

CALIFORNIA CRIME LABORATORY REVIEW TASK FORCE

Minutes: May 6, 2009

Santa Clara District Attorney's Office Crime Laboratory

250 West Hedding Street / San Jose, CA 95110

Member Present: Dane Gillette (Chair); Dolores Carr; Dean Gialamas; Jennifer Friedman; Jennifer Mihalovich; Robert Jarzen; Jeff Rodzen; Jim McLaughlin; Charlotte Wacker

Staff Present: Mike Chamberlain (DOJ - Staff Counsel)

Members of the Public: Mary Gibbons (Director, Oakland Police Department Crime Lab); Bill Phillips (CA-DOJ, Toxicology); Kevin Davis (California Highway Patrol); Joe Fabiny (Santa Clara District Attorney Crime Lab); Lisa Stenback (Santa Clara District Attorney Crime Lab)

Chair Dane Gillette called the meeting to order at 11:00 a.m. and welcomed attendees. Chair Gillette thanked District Attorney Carr and Lab Director Benny Del Re for graciously hosting this month's meeting, and for offering tours of their state-of-the-art crime laboratory.

Minutes

The minutes from the April 2009 meeting were approved as written by motion and vote.

General Business & Updates

All laboratory visit summaries have been submitted except for two, which Task Force Member Burt assures will be finished in the upcoming week.

Supplemental Survey Questions

The Task Force reviewed the proposed supplemental survey, and made several final modifications: (1) Delete column concerning average turnaround time because data were already gathered on that issue; (2) Minor additional edits to chart; (3) Add question concerning salary incentives for advanced degree and/or certification; (4) Add question about date lab first accredited. A rapid turnaround time will be requested for the supplemental survey. Mike Chamberlain will make the edits and the survey will be sent to lab directors promptly.

The group briefly discussed the decision to focus the supplemental survey on the core forensic disciplines only.

Certification Presentation

Jennifer Mihalovich gave a comprehensive presentation on certification history, procedures, and organizations. The PowerPoint slides are attached and incorporated by reference into these Minutes.

Following the presentation, the Task Force discussed certification as a topic for recommendation. A consensus emerged that all government criminalists should seek certification, but the question of whether that goal should be incentive-based or mandated remains unresolved. If mandated, a key question is how the requirement would be enforced. It was proposed that certification be a prerequisite to the ability to testify in court (as the NAS/NRC report recommended), but such a rule could be incompatible with established law and evidentiary procedures and could impair the fact-finding process by precluding helpful and probative testimony from otherwise qualified experts. The distinction between licensing a profession and requiring certification was discussed.

Another problem with mandatory certification would be the necessary period during which new hires would be working without certification based on eligibility rules, and laboratories would have to address the increased expense associated with certification fees and employee time devoted to certification. A certification mandate could negatively impact laboratories from a personnel standpoint, and introduce an element of uncertainty in planning efforts. Currently, some labs offer reimbursement to employees to seek certification, in addition to bonus pay if certified.

There was concern expressed over potential inequities if public sector and private sector criminalists were not governed by the same certification requirements. Others sought to draw a distinction between laboratory practitioners and consulting experts insofar as mandatory certification is concerned.

Overall, an incentive-based approach to certification may be a better approach than a mandate-based approach. On the other hand, if mandatory certification is not practical, then perhaps requiring criminalists to satisfy elements of the certification program would be beneficial. This would overlap with a continuing education requirement, which, although more modest than a certification requirement, would serve many of the same objectives.

There was general agreement that ongoing education and professional development for criminalists should be encouraged, which is a practice that most, but not all, laboratory accreditation bodies consider. Individual certification of criminalists is not a prerequisite for accreditation, however.

Jennifer Mihalovich will add a "Recommendations" section to the draft subcommittee report on certification.

Final Report Considerations

Dane Gillette disseminated (1) the recommendations listed in the 2003 Lockyer crime laboratory survey/report, (2) the forensic science recommendations by the California Commission on the Fair Administration of Justice, and (3) the executive summary and recommendations of the 2009 NAS/NRC report, for consideration by the Task Force.

The Task Force members were advised to monitor any proposed federal legislation that results from the issuance of the NAS / NRC report on the future of forensic science.

The group considered compromise wording proposed by Chair Gillette for use on page 3, lines 24-27 of the Education Subcommittee Draft Report. Because Bill Thompson is not present at this meeting, further discussion will take place at the June meeting.

Workload Issues: Draft Report

Jennifer Friedman and Dolores Carr presented their draft report on workload issues. They noted that the relevant survey results will be presented as supporting documentation. The group recommended additional specifics and recommendations regarding the education of user agencies (including law enforcement and prosecutors) by crime labs. Such efforts would be distinct from broader training efforts targeted to general participants in the criminal justice system.

Crime labs would also be well-advised to explore “cross-training,” i.e., rotating job assignments through different forensic science disciplines, in order to maintain employee morale and enthusiasm.

Laboratory-DA communication systems should be refined in order to improve efficiency. A description of the Santa Clara and Orange County LIMS systems—which allow for front-end communication with DAs’ Offices—should be included.

Consolidation of some crime lab services is an appropriate topic for the workload section of the report. This topic would also be an appropriate location for discussion of concerns (and potential advantages) regarding the “purchasing” of dedicated criminalists by individual law enforcement agencies. Among those concerns is potential inequity of forensic science services depending upon the economic conditions of the communities in that jurisdiction. Further, the group recommended that the workload discussion describe concerns regarding the establishment of small-scale crime laboratories by individual municipalities.

Electronic discovery procedures, such as posting standard operating procedures on accessible websites, will be discussed in the report. Recommendations regarding support staff will be delineated by specific staff functions. The segment addressing “other key concerns” will include discussion of NIBIN (“National Integrated Ballistics Information Network”) inefficiencies.

While many factors impact workload at laboratories, the bottom line is that labs have not been resourced to the degree necessary to provide individualized services. A statewide financial solution may not be feasible, however, because the specific problems faced by laboratories are largely a function of local dynamics, needs, and economics.

The final report may consolidate the workload and staffing discussions for internal consistency and clarity.

Proposed Upcoming Schedule

June 4: In Los Angeles. Topics will include additional discussion of the workload chapter, statewide accreditation standards, oversight issues, and Dane Gillette's draft introduction to the report.

July 23: In Sacramento. This meeting will involve review of a complete draft report.

August 20: In Los Angeles.

September 21: In Sacramento.

Chair Dane Gillette thanked participants and adjourned the meeting at 3:00 p.m.