

CALIFORNIA CRIME LABORATORY REVIEW TASK FORCE

Minutes, January 8, 2009

1300 - I Street

Sacramento, California

Member Present: Dane Gillette (Chair) Barry Fisher (Vice Chair), Dean Gialamas, Dolores Carr, Elizabeth Johnson, Jennifer Friedman, Jennifer Mihalovich, Arturo Castro, Robert Jarzen, Sam Lucia, William Thompson, Jeff Rodzen, Charlotte Wacker

Staff Present: Mike Chamberlain (DOJ - Staff Counsel), Colleen Higgins (DOJ-Admin)

Members of the Public: Mary Gibbons (Director, Oakland Police Department Crime Lab); Jill Spriggs (DOJ, Director BFS-HQ); Randy Wampler (Oregon State Police); Clay Larson (Dept. Public Health); Joe Fabiny (Santa Clara County Crime Lab); Bill Phillips (Criminalist Manager, DOJ, BFS HQ); Eva Steinberger (DOJ, BFS-HQ); Stan DiOrso (Staffer, Senator Rod Wright); George Anderson (DOJ, Chief DLE)

Chair Dane Gillette called the meeting to order at 10:45 a.m.

Chair Gillette welcomed Stan DiOrso, staff member of Senator Reid. Mr. DiOrso assisted in the enactment of Penal Code section 11062, the Task Force's authorizing legislation. Chair Gillette also welcomed BFS Chief Jill Spriggs, DCJIS Chief Gary Cooper, Oregon State Police Laboratory Director Randy Wampler, and DLE Director George Anderson.

Update on Laboratory Visits

To date, 16 laboratory visit/interview summaries have been received. It is important that the remainder be provided no later than early February. The Task Force appreciates the gracious cooperation of laboratory directors statewide.

Task Force Member Steve Nash is unable to conduct his assigned interviews due to unforeseen medical issues. Charlotte Wacker volunteered to conduct the Sacramento DA Lab visit. The San Francisco Medical Examiner has been removed from the list of participating laboratories.

Michael Burt will conduct the Santa Rosa BFS visit and interview. Jennifer Mihalovich volunteered to conduct the Eureka BFS interview by videoconference, unless Michael Burt is able to interview Lab Manager Katina Repp regarding both the Santa Rosa and Eureka operations.

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December Minutes

Several edits of the December meeting minutes were agreed upon. The revised minutes will be circulated, and were approved as amended.

Forensic Oversight Issues

It may be helpful to gather information concerning the Virginia Forensic Science Commission in order to develop a better sense of the issues that receive that Commission's attention. Barry Fisher described the function of the Virginia Commission, while noting that the state laboratory structure in Virginia differs greatly from that in California. Barry Fisher also detailed the interaction between the Virginia Oversight Commission and Scientific Advisory Board. He suggested that a similar system in California would be cumbersome in light of the number of independent jurisdictions and existing laboratories in this state, and that enacting legislation authorizing a similar oversight system would be difficult given interest group opposition.

On the oversight issue, a potentially effective approach could be to begin with a statement of goals, and then ask what means is most appropriate to address them. The Task Force could also choose to focus initially on the creation of proper standards and oversight of non-traditional lab functions such as latent print examinations and crime scene investigations.

The following analytical approach was suggested:

- (1) Should there be some type of statewide advisory or oversight body?
- (2) If so, it will not be an entity designed to consolidate laboratory operations, but rather will possess certain defined functions.
- (3) If no agreed-upon recommendation is developed, what is the focus of continuing study (i.e., give a specific set of goals to a future group)?

Another approach would be for the existing topical subcommittees to address an oversight body as a potential or recommended solution to the narrower issue being discussed (e.g., accreditation/certification), rather than as a stand-alone area. In general, the scope of discussion of oversight will be a function of other recommendations and the current state of affairs.

That being said, Los Angeles Times articles recently have indicated that all is not well in Los Angeles County forensic science. There is a need to look at specific problem areas first before drafting broad-scale solutions. Even if no specific problems existed, however, oversight may still be a sound approach for ensuring quality forensic science in the future.

Jennifer Friedman and Bill Thompson volunteered to draft a broad-scale oversight model.

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Preparation of Final Report

The draft report should be completed for review by the beginning of July. Dane Gillette and Colleen Higgins will meet with DOJ printing experts to discuss the potential format, and will report back regarding the feasibility of meeting the legislative deadline.

The topical subcommittee assignments are consistent with the subjects set forth in Penal Code section 11062. Thus far, one subcommittee report had been submitted – Jeff Rodzen’s and Sam Lucia’s report on recruitment and retention. Charlotte Wacker’s and Michael Burt’s report on equipment has been drafted, is undergoing review, and will be discussed at the February meeting. It will be necessary to receive concrete proposals from all subcommittees soon in order to work toward consensus positions.

Leah’s draft report on staffing and training provides a useful framework/outline for discussion. She will continue her “data mining” efforts on other topics. Particular labs should be identified and referenced where helpful.

