

CALIFORNIA CRIME LABORATORY REVIEW TASK FORCE

Minutes, March 6, 2008

**Los Angeles Sheriff's Crime Laboratory, CSULA Campus
Los Angeles, CA**

Member Present: Dane Gillette (Chair) Barry Fisher (Vice Chair), Jennifer Friedman, Greg Matheson, Elizabeth Johnson, Jim McLaughlin, Arturo Castro, Dolores Carr, Dean Gialamas, Robert Jarzen, Sam Lucia, William Thompson

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

The meeting was called to order at 10:30 a.m.

On behalf of the Task Force, Mr. Gillette thanked Barry Fisher of the Los Angeles Sheriff's Department for graciously hosting the meeting and providing tours of the laboratory facility.

Minutes

The minutes of the February meeting, as amended, were approved by motion and vote.

Administrative Issues

The Task Force welcomed new appointees Greg Matheson and Arturo Castro.

Task Force members were advised that the Fair Political Practices Commission has granted an exemption from conflict of interest report filing rules.

It was agreed that recording Task Force meetings on an internet-accessible audio file or tape recording would be a good idea. DOJ will attempt to implement, and report back at the next meeting.

Laboratory Director Survey

The Task Force continued discussion of the revised draft survey. The intent of the survey will be to gather the most critical information directly responsive to the Task Force's legislative mandate. Other information will be collected in the course of the lab director interview process. In addition, data will be generated by way of surveys to defense attorneys and prosecutors. Mike Chamberlain will make all agreed-upon edits and the revised draft survey will be circulated on an ASAP basis, if non-substantive, to expedite the dissemination of the finalized survey.

Discussion and consensus decisions took place regarding the survey, including:

(1) An overly lengthy/broad survey seeking lengthy and detailed data may overwhelm Lab Directors, possibly resulting in responses lacking essential, clarifying and key

information;

- (2) A “check box” format would more appropriately and accurately capture key information;
- (3) Data regarding direct reports to supervisors should be collected;
- (4) Evidence retention information would be better sought from law enforcement given its proprietary interest in physical evidence;
- (5) Delete generalized workload question;
- (6) Refine questions regarding recruitment and hiring process;
- (7) Seek additional data regarding formal education of technical staff;
- (8) Discovery-oriented questions are not central to the Task Force’s legislative mandate, and will not be included;
- (9) Questions regarding maintenance of quality control documents, validation studies; corrective action records, etc., will be conditional and reserved for those labs whose lack of accreditation makes them valid inquiries;
- (10) “Observer bias” inquiries will not be included given ongoing discussions and debates about the proper application of those ideas;
- (11) The survey will ask about defense expert observation of law enforcement testing.

Public Attendee Commentary

Los Angeles Deputy District Attorney Lisa Kahn stated that the obligation and duty to provide “Brady material” is specific to the prosecutors, and is not incumbent upon crime laboratory staff. The issue is more appropriately raised in surveys directed to the prosecution and defense bars.

Mary Gibbons, Director of Oakland Police Crime Lab, commented that the Task Force discussions involved controversial, some unsettled and emerging but very interesting issues (observer effect, etc.) but suggested the discussion should re-focus on the core/key issues mandated by the statute.

Thomas J. Nasser, former president of ASCLD and ASCLD/LAB, commented that the current ASCLD/LAB accreditation standards have been developed over the last 25 years as the result of the collective experience and insight of career crime laboratory directors and managers. He cautioned that the Task Force may not be the proper forum to suggest changes to crime laboratory standards above and beyond what ASCLD/LAB requires, particularly when the suggestions do not come from Task Force members who do not have the experience of being a crime laboratory manager. In response, a member of the Task Force noted that the Task Force’s mission includes improving the quality of forensic services provided by the public crime labs in the State of California. This may include proposing the implementation of standards that exceed those set by ASCLD-LAB.

Bill Phillips, DOJ Toxicology Laboratory Manager, also spoke concerning survey question number 57. He stated that it would be difficult for the toxicologists in his DOJ lab to be able to render an opinion of impairment without knowing case facts such as driving behavior, field sobriety test results, and physiological symptoms of the subject.

Masking or blinding would hinder a toxicologist's ability to testify effectively.

It was noted that the all concerns regarding the survey will be on the record. Issues raised and not resolved by consensus would be and were resolved by a majority vote. Once finalized, the survey will be available in an electronic format on DOJ's website not by consensus. If any substantive issues remain unresolved, they will be discussed at the next meeting.

CLOSING ISSUES:

AGENDA: The members were reminded to submit future agenda items by email directly to Dane Gillette or Colleen Higgins.

DA/DPD SURVEY: The Task Force will discuss and create a survey specifically for prosecutors and defense attorneys.

ASCLD/LAB REPORT DISCLOSURE: A copy of the most recent ASCLD/LAB five-year final audit report will be requested from each crime laboratory if so accredited. These documents will become publicly-available.

April 2, 2008 (note: Wednesday, not Thursday): Speaker - Frank Dolejsi, current Chair of ASCLD/LAB and member of Minnesota Forensic Laboratory Advisory Board, will present.

MAY 2008: No speaker. Task Force will continue to work on survey, preparation for interviews and new agenda items, with Prosecution/Defender Survey as a top priority.

JUNE 2008: Speaker - Barry Scheck – arrangements will be made by Jennifer Friedman and Mike Chamberlain.

SUGGESTED SPEAKER: Pete Marone, Commonwealth of Virginia, Laboratory Director. Barry Fisher will explore a speaker engagement and report back.

SITE VISITS: August or September 2008.

Meeting Adjourned at 3:10 p.m.