. 244 of these 10,283 DFS Lab Numbers have an indication of testimony by a forensic scientist, of which 230 include a named suspect and 14 do not include a named suspect.

² There are 5,971 certificates of analysis included in these 5,727 DFS Lab Numbers.

³ There are 5,423 certificates of analysis included in these 4,858 DFS Lab Numbers. A cursory examination of the 4,858 DFS Lab Numbers revealed approximately 4,100 individuals named as a suspect. Note that the sum of the DFS Lab Numbers with no named suspect and the DFS Lab Numbers with a named suspect is 10,585. This number is greater than the total number of MJB DFS Lab Numbers (10,283) because 302 of the DFS Lab Numbers include certificates of analysis for both unnamed and named suspects.

⁴ This table is solely meant to demonstrate the overlap of DFS Lab Numbers from the PC DNA Notification Project with the MJB case file review. DFS Lab Numbers from the PC DNA Notification Project must still be included in the MJB case file review, as further examination of such DFS Lab Numbers may be required. These numbers are subject to change as any additional case files from the MJB case file review are linked with case files from the PC DNA Notification Project.