The group discussed whether there should be a 30-day comment period for the public and/or laboratory directors before the final report is issued. It was noted that drafts of the report will be discussed in public meetings over the course of several months.

Discussion Schedule

February: Staffing, Equipment
March: Education, Training, Funding
April: Accreditation, Certification, Workload issues

Each discussion will be held following the submission of a completed report with recommendations (not a two-tiered approach as initially discussed).

Future Meetings Agendas

The February meeting will take place in Los Angeles, and will focus on education issues. The March meeting will be held in Richmond and will focus on criminalist certification. Other than these substantive discussions, the majority of the Task Force’s attention going forward should be on developing a consensus and finalizing the report’s format. Further discussion and/or resolution of the oversight question perhaps should be deferred until positions on other issues are finalized. A draft proposal on each of the various oversight models could be prepared by assigned teams, including a “further study” option.

Discussion of Salaries, Recruitment, and Retention Draft

Further revisions are anticipated as additional lab interview summaries are made available. The CAC salary survey (www.cacnews.org) will be available in January or February, and could be included as an appendix. Its data will be cross-referenced. Cost-of-living should be considered in viewing survey data

Laboratories should not assume the role of training grounds for other, higher-paying, labs. It is short-sighted to pay lab employees less than market-rate salaries in view of the high cost of hiring and training. It becomes an allocation of resources issue. The “laboratory climate” is a major consideration for employee satisfaction and retention, and in many instances trumps shortcomings in compensation. New lab facilities are a positive environmental factor in recruitment.

A major problem is front-end recruitment, because there are few qualified applicants who could begin work immediately. One solution may be increased availability of lab intern programs for graduate students, resulting in more experienced entry-level employees and more human resources in the laboratory itself. Often, hiring lateral criminalists with experience is more problematic than hiring entry-level staffers. Giving laterals the ability to vest in retirement systems may have a significant positive impact.

While salary is not the most pressing issue in some labs, many labs view hiring delays (due to state/county/city employment procedures) as a significant impediment to efficient and effective staffing. Human resource professionals frequently lack the expertise to carefully evaluate an applicant’s scientific credentials. Too few county resources may exist to conduct timely background checks in some jurisdictions, whereas other agencies turn background checks around promptly. A hiring process range of 6-8 weeks to 6 months was identified.

Uniformed peace officer status may effect recruitment. Flexible workweeks were not covered as a potential benefit, and are worth exploring. Overtime and safety retirement policies at various labs were discussed, and the group agreed that retirement benefits are an important employee incentive. It was noted, however, that enacting a “3% at 50” retirement plan may result in a detrimental “retirement wave” of senior staff. Differential cost-of-living salaries are paid by some, but not all, entities. While DOJ does not provide geographic differentials in pay, they would be helpful in recruiting and retention efforts.

Although salary increases are not a practical recommendation in the current economic climate, the Legislature still deserves an honest evaluation and recommendation despite practical realities.

In light of new ideas to be addressed, a follow-up e-mail to lab directors will be sent inquiring about various possibilities, including flexible work weeks and job-sharing. The Task Force could ask about other unique programs designed to encourage retention, such as “PIP” compensated time for work on an independent research project. All suggested e-mail inquiries should be directed to DOJ before the next meeting, so as to coordinate a mass e-mail.

Quantitative analysis is a course offering at half of the U.C. campuses, but it is more important that lab applicants complete the substantive coursework, regardless of the class title. Labs need to be more precise in defining their employment prerequisites, e.g., “demonstrate coursework with appropriate documentation,” or “quantitative analysis or equivalent coursework.”

Based on the discussion, Jeff Rodzen and Sam Lucia will revise their draft report.

General Discussion

Participants discussed LIMS (“Laboratory Information Management System”) functions. There are various degrees of sophistication, but a LIMS program tracks all case activity in a laboratory. It was suggested that the importance of effective LIMS programs merits a separate topic in the final report. Alternatively, the subject could fit into the “stable funding” category.

There was a question why the salary differences between LAPD and LASO laboratory employees did not give rise to more attrition. No definitive answer was provided.

In Los Angeles, coroners only attend court in the afternoon, which likely enhances laboratory efficiency. Could this be a broader policy recommendation for all criminalists so as to minimize “hallway time”? In Oregon, videoconference testimony—with the parties’ permission—takes place regularly, although this approach may not be feasible in California in light of adversarial dynamics.

In the discussion of staffing, one recommendation could be better communication between prosecution and defense expert witnesses.

Should there be a catch-all category in the report to address issues that do not fit well elsewhere, e.g., *Brady* training and education, reporting requirements?

In draft topical reports, authors should highlight any differences in perceptions between laboratory management and client agencies that use laboratory services.

Employee reference sample DNA data banks is a contentious issue that could be addressed as well.

February Meeting

February 5, 2008, in the LASO/LAPD facility at Cal. State Los Angeles.

Chair Gillette adjourned the meeting at 2:40 p.m